



**United Nations
Environment
Programme**



UNEP/BUR/68/Inf.3
26 January 2009
ENGLISH
Original: FRENCH



MEDITERRANEAN ACTION PLAN

Meeting of the Bureau of the Contracting Parties to the
Convention for the Protection of the Marine Environment
and the Coastal Region of the Mediterranean and its Protocols

Athens, Greece, 10-11 February 2009

MAP/CIVIL SOCIETY COOPERATION ASSESSMENT

MAP/Civil Society Cooperation Assessment

REPORT ON THE STATE OF PLAY CONCERNING MAP'S POLICY ON ITS RELATIONS WITH NGOS

The 15th ordinary meeting of the Contracting Parties to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and its Protocols which was held in Almeria (Spain) from 15-18 January 2008, established the objective of improving NGO participation in MAP activities and enhancing their contribution to achieving MAP's goals, particularly as regards the implementation of the Barcelona Convention and its Protocols. For this purpose, the secretariat was invited to evaluate the effectiveness of cooperation between MAP and the NGOs with an eye to revising the list of partners and submitting proposals to the 16th meeting of the Contracting Parties.

To this end, this report is intended to establish the state of play as far as the current situation in MAP-NGO relations is concerned.

It will in turn:

1. Examine the legal bases for NGO participation in MAP
2. Examine MAP's programmes or policies on its partnership with the NGOs
3. Look at the Mediterranean Commission on Sustainable Development and the NGOs
4. Establish an orderly list of MAP's current NGO partners
5. Examine the state of the budget granted for NGO participation

1. The legal bases for NGO participation in MAP

The initial version of the Barcelona Convention « for the protection of the Mediterranean Sea against pollution », as adopted in Barcelona on 16th February 1976, did not include any reference to non-governmental organisations (NGOs) or to the role of civil society. The Preamble, however, clearly expressed the view that the aim of the Convention was to protect the marine environment as a « common heritage for the benefit of present and future generations ». The people of the Mediterranean were thus very much present as essential players alongside the States.

The role of the Mediterranean peoples was formalised at the time of the amendments made to the Convention on 10th June 1995, the title of which was henceforth to be: « Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean ».

A clear distinction should be drawn between the regulatory basis for NGO participation and their remit on the one hand, and the various roles with which the Convention and Protocols entrust the peoples and NGOs on the other. It should also be borne in mind that certain provisions in the Convention and Protocols foresee public and NGO participation at the level of each State, whilst others plan for it at the level of the Organisation. A synoptic table in annex 1 shows the various provisions in the Convention and Protocols which refer to the public, NGOs, local authorities and economic and social players. It emerges that the States have more obligations towards the public and NGOs than does the Organisation.

A. The regulatory basis for NGO participation:

The adoption of the amendments to the Convention on 10th June 1995 formalised and institutionalised NGO participation in the Barcelona process. According to article 20 « Observers », the Parties may accept any non-governmental organisations as observers under the following conditions:

- Basic condition: to be an NGO « whose activities are related to the Convention ». This is a rather flexible provision, since there is no requirement for the NGO's statutes to be directly related to the Mediterranean and the protection of the marine environment and coastline.
- Formal condition: the provisions governing observer admission and participation are established by the rules of procedure adopted by the Contracting Parties. Article 24 of the Convention stipulates that these rules of procedure shall apply during meetings and conferences foreseen under articles 18, 21 and 22 of the Convention.
- Effects of observer status: NGOs with observer status shall enjoy the following rights:
 - Taking part in meetings and conferences without the right to vote
 - Submitting any information related to the objectives of the Convention
 - Submitting any report related to the objectives of the Convention

B. The rules of procedure and observers:

On the basis of article 20-3 of the Convention, the conditions for the admission and participation of observers are established by the rules of procedure.

When the rules of procedure were adopted at the first meeting of the Parties in Geneva on 5-10 February 1979 (UNEP/IG.14/9, annex VII), they already included an article 8.1 B and 8.2, which foresaw the granting of observer status to NGOs with the tacit consent of all the Contracting Parties. The difference in status between NGO and other observers in terms of their appointment lies in the powers of the executive director. For the non-Party States and inter-governmental organisations apart from the United Nations and specialised institutions, the executive director requires the tacit consent of two thirds of the Contracting Parties. For the United Nations and its subsidiary bodies, they are appointed as observers by right. Finally, for the NGOs, the executive director requires the tacit consent of all the Contracting Parties, which means that any one single State may veto the appointment of an NGO.

Three minor amendments have since been made to these provisions concerning the NGOs:

- In 1981 (2nd meeting of the Parties, Cannes), in article 8.1 B the initial expression « non-governmental international organisation » has been replaced by « international non-governmental organisation ». The term NGO is indeed the one usually applied. But restricting this to « international » NGOs alone is a problem and will require a change to the rules of procedure in the future in order to respect practice, according to which national and regional NGOs are accepted as well as international ones.
- In 1981 (2nd meeting of the Parties, Cannes) the end of article 8.2 which read: « ...dealing with matters of direct concern to them » was replaced by: « dealing with matters of direct concern to the organisations they represent ».
- In 1989 (6th meeting of the Parties, Athens) it was added to article 8.1 B that henceforth, apart from attending the public sittings of meetings and conferences, these observers may also attend the « meetings of the technical committees » .
- In actual fact, the current rules of procedure as amended in 1981 and 1989 contain just one article on the NGOs, which, contrary to the remit provided in article 20.3 of the Convention, is actually very general regarding the conditions for NGO admission and participation. All article 8.1 B and 8.2 actually stipulate is that:

Art. 8.1 B: « The Executive Director shall, with the tacit consent of the Contracting Parties, invite to send representatives to observe any public sitting of any meeting or conference, including the meetings of technical committees, any international non-

governmental organisation which has a direct concern in the protection of the Mediterranean Sea against pollution ».

Art. 8.2: « Such observers may, upon the invitation of the President and with the tacit consent of the meeting or the conference, participate without vote in the deliberations of the meeting or conference dealing with matters of direct concern to the organisations they represent ».

These provisions were not updated following the amendments to the Convention in 1995 and say nothing about the general conditions for admission or renewal of observer status, nor do they provide any details about observers' rights and obligations. Limiting the NGOs' scope of intervention purely to marine pollution issues no longer squares with the scope of the Convention and Protocols and should also be further adapted.

C. *The competences attributed to the NGOs by the Convention and Protocols:*

Cooperation between MAP and the NGOs stems from a policy intended to involve local peoples and the NGOs which represent them in striving towards the objectives being jointly pursued by the Mediterranean States. It would be useful at this point to recall the contractual bases for such cooperation:

- In the Convention :
 - Art.15 on public information and participation: this is the main provision which applies to the Contracting Parties in all of MAP's activities and for the implementation of the Convention and its Protocols.
 - Art. 17 on institutional arrangements: this is the article which underpins relations between the Secretariat to the Convention and Protocols and the NGOs. It is in this article that the NGOs are mentioned for the first time in the Convention. According to para. (iv) of article 17, the secretariat is required to: « receive, consider and reply to enquiries and information from non-governmental organisations and the public when they relate to subjects of common interest or to activities carried out at the regional level; in this case, the Contracting Parties concerned shall be informed ».
 - It should be noted that the provisions of articles 15 and 17 of the Convention apply a priori to all NGOs and to the public at large, the NGOs concerned not being required to hold «observer» status according to article 20. It should nevertheless be taken that NGOs with observer status automatically enjoy the rights set out in articles 15 and 17.
- In the Protocol concerning cooperation in preventing pollution from ships and, in cases of emergency, combating pollution of the Mediterranean Sea:
 - Art.1 (d) iii: on the related interests of a coastal State directly affected or threatened, the text refers to « the health of the coastal population », which specifically concerns the people living on the coasts and their health.
 - Art. 3-2: The Parties are required to cooperate and to this end should take into account « the participation of local authorities, NGOs and socio-economic actors ». This is an important provision since it clearly distinguishes NGOs from the other two categories of actors and allows for a more precise legal interpretation of art.20 of the Convention.
- In the LBS Protocol, article 8 stipulates that the findings of monitoring activities should be accessible to the public and that various types of information should be available to the public in accordance with annex 4 (6a and e).

