

Prepared for the EUROPEAN COMMISSION  
DIRECTORATE-GENERAL FOR MARITIME AFFAIRS AND FISHERIES  
MEDITERRANEAN AND BLACK SEA  
**MARITIME POLICY MEDITERRANEAN AND BLACK SEA**

THE ROLE OF MARITIME ZONES IN PROMOTING EFFECTIVE  
GOVERNANCE FOR PROTECTION OF THE MEDITERRANEAN  
MARINE ENVIRONMENT

REPORT OF THE EXPERT GROUP ON GOVERNANCE OF THE  
MEDITERRANEAN SEA

*Disclaimer: This report is the result of an experts' meeting convened by the European Commission for the purpose of gathering expert advice on issues relating to the governance of the Mediterranean Sea. Its contents, conclusions or proposals reflect the views of the authors and cannot be construed as reflecting the views of the European Commission. The European Commission cannot be held responsible for any use which may be made of the information contained therein.*

**Prepared by**

*Nilufer Oral*, Lecturer at the Istanbul Bilgi University Law School, Istanbul, Turkey

**With the assistance of**

*Irini Papanicolopulu*, Senior Researcher, University of Milano-Bicocca, Milan, Italy  
and

**With the contribution of**

*Ranier Fsadni*, Mediterranean Institute, University of Malta, Malta

*Elie Jarmache*, Chargé de mission, Direction des programmes et de la stratégie, IFREMER

*Michel Prieur*, Professor of International Law, University of Limoges, France

*José Juste Ruiz*, Professor of International Law, University of Valencia, Spain

*Larbi Sbai*, Conseiller de M. le Secrétaire Général, Département Pêche Maritime, Morocco

*Tullio Scovazzi*, Professor of International Law, University of Milano-Bicocca, Milan, Italy

*Fancois Simard*, Deputy Head, Senior Advisor for Fisheries, Global Marine Programme, IUCN

*Tullio Treves*, Judge at the International Tribunal for the Law of the Sea and Professor of  
International Law, University of Milan, Italy

*Juan Luis Suarez- de Vivero*, University of Seville, Department of Human Geography, Spain

## Table of Contents

<i>Executive Summary</i>	5
1. Introduction	8
2. Governance challenges in relation to maritime zones in the Mediterranean Sea	11
<i>2.1 Geographic and geopolitical background</i>	
3. Conventions and other legal instruments	12
<i>3.1 International conventions</i>	
<i>3.2 Regional governance framework</i>	
4. Existing maritime zones in the Mediterranean Sea	15
5. Key activities in the Mediterranean Sea and existing legal competence under international law	17
<i>5.1 Navigation and pollution</i>	
<i>5.1.1 Operational discharges/illegal discharges</i>	18
<i>5.1.2 Accidental pollution</i>	20
<i>5.1.3 Atmospheric pollution</i>	21
<i>5.1.4 Noise pollution</i>	22
<i>5.1.5 Dumping at sea</i>	23
<i>5.1.6 Ballast water</i>	24
6. Carbon sequestration	24
7. Illegal activities	25
<i>7.1 Human trafficking</i>	25
<i>7.2 Drug trafficking</i>	26
<i>7.3 Arms trafficking</i>	27
8. Fishing activities	28
<i>8.1 Illegal, unregulated and unreported fishing</i>	28
<i>8.2 Overfishing</i>	30
9. Activities affecting marine mammals	30

10. Habitat destruction/protection	31
11. Genetic resources	32
12. Energy and mining	33
<i>12.1 Exploration and enforcement jurisdiction</i>	34
<i>12.2 Development of energy resources</i>	34
<i>12.2.1 Wind</i>	34
<i>12.2.2 Hydro (current/wave energy)</i>	35
<i>12.2.3 Oil/gas</i>	35
13. Transport of energy	36
<i>13.1 Ships</i>	36
<i>13.2 Pipelines and cables</i>	
14. Sand and gravel extraction	37
15. Marine scientific research	38
16. Underwater cultural heritage	39
17. Assessment of the advantages and disadvantages of establishing an EEZ	40
18. How competence is exercised by Mediterranean States (flag/coastal/port)	41
19. Present problems	42
20. Possible ways forward	43
21. Recommendations	45

## Annexes

Annex I-	Summary of Mediterranean Expert Group discussions
Annex II-	Main International Treaties applicable in the Mediterranean
Annex III-	Coastal Zones of Mediterranean States
Annex IV-	IUCN Resolution 4.066 Improving the Governance of the Mediterranean Sea

## Executive Summary

The European Commission DG for Maritime Affairs and Fisheries invited a group of legal experts on the Mediterranean Sea for a meeting held in Brussels between the dates of 14-15 January 2009 to discuss in detail and to prepare a report based upon the following terms of reference:

- 1. Describe in detail the current legal status of Mediterranean waters, including a mapping of jurisdictions and declared zones,*
- 2. Describe and assess the issues arising from this situation, in particular regarding the monitoring, control and enforcement of human activities at sea that impact on the ecosystem (such as movement of goods and people, pollution, exploitation of all marine resources, etc.), and including tools such as spatial planning and management,*
- 3. Discuss the possible economic and social implications of these issues, and*
- 4. Make recommendations on possible solutions for effectively improving the application of rights and duties as laid down in the UNCLOS, in the Mediterranean, including references to legal tools and instruments that could be used.*

The Mediterranean Sea countries must address a multiplicity of demands and challenges for the sustainability of the marine environment and overall governance problems that include shipping, fishing, transport of illegal transport of humans, drugs and hazardous waste, dumping at sea, pollution prevention, protection of biodiversity, exploration and exploitation of living and non-living marine resources, marine scientific research, protection of underwater cultural heritage as well as emerging issues such as off shore alternative energy development, genetic resources and noise pollution.

An important legal tool for the effective governance of marine areas under international law are the different maritime zones that provide the coastal states with legal rights to adopt and enforce laws regulating maritime activities. The degree of legal power of coastal States varies according to the maritime zone. The most extensive legal power recognized by international law to the coastal State is to regulate activities in its internal waters, followed by the territorial waters and then the exclusive economic zone (EEZ). The coastal state has virtually no legal power in the high seas, except from regulating its own nationals and vessels, or to protect its coasts and waters from accidental pollution damage. The specific challenge in the Mediterranean Sea is the problem of overlapping maritime boundaries that prevent all States from being able to legally claim the maximum allowable zones allowed under international law.

This report will discuss issues related to effective governance of the marine environment in the Mediterranean Sea in relation to maritime zones, including the challenges that prevent full exercise by coastal states of their right to establish EEZs. The report will focus primarily on the legal rights derived from the 1982 Law of the Sea Convention (1982 LOS Convention), which has been ratified by the majority but not all of the Mediterranean States.

At the regional level the 1976 The Convention for the Protection Of The Mediterranean Sea Against Pollution (Barcelona Convention) as modified and renamed in 1995, provides the general principles and the institutional framework for the protection of the marine environment of the Mediterranean Sea, together with an additional seven implementing protocols have been adopted dealing with: dumping at sea; prevention and emergency response to pollution by oil and other harmful substances; land-based pollution; specially protected areas and biodiversity; protection of pollution from offshore activities; trans-boundary movement of hazardous wastes; and integrated coastal zone management. There are a number of other international conventions important for establishing the necessary governance framework for protection of the marine environment as well as other related activities. The 1982 United Nations Law of the Sea Convention (LOS Convention), however, is the most important for establishing the internationally recognized norms for governance, including the creation of maritime zones and their appurtenant rights and obligations. The Report explains in detail each of these rights and obligations and the pro's and con's for the coastal State.

Under international law, as codified in the 1982 LOS Convention, there are six maritime zones: the internal sea, the territorial sea, the contiguous zone, the continental shelf, the exclusive economic zone (EEZ) and the high seas. Each zone recognizes rights to the coastal State and the flag State as well as obligations. All Mediterranean States have established a territorial sea, and many a contiguous zone. The difficulty lies in the establishment of the continental shelf and EEZ which can legally extend to 200 nm from the territorial sea limits, but when the boundaries of these zones overlap between neighboring States, international law requires these States to establish boundaries based on mutual agreement. In the Mediterranean very few states have delimited their continental shelf and EEZ maritime boundaries based on mutual agreement. As a result over fifty percent of the Mediterranean Sea remains as high seas where the legal ability of the coastal State to adopt and enforce its laws is virtually non-existent.

The present report notes that one of the results of the inability of States to fully exercise their rights in the Mediterranean Sea is the unilateral creation of zones not expressly provided for in the 1982 LOS Convention. The resulting fragmentation of maritime zones in the Mediterranean creates a host of governance problems which the present report addresses and concludes with twenty-two recommendations for governments to adopt.

These recommendations are:

1. *All Mediterranean States should ratify all regional instruments immediately*
2. *Establish on-going cooperative and systematic mechanism for exchange of information*
3. *Strengthen port state control*
4. *Strengthen flag state implementation of international shipping standards*
5. *Strengthen implementation of international environmental agreements (IEAs)*
6. *Priority should be given to establishing region-wide network of MPAs*
7. *Explore establishment of PSSA(s) in the Mediterranean*
8. *Create a common and coordinated approach to IUU fishing by foreign flagged vessels*
9. *Enhance the regional approach to addressing common problems*
10. *Look at the 2008 EC Marine Directive as a possible regional model*
11. *Implement marine spatial planning at the sub-regional and regional levels*
12. *Enhance cooperation among States as provided under the 1982 LOS Convention*

13. *Promote the role of the Mediterranean Commission on Sustainable Development*
14. *Promote further support of UNEP-MAP and GFCM*
15. *Promote regular meetings between Mediterranean States and stakeholders*
16. *Integrate the IUCN Resolution on Mediterranean Governance into regional activities*
17. *Expand UPM activities for improved governance of the Mediterranean*
18. *Enhance the role of the Mediterranean Development Bank*
19. *Promote further study of inter-disciplinary studies of governance for the Mediterranean*
20. *Conduct further studies for establishing maritime zones and alternative joint zones in overlapping areas of potential EEZs*
21. *Adopt a gradualist and phased approach to resolving maritime boundary problems in the Mediterranean*
22. *Improvement of governance should begin by immediately addressing non-maritime zones delimitation issues*

## **I. Introduction**

The European Commission DG for Maritime Affairs and Fisheries invited a group of legal experts on the Mediterranean Sea for a meeting held in Brussels between the dates of 14-15 January 2009 to discuss in detail and to prepare a report based upon the terms of reference as provided below<sup>1</sup>:

- 1. Describe in detail the current legal status of Mediterranean waters, including a mapping of jurisdictions and declared zones,*
- 2. Describe and assess the issues arising from this situation, in particular regarding the monitoring, control and enforcement of human activities at sea that impact on the ecosystem (such as movement of goods and people, pollution, exploitation of all marine resources, etc.), and including tools such as spatial planning and management,*
- 3. Discuss the possible economic and social implications of these issues, and*
- 4. Make recommendations on possible solutions for effectively improving the application of rights and duties as laid down in the UNCLOS, in the Mediterranean, including references to legal tools and instruments that could be used.*

The Mediterranean Sea countries must address a multiplicity of demands and challenges for the sustainability of the marine environment and overall governance problems that include shipping, fishing, transport of illegal transport of humans, drugs and hazardous waste, dumping at sea, pollution prevention, protection of biodiversity, exploration and exploitation of living and non-living marine resources, marine scientific research, protection of underwater cultural heritage as well as emerging issues such as off shore alternative energy development, genetic resources and noise pollution.

