



UNITED
NATIONS

EP

UNEP(DEPI)/MED CC.9/5



UNITED NATIONS
ENVIRONMENT PROGRAM
MEDITERRANEAN ACTION PLAN

October 31, 2014

English
Original: French

9th Meeting of the Compliance Committee of the Barcelona Convention and its Protocols

Split, Croatia, 27-28 November 2014

Agenda item 7: Submission of reports by Contracting Parties (Biennium 2012-2013)

Note of the Secretariat about the Reports Submitted by Contracting Parties for the Biennium 2012-2013

For environmental and economic reasons, this document is printed in a limited number and will not be distributed during the meeting. Delegates are kindly requested to bring their copies to meetings and not to request additional copies.

ANNEX I – ASSESSMENT OF TURKEY REPORT

1. Introduction

1. In application of Decision IG.21/2, the Eighteenth Meeting of the Contracting Parties (CP) called the CPs to officially submit their reports to the UNEP/MAP Secretariat before October 2014 at the latest by using the online reporting format about the measures taken in accordance with the Barcelona Convention and its Protocols. On September 18, 2014, Turkey submitted to the Secretariat its report on line.

2. The Secretariat prepared a synthesis of the report submitted by Turkey in application of Article 26 of the Barcelona Convention and brings to the attention of the Compliance Committee. This procedure comes under the terms of Decision IG. 17/2 on compliance procedures and mechanisms within the Barcelona Convention and its Protocols. paragraph 23 of the Decision enables the Secretariat to verify, on the basis of the review of reports, if one Party is having difficulties to comply with its obligations. In that case the Secretariat is entitled to contact the Party concerned and discuss the ways of overcoming the difficulties. Moreover, paragraph 2 bis of section V of the same Decision enables the Compliance Committee to examine, on the basis of the activity reports submitted by CPs, the difficulties they have encountered in the application of the Barcelona Convention and its Protocols and request any complementary information.

3. In this document, the Secretariat submits to the Committee an assessment of the answers given by Turkey in its biennial report 2012-2013 regarding the implementation of the Barcelona Convention and its Protocols. It allows the Committee to follow up, at its own discretion, on the complementary information requests it deems necessary regarding the points which require explanations and/or clarifications related to non-compliance cases or potential non-compliance situations. The Secretariat is ready to support any intervention of the Compliance Committee and contact in parallel the Focal Point of the concerned Party to complete the report with additional information.

2. Application of the Barcelona Convention and its Protocols

2.1. Barcelona Convention

4. Turkey provided information on the status of ratifications and international, bilateral and multilateral agreements it has signed and that are related to the Convention. Turkey ratified all the Protocols listed in the Table and noted that the process of signature of the Offshore Protocol was undergoing.

5. *Application of the principle of precaution* (Article 4 paragraph 3 (a)): Turkey applies this principle. In application of Article 14 of the Convention, Turkey adopted a regulation which applied to the management of Hazardous Wastes (HW).

6. *Application of the Principle “the Polluter pays”* (Article 4 paragraph 3 (b)): Turkey applies this principle. Therefore, it adopted regulatory measures to put this principle into execution for the control of Hazardous Waste.

7. *Environmental Impact Assessment* (Art.4 paragraph 3 (c & d)): Turkey has solid experience in this field since this assessment mechanism goes back to 1993 and that the last review was published in 2008 on the basis of the relevant European Directive. Turkey has engaged in assessments of the environmental impact regarding activities which have a significant impact or are subject to an authorization to be granted by the competent

authorities. However, Turkey has not yet achieved the process aiming at information exchange and consultation between concerned Parties when the environmental impact assessment is put in place in a transboundary context. However, no measure has been taken in application of paragraph 3 e of the said article regarding the planning and the management of coastal zones.

8. *Ongoing monitoring of pollution/designation of competent authorities (Article 12)*: Turkey has put in place, within the framework of Phase IV of MED POL, a system to monitor pollution in the marine environment and on the coastal zones. Moreover, it has designated the competent authorities in charge of monitoring pollution in the zones under national jurisdiction.

9. *Access of the Public to the information on the environmental status (Article 15.1 & 2)*: Turkey has taken necessary measures to ensure the obligation to access information about the status of marine environment and coastal zones, particularly the access of the public to information regarding activities having a serious impact on the environment or, more generally, those that are developed to put into execution the Convention and its Protocols. However, the mechanism related to the participation and the consultation of the public to the decision making regarding the development of policies and legislations for the protection of marine environment and its coastal zones is still not in place.

10. *Measures taken in application of Article 4 (general obligations)*: Turkey hasn't taken any of the measures which are not legally binding listed in Table V for sustainable development regarding the protection of marine life and coastal areas from pollution from land-based sources and activities or from ships. However, Turkey notes that efforts are undergoing within the project entitled « Integrated Management Strategy for Coastal Zones and Action Plan for Turkey » which started in 2010 and aims at putting into execution the methodology of Integrated Management of Coastal Zones.

11. *Allocation of resources for the establishment of institutions*: Answers regarding this point vary. No appropriate institutional structure was put in place to ensure the application of the principle “the polluter pays” or the participation of the public in the decision-making process. However, the monitoring of marine pollution is ensured by the Ministry of Environment and Urbanization. Finally, it is noteworthy that the establishment of such structures is in place regarding the undertaking of an environmental impact assessment under the terms of Article 4 paragraph 3 (c) and (d) and the implementation of the Integrated Managements of Coastal Zones for the preparation of coastal zones management plans on the local, regional or national levels.

12. *Monitoring and access of the public to information*: The report underlines that, regarding Articles 12 and 15 paragraph 1, national monitoring programs were launched within Phase IV of MED POL. Moreover, annual reports regarding the national monitoring project of MED POL are annually published by the Turkish Statistical Institute (TurkStat).

Recommendation of the Secretariat:

13. The Committee may request clarifications from the Turkish authorities regarding the following points:

14. The nature of particular difficulties delaying the implementation of some principles for the execution of Barcelona Convention, namely Article 3 (c) and (d) on notification and information exchange and Article 15.2 regarding the participation of the public to the decision-making process regarding the development of policies and legislations related to the protection of the marine life and coastal areas. The report doesn't give any indication about the reasons for non-application of Article 15.2. The Committee would be advised to request such information from Turkish authorities.