- In the Protocol concerning specially protected areas and biological diversity in the Mediterranean:
 - Art.7 .2-c: « the active involvement of local communities and populations, as appropriate, in the management of specially protected areas »
 - Art.19.1: The Parties shall give appropriate publicity to the establishment of specially protected areas, their boundaries and applicable regulations. The public thereby has a right to certain information.
 - Art. 19-2 : The Parties shall endeavour to inform the public in more general terms. Public participation in the appropriate measures including environmental impact assessments should be organised. This refers to the public at large and to «conservation organisations », which are actually NGOs.
 - Art. 25-1 (a) the Organisation may assist the Parties in cooperation with the competent NGOs
 - Art. 25-1 (g) the Organisation may cooperate with NGOs concerned with the protection of areas and species
 - Annex 1 (B-4-c) provides for the existence of a body representing the public, professional and non-governmental sectors and the scientific community involved in the area.
 - In the Protocol concerning the Exploration and Exploitation of the Continental Shelf:
 - Articles 20.2 and 25 provide for information for the public.
 - In the Protocol concerning the trans-boundary movement of hazardous waste
 - Articles 12.1 and 12.2 provide for information for the public and for its participation in the procedures.
 - In the Protocol on Integrated Coastal Zone Management:
 - The Preamble invites partnership with the various actors concerned
 - Art. 3.3 establishes the requirement to inform populations and any relevant actor of the geographical coverage of the Protocol
 - Art.6-d establishes the adequate and timely participation in a transparent decision-making process by local populations and stakeholders as one of the general principles for integrated coastal zone management.
 - Art. 14.1 and 2 require the participation of the public concerned and that it be informed.
 - Art. 15.2 and 15.3 provide for training, education and public information activities.
 - Art. 16.4 provides for the facilitation of public access to information derived from monitoring and observation mechanisms.
 - Art. 32.2 stipulates that the Parties, the Organisation and the Centre may jointly establish cooperation with NGOs, which opens the door to the institutionalisation of such cooperation.

It emerges from this overview that cooperation between MAP and the NGOs is based on widely-scattered provisions, the fundamentals of which are to be found in articles 15, 17 and 20 of the Convention. In practice, however, the distinction between « the public » and « the NGOs » should not always be taken literally, since NGOs are simply an expression of the public having come together within an association. Sometimes though a clear distinction should be drawn between the two categories, particularly as far as the details of each of their rights and duties are concerned. These provisions in the Convention are intended to apply to all MAP activities within each of the Protocols mentioned explicitly in articles 15 and 17 and implicitly in article 20. Moreover, each Protocol (with the exception of the Protocol concerning

Specially Protected Areas) contains a provision according to which « the provisions of the Convention relating to any Protocol shall apply with respect to this Protocol ».

There is a further distinction which should be borne in mind. It concerns the relations with the public or the NGOs for which the States as Parties to the Convention and Protocols are directly responsible, as opposed to those relations with the public and NGOs for which the Organisation, secretariat and Centres are responsible and which come under the Rules of Procedure. The latter case only concerns articles 17(iv) and 20.1(b) of the Convention, articles 8.1-B and 8.2 of the Rules of Procedure, article 25.1(a) and 25.1(g) of the Protocol concerning Specially Protected Areas, articles 15.2 and 32.2 of the Protocol on Integrated Coastal Zone Management. Whilst bearing this distinction in mind, too much store should not be laid by it in that any activities undertaken for or with the NGOs and the public contribute to the implementation of the Convention and Protocols. In any case, requests or activities conducted by the NGOs and the public target the enhanced implementation of the Convention and Protocols in the States as well as in the region as a whole. Care should be taken in future proposals to ensure that the partnership with the NGOs genuinely stems from the joint will of the Parties and the Organisation.

2. MAP programmes and policies related to the partnership with the NGOs

When the first Mediterranean Action Plan (MAP) was adopted at the intergovernmental meeting held in Barcelona in 1975, point III.5 of the final declaration simply stated that for the conference of plenipotentiaries responsible for adopting the Barcelona Convention and its Protocols in 1976, observers would be invited in accordance with UN practices.

Thus at the outset of MAP, NGO participation came under the common law of the United Nations. In its original 1976 version, the Barcelona Convention made no mention whatsoever of NGOs, although this did not prevent them being granted observer status in the Rules of Procedure adopted in 1979.

The Genoa Declaration on the 2nd Mediterranean decade (at the 4th meeting of the Parties, 9-13 September, 1985) refers to the role of the NGOs in two paragraphs:

-12 « recognize that the support of the non-governmental organisations is essential for the full achievement of the goals of MAP »

-13 « consider that the protection of the Mediterranean requires major support of governments' efforts ... by the NGOs, local authorities, industries and the scientific community ».

This led the 5th meeting of the Contracting Parties (Athens, 1987) to introduce under point 127 of its 1986-1995 programme the setting up of a Mediterranean NGO forum as of 1988 with the assistance of MAP, the EEB and the Contracting Parties.

In 1989, the 6th meeting of the Contracting Parties in Athens adopted the afore-mentioned amendment to the Rules of Procedure on art.8.1-B, extending NGO rights to cover participation in meetings of the technical committees.

At the Med 21 Conference on sustainable development in the Mediterranean in Tunis on 1st November 1994, the Agenda Med 21 was adopted, chapter XXVII of which on strengthening the role of NGO partners towards sustainable development stipulates in point 7 that:

« MAP should better define the representation of NGOs at meetings of the Contracting Parties or more specialised meetings held within the MAP framework or with its support ».

The same document advocates MAP drawing up a list of NGOs active in the Mediterranean distinguishing, as we will also recommend, between international, regional and national (even local) NGOs.

It was in 1995 at the 9th meeting of the Contracting Parties that NGO eligibility criteria in MAP were expressed, apparently for the first time (annex XIII, appendix II and « MAP cooperation with the NGOs » UNEP (OCA) MED IG. 5/11). These criteria were completed at the extraordinary meeting of the Parties in Montpellier (July 1996), the 10th ordinary meeting in Tunis in November 1997 and at the meeting of the Bureau in Tunis in March 1998.

In his statement to the 9th meeting of the Parties in Barcelona in 1995, Lucien Chabason, the Coordinator of MAP, had the following to say:

« Over the past 20 years, the role of the NGOs has grown considerably. They are amongst us and are active, providing a valuable contribution not only to our work, but also in awakening environmental awareness in the various countries »

It therefore took MAP phase II, adopted on 10th June 1995, for the need for public awareness raising, information and participation to be put forward. It was decided to:

« Ensure, through the Coordinating Unit and Regional Activity Centres, that all relevant IGOs and NGOs have appropriate access to information concerning MAP, and actively participate in MAP activities accordingly (point I. 4 of the Action Plan) », which in the institutional arrangements is expressed in the following terms:

« The Coordinating Unit maintains relations and coordinates its activities with international and non-governmental organisations ». It should be noted here that international intergovernmental and non-governmental organisations are established on the same footing.

In the Barcelona Resolution on the Environment and Sustainable Development of the same date, adopting MAP Phase II, the States:

- Decide to « enhance the support and involvement of international, regional and national NGOs and the public» (point 1)
- Request « the Mediterranean Commission on Sustainable Development, in which NGOs will be duly represented... » (point 12)
- Invite « all social and economic actors concerned, especially local communities, the scientific and educative community, companies and non-governmental organisations to associate themselves with the implementation of the Mediterranean Action Plan Phase II » (point 13).

The recommendation for 1996:

- invites the secretariat to continue and enhance cooperation and coordination with the competent NGOs
- approves the proposal to cooperate with the NGOs or guidelines

By way of confirmation of this resolution, on 10th June 1995 the amendments related to the NGOs were made to the Barcelona Convention with the afore-mentioned articles 15, 17.4 and 20.

As of the 1990s, joint NGO action started to develop. Thus in Barcelona in 1998, a hundred NGOs launched a campaign for the ratification of the Convention and its Protocols. This campaign was referred to during the general discussion at the 11th Conference.

