



United Nations Environment Programme



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DRAFT CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT AGAINST POLLUTION IN THE MEDITERRANEAN

PREAMBLE

THE CONTRACTING PARTIES,

Conscious of the economic, social and cultural value of the marine environment of the Mediterranean Sea Area;

Fully aware of their responsibility to preserve this common heritage for the benefit and enjoyment of present and future generations;

Recognizing the threat posed by pollution to the marine environment, its ecological equilibrium, resources and legitimate uses;

Mindful of the special hydrographic and ecological characteristics of the Mediterranean Sea Area and its particular vulnerability to pollution;

Noting that existing international conventions on the subject do not cover, in spite of the progress achieved, all aspects and sources of marine pollution and do not entirely meet the special requirements of the Mediterranean Sea Area;

Realizing the need for close co-operation among the states and international organizations concerned in a co-ordinated and comprehensive regional approach for the protection and enhancement of the marine environment in the Mediterranean Sea Area;

HAVE AGREED AS FOLLOWS :

Article 1

Geographical coverage

1. For the purposes of this Convention, the Mediterranean Sea Area shall mean the maritime waters of the Mediterranean sea proper, including the gulfs and seas therein, bounded to the West by the Straits of Gibraltar at the meridian of 5°35'W., and to the East by the southern limits of the Straits of the Dardanelles between the lighthouses Mehmetcik and Kumkale.
2. Except as may be otherwise provided in any protocol to this Convention the Mediterranean Sea Area shall not include internal waters of the Contracting Parties.

Article 4

Pollution caused by dumping from ships and aircraft

The Contracting Parties shall take all appropriate measures to prevent and abate pollution of the Mediterranean Sea Area caused by dumping from ships and aircraft.

Article 5

Pollution from ships

The Contracting Parties shall take all appropriate measures to prevent and abate pollution of the Mediterranean Sea Area caused by discharges from ships.

Article 6

Pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil

The Contracting Parties shall take all appropriate measures to prevent and abate pollution of the Mediterranean Sea Area resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil.

Article 7

Pollution from land-based sources

The Contracting Parties shall take all appropriate measures to prevent and abate pollution of the Mediterranean Sea Area caused by discharges from rivers, coastal establishments or outfalls, or emanating from any other land-based sources within their territories.

Article 8

Co-operation in dealing with marine pollution

1. The Contracting Parties shall co-operate in dealing with pollution emergencies in the Mediterranean Sea Area, whatever the causes of such emergencies, and in reducing or eliminating damage resulting therefrom.
2. Any Contracting Party which becomes aware of any pollution emergency in the Mediterranean Sea Area shall without delay notify the Organization and any Contracting Party likely to be affected by such emergency.

Article 9

Monitoring

1. The Contracting Parties shall establish, in close co-operation with the competent international bodies, complementary or joint programmes including, as appropriate, programmes at the bilateral or multilateral levels, for monitoring in the Mediterranean Sea Area and shall endeavour to establish a pollution monitoring system for that Area.
2. The Contracting Parties shall to this end designate the competent authorities responsible for pollution monitoring within areas under their national jurisdiction and participate as far as practicable in international arrangements for pollution monitoring in areas beyond national jurisdiction.
3. The Contracting Parties undertake to co-operate in the formulation, adoption and implementation of such annexes to this Convention as may be required to prescribe common procedures and standards for pollution monitoring.

Article 10

Scientific and technological co-operation

1. The Contracting Parties undertake to co-operate directly, or when appropriate through competent regional or other international organizations, in the fields of science and technology, and to exchange data as well as other scientific information for the purposes of this Convention.
2. The Contracting Parties undertake to develop and co-ordinate their national research programmes relating to all types of marine pollution, and to co-operate in the establishment and implementation of regional and other international research programmes for the purposes of this Convention.
3. The Contracting Parties undertake to co-operate in the provision of technical and other assistance in fields relating to marine pollution, with priority to be given to the special needs of developing countries in the Mediterranean region.

Article 11

Liability and compensation

The Contracting Parties undertake to co-operate as soon as possible in the formulation and adoption of appropriate procedures for the determination of liability and compensation for damage resulting from marine pollution deriving from violations of the provisions of this Convention

Article 12

Institutional arrangements

The Contracting Parties designate.....as the organization responsible for carrying out the following secretariat functions :

- (i) to convene and prepare the meetings of Contracting Parties and conferences provided for in Articles 13, 14 and 15;
- (ii) to convey to the Contracting Parties notifications, reports and other information received in accordance with Articles 3, 8, 16 and 18;
- (iii) to consider inquiries by, and information from the Contracting Parties, and to consult with them on questions relating to this Convention and the protocols and annexes thereto;
- (iv) to perform the functions assigned to it by the protocols to this Convention;
- (v) to perform such other functions as may be assigned to it by the Contracting Parties;
- (vi) to ensure the necessary co-ordination with other international bodies which the Contracting Parties consider as being qualified, and in particular to enter into such administrative arrangements as may be required for the effective discharge of the secretariat functions.

