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**Land-Based Pollution**

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and (d) identifying obstacles to the sustainable development of coastal zones.

A Euro-Mediterranean Conference in Barcelona, 27-28 November, aimed at establishing a comprehensive partnership among the participants; fostering political dialogue and economic and financial cooperation; and promoting social, cultural, and human ties. With regard to specific environmental aspects, the Conference emphasised the need for a regional approach and better coordination of existing multilateral programmes, and support of the Barcelona Convention and the Mediterranean Action Plan. The Barcelona Declaration and the annexed Work Programme were endorsed by the following participants to the Conference: the Council of the European Union, the European Commission, the 15 individual member states of the European Union, Algeria, Cyprus, Egypt, Israel, Jordan, Lebanon, Malta, Morocco, Syria, Tunisia, Turkey, and the Palestinian Authority. By year's end, a follow-up mechanism to the Euro-Mediterranean Conference was being set up with a view to implementing the Barcelona Declaration and the adopted Work Programme.

Maria Marotta

## 2. MARINE POLLUTION

### A. PROTECTION OF THE MARINE ENVIRONMENT FROM LAND-BASED ACTIVITIES

#### *(1) The Washington Programme of Action*

On 3 November 1995, the Intergovernmental Conference on Protection of the Marine Environment from Land-Based Activities adopted two globally applicable documents that aim to improve the protection of the regional environment from land-based activities at the regional and national levels: the Global Programme of Action for the Protection of the Marine Environment from Land-Based Activities and the (→) Washington Declaration on Protection of the Marine Environment from Land-Based Activities.

These documents mark the provisional end of a long process. States prefer to deal with land-based activities that may harm the marine environment, including pollution-generating activities, at the national and regional levels. Nonetheless, the 1982 Law of the Sea Convention envisages that global rules be developed to supplement regional rules. In 1985, the United Nations Environment Programme (UNEP) prepared the Montreal Guidelines for the Protection of the Marine Environment against Pollution from Land-Based Sources, but these proved ineffective and now are outdated. By adopting Agenda 21, states expressed their intention to attempt

to develop globally applicable rules on land-based activities, a concept that has replaced the narrower concept of land-based pollution. Since 1992, several meetings have discussed the desired form and contents of such global rules. Preference for regional regulations remained dominant and a global treaty proved infeasible. Instead, the Intergovernmental Conference adopted a non-legally binding action plan formulated in flexible terms, and the Washington Declaration.

The Washington Declaration contains a list of 18 activities that the signatory states will undertake to implement their commitment to protect and preserve the marine environment from land-based activities. For the most part, these recapitulate the relevant provisions of Ch. 17 of Agenda 21, and cover such issues as developing national action programs; capacity-building and mobilizing resources; promoting access to clean technology; encouraging partnerships with the private sector and non-governmental organizations; and urging on donors, primarily the Global Environment Facility, to support relevant projects. Significant is the commitment to develop a global legally binding instrument for the reduction and/or elimination of emissions and discharges, and the elimination of the manufacture and use of persistent organic pollutants. This is the one subject where the Intergovernmental Conference reached agreement that further global regulation is urgently needed. Otherwise, the institutional follow-up will be elaborated in a resolution to be adopted by the UN General Assembly at its 51st session.

The Global Program of Action that accompanies the Washington Declaration is a comprehensive action plan consisting of four substantive parts: actions at the national level; regional cooperation; international action; and actions for different source categories. The Program emphasizes that regulatory action should be pursued at national and regional levels. Global action is in particular envisaged for capacity-building, technology transfer and cooperation, and financial support. The targets for individual source categories are, with the exception of persistent organic pollutants, mostly taken from Agenda 21.

### *(2) The North-East Atlantic*

The Seventeenth Joint Meeting of the Oslo and Paris Commissions (OSPARCOM) took place in Brussels, Belgium, 26–30 June. At the time of the meeting, five states (Germany, the Netherlands, Spain, Sweden, and Switzerland) had approved or ratified the 1992 Convention for the Protection of the Marine Environment of the North-East Atlantic. Formally, the Commission continues to operate, as far as land-based pollution is concerned, under the 1974 Convention on the Protection of the North-East Atlantic against Pollution from Land-Based Sources. In practice, however, OSPARCOM already works on the basis of the principles and strategies embodied in the 1992 Convention.