The habit was then established of convening the NGO observers for a preparatory meeting before the Conferences of the Parties, as was the case before the 11th meeting of the Parties in Malta in 1999. This allows them to coordinate and possibly produce a joint declaration which is distributed to the States during the Conference of the Parties.

Given the scale of NGO participation in MAP activities, the 10th meeting of the Parties in Tunis in 1997 decided to put some methodological thought into NGO participation in MAP and to set up a working group of the Contracting Parties to this end. The group met in October 1998 and made various proposals which were examined by the Bureau and the focal points. A trainee, Sandrine Scardigli, conducted a survey, sending out a questionnaire to the NGOs and RACs and putting forward proposals to improve the MAP/NGO system of working together (report in « MAP/NGO collaboration, an overview » UNEP(OCA)MED WG 147/inf 4). This gave rise to the Recommendation on MAP/NGO cooperation, adopted by the Contracting Parties in Malta in October 1999. (Report of the 11th ordinary meeting, annex IV, appendix V). The document sets out the objectives of cooperation, the methods of work and new methods for selecting NGO partners. It does not clearly specify whether these NGO partners are also NGO observers according to the Rules of Procedure. The two seem to be mixed up. It does, however, specify that the selection criteria are the same as those used to choose members of the Mediterranean Commission on Sustainable Development (MCSD).

On the basis of the 1999 Recommendation a consultant, Mr. Nejib Benessaiah, was asked to give some thought to the strategy for mutual cooperation with the NGOs. He presented his conclusions to the Bureau meeting in Damascus on 1st November 2000 (report: UNEP/BUR/56/inf.4 of 11 October 2000). Besides the lines suggested for a fresh strategy aimed at paying more attention to the NGOs from the South and East, this study also produced proposals on the criteria for selecting and admitting NGOs. The criteria then in existence were:

1. relevance of the NGOs aims and activities to MAP's objectives as expressed in the Convention and Protocols
2. Existence of terms of reference, a work programme and an elected bureau
3. NGO headquarters established in a Mediterranean country for at least 2 years
4. Indication of what contribution the NGO could make to MAP policy.

At the end of a complex, quantified study based on a questionnaire and interviews, the consultant proposed some new criteria. In actual fact, these new criteria are more related to the conditions for re-examining partnership status than to the initial selection of a new candidate:

1. regularly informing MAP
2. involvement in active Mediterranean networks
3. contribution to MAP projects
4. involvement in MAP activities
5. dissemination of MAP activities

At subsequent meetings of the Parties the revised list of MAP partners has always been approved following scrutiny by the Bureau. NGOs have on occasion exceptionally been removed from the list (10th meeting of the Parties, Tunis, 1997). Real limits to their rights have given rise to objections as at the 9th meeting of the Parties in Barcelona in 1995, where an objection was expressed on behalf of the NGOs present at the fact that the NGOs were not allowed to take part in the discussion of the amendments to the Barcelona Convention, the Dumping Protocol, the Protocol concerning specially protected areas and the Barcelona Resolution.

The NGO admission criteria were further amended in application of the recommendation approved at the 12th conference of the Parties in Monaco in 2001 (annex 1, appendix 2). It is specified that these new criteria will apply to the inscription and maintenance on the list of partners.

The Recommendation approved at the 13th meeting of the Parties (Catania 2003) in its point I.A.4.2 « NGOs and other partners » decided that as soon as possible the Bureau would examine the requests for inclusion on the list following consultation with the Parties and

would inform the Parties at the first opportunity of any change to the list. The same Recommendation called for « the enhancement and facilitation of the participation of civil society in the meetings of the Contracting Parties ». The secretariat is invited to strengthen its cooperation and assistance to NGOs included on the list of MAP partners, giving priority to those active in the East and South of the Mediterranean.

The 2004-2007 strategic directions of the regional seas programme clearly share the same thrust, aiming to: para.2 « Enhance the sustainability and effectiveness of Regional Seas Programmes... through involving civil society and the private sector. » (6th meeting of the Regional Seas Convention, 30 Nov-2 Dec, 2004, Istanbul).

At the meeting of the Bureau in Genoa in 2004, the secretariat expressed its wish to draw up and implement a more proactive cooperation strategy with the regional and international institutions and the NGOs.

The Recommendation from the 14th meeting of the Parties (Portoroz, 2005) requests the secretariat:

1. To further strengthen cooperation and assistance to Mediterranean NGOs included on the list of MAP partners, giving priority to those active in the East and South of the Mediterranean.
2. To involve NGOs in MAP activities, and at the same time support their initiatives in favour of Mediterranean environmental issues, and encourage other NGOs to become MAP partners.

In its decision IG 17/5, the 15th meeting of the Parties in Almeria in January 2008 approved some rules of governance, including:

- For the Coordinating Unit's mandate: liaising with NGOs, local authorities and private actors about matters of horizontal relevance to the Barcelona Convention and its Protocols and strategies, particularly on matters concerning legal issues and general policy.
- For the regional activity centres' mandate: to indicate mechanisms for developing and maintaining working partnerships among MAP components and other key MAP stakeholders, e.g. NGOs.
- For the focal points: Liaising with NGOs concerned with MAP activities
- For the focal points of the various RACs: liaising with NGOs.

3. The Mediterranean Commission on Sustainable Development (MCSD) and the NGOs

The Mediterranean Commission on Sustainable Development was set up following the recommendation from the Tunis ministerial conference, approved by the Barcelona conference of plenipotentiaries in June 1995. It was established as an advisory body entrusted with making proposals within the MAP framework.

The constitutive documents for the Mediterranean Commission on Sustainable Development, which were adopted in Monaco at the 4th meeting of the MCSD in October 1998 (UNEP (OCA) MED WG. 140/ inf.4) stipulate the presence of NGOs within this advisory body. This is a huge step forwards for the NGOs, since from being observers within the instances of MAP, they become members of one of MAP's bodies. Indeed, according to point 5 of the "terms of reference", the MCSD is composed of 35 members including representatives of « NGOs working in the fields of environment and of sustainable development ». They are on an equal footing with the representatives of the Contracting Parties. Point 14 of the terms of reference stipulates that:

« The Commission shall, through the Secretariat, enhance the dialogue with, and the participation of, relevant NGOs and the independent sector, and receive and analyse their inputs within the context of the overall implementation of the Mediterranean regional strategy for sustainable development ».

The Commission's composition provides seats not only for the NGOs but also for the local authorities and socio-economic players. The NGOs are entitled to 5 seats for representatives and 5 for alternates, as are the other two groups of members. NGOs are appointed for two years on the basis of the existing criteria and lists of MAP partners. The important selection of NGOs sitting on the MCSD is not tempered by the possibility of non-member NGOs being granted observer status at MCSD meetings, since the MCSD's rules of procedure provide for observers (art. 5). This issue should also be dealt with in the final report of this study. It was raised at the extraordinary meeting of the Parties in Montpellier in 1996 (p.12 and para. 69).

Partnership with the NGOs also raises questions within the actual MCSD framework. The decision was actually taken to convene a working session of the NGO networks in Madrid on 17th and 18th January, 2004, in order to enhance NGO participation in the MCSD and the MSSD. The conclusions of this meeting were discussed at the 9th meeting of the MCSD and Friends of the Earth made a presentation about NGO involvement in the MSSD.

At the 14th meeting of the Parties in Portoroz in 2005, a proposal from the secretariat was adopted on admitting the main groups within the MCSD (UNEP (DE) MED IG 18/12). This has given rise to an odd sort of selection regime with specific criteria for NGOs seeking a seat in the MCSD. It is important that these criteria should be harmonised with those which apply to observer status.

Turning to the strategic assessment of the general framework of the Barcelona Convention, which was presented at the 13th meeting of the Parties in Catania in 2003:

« Cooperation with civil society and NGOs has evidently improved these last years. However, cooperation with business and private companies is still very limited and remains one of the most critical issues within the context of the MCSD. Cooperation with the scientific and academic community is steadily improving ». (UNEP(DEC)MED IG 15/inf.5).