15. The report doesn't give any indication about the general obligations to be taken by Turkey under the terms of Article 4. Regarding the definition of the physical plan of coastal zones, the report clarifies that it is under elaboration and that it gives clarifications about its status of implementation. The Committee might then call upon Turkey to clarify the reasons explaining the lack of such measures under the terms of Article 4.

2.2. Protocols

2.2.1. Protocol for the prevention and elimination of pollution in the Mediterranean Sea by the dumping from ships and aircraft or incineration at sea

16. Turkey has adopted this Protocol in 1976, ratified in 1981 and accepted the amendments of 1995 in 2002.

17. *Legal measures:* The report gives an exhaustive overview of the legislation which was adopted by the Turkish authorities to implement the provisions of the Dumping Protocol (Art.1 and 2, 7, 11 (a) and (c) and 12). Only notification procedures, as defined in Article 4 of the Protocol, are not yet integrated into the regulatory framework.

18. *Allocation of resources:* The report highlights the difficulty for Turkish authorities to set up appropriate institutional structures as well as monitoring programs to comply with the provisions of the Protocol. Therefore, regarding the issue of permits set in Article 15 of the Protocol, a draft legislation was elaborated, but hasn't yet been finalized because of the insufficient technical capacities and the lack of a regulatory framework.

19. *Administrative measures, implementation and effectiveness of measures:* The report doesn't provide information on these different points.

Recommendation of the Secretariat :

20. The report notes that the implementation of Article 4 about the notification of procedures as set in the guidelines on the dumping of uncontaminated inert materials was under execution. The report mentions the difficulties regarding the policy and regulatory framework. At this stage, it would be interesting for the Committee to know more details about the nature of difficulties related to policy and regulatory framework.

21. Moreover, regarding the allocation of resources, the report mentions that the draft legislation about the issue of permits set in Article 5 of the Protocol has not entered yet into force because of insufficient technical capacities and the lack of a policy and regulatory framework. On this point, it would also be interesting for the Committee to obtain more clarifications from the Turkish authorities.

22. On the other hand, regarding administrative measures, the report gives no indication regarding dumping in cases of *force majeure* (Article 8 of the Protocol) or emergency under the terms of Article 9 of the Protocol. Moreover, the report gives no element of information on the implementation of measures, particularly regarding the number of inspections, the number of non-compliance cases, the number of permit suspensions, the number of fines and their overall amount. It would also be desirable that the Committee gets to know, from the Turkish authorities, the reasons behind this lack of information of utmost importance.

23. Finally, no information is provided regarding effectiveness of indicators in the reporting Format (number of inspections, number of cases of non-compliance and cases of non-compliance that gave rise to sanctions, overall number of permits). Regarding this point also, the Committee might ask the Turkish authorities to provide accurate and exhaustive information about the efficiency of these indicators.

2.2.2. Protocol related to cooperating in preventing pollution from ships and in cases of emergency, combating pollution of the Mediterranean Sea.

24. Turkey has adopted this Protocol in 2002, ratified in 2003 , which entered into force in 2004.

25. *Status of ratifications of international legal tools related to the Protocol:* The report notes that all conventions listed in Table I related to maritime safety and pollution prevention caused by ships were ratified by Turkey, as well as most international Conventions aiming at combating pollution and those related to liability and compensation of damages resulting from pollution.

26. *Legal and administrative measures put in place to implement the provisions of the Protocol:* All these articles give rise to the introduction of measures under the form of contingency plans (cf. Art 4.10), the designation of competent authorities (4.2) or the dissemination of information to the competent national authorities (art.7). Regarding Articles 14, 15 and 16, the Committee may question the lack of clarifications to support the given positive response.

27. *Technical and operational measures taken to prevent and combat marine incidents related to pollution:* In this field and in reference mainly to Article 4 of the Protocol, answers given to the Questionnaire are totally positive even if we might regret the absence of comments in support of these answers.

28. *Operational measures:* Given responses are compared, totally positive for the implementation of Article 8 on communication and information on pollution incidents and partially positive, let alone negative, or the lack of response for the implementation of Article 9.

29. *Effectiveness of taken measures:* No element of information is given about this point by Turkish authorities.

Recommendation of the Secretariat:

30. Regarding legal and administrative measures, the report doesn't provide any information about the body in charge for the implementation of some prescriptions of Article 7, as well as Articles 14, 15 and 16. Moreover, regarding the different technical and operational measures taken to prevent and combat incidents of marine pollution, the report notes that all the answers are positive, but out the 14 measures of implementation, the report provides no comment but to three of them.

31. Moreover, regarding the operational measures to be taken under the terms of Articles 8 and 9 of the Protocol, the report does not include information regarding the implementation of some measures under the terms of Article 9 of the Protocol. Finally, no information is given by the report on spill incidents during the biennium, such as on the effectiveness of taken measures.

32. The Committee may call upon the Turkish authorities to obtain accurate information about these different points.

2.2.3. Protocol for the protection of the Mediterranean Sea against pollution from land-based sources and activities.

33. Turkey adopted this Protocol in 1980, ratified in 1983, and adopted the amendments of 1996 in 2002, which entered into force in 2008

34. *Legal measures:* The report accurately details the different legal measures taken to implement the articles of the Protocol (art.5 paragraph 2 and 5, art.6 paragraph 1, as well as article 7). However, the report mentions no measure for the implementation of Article 6 paragraph 2 and 3 regarding, respectively, the establishment of an inspection system to assess the compliance with authorizations and the implementation of appropriate sanctions in case of non-compliance with these authorizations.

35. *Allocation of resources for the establishment of institutions and monitoring programs:* The issuance of permits (art. 6) and the setting up of appropriate monitoring programs to assess the effectiveness of action plans to eliminate the expansion of the pollution of the marine life (art 13) pertain to the allocation of specific resources. However, no funding is specified for the establishment of appropriate monitoring structures to assess, as much as possible, the level of pollution all along the shores (art. 8).

36. *Administrative measures:* The report gives no statistical information about the spill authorizations given under the terms of Article 13 paragraph a. Moreover, no information is provided regarding the quantity of spilled pollutants in accordance with Article 13 paragraph e.

37. *Implementation of National Action Plans:* The report provides no indication on the implementation and effectiveness of these Plans.