Article 13

Meetings of the Contracting Parties

1. The Contracting Parties shall hold ordinary meetings once every two years, and extraordinary meetings at any other time deemed necessary upon the request of the Organization or at the request of any Contracting Party, provided that such requests be supported by at least two Contracting Parties.
2. It shall be the function of the meetings of the Contracting Parties to keep under review the implementation of this Convention and the protocols and, in particular :
 - (i) to review generally the inventories carried out by Contracting Parties and competent international organizations on the state of marine pollution and its effects in the Mediterranean Sea Area;
 - (ii) to consider reports submitted by the Contracting Parties under Articles 8 and 18;

- (iii) to adopt, review and amend as required the annexes of this Convention and of the protocols, in accordance with the procedure established in Article 16.
- (iv) to make recommendations regarding the adoption of any additional protocols or any amendments to this Convention or the protocols in accordance with the provisions of Articles 14 and 15;
- (v) to establish groups of experts as required to consider any technical or scientific matters related to this Convention and the protocols and annexes;
- (vi) to consider and undertake any additional action that may be required for the achievement of the purposes of this Convention and the protocols.

Article 14

Adoption of Additional Protocols

1. The Contracting Parties, by way of a diplomatic conference, may adopt additional protocols to this Convention pursuant to paragraph 2 of Article 3.
2. A diplomatic conference for the purpose of adopting additional protocols shall be convened by the Organization at the request of two thirds of the Contracting Parties.
3. Pending the entry into force of this Convention, the Organization may, after consulting with the States signatories to this Convention, convene a diplomatic conference for the purpose of adopting additional protocols.

Article 15*

Amendment of the Convention or Protocols

1. Any Contracting Party may propose amendments to this Convention. Amendments shall be adopted by a diplomatic conference which shall be convened by the Organization at the request of two thirds of the Contracting Parties.
2. Any Contracting Party or the Organization may propose amendments to any Protocol. Such amendments shall be adopted by a diplomatic conference which shall be convened by the Organization at the request of two thirds of the Parties to the protocol concerned.

3. Such amendments shall be adopted by a.....majority vote of the Parties represented at the diplomatic conference, and shall be submitted by the Organization for approval by all Parties to this Convention or to the Protocol concerned.
4. Any Party to this Convention or to the Protocol concerned, that is unable to approve an amendment, shall notify the Depositary in writing within a period of after the date on which the amendment was adopted, at the diplomatic conference. In the absence of such notification by a Party represented at the diplomatic conference, the amendment shall enter into force for all Parties represented at the conference. For any State not represented at the diplomatic conference, such amendment shall enter into force upon express acceptance by way of notification to the Depositary, provided that the amendment has already entered into force between the Parties represented at the diplomatic conference. The Depositary shall, as soon as possible, communicate to Contracting Parties the contents of any notification.
5. Any State which becomes a Contracting Party to this Convention or to a Protocol after the entry into force of an amendment to this Convention or to the Protocol concerned, shall be considered as a Contracting Party to the instrument as amended.

Article 16*

Annexes and amendments of Annexes

1. Annexes to this Convention or to any Protocol which are adopted under the terms of Article 13 shall form an integral part of the Convention or such Protocol, as the case may be.
2. Except as may be otherwise provided in any Protocol, the following procedure shall apply to the adoption and entry into force of any amendment to annexes of this Convention or of any Protocol [with the exception of amendments to the Annex on arbitration.]
 - (i) Any Contracting Party or the Organization may propose amendments to the annexes of this Convention or of Protocols at the meetings referred to in Article 13.
 - (ii) Such amendments shall be adopted by a... ..majority vote of the Contracting Parties.
 - (iii) The Organization shall without delay communicate the amendments so adopted to all Contracting Parties.