Environmental pressures come from a variety of activities. For example, the Mediterranean Sea supports one of the busiest maritime routes in the world – 15 percent of global shipping activity in terms of number of calls at port and 10 percent in terms of dead weight tonnage. In 2006 a total of 13,000 merchant vessels made 252,000 port calls accounting for a total of 3.8 bn DWT. Furthermore, 20 percent of Mediterranean ports are located in the Eastern Mediterranean whereas 80 percent are located in the West and Central Mediterranean. However, the majority (59 percent) of seaborne trade in the Mediterranean takes place from non-Mediterranean flagged states creating potential legal challenges in enforcing international shipping standards to prevent vessel-source operational and accidental pollution.<sup>2</sup>

---

<sup>1</sup> For a summary of the discussions that took place during the meeting see Annex I.

<sup>2</sup> “Study of Maritime Traffic Flows in the Mediterranean Sea” prepared jointly by the Regional Marine Pollution Emergency Response Centre for the Mediterranean (REMPEC), the Euro-Mediterranean Partnership and the EUROMED Cooperation on Maritime Safety and Prevention of Pollution from Ships (SAFEMED).

Furthermore, 60 percent of the seaborne trade between Mediterranean States is tanker-based trade. The volume of dangerous and hazardous cargo transported by tankers has been steadily increasing. Approximately 18 percent of the global seaborne crude oil is transported through the Mediterranean Sea, of which 90 percent is shipped from ports in Libya, Algeria, Tunisia and Persian Gulf via Egypt. In 2006 a total of 4224 laden oil tankers carried 421 million tonnes of crude oil were “observed” in the Mediterranean Sea. And of these, 457 involved transits of tankers carrying 72 million tonnes of crude oil between non-Mediterranean ports. Shipments of crude oil from the Black Sea through the Turkish Straits into the Mediterranean Sea have increased over the years and are expected to increase into the near future. According to the SAFEMED Report “one of the “most significant changes in overall traffic patterns in the Mediterranean in the coming years will be the development of export routes for crude oil from the Caspian region, which is currently shipped predominantly via Black Sea ports through the Bosphorus.”

The SAFEMED Report also noted the increase in pipelines that will be bringing additional volumes of oil and gas into the Mediterranean. If all proposed new pipeline projects were to be developed the Report states that the volume of crude oil brought into the Mediterranean Sea by pipelines would increase from 3.15 bpd to 8.7 bpd and add an additional 1,562 tankers of 120,000dwt a year, resulting in approximately 2500 extra tanker calls per year.

Fishing is another key activity in the Mediterranean. Current fishing practices in the Mediterranean may not be sustainable. The majority of Mediterranean commercial fish stock is over-exploited and in some cases fully exploited.<sup>3</sup> Illegal, unregulated and unreported (IUU) fishing and harvesting have resulted in the decline of many Mediterranean species such as the red coral (*Corallium rubrum*). Non-target species have also been threatened with destruction caused by trawling, driftnet and longline fishing practices. Several species, including 60 percent of Mediterranean cetacean and 40 percent of shark and ray species are threatened with extinction.

However, most of the fishing activities in the Mediterranean occur within existing national jurisdictions and not on the high seas, and are carried out mostly by Mediterranean countries and not third party countries.

An important legal tool for the effective governance of marine areas under international law are the different maritime zones that provide the coastal states with legal rights to adopt and enforce laws regulating maritime activities. As will be illustrated by this report, the degree of legal power of coastal States varies according to the maritime zone. The most extensive legal power recognized by international law to the coastal State is to regulate activities in its internal waters, followed by the territorial waters and then the exclusive economic zone (EEZ). The coastal state has virtually no legal power in the high seas, except in regulating its own nationals and vessels, or to protect its coasts and waters from accidental pollution damage.

---

<sup>3</sup> Status of Marine Protected Areas in the Mediterranean Sea: A collaborative study by IUCN, WWF and MedPan, (IUCN Gland, Switzerland and Malaga Spain and World Wildlife Fund, France 2008) p. 23

This report will discuss issues related to effective governance of the marine environment in the Mediterranean Sea in relation to maritime zones, including the challenges that prevent full exercise by coastal states of their right to establish EEZs. This challenge is itself reflected in the problems resulting from using maps to describe existing and potential maritime zones in the Mediterranean because such maps risk being inaccurate or controversial as there are many unresolved boundary issues. For this reason it was agreed that the report would not include any maps attempting to represent maritime zones in the Mediterranean Sea.

The report will focus primarily on the legal rights derived from the 1982 Law of the Sea Convention (1982 LOS Convention), which has been ratified by the majority but not all of the Mediterranean States. There are many other international environmental conventions of relevance, such as the 1992 Convention on Biological Diversity, however, the 1982 LOS Convention is the primary source of codified international law that provides for the general rules and principles for maritime zone delimitation. The report will examine the range of legal competence (power) of coastal States to adopt and enforce laws and how they apply to key maritime activities, such as shipping, fishing, as well as illegal activities, and perhaps less well-known activities such as protection of underwater cultural heritage. The report will also examine the advantages and disadvantages of establishing EEZs in relation to these activities.

The report will not, however, examine the social and economic implications of these issues, as included in the original mandate, as the report was prepared primarily by jurists without the necessary competence to address these important questions.

Finally, the report will conclude with a number of recommendations as to the how governments can move forward in addressing these critical governance issues, with the ultimate goal of finding the best means for establishing effective governance of the Mediterranean Sea marine and coastal environment. The recommendations stress the importance of regional and sub-regional cooperation as called for under international law and the 1982 LOS Convention, and suggest a number of forums, such as the *Union Pour la Méditerranée* (UPM), Mediterranean Commission on Sustainable Development (MCSD) and the International Union for the Conservation of Nature (IUCN) where cooperation can be promoted and solutions found. The recommendations also stress the importance of working through the existing regional legal framework under the Mediterranean Action Plan (MAP) and Barcelona Convention and promoting ratification and implementation of all the associated Protocols, especially the recently adopted ICZM Protocol that includes marine spatial planning. In addition, the report reflects the shared view that the EU and the recently adopted Marine Strategy Directive should play an important role in promoting good governance in the Mediterranean region. The recommendations, however, caution against seeking to resolve all issues at the same time given the geographic and political difficulties associated with overlapping boundaries, and instead favor the adoption of a gradual and constructive approach beginning with solutions that do not require delimitation of maritime boundaries, such as developing joint management or common zones between neighboring states.

## **2. Governance challenges in relation to maritime zones in the Mediterranean Sea**

### *2.1 Geographic and geopolitical background*

The Mediterranean Sea is a semi-enclosed sea as defined by article 122 of the 1982 United Nations Law of the Sea Convention (LOS Convention).<sup>4</sup> Article 123 exhorts coastal States bordering a semi-enclosed sea such as the Mediterranean to cooperate in a number of areas, including management and conservation of marine living resources, scientific research and developing policies. The Mediterranean is connected to the Atlantic Ocean by the Strait of Gibraltar and to the Indian Ocean by the Suez Canal connection to the Red Sea. The Mediterranean Sea includes a number of sub-seas such as the Adriatic, the Aegean, the Ligurian and the Ionian Seas each possessing their own unique marine and biodiversity characteristics. The Mediterranean Sea is one of the largest of the semi-enclosed seas with a large coastal population over 140 million with millions more tourists visiting each year. The region while rich in cultural diversity also suffers from a disparity in economic and political development.

The Mediterranean Sea supports intense human activities by both coastal and non-coastal States, such as the exploitation of marine resources, traffic of people and of goods, traffic of industrial waste, energy production and transportation, tourism, illicit activities (e.g. drug trafficking, illegal immigration, illegal dumping of waste on/from the shore and at sea). These activities, individually and collectively create risks for the coastal and marine environment requiring States to be proactive in adopting mitigating measures and ultimately rehabilitating the marine environment. These measures, however, depend on states possessing the legal right to both adopt and enforce them, which in turn depend on maritime zones that are territorial sea, contiguous zone, continental shelf and EEZ, as provided for under international law.

Most of the coastal States in the Mediterranean Sea have established territorial waters of the maximum limit of 12- nautical miles, however, only few of these States have claimed an exclusive economic zone (EEZ) as provided under the relevant provisions of the 1982 LOS Convention and international law. Even in those cases where an EEZ has been declared, not all have been enforceable because of a lack of delimitation agreements with opposite or adjacent neighboring States in accordance with international law. And unless maritime boundaries have been properly delimited and recognized the coastal State will have legal impediments to enforcing associated legal rights against third party States.

Moreover, in an attempt to avoid the problems associated with delimitation of overlapping EEZ boundaries some coastal States, including member States of the EU (i.e. France, Italy, Spain, Malta and Libya)<sup>5</sup> have taken initiatives to declare new types of zones that are not expressly provided for in the 1982 LOS Convention, such as ecological zones or fisheries zones. However, these *sui generis* zones also present the same problems of enforcement if they are not agreed to by neighboring states where overlaps of zones exist.

This practical result of such differing maritime zones has led to a complex and fragmented marine region, and one which potentially creates problems, including legal uncertainties, for the

---

<sup>4</sup> A copy of the 1982 LOS Convention can be obtained from the on-line website of the United Nations Division for Ocean Affairs and Law of the Sea.

[http://www.un.org/Depts/los/convention\\_agreements/convention\\_overview\\_convention.htm](http://www.un.org/Depts/los/convention_agreements/convention_overview_convention.htm)

<sup>5</sup> See Annex III for details

implementation of laws, regulations, rules and standards that have been adopted or agreed to at the international or regional level. This situation, furthermore, creates legal lacunae and thus a risk to effective maritime governance.

The EU is an integral actor in the Mediterranean region and should continue to play an active role due to its position and political influence the Mediterranean Sea. This is the result of a combination of factors, geographical and historical on one side, political and economical on the other. With a number of member States that border the Mediterranean Sea the EU is a part of the region and through the EC is also Party to the main regional convention, the Barcelona Convention and the GCFM. The EU already plays a key role in marine affairs through the development of strategic partnerships and specific relations with non-EU States such as Israel and Morocco and with Turkey, who is currently a candidate member State to the EU. In this regard the EU is an important regional actor in efforts to promote the conditions for good environmental governance in the Mediterranean region.