38. *Implementation of monitoring programs:* A positive response is given to the implementation of monitoring programs, except for the bio-monitoring program under process. However, the report does not respond to the request of information about the modalities for the implementation of these programs.

39. *Effectiveness:* No information is given about the effectiveness of indicators regarding the activities of the Protocol, whether regarding the number of inspections or the cases of non-compliance having given rise to sanctions or the overall number of authorizations.

Recommendation of the Secretariat:

40. The part of the reporting format related mainly to the technical aspects of the implementation of the protocol is not fully completed. In that regard, the Committee may ask the Turkish authorities about the reasons behind this lack of information. In the meantime, the Committee may propose to the Secretariat to contact in parallel the concerned Focal Point requesting to complete the report by end of January 2015 with additional information.

2.2.4. Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean Sea

41. Turkey has ratified the 1995 Biodiversity Protocol in 2002.

42. *Legal measures:* The Turkish authorities adopted all required measures to put into execution provisions of Articles 2 paragraph 1, 3 paragraph 1 (a) and (b), 6 paragraph (b), (c), (e) (e), (f), (g), and (h), 11.2, 12.1 and 17 of the Protocol. The report specifies that, for the implementation of some of these articles, the Turkish authorities state the problems of financial resources (art. 3 paragraph 1. (b)) or the lack of technical capacities (art. 6 paragraph (g), 11.2 and 12.1)

43. *Specially Protected Areas:* The report brings in positive indications about the number of specially protected areas under the terms of Article 3.1 (a) of the Protocol, as well as the establishment and the implementation of management plans for each specially protected area (art. 7.2 (a)).

44. *Management of Specially Protected Areas:* The report sets a series of management instruments related to Articles 7.2 (b), (d) and (f) and Articles 7.3 and 7.4. However, no

management instrument is envisaged accordingly to Article 7.2.c to provide assistance to local inhabitants who might be affected by the establishment of a specially protected area.

45. *Specially Protected Areas of Mediterranean Importance (SPAMIs)*: The report underlines the difficulty to implement Article 3.1 (a) regarding the creation of SPAMIs by mentioning that the legal framework for the protection of marine activities is not yet appropriate. For this reason, no SPAMI was created and no implementation and management plan for each SPAMI was set up under the terms of Article 7.2 (a).

46. *Measures for the protection and preservation of species*: The implementation of measures for the protection and preservation of endangered or threatened species is followed, in various manners, by the report. If Articles 11.2 and 13 give rise to the issuance of measures, this is not, however, the case for Article 11.6. The process is undergoing for the implementation of Article 11.4. The report justifies these difficulties of implementation by the issues of technical capacities and administrative management.

47. *Conservation of the components of marine and coastal biodiversity*: The report brings in a detailed response to the prescriptions set by Articles 3.3 and 3.4 regarding the compilation of an inventory of these components and the formulation of a strategic national plan and action plan, while underlining the difficulties of administrative management or those related to the lack of technical capacities.

48. *Implementation of measures*: The report mentions only one protection measure. However, no information is given about the effectiveness of indicators for the implementation of the Protocol. Regarding the Action Plans for cartilaginous fish, the introduction of indigenous species, the conservation of bird species or the conservation of marine vegetation, and the conservation of monk seal or marine turtles, the report underlines that, in several cases, measures were adopted or are under the process of adoption. The report provides specific comments for each response and also recalls that for some, the policy and regulatory framework constitutes an obstacle. Regarding two points related to measures to take for the conservation of marine vegetation, the report gives negative responses putting forward the lack of technical capacities.

Recommendation of the Secretariat:

49. The report provides satisfying information to the different parts of the Questionnaire. However, it gives no information about the effectiveness of classified indicators in the questionnaire for the implementation of this Protocol. The Committee may call upon the Turkish authorities to obtain information about this point and recommend the Secretariat to contact in parallel the concerned Focal point to complete the report with additional information. by end of January 2015

2.2.5. Protocol for the protection of the Mediterranean Sea against the pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil

50. Turkey is not a Party to the Offshore Protocol.

51. *Legal measures*: The report mentions that the Turkish authorities have taken all necessary legal measures for the implementation of Articles 4, 5, 8, 9, 11, 12, 13 and 21 of the Protocol.

52. However, the report does not provide information regarding the allocation of resources for the establishment of institutional structures and the implementation of monitoring programs, in accordance with Articles 19 and 28 of the Protocol, as well as administrative measures, the implementation of these measures and the effectiveness indicators of the Protocol.

Recommendation of the Secretariat :

53. The report gives no information about the party related to the allocation of resources, the nature and the implementation of the taken administrative measures, as well as about the effectiveness indicators pertaining to this Protocol. Regarding these different points, the Committee might also call upon the Turkish authorities to know the reasons behind this lack of information.

2.2.6. Protocol on the prevention of pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Waste and their elimination

54. Turkey adopted this Protocol in 1996 and ratified in 2004 .

55. *Legal measures:* The report mentions, in detail, the measures, as well as the context of their implementation in accordance with Articles 5 paragraph 2, 3, 4, 5 and 6 paragraph 3 and 4 and Article 9 of the Protocol.

56. *Allocation of resources:* The report mentions that resources are allocated for the implementation of Articles 6 and 12 about the transboundary movements of hazardous waste and the notification of procedures and for the provision of adequate information to the public.

57. *Technical data:* The report specifies that, for the waste listed in Annex I of the Protocol, a procedure of transboundary movement was established. However, the report gives no figure about the overall amount of hazardous waste or other types of waste. The only given figure is about the overall amount in tons of hazardous waste or other imported or exported types of waste.

58. *Implementation and effectiveness of measures:* No information is given by the report about these two points.

59. *Implementation of the regional plan for the reduction by 20% of the generation of hazardous waste in 2011:* Regarding sections 6.2.1 and 6.2.2 of the Regional Plan of Hazardous Waste, the report provides positive answers by specifying that, for the section 6.2.1, the system is online and functioning and that some difficulties are encountered regarding technical capacities, administrative management and policy and regulatory framework.

60. Regarding sections 6.2 3, 6.2.4 1 (and 6.2. regarding Article 5.4 of the Protocol) of the regional Plan, the report underlines that their implementation is undergoing and that the Turkish authorities are encountering the same difficulties mentioned above.