4. An orderly inventory of MAP's NGO partners

It is difficult to establish the exact number of NGOs with MAP partner status, because it would appear that some documents have mixed up NGO observers and MAP NGO partners (in general or for one RAC or another) which are not observers. Apparently, the distinction made in the list of partners drawn up in 1998 (UNEP(OCA)/MED WG. 147/inf.3) between list A- NGOs present as observers- and list B- associated thematic NGOs- is not relevant and is a source of legal confusion. Both groups actually enjoy observer status, but their degree of geographic and/or thematic involvement differs. This issue will need to be clarified in the future.

Even in the list of partners there are some unfortunate mistakes: in the list of participants at the 14th meeting, for example, the Maltese NGO « International Ocean institute » is included amongst the United Nations institutions and other intergovernmental organisations, whereas it would seem to be an NGO which figures on the 1998 and 2008 NGO list. In the list of participants at the 15th meeting in 2008, an NGO- CEFIC- Eurochlore- is included amongst the international institutions and intergovernmental organisations, whereas it is on the 2008 NGO list. Conversely, an organisation which does not feature on any of the NGO lists appears on the list of intergovernmental institutions, whereas its title « Mediterranean Union of Confederations of Enterprise» would lead one to presume that it is a regional economic organisation based in Lebanon, most likely a professional association. More seriously still, an

intergovernmental organisation established by treaty- the International Centre for Advanced Mediterranean Agronomic Studies or CIHEAM- is wrongly included in the 2008 NGO list.

It is decidedly strange from a legal point of view to see in the report from the 14th meeting that the list of participants includes a list of NGOs followed by a list of « observers », which are also NGOs, with no explanation for this distinction. The two organisations mentioned feature neither on the 1998 NGO list, nor on its 2008 version. Either they held observer status between 1998 and 2005, in which case they should have been on the NGO list, or they do not hold observer status and should therefore not be under this heading but rather under “guests”, although the rules or procedure do not provide for any such heading. The Spanish NGO « instituto universitario de ciencias ambientales » (SDA/ELS) which was listed as an observer in 1998 is no longer there in 2008. Did it withdraw or was it struck off?

Over the past ten years there has been little change in the total number of NGOs with observer status and thereby seen as MAP partners:

1998: 71 NGOs (30 of them having an effective role according to the afore-mentioned study by S. Scardigli)

2000: 81 NGOs (44 of them apparently with an effective role according to the afore-mentioned report by Mr. Néjib Benessaiah)

2008: 79 NGOs (strangely, the focal points meeting in Madrid in October 2007 announces 86 partner NGOs, p.21 of (UNEP-DEPI)MED WG 320/21) whilst the list drawn up for the same meeting mentions 78 (UNEP(DEPI)MED WG 320 inf.8). In reality, going by the list circulated in Almeria in January 2008, leaving out CIHEAM because it is an intergovernmental organisation, there are 79 NGO observers.

After the Rio Conference in 1992, there was a sharp increase in the number of NGOs effectively attending the meetings of the Contracting Parties, with major downwards variations:

4th meeting (1985): 8

6th meeting (1989): 9

7th meeting (1991): 9

9th meeting (1995): 30

Extraordinary meeting (1996): 22

10th meeting (1997): 21

11th meeting (1999): 17

13th meeting (2003): 24

14th meeting (2005): 16

15th meeting (2008): 15

In the 1998 « directory of MAP partners » (UNEP (OCA)/MED WG.147/inf.3), a distinction was made between two categories of NGOs:

- List A of NGOs, deemed entitled to take part in MAP meetings with observer status because a priori their general scope of activities is related to the environment and development
- List B of NGOs with a thematic focus, which would only allow them to participate in certain meetings or specialised activities.

This breakdown does not seem to be generally appropriate and its content is open to criticism when one sees that the « European Fertilizer Manufacturers Association (EFMA) » is listed amongst the NGOs with a general vocation, whereas it is actually highly specialised. Of the 71 NGO observers at the time, 18 were on list A and 53 on list B.

The 81 NGOs recorded in the 2000 study break down as follows: 18 international NGOs, 13 national ones, 13 regional, 25 thematic, 9 socio-economic, 2 academic bodies and 1 representing the local authorities.

To better reflect the nature of the NGOs with observer status in 2008, we preferred to divide them into several categories which grossly correspond to their activity, particularly the territorial level thereof, which should be an important criterion for MAP. The «thematic» criterion obviously overlaps with the geographic scope of intervention (international, regional or national). But it is often difficult to guess the real objectives of some NGOs, and sometimes even their scope of activity. Thus the breakdown presented here should be handled with caution, with the possibility of sometimes being able to discuss or better understand the classification if the terms of reference of each NGO were made available.

Based on the list of MAP's NGO partners drawn up on 14th December 2007 (UNEP (DEPI)MED IG.17/inf.7), we grouped the NGOs into three categories according to their basic competence:

1. NGOs primarily concerned with the environment
2. NGOs of a socio-economic nature
3. NGOs bringing together local authorities

Each of these categories was then broken down according to its national, regional (Mediterranean) or international vocation.

For the 79 NGOs registered, this breaks down as follows:

1. Environmental NGOs:
 - associations with a national vocation : 31
 - associations with a regional vocation : 20
 - associations with an international vocation : 16
 - total = 67
 2. Socio-economic NGOs:
 - associations with a national vocation : 2
 - associations with a regional vocation : 3
 - associations with an international vocation : 6
 - total = 11
 3. Local authority NGOs:
 - association with a regional vocation : 1
 - total = 1
- general total = 79

When added together, this gives us 33 NGOs with a national vocation, 24 regional and 22 international ones.

A handful of these NGOs are of a markedly scientific and academic nature, which distinguishes them from the NGOs in the field. Of 79 NGOs, 9 can be taken as scientific and academic, although that almost certainly includes some mistakes.

If we were to split the list of 79 NGOs into those which are specialised and "others" in the spirit of the 1998 A and B lists, for 2008 this would give us:

General NGOs: 39
Specialised NGOs: 40
Total= 79

Finally, the NGOs can be broken down according to their statutory base, which of course in no way pre-empts their regional or international vocation:

- States Party:
 - Albania : 2
 - Algeria : 1
 - Cyprus : 2
 - Egypt : 2
 - France : 13
 - Greece : 12
 - Israel : 2
 - Italy : 11
 - Lebanon : 3
 - Libya : 1
 - Malta : 2
 - Monaco : 2
 - Morocco : 1
 - Syria : 2
 - Spain : 5
 - Tunisia : 2
 - Turkey : 6

The States to the North have 45 NGOs.

The States to the South and East have 24 NGOs.

The imbalance becomes greater if the NGOs headquartered in the Non-Party States to the North are added to the States Party to the North.

- Non- Party States
 - Belgium : 4
 - Netherlands : 2
 - United Kingdom : 3
 - Switzerland : 1

States to the North: 55

States to the South and East: 24

In the 2000 breakdown, there were 57 in the North and 24 in the South and East.

A meticulous check and a revision of the NGO partner list would appear to be essential in order to correctly identify those which are effectively observers, and to distinguish them from the intergovernmental organisations which also hold observer status. The date on which their observer status was recognised should also be mentioned for each NGO, along with the date of renewal if in the future we establish a limited duration for the status of observer.

5. State of the budget granted for NGO participation

It is very difficult to establish an exact picture of the budget earmarked for the NGOs. The budget tabled at the conferences of the Parties is not detailed enough for that and it would require going through the accounting documents with a fine toothcomb. It is, moreover, only a proposed budget rather than actual expenditure. To get an exact overview of MAP's assistance to the NGOs, actual annual expenditure would need to be established by pooling together the various headings involved.

The only budget heading regularly mentioned is usually entitled « support to NGOs » and comes under the Coordinating Unit's accounts.

But there is no doubt that the NGOs receive other funds either in the form of travel costs and daily allowances for the meetings attended by the NGOs, or through contracts or commissions with the NGOs for specific information or training services, or under the MCSD budget, where the NGOs are permanently present in a big way. In 2002, for example, 18 memoranda of agreements were signed with the NGOs, to which 106,000 dollars were allotted. In 2003, 6 memoranda were signed to the total tune of 22,000 dollars (coordinator's report, Catania, 2003, p.25).

The amounts earmarked for the NGOs and allocated from the budgets of each of the centres or RACs should also be counted in, these not appearing in the general accounts.

