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MEDITERRANEAN ACTION PLAN

First Meeting of the Working Group of Experts designated
by the Contracting Parties on the Draft Protocol on Integrated
Coastal Zone Management (ICZM) in the Mediterranean

Split, Croatia, 27-29 April 2006

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REPORT

OF THE FIRST MEETING OF THE WORKING GROUP OF EXPERTS DESIGNATED BY THE CONTRACTING PARTIES ON THE DRAFT PROTOCOL ON INTEGRATED COASTAL ZONE MANAGEMENT (ICZM) IN THE MEDITERRANEAN

Introduction

1. Pursuant to the decision of the 14th Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols, held in Portoroz, Slovenia, from 8 to 11 November 2005, the First Meeting of the Working Group of Experts designated by the Contracting Parties was held at the Hotel Marjan, Split, Croatia, from 27 to 29 April 2006 in order “to develop a draft text of the Protocol on ICAM with a view to its consideration and possible approval by the 15th Meeting of the Contracting Parties” (UNEP(DEPI)/MED IG.16/13).

2. The main objective of the meeting was to discuss the objectives and the structure, and to review the text of the draft Protocol proposed by the Secretariat.

Attendance

3. The meeting was attended by experts designated by the following Contracting Parties to the Barcelona Convention: Albania, Algeria, Croatia, Cyprus, Egypt, European Community, France, Israel, Italy, Lebanon, Libyan Arab Jamahiriya, Morocco, Serbia and Montenegro, Slovenia, Spain, Tunisia and Turkey.

4. The following Regional Activity Centers were present: the Regional Activity Centre for the Blue Plan (BP/RAC), the Regional Activity Centre for the Priority Actions Programme (PAP/RAC), the Regional Activity Centre for Specially Protected Areas (SPA/RAC); the following Intergovernmental and non-governmental organizations were also present represented by observers: the Intergovernmental Oceanographic Commission (IOC), the International Centre of Comparative Environmental Law (CIDCE), MAREVIVO and the Turkish Marine Research Foundation.

5. The list of participants appears as **Annex I** to this report.

Agenda item 1: Opening of the meeting

6. The meeting was opened by Mr Paul Mifsud, MAP Coordinator.

7. Mr Bozidar Capalija, Deputy Mayor of Split, welcomed the participants on behalf of the City of Split and wished them success in their work. He said that the authorities of the City of Split had been endeavouring to improve the coastal environment over the past 10 or more years and had succeeded in raising the quality of coastal sea water. He hoped that the proposed new Protocol would help in improving coastal zones throughout the Mediterranean.

8. Ms Marijana Mance, Head of the International Relations Department in the Ministry of Environmental Protection, Physical Planning and Construction of Croatia, welcomed the initiative of developing a Protocol on integrated coastal zone management. Coastal areas were increasingly faced by many pressures, such as the uncontrolled development of tourism, population and urban growth, pollution from various sources, including unprocessed sewage and toxic discharges, uncontrolled fishing and invasive species, which all placed at risk the economic prosperity and quality of life in coastal areas. It was therefore urgent to address those challenges in an integrated manner. Important recent developments in that context included the European Union Thematic Strategy for the Protection and Conservation of the Marine Environment, which identified regions and subregions, such as the Adriatic marine subregion, as a part of the Mediterranean region, with the overall aim of promoting the sustainable use of the seas and the conservation of marine ecosystems; the Euro-Mediterranean Partnership initiative “Horizon 2020” to address the major sources of pollution in the Mediterranean by 2020; and the affirmation by the Contracting Parties to the Barcelona Convention of the urgent need to reverse the continuous degradation of the Mediterranean

coastal zone and their decision to proceed with the elaboration of a draft Protocol with a view to its possible approval by the next meeting of Contracting Parties. Croatia was very committed to the protection of the coastal zone as it considered it an important resource, a commitment known to be shared by other countries. There was little point in countries acting alone; a concerted international effort was required to achieve the goal of the sustainable development of coastal zones.

9. Mr Mifsud welcomed the broad participation at the meeting, which showed the level of interest by Mediterranean countries in developing a Protocol on integrated coastal zone management. He recalled that the process had already been going on for a number of years and that the draft text now before the meeting was based on a broad process of consultation. At the last meeting of the Contracting Parties in Portoroz, the Secretariat had been requested to set up a working group of experts to develop the draft text of the Protocol. He thanked Mr Michel Prieur, Legal Consultant, for his contribution in leading the work on the formulation of the present informal draft text of the Protocol. The importance of the adoption of a legal instrument on the integrated management of coastal zones was highlighted by the Environment and Development Report, which showed for example that 40 per cent of the 46,000 km coastline of the Mediterranean was already built up, and that the figure would reach 50 per cent by the middle of the century if action was not taken.

Agenda item 2: Election of Officers

10. The meeting elected its officers as follows:

Chairperson:	Mr Hassouna Abdelmalek	(Tunisia)
Vice-Chairpersons:	Ms Marijana Mance	(Croatia)
	Mr Pierre Bougeant	(France)
	Ms Melike Yilmaz	(Turkey)
Rapporteur:	Mr Omar Abou Eich	(Egypt)

Agenda item 3: Adoption of the agenda and organization of work

11. The meeting adopted the agenda contained in document UNEP(DEPI)/MED WG.287/1. It noted that the general discussion would focus in particular on the objectives and structure of the Protocol. The agenda is attached as **Annex II** to this report.

Agenda item 4: General discussion on the objectives and the structure of the draft text of the Protocol on Integrated Coastal Zone Management in the Mediterranean

12. Mr Trumbić, Director, PAP/RAC, reviewed the process leading to the preparation of the draft Protocol which was before the meeting. As recommended by the Twelfth Meeting of the Contracting Parties to the Barcelona Convention, a feasibility study had been carried out in 2002–2003. It had demonstrated the technical and environmental need for a regional legal instrument which would be binding on the Parties. Numerous factors, such as coastal urbanization, tourism, water consumption and pollution, were adversely affecting the environment of coastal areas in the Mediterranean, leading to reduced biodiversity, soil erosion and desertification, environmental risks due to climate change, and increased threats to cultural identity. Maintaining the status quo would lead to a deterioration in the already alarming situation.

