

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM(82) 593 final

Brussels, 23 September 1982

## COMMUNICATION FROM THE COMMISSION TO THE COUNCIL

setting out the results of the negotiations on a Protocol  
to the Barcelona Convention of 1976 concerning specially-  
protected areas of the Mediterranean Sea

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Recommendation for a

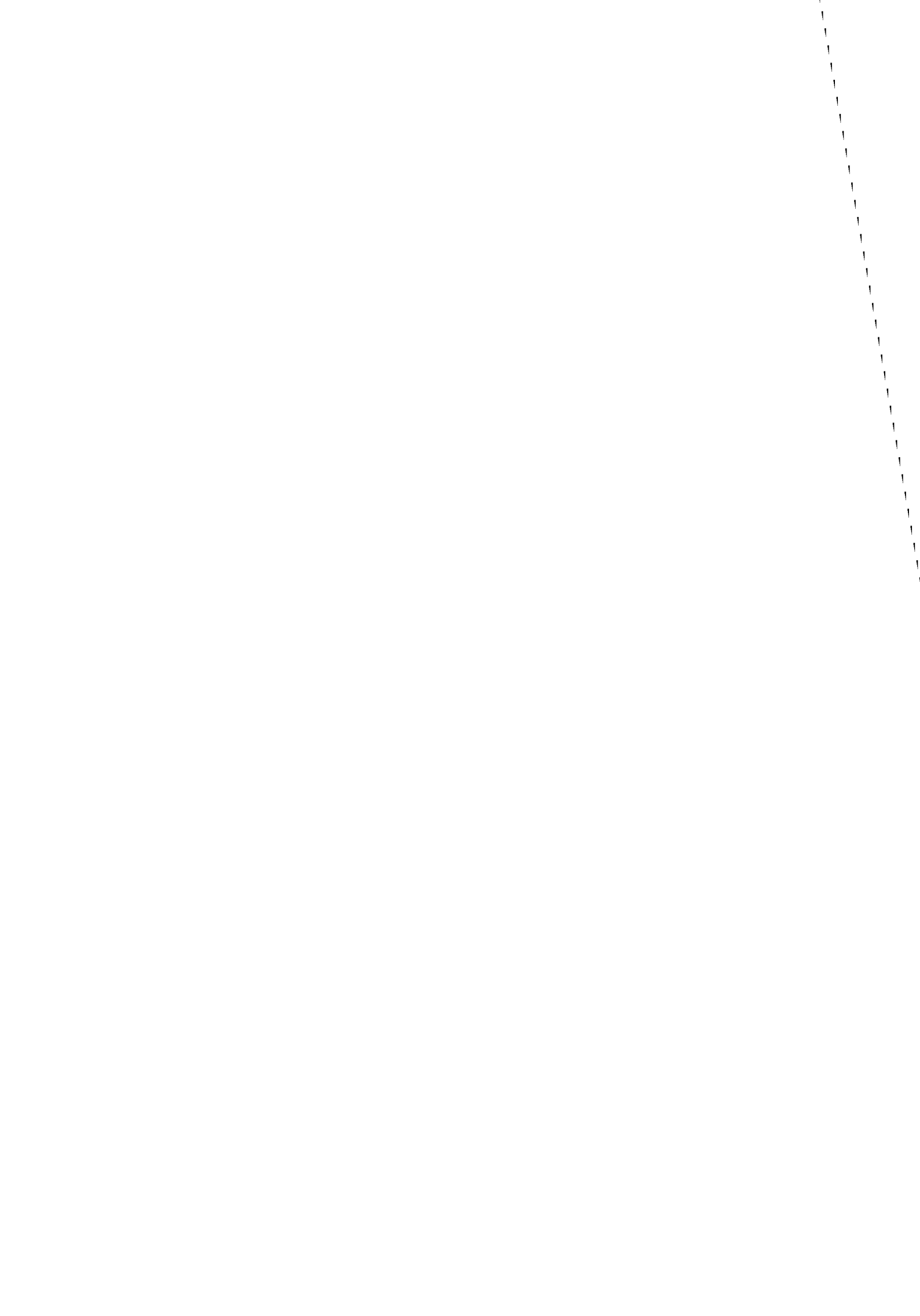
### COUNCIL DECISION

concluding the Protocol to the Barcelona Convention of  
1976 concerning Mediterranean specially-protected areas

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(submitted to the Council by the Commission)

COM(82) 593 final



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Communication from the Commission to the Council  
setting out the results of the negotiations on a  
Protocol to the Barcelona Convention of 1976  
concerning specially protected areas of the  
Mediterranean Sea.