Going only by the headings which make express reference to the NGOs in the published budget, the following changes can be seen under the « support to NGOs » heading. It should be pointed out, however, that this support for the NGOs does not take account of the smaller sum the NGOs can actually expect in so far as, depending on the year, this heading also covers « public awareness raising » (in 1996), or « training and national campaign » (in 1997), « support for information activities concerning the MCSD » (in 1998 and 1999), or « support for NGOs and other important actors » (since 2004).

- 1996 20 000 US \$
- 1997 20 000 US \$
- 1998 22 000 US \$
- 1999 52 010 US \$
- 2000 73 000 US\$ or 39 000 US \$ (+ 50 000 external funding)
- 2001 73 000 US \$ or 34 000 US \$ (+50 000 external funding)
- 2002 60 000 US \$ (+ 50 000 ext)
- 2003 60 000 US \$ (+ 50 000 ext)
- 2004 66 000 euros
- 2005 66 000 euros
- 2006 61 000 euros
- 2007 66 000 euros
- 2008 44 000 euros (11 000 of which meeting participation)
- 2009 36 000 euros (16 000 of which meeting participation)

Conclusion :

It emerges from this overview that, besides reviewing the criteria, the list is also in dire need of sorting, using a more apt classification based on the international/regional/national distinction. The vocabulary used needs to be harmonised to avoid ambiguity. The NGOs' rights and duties also need to be clarified, better specifying their possible role at the various levels of MAP activity. We should avoid the stumbling block of excessive formalism, which does not preclude stringency and bringing greater clarity to the constitutive documents. In this respect, there will be no escaping the need to revise the rules of procedure, at least as far as the NGOs are concerned, nor to draft new guidelines serving as a charter for the NGOs in MAP.

Account must be taken of:

- The vast diversity of NGOs both in terms of their objectives and how they are organised (in the field, scientific, with general or specific focus, purely environmental or socio-economic, etc....)

- The parallel situation of some other observers such as intergovernmental organisations close to the NGOs through their activities, such as the IUCN or the CIHEAM.
- The special case of the MCSD, where the NGOs are recruited as full members whilst being selected from amongst the NGO observers.

Thought should be given to the provisions governing NGO attendance at the meetings of the Parties, as well as at the meetings of the MAP focal points, those of the subsidiary bodies like the scientific and socio-economic committees, and the meetings of the various working parties.

The following documents will provide the basis for future proposals:

- 9th meeting of the Parties (1995) annex XIII appendix II
- 11th meeting of the Parties (1999) annex IV appendix V
- 12th meeting of the Parties (2001) annex 1 appendix 2
- Meeting of the NGO networks by the MCSD, Madrid 2004

as well as the two afore-mentioned reports:

- Overview by S. Scardigli in 1998
- Criteria and cooperation by N. Benessaiah in 2000

Annex 1

Convention	The public	The NGOs	The local authorities	The socio-economic actors
art. 15-1	access to information			
art.15-2	participation in the decision-making process			
art. 17 (IV)	<i>Public request for information on matters of common interest and on activities conducted at regional level</i>	<i>NGO request for information on subjects of common interest and on activities conducted at regional level</i>		
art. 20-1 (b) and 20-2		<i>Observers: any <u>NGO</u> entitled to take part in meetings and conferences and submit any information or report</i>		
Emergency Protocol				
art. 1-d-iii	Related interests of a coastal State: health of the coastal population			
art. 3-2		Cooperate, taking account of NGO participation	Cooperate, taking account of the participation of local authorities	Cooperate, taking account of the participation of socio-economic actors
LBS Protocol				
art. 8	monitoring accessible to the public			

Convention	The public	The NGOs	The local authorities	The socio-economic actors
Annex IV -6 (a)	information and education to the public about the consequences of choosing a given activity or product			
Annex IV -6 (e)	Making collection and disposal systems available to the public			
Specially protected areas and biodiversity Protocol				
art. 7-2 (c)	Active involvement of <u>local populations</u> in the management of specially protected areas		Active involvement of <u>local communities</u> in the management of specially protected areas	
art. 18-1	Taking account of the traditional activities of <u>local populations</u>			
art. 19-1	Publicity about the establishment of protected areas, their boundaries and regulation and the designation of protected species			
art. 19-2	Informing the <u>public</u> about specially protected areas and species	Participation of <u>conservation organisations</u>		
art. 22-2	<u>Public</u> environmental education programmes			

Convention	The public	The NGOs	The local authorities	The socio-economic actors
art. 25-1 (a)		<i>Assisting the Parties in cooperation with the competent <u>NGOs</u></i>		
art. 25-1 (g)		<i>Cooperating with <u>regional and international NGOs</u> concerned with the protection of areas and species</i>		
annex 1-B-4-b	Involvement and active participation of the <u>public</u> in the process of planning and management of the area	Involvement and active participation of the <u>local communities</u> in the process of planning and management of the area		
annex 1-B-4-c		Existence of a body representing the <u>non-governmental sector</u>		Existence of a body representing the <u>professional sector</u> and scientific community
Protocol on the exploration and exploitation of the continental shelf				
art. 20-2	Appropriate publicity for any buried pipeline (depth, position, dimension) and information indicated on charts			
art. 25	Mutual information on procedures for the collection and submission of information (measures taken, results achieved, difficulties encountered)			

Convention	The public	The NGOs	The local authorities	The socio-economic actors
art. 26-4	Equal access and treatment in administrative proceedings to persons in other states			
Protocol on the Trans-boundary Movement of Hazardous waste				
art. 4				Making information transmitted by the Organisation available to exporters
art. 12-1	Informing the public in exceptional cases of trans-boundary movement of hazardous waste			
art. 12-2	Giving the public the opportunity to participate in relevant procedures with the aim of making known its views and concerns			
Protocol on Integrated Coastal Zone Management				

Convention	The public	The NGOs	The local authorities	The socio-economic actors
Preamble	Action in partnership with the <u>actors concerned</u>	Action in partnership with the <u>actors concerned</u>	Action in partnership with the <u>actors concerned</u>	Action in partnership with the <u>actors concerned</u>
art. 3 – 3	Informing <u>populations</u> of the geographical coverage of the Protocol	Informing <u>relevant actors</u> of the geographical coverage of the Protocol	Informing <u>relevant actors</u> of the geographical coverage of the Protocol	Informing <u>relevant actors</u> of the geographical coverage of the Protocol
art. 6 – d	Allowing adequate and timely participation of <u>local populations</u> in a transparent decision-making process	Allowing adequate and timely participation of <u>stakeholders in civil society</u> in a transparent decision-making process		Allowing adequate and timely participation of <u>stakeholders in civil society</u>
art. 12-1	Ensuring the participation of <u>island inhabitants</u> in the protection of coastal ecosystems			
art. 14- 1	Ensuring the involvement of the <u>public concerned</u> in the strategies, plans, programmes, projects and various authorisations	Ensuring the involvement of the <u>NGOs</u> in the strategies, plans, programmes, projects and various authorisations	Ensuring the involvement of the <u>territorial communities and public entities concerned</u> in the strategies, plans, programmes, projects and various authorisations	Ensuring the involvement of the <u>economic operators and social actors</u> in the strategies, plans, programmes, projects and various authorisations
art. 14 - 2	Providing information to the <u>public concerned</u> in an adequate, timely and effective manner	Providing information to the <u>NGOs</u> in an adequate, timely and effective manner	Providing information to the <u>territorial communities and public entities concerned</u> in an adequate, timely and effective manner	Providing information to the <u>economic operators and social actors</u> in an adequate, timely and effective manner
art. 15- 1	<u>Public</u> education on integrated coastal zone management			

Convention	The public	The NGOs	The local authorities	The socio-economic actors
art. 15 - 2	<i>Training and <u>public</u> education with the assistance of the Organisation</i>			
art. 15 - 3	Research centres to contribute to <u>public information</u>			
art. 16 - 4	Ensuring <u>public</u> access to the information derived from monitoring and observation mechanisms and networks			
art. 18 - 2	The national strategy identifies the <u>relevant actors</u>	The national strategy identifies the <u>relevant actors</u>	The national strategy identifies the <u>relevant actors</u>	The national strategy identifies the <u>relevant actors</u>
art. 24 - 3		Cooperation with <u>NGOs</u> for the provision of humanitarian assistance on an urgent basis in response to natural disasters		
art. 30	Focal point to disseminate informationl			
art. 32 - 2		<i>The Parties, the Organisation and the centre may jointly establish cooperation with NGOs, the activities of which are related to the Protocol</i>		

N.B.