Recommendation of the Secretariat:

61. The report provides no technical information about the quantity of hazardous waste or other types of waste mentioned in Table IV and does not mention the implementation of taken measures or the effectiveness of indicators applicable to this Protocol. Regarding these points, the Committee may also call upon the Turkish authorities for information and in the meantime recommend the Secretariat to contact the concerned Focal Point to complete the report with additional information on this point.

3. Conclusions

62. First conclusion: The report submitted by Turkey presents undeniable positive aspects regarding the communication of information about the implementation of the Barcelona Conventions and its Protocols. The online reporting format as requested by Decision IG.21/1 constitutes a good analysis tool which allowed the Turkish authorities to provide, for the whole Questionnaire, exhaustive information, particularly regarding the applicable legal measures.

63. Second conclusion: The information in the Questionnaire regarding the implementation of the Barcelona Convention and its Protocols shows, however, some inaccuracies or gaps. In particular, the report remains often vague regarding the information on the technical aspects, for the implementation of taken measures and regarding the effectiveness indicators set for each Protocol.

64. Third conclusion: Regarding several Protocols, the report underlines the difficulties encountered in their application because of several reasons stated in the Questionnaire, particularly the insufficient policy and administrative framework, limited financial resources which prevent the commitment of consequent environmental investments, but also limited technical capacities or insufficient human resources. The Secretariat should provide more support in helping the Contracting Parties to prepare the reports.

65. These different types of difficulties are often mentioned together. The Secretariat considers that the persistence of these difficulties is controversial since they may affect , on the long term, the implementation of the Protocols for the implementation of the Barcelona Convention and its Protocols. The Secretariat wishes to recall, in this regard, that in accordance with paragraph 2 bis of Section V of Decision IG.17/2, the Compliance Committee is henceforth enabled to examine, on the basis of the activity reports submitted by the Contracting Parties, the difficulties encountered by the latter in the implementation of the Barcelona Convention and its Protocols and to request any complementary information.

66. In these conditions, it seems essential that the Committee examines, with care, the content of each of these difficulties in order to provide assistance to the Turkish authorities. The Secretariat would wish, consequently, that the Compliance Committee ask the Turkish authorities to approach the Secretariat to specify their exact nature and the means envisaged to overcome them. More generally, the Secretariat recommends the undertaking of a deep inquiry in order to establish the specific nature of these difficulties and challenges to which Turkey is confronted, in this field.

67. The Secretariat is ready to support any intervention of the Compliance Committee and contact in parallel the Focal Point of the concerned Party to complete the report with additional information.

ANNEX II – ASSESSMENT OF BOSNIA AND HERZEGOVINA REPORT

1. Introduction

1. In application of Decision IG.21/2, the Eighteenth Meeting of the Contracting Parties (CP) called the CPs to officially submit their reports to the UNEP/MAP Secretariat before October 2014 at the latest by using the online reporting format about the measures taken in accordance with the Barcelona Convention and its Protocols. On September 19, 2014, Bosnia and Herzegovina (BH) submitted to the Secretariat its report on line. The online reporting format as requested by Decision IG.21/2 constitutes a good analysis tool allowing the BHBH authorities to have a clear assessment of the implementation of the Barcelona Convention and its Protocols.

2. The Secretariat prepared a synthesis of the report submitted by BH in application of Article 26 of the Barcelona Convention and brings to the attention of the Compliance Committee. This procedure comes under the terms of Decision IG. 17/2 on compliance procedures and mechanisms within the Barcelona Convention and its Protocols: paragraph 23 of the Decision enables the Secretariat to verify, on the basis of the review of reports, if one Party is having difficulties to comply with its obligations. In that case the Secretariat is entitled to contact the Party concerned and discuss the ways of overcoming the difficulties. Moreover, paragraph 2 bis of section V of the same Decision enables the Compliance Committee to examine, on the basis of the activity reports submitted by CPs, the difficulties they have encountered in the application of the Barcelona Convention and its Protocols and request any complementary information.

3. In this document, the Secretariat submits to the Committee an assessment of the answers given by BH in its biennial report 2012-2013 regarding the implementation of the Barcelona Convention and its Protocols. It allows the Committee to follow up, at its own discretion, on the complementary information requests it deems necessary regarding the points which require explanations and/or clarifications related to non-compliance cases or potential non-compliance situations. The Secretariat is ready to support any intervention of the Compliance Committee and contact in parallel the Focal point of the concerned Party to complete the report with additional information.

2. Implementation of the Barcelona Convention and its Protocols

2.1. Barcelona Convention

4. BH is the only Contracting Party which has not ratified the amendments of 1995 to the Barcelona Convention. The reasons invoked touch upon, at the same time, the policy and regulatory framework, the financial resources, the administrative management and the technical capacities. The assessment of the legal measures taken by BH in application of the Convention led to the following conclusions:

5. *Application of the principle of precaution* (article 4 para 3 (a)): BH has taken the legislative provisions to implement this principle while underlining the difficulties of administrative management and insufficient technical capacities for implementation.

6. *Application of the Principle “the Polluter pays”* (article 4 paragraph 3 (b)): BH has taken the legislative provisions to implement this principle while underlining the difficulties of administrative management and insufficient technical capacities to put them into practice.

7. *Environmental Impact Assessment* (Art. 4 paragraph 3 (c & d)): BH has taken the legislative provisions to implement this principle while underlining the difficulties of administrative management and insufficient technical capacities for implementation.

8. *Ongoing monitoring of pollution/ designation of competent authorities* (article 12): BH has taken the legislative provisions to implement this principle while underlining the difficulties because of the lack of financial resources, administrative management and insufficient technical capacities to reap its full effectiveness.

9. *Access of the Public to information about the status of the environment* (article 15.1 & 2): BH has adopted the necessary measures to ensure the obligation of access to information about the status of marine life and coastal zones. Moreover, the mechanism for the participation and consultation of the public to the decision-making process regarding the development of policies and legislations for the protection of the marine life and coastal zones was put in place. However, no measure was taken to allow access of the public to information about activities or measures taken to implement the Barcelona Convention and its Protocols. No measure was neither taken to allow the participation of the public to authorize proposed activities causing damage to marine life and coastal zones.