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1. Pursuant to the Council Decision of 1 April 1982, the Commission took part in the negotiations on the fourth Protocol to the Barcelona Convention of 1976 concerning specially protected areas of the Mediterranean Sea.
2. The negotiations culminated in a draft Protocol which was submitted for examination at an extraordinary meeting of the Contracting Parties to the Convention for the protection of the Mediterranean Sea against pollution (Barcelona Convention) and its related Protocols in Geneva on 29 March and 1 April 1982 and attended by the Community in its role as a Contracting Party to the Convention.
3. The draft text was examined and revised at the meeting of the Contracting Parties and was adopted by the conference of plenipotentiaries on the Protocol concerning specially protected areas of the Mediterranean Sea held in Geneva on 2 and 3 April 1982. It was signed by eight Mediterranean States including three Member States of the Community (France, Greece and Italy).
4. The Protocol to the Barcelona Convention concerning specially protected areas of the Mediterranean Sea is the fourth of the Protocols annexed to the Convention; the other three concern :

- . pollution caused by dumping from ships and aircraft;
- . cooperation in dealing with emergency cases of pollution by oil and other harmful substances;
- . pollution from land-based sources.

The Barcelona Convention and its four Protocols constitute the legal framework of the Mediterranean Action Plan launched on 16 February 1976 by the sixteen Mediterranean States and the Community. The Convention and its four Protocols represent an integrated plan for protecting the marine and coastal environment of the Mediterranean. There is provision for adding a fifth Protocol on pollution caused by the exploration and exploitation of the seabed to round off the legal framework.

5. The Community is a Contracting Party to the Barcelona Convention and the Protocol of 16 March 1978 on dumping from ships and aircraft. By the Council Decision of 19 May 1981, the Community has also ratified the Protocol concerning cooperation in dealing with emergency cases of pollution of the Mediterranean by oil and other harmful substances. The third Protocol, concerning pollution from land-based sources, is the subject of a proposal for a Council Decision on the conclusion of the said Protocol forwarded to the Council on 14 December 1981.
6. The Protocol concerning specially protected areas of the Mediterranean Sea provides a legal framework for the establishment around the Mediterranean of a chain of marine and coastal areas with a view to conserving the area's natural resources (fish, shellfish and other marine life, amphibians, reptiles, birds, mammals and flora), maintaining the diversity of the endemic species and protecting certain sites because of their ecological, biological, scientific, historical, cultural or recreational importance.

7. The Commission conducted the negotiations on the Protocol in accordance with the negotiating directives set out in the Council Decision of 1 April 1982. The Commission has thereby ensured that the provisions of the Protocol do not contradict its own common rules on matters covered by the Protocol, namely the rules on intra-Community trade and :
- Directive 76/464/EEC of 4 May 1976 on pollution caused by dangerous substances discharged into the aquatic environment of the Community;
  - Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds;
  - Directive 79/923/EEC of 30 October 1979 on the quality required of shellfish waters;
  - Council Regulation (EEC) No 348/81 of 20 January 1981 on common rules for imports of cetacean products.
8. The Commission has also ensured compatibility between the common rules affected by the Protocol and the Community's commitments under international legal instruments, particularly the 1979 Berne Convention on the conservation of European wildlife and natural habitats which was approved by the Council Decision of 3 December 1981.
9. The Commission also took care to ensure that the Protocol should be open for signature by the Community as such; Article 18 (3) therefore provides that the Protocol "shall be open for signature, at Geneva on 3 and 4 April 1982, and at Madrid from 5 April 1982 to 2 April 1983 by any Contracting Party to the Convention and any State invited to the Conference of Plenipotentiaries on the Protocol concerning Mediterranean Specially Protected Areas held at Geneva on 2 and 3 April 1982. It shall also be open for signature from 5 April 1982 to 2 April 1983 by any regional economic grouping of which at least one member is a coastal State of the Mediterranean Sea Area and which exercises competence in fields covered by this Protocol."