- In normal letters: public and NGO relations with the States
- In italics: public and NGO relations with the Organisation and secretariat

Annex 2

Table drawn up by Mr. Néjib Benessaiah comparing the recommendations on cooperation from the 9th and 11th meetings of the Contracting Parties (report of 11th October 2000, UNEP/BUR/56/inf.4, p. 7)

Recommendations 9 th Meeting of CPs	Recommendations 11th Meeting of CPs
1. Cooperation with MAP for the furtherance of the objectives of the Barcelona Convention and its related protocols and responsibility for implementing the mutually agreed programme of collaboration.	1. NGOs shall fully cooperate with the Mediterranean countries and MAP Secretariat for the furtherance of the objectives of the Barcelona Convention and its protocols.
2. Dissemination of information on MAP policies and programmes.	2. NGOs shall provide the MAP Secretariat regularly with information on their activities and changes in their structures.
3. Individual or collective collaboration in the implementation of MAP programmes.	3. NGOs shall build and strengthen national and regional networks, with wider representation of Mediterranean NGOs in the networks
4. Provision of information to MAP on the NGO's reports and publications.	4. NGOs shall cooperate individually and collectively (networks) in the implementation of MAP programmes and shall prepare qualitative inputs to policy and research projects of MAP.
5. Informing MAP of changes in their structure, interested public and secretariat.	5. Sharing of experience and lessons, communication and exchange of information within the various NGOs shall be strengthened.
	6. Encourage networks of NGOs to be present in MAP meetings by sending relevant experts.
	7. NGO networks shall guarantee to act as focal points for the various NGOs they represent.
	8. NGOs shall disseminate information on MAP activities through their newsletters, Internet web pages and through other channels in order to make MAP's efforts and importance in the Mediterranean better known to the public at large.
	9. NGOs shall be encouraged to invite MAP representatives to participate in their ordinary meetings.

PROPOSAL PAPER ON MAP-NGO RELATIONS

Considering the report dated 13th August 2008 on the state of relations between MAP and the NGOs and the 51 responses to the questionnaire received between September 2008 and January 2009 from NGOs, members of the Bureau, MAP focal points, MCSD members, RAC focal points, the Secretariat, RACs and Med-Pol, we can propose that these relations be overhauled.

Mention should be made first and foremost of:

1. The international legal-political context governing relations between civil society and the international organisations, which for some years now has been undergoing massive change;
2. The most innovatory examples of how the relations between NGOs and international bodies have been institutionalised.

1) The new relations between international organisations and NGOs:

- Following the Cardoso report which emerged from the work of the panel of eminent persons on relations between the UN and civil society (June 2004, A/58/817 and corr1), the Secretary General of the United Nations took up some of the proposals (13 September 2004, AG, A/59/354) advocating in particular:
 - increasing NGO participation in intergovernmental bodies
 - improving the accreditation process
 - drawing up a code of conduct on the rights and responsibilities of NGOs (proposal 23 in the Cardoso report)
- In 2004, the Organisation of American States also gave thought to the rules of procedure concerning civil society's participation within it (OAS/Ser.G CP/CISC-106/04)
- The World Bank is also reviewing its relations with civil society organisations (siteresources.worldbank.org/CSO/resources/Issues_and_options_)
- In application of article 3 para. 7 of the Aarhus Convention on access to information, public participation in the decision-taking process and access to justice on environmental issues, which invites States to apply the principles of the Convention within international decision-taking processes and in international organisations, in May 2005 the 2nd Aarhus COP adopted the Almaty declaration towards seeing the Aarhus principles being applied in international bodies. The main points advocated by this declaration are:
 - Accreditation procedures based on clear, objective, transparent, fair and accessible conditions whilst avoiding excessive formalisation.
 - Participation which could extend to advisory committees, forums, debates, active Internet use and calls for comment.
- At the 7th general meeting of the UNEP regional seas' conventions and action plans in Helsinki (18-20 October, 2005), Mr. Remi Parmentier presented a report entitled « Review of the rules and practice for civil society organisations' participation in regional sea conventions and action plans ». This report comprises 24 proposals, including:
 - granting NGOs advisory rather than « observer » status
 - organising regular meetings between NGOs and secretariat in advance of official meetings
 - introducing the « green » industries sector
 - opening the COPs to local NGOs

- At the regular meetings organised by UNEP within the framework of the global civil society forum, UNEP guidelines towards improving the global forum with civil society were proposed (March 2008). They specify the representation and participation of the representative groups entitled to attend the ministerial forum on the environment.

- 2) Innovatory examples of how relations between the NGOs and international bodies have been institutionalised:
 - International Maritime Organization
 - Advisory status for any NGO able to make a substantial contribution to the IMO's work
 - The right to submit written contributions (included in the minutes of the meetings) on all agenda items at all meetings, including working groups
 - UN Commission on Sustainable Development
 - NGO meeting with the secretariat prior to the Commission meeting
 - Possibility given to the NGOs to express the views of civil society at the start of the official plenary session
 - Dialogue session after the formal session
 - Daily bulletin circulated to the NGOs during the official sessions
 - FAO
 - NGOs may submit written papers of no more than 2000 words to the director general to be distributed to the Council
 - Any NGO which has shown no interest and has not attended any meeting for two years is expelled
 - UNESCO
 - Accredited NGO status is granted for a six year renewable period
 - NGOs may have advisory, association or operational cooperation status
 - Total lack of participation for four years leads to the NGO being stripped of its status
 - An NGO-UNESCO liaison committee is elected by the international NGO conference and is made up of one third of the accredited NGOs
 - The director is periodically required to draw up a report on relations with the NGOs
 - Global Environment Facility (GEF) (500 NGOs are accredited)
 - Preparatory meeting just for the NGOs on the issues being discussed, election of the co-chairman and appointment of NGO observers for each session
 - Joint NGO/secretariat meeting co-chaired by the NGO co-chairman and the secretariat
 - GEF grants for 16 NGOs
 - NGOs invited to the meetings must be accredited; they are selected according to the meeting agenda
 - Whaling Commission
 - *At the start of meetings, NGOs accredited as observers may present declarations no more than 3 pages long*
 - NGOs must pay a registration fee in order to take part in official meetings
 - Council of Europe
 - In 2003, advisory status for NGOs, which had existed since 1952, was replaced by a « participatory » status (395 NGOs enjoy such status)
 - The NGOs may draw up memorandums and seek the advice of experts ; they have certain obligations towards the organisation, notably to submit a report every four years
 - The list of NGOs with participatory status is reviewed every 4 years
 - An NGO liaison committee with 36 elected members provides for on-going contact with the general secretariat

- The NGOs convene four times per year for the NGO conference with the bodies elected by the NGOs
 - Convention on the protection of the Alps
- Meeting agenda, draft resolutions and minutes of meetings sent to contracting parties and observers alike
- The NGOs may attend Standing Committee meetings as observers
 - International Commission for the protection of the Danube
- NGOs entitled to submit documents and proposals which the secretariat is required to distribute and which may be discussed at the meetings
 - Convention on Environmental Impact Assessment in a Trans-boundary Context
- The meetings of the Parties and subsidiary bodies are public unless the meeting decides otherwise
 - Ramsar Convention
- Proposals made by NGOs may be put to the vote at the COP if they have the support of a Party
- The meetings of the COP and subsidiary bodies are open to the public unless the COP or subsidiary body decides otherwise
 - CITES Convention
- Rather than enjoying permanent accreditation, the NGOs have to express their wish to be represented by observers for each COP as well as for the meetings of the plant and animal committees. They are entitled to take the floor at a time chosen by the chairperson of the session
- The NGOs may submit information documents to all meetings
- Technically qualified NGOs may be represented by observers with speaking rights at the meetings of the Standing Committee, made up of certain States
 - Aarhus Convention
- The meetings of the Parties are open to members of the public
- All the official documents are posted on the website as soon as they are sent out to the Parties
- An NGO representative appointed by the NGOs attends the Bureau meetings as an observer
 - Convention for the protection of the Baltic Sea- Helsinki Commission
- Observer status must be reconfirmed after five years
- Observer status is withdrawn if the NGO fails to take part in meetings for two years
 - OSPAR Commission
- NGOs may be accredited as being either general or specialised
- NGOs may make proposals to the meetings which will only be discussed if they have the backing of at least one contracting party
- If an NGO fails to take part in the Commission's work for two years it will be struck off or only be entitled to receive documents
 - Berne Convention
- Where authorised by the chairman or with the support of one national delegation, NGOs may make oral or written statements to the standing committee (which acts as the COP)
- Proposals made by an NGO may be put to the vote if taken up by a delegation
- The NGOs may complain in writing about non-compliance with the Convention.