OSPARCOM adopted three further decisions relating to land-based sources: PARCOM Decisions 95/1 on the Phasing Out of Short Chained Chlorinated Paraffins; 95/2 on Discharge and Emission Limit Values for the Integrated and Non-integrated Sulphite Paper Pulp Industry; and 95/3 on Discharge and Emission Limit Values for the Integrated and Non-integrated Kraft Pulp Industry. Each of these decisions contains a detailed format for implementation reports that should make it possible for OSPARCOM to identify problems encountered in the implementation of the decisions. OSPARCOM failed to make progress on a number of draft decisions and recommendations, including a draft Decision on the Phasing Out of the Use of Short-Chained Chlorinated Paraffins, two draft Decisions on balanced Fertilization and Surplus Limits and two draft Recommendations on the Best Environmental Practice for fertilization in Agriculture.

Other legally relevant issues discussed at the Meeting included the continuing lack of clarity about the competence of the European Community (EC) as a member of OSPARCOM, the possible use of voluntary agreements instead of PARCOM Decisions and Recommendations, and the relationship between OSPARCOM and the North Sea Ministerial Conferences.

### *(3) The North Sea*

On 9 June, the Ministers responsible for the North Sea environment signed the (→) Ministerial Declaration on the Protection of the North Sea in Esbjerg, Denmark. This is the Fourth Ministerial Declaration on the North Sea Environment. Earlier Declarations were signed in Bremen (1994), London (1987), and The Hague (1990). An intermediate Ministerial Meeting was held in Copenhagen (1993). The previous Ministerial Meetings have served to provide political push to the implementation of concerted measures to protect the marine environment of the North Sea. They address problems particularly relevant to the North Sea, and as such supplement and provide impetus to the regulatory frameworks of the North-East Atlantic Convention and the EC.

The Declaration addresses two issues that are particularly relevant to control of land-based pollution: the prevention of pollution by hazardous substances and further reduction of nutrient inputs into the North Sea. As regards the input of hazardous substances, the Declaration states the ambitious objective that the input of hazardous substances into the marine environment should come to a halt "within one generation (25 years)." The Declaration recognizes that previous actions had not been sufficiently successful and that for several substances the targets that had been set by the Third Ministerial Conference will not be met. It sets forth a list of measures and instruments that should correct these deficiencies and should promote the objective of stopping the input of hazardous substances "within one generation."

As to nutrients, the Declaration acknowledges that the agreed targets for nitrogen (50% reduction by 1995) will not be met, and sets forth supplementary measures. The Declaration also stipulates that the North Sea be considered a vulnerable zone under the European Community's urban waste water directive, and a sensitive area under the nitrates directive. Especially stringent measures apply to both types of areas.

The Fifth International Conference on the Protection of the North Sea will be hosted by Norway in the period 2000–2002. An Intermediate Ministerial Meeting is scheduled for 1996.

#### *(4) The Baltic Sea*

The Baltic Marine Environment Protection Commission (Helsinki Commission or HELCOM) held its 16th Meeting in Helsinki, Finland, 14–17 March. Pending the ratification and entry into force of the 1992 Convention on the Protection of the Marine Environment of the Baltic Sea Area, the Helsinki Commission continues to prepare and adopt specific recommendations for priority sources and sectors on the basis of the 1974 Helsinki Convention.

The Helsinki Commission adopted eight further recommendations relating to land-based sources ((→) Report on the Activities of the Baltic Marine Environment Protection Commission during 1994 including the 16th Meeting of the Commission 14–17 March 1995); HELCOM Recommendations 16/4 on the Reduction of Emissions into Atmosphere from the Pulp and Paper Industry; 16/5 on Requirements for Discharging Waste Water from the Chemical Industry; 16/6 on Restriction of Discharges and Emissions from the Metal Surface Treatment Industry; 16/7 on Basic Principles in Waste Water Management in the Leather Industry; 16/8 on Limitation of Emissions into Atmosphere and Discharges into Water from Incineration of Household Waste; 16/9 on Nitrogen Removal at Municipal Sewage Water Treatment Plants; 16/10 on the Reduction of Discharges and Emissions from Production of Textiles; and 16/11 on Measures to Reduce Pollution by Pesticides from Agriculture, Forestry and Horticulture.

These recommendations follow similar regulatory patterns: most establish limit values for emissions into air and water (16/4, 16/5, 16/6, 16/7, 16/8, and 16/10), in some cases accompanied by recommended best available technologies and best environmental practices (16/5, 16/7, 16/8, 16/10, and 16/11).