13. In addition to the environmental considerations, such an instrument was justified on legal grounds. Although various existing instruments, including the United Nations Convention on the Law of the Sea, the European Landscape Convention of the Council of

Europe, the European Union's Integrated Coastal Zone Management (ICZM) Recommendation and the Barcelona Convention, as amended in 1995, contained provisions on coastal management, a comprehensive instrument dealing specifically with coastal management issues was required. The feasibility study had concluded that the Protocol should be neither too general nor too detailed and that an intermediate version would be most appropriate. The consultation process, which had included several meetings, had culminated in the presentation of the draft Protocol to the meeting of Contracting Parties held in Portoroz in November 2005, where it had been decided to take note of the draft Protocol and to establish a working group of government-designated experts to develop the text with a view to its approval by the next meeting of the Contracting Parties.

14. The draft Protocol before the Working Group contained six parts and 32 articles. For the purpose of the forthcoming discussion on integrated coastal zone management, he drew particular attention to Article 5, on "General principles and objectives of integrated management", and its paragraph I, subparagraphs (a) to (j), observing that spatial planning, which was primarily land-based, should not be confused with coastal management.

15. The representative of Morocco said that his country fully adhered to the approach taken in producing the text of the draft Protocol, which was a compromise between the various possible options. The fruit of a long process, the text was digestible and dynamic, wise and balanced, and would usher in an important new era of the Barcelona process, addressing all the major concerns relating to the Mediterranean coastline.

16. The representative of BP/RAC said that the Protocol would provide a much needed boost for implementing the principle of sustainable development along the Mediterranean coasts and for combating the continuing trend towards greater urbanization, which was leading to further environmental degradation and the loss of biodiversity. That trend had been highlighted by Blue Plan reports published in 1989 and 2005, and urgent action needed to be taken.

17. The representative of Spain also welcomed the draft text but said that, in order to be a truly useful instrument, it would need to be amended considerably. Reserving specific comments for the later detailed discussion of the draft Protocol, article by article, he drew attention to: discrepancies in the definition of "coastal zone"; the unrealistic setting of seaward and landward limits; the need to refer not only to environmental areas but also to industrial and urban areas; the lack of any reference to the definition of the public versus the private domains, a vital distinction to be made under Roman law; the need to set out the principles of governance; the usefulness of taking into account land and urban plans; the need to introduce horizontal and vertical integration, taking into account the local, regional and national levels of administration; the use of indicators, in particular environmental ones, for the purposes of assessing the situation and measuring any improvement; the need to consider the different levels of government; and the usefulness of land planning as a tool for the integrated management of coastal areas.

18. The representative of France said that the text was in keeping with the express wishes of the Contracting Parties. Although it would require some amendments, it was binding yet flexible, and as such was a good basis for the Working Group's task.

19. The representative of Israel recalled that the legislative process in his country leading to the adoption of its Coastal Law had been lengthy and complex. It was likely that a similar process undertaken at the international level would be at least as complicated. Expressing his country's appreciation of the work done, he said that the main conclusion reached in the legislative process in Israel was that it was crucial to involve all the stakeholders, such as industries and trade unions. They should therefore be fully involved in any future meetings of the Working Group.

20. The representative of Algeria drew attention to the relevance of her country's legislation on coastal management. The Algerian law passed in 2002 had taken into account not only environmental but also planning issues, including urbanization, infrastructures and roads. Since it was based on the principle of sustainability, her country approved of the MAP approach to integrated coastal zone management and encouraged work towards the finalization of the Protocol.

21. The representative of Tunisia praised the completeness and structure of the text, which covered most of the concerns expressed at earlier stages of the drafting process. Nevertheless he regretted that the approach taken to coastal planning was not the most appropriate; there should be specific rules or directives, based on the principles of integration and coordination. He also felt that some of the provisions were too soft and called for them to be made stricter.

22. The representative of Albania referred to a World Bank project on integrated coastal zone management currently being implemented in her country, with the help of donors including the Government of the Netherlands. The exchange of views on the draft Protocol would be conducive to further implementation of that project.

23. Expressing the European Union's satisfaction at the MAP initiative, the representative of the European Community said that the EU was evaluating its policy on integrated coastal zone management and would be inspired by what MAP was doing in that field. While the protection of the coastal environment was undeniably important, the Protocol should lay more emphasis on the principle of integration, by means of full participation and coordination. The Protocol should be seen as an opportunity to develop socio-economic structures with the aim of achieving sustainable development, and the balance between those structures and environmental protection was not sufficiently struck in the text as it stood. She expressed concern about the long list of activities contained in the draft Protocol. Finally, she welcomed the reference to Parties and States Parties in the text, as that would enable the Union to cooperate with MAP.

24. The representative of Italy said that his country fully supported the implementation of integrated coastal zone management, but he shared the European Community's concerns over the text of the draft Protocol. With regard to the various Conventions listed in the preamble, to which the European Landscape Convention needed to be added, he felt that insufficient consideration was given to them in the body of the text. It was important to avoid the risk of overlap with other international instruments. Moreover the definitions given in the text needed to be more consistent and more specific. The legally binding aspect of the various articles, furthermore, was not matched by necessary clarity in the text's general approach to the issue of integrated coastal zone management. A deeper analysis would therefore be useful, possibly backed by a matrix setting out the definitions of the issue to be found in the main existing international instruments.

25. Stating that he shared the concerns expressed by the two previous speakers, the representative of Slovenia said that the existing strategies, conventions, directives and other instruments were poorly interconnected. The Protocol offered a chance to add more value to what already existed, in the form of clear guidelines to the countries on how to reduce negative influences on the marine environment and raise the quality of life.