10. *Measures taken in application of Article 4 (general obligations)*: BH hasn't taken but two measures for the implementation of this article, the first being for the protection of marine life and coastal zones within the national strategy for sustainable development, and the second regarding the establishment of relevant economic instruments for the protection of marine life and coastal zones and the conservation of biodiversity.

11. *Allocation of resources for the establishment of institutions*: The responses to this point are positive about the implementation of Articles 4 par. 3, 12 paragraph 1 and 15 par. 2. Appropriate institutional structures are put in place to ensure the application of the "polluter pays" principle or the participation of the public to the decision-making process. Moreover, the establishment of such structures is operational regarding the undertaking of the environmental impact assessment under the terms of Article 4 paragraph 3 (c) and (d), as well as the implementation of the Integrated Management of Coastal Zones within the preparation of management plans for coastal zones on the national, regional or local levels. The implementation of such measures lies either within the competency of the Ministry of Environment or of the Ministry of Water Resources or Physical Planning.

12. *Monitoring and access of the public to information*: The report underlines that, regarding Articles 12 and 15 paragraph 1, no national monitoring program was launched to undertake an assessment of marine environment and coastal zones.

Recommendation of the Secretariat :

13. The Committee may call for clarifications from the BH authorities regarding the following points:

14. The nature of particular difficulties which delay the implementation of some principles for the application of the Barcelona Convention, namely Article 3 (e) regarding the promotion of integrated planning and management of coastal zones and Article 15.1 regarding the participation of the public to the information regarding activities and/or measures taken to apply the Barcelona Convention and its Protocols or regarding the process of authorization of activities causing damages to marine life and coastal zones. The report gives no indication about the reasons behind the non-application of Article 15.2. On the other hand, the report doesn't give but partial indications about the general obligations to be taken by BH under the terms of Article 4.

15. The Committee may invite BH to detail the reasons behind the absence of such measures under the terms of the different above-mentioned articles. In parallel, the Secretariat could contact the concerned Focal point to get additional information on this point.

2.2. Protocols

16. The report highlights the fact that BH has ratified no Protocol to the Barcelona Convention for the same reasons formulated for the lack of ratification of 1995 amendments to the Barcelona Convention.

2.2.1. Protocol for the prevention and elimination of pollution in the Mediterranean Sea by the dumping from ships and aircraft or incineration at sea

17. *Legal measures:* BH has taken no measures for the implementation of Articles 4, 7 and 11. Only Article 12 was applied for instructions regarding sea and air inspections.

18. *Allocation of resources:* The report makes no reference to the establishment of any institution or management programs, especially regarding those for which permits were issued in application of Article 4.2 of the Protocol.

19. *Administrative measures, implementation and effectiveness of measures:* The report gives no information.

Recommendation of the Secretariat :

20. Regarding the allocation of resources, the report mentions that the draft legislation over the issue of permits set in Article 5 of Protocol has not entered into force yet because of the lack of technical capacities and policy and regulatory framework. Regarding this point, it would be also interesting that the Committee obtains further clarifications from the BH authorities.

21. Moreover, regarding the administrative measures, the report gives no indication about the cases of dumping in case of force majeure (Article 8 of the Protocol) or of emergency in application of Article 9 of the Protocol. Moreover, the report gives no elements of information about the implementation of the measures, especially regarding the number of inspections, then the number of non-compliance cases, the number of permit suspensions, the number of fines and their total amount. It would also be desired that the Committee gets informed, from the BHBH authorities, of the reasons behind this lack of information which is of utmost importance.

22. Finally, no information is provided regarding effectiveness indicators in the reporting Format (number of inspections, number of non-compliance cases having given rise to sanctions, total number of permits). Regarding this point, the Committee may ask the BHBH authorities to have accurate and exhaustive information about the effectiveness indicators.

23. In parallel, the Secretariat could contact the concerned Focal point to get additional information on all the points here above mentioned.

2.2.2. Protocol related to cooperating in preventing pollution from ships and in cases of emergency, combating pollution of the Mediterranean Sea.

24. *Status of ratifications of international legal tools related to the Protocol:* The report mentions that no convention enumerated in Table I about marine safety and the prevention of pollution from ships was ratified by BH, as well as for most international Conventions aiming at fighting pollution and for those related to liability and compensation of damages from pollution.

25. *Administrative and legal measures taken to implement the provisions of the Protocol:* The report highlights that no legal or administrative measure was taken.

26. *Technical and operational measures taken to prevent and combat marine incidents related to pollution:* No measure of this type is mentioned.

27. *Operational measures:* The report mentions no measures by indicating that, regarding the application of Article 8, BH has no port or institutional or human resources to put into application this obligation.

28. *Effectiveness of the taken measures:* No element of information is given about this point by the BH authorities.

Recommendation of the Secretariat :

29. The Committee, while taking into consideration that this Protocol was not ratified by the BH authorities, may invite them to provide an accurate information about these different points and about the potential implications of the implementation of these various measures.

2.2.3. Protocol for the protection of the Mediterranean Sea against pollution from land-based sources and activities.

30. *Legal measures:* The report accurately details the different legal measures taken to implement the articles of the Protocol (art.5 paragraph 2 and 5, art.6 paragraph 1, as well as Article 7). The report also mentions the implementation of the measures of Article 6 paragraph 2 and 3 regarding the establishment of an inspection system to assess the conformity with authorizations and the application of appropriate sanctions in case of non-conformity with these authorizations, respectively.

31. *Allocation of resources for the establishment of institutions and monitoring programs:* BH allocated necessary resources for the issuance of permits (art. 6), as well as the establishment of competent structure for inspection of compliance. The implementation of appropriate monitoring is still in process. Regarding the effectiveness of action plans to put an end to the expanding pollution of the marine life (art 13), BH notes that a national action Plan has not been adopted to date. Moreover, the report specifies that a financing is underway for the establishment of appropriate monitoring structures to assess, as much as possible, the level of pollution all along the shores (art.8).

32. *Administrative measures:* The report gives no statistical information about given spill authorizations under the terms of Article 13, paragraph a. Moreover, no information is given about the quantity of spilled pollutants in accordance with Article 13, paragraph e.

33. *Implementation of National Action Plans:* The report provides no indication about the implementation and the effectiveness of these Plans.