### **3. Conventions and other legal instruments <sup>6</sup>**

#### *3.1 International Conventions*

The principal global treaty concerning the uses of the sea, the 1982 United Nations Convention on the Law of the Sea, has been ratified by most of the Mediterranean States and by the European Community. It provides the general framework for most maritime activities (navigation, exploitation of resources and other economic uses of the seas, protection of the marine environment, marine scientific research), and generally reflects customary international law. Some aspects of fisheries are further regulated by the 1995 Straddling Fish Stocks Convention,<sup>7</sup> which has been ratified by many Mediterranean States and by the European Community. The underwater cultural heritage is now the object of the 2001 UNESCO Convention on the Protection of the Underwater Cultural Heritage, which has been so far ratified by six Mediterranean States.

The 1992 Convention on Biological Diversity (CBD), which aims at the conservation of biological diversity, the sustainable use of its components and the fair and equitable sharing of the benefits arising out of the utilization of genetic resources, is also particularly important for the Mediterranean, even though it does not deal exclusively with the sea.

Other global treaties applicable to the Mediterranean include treaties for the protection of endangered species (1979 Convention on Migratory Species and, in a European contest, the 1979 Convention on the Conservation of European Wildlife and Natural Habitats), treaties relating to

---

<sup>6</sup> For a list of relevant agreements for the Mediterranean Sea , together with participation by Mediterranean states, see Annex II.

<sup>7</sup> The United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks. A list of ratifications can be found on the website of the United Nations Division on Ocean Affairs and Law of the Sea at

[http://www.un.org/Depts/los/convention\\_agreements/convention\\_overview\\_fish\\_stocks.htm](http://www.un.org/Depts/los/convention_agreements/convention_overview_fish_stocks.htm)

navigation (such as 1974 SOLAS, 1973/1978 MARPOL Conventions, 1989 International Convention on Salvage and others adopted by the IMO), treaties relating to the prevention and punishment of criminal conducts (such as the 1988 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation with its Protocols and the 2000 Protocol against the Smuggling of Migrants by Land, Sea and Air).

### *3.2 Regional governance framework*

Mediterranean States have adopted a number of regional treaties related to protection of the marine environment, biodiversity, shipping and fishing activities. The Convention for the Protection Of The Mediterranean Sea Against Pollution (Barcelona Convention),<sup>8</sup> originally adopted in 1976, modified and renamed in 1995, provides the general principles and the institutional framework for the protection of the marine environment. To date an additional seven implementing protocols have been adopted dealing with: dumping at sea;<sup>9</sup> prevention and emergency response to pollution by oil and other harmful substances;<sup>10</sup> land-based pollution;<sup>11</sup> specially protected areas and biodiversity;<sup>12</sup> protection of pollution from offshore activities;<sup>13</sup> trans-boundary movement of hazardous wastes;<sup>14</sup> and integrated coastal zone management.

The Mediterranean Regional Sea Programme was established under the auspices of the United Nations Environmental Programme (UNEP). UNEP serves as the secretariat for the Programme. The Barcelona Convention and its Protocols have been adopted in the context of the Mediterranean Action Plan (MAP), which aims at contrasting environmental degradation of the sea and promoting sustainable development of sea resources. The main bodies of the MAP are the Meeting of States parties, which decide on MAP strategies, budget and programme, the Bureau, the Coordination Unit, the Mediterranean Commission on Sustainable Development and six Regional Activities centres (RACs).

In relation to shipping, all Mediterranean States are members of the International Maritime Organization (IMO), which is the United Nations body with primary responsibility for international shipping. Many international conventions, codes and standards have been adopted through the IMO establishing the international standards for shipping. It is commonly understood that reference to general applicable international rules and standards in the 1982 LOS Convention in relation to shipping implicitly refers to the body of international law and standards

---

<sup>8</sup> The Convention for the Protection Of The Mediterranean Sea Against Pollution, signed 16 February 1976, in force 12 February 1978 (revised in Barcelona, Spain, on 10 June 1995 as the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean )

<sup>9</sup> The Protocol for the Prevention and Elimination of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft (Dumping Protocol)

<sup>10</sup> The Protocol Concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in Cases of Emergency (Emergency Protocol)

<sup>11</sup> Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (LBS Protocol)

<sup>12</sup> The Protocol Concerning Mediterranean Specially Protected Areas (SPA Protocol);

<sup>13</sup> The Protocol for the Protection of the Mediterranean Sea against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil (Offshore Protocol)

<sup>14</sup> The Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal (Hazardous Wastes Protocol)

developed and adopted by the IMO. Ratification and implementation of IMO shipping instruments is the measuring stick for shipping standards. The actual inspection of whether ships engaged in navigation in the Mediterranean meet these IMO standards is conducted through two important instruments: the 1997 Mediterranean Memorandum of Understanding<sup>15</sup> and the 1982 Paris Memorandum of Understanding,<sup>16</sup> both of which provide for binding port State control regulating the inspection of ships entering Mediterranean ports. The Mediterranean MoU regards ports of the southern and eastern Mediterranean Sea, while the Paris MoU regards ports of the northern Mediterranean (and also other sea regions).

At the scientific level, the Mediterranean Science Commission (CIESM) is an international scientific organisation where most Mediterranean States are parties.<sup>17</sup>

There are also sub-regional arrangements. The 1999 Agreement concerning the Creation of a Marine Mammal Sanctuary in the Mediterranean, concluded between France, Italy and Monaco, is a good example of sub-regional cooperation for the protection of an endangered species. It has created the Pelagos Sanctuary, which comprises portions of the territorial waters of the parties, the French ecological protection zone and parts of the high seas. The RAMOGE Agreement, adopted by France, Italy and Monaco in 1978 and amended in 2003, which applies to the area between Marseille (France) and La Spezia (Italy), provides for scientific, technical, legal and administrative cooperation to decide jointly on actions to be undertaken for integrated management of the coastline. Bilateral agreements have also been concluded, such as the bilateral agreement between Italy and Greece for the Protection of the marine environment of the Ionian Sea and its coastal region.

The 1996 Agreement on the Conservation of Cetaceans in the Black Sea, Mediterranean Sea and contiguous Atlantic Area (ACCOBAMS), which aims at the protection of cetaceans, has been ratified by most Mediterranean States.<sup>18</sup> Two regional fisheries organisations have competence on Mediterranean fisheries. The main one is the General Fisheries Commission for the Mediterranean (GFCM), created by agreement in 1949 to promote the development, conservation, rational management and best utilization of living marine resources, as well as the sustainable development of aquaculture in the Mediterranean, Black Sea and connecting waters. The International Commission for the Conservation of Atlantic Tunas (ICCAT), created in 1966, has also competence in the Mediterranean Sea concerning the conservation and management of tuna and tuna-like species.

---

<sup>15</sup> <http://www.medmou.org/>

<sup>16</sup> <http://www.parismou.org/>

<sup>17</sup> <http://www.ciesm.org/>

<sup>18</sup> See <http://www.accobams.org/>

#### 4. Existing maritime zones in the Mediterranean<sup>19</sup>

The 1982 LOS Convention establishes six maritime zones: the internal sea of a coastal State, the territorial sea, the contiguous zone, the continental shelf, the exclusive economic zone and the high sea. The power of the State to adopt laws and enforce such laws for activities in the sea will depend on the maritime zone.

All Mediterranean States have a *territorial sea*, where they enjoy full sovereignty with the exception of the right of innocent passage granted to all ships. Innocent passage is defined under the 1982 LOS Convention as passage through the territorial sea of the coastal State that is continuous and expeditious which is not prejudicial to the peace, good order or security of the coastal State. The territorial sea, in accordance with international law, can extend to a maximum of 12 n.m. as measured from its baselines.<sup>20</sup> (Greece has a 6 n.m. limit, and Turkey a 6 n.m.).

Beyond the territorial sea a distinction is made between the seabed and subsoil, on one hand, and the water column, on the other. The area of the seabed and its subsoil falls under the regime of the *continental shelf* where the coastal State has exclusive sovereign rights for its exploration and the exploitation of its natural resources (e.g. oil). This means other states cannot explore or exploit the continental shelf area belonging to a coastal State without its permission.

The water column above the continental shelf, however, is subject to different legal regimes. Certain Mediterranean states have enacted legislation proclaiming a 12 n.m. *contiguous zone*, adjacent to their territorial sea, for the enforcement of customs, fiscal, immigration or sanitary laws and regulations. These states include Algeria, Cyprus, Egypt, France, Malta, Morocco, Spain and Syria. In the last few years some states (Algeria, Cyprus, France, Italy and Tunisia) have also established a 12 n.m. *contiguous archaeological zone* adjacent to their territorial sea for the protection of underwater cultural heritage.

*Exclusive economic zones*, where the coastal State enjoys sovereign rights over marine resources, both living and non-living, and other kinds of jurisdiction (namely for the protection of the marine environment and for marine scientific research) have been claimed by Cyprus, Egypt, Morocco, Syria and Tunisia. Algeria, Libya, Malta,<sup>21</sup> and Spain<sup>22</sup> have instead proclaimed *fisheries zones* (sometimes named fisheries protection zones), where they exercise exclusive rights and jurisdiction with regard to fisheries. France and Slovenia have proclaimed an *ecological protection zone*, where they claim exclusive jurisdiction with respect to the protection

---

<sup>19</sup> See Annex II.

<sup>20</sup> In some cases the width of the territorial sea is measured from straight baselines established by States, with the waters on the landwards side of them being internal waters. Such straight baselines have been drawn by Albania, Algeria, Croatia, Cyprus, France, Italy, Libya, Malta, Morocco, Montenegro, Spain and Tunisia. Two States claim historic bays, considered as internal waters: Italy (the Gulf of Taranto) and Libya (the Gulf of Sirte).

<sup>21</sup> See *Note Verbale* of August 25, 1978 of the Embassy of Malta to the Italian Ministry of Foreign Affairs on draft delimitation agreement for the continental shelf with Italy, followed by the *Note Verbale* of 16 March, 1981 and April 16, 1981.

<sup>22</sup> The fisheries protection zone applies only to a part of the Mediterranean from cape of Gata to the boundary with France. There is no fisheries protection zone in Alboran Sea.

of the marine environment, while Italy has adopted a framework legislation on ecological protection zones which is expected to be followed by implementing decrees. Croatia has declared an *ecological and fisheries protection zone*.<sup>23</sup> The remaining portion of the waters, which is not included in any of the above-mentioned zones, constitutes the high seas, where all States, Mediterranean and non-Mediterranean, enjoy the freedoms provided for by international law.