26. The representative of Cyprus said that her country supported the initiative but wished to emphasize the need to make the draft text more flexible, to ensure that it respected national sovereignty and to reduce the inherent cost of its implementation. Whereas the national authorities ultimately had sole responsibility for applying and financing measures to give effect to the Protocol, the draft text did nothing to safeguard national legislation on

coastal management. She announced that her country had made a number of general and specific comments in writing and asked for them to be distributed by the Secretariat.

27. The observer for MAREVIVO welcomed the draft Protocol as very positive and a good basis for discussion. MAREVIVO had provided some comments in writing and asked for them to be distributed by the Secretariat.

28. The Coordinator noted that the general discussion on the objectives and structure of the document had been included in the agenda at the request of several Parties. A number of significant points had already been raised and it was extremely important, for the Working Group and the Secretariat, to determine clearly the Parties' general reaction to the text of the draft Protocol before proceeding to the detailed article-by-article examination.

29. Mr Prieur gave an overview of the objectives of the draft Protocol. Consideration of the subject of integrated coastal zone management was a recent development dating back to the Rio Conference and Agenda 21, which made specific mention of coastal areas in Chapter 17. He recalled that the Barcelona Convention had been amended in 1995 to include references to such zones. Subsequent to that amendment, various bodies had begun to work on recommendations, decisions and guidelines for coastal zone management. The aim of the new Protocol was to give concrete expression to that body of work in the field of coastal zone management. Nevertheless, there were many challenges to be addressed in protecting coastal zones. They were under threat from a number of activities, a problem exacerbated by the limited nature of such zones. Furthermore, coastal zones represented the interface between land and sea, which had hitherto been considered independently rather than together.

30. Integrated management of coastal zones being an essential element of sustainable development, it was necessary to define the requirements for achieving effective management of such zones and how they could be implemented by the Parties. The approach would involve integrating, at several levels and in several ways: territorial integration of maritime and terrestrial parts; social integration of the actions of populations and other actors in such zones; decisional integration of legal mechanisms; institutional integration of the work of the various institutions concerned by coastal zones; and creation of coordination mechanisms. Coordination would be key to the success of the Protocol and, in that regard, Parties were encouraged to share their experience of coastal zone management.

31. He then drew attention to certain legal issues relating to the draft Protocol. In legal terms, coastal zones were rarely dealt with on their own; they therefore needed to be delineated and defined. Furthermore, legal mechanisms would be indispensable for guiding Parties in the use of tools for coastal zones management. The new Protocol would provide the necessary legal framework: it should be neither too flexible nor too rigid, and must remain precise, readable and comprehensible. The present meeting was an opportunity for participants to agree on the main principles to be included in the instrument as well as a minimum number of rules. In conclusion, he said that the structure of the draft Protocol could perhaps be improved and suggested that more visibility might be given to questions of good governance, as an essential part of sustainable development.

32. In the ensuing debate, the representatives of Morocco, France, Israel and Slovenia stressed the importance of cooperation not only among Parties, but also among the various actors involved in or affected by coastal zone management at the national level.

33. The representative of Algeria stressed the importance, but at the same time the complexity, of the principle of participation (Article 12), observing that, in his country for example, a large number of actors would need to be involved. He suggested that Parties needed more guidance on how to implement that and other provisions of the Protocol. Since

coastal zones were not independent from the rest of the territory, he suggested that the Protocol should address the pressure on coastal zones that came from other parts of the country.

34. The representative of Israel warned against too much detail in the Protocol. The more detail it contained, the more difficult it would be to implement.

35. The representative of Lebanon asked whether Parties' existing legislation had been taken into consideration in the drafting of the Protocol so as to ensure that it was compatible with national laws. He wondered whether, when applying the provisions of the Protocol, any distinction would be made between existing activities in such zones and any new activities and projects that might be initiated in the future.

36. Responding to some of the issues raised, Mr Prieur stated that, by nature, the text of the Protocol had to be general. Specific operational difficulties would come to light once the Protocol had been adopted and Parties began to implement its provisions. Only then would they need to respond to specific operational issues. On another point, although differences existed between the provisions of the draft Protocol and legislation in force in certain Parties, no fundamental contradictions had been found.

37. Mr Evangelos Raftopoulos, MAP Legal Adviser, stressed the importance of making the new Protocol compatible with the other legal instruments within the Barcelona Convention system. Existing instruments afforded Parties a certain degree of flexibility in applying their provisions, and that was an important element of the system.

38. The representative of Morocco praised the specific nature of the draft Protocol, concentrating as it did on one particular type of area, rather than on waters and seas in general. He called for participants to keep an open mind with regard to the Protocol, noting that such instruments sometimes lost their strength in the process of reaching a consensus on the content. The drafting process was, however, only the beginning. The strength, and therefore the ultimate success, of the Protocol would lie in the hands of the Parties and depend on the way in which they implemented its provisions.

39. Similarly, the representative of France stressed that the Protocol was only one step, one building block, in a much larger process and not an end in itself. It was not to be seen as a legal instrument being imposed on Parties but rather as a set of tools that could be employed to ensure the integrated management of coastal zones. He recalled that the 2003 Meeting of the Contracting Parties in Catania had requested the Secretariat to prepare a draft Protocol based on the intermediate option proposed by the *Feasibility study*.

40. The representative of Spain agreed that the Protocol was only a framework and, in implementing its provisions, Parties would have to fill certain gaps.

41. The observer for the International Centre of Comparative Environmental Law (CIDCE) suggested amendments to the structure of the Protocol. Given the link between institutional coordination (Article 6) and participation (Article 12 et seq.), he proposed drawing the relevant articles together. He also put forward the idea of public meetings to ascertain the opinions of the actors and populations in coastal zones.

42. The representative of Algeria pointed out that the definition of the coastal zone in his country differed from that proposed in the draft Protocol. In Algeria, an ecosystem approach was used to determine the land limit of the coastal zone, depending on the type of ecosystem involved, such as wetlands, which meant that it could vary between, for example, 800 metres and 25 kilometres inland. His country was about to engage in an important

national debate on the whole question of coastal zones, with a study being finalized to assess the situation.