34. *Application of monitoring programs:* A positive response is given to the implementation of monitoring programs, except for the bio-monitoring program which is undergoing. However, the report does not respond to the request for information about the modalities for the implementation of these programs.

35. *Effectiveness:* No information is given about the effectiveness of indicators concerning the activities of the Protocol, whether regarding the number of inspections or the cases of non-compliance giving rise to sanctions or the total number of authorizations.

Recommendation of the Secretariat :

36. The part of the reporting format related mainly to the technical aspects of the implementation of the protocol is not fully completed. In that regard, the Committee may ask

the BH authorities about the reasons behind this lack of information. In parallel, the Secretariat could contact the concerned Focal point to complete the report with additional information. by end of January 2015.

2.2.4. Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean Sea

37. *Legal measures*: BH has adopted the required measures to put in place the provisions of Articles 2 paragraph 1, 3 paragraph 1 (a) and (b), 6 paragraph (b), (f), (g), and (h), 11.2, 12.1 and 17 of the Protocol. However, the report specifies that, for the implementation of some of these articles (11.2 and 12.1), no specific legislation was adopted.

38. *Specially Protected Areas*: The report mentioned that two specially protected areas were established in application of Article 3.1 (a) of the Protocol. However, no management plan for each area (art. 7.2 (a)) was put into execution.

39. *Management of Specially Protected Areas*: The report compiles an inventory of a list of management tools related to Articles 7.2 (c), (d) and (f) and Article 7.4. Moreover, a management tool is expected to provide assistance to local inhabitants, who might be affected by the establishment of a specially protected area. However, the report makes no reference to any management program under the terms of Article 7.2 (b) or to contingency plans under the terms of Article 7.3.

40. *Specially Protected Areas of Mediterranean Importance (SPAMIs)*: The report underlines that no SPAMI was created in accordance with Article 3.1 (a) and that, a fortiori, no implementation and management plan for each SPAMI was created under the terms of Article 7.2 (a).

41. *Measures for the protection and conservation of species*: The application of measures for the protection and conservation of endangered or threatened species is diversely followed by the report. If Articles 11.2, 11.7 and 13 give rise to the issuance of measures, it is not, however, the case for Article 11.6. Moreover, the report specifies no measure for the implementation of Article 11.4 and provides no element of appreciation regarding the difficulties encountered for its implementation.

42. *Conservation of the components of marine and coastal biodiversity*: The report gives no response regarding the implementation of prescriptions set by Article 3. paragraph 3 and 4 related to the compilation of an inventory of these components and to the formulation for the latter of an action plan and a strategic national plan while underlining the difficulties of administrative management or those related to the lack of technical capacities.

43. *Application of measures and effectiveness of indicators*: The report mentions no protection measures which might be put in place within the framework of specific conservation action plan (bird species, monk seal, marine turtles) and brings no accurate information about the effectiveness of indicators regarding the present Protocol.

Recommendation of the Secretariat :

44. The report provides no information about several points of the Questionnaire, without specifying the exact reasons behind. The Committee may call upon the BHBH authorities to obtain detailed information about this point. In the meantime, the Secretariat could contact the concerned Focal point to get additional information on this point.

2.2.5. Protocol for the protection of the Mediterranean Sea against the pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil

45. *Legal measures:* The report notes that the BH authorities have taken all necessary legal measures for the implementation of Articles 4, 5, 8, 9 and 11 of the Protocol. However, no measure was specified under the terms of Articles 12, 13 and 21 of the Protocol.

46. However, the report remains silent regarding the allocation of resources for the establishment of institutional structures and the implementation of monitoring programs, in accordance with Articles 19 and 28 of the Protocol, as well as administrative measures, the implementation of these measures and the effectiveness indicators for the present Protocol.

Recommendation of the Secretariat:

47. The report gives no information about the party related to the allocation of resources, the nature of the taken administrative measures and their implementation, as well as about the effectiveness indicators pertaining to this Protocol. Regarding these different points, the Committee might also call upon the BH authorities to get to know the reasons behind this lack of information. In the meantime, the Secretariat could contact the Focal point concerned to get additional information on this point.

2.2.6. Protocol on the prevention of pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Waste and their elimination

48. *Legal measures:* The report mentions in detail the legislative measures and the context of their implementation in application of Articles 5 paragraph 2, 3, 4, 5 and 6 paragraph 3 and of Article 9 of the Protocol.

49. *Allocation of resources:* The report gives no mention about the allocation of resources for the establishment of institutions and monitoring programs.

50. *Technical data:* The report gives no technical information, neither on potential hazardous waste nor about the types of waste listed in Annex I of the Protocol, nor on the mode of production of hazardous waste and other waste in application of Article 5 of the Protocol.

51. *Application and effectiveness of measures:* No information is given by the report about these two points.

52. *Implementation of the Regional Plan on the reduction by 20% of the generation of hazardous waste in 2011:* The report mentions that Article 6.2. paragraph 1 and 2 has given rise to the creation of an official inventory of hazardous waste based on a national or international classification. Moreover, BH states that no measure has been taken in application of Article 6.2.2 to prevent the mixture of different types of waste, as well as irregular practices of stocking and inappropriate treatments. However, BH mentioned that, for some regional plans, an environmental protection strategy was adopted at the federal level within the framework of which a waste management strategy was adopted.

Recommendation of the Secretariat:

53. The report provides no technical information, particularly about the quantity of hazardous waste or other types of waste mentioned in Table IV, the implementation of measures or the effectiveness of indicators applicable to this Protocol. Moreover, BH hasn't put into execution but partially Regional Plans for the reduction of hazardous waste. Regarding these points, the Committee may also call upon the BH authorities for

information. In the meantime, the Secretariat is open to contact the concerned Focal point to get additional information on these points.

3. Conclusions

54. The report submitted by BH presents several gaps, particularly in terms of information about the implementation of Protocols to the Barcelona Convention. These gaps may be explained, to a large extent, by the fact that BH has ratified no Protocols to the Barcelona Convention.

55. The report remains often vague regarding the information about technical aspects, the implementation of taken measures and the effectiveness of indicators set for each Protocol. It would be advisable for the Committee to handle the different points on which there is a partial or total lack of information, as highlighted in the above-mentioned recommendations of the Secretariat and call upon BH, by mail, to provide relevant complementary information.