10. Therefore, as the Protocol is open for signature from 5 April 1982 to 2 April 1983, the Commission recommends that the Council :

- decide as quickly as possible to sign the Protocol to the Barcelona Convention concerning specially protected areas of the Mediterranean Sea and to authorize the President of the Council to nominate the persons empowered to sign the Protocol on behalf of the Community;
- take the necessary steps for concluding the said Protocol and adopting the relevant Decision, the text of which is annexed to this communication.

Recommendation for a Council Decision

concluding the Protocol to the Barcelona Convention of 1976 concerning  
Mediterranean specially-protected areas

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 235 thereof,

Having regard to the recommendation from the Commission,

Having regard to the opinion of the European Parliament,

Whereas the action programme of the European Communities on the environment<sup>1</sup> stresses the need to protect and to purify the sea, in order that it might continue to play its part in the preservation and development of species, and to maintain the vital ecological balance;

Whereas the said action programme of  
underlines the urgent need for international solutions to the problem of the development and ecological management of coastal regions;

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(1) O.J. N° C 112, 20.12.1973; O.J. N° C 139, 13.6.1977

Whereas cooperation with the developing countries, in particular with the Community's Mediterranean partners, on environmental matters is one of the objectives of the said action programme;

concluded on behalf of the Community on 25 July 1977<sup>2</sup>  
Whereas article 4 of the Barcelona Convention empowers the Contracting Parties to adopt additional Protocols prescribing measures, procedures and standards for the implementation of the said Convention; whereas in application of that Article the Mediterranean States represented at a conference of plenipotentiaries held in Geneva on 2 and 3 April 1982 signed the Protocol to the said Convention concerning Mediterranean specially-protected areas;

Whereas the Protocol concerning Mediterranean specially-protected areas provides for the adoption of measures concerning trade, imports and exports of the fauna and flora protected by it and could, therefore, affect the free circulation of goods between Member States;

Whereas some provisions of the said draft Protocol could affect Council Directive 76/464/EEC of 4 May 1976 on pollution caused by certain dangerous substances discharged into the aquatic environment of the Community,<sup>3</sup> Council Directive 79/409/EEC of 2 April 1979 on the conservation of wild birds<sup>4</sup>, Directive 79/923/EEC of 30 October 1979 on the quality required of shellfish waters<sup>5</sup> and Council Regulation (EEC) No 348/81 of 20 January 1981 on common rules for imports of cetacean products<sup>6</sup>;

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<sup>2</sup> OJ No L 240, 19.9.1977, p. 3.

<sup>3</sup> OJ No L 129, 18.5.1976, p. 23

<sup>4</sup> OJ No L 103, 25.4.1979, p. 1

<sup>5</sup> OJ No L 281, 10.11.1979, p. 47

<sup>6</sup> OJ No L 39, 12.2.1981, p. 1

Whereas the said Protocol concerning Mediterranean specially-protected areas sets out to safeguard the common natural resources of that region, to preserve the diversity of the endemic species and to protect certain natural habitats by setting up a number of specially protected areas;

Whereas most of the signatories to the Barcelona Convention and to the annexed Protocols enjoy a special relationship with the Community within the framework of its overall approach to the Mediterranean, particularly as regards cooperation; whereas the Protocol concerning Mediterranean specially-protected areas lays down detailed rules for such cooperation in the sectors which it covers;

Whereas the Community participated in the negotiations on the Protocol;

Whereas the Community signed the Protocol concerning Mediterranean specially-protected areas on .....