It must be noted that, though States have *claimed* the maritime zones mentioned above, in some cases neighbouring States have objected either to the extent of the claim or its validity in total. As a result these maritime zones are not enforceable. In addition, as there are many cases in which the potential zones of two or more States overlap, the States concerned have still to delimit them by drawing a commonly agreed boundary. Such boundaries have been established for some portions of the continental shelf and/or the waters above,<sup>24</sup> while the remaining boundaries have still to be delimited.

The 1982 LOS Convention requires that the delimitation of maritime zones between states with overlapping maritime boundaries be achieved by agreement. If agreement cannot be achieved resolution becomes more difficult. The political sensitivity of maritime delimitation is reflected in the Convention by the fact that delimitation of overlapping boundaries is one of the exceptions to the general requirement for compulsory judicial settlement of legal disputes arising from the Convention.<sup>25</sup> States cannot be forced to settle their delimitation disputes under the compulsory dispute resolution part of the LOS Convention if they “opt-out” upon ratification of the Convention. Throughout the Mediterranean Sea there are many overlapping maritime zones for the continental shelf and EEZ. And in only two cases have the maritime boundaries been completely delimited (Monaco and Bosnia-Herzegovina). Specifically, there are only limited cases in the Mediterranean Sea of delimited boundaries through agreements or tribunal decisions. Only five territorial seas have been delimited: Cyprus-UK in relation to British bases, Italy and Yugoslavia in the Gulf of Trieste, France and Monaco, France and Italy in the Strait of Bonifacio, and Croatia and Bosnia-Herzegovina.

For the continental shelf, there are eleven delimited shelf zones: Italy and the former Yugoslavia for the continental shelf in the Adriatic Sea. However, since the dissolution of the former Yugoslavia new issues have emerged as to certain boundaries in the Adriatic Sea. Italy also concluded agreement for delimited boundaries of the continental shelf with France, Spain, Tunisia and Greece. Libya has delimited two boundaries with Tunisia and Malta (partially), which were the result of tribunal judgments. Agreements have also been concluded by France and Monaco, and Croatia and Bosnia-Herzegovina. For the EEZ, Cyprus and Egypt have

---

<sup>23</sup> In 1994 Croatia adopted a maritime code which provided for the establishment of an *economic zone in the Adriatic Sea*. However, the English translation of the Code as published in *Law of the Sea Bulletin*, Nos. 42 and 43, 2000, according to Davor Vidas included the term “exclusive” which was not in the Croatian Code. See Davor Vidas, “The UN Convention on the Law of the Sea, the European Union and the Rule of Law: What is going on in the Adriatic Sea?” 23*The International Journal of Marine and Coastal Law* (2008) 1-67, 9 at fn 17.

<sup>24</sup> See Annex II for a list of claimed and /or delimited zones in the Mediterranean Sea.

<sup>25</sup> Part XV, article 298(1)

concluded an agreement for an EEZ.<sup>26</sup> Croatia has enacted law for an EEZ in the Adriatic but has not proclaimed or delimited an EEZ.<sup>27</sup> The factors making delimitation difficult in the Mediterranean Sea are due primarily to geographic factors such as islands, gulfs, concave coasts, but also economic factors such as fishing interests. In some areas delimitation is clearly challenging, but in other areas of the Mediterranean Sea less problematic.

In brief, most of the maritime zones proclaimed by Mediterranean countries, whether EEZ, fisheries zones or ecological zones are contested and *not* subject to the compulsory dispute provisions of the LOS Convention. Likewise, with the exception of delimited continental shelves listed above, the majority of the continental shelf area of the Mediterranean Sea has not been delimited because of overlapping boundaries.

## **5. Key Activities in the Mediterranean Sea and existing legal competence under international law<sup>28</sup>**

### *5.1 Navigation and pollution*

#### *General comment:*

Under international law and the 1982 LOS Convention, the primary responsibility for regulating shipping, which includes adoption and implementation of international rules, regulations and standards as established through international conventions and other agreements, falls upon the flag State. Furthermore, the flag State has the broadest competence and obligation to enforce these standards on its ships wherever they are, including the high seas, the EEZ and territorial sea of another State.

In this regard, the primary jurisdiction to adopt and enforce laws for prevention of illegal discharges, complying with international standards for operational discharges as established in instruments such as 73/78 MARPOL rests with the flag State.

However, because of the lack of uniformity of flag State standards and compliance with international obligations, reliance on the flag State for meeting international shipping standards has required that additional jurisdictional competence be recognized to the coastal State and the port State.

---

<sup>26</sup> This agreement was formally contested by Turkey.

<sup>27</sup> Tullio Scovazzi, "The Mediterranean and Black Sea Maritime Boundaries" in David A. Colson and Robert W. Smith (eds) *International Maritime Boundaries*, vol V (Martinus Nijhoff 2005), 3477- 3489.

<sup>28</sup> For the purposes of the report the group of legal experts on the Mediterranean Sea agreed to limit the assessment of the relationship of legal jurisdiction to maritime to the 1982 LOS Convention provisions.

The report will assess the jurisdiction to adopt (prescriptive jurisdiction) and enforce laws and regulations related to shipping activities based upon flag State, coastal State and port State jurisdiction.

### 5.1.1. Operational discharges/Illegal discharges

<i>Prescriptive Jurisdiction</i> <sup>29</sup>
<i>Flag State must</i> adopt laws and regulations to prevent vessel source pollution which at <i>minimum</i> must have the same effect as generally accepted international rules and standards (Article 211.2) when navigating in the territorial sea, EEZ of other States and the high seas.
<i>Coastal State</i>
<i>Territorial sea:</i> Coastal State <i>may</i> adopt laws and regulations for foreign flagged vessels in their territorial sea-so long as it does not hamper innocent passage rights of foreign vessels.
<i>EEZ:</i> Coastal State <i>may</i> adopt laws and regulations in its EEZ giving effect to IMO GAIRS adopted through the [CIO] competent international organization (i.e. IMO)
<i>High seas:</i> Coastal state has no jurisdiction to adopt laws and regulations in the high seas
<i>Enforcement jurisdiction</i> <sup>30</sup>
Flag State (Article 217)
<i>Territorial Sea:</i> Must ensure compliance of its vessels with applicable international rules and standards adopted by the CIO (i.e. IMO). Must enforce violations by its vessels <i>wherever</i> they occur. Penalties must be strong enough to act as deterrence to violations.
EEZ: Same as above
High Seas: Same as above
Coastal State (Article 220)
<i>Territorial Sea:</i> When foreign flagged vessel is voluntarily in a coastal State’s port or off shore terminal it <i>may</i> undertake physical inspection and if there is evidence of violations institute proceedings.
<i>EEZ:</i> If there are <i>clear grounds</i> that there was a violation committed by the foreign flagged vessel during navigation in the EEZ of the coastal State, the latter can request identification information from the vessel while it is navigating through its territorial sea or EEZ, and if such violation has caused <i>substantial discharge</i> causing or threatening to result in <i>significant pollution</i> of the marine environment the coastal State <i>may</i> undertake physical inspection of the vessel <i>if</i> it has refused to provide information or information

<sup>29</sup> This is the competence [legal power] of a State to adopt legislative instruments (laws, regulations, directives etc).

<sup>30</sup> This is the competence [legal power] of the State to take measures such as to detain, arrest and impose sanctions against a vessel for its violation of laws and regulations of the State.

provide is “manifestly at variance” with reality.
If in the above situation there are <i>clear objective grounds</i> that the violation is causing or threatening to cause <i>major damage</i> to its coastline or related interests of the coastal State, or to any of its resources in its territorial sea or EEZ, the coastal State may detain and institute proceedings against the vessel.
<i>High Seas</i> : See below for port State jurisdiction.
i. Port State (Article 218)
<i>Territorial Sea</i> : When foreign flagged vessel is voluntarily in a coastal State’s port or off shore terminal it <i>may</i> undertake physical inspection and if there is evidence of violations institute proceedings for any discharge occurring outside of its internal waters, territorial sea or EEZ. Port State may institute proceedings for violations committed in the internal waters or territorial sea of another State only upon the request of such State.
<i>EEZ</i> : Port State can enforce violation of applicable international rules and standards adopted through the CIO (i.e. IMO) for discharge violations committed in the EEZ. Port State may institute proceedings for violations committed in the EEZ of another State only upon the request of such State.
<i>High Seas</i> : Port State can enforce violation of applicable international rules and standards adopted through the CIO (i.e. IMO) for discharge violations committed in the high seas.

Explanation:

The flag State is obligated to adopt national laws that at the minimum meet international law obligations and standards and to enforce these laws in the maritime zone of another state as well as in the high seas.

The coastal State has the legal power to adopt laws regulating operation and illegal discharges in its territorial sea against foreign flagged vessels, so long as it does not interfere with certain rights of passage known as “innocent passage” both in the implementation of these laws and regulations and enforcement. Under Article 19(h) of the 1982 LOS Convention, only acts of *willful and serious* pollution would constitute non-innocent passage and allow the coastal State to interfere with the vessel’s passage.

The legal power of the coastal State to adopt and enforce laws regulating operation and illegal discharges in the EEZ is limited. Only in cases where there is a violation of its laws that has caused or risks to cause *substantial discharge* and threatens to cause *significant* environmental pollution can the coastal State detain the vessel for further inspection, but only if the vessel initially either refused to cooperate and give information or the information given did not match the physical situation (i.e. gave false information). However, if on the other hand the threat to the environment is *major* (not just *significant*) the coastal State can take action against the vessel without the pre-conditions of non-cooperation or false information. The difference between significant and major is not defined. Thus, the ability of the coastal State to take physical measures against a vessel in the EEZ for having simply violated pollution laws is restricted.

The port State, that is the port where a foreign vessel calls, can take action against a vessel that has violated the laws of the coastal State in the EEZ, and also in the EEZ of another State upon the request of that State.

The coastal State has no legal power to adopt laws that would be applicable in the high seas. Moreover, the coastal State cannot take any enforcement action, other than to inform the flag State of the violation by its vessel.

The port State does have legal power to take actions against violations of international law for unlawful discharges in the high seas.

In short, the legal powers to adopt and enforce laws are greatest for the flag State. Next, the port State has significant power to enforce violation of international law for unlawful discharges violations in its EEZ, the EEZ of another State and the high seas.

The coastal State has significant legal power in its territorial sea, relatively weak power in the EEZ and virtually non-existent power in the high seas, with the exception of protection of its coast under certain circumstances, such as an accident.

Despite the relatively weak legal power the coastal State has in the EEZ over foreign vessels, it has some possibility to take legal action which does not exist in the high seas.