56. Moreover, regarding several Protocols, the report underlines the difficulties encountered in their application, particularly concerning the lack of policy and administrative framework, the limited financial means preventing the commitment of consequent environmental investments, but also limited technical capacities or insufficient human resources. BH has measured these shortcomings it deemed due to the lack of a strategy and a coordinated and harmonious environmental policy at the level of the State, the insufficiency of technical capacities for the protection of the environment, and the complexity of the institutional structure in this field. Moreover, BH denounces the lack of coordination at the central level and in the implementation of international agreements and recalls that it disposes of very limited financial resources which have a negative impact on the possibilities to mobilize major investments in the field of environment. In view of all these cumulated difficulties, BH is reassuring, indicating that major progress in the ratification of the Barcelona Convention and its Protocols will be achieved in the coming period.

57. Regarding these different types of difficulties which were exposed by BH in an isolate way, but very often cumulatively, the Secretariat considers that their persistence is controversial since they may definitively threaten the implementation of the Protocol of the Barcelona Convention.

58. On the basis of what was mentioned above and without the need to specify if the lack of legal or technical measures for the implementation of the Convention and/or its Protocols constitutes a case of non-compliance, the Secretariat wishes to recall that, under the terms of paragraph 2 bis of section V of Decision IG.17/2, the Compliance Committee is capable of examining, on the basis of the activity reports submitted by the Contracting parties, the difficulties encountered by the Parties themselves in the application of the Barcelona Convention and its Protocols and asking them to provide any complementary information.

59. Within these conditions, it would be appropriate that the Committee examines, with care, the content of each difficulty in order to provide the BH authorities with advice and with an adapted assistance to overcome these difficulties. Therefore, the Secretariat calls upon the Compliance Committee to handle this issue by asking BH, by mail, to approach the Secretariat to specify the exact nature of encountered difficulties and the solutions which may be envisaged to confront them. More globally, the Secretariat recommends the undertaking of an in-depth inquiry in order to specify the exact nature of these difficulties and the challenges to which BH is confronted to put in place the prescriptions of the Barcelona Convention and its Protocols.

60. The Secretariat is ready to support any intervention of the Compliance Committee and contact in parallel the Focal Point of the concerned Party to complete the report with additional information.

ANNEX III – ASSESSMENT OF THE EUROPEAN UNION REPORT

1. Introduction

1. In application of Decision IG.21/2, the Eighteenth Meeting of the Contracting Parties (CP) called the CPs to officially submit their reports to the UNEP/MAP Secretariat before October 2014 at the latest by using the online reporting format about the measures taken in accordance with the Barcelona Convention and its Protocols. The European Union (EU) submitted to the Secretariat its report in a hard copy on 30 September 2014.

2. The Secretariat prepared a synthesis of the report submitted by EU in application of Article 26 of the Barcelona Convention and brings to the attention of the Compliance Committee. This procedure comes under the terms of Decision IG. 17/2 on compliance procedures and mechanisms within the Barcelona Convention and its Protocols: paragraph 23 of the said Decision enables, in fact, the Secretariat to verify, on the basis of the review of reports, if one Party is having difficulties to comply with its obligations. In that case the Secretariat is entitled to contact the Party concerned and discuss the ways of overcoming the difficulties. Moreover, paragraph 2 bis of section V of the same Decision enables the Compliance Committee to examine, on the basis of the activity reports submitted by CPs, the difficulties they have encountered in the application of the Barcelona Convention and its Protocols and ask for any complementary information.

3. In this document, the Secretariat submits to the Committee an assessment of the answers given by the EU in its biennial report 2012-2013 regarding the implementation of the Barcelona Convention and its Protocols. It allows the Committee to follow up, at its own discretion, on the complementary information requests it deems necessary regarding the points which require explanations and/or clarifications related to non-compliance cases or potential non-compliance situations. The Secretariat is ready to support any intervention of the Compliance Committee and contact the Focal point of the concerned Party to complete the report with additional information.

2. Application of the Barcelona Convention and its Protocols

2.1. Barcelona Convention

4. The EU has provided accurate information about the status of ratifications as well as clear information about the international, bilateral and multilateral agreements it has signed and which are linked to the Convention. The EU has ratified all the Protocols listed in the Table, except for the one on preventing the pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Waste and their elimination.

5. *Application of the principle of precaution* (article 4 paragraph 3 (a)): The EU has positively responded by mentioning Article 191, paragraph 2 of the TFEU.

6. *Application of the Principle “the Polluter pays”* (article 4 para 3 (b)): The EU has positively responded by mentioning Article 191 paragraph 2 of the EU Treaty, as well as Directive 2004/35/CE.

7. *Environmental Impact Assessment (EIA)* (Art. 4 paragraph 3 (c & d)): Two European directives implement the EIA (2014/52/EU & 2001/42/EC).

8. *Planning and integrated management of coastal zones* (art. 4 paragraph 3 e): The EU makes reference to the Recommendation of the Parliament and the Council, on May 30, 2002, as well as Directive 2014/89/EU establishing a framework for the marine spatial planning.

9. *Ongoing pollution monitoring /designation of competent authorities (Article 12)*: Two directives are mentioned for the implementation of this article (Framework directive on the marine strategy 2008/56/EC and 2008/105/EC). Regarding this point, the EU underlines that this strategy represents the pillar of legislations and politics of the EU within the field of the marine environment.

10. *Access of the Public to information about the environmental status (Article 15.1 & 2)*: The EU mentions Directive 2003/4/EC and Directive 2003/35/EC.

11. *Measures taken in application of Article 4 (general obligations)*: A series of Regulations and Directives was adopted to implement this article. It underlines the fact that, since 2009, the Commission implements an integrated maritime policy in order to achieve a better governance in the Mediterranean. Moreover, regarding its initiative, a reform of the fishing common policy became effective as of January 1st, 2014.

12. *Allocation of resources for the establishment of institutions*: The EU provides no specific comments.

13. *Monitoring and access of the public to the information*. The EU makes reference to the above-mentioned Directive 2008/56/EC for the application of Article 12 and the reports of the European Environment Agency for the implementation of Article 15, paragraph 1.