Whereas the Community should conclude the Protocol to the Barcelona Convention concerning areas in order to attain, in the course of the operation of the common market, one of the objectives of the Community in the field of the protection of the environment and of the quality of life, and whereas no provision is made in the Treaty for the powers necessary to this end,

HAS DECIDED AS FOLLOWS:

Article 1

The Protocol to the Barcelona Convention of 1976 concerning Mediterranean specially-protected areas is hereby approved on behalf of the European Economic Community.

The text of the Protocol is annexed to this Decision.

Article 2

The President of the Council shall deposit the acts as provided for in Article 18 of the Protocol.

Done at Brussels,

For the Council,  
The President,

1982

UNITED NATIONS



CONCERNING MEDICAL  
SPECIALTY PROTECTED

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PROTOCOL CONCERNING MEDITERRANEAN SPECIALLY  
PROTECTED AREAS

The Contracting Parties to the present Protocol,

Being Parties to the Convention for the Protection of the Mediterranean Sea against Pollution, adopted at Barcelona on 16 February 1976,

Conscious of the danger threatening the environment of the Mediterranean Sea Area as a whole, in view of the increasing human activities in the region,

Taking into account the special hydrographic and ecological characteristics of the Mediterranean Sea Area,

Stressing the importance of protecting and, as appropriate, improving the state of the natural resources and natural sites of the Mediterranean Sea, as well as of their cultural heritage in the region, among other means by the establishment of specially protected areas including marine areas and their environment,

Desirous of establishing close co-operation among themselves in order to achieve that objective,

Have agreed as follows:

Article 1

1. The Contracting Parties to this Protocol (hereinafter referred to as "the Parties") shall take all appropriate measures with a view to protecting those marine areas which are important for the safeguard of the natural resources and natural sites of the Mediterranean Sea Area, as well as for the safeguard of their cultural heritage in the region.

2. Nothing in this Protocol shall prejudice the codification and development of the law of the sea by the United Nations Conference on the Law of the Sea convened pursuant to resolution 2750 C (XXV) of the General Assembly of the United Nations, nor the present or future claims and legal views of any State concerning the law of the sea and the nature and extent of coastal and flag State jurisdiction.

Article 2

For the purposes of the designation of specially protected areas (hereinafter referred to as "protected areas"), the area to which this Protocol applies shall be the Mediterranean Sea Area as defined in article 1 of the Convention for the Protection of the Mediterranean Sea against Pollution (hereinafter referred to as "the Convention"); it being understood that, for the purposes of the present Protocol, it shall be limited to the territorial waters of the Parties and may include waters on the landward side of the baseline from which the breadth of the territorial sea is measured and extending, in the case of watercourses, up to the freshwater limit. It may also include wetlands or coastal areas designated by each of the Parties.

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Article 3

1. The Parties shall, to the extent possible, establish protected areas and shall endeavour to undertake the action necessary in order to protect those areas and, as appropriate, restore them, as rapidly as possible.

2. Such areas shall be established in order to safeguard in particular:

- a) - sites of biological and ecological value;
  - the genetic diversity, as well as satisfactory population levels, of species, and their breeding grounds and habitats;
  - representative types of ecosystems, as well as ecological processes;
- b) sites of particular importance because of their scientific, aesthetic, historical, archaeological, cultural or educational interest.

Article 4

The Parties to this Protocol shall, at their first meeting, formulate and adopt, if necessary in co-operation with the competent international organizations, common guidelines and, if needed, standards or criteria dealing in particular with:

- a) the selection of protected areas;
- b) the establishment of protected areas;
- c) the management of protected areas;
- d) the notification of information on protected areas.

Article 5

The Parties may strengthen the protection of a protected area by establishing, within the area to which this Protocol applies, one or more buffer areas in which activities are less severely restricted while remaining compatible with the purposes of the protected area.

Article 6

1. If a Party intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of another Party, the competent authorities of the two Parties shall endeavour to consult each other with a view to reaching agreement on the measures to be taken and shall, among other things, examine the possibility of the establishment by the other Party of a corresponding protected area or the adoption by it of any other appropriate measure.