*5.1.2. Accidental pollution*

<i>Prescriptive and enforcement jurisdiction</i>
<i>Coastal State</i>
<i>Territorial Sea:</i> Coastal State has the right to take measures and enforcement actions.
<i>EEZ:</i> Coastal State has the right to take measures and enforcement actions in accordance with international law including customary international law.
<i>High Seas:</i> Coastal State has the right to take measures and enforcement actions in accordance with international law including customary international law.

Explanation:

The coastal State has broad powers to take action to prevent pollution of its maritime zones from the risks of an accidental pollution incident even if the accident occurs in the high seas. The coastal State, for example, can physically intervene over a vessel in the high seas, which under other circumstances would be a violation of international law.

There is no special advantage for the coastal State in having an EEZ as the same right applies to the high seas.

### 5.1.3. Atmospheric pollution

<i>Prescriptive jurisdiction (Article 212)</i>
<i>Flag State</i>
<i>Territorial Sea:</i> Must adopt laws and regulations to prevent, reduce and control atmospheric pollution taking into account internationally agreed rules, standards and recommended practices.
<i>EEZ:</i> Same as above
<i>High seas :</i> Same as above
<i>Territorial Sea:</i> Under the 1982 LOS Convention the coastal State must adopt laws and regulations to prevent, reduce and control atmospheric pollution taking into account internationally agreed rules, standards and recommended practices for air space <i>under its sovereignty</i> .
<i>EEZ:</i> The air space is not under the sovereignty of the coastal State as under the 1982 LOS Convention and so the coastal State does not have jurisdiction to adopt laws and regulations regarding atmospheric pollution
<i>High seas:</i> Coastal state has no jurisdiction in the high seas to adopt laws for atmospheric pollution
<i>Enforcement jurisdiction (Article 222)</i>
<i>Flag State</i>
<i>Territorial Sea:</i> The flag State must enforce laws and regulations and measures adopted under Article 212 and also adopt laws necessary to implement them when navigating in all marine zones, including the territorial sea of another coastal State
<i>EEZ:</i> Same as above for the EEZ of another coastal State
<i>High seas:</i> Same as above
<i>Coastal State</i>
<i>Territorial Sea:</i> Coastal State can only enforce those laws, regulations and measures adopted in accordance with article 212 within the air space under its sovereignty.
<i>EEZ:</i> EEZ air space is not under the sovereignty of the coastal State as under the 1982 LOS Convention
<i>High seas:</i> Coastal state has no jurisdiction in the high seas to enforce laws for atmospheric pollution
<i>Port State</i>
<i>Territorial Sea:</i> There is no provision in the 1982 LOS Convention providing port State jurisdiction over vessels for violations of laws or regulations adopted in accordance with Article 212.
<i>EEZ:</i> Same as above
<i>High seas:</i> Same as above

Explanation:

The key qualification is that the coastal State can only adopt and enforce laws to prevent marine pollution from the atmosphere over the area where it exercises sovereignty.<sup>31</sup>

<sup>31</sup> M. H. Nordquist (eds), United Nations Convention on the Law of the Sea 1982 : A Commentary, Vol. IV (1991)

There is no advantage of the coastal State in having an EEZ for regulating atmospheric pollution.

#### 5.1.4. Noise pollution

There is no provision in the 1982 Law of the Sea Convention regarding *noise* pollution.. However, a number of international bodies, including the EC (Marine Strategy Directive, art. 3.8) and the meeting of the parties to ACCOBAMS, have recently recognized that underwater noise may constitute a form of pollution according to the definition of the 1982 LOS Convention, thus rendering applicable all provisions relating to pollution prevention.

##### *Flag State*

The flag State has broad competence to adopt laws and enforce these laws against ships flying its flag and so the flag State could choose to impose limits on noise pollution while navigating in the territorial sea, EEZ or other coastal states and the high seas. However, there is no international or regional obligation limiting marine noise pollution but the MEPC of the IMO has recently decided to address noise pollution from commercial vessels.

##### *Coastal State*

##### *Territorial sea:*

The coastal State cannot interfere with the rights of innocent passage of foreign vessels navigating in its territorial sea. The 1982 LOS Convention only lists acts of “willful and serious pollution” as constituting non-innocent passage which would allow the coastal State to take action against the vessel. If “noise” constitutes pollution within the meaning of the 1982 Convention, the coastal State would have jurisdiction to adopt laws and enforce these laws against foreign flagged vessels.

##### *EEZ:*

The coastal State has jurisdiction to adopt laws and enforce these laws for the protection of the marine environment, which could include regulation of marine noise pollution. However, any laws and regulations cannot interfere with the high seas navigational rights protected under the 1982 LOS Convention for foreign flagged vessels navigating in the EEZ of the coastal State.

##### *High seas:*

The coastal State has no jurisdiction to adopt laws and enforce any such laws regulating marine noise pollution in the high seas.

Explanation:

There *may* be some advantage to a state having an EEZ if noise pollution is regarded as an activity harmful to the marine environment and can be regulated without interfering with high seas navigational freedoms. However, this is not clear.

#### 5.1.5 Dumping at sea

##### *Prescriptive jurisdiction*

*Flag State:* Must adopt laws and regulations to prevent and control pollution from dumping.

<i>Territorial Sea:</i> Cannot dump without coastal State approval.
<i>EEZ:</i> Cannot dump without coastal State approval.
<i>High sea :</i> Minimum laws must meet global standards and so if global standards prohibit dumping in the high seas must adopt such laws.
<i>Coastal State:</i> Must adopt laws and regulations to prevent and control pollution from dumping.
<i>Territorial Sea:</i> Coastal State has jurisdiction to establish conditions for consent.
<i>EEZ:</i> Coastal State has jurisdiction to establish conditions for consent.
<i>Continental shelf:</i> Coastal State has jurisdiction to establish conditions for consent.
<i>High seas:</i> Coastal State has no jurisdiction.
<i>Enforcement jurisdiction</i>
<i>Flag State</i>
<i>Territorial Sea:</i> The flag State has jurisdiction and obligation to enforce laws and regulations adopted in accordance with the Convention and through the CIO.
<i>EEZ:</i> The flag State has jurisdiction and obligation to enforce laws and regulations adopted in accordance with the Convention and through the CIO.
<i>Continental shelf:</i> The flag State has jurisdiction and obligation to enforce laws and regulations adopted in accordance with the Convention and through the CIO.
<i>High seas:</i> The flag State has jurisdiction and obligation to enforce laws and regulations adopted in accordance with the Convention and through the CIO.
<i>Coastal State</i>
<i>Territorial Sea:</i> The coastal State has jurisdiction to enforce laws and regulations adopted in accordance with the Convention and through the CIO.
<i>EEZ:</i> The coastal State has jurisdiction to enforce laws and regulations adopted in accordance with the Convention and through the CIO.
<i>High seas: No competence.</i>
<i>Port State:</i>
<i>Territorial Sea:</i> There is no provision in the 1982 LOS Convention providing port State jurisdiction over vessels for violations of dumping laws in the territorial sea of another State. However, as a general rule of international law, the coastal State can establish conditions of entry into its ports. Based on this the coastal State could deny entry of a vessel that violated dumping laws.
<i>EEZ:</i> Same as above
<i>Continental Shelf:</i> Same as above

*High seas: Same as above*

Explanation:

As in all cases the flag State has both the obligation to adopt and enforce laws against dumping in all maritime zones of the sea.

The coastal State has significant legal power to regulate (adopt laws and require consent) and enforce these laws for dumping in its territorial sea, its continental shelf and EEZ.

There is clearly an advantage to having an EEZ to regulate and prevent dumping.

#### **5.1.6 Ballast water:**

Article 196 of the 1982 LOS Convention imposes the obligation on Parties to prevent, reduce and control the accidental or intentional introduction of new or alien species to the marine environment. However, there is no express provision in the 1982 LOS Convention regarding prescriptive and enforcement jurisdiction for the intentional or accidental introduction of new or alien species. However, in 2004 the IMO adopted the International Convention for the Control and Management of Ships Ballast Water & Sediments which has not yet entered into effect.

### **6. Carbon sequestration:**

There is no provision in the 1982 LOS Convention expressly addressing carbon sequestration. The methodology of carbon sequestration is relevant. For example, if done by *iron fertilization* this could be a question of dumping and thus fall within the provisions regulating dumping. The IMO amended the 1996 London Dumping to permit the storage of carbon dioxide (CO<sub>2</sub>) under the seabed as of 10 February 2007. However, the legal questions concerning carbon sequestration into the sea is still a subject of debate and thus beyond the scope of this report.

### **7. Illegal activities**

#### *7.1 Human trafficking:*

<i>Prescriptive jurisdiction</i>
<i>Flag State</i>
<i>Territorial Sea:</i> Foreign flagged vessels have the right of “innocent passage” through the territorial sea of another coastal State. Innocent passage will be violated by the vessel if it loads or unloads any person contrary to the immigration laws of the coastal State. However, whether this includes the mere “transport” is questionable.
<i>EEZ:</i> Under the 1982 LOS Convention, vessels retain the right of high seas freedom of navigation in the EEZ of a coastal State. However, the 1982 LOS Convention prohibits the transport of “slaves”, which would include human trafficking. The Flag State has the obligation to take “effective measures” to prevent and punish the transport of “slaves” on its vessels. (Article 99)
<i>High seas:</i> Same as EEZ.

<i>Coastal State</i>
<i>Territorial Sea:</i> Coastal State has jurisdiction to adopt laws on immigration. (Article 21 (h))
<i>Contiguous zone:</i> Coastal State has jurisdiction to prevent violation of its immigration laws up to 24 nm- which would de facto extend prescriptive jurisdiction to the area of the contiguous zone.
<i>EEZ:</i> No competence
<i>High seas:</i> No competence
<i>Note:</i> Warships have a right of visit of ships suspected of transporting “slaves” in the high seas and thus the EEZ. (Article 110)
<i>Enforcement jurisdiction</i>
<i>Flag State:</i> Flag State would have competence to enforce anti-human trafficking laws on vessels flying its flag in all parts of the world
<i>Territorial Sea:</i> The 1982 LOS Convention does not list the illicit transport of humans as an act of non-innocent passage, which would provide the coastal State with jurisdiction to detain and institute proceedings against the vessel. However, the coastal State does have jurisdiction to prevent violation of its immigration laws in its territorial sea, which presumably would encompass enforcement against foreign flagged vessels.
<i>Contiguous zone:</i> The 1982 LOS Convention expressly recognizes that the coastal State has jurisdiction to punish violations of its immigration laws committed within its territorial sea in the contiguous zone.
<i>EEZ:</i> The 1982 LOS Convention does not provide for enforcement jurisdiction by the coastal State in its EEZ over a vessel suspected of engaging in illicit human trafficking. However, a warship of the coastal State would have a right of visit of a foreign flagged vessel suspected of “slave trade” which could include human trafficking. In which case, the persons transported would be freed immediately under the Convention .
<i>High seas:</i> The flag State has the duty to take all action to suppress which would include enforcement action against any of its vessels engaged in illicit human trafficking on the high seas—and any where.
<i>Coastal State</i>
<i>Territorial Sea:</i> The flag State has jurisdiction to enforce laws on immigration. (Article 21 (h))
<i>EEZ:</i> See above
<i>High seas:</i> No competence
<i>Note:</i> Warships have a right of visit of ships suspected of transporting “slaves” in the high seas and thus the EEZ. (Article 110)
<i>Port State:</i> As a general rule of international law, the coastal State can establish conditions of entry into its ports. Based on this the coastal State could deny entry of a vessel that is or has engaged in human trafficking in any part of the territorial sea, EEZ or high seas.