Proposals for overhauling MAP/NGO relations:

Some people believe that formalising the rules for NGO participation may lead to a fall in participation. We do not share that view. It is essential to have a minimum set of rules governing accreditation and participation providing these rules are straightforward, clear and known to all. Formalisation does not rule out flexibility and efficiency. The example of the

CITES Convention, which has brought in detailed rules on NGO participation clearly shows that this was not an obstacle. On the contrary, NGO participation has become more active, rendering the Convention more efficient.

New relations between MAP and the NGOs could be forged by amending the rules of procedure and adopting a new Recommendation on MAP/NGO cooperation, adding to and partly replacing the recommendations from the 9th COP (Barcelona), 11th COP (Malta, 1999) and the 12th COP (Monaco, 2001).

I. Amending the Rules of Procedure

According to article 20.3 of the Convention, the conditions for the admission and participation of observers are established in the Rules of Procedure. In actual fact, the rules of procedure only contain a handful of very general points, the specific conditions for admission and participation resulting either from a Recommendation or from practice.

As has been done by other organisations (OSPAR commission), specific provisions on the admission procedure, admission criteria and forms of participation could be included in the rules of procedure. International practice, however, tends to leave the details for NGO accreditation either to guidelines (IMO, Baltic Sea Convention) or to directives (UNESCO).

It would therefore seem preferable to retain the current distinction between relatively simple rules of procedure and a Recommendation which could be more detailed than in the past.

There are, however, at least two if not four points where the Rules of Procedure need to be amended:

a) Art. 8.1-B: the issue of national NGOs

This article only allows observer status to be granted to international NGOs. But in actual fact, and in contravention of the Rules of Procedure, 33 NGOs with a purely national (or local) vocation currently enjoy observer status in MAP. There are a further 24 with a regional (Mediterranean) vocation which could easily be classed as « international ».

So does MAP actually want to grant observer status to national NGOs? Certain international organisations or conventions expressly limit the granting of observer status only to those international NGOs which can prove that they are active at international level or have members in several countries (UNESCO, IMO, OSPAR, International Commission for the Danube, Alpine Convention). The Baltic Sea Convention goes so far as to only admit as observers such NGOs as have at least three members amongst the Baltic Sea States. The Council of Europe only grants participatory status to international NGOs, although in 2003 it brought in a special « partnership » system with national NGOs. Finally, some international conventions would appear to admit both international and national NGOs as observers (Ramsar Convention, Framework Convention on Climate Change, Espoo Convention on Environmental Impact Assessment in a Trans-boundary Context):

There are three possible options here:

1. If we want both international and national NGOs to be admitted indiscriminately, the Rules of Procedure will need to be amended in order to open the door to national NGOs.
2. If we do not want national NGOs to come in, there is no need to amend the Rules of Procedure, but in future this category of NGOs should no longer be admitted.
3. If we wish to retain contact with national NGOs seen as essential players in the field for the implementation of the Convention and its Protocols, they should be granted special status along the lines of the Council of Europe's « partnership ». In this case,

a new indent would need to be added to article 8 of the Rules of Procedure. Our preference lies with this third option. It really is essential to be able to make national NGOs aware of MAP's activities and to get them on board. But national NGOs are not directly interested in regional cooperation. Different rights and duties could also be established for the two groups of NGOs, using a differentiated observer status.

b) Art. 8.1-B: The interest required of observers

The wording of the Rules of Procedure takes no account of the 1995 amendments to the Convention and continues to limit the Convention's scope of application simply to the protection of the Mediterranean Sea against pollution.

In article 8.1-B « in the protection of the Mediterranean Sea » should therefore be replaced by « in the protection of the marine environment and coastal zones of the Mediterranean ».

The same change should also be made in Article 8.1-A as concerns observers and intergovernmental organisations.

c) Article 8.1-B: Requirement for « direct » interest?

In its article 20.1 (b) the Convention simply requires that NGOs' activities should be « related to » the Convention. The Rules of Procedure in art. 8.1-B are more stringent, since they require a candidate NGO to have a « direct concern » in the protection of the Mediterranean Sea. This is important in determining accreditation criteria. The extent to which NGO access is opened up will depend on which option is chosen. Applying the wording of the Rules of Procedure to the letter could end up excluding some NGO observers should they not be expressly and directly Mediterranean-oriented.

- We therefore need to decide here whether the Rules of Procedure should become more flexible or be maintained in their current form. Should the latter prevail, we will need to clarify how this « direct concern » can be assessed on a case by case basis.

d) Article 8.1-B: The tacit consent of all the contracting parties or two thirds of them?

Article 8.1-B of the Rules of Procedure requires that before an NGO can be granted observer status « the tacit consent of the Contracting Parties » is required, which means that any one single State may veto the accreditation of an NGO. Providing the Bureau and RACs have given the go-ahead, we could say that the tacit consent of two thirds of the Contracting Parties would suffice to authorise accreditation as an observer. This proposal was accepted in several of the responses to the questionnaire.

II. Adopting new Recommendations on MAP/NGO cooperation

The Recommendations adopted by the Contracting Parties at the 9th, 11th and 12th COPs should be completed and possibly partially amended. The provisions of these recommendations currently mix regulatory aspects (selection criteria and procedures) with strategic elements (cooperation aims and practical provisions). It should be made absolutely clear what falls under legal or institutional type provisions (and could just as well be included in the Rules of Procedure), and what comes under policy and action strategy in the relations with NGOs. On this last point we would also propose that the provisions be completed by the adoption of a code of conduct or a charter setting out the rights and duties of NGO observers.

In the interests of clarity and transparency, three separate documents are therefore proposed:

- A new Recommendation aimed exclusively at bringing together and completing the rules which apply to NGO observers, which could be entitled "Terms of reference for NGO observers"
- A Recommendation on the general aims of cooperation between MAP and the NGOs
- A Recommendation setting out the NGOs' rights and duties

II. 1/ *The Recommendation setting out the terms of reference for NGO observers:*

From a strictly legal point of view, the observers' terms of reference should come under the Rules of Procedure in virtue of article 20.3 of the Convention, which stipulates that:

« The conditions for the admission and participation of observers shall be established in the Rules of Procedure adopted by the Contracting Parties ». In practice though, the Convention has worked somewhat differently, since provisions referring to the conditions of admission and participation are scattered throughout several Recommendations. It is therefore up to the Contracting Parties to decide whether they wish to continue this practice or would prefer to respect the provisions of the Convention.

Whatever the procedure adopted, the content of the terms of reference will be the same. They should include the following provisions, which are presented here purely for their content, with no specific wording being proposed at this stage.

II.1/1 Categories of NGO observers:

The 1998 « directory of MAP partners » (UNEP (OCA)MED WG.147/inf3) introduces a distinction between two categories of NGOs: list A = NGOs with a general scope of activity and allowed to participate in all meetings; list B= NGOs with a thematic scope of activity, which are only entitled to take part in certain meetings. This distinction does not appear to be relevant since under these conditions the NGOs on list A should not attend thematic meetings. It would seem preferable to distinguish between two categories of NGOs on a purely geographic and territorial basis, as proposed hereafter.

There would be two categories:

Category A= NGOs with participatory status, which would apply exclusively to international and regional (Mediterranean region) NGOs;

Category B= NGOs with partnership status, which would apply exclusively to national NGOs from the Mediterranean riparian states and local NGOs, again in the riparian states.