43. The representative of Morocco welcomed the fact that action was being taken in the region at the national level and warned that care should be taken to ensure that the Protocol did not run counter to such action. He also cautioned against formulating a detailed Protocol that could not be supported by the countries. Vision would therefore be needed so that the text adopted was not too light and provided sufficient guidance so that it could be supported by Mediterranean countries in both its spirit and its letter.

44. The representative of Lebanon noted that the Protocol proposed a set of tools for the promotion of ICZM. However, he believed that, in view of the influence of many of the stakeholders concerned, for example in the field of tourism, it would have to establish some clear limits if it were to be effective.

45. The representative of Egypt considered that an intermediary level of instrument was required, as proposed by the *Feasibility study*, as a foundation upon which the many stakeholders could achieve better coordination at both the national and regional levels.

46. The observer for MAREVIVO pointed out that the draft Protocol raised many difficult issues. If the instrument was not sufficiently detailed and did not contain guidelines that were agreed to by all the countries, it would be very weak. There was a need to improve the proposed Preamble to emphasize the political and strategic reasons for addressing the issue of ICZM. Another issue concerned the definitions of the coastal zone, which could vary greatly between countries. Although a fairly "soft" Protocol would be widely accepted, a certain level of detail and precision in its requirements was needed.

47. The representative of Slovenia noted that the process of developing the Protocol had already been going on for some years and that a good deal of scientific data had been compiled by MAP and its components. It was important for the countries to use the data available. He added that, within the Barcelona legal system, which provided an overall framework, countries were left considerable discretion concerning the actual measures to be adopted at the national level. The objective of the present process was to achieve progress on ICZM at the regional level.

48. Mr Raftopoulos said that the discussion highlighted the issue of the legal and operational limits of the draft instrument, upon which agreement would have to be reached. It was for the Working Group of experts to reach a consensus during its negotiations. It should be clear that the purpose was to work for a Protocol that would contain certain specific, but not in-depth, obligations. As in every Protocol and/or conventional regime, the Parties were vested with obligations for the implementation of which they retained a recognized measure of discretion, as was reflected in the formulations introducing those obligations ("The Parties ... shall take appropriate measures". "The Parties undertake..." etc.). Of course, if during the discussion of the Protocol it became clear that an aspect could be defined more technically, it could be included in a proposed annex. More detailed formulations and specifications could be spelled out once the Protocol was in force, through recommendations, decisions or guidelines approved by the Meetings of the Contracting Parties. On the other hand, it should be stressed that the effectiveness of the Protocol should be viewed in the context of the effectiveness of the whole Barcelona Convention system, and was related to the effectiveness of the reporting process and of the compliance procedure that were currently under development and improvement, as well as the now-restored process of establishing a future Mediterranean liability regime.

49. Mr Mifsud welcomed the very interesting discussion which had followed the presentation by Mr Prieur. He recalled that the text of the Protocol currently before the

meeting already incorporated several comments and observations made by experts at previous meetings. On the issue of whether the instrument should be softer or stricter, he believed that it was necessary to be pragmatic. It was also important to ensure that the Protocol would be adopted and applied in practice. However, the meeting should not be afraid to be bold where it considered it to be appropriate. Everyone was in agreement that coastal zones were in urgent need of attention. The Protocol offered a framework for the necessary action, and could be specified in greater detail in annexes where necessary.

50. The representative of Serbia and Montenegro expressed its support for the draft Protocol, which represented a solid framework for the development of national legislation. Her country already had an institution and a law dealing with coastal management. However, institutional and legal changes in that area were currently under way, with a view to implementing the provisions of the Protocol. The draft Protocol was not too broad in scope; indeed, it was quite specific, targeting the key issues of ICZM. Any further degree of detail might call into question its incorporation into national legislation.

51. The representative of Morocco said that the wording of all Protocols to the Barcelona Convention followed a similar model, which increased respect for the Barcelona system and its Protocols. The new Protocol should strike a balance between following that model and taking inspiration from other legal sources.

Agenda item 5: Review of the proposed draft text of the Protocol on Integrated Coastal Zone Management in the Mediterranean

52. The Chairperson invited participants to comment on the text of the draft Protocol. An open-ended drafting group was set up to deal with the text of the draft Protocol on which agreement was not reached in plenary.

53. Mr Raftopoulos suggested that the phrase “integrated management of coastal areas” should be altered to “integrated coastal zone management” in the title and throughout the text of the English version of the draft Protocol in order to reflect the terminology in the Barcelona Convention. The meeting agreed to the suggestion.

Preamble

54. In his introduction, Mr Prieur noted that the initial preambular paragraphs set out the reasons behind the draft Protocol and referred to specific legal texts, principally the Barcelona Convention. Direct reference was made to two paragraphs thereof, which called for the promotion of integrated coastal zone management and which formed the legal basis for the new Protocol. Subsequent preambular paragraphs gave practical justification for the Protocol and described the threats to the coastal zones that it was intended to address, also recalling other relevant international legal instruments and actions to be taken in accordance with them. All the States Parties to the Barcelona Convention were party to the United Nations Framework Convention on Climate Change and many were party to other related instruments. As such, care should be taken to avoid duplicating the provisions of existing legal instruments, while at the same time ensuring that the new Protocol would be comprehensive.

55. Mr Raftopoulos recalled that the objective of the present meeting was not to produce a final version of the text, but to produce a clear text that could be completed by subsequent meetings of the Working Group and put to the next meeting of the Contracting Parties for their consideration and approval.

56. In an exchange of views on the legal status of the preamble, it was recalled that the preamble was not legally binding on the Contracting Parties, but set out the legal justification

for the Protocol. It was also agreed, however, that it was extremely important to examine it in detail, since it was an integral part of the text and often the section to which reference was made.

57. In response to questions raised by several representatives about certain general terms used in the preamble, Mr Prieur and Mr Raftopoulos pointed out that they were commonly understood and widely used in the preambles to other relevant international instruments. Attention was drawn, however, to the clear use of such terms in the operative provisions of the text. Mr Prieur added that the text of the French version of the draft Protocol should refer to “zones côtières” which was similar to “le littoral”, for the sake of consistency.