Explanation:

The flag State has complete legal power to adopt and enforce laws prohibiting transport and trafficking of humans.

The coastal State may adopt laws on immigration and enforce these laws against a foreign vessel in passage in its territorial sea and contiguous zone. The coastal State would not have legal power to take action against a vessel engaged in illicit human trafficking in its EEZ—except if the coastal State was engaged in hot pursuit (that is police pursuit) of a violation committed in its internal or territorial sea.

A port State could, if it chose, to deny admission to ships that were known to engage in illegal human trafficking. This would require that the port State laws include such a condition.

There is no advantage to having an EEZ for purposes of regulating human trafficking in the EEZ.

## 7.2 Drugs trafficking

<i>Prescriptive and enforcement jurisdiction</i>
<p><i>Flag State:</i> The 1982 LOS Convention provides that all States are obligated to cooperate to suppress illicit traffic of narcotic or psychotropic drugs and that any State which suspects that a vessel flying its flag is engaged in illicit traffic of narcotic or psychotropic substances can ask for the cooperation of other States to suppress it. However, only the flag State has the jurisdiction to take enforcement action against a vessel flying its flag engaged in the transport of illicit drugs.</p>
<p><i>Coastal State:</i></p>
<p><i>Territorial sea:</i> The coastal State cannot intervene in the innocent passage rights of a foreign flagged vessel in its territorial sea. The 1982 LOS Convention does not list the transport of illicit narcotics as an act in violation of innocent passage. However, if there is any “loading or unloading” of the drugs in violation of the coastal State’s laws, this would be violation of innocent passage and the coastal State could take enforcement action. (Article 19 2. G)</p>
<p><i>Contiguous zone:</i> The enforcement of the coastal States laws for a violation of the “loading or unloading” of illicit drugs in violation of its laws could be enforced in the contiguous zone.</p>
<p><i>EEZ:</i> The rights of high seas freedom of navigation apply in the EEZ and accordingly only the flag State would have jurisdiction to enforce laws against illicit drug trafficking on the high seas. There is one exception that would allow the coastal State to engage in “hot pursuit” of a vessel for violation of its laws in its territorial sea and contiguous zone and enforce these laws in the high seas if the pursuit was uninterrupted into the EEZ and high seas. (Article 111)</p>
<p><i>High seas:</i> see EEZ above.</p>
<p><i>Port State:</i> As a general rule of international law, the coastal State can establish conditions of entry into its ports. Based on this the coastal State could deny entry of a vessel that is suspected of or has engaged in illicit drug trafficking in any part of the <i>territorial sea, EEZ or high seas:</i></p>

Explanation:

The legal power to adopt and enforce laws in all maritime zones against drug trafficking belongs to the flag State.

The coastal State can adopt laws against illegal drug trafficking through its territorial sea but will not be able to enforce these laws if the vessel is exercising its rights of innocent passage and does not act as listed in the 1982 LOS Convention that would make such passage *non-innocent*. Only in the latter case could the coastal State take enforcement actions.

The coastal State has no legal power to adopt or to enforce laws against illegal drug trafficking in its EEZ and the high seas.

A port State could, if it chose, to deny admission to ships that were known to engage in illegal drug trafficking. This would require that the port State laws include such a condition.

There is no advantage of having an EEZ for regulating drug trafficking in the EEZ.

### 7.3 Arms trafficking :

The 1982 LOS Convention does not address the issue of arms trafficking.
<i>Prescriptive and enforcement jurisdiction:</i>
<i>Flag State:</i> The flag State has the competence to prescribe the laws and regulation for registration of vessels under its registry and could adopt laws that prohibit the trafficking of arms in its vessels.
Furthermore, the 1982 LOS Convention does require that the high seas be used for “peaceful purposes” and there could be an argument that arms trafficking is not the use of the high seas for “peaceful purposes.” (Article 88)
<i>Coastal State</i>
<i>Territorial Sea:</i> Coastal State can adopt laws to prevent passage that is not “innocent”. However, there is no provision that would make the trafficking of arms alone a violation of innocent passage unless there was reason for the coastal State to believe that the arms constituted a threat against it. (Article 19.2.a). However, if there is an activity, such as the “loading or unloading” of the arms in violation of the coastal State’s laws, this would be violation of innocent passage and the coastal State could take enforcement action. (Article 19 2. G) .\
<i>Contiguous zone:</i>
The enforcement of the coastal States laws for a violation of the “loading or unloading” of illicit arms in violation of its laws could be enforced in the contiguous zone.
<i>EEZ and high seas:</i>
The 1982 LOS Convention does require that the high seas be used for “peaceful purposes” and there could be an argument that arms trafficking is not the use of the high seas for “peaceful purposes.” (Article 88). Otherwise, the rights of high seas freedom of navigation apply in the EEZ and accordingly only the flag State would have jurisdiction to enforce laws against illicit arms trafficking on the high seas. There is one exception that would allow the coastal State to engage in “hot pursuit” of a vessel for violation of its laws in its territorial sea and contiguous zone and enforce these laws in the high seas if the pursuit was uninterrupted into the EEZ and high seas. (Article 111)
<i>Port State:</i>
As a general rule of international law, the coastal State can establish conditions of entry into its ports. Based on this the coastal State could deny entry of a vessel that is or has engaged in

arms trafficking in any part of the *territorial sea, EEZ or high seas*:

Explanation:

The legal power to adopt and enforce laws in all maritime zones against arms trafficking belongs to the flag State. The legal power of the coastal State to adopt laws and to enforce them against trafficking arms is very limited because of the rights of innocent passage of foreign vessels. The vessel must do an act that violates its innocent passage. The coastal State has no legal power to adopt laws and to enforce them against trafficking arms in the EEZ and the high seas. There is no advantage in having an EEZ for regulating arms trafficking in the EEZ.

## 8. Fishing

### 8.1 *Illegal, Unregulated and Unreported Fishing (IUU)*

<i>Prescriptive and enforcement jurisdiction</i>
<i>Flag State:</i> The flag State has jurisdiction to prescribe and enforce laws to prevent IUU fishing in the territorial sea, the EEZ of other States as well as in the high seas.
<i>Coastal State:</i>
<i>Territorial sea:</i> The coastal State has jurisdiction to adopt laws and regulations, and enforce these, prohibiting fishing by foreign-flagged vessels in its territorial waters. Furthermore, fishing activities by a vessel is a violation of innocent passage, (Article 19.i). The coastal State can adopt laws and regulations for the conservation of living resources in the sea and the prevention of the infringement of fisheries laws. (Article 21.d & f)
<i>EEZ:</i> Under the 1982 LOS Convention the coastal State has broad competence to adopt laws and regulations, and enforce these, for conservation of marine living resources. This includes exclusion of foreign fishing vessels, unless it cannot exploit all of the total allowable catch as determined by it. In which case according to Article 62 must allow other State access. The coastal State has enforcement jurisdiction over foreign fishing vessels engaged in IUU fishing in its EEZ.
<i>High seas:</i> Under the 1982 LOS Convention, in general, the coastal State does not have prescriptive or enforcement jurisdiction over foreign vessels engaged in IUU fishing in the high seas. However, in the case of straddling and highly migratory fish that would fall under the 1995 UN Fishstock Agreement, there are exceptions that allow enforcement against vessels of Parties in the high seas.
<i>Port State</i>
As a general rule of international law, the coastal State can establish conditions of entry into its

ports. Based on this the coastal State could deny entry of a vessel that is or has engaged in IUU fishing in any part of the *territorial sea, EEZ or high seas*:

*Prescriptive and enforcement jurisdiction:*

*Flag State:* The flag State has jurisdiction to prescribe and enforce laws to prevent over fishing in the territorial sea, the EEZ of other States as well as in the high seas.

*Coastal State*

*Territorial Sea:* The coastal State has jurisdiction to adopt laws and regulations to preserve its living resources, which would include prevention of “over fishing”.

*EEZ:* The coastal State has the competence to determine its total allowable catch and thus regulate over fishing—so long as it is best on the best available scientific evidence.

*High seas:* In general, the coastal State has no jurisdiction to regulate over fishing in the high seas. However, in the case of straddling and highly migratory fish that would fall under the 1995 UN Fishstock Agreement, there are exceptions that allow enforcement against vessels of Parties in the high seas.

*Port State*

As a general rule of international law, the coastal State can establish conditions of entry into its ports. Based on this the coastal State could deny entry of a vessel that is or has engaged in IUU fishing in any part of the *territorial sea, EEZ or high seas*:

Explanation:

The flag State has the obligation and the complete legal power to adopt and enforce laws against IUU fishing in all maritime zones

The coastal State has full legal power to adopt laws and enforce them against IUU fishing in the territorial sea, as fishing activities will make the passage of a foreign flagged vessel *non-innocent* and allow the coastal State to take enforcement actions, such as detain, arrest and other sanctions.

The coastal State has wide legal powers to adopt laws and enforce such laws against IUU fishing and all fishing activities by foreign flag States in its EEZ. The coastal State, in general, has no legal power to adopt and enforce laws against IUU fishing or to regulate fishing in general by foreign flagged States in the high seas, except within the exceptions allowed under the 1992 Fishstock Agreement. The port State can deny admission to fishing vessels that have been engaged in IUU fishing in any maritime zone. There is a great advantage in having an EEZ for regulating fishing activities in the EEZ.

8.2 Overfishing [beyond the capacity of sustainability of the stock]

*Prescriptive and enforcement jurisdiction:*

Flag State:

The flag State has jurisdiction to prescribe and enforce laws to prevent over fishing in the territorial sea, the EEZ of other States as well as in the high seas.