12 2. If a Party intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of a State which is not a party to this Protocol, the Party shall endeavour to work together with the competent authorities of that State with a view to holding the consultations referred to in the preceding paragraph.

3. If contiguous protected areas are established by two Parties, or by one Party and by a State which is not a party to this Protocol, special agreements may provide for the means whereby the consultation or the collaboration contemplated in paragraphs 1 and 2 respectively may take place.

4. If a State which is not a party to this Protocol intends to establish a protected area contiguous to the frontier or to the limits of the zone of national jurisdiction of a Party to this Protocol, the latter shall endeavour to work together with that State with a view to holding consultations, and possibly concluding a special agreement as referred to in paragraph 3.

#### Article 7

The Parties, having regard to the objectives pursued and taking into account the characteristics of each protected area, shall, in conformity with the rules of international law, progressively take the measures required, which may include:

- a) the organization of a planning and management system;
- b) the prohibition of the dumping or discharge of wastes or other matter which may impair the protected area;
- c) the regulation of the passage of ships and any stopping or anchoring;
- d) the regulation of fishing and hunting and of the capture of animals and harvesting of plants;
- e) the prohibition of the destruction of plant life or animals and of the introduction of exotic species;
- f) the regulation of any act likely to harm or disturb the fauna or flora, including the introduction of indigenous zoological or botanical species;
- g) the regulation of any activity involving the exploration or exploitation of the sea-bed or its subsoil or a modification of the sea-bed profile;
- h) the regulation of any activity involving a modification of the profile of the soil or the exploitation of the subsoil of the land part of a marine protected area;
- i) the regulation of any archaeological activity and of the removal of any object which may be considered as an archaeological object;
- j) the regulation of trade in and import and export of animals, parts of animals, plants, parts of plants and archaeological objects which originate in protected areas and are subject to measures of protection;
- k) any other measure aimed at safeguarding ecological and biological processes in protected areas.

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Article 8

1. The Parties shall give appropriate publicity to the establishment of protected areas, as well as of the areas provided for in article 5, and to their markings and the regulations applying thereto.

2. The information referred to in the preceding paragraph shall be notified to the Organization designated in article 13 of the Convention (hereinafter referred to as "the Organization") which shall compile and keep up to date a directory of protected areas in the area to which this Protocol applies. The Parties shall supply the Organization with all the information necessary for that purpose.

Article 9

1. The Parties shall, in promulgating protective measures, take into account the traditional activities of their local populations. To the fullest extent possible, no exemption which is allowed for this reason shall be such as:

a) to endanger either the maintenance of ecosystems protected under the terms of the present Protocol or the biological processes contributing to the maintenance of those ecosystems;

b) to cause either the extinction of, or any substantial reduction in, the number of individuals making up the species or animal and plant populations within the protected ecosystems, or any ecologically connected species or populations, particularly migratory species and rare, endangered or endemic species.

2. Parties which allow exemptions with regard to protective measures or do not apply such measures strictly shall inform the Organization accordingly.

Article 10

The Parties shall encourage and develop scientific and technical research on their protected areas and on the ecosystems and archaeological heritage of those areas.

Article 11

The Parties shall endeavour to inform the public as widely as possible of the significance and interest of the protected areas and of the scientific knowledge which may be gained from them from the point of view of both nature conservation and archaeology. Such information should have an appropriate place in education programmes concerning the environment and history. The Parties should also endeavour to promote the participation of their public and their nature conservation organizations in appropriate measures which are necessary for the protection of the areas concerned.

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Article 12

The Parties shall, to the extent possible, establish a co-operation programme to co-ordinate the establishment, planning, management and conservation of protected areas, with a view to creating a network of protected areas in the Mediterranean region, taking fully into account existing networks, especially that of biosphere reserves of UNESCO. There shall be regular exchanges of information concerning the characteristics of the protected areas, the experience acquired and the problems encountered.