- (iv) Any Contracting Party that is unable to approve an amendment to the annexes of this Convention or of any protocol to which it is a party, shall notify in writing the Organization within a period determined by the Contracting Parties.
 - (v) The Organization shall without delay notify all Contracting Parties of any notification received pursuant to sub-paragraph (iv) above.
 - (vi) On the expiry of the period referred to in sub-paragraph (iv) above, the amendment to the annex shall become effective for all Contracting Parties or parties to the protocol concerned which have not submitted notification in accordance with the provisions of that sub-paragraph.
3. The adoption and entry into force of a new annex to this Convention or to any protocol shall be subject to the same procedure as for the adoption and entry into force of an amendment to an annex pursuant to the provisions of paragraph 2 of this Article, provided that no amendment to the Convention or the protocol concerned is required.
4. Amendments to the annex on arbitration shall be considered to be amendments to this Convention and shall be proposed and adopted in accordance with the procedures set out in Article 15 above.

Article 17

Rules of Procedure and Financial Rules

- 1. The Contracting Parties shall adopt Rules of Procedure for their meetings and conferences envisaged in Articles 13, 14 and 15.
- 2.* The Contracting Parties shall adopt Financial Rules, in consultation with the Organization, to determine in particular the participation of Contracting Parties, members or non-members of the United Nations, taking into account eventual other sources of financing.

Article 18

Reports

Each Contracting Party shall transmit to the Organization reports on the measures adopted in implementation of this Convention and of protocols to which they are parties, in such form and at such intervals as the meetings of Contracting parties may determine.

Article 19

Compliance control

The Contracting Parties undertake to co-operate in the development of procedures to ensure control of the application of this Convention and the protocols.

Article 20

Settlement of disputes

1. In case of a dispute between Contracting Parties as to the interpretation or application of this Convention or the Protocols, they shall seek a solution to the dispute through negotiation or any other peaceful means of their own choice.
2. If the Parties concerned have not been able to resolve their dispute through the means mentioned in the first paragraph, the dispute shall at the request of either party upon common agreement be submitted to arbitration under the conditions laid down in Annex A to this Convention.

Article 21*

Signature

1. No State may become a Contracting Party to this Convention unless it becomes at the same time a Party to at least one of the Protocols. No State may become a Contracting Party to a Protocol unless it is, or becomes at the same time, a Contracting Party to this Convention.

2. Alternative A

This Convention shall be open for signature by any coastal State of the Mediterranean region, and by any other State entitled to sign any Protocol in accordance with the provisions of such protocol. Any Protocol to this Convention shall be open for signature by any coastal State of the Mediterranean region. Any other State entitled to sign in accordance with the provisions of such Protocol may also sign this Convention as long as the Convention has not yet entered into force.

2. Alternative B

This Convention shall be open for signature by any Party invited as participant in the diplomatic conference held at Barcelona fromto.....for the adoption of this Convention and the Protocols thereto. Any additional Protocol to this Convention

shall be open for signature by any Party invited as participant in the conference convened for the adoption of such Protocol in accordance with Article 14. Any Party having signed a Protocol under these conditions and having not been invited as participant in the diplomatic conference held at Barcelona from.....to.....may also sign this Convention as long as the Convention has not yet entered into force./

Article 22*

Entry into force

1. This Convention and any Protocol thereto shall be subject to ratification, acceptance or approval.
2. After the entry into force of this Convention and of any Protocol, any Party referred to in paragraph 2 of Article 21 which has not signed this Convention and any Protocol may accede thereto. Any Party not referred to in paragraph 2 of Article 21 may accede to this Convention and to any Protocol, subject to prior approval by a majority of the Contracting Parties to the Protocol concerned.
3. Instruments of ratification, acceptance, approval or accession shall be deposited with.....thereinafter referred to as the Depositary.
4. This Convention shall enter into force on the same date as the first Protocol entering into force.
5. Any Protocol to this Convention, except as otherwise provided in such Protocol, shall enter into force on the thirtieth day following the date of deposit of at leastinstruments of ratification, acceptance or approval of such Protocol.
6. After the entry into force of this Convention or any Protocol, and taking into account paragraph 1 of Article 21, the Convention or such Protocol, as the case may be, shall enter into force for each Party which deposits an instrument of ratification, acceptance, approval or accession, on the thirtieth day following the date on which such instrument is received by the Depositary.

Article 23*

Withdrawal

1. At any time after.....years from the date of entry into force of this Convention, any Contracting Party may withdraw from this Convention by giving written notification of withdrawal.

2. Except as may be otherwise provided in any protocol to this Convention, any Party may, at any time after.....years from the date of entry into force of such protocol, withdraw from such protocol by giving written notification of withdrawal.
3. Withdrawal shall take effectafter the date on which it is received.
4. Any Contracting Party which withdraws from this Convention shall be considered as also having withdrawn from any protocol to which it was a Party.
5. Any Contracting Party which, following its withdrawal from a protocol, is no longer a Party to any protocol to this Convention, shall be considered as also having withdrawn from this Convention.