Coastal State:
<i>Territorial Sea:</i> The coastal State has jurisdiction to adopt laws and regulations to preserve its living resources, which would include prevention of “over fishing”.
<i>EEZ:</i> The coastal State has the competence to determine limitations on catches, activity and fishing capacity (vessel number and size etc.) and thus to prevent over fishing—so long as it is based on the best available scientific evidence.
<i>High seas:</i> In general, the coastal State has no jurisdiction to regulate over fishing in the high seas. However, in the case of straddling and highly migratory fish that would fall under the 1995 UN Fishstock Agreement, there are exceptions that allow enforcement against vessels of Parties in the high seas.
Port State
As a general rule of international law, the coastal State can establish conditions of entry into its ports and markets. Based on this the coastal State could deny entry of a vessel or a product (???) that is or has engaged in IUU fishing in any part of the <i>territorial sea, EEZ or high seas</i> :

Explanation:

The flag State has the obligation and the complete legal power to adopt and enforce laws against overfishing in all maritime zones. The coastal State has full legal power to adopt laws and enforce them against overfishing in the territorial sea, as fishing activities will make the passage of a foreign flagged vessel *non-innocent* and allow the coastal State to take enforcement actions, such as detain, arrest and other sanctions. The coastal State has wide legal powers to adopt laws and enforce such laws against overfishing by foreign flag States in its EEZ. The coastal State, in general, has no legal power to adopt and enforce laws against overfishing in general by foreign flagged States in the high seas, except within the exceptions allowed under the 1992 Fishstock Agreement. The coastal State can enforce binding recommendation of RFMOs as part of its own domestic laws and regulations. The port State can deny admission to fishing vessels that have been engaged in overfishing in any maritime zone.

**9. Activities affecting marine mammals**

<i>Prescriptive and enforcement jurisdiction:</i>
Flag State: The flag State has jurisdiction to prescribe and enforce laws to protect mammals in the territorial sea, the EEZ of other States as well as in the high seas.
Coastal State
<i>Territorial sea:</i> The coastal State has jurisdiction to adopt laws and regulation for the protection of living resources of the sea in relation to the rights of innocent passage of foreign vessels. In general, the coastal State possessing sovereignty over its territorial sea has jurisdiction to adopt laws and regulation and enforce such laws for activities affecting marine mammals.
<i>EEZ:</i> Under the 1982 LOS Convention the coastal State may regulate, prohibit or limit the exploitation

of marine mammals in the EEZ more strictly than provided for under Part XV of the Convention. This would include enforcement of such laws.

*High seas:*

The coastal State has no prescriptive or enforcement jurisdiction over marine mammals in the high seas.

**Port State:**

As a general rule of international law, the coastal State can establish conditions of entry into its ports. Based on this the coastal State could deny entry of a vessel that is or has engaged in a violation of laws and regulations in relation to the protection of marine mammals in any part of the *territorial sea, EEZ or high seas*

**Explanation:**

The flag State has the obligation and the complete legal power to adopt and enforce laws for the protection of marine mammals in all maritime zones. The coastal State has full legal power to adopt laws and enforce those laws for the protection of marine mammals. The coastal State has wide legal powers to adopt laws and enforce such laws for the protection of marine mammals in its EEZ. The coastal State, in general, has no legal power to adopt and enforce laws for the protection of marine mammals in the high seas. The port State can deny admission to fishing vessels that have engaged in activities harmful to marine mammals in any maritime zone.

There is a great advantage in having an EEZ for protection of marine mammals in the EEZ.

**10. Habitat destruction/protection**

*Prescriptive and enforcement jurisdiction:*

**Flag State:**

The flag State has jurisdiction to prescribe and enforce laws to protect and prevent habitat destruction by its vessels in the territorial sea, the EEZ of other States as well as in the high seas.

**Coastal State:**

*Territorial Sea:*

The coastal State has jurisdiction to adopt laws and regulations to preserve its living resources, which would include protection of habitat and prevention of habitat destruction from activities such as trawling.

*EEZ:*

The 1982 LOS Convention expressly gives the coastal State jurisdiction to adopt laws and enforce them for protection and preservation of the marine environment, with the proviso that there be no interference with the rights of freedom of navigation of foreign flagged vessels. Protection of the marine environment would include protection and prevention of habitat destruction.

*High seas:*

The coastal State has no jurisdiction to regulate activities in the high seas that would result in habitat destruction, such as trawling.

**10.1.2. Port State:**

As a general rule of international law, the coastal State can establish conditions of entry into its

ports. Based on this the coastal State could deny entry of a vessel that is or has engaged in a violation of laws and regulations in relation to the protection and prevention of habitat destruction in any part of the *territorial sea, EEZ or high seas*

Explanation:

The flag State has the obligation and the complete legal power to adopt and enforce laws for the protection of marine environment, which would include protection of the habitat. The coastal State has full legal power to adopt laws and enforce such laws for the protection of habitat. The coastal State can prohibit such destructive fishing activities such as trawling as fishing is an activity that is not part of a foreign vessel's innocent passage rights. The coastal State has wide legal powers to adopt laws and enforce such laws for the protection of marine environment. Given the legal power of the coastal State over fishing and living marine resources in its EEZ, it could adopt laws and enforce such laws that destroyed the habitat of living marine resources. The coastal State, in general, has no legal power to adopt and enforce laws for the protection of habitat in the high seas. The port State can deny admission to fishing vessels that have engaged in activities harmful to the habitat of marine living resources in any maritime zone. There is a great advantage in having an EEZ for protection of the habitat of marine living resources in the EEZ.

#### **11. Genetic resources:**

The 1982 LOS Convention does not expressly address genetic resources, but the 1992 Convention for Biological Diversity (CBD) does specifically include provisions on genetic resources. In general, the CBD makes reference to *biological resources* which includes *genetic resources, organisms or parts thereof, populations, or any other biotic component of ecosystems with actual or potential use or value for humanity*. Furthermore, the Convention recognizes as a *principle* that each State has the sovereign right to exploit their own resources pursuant to their own environmental policies. The jurisdictional scope of the Convention applies to areas where the State exercises national jurisdiction, which if established and delimited would include the EEZ of the State, and automatically over its continental shelf. Thus under the CBD the coastal State would exercise exclusive rights and obligations over biological resources, including genetic resources in its EEZ and continental shelf. However, the Parties to the CBD would be subject to the law of the sea.

It should be noted that the coastal State would have open access to genetic resources in the high seas, but this would not be exclusive but parallel with all other States. Thus, in relation to genetic resources the EEZ could provide a significant economic benefit to the coastal State.

#### **12. Energy and mining**

## 12.1 Exploration and exploitation and pollution consequences

<i>Prescriptive and enforcement jurisdiction:</i>
Coastal state:
<p><i>Territorial sea:</i> The sovereignty of a coastal State extends to the territorial sea, which would include exercising jurisdiction to adopt laws and regulations for energy and mining exploration and exploitation activities, including the pollution consequences.</p>
<p><i>EEZ:</i> The 1982 LOS Convention expressly provides that the coastal State has sovereign rights for the purpose of exploration and exploitation of non-living marine resources<sup>32</sup> and for energy production. This would include jurisdiction to adopt laws and regulations as well as enforce these laws and regulations. This also includes the exclusive right to construct artificial islands, installations and structures (e.g. offshore rigs) and exclusive jurisdiction over these structures to adopt laws and regulations. In addition, the coastal State has sovereign rights to protect the marine environment which would include adopting laws and enforcing such laws to prevent pollution from such activities. Furthermore, under the 1982 LOS Convention, the coastal State has an obligation to adopt laws to prevent pollution of the marine environment from artificial islands, installations and structures in the EEZ related to sea bed activities. (Article 208.1) and the duty to ensure that any such off shore structures are removed for safety of navigation and in a manner that that takes due account of fishing and protection of the marine environment.</p>
<p><i>Continental shelf:</i> The coastal State exercises sovereign rights over its continental shelf for exploration and exploitation of natural resources, which includes minerals and energy deposits. (Article 77.1). The coastal State also has exclusive right to authorize and regulate drilling activities on its continental shelf. The coastal State may adopt “reasonable measures” for the exploration and exploitation of natural resources on its continental shelf. (Article 79.2) so long as these measures do not impede the rights of other states to lay cables and pipelines. However, the coastal State has an obligation to adopt laws and regulations to prevent pollution from sea bed activities under its jurisdiction which must at the minimum meet international standards (Article 208), and to enforce such laws. (Article 214).</p>
<p><i>High seas:</i> The 1982 LOS Convention provides for special regime for that part of the sea bed in the high seas that is beyond national jurisdiction and is referred to as the “Area”.</p>

### Explanation:

The coastal State has extensive legal power to adopt laws and enforce such laws for the exploration and exploitation of non-living resources (minerals) in its territorial sea, continental shelf and EEZ. However, the coastal State cannot prevent foreign States from laying cables and pipelines on its continental shelf. But, it can place conditions for protection of the environment

<sup>32</sup> The 1982 LOS Convention only provides a definition for “resources” for Part XI (the Area), as all solid , liquid or gaseous mineral resources, and once recovered are referred to as “minerals”. (Article 133)

and determine the route of cables and pipelines on its continental shelf. There is great advantage to the coastal State in having an EEZ who can adopt measures to prevent pollution from mining activities in the EEZ.

## 12.2 Development of energy resources

### 12.2.1 Wind

The development of offshore wind energy would involve the establishment of offshore structures.
Foreign State:
<i>Territorial sea:</i> Foreign State could not establish the structures necessary to produce off shore wind energy in the territorial sea of another absent their consent.
<i>Continental shelf:</i> Under the 1982 Law of the Sea Convention the coastal State has the exclusive jurisdiction to authorize the construction of offshore structures that would be needed for development of off shore wind energy on its continental shelf.
<i>EEZ:</i> Under the 1982 Law of the Sea Convention the coastal State has the exclusive jurisdiction to authorize the construction of offshore structures that would be needed for development of off shore wind energy in its EEZ.
High seas: Third party States could construct the necessary structures for development of offshore wind energy in the high seas.
ii. Coastal State
<i>Territorial sea:</i> The coastal State has sovereignty over the territorial sea and so has exclusive jurisdiction to authorize development of offshore wind energy.
<i>Continental shelf:</i> Under the 1982 Law of the Sea Convention the coastal State has the exclusive jurisdiction to authorize the construction of offshore structures.
<i>EEZ:</i> Under the 1982 Law of the Sea Convention the coastal State has exclusive jurisdiction with regard to activities related to the production of energy from the wind in the EEZ and the coastal State has the exclusive jurisdiction to authorize the construction of offshore structures that would be related to development of wind energy.
<i>High seas:</i> Coastal State has no jurisdiction in the high seas.

Explanation:

The coastal State has exclusive legal power to regulate the development of wind energy in its territorial sea and EEZ. This includes authorization of the necessary structures. Coastal State has no legal power over development of wind energy in the high seas against other States. However,

the coastal State is free to develop wind power in the high seas. There is a great advantage to the coastal State who exercises exclusive rights over development of wind energy in the EEZ. The one disadvantage may be in increase cost as a result of licensing and permits had the zone remained as “free” and open high seas where no payments would be necessary.