58. It was suggested that reference be made to the importance of preserving biodiversity in coastal zones, in a more explicit manner than it was in the seventh preambular paragraph, in order to highlight it as a specific consideration to be included in the new Protocol. The fourth preambular paragraph was amended accordingly.

59. Following discussion on the fifth preambular paragraph, it was argued that one of the effects of climate change could be coastal erosion. Furthermore, the natural phenomena to which the paragraph referred were various and more diverse than the single example given in the text. One participant pointed out the distinction between tidal waves and tsunamis. Given the desire to keep the preamble as general as possible, it was decided that no examples of “natural phenomena” would be given in the paragraph.

60. It was pointed out that “preventive measures” should aim to reduce the negative impact of natural phenomena. Any such measures should also be sustainable, in socio-economic terms, and environmentally friendly. The term was replaced by “sustainable measures”, which included the concept of prevention.

61. With regard to the seventh preambular paragraph, the representative of Turkey wished to record that her country was not party to the United Nations Convention on the Law of the Sea and that nothing that was agreed to in relation to the present Protocol prejudiced the position of her country in that regard. In the same paragraph, the suggestion that the 2000 European Landscape Convention be added to the list of international instruments from which Parties could draw inspiration was rejected on the grounds that some Parties to the Barcelona Convention were not party to the European Landscape Convention.

62. The reference in the ninth preambular paragraph to a recommendation of the European Parliament and the Council of the European Union was considered unnecessary. It was pointed out, however, that the adoption of the recommendation in question was the first time ever that integrated coastal zone management had been explicitly mentioned at such a high level, and a general reference was therefore retained.

63. Given that the eleventh preambular paragraph contained two different ideas - one on strengthening at the regional level the efforts made by coastal States and the second on the encouragement of local initiatives - participants thought it best to have two separate paragraphs. Discussion of the second idea revealed that it was important to include initiatives at the national and even regional level.

64. The representative of MAREVIVO proposed that additional paragraphs be inserted at the end of the preamble. The proposal referred to the economic and social importance of tourism in coastal zones as well as ensuring the sustainability of any planning procedures, which he emphasized were aspects that were of great political significance. Participants did not feel it appropriate to refer to specific activities in coastal zones in the preamble, but did not rule out the possibility of including some of the ideas contained in the proposal in the body of the Protocol.

65. The Working Group of experts agreed on the content of the draft text of the preamble, as amended, which is contained in **Annex III**.

Part I (General Provisions)

Article 1 (General obligations)

66. Mr Prieur explained that Article 1 contained general provisions to ensure conformity between the new Protocol and the Barcelona Convention and its existing Protocols, and to avoid duplicating provisions already contained in other instruments. It also outlined the objectives of the draft Protocol, which would be examined in greater detail in subsequent articles.

Article 2 (Definitions)

67. After an exchange of views it was agreed that the article on definitions would be discussed at a later stage, as was customary in discussions on legal instruments. It was agreed that a definition of "Parties" should be added.

Article 3 (Geographical coverage)

68. Mr Trumbić explained the rationale behind the article, which in his view concerned one of the most disputed issues to be addressed in the field of Integrated Coastal Zone Management. With regard to the distinction between seaward and landward limits, he said that the latter had called for a more specific definition since issues such as land ownership were involved. To that end, the Secretariat had chosen what it saw as the most practical, applicable approach, namely to consider boundaries of the administrative units rather than economic or social ones as defining criteria. Nonetheless he emphasized that each of the Parties' specificities had to be taken into account, and that need for flexibility had been provided for in paragraph 2 of the article. Any agreement on common criteria for determining the geographical coverage of coastal zones for the purposes of the Protocol would be seen as a success. The Secretariat was encouraged that a number of countries had already defined coastal zones or attached particular importance to their definition.

69. After an exchange of views, it was clarified that, according to the law of the sea, the sovereignty of a coastal state exercised in its territorial sea extends to the airspace over the territorial sea as well as to its bed and its subsoil.

70. Several representatives agreed that the second paragraph provided States Parties with the necessary flexibility in their interpretation of the article. They confirmed that many States already had national definitions of coastal zones, in the context of their relevant legislation, and any problems of hierarchy vis-à-vis international instruments should be avoided. Furthermore those definitions differed widely, in accordance with the geopolitical circumstances of each country.

71. The representative of Croatia declared that the Regulation on Protected Coastal Area Development and Conservation passed in 2004 provides a national definition of 'protected coastal area' as consisting of 'all the islands and a 1000-m wide mainland and a 300-m wide marine belt measured from the coastline'. It was declared that it is important to retain the flexibility provided in Article 3, para 2 of the proposed draft text of the Protocol, the hierarchy between the national legislation in force and ratified international legal instruments, being fully understood.

72. With regard to the administrative units referred to in the text, it was stressed that those units and the hierarchy between them differed from State to State. Since some countries had no local administrative units, it was agreed to delete the word “local” in that connection and replace it by the word “competent”.

73. The Italian representative expressed his concern regarding the whole wording of the article, in view of the relationship between local, regional and national government in that country. He also objected to a provision of a “default definition” of coastal zones, while several other representatives felt that it was important to establish a common definition that could be interpreted in a flexible manner by each country according to its circumstances, with no detriment to its sovereignty.

74. The representative of Italy was also concerned that the text did not lay sufficient emphasis on the relevance of the ecosystem approach, mentioned in paragraph 2 (b) in relation to the process of defining the landward limit of coastal zones, but none of the reformulations suggested obtained a consensus among the participants; attention was drawn to Article 9 on specific coastal ecosystems. After a lengthy discussion on paragraph 2 (b), it was agreed that the list of reasons for applying a different landward limit should be open; the expression “inter alia” was therefore added to the text.

75. The representative of Turkey expressed concerns regarding the phrase “and to consider the specific situation of islands”.