2.2. Protocols

2.2.1 Protocol for the prevention and elimination of pollution in the Mediterranean Sea by the dumping from ships and aircraft or incineration at sea

14. *Legal measures*: The report makes reference to Directive 2008/98/EC for the implementation of Article 4, paragraph 1, but no measure is specified for the implementation of Articles 4. paragraph 2, 7, 11 para (a), (b) and (c), as well as for Article 12.

15. *Allocation of resources*: The report gives no indication regarding the establishment of institutions and monitoring programs.

16. *Administrative measures, implementation and effectiveness of measures*: The report brings no element of information about these different points.

2.2.2 Protocol related to cooperating in preventing pollution from ships and in cases of emergency, combating pollution of the Mediterranean Sea.

17. *Status of ratifications of international legal tools linked to the Protocol*: Only three international conventions on maritime security and the prevention of the pollution from ships have given rise to be incorporated into the Community Law. No international convention against pollution and those related the liability and the compensation for the damages resulting from pollution has given rise to ratification by the EU, hence explaining the fact that it is not an integral part to these conventions.

18. *Administrative and legal measures taken to implement the provisions of the Protocol*: Regarding Articles 4.2, 4.3 and 7, the report specifies that the State Members may ask for additional resources within the framework of the Emergency Response Coordination Centre (ERCC) managed by the European Commission. Moreover, Article 16 has given rise to the adoption of Directive 2009/17/EC.

19. *Technical and operational measures taken to prevent and combat marine incidents related to pollution*: Regarding Article 4 on anti-pollution means and equipment, the report makes reference to the Action Plan against oil pollution within the framework of which a network, covering seven ships capable of responding to pollution accidents following oil spills, was established.

20. *Operational measures*: Given responses are compared, totally positive for the implementation of Article 8 regarding the communication and information of pollution incidents within the management of the Commission on “Common Emergency Communication and Information System” (CECIS) and negative for the implementation of Article 9.

21. *Effectiveness of measures taken*: No element of information was given by the EU about this point.

2.2.3 Protocol for the protection of the Mediterranean Sea against pollution from land-based sources and activities.

22. *Legal measures*: The report accurately details the different directives taken to implement the articles of the Protocol (art.5 paragraph 2 and 5, art. 6 paragraph 1, as well as Article 7). Moreover, the report provides no indication about the application of Article 6, paragraph 2 and 3 regarding the establishment of an inspection system to assess conformity with authorizations and the application of appropriate sanctions in case of non-compliance with these authorizations, respectively. However, several directives were mentioned about the implementation of common measures regarding pollution by mercury and other toxic substances.

23. *Allocation of resources for the establishment of institutions and monitoring programs*: The report provides no information about this point.

24. *Administrative measures*: The report provides no statistical information about the granted spill authorizations in application of Article 13, para a. Moreover, no information was given about the quantity of spilled pollutants in conformity with Article 13, para e.

25. *Implementation of National Action Plans*: The report provides no indication about the implementation and the effectiveness of these Plans.

26. *Application of monitoring programs*: The report provides no information about the implementation of these programs.

27. *Effectiveness*: No information is given about the effectiveness of indicators regarding the activities of the Protocol, whether regarding the number of inspections or non-compliance cases giving rise to sanctions or the overall number of authorizations.

2.2.4 Protocol for Specially Protected Areas and Biological Diversity in the Mediterranean

28. *Legal measures*: The EU has adopted all required measures to put in place the provisions of Articles 2 paragraph 1, 3 paragraph 1 (a) (g), and (h), 6 para h and 12 of the Protocol.

29. *Specially Protected Area*: The report provides no indication.

30. *Management of Specially Protected Areas*: The report compiles an inventory of a series of management tools related to Articles 7.2 (b), (d) and (f) and Articles 7.3 and 7.4. However, no management tool is expected to provide assistance to local inhabitants who might be affected by the establishment of a specially protected area.

31. *Specially Protected Areas of Mediterranean Importance (SPAMIs)*: The report provides no indication in this regard.

32. *Measures for the protection and conservation of species*: The report provides references about the action plans for protected birds regarding the Mediterranean region.

33. *Conservation of the components of marine and coastal biodiversity*: The report provides no information in this regard.

34. *Application of measures:* The EU mentions the adoption, in 2009, of an Action Plan for cartilaginous fish. Regarding the conservation of bird species, the EU indicates that a legal protection is currently under development within the framework of the drafting of a Communication to the European Parliament and to the Council regarding the reduction of sea bird by-catch because of fishing material. Moreover, a European regulation was adopted in 2006 for the conservation of marine vegetation. Regarding the conservation of the monk seal, the report provides no indication about the setting up of a legal status. However, the EU specifies that a regulation of 2006 forbids the use of explosives for hunting. No indication is given regarding the drafting of an Action Plan for marine turtles.

2.2.5 Protocol for the protection of the Mediterranean Sea against the pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil

35. *Legal measures:* The report notes that the EU adopted a Directive in June 2013, as well as a decision of the Commission in January 2012 for the implementation of Articles 4, 5, 6 and Annex IV only. The EU underlines that the new regulatory framework aims at reducing the occurrence of major accidents related to the exploration and exploitation of oil and gas. The report provides no indication about the allocation of resources for the establishment of institutional structures and the application of monitoring programs in accordance with Articles 19 and 28 of the Protocol, as well as administrative measures, the implementation of these measures and the effectiveness of indicators for this Protocol.

2.2.6 Protocol on the prevention of pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Waste and their elimination

36. *Legal measures:* The report notes that several measures (European Directive, entry into force in 2010; Regulation of the European Parliament of 2006 and Regulation of the Commission of 2007) apply Article 5. paragraph 2 of the Protocol.

37. *Allocation of resources:* The report provides no indication.

38. *Technical data:* The report provides no indication.

39. *Application and effectiveness of measures:* No information is given by the report.

40. *Implementation of the Regional Plan on the reduction by 20% of the generation of Hazardous Waste in 2011:* No information is provided by the report.

3. Conclusions

41. The EU didn't use the online reporting format. On the substance, the report submitted by the EU presents positive aspects, mainly regarding the communication of information about the implementation of the Barcelona Convention and its Protocols. Considering its particular nature, which is different from other Contracting Parties, the EU is unable to provide information about the technical aspects of Protocols, particularly regarding the allocation of resources, the application of taken measures or the effectiveness indicators set for each Protocol.