Article 24

Protocols

1. Any protocol to this Convention shall be binding only on those States which are parties to it.
2. Decisions concerning protocols pursuant to Articles 13, 15 and 16 shall be taken only by the parties to the protocol concerned.

Article 25*

Responsibilities of Depositary

1. The Depositary shall inform the Governments of the Contracting Parties and of those States referred to in paragraph 2 of Article 21, and the Organization :
 - (i) of the signature of this Convention and of any protocol thereto, and of the deposit of instruments of ratification, acceptance, approval or accession in accordance with Articles 21 and 22;
 - (ii) of the date on which the Convention and any protocol will come into force in accordance with Article 22;
 - (iii) of notifications of withdrawal made in accordance with Article 23;
 - (iv) of proposals for the amendment of the Convention and of any protocol, and the entry into force of amendments, in accordance with Article 15;
 - (v) of the adoption and amendment of annexes in accordance with Article 16.

2. The original of this Convention and of any protocol thereto shall be deposited with the Depositary who shall send certified copies thereof to the Contracting Parties, to the Organization, and to the Secretary-General of the United Nations for registration and publication in accordance with Article 102 of the United Nations Charter.

IN WITNESS WHEREOF, the undersigned being duly authorized by their respective Governments have signed this Convention.

DONE at... ..on(date).....

in a single copy in the.....languages, each version being equally authoritative.

ARBITRATION

(ANNEX A)

Article 1

Unless the parties to the dispute decide otherwise, the arbitration procedure shall be in accordance with the provisions of this Annex.

Article 2

1. At the request addressed by one Contracting Party to another Contracting Party in accordance with Article 20 of the Convention, an arbitral tribunal shall be constituted. The request for arbitration shall state the subject matter of the application including in particular the Articles of the Convention or the Protocols the interpretation or application of which is in dispute.
2. The claimant shall inform the Organization that he has requested the setting up of an arbitral tribunal, stating the name of the other party to the dispute and the Articles of the Convention or the Protocols the interpretation or application of which is in his opinion in dispute. The Organization shall forward the information thus received to all Contracting Parties to the Convention.

Article 3

The arbitral tribunal shall consist of three members: each of the parties to the dispute shall appoint an arbitrator; the two arbitrators so appointed shall designate by common agreement the third arbitrator who shall be the chairman of the tribunal. The latter shall not be a national of one of the parties to the dispute, nor have his usual place of residence in the territory of one of these parties, nor be employed by any of them, nor have dealt with the case in any other capacity.

Article 4

1. If the chairman of the arbitral tribunal has not been designated within two months of the appointment of the second arbitrator, the Secretary General of the United Nations shall, at the request of either party, designate him within a further two months' period.
2. If one of the parties to the dispute does not appoint an arbitrator within two months of receipt of the request, the other party may inform the Secretary General of the United Nations who shall designate the chairman of the arbitral tribunal within a further two months' period. Upon designation, the chairman of the arbitral tribunal shall request the party which has not appointed an arbitrator to do so within two months. After such period, he shall inform the Secretary General of the United Nations who shall make this appointment within a further two months' period.

Article 5

1. The arbitral tribunal shall decide according to the rules of international law and, in particular, those of this Convention or the protocols concerned.
2. Any arbitral tribunal constituted under the provisions of this Annex shall draw up its own rules of procedure.

Article 6

1. The decisions of the arbitral tribunal, both on procedure and on substance, shall be taken by majority voting of its members.
2. The tribunal may take all appropriate measures in order to establish the facts. It may, at the request of one of the Parties, recommend essential interim measures of protection.
3. If two or more arbitral tribunals constituted under the provisions of the Annex are seized of requests with identical or similar subjects, they may inform themselves of the procedures for establishing the facts and take them into account as far as possible.
4. The parties to the dispute shall provide all facilities necessary for the effective conduct of the proceedings.
5. The absence or default of a party to the dispute shall not constitute an impediment to the proceedings.

Article 7

1. The award of the arbitral tribunal shall be accompanied by a statement of reasons. It shall be final and binding upon the parties to the dispute.
2. Any dispute which may arise between the parties concerning the interpretation or execution of the award may be submitted by either party to the arbitral tribunal which made the award or, if the latter cannot be seized thereof, to another arbitral tribunal constituted for this purpose in the same manner as the first.