76. The representative of Italy suggested that paragraph 3 be reworded and possibly moved to Article 13. The latter proposal was rejected on the grounds that it was important that a specific effort be made to inform the interested parties of the specific geographical coverage of the Protocol, whereas Article 13 concerned awareness-raising in general. A new version of the paragraph presented by the representative of Italy was agreed to, however, albeit with further minor changes.

77. After a lengthy discussion, and referral to the open-ended drafting group, the amended article was agreed upon by all participants. A reservation was expressed by the Italian representative regarding paragraphs 1(b) and 2. The Turkish delegation expressed a reservation regarding the phrase “and to consider the specific situation of islands” in paragraph 2 (b).

Article 4 (Preservation of rights)

78. Mr Raftopoulos explained that it was customary for protocols and conventions to include an article clarifying the preservation of rights, in order to avoid potential legal complications; he also highlighted the salient points of each paragraph of the article and drew attention to the fact that much of the wording was taken from existing instruments, including the Barcelona Convention and certain of its Protocols.

79. Concerns were expressed over paragraph 4, which dealt with national defence and security issues. However, given the lack of consensus, it was decided to put the whole paragraph in square brackets and to have it discussed at the next meeting. In the meantime, Parties were encouraged to consult their respective authorities on the matter.

Part II

Principles and elements of integrated coastal zone management

Article 5 (General principles and objectives of integrated management)

80. Mr. Prieur suggested that it might be desirable to move the content of the article to Part I of the Protocol. It might be better placed in the earlier section, which dealt with the general provisions of the entire Protocol. The principles and objectives in Article 5 were less specific than the provisions in subsequent articles, which were more detailed in nature. The aim of Article 5 was not to provide rules, but rather to give direction and guidance. Any principles contained within the Barcelona Convention were common to the whole system of instruments, including all the Protocols, and had not therefore been repeated in Article 5 of the draft Protocol. The article aimed to highlight specific provisions relating to integrated coastal zone management.

81. It had not been easy to make a clear distinction between which of the proposals were principles and which were objectives. There was a certain amount of overlap and interdependence between the ideas presented. Furthermore, there was no legal distinction between the two terms. He pointed out that the principles and objectives in Article 5 were presented in a logical order, from the most general to the more specific.

82. The representative of Algeria noted that the principle of participation was missing from the list and stressed the importance of including civil society in decisions regarding coastal zone management. He emphasized the benefit of harnessing local know-how. In response, Mr. Prieur pointed out that the participatory approach was not specific to coastal zone management. In addition, the principle of participation was contained in the Barcelona Convention and was therefore also applicable to the new Protocol, and a specific article on participation could be found later in the draft Protocol, in Article 12.

83. Moreover, in response to the concern expressed by the representative of Algeria with regard to urbanization, in terms of restoring a balance and lessening the impact of urban development along the coast, it was emphasized that the matter was addressed in greater detail in Article 7, which specifically mentioned the linear extension of urban development and the creation of new roads along the coast.

84. The representative of Italy suggested reordering the principles and objectives into four groups: physical features; biological components; economic and social development, and governance of coastal zones. The goals, principles, and priorities in each of those areas could then be defined and specifically addressed in the Protocol.

85. At the final session of the meeting, a general discussion was held on Article 5, introduced by Mr. Mifsud. It was understood that suggestions and recommendations made during the discussion would be taken into account and incorporated by Mr. Prieur into the new draft text of Article 5 for the next meeting of the Working Group.

86. The representative of the European Community stressed the importance of Article 5, which should define the essence of ICZM, and also drew attention to other articles in the Protocol referring to such issues as governance, co-ordination, participation and the like, as they were interrelated. To capture the essence of ICZM well, Part II, and not only article 5, would need to be restructured. With regard to the order of priority in the structure of the article, the focus should be on the overall aim of ICZM first. The aim of ICZM should clearly be sustainable development, hence including matters such as the preservation of the integrity of ecosystems, sustainable socio-economic development, adaptation to risks, etc. Secondly the main part should follow, setting the objective to attain an integrated approach in

policy, planning and management and defining the essential characteristics of ICZM as a process, such as integration, co-ordination, participation and a knowledge based approach. Although an important part of ICZM, the protection of coastal zones was already covered by the SPA or other Protocols or instruments. An alternative could be found for the articles in Part II dealing with details by sector or activity, for instance through including a reference to guidance and/or the use of annexes.

87. The representative of Algeria referred to the interdependence between coastal areas and the interior which was currently not included as an important principle. The Protocol should furthermore refer to the integration of environmental concerns with physical development and town planning, so as to secure conformity between the tools of environmental and town planning. The problem of waste (paragraph (g)) was not really an objective but more an issue that called for action.

88. The representative of Israel referred to certain specific paragraphs, such as paragraph

(b), where the regional level should be mentioned in addition to the national and local levels; paragraph (e), where not only economic activities needed to be balanced but also other attributes of coastal zones such as benefits for the enjoyment of the public; and paragraph (h), where 'use dependent on the sea' should be broadened to include criteria related to the location for uses that depended directly on the sea, an example being fisheries storage facilities that did not need to be located on the coast but could be inland.

89. The representative of France underlined the complexity of coastal zone problems and proposed that the article should be restructured in such a way as to set out reasons and purposes first, especially those that lay at the core of ICZM problems, such as governance.

90. The representative of Spain elaborated on various issues that should be reflected in the article, such as urban and industrial areas, which called for special attention; differentiation between the levels of government and the need for reference to be made to the regional level; protection of the public domain; governance; and sea-use planning as an important ICZM tool.

91. Mr. Prieur, responding to some of the comments made, underlined the need to concentrate on the general notions of ICZM in the article, which would become a new White Paper on ICZM if too many technical elements were included. There were very specific articles later in the text that dealt with particular, more technical issues, measures, instruments or obligations.