II.1/2 Criteria for accreditation as observers

- Criteria common to the two categories: - to have legal status; - terms of reference, objectives and scope of activities related to one or more of MAP's areas of activity and to the scope of the Convention and its Protocols; to have existed for at least 4 years; - financial and activity reports from the last two years; - operates democratically; headquarters or office in a Mediterranean country; - proof of general or specialised, technical or scientific competence or competence in human sciences related to the activities of MAP, the Convention and Protocols; - what contributions the NGO could make to MAP.
- Specific criteria for category B: objectives genuinely related to the marine environment and coastal zones; - NGO participating or wishing to participate in specific national or local programmes or projects on MAP implementation

II.1/3 Accreditation procedure:

- Request sent to the secretariat 6 months before a COP by an NGO or proposal from a RAC with the consent of the NGO proposed
- RACs' opinion sought

- Opinion of the Bureau
- Draft Secretariat decision
- Proposal forwarded to the Contracting Parties
- Tacit consent of the Contracting Parties or of two thirds of the Contracting Parties (cf. above)
- Confirmation by the COP on the same conditions:

II.1/4 Renewal of accreditation:

Virtually all of those who responded to the questionnaire call for an accreditation renewal procedure.

- Every 6 years, NGO observers should ask the Secretariat to renew their accreditation
- The request should show what contribution the NGO has made to MAP activities and projects as well as its attendance at meetings

II.1/5 Accreditation renewal procedure:

- Request sent to the secretariat at least 3 months before the 3rd COP, otherwise the NGO is seen as relinquishing its accreditation
- Opinion of the Bureau and RACs
- Draft Secretariat decision
- Forwarded to the Contracting Parties
- Renewal approved by the COP

II.1/6 Withdrawal of accreditation

The 12th COP (Monaco, 2001) decided that partner organisations which fail to participate in MAP work or meetings for two consecutive years would be systematically struck off the list. This is a useful measure towards rendering the partnership effective, but it needs to be flanked by a procedure involving a prior hearing with the NGO in question.

- Following the hearing with the NGO in question, the Secretariat may withdraw accreditation if it deems that the NGO no longer meets the accreditation criteria or if the NGO has shown no interest in MAP's activities
- Total lack of participation in MAP meetings and activities over a period of two years (or 4 years?) will lead to the accreditation being automatically cancelled following a hearing with the NGO in question

II.1/7 List of observers:

- The secretariat shall draw up a list of MAP's observer partners and update it for each COP, drawing a distinction between:
 - o Intergovernmental observers according to article 8.1-A of the Rules of Procedure
 - o NGO observers according to article 8.1-B, splitting categories A and B

II.1/8 Participation in MAP activities:

- Art. 8-2 of the Rules of Procedure applies as a matter of principle to category A NGOs with no special authorisation being requested. These meetings include the various meetings of the focal points. NGO observers already participate in several focal points meetings.
- Exceptionally, and depending on agendas being of potential interest to the category B NGOs, the latter may request special authorisation from the Secretariat to attend a meeting or conference which is of direct concern to them.
- NGOs in categories A and B accredited as observers are entitled to be appointed as members of the Mediterranean Commission on Sustainable Development in accordance with the Commission's Rules of Procedure.
- According to art.8.1.B and 8.2 of the Convention's Rules of Procedure and in addition to art. 5 of the Rules of Procedure of the Mediterranean Commission on Sustainable Development, NGOs accredited according to the afore-mentioned provisions may be

represented by observers at meetings of the Commission, with the consent of its Steering Committee.

- Accredited NGOs may be invited to attend RAC meetings and the steering groups for RAC activities.
- Proposals made by an NGO may be put to the vote if supported by a State
- The other forms of participation and partnership are laid out in a recommendation on the general aims of cooperation and in the Charter on NGO rights and duties (provisions on the use of speaking rights, the right to circulate documents, the right to make written proposals related to the agenda)
- The question arises as to what extent accredited NGOs will be able to contribute- either formally or informally- to monitoring compliance with the Convention and its protocols through the compliance mechanism set up in Almeria in 2008, as is possible under the Berne and Aarhus Conventions amongst others. Having lodged a complaint with the national focal point, NGOs could refer a complaint to the Secretariat, requiring it to decide whether or not to submit it to the Compliance Committee. The answers to the questionnaire indicate majority support for this proposal.

II.1/9 NGO Assembly:

- All category A and B accredited NGOs meet every 2 years during the COP to share their achievements and projects.
- At the opening of the NGO Assembly, the latter elects its NGO standing committee comprising 5 members for a two year term, with the chairperson necessarily belonging to category A, two members from category A and two from category B. The standing committee's chairperson is at the same time also president of the NGO assembly. The election is by secret ballot. A postal vote may be organised under the secretariat's aegis. To be elected, the members of the standing committee require the support of the majority of those voting, representing 50% of the accredited NGOs.
- On the eve of the COP the Secretariat presents the COP agenda to the NGO assembly and notes any comments and proposals from the NGOs.
- For all its discussions and for the adoption of motions forwarded to the COP, the assembly requires a quorum of NGOs present, representing at least one third of the accredited NGOs.

II.1/10 NGO Standing Committee:

The answers to the questionnaire indicate that a slim majority supports the idea of this type of committee to represent MAP's NGO partners. Strangely enough, there is far from being unanimity on this point amongst the NGOs and RACs.

- The members are elected for two years not immediately renewable in order to give everyone their turn and to better involve all NGOs.
- The standing committee is responsible for providing the link between the NGOs and the Secretariat, the national focal points and RACs.
- The role is unpaid. Expenses are covered by the Secretariat.
- The standing committee communicates by e-mail. It convenes once between two COPs if necessary or during a MAP committee meeting or conference.
- The chairperson or a member of the standing committee may be invited to the meetings of the national focal points or RACs as an observer.
- The standing committee provides the input for the NGO section on the MAP and RAC websites, drawing on all the accredited NGOs (or the partner NGOs are only entitled to a link on the MAP and RAC websites, which leads back to them).

II.1/11 The chairperson of the standing committee and the NGO assembly:

- They are elected for two years, not immediately renewable
- They enjoy observer status within the Bureau of the Convention. To this end, the terms of reference of the Bureau of the Contracting Parties as adopted at the 9th COP (UNEP (OCA) MED IG .5.16, Annex XIII, Appendix 1, p 1) should be amended. The following

addition should be made to article 1: « The chairperson of the NGO standing committee shall attend the meetings of the Bureau as an observer ».

- They hold observer status in the MCSD Steering Committee. To this end, the MCSD's Rules of Procedure as adopted in Monaco in 1988 (UNEP(OCA)/MED WG. 140/inf.4) should be amended. The following addition should be made to art. 17, 1st indent: « The chairperson of the NGO standing committee shall attend the meetings of the steering committee as an observer ».

II.2. The recommendation on the general aims of cooperation

The general aims of MAP/NGO cooperation will involve revisiting, sorting and updating the provisions to be found in:

- The guidelines on MAP/NGO cooperation (UNEP (OCA)/MED IG 5/11) of 15 April 1995
- The recommendations in appendix II of annex XIII from the 9th COP in Barcelona in 1995
- The recommendations in annex IV, appendix V from the 11th COP in Malta in 1999.

II.3. The recommendation on the Charter establishing the rights and duties of NGOs accredited as observers

Given the scale of NGO participation in international bodies evidenced by the survey conducted in 2006 and 2007 by the United Nations Economic Commission for Europe within the framework of the implementation of the Aarhus Convention, in international organisations or under international conventions on the environment, current international practice is increasingly introducing codes of conduct or charters which set out the rights and duties to be respected by NGOs. In 2003, the Council of Europe proposed some fundamental principles on NGO status.

Such a Charter could be signed by the Secretariat and the accredited NGO as witness of its commitment to respect the basic principles of good conduct both towards the organisation and towards the contracting States. The vast majority of those who responded to the questionnaire would be in favour of this type of Charter. Those who are not in favour refer to the risk of red tape. The charter should be drawn up at a later stage if the Secretariat and States Party feel it could help guarantee certain joint ethics. It would make the mutual commitments of the NGOs and the Organisation in all its components both clearer and more legible.