Article 13

The Parties shall, in accordance with the procedures set forth in article 14, exchange scientific and technical information concerning current or planned research and the results expected. They shall, to the fullest extent possible, co-ordinate their research. They shall, moreover, endeavour to define jointly or to standardize the scientific methods to be applied in the selection, management and monitoring of protected areas.

Article 14

1. In applying the principles of co-operation set forth in articles 12 and 13, the Parties shall forward to the Organization:

a) comparable information for monitoring the biological development of the Mediterranean environment;

b) reports, publications and information of a scientific, administrative and legal nature, in particular:

- on the measures taken by the Parties in pursuance of this Protocol for the protection of the protected areas;
- on the species present in the protected areas;
- on any threats to those areas, especially those which may come from sources of pollution outside their control.

2. The Parties shall designate persons responsible for protected areas. Those persons shall meet at least once every two years to discuss matters of joint interest and especially to propose recommendations concerning scientific, administrative and legal information as well as the standardization and processing of data.

Article 15

1. The Parties shall, directly or with the assistance of competent regional or other international organizations or bilaterally, co-operate, on the entry into force of this Protocol, in formulating and implementing programmes of mutual assistance and of assistance to those developing countries which express a need for it in the selection, establishment and management of protected areas.

2. The programmes contemplated in the preceding paragraph should relate, in particular, to the training of scientific and technical personnel, scientific research, and the acquisition, utilization and production by those countries of appropriate equipment on advantageous terms to be agreed among the Parties concerned.

Article 16

Changes in the delimitation or legal status of a protected area or the suppression of all or part of such an area may not take place except under a similar procedure to that followed for its establishment.

Article 17

1. The ordinary meetings of the Parties to this Protocol shall be held in conjunction with the ordinary meetings of the Contracting Parties to the Convention held pursuant to article 14 of the Convention. The Parties may also hold extraordinary meetings in conformity with that article.

2. It shall be the function of the meetings of the Parties to this Protocol, in particular:

a) to keep under review the implementation of this Protocol;

b) to consider the efficacy of the measures adopted, having regard in particular to the area to which the Protocol applies, and to examine the need for other measures, in particular in the form of annexes; or for envisaging, if necessary, an alteration to that area, in conformity with the provisions of article 16 of the Convention;

c) to adopt, review and amend as required any annex to this Protocol;

d) to monitor the establishment and development of the network of protected areas provided by article 12, and to adopt guidelines to facilitate the establishment and development of that system and to increase co-operation among the Parties;

e) to consider the recommendations made by the meetings of the persons responsible for the protected areas, as provided by article 14, paragraph 2;

f) to consider reports transmitted by the Parties to the Organization under article 20 of the Convention and any other information which the Parties may transmit to the Organization or to the meeting of the Parties.

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Article 18

1. The provisions of the Convention relating to any protocol shall apply with respect to the present Protocol.

2. The rules of procedure and the financial rules adopted pursuant to article 18, paragraph 2, of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

3. This Protocol [shall be open for signature, at Geneva on 3 and 4 April 1982, and at Madrid from 5 April 1982 to 2 April 1983 by any Contracting Party to the Convention and any State invited to the Conference of Plenipotentiaries on the Protocol concerning Mediterranean Specially Protected Areas held at Geneva on 2 and 3 April 1982. It shall also be open for signature from 5 April 1982 to 2 April 1983 by any regional economic grouping of which at least one member is a coastal State of the Mediterranean Sea Area and which exercises competence in fields covered by this Protocol.]

4. This Protocol shall be subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with the Government of Spain, which will assume the functions of Depositary.

5. As from 3 April 1983, this Protocol shall be open for accession by the Contracting Parties to the Convention and by any State or grouping referred to in paragraph 3.

6. This Protocol shall enter into force on the thirtieth day following the deposit of at least six instruments of ratification, acceptance or approval of, or accession to, the Protocol.

IN WITNESS WHEREOF the undersigned, being duly authorized, have signed this Protocol.

...

DONE AT Geneva on this third day of April one thousand nine hundred and eighty two in a single copy in the Arabic, English, French and Spanish languages, the four texts being equally authoritative.