92. The representative of Tunisia also supported the idea of including a reference to the regional level in paragraph (b). In paragraph (h), geographical coverage was not adequately addressed as it would deal with the maritime domain only. With regard to paragraph (i), the wording 'equitable and sustainable development criteria' assumed that those criteria had already been established, and also some discrimination might occur with regard to the priority given to local populations.

93. The representative of Italy recalled that it had been agreed to hold a general discussion on Article 5 before going into details about particular paragraphs. He sought clarification on the matter because he had some problems with the general structure of the article. The representative of Slovenia agreed that there should be a general debate first. The matrix proposed earlier could provide a better structure for the article and might usefully serve as the basis for a redrafted text to be submitted to the next meeting of the Working Group in order to facilitate the discussion. The representatives of Israel and Lebanon considered that there would be little difference between a general and a specific discussion.

94. Mr. Trumbic agreed that a distinction should be drawn between 'sustainable development of coastal zones' and objectives of ICZM. ICZM was only a tool for sustainable development. He proposed that the text of the article should be redrafted in such a way as to define the objectives of sustainable development of coastal zones first and then those of ICZM. In his opinion, the principles of ICZM were more technical and included such issues as horizontal and vertical co-ordination, governance, sea-land integration and environmental assessment .

95. The representative of Morocco stressed that the text presented was most timely, as it was in step with regional and international dynamics in the field. He recalled, however, that there were other international legal instruments on related issues, such as the preservation of the biodiversity and protected areas in the high sea. The draft Protocol was already a mature text, but still needed to be enriched. He referred to some objectives and principles included in the Preamble that could be combined with those in Article 5. In any case, as Mr. Prieur had said, putting every technical detail in Article 5 should be avoided. The observer for CDICE agreed that some issues could be dealt with in more detail in subsequent articles, notably the role of local populations, waste and compatibility of uses .

96. Summing up the discussion, the Chairperson said that the emphasis should be on governance, but also on the interface between the land and the sea, on the notion of the Mediterranean region *vis-à-vis* the international level, and on the balance between various elements.

97. The representative of SPA/RAC, supported by the observer for MAREVIVO, referred to some principles such as the precautionary principle, the preservation of biodiversity and social equity, which were more of a general nature. He also agreed with the proposal to include the territorial balance between coastal and inland areas as an important objective.

98. The representative of Cyprus expressed the view that Article 5 should focus on ICZM principles and duly refer to other existing protocols. Several participants disagreed with that idea and insisted on the need to avoid confusion between the purpose of the Protocol and the means to achieve it, pointing out that ICZM was only a tool to achieve a better use of the coastal environment.

99. Modifications were suggested by the representative of Italy with regard to Part II dealing with the principles and elements of ICZM, with the first part focusing on objectives. He suggested amending the title accordingly, introducing the term "objectives". Part III, whose title was correct, should include a presentation of tools, time frame, etc. He also proposed to change the present title of the Protocol slightly, to "Framework Protocol". Mr. Raftopoulos explained that it was not possible to add the word "framework" because the Protocol came under the Barcelona Convention, and should have equal status with any other of its protocols.

100. In order to clarify further the purpose of the Protocol, Mr. Prieur pointed out that ICZM came within the larger framework of sustainable development and protection of coastal zones. ICZM was a methodology to be applied to achieve sustainable development objectives, which meant that in the Protocol the focus should be on the principles of that methodology, i.e. on the various types of integration, such as territorial integration, institutional integration, integration of sectoral plans, and co-ordination of actors. He stressed the need to focus on those principles rather than on those specific to coastal protection, bearing in mind that ICZM principles were indispensable for sustainable development. The Protocol was not about coastal zones as such but about their integrated management, and its primary purpose was to provide a minimum legal and institutional framework for the work already done by MAP, BP/RAC and PAP/RAC.

101. Several participants supported Mr. Prieur's explanation, stating that the emphasis should be on the elements of ICZM and that there was no need to concentrate on sustainable development issues in coastal zones as such. One participant asked for additional clarifications about the links between the PAP/RAC Strategy for ICZM and the MCSD Mediterranean Strategy for Sustainable Development.

102. The representative of Italy said that the Protocol should include an article specifying the achievements of ICZM. He again stressed the need for a Protocol with clear principles, objectives and means, suggesting that Article 5 should be restructured in such a way as to set out the objectives first, followed by the purpose, principles and instruments of ICZM. Another participant considered that, although some parts of the article needed reformulating, the existing headings were appropriate and matched the content of the relevant parts, each of which rightly reflected both principles and objectives.

103. In response to a request for redrafting, the Chairperson said that the Secretariat would be asked to reformulate the article and e-mail the new text to all participants. It would be important to have the same national representatives attending all future meetings of the Working Group, and for there to be consultation at two levels: within the countries before the meetings and between the countries during the meetings.

104. Mr. Mifsud said that the meeting had been a brainstorming session from which it emerged that Article 5 would need to be restructured, with the following sequence: principles - objectives - tools. He too stressed the importance of having the same people at the future meetings. He concluded by thanking all the participants for their valuable contribution.

105. The representative of Italy expressing thanks to those who had organized the meeting, asked if it would be possible to hold longer meetings in future. The Secretariat took due note of that suggestion.

Agenda item 6: **Any other business**

106. No other issue was raised.

Agenda item 7: **Adoption of the report of the meeting**

107. The report of the meeting was adopted, as amended. It was agreed that the discussion on Article 5 was not completed and that the WG should start its work at the next meeting with Article 5.