An August 23 communique issued by an informal meeting of Environment Ministers from Denmark, Finland, Germany, Norway, and Sweden expressed concern about the speed of development of pollution control in the Baltic Sea area, in particular in Eastern and Central European countries. The Ministers noted that in certain areas the 50% reduction objectives of nutrients (as agreed in the 1988 HELCOM Ministerial

Declaration) are far from being achieved, and called for substantial back-up by Western states in their assistance to Eastern and Central European countries.

*(5) The Mediterranean Sea*

On 9–10 June, the Conference of Plenipotentiaries on the Convention for the Protection of the Mediterranean Sea against Pollution was convened in Barcelona, Spain. The Conference was convened pursuant to a recommendation adopted by the Eighth Meeting of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution (Barcelona Convention) in 1993. It called upon the contracting parties to examine amendments to the Mediterranean Action Plan and the Convention and its Protocols, and explore the possibility of adapting the texts to the latest developments in international environmental law. The Conference was preceded by the Ninth Ordinary Meeting of the Contracting Parties, convened 5–8 June, which prepared the final texts considered by the Conference.

Several of the amendments to the 1976 Barcelona Convention are relevant to policies on land-based marine pollution. Article 4(3) of the Convention now obliges parties to apply the precautionary principle and the polluter pays principle, to undertake environmental impact assessments (EIAs) for proposed activities, to promote cooperation in EIA procedures for activities that may have transboundary effects, and to promote the integrated management of coastal zones. Article 8 of the Convention contains a new obligation pertaining to pollution from land-based sources that incorporates in a slightly amended form Art. 4(1) of the 1980 Protocol on Land-Based Sources.

The 1980 Protocol on Land-Based Sources of Marine Pollution itself was not amended at the Conference. A Working Group discussed possible changes at a meeting in Syracuse in May 1995. A Conference of Plenipotentiaries that intends to amend the Protocol on Land-Based Sources of Marine Pollution is scheduled for March 1996.

The Conference also adopted policy documents that contain new political commitments to pursue actions to prevent land-based marine pollution. The Barcelona Resolution on the Environment and Sustainable Development in the Mediterranean Basin contains two documents that list activities to be undertaken by signatory states to reduce land-based sources of marine pollution. The first is the Action Plan for the Protection of the Marine Environment and the Sustainable Development of the Coastal Areas in the Mediterranean (MAP Phase II), and the second is Priority Fields of Activities for the Environment and Development in the Mediterranean Basin—1996–2000.

*(6) The Black Sea*

The 1992 Convention on the Protection of the Black Sea against Pollution (Bucharest Convention), which entered into force in February 1994, provides the legal framework for cooperation between the Black Sea states. The 1993 Ministerial Declaration on the Protection of the Black Sea provides a policy framework and contains several commitments relating to land-based pollution.

The development of specific regulatory approaches for land-based pollution of the Black Sea remains in a preliminary stage. In 1995, states began to conduct studies of land-based sources of marine pollution. These are to serve as a basis for a review of the Odessa Declaration in 1996 as well as for the preparation of the Black Sea Action Plan, also scheduled for 1996. In May 1995, the Commission on the Protection of the Black Sea (established under the Bucharest Convention) held its first meeting in Varna, Bulgaria. This Commission is mandated to promote the implementation of the Bucharest Convention and the Protocol on Pollution from Land-Based Sources. The first meeting confined itself to financial and administrative issues. By year's end, no meeting of contracting parties had been convened.

*(7) The Wider Caribbean Region*

The development of a protocol for land-based sources for the Wider Caribbean is making slow progress. In December 1994, the Seventh Intergovernmental Meeting on the Action Plan for the Caribbean Environment Programme and Fourth Meeting of the Contracting Parties to the Convention for the Protection and Development of the Marine Environment of the Wider Caribbean Region agreed that a regional meeting of legal, policy, and technical experts should convene in August 1995 to develop a draft protocol and that a regional meeting to negotiate the draft protocol should meet in December 1995. Neither of these meetings took place.

The first regional meeting of legal, policy, and technical experts is now scheduled for March 1996. The UNEP Secretariat has prepared a Tentative First Draft Protocol concerning Land-Based Sources and Activities that will serve as a basis for discussion at that and subsequent meetings.

André Nollkaemper

**B. VESSEL SOURCE POLLUTION***(1) Introduction*

In 1995, progress continued to be made in addressing vessel source pollution. At the international level, amendments to existing conventions entered into force or were adopted, conventions and protocols entered into force or received the requisite number of parties to bring them into force, and the

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