Agenda item 8: **Closure of the meeting**

108. After the customary exchange of courtesies, the Chairperson closed the meeting at 13:00 hours on 29 April 2006.

ANNEX I

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ANNEX II

AGENDA

1. Opening of the meeting
2. Election of Officers
3. Adoption of the Provisional Agenda and organization of work
4. General discussion on the principles and the structure of the draft text of the Protocol on the Integrated Management of Mediterranean Coastal Area
5. Review of the proposed draft text of the Protocol on the Integrated Management of Mediterranean Coastal Area
6. Any other business
7. Adoption of the report of the meeting
8. Closure of the meeting

ANNEX III

DRAFT PROTOCOL ON INTEGRATED COASTAL ZONE MANAGEMENT IN THE MEDITERRANEAN

The Contracting Parties to the present Protocol,

Being Parties to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, done at Barcelona in 1976, as amended in June 1995,

Desirous of implementing the obligations set out in Article 4, paragraphs 3(e) and 5, of the said Convention,

Considering that the coastal zones of the Mediterranean Sea are the common natural and cultural heritage of the peoples of the Mediterranean and that they should be preserved and used judiciously for the benefit of present and future generations,

Concerned at the increase in anthropic pressure on the coastal zones of the Mediterranean Sea which is threatening their fragile nature and *desirous* of halting and reversing the process of coastal zone degradation, and of significantly reducing the loss of biodiversity of coastal ecosystems,

Worried by the risks threatening coastal zones due to climate change, which is likely to result, inter alia, in a rise in sea level, and *aware* of the need to adopt sustainable measures to reduce the negative impact of natural phenomena,

Convinced that, as an irreplaceable ecological, economic and social resource, the planning and management of coastal zones with a view to their preservation and sustainable development requires a specific integrated approach at the level of the Mediterranean basin as a whole and its coastal States, taking into account their diversity and the specificity of islands,

Taking into account the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982, the Convention on Wetlands of International Importance especially as Waterfowl Habitat, done at Ramsar on 2 February 1971, and the Convention on Biological Diversity, done at Rio de Janeiro on 5 June 1992, to which many Mediterranean coastal States and the European Community are Parties,

Concerned in particular to act in cooperation for the development of appropriate and integrated plans for coastal zone management pursuant to Article 4, paragraph 1(e), of the United Nations Framework Convention on Climate Change, done at New York on 9 May 1992,

Drawing on existing experience with integrated coastal zone management and the work of various organizations, including the European institutions,

Based upon the recommendations and work of the Mediterranean Commission on Sustainable Development and the recommendations of the meetings of the Contracting Parties held in Tunis in 1997, Monaco in 2001, Catania in 2003, and Portoroz in 2005, and the Mediterranean Strategy for Sustainable Development adopted in Portoroz in 2005,

Resolved to strengthen at the Mediterranean level the efforts made by coastal States to ensure integrated coastal zone management,

Determined to stimulate national, regional and local initiatives through coordinated promotional action, cooperation and partnership with the various actors concerned with a view to promoting efficient governance for the purpose of integrated coastal zone management,

Desirous of ensuring that coherence is achieved with regard to integrated coastal zone management in the application of the Convention and its Protocols,

Have agreed as follows:

PART I GENERAL PROVISIONS

Article 1 General Obligations

In conformity with the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and its Protocols, the Parties shall establish a common framework for the integrated management of the Mediterranean coastal zone and shall take the necessary measures to strengthen regional cooperation for this purpose.

[Article 2 Definitions

For the purposes of this Protocol:

(a) "Convention" means the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, done at Barcelona on 16 February 1976, as amended on 10 June 1995;

(b) "Organization" means the body referred to in Article 17 of the Convention;

(c) "Centre" means the Priority Actions Programme Regional Activity Centre;

(d) "coastal zone" means the geo-morphological area either side of the seashore in which the interaction between the maritime and land parts occurs in the form of complex ecological systems made up of biotic and abiotic components, living space for human communities and socio-economic activities;

(e) "integrated coastal zone management" means a dynamic process of the sustainable management and use of coastal zones taking into account at the same time the fragility of coastal ecosystems and landscapes, the diversity of activities and uses, their interactions, the maritime orientation of certain activities and uses and their impact on both the maritime and land parts;

(f) "coastal ecosystem" means a system of interactions between the populations of the various species inhabiting or traversing the coastal zone and between these populations and the coastal environment;

(g) "coastal plan and programme" means any document with legal value having for purpose or effect, directly or indirectly, the siting, the development of human settlements and activities, and the protection of the coastal zone.]

Article 3¹ Geographical coverage

1. The area to which the Protocol applies shall be the Mediterranean Sea area as defined in Article 1 of the Convention. The area is also defined by:

¹ Italy expressed a reservation to paragraphs 1(b) and 2

(a) The seaward limit of the coastal zone, which shall be the external limit of the territorial sea of States Parties;

(b) The landward limit of the coastal zone, which shall be the limit of the competent coastal administrative units.

2. If, within the limits of its sovereignty, a State Party establishes limits different from those envisaged in paragraph 1 of this Article, it shall communicate a declaration to the Depositary at the time of the deposit of its instrument of ratification, acceptance, approval of, or accession to this Protocol, or at any other subsequent time, in so far as:

(a) the seaward limit is less than the external limit of the territorial sea;

(b) the landward limit is different, either more or less than the territorial limits of coastal administrative units, in order to apply, inter alia, the ecosystem approach and economic and social criteria, [and to consider the specific situation of islands]².

3. Each State Party shall adopt or promote at the appropriate institutional level adequate actions to inform populations and any relevant actor of the geographical coverage of the Protocol.

Article 4 **Preservation of rights**

1. Nothing in this Protocol nor any act adopted on the basis of this Protocol shall prejudice the rights, the present and future claims or legal views of any Party relating to the law of the sea, in particular the nature and the extent of marine areas, the delimitation of marine areas between States with opposite or adjacent coasts, the right and modalities of passage through straits used for international navigation and the right of innocent passage in territorial seas, as well as the nature and extent of the jurisdiction of the coastal State, the flag State or the port State.

2. No act or activity undertaken on the basis of this Protocol shall constitute grounds for claiming, contending or disputing any claim to national sovereignty or jurisdiction.

3. The provisions of this Protocol shall be without prejudice to stricter provisions respecting the protection and management of the coastal zone contained in other existing or future national or international instruments or programmes.

[4. Nothing in this Protocol shall prejudice national defence activities and facilities; however, each State Party shall ensure that such activities and facilities are carried out or established in a manner consistent with this Protocol.]

² Turkey expressed a reservation to this reference