### 12.2.2 Hydro (current/wave energy)

<i>Coastal State</i>
<i>Territorial Sea:</i> The coastal State has sovereignty over the territorial sea and so has exclusive jurisdiction to authorize development of offshore hydro- energy development activities.
<i>Continental shelf:</i> If structures are necessary for development of hydro-energy from the superjacent waters of the continental shelf the coastal State has exclusive jurisdiction.

Explanation:

The coastal State has exclusive legal power to regulate the development of hydro energy in its territorial sea and EEZ. This includes authorization of the necessary structures in its territorial sea, EEZ and continental shelf. Coastal State has no legal power over development of hydro energy in the high seas against other States. However, the coastal State is free to develop hydro energy in the high seas. There is a great advantage to the coastal State who exercises exclusive rights over development of hydro energy in the EEZ. The one disadvantage may be in increase cost as a result of licensing and permits had the zone remained as a “free” and open high seas where no payments would be necessary

### 12.2.3 Oil/gas

<i>Coastal State</i>
<i>Territorial Sea:</i> The coastal State has sovereignty over the territorial sea and so has exclusive jurisdiction to authorize development of offshore oil and gas activities.
<i>Continental shelf:</i> The coastal State has exclusive jurisdiction to drill or authorize drilling activities on its continental shelf and to authorize the establishment of offshore structures that would be necessary for offshore oil and gas activities.
<i>EEZ:</i> The coastal State has exclusive jurisdiction to regulate activities related to exploration and exploitation of non-living resources and other economic activities, which would encompass development of offshore oil and gas resources. Also, the coastal State has exclusive jurisdiction to authorize establishment of offshore structures necessary for development of offshore oil and gas resources.

Explanation:

The coastal State has exclusive legal power to explore and exploit oil and gas resources in its territorial sea, continental shelf and EEZ. The coastal State cannot regulate oil and gas activities in the high seas but can engage in such activities. Given that the continental shelf, where the drilling and exploitation for oil and gas takes place, belongs to the coastal State automatically, it is somewhat irrelevant whether the State has declared an EEZ or not.

### 13. Transport of energy

#### 13.1 Ships

<i>Prescriptive and enforcement jurisdiction:</i>
Coastal State
<p><b>Territorial sea:</b> The coastal State can adopt laws and regulations for protection of safety of navigation and regulation of maritime traffic, and prevention reduction and control of pollution. However, except in the case of willful and serious pollution, the coastal State cannot interfere with the rights of innocent passage of foreign vessels. However, under the 1982 LOS Convention, the coastal State can require tankers and ships carrying dangerous or noxious materials to confine their passage to specific routes. (Article 22) In addition, ships carrying nuclear or other inherently dangerous or noxious substances are obligated to carry documents in accordance with international agreements as well as abide by special precautionary measures as part of exercising their rights of innocent passage. (Article 24) Implicit, is the rights of the coastal State to adopt laws and regulations requiring proof of such documents and abiding by precautionary measures.</p>
<p><b>EEZ:</b> Foreign flagged vessels maintain the rights of high seas freedom of passage through the EEZ of a coastal State. However, there is a provision that would allow the coastal State through the CIO (i.e. IMO) to have mandatory special measures adopted in the EEZ upon meeting certain conditions. The PSSA is an example of such special measures and could be applied specifically for the transport of dangerous or hazardous energy cargo through the EEZ.</p>
<p><b>High seas:</b> The coastal State has no jurisdiction to regulate the shipment of energy in the high seas, except in the case of a maritime casualty, the coastal State has jurisdiction to take any measures proportionate to the actual or threatened damage to their coast line and related interest, including fishing. (Art 221)</p>

Explanation:

The coastal State can adopt laws for safety of navigation and protection of the marine environment. However, it cannot enforce these laws in manner that would interfere with the innocent passage rights of a foreign flagged vessel. Nevertheless, the coastal State can establish

traffic lanes and furthermore require tankers carrying dangerous or noxious material, such as oil or gas, to adopt special precautionary measures. The legal power over navigation in the EEZ is limited as foreign flagged vessels have high seas freedom of navigation rights. However, the coastal State can through the IMO have an area of the EEZ that is particularly vulnerable and at risk from the transport of oil and gas, be designated as a PSSA. This will allow the coastal State to adopt special mandatory measures with which the foreign vessels must comply. But, otherwise, the coastal State cannot prevent navigation rights in the EEZ. There is some advantage in having an EEZ but it is limited. Nevertheless, even limited it is better than the zone remaining as a totally unprotected high seas area.

### 13.2 Pipelines and cables

<i>Prescriptive and enforcement jurisdiction:</i>
Coastal State
<i>Territorial Sea:</i> The 1982 LOS Convention expressly provides that the coastal State has jurisdiction to adopt laws and regulations to protect pipelines and cables. (Article 19.c).
<i>Continental shelf:</i> All states are entitled to lay cables and pipelines on the continental shelf that belongs to (is under the jurisdiction) of another state. (Article 79.1). However, the coastal State has the right to establish conditions for cables and pipelines in its continental shelf (and territorial sea). This includes the right of the coastal State to adopt “reasonable measures” for the prevention, reduction and control of pollution from pipelines, and the routing of the pipeline is subject to the consent of the coastal State. However, the coastal State cannot impede other states from laying cables or pipelines on its continental shelf.
<i>EEZ:</i>
<i>High seas:</i> All states have the right to lay cables and pipelines on the bed of the high seas in the area beyond the continental shelf of the coastal State.

Explanation:

The coastal State can regulate pipelines and cables in its territorial sea but has more limited power in the continental shelf where it cannot prevent foreign States but can impose conditions. There is no advantage to having an EEZ.

### 13. Sand and gravel extraction

Coastal State
<i>Territorial Sea:</i> A foreign flagged vessel that is engaged in sand or gravel extraction from the seabed of the

territorial sea of the coastal State would not be engaged in innocent passage and thus would be subject to the jurisdiction of the coastal State who has exclusive jurisdiction to regulate and enforce laws for the extraction of sand and gravel.
<i>EEZ:</i> The coastal State has exclusive jurisdiction to regulate economic activities in the zones, as well as authorizing scientific research, which would include the extraction of sand and gravel from the seabed in its EEZ.
<i>Continental shelf:</i> The coastal State has exclusive jurisdiction to regulate sand and gravel extraction activities on its continental shelf—unless it is related to the laying of pipelines and cables, in which case the coastal State jurisdiction is limited (see above).
<i>High seas:</i> Coastal State has no jurisdiction

Explanation:

The coastal State has extensive legal power to regulate sand and gravel extraction in all its maritime zones. However, given that the continental shelf is automatically belongs to the coastal State, there is no clear advantage to declaring an EEZ.

### 15. Marine scientific research

<i>Territorial sea:</i> The coastal state has jurisdiction to adopt laws and regulations for marine scientific research in relation to innocent passage rights of foreign flagged vessels.
<i>Continental shelf:</i> The coastal State has exclusive jurisdiction to regulate and authorize marine scientific research
<i>EEZ:</i> Coastal State has jurisdiction to regulate and authorize marine scientific research.
<i>High seas:</i> Marine scientific research is open to all states.

Explanation:

The legal regime for marine scientific research is complex. However, for purposes of this report, a coastal State has exclusive legal power to regulate marine scientific research in it territorial sea, continental shelf and EEZ. The high seas is open to all States. The coastal State gains a great advantage in declaring an EEZ as it retains control over marine scientific research. The disadvantage is that the EEZ is closing an area that was once open to all States for marine scientific research.

### 16. Underwater cultural heritage

The 1982 LOS Convention addresses archaeological and historical objects situated in the
---

territorial sea, in the contiguous archaeological zone and in the International Seabed Area. It does not address such objects situated on the continental shelf. The recent UNESCO Convention tries to fill this gap by framing a regime to ensure protection of such objects from looting.
<b>Territorial sea:</b> The coastal State has exclusive jurisdiction to regulate underwater cultural activities as part of its exercise of sovereignty over its territorial sea. Furthermore, activities that are not part of “innocent passage” as defined would automatically render navigation non-innocent and subject to the jurisdiction of the coastal State. This would include “research and survey” activities that would be part of archeological activities (Article 19.2.j) and the “unloading and loading” of commodities contrary to the customs and fiscal regulations of the coastal State. The coastal State had jurisdiction to prevent –enforce- violations of its customs laws, which could include the unauthorized taking and transport of underwater archeological artifacts. (Article 21 (h))
<b>Contiguous and archeological zones:</b>
<i>Prescriptive jurisdiction</i>
Coastal State
<i>Territorial sea:</i> The coastal in exercising sovereignty over the territorial sea has jurisdiction to adopt laws and regulations for the protection of its underwater cultural heritage.
<i>EEZ:</i> .
<i>Continental shelf:</i> In general, the coastal State does not have prescriptive rights over underwater cultural heritage in its EEZ. Moreover, marine archeological research was excluded from the list of marine research activities and would not be subject to the consent of the coastal State. However, marine archeology is also not a listed freedom for high seas activities in the EEZ
<i>High seas:</i>
<i>Enforcement jurisdiction</i>
Coastal State
<i>Territorial sea:</i> The 1982 LOS Convention specifically provides that the coastal State has jurisdiction to enforce its laws in the territorial sea against the unauthorized removal of objects of archeological and historical nature found at sea. (Article 303).
<i>Contiguous zone:</i> The coastal State has jurisdiction to enforce violation of its laws against removal of underwater cultural heritage objects in the contiguous zone.
<i>EEZ and high seas:</i> The coastal State does not have enforcement jurisdiction in the EEZ or high seas except within the exception of exercising its right of “hot pursuit”.

**Explanation:**

The coastal State has legal power to regulate underwater archeological activities in its territorial sea and contiguous zone. The coastal State does not have enforcement power in regulating underwater cultural heritage on its continental shelf of EEZ. Therefore, there is little advantage to having an EEZ in this regard.

## 17. Assessment of the advantages and disadvantages of establishing an EEZ

The exclusive economic zone is a maritime zone that is the creation of the 1982 LOS Convention. It provides the coastal State with legal powers over certain activities, but not all, in an area of sea would otherwise be “high seas”. However, before a coastal State can exercise the legal powers over an EEZ it must first establish one in accordance with the 1982 LOS Convention. Once the EEZ has been established and delimited, as required under international law, the State is able to exercise those legal powers, which include adopting laws and enforcing them.

The activity where the coastal State has the greatest legal power is in regulating living and non-living resources in its EEZ. According to the 1982 LOS Convention, the coastal State can adopt laws and regulations that can exclude other States from fishing<sup>33</sup>, mining, hunting, collecting, and tapping into energy sources such as oil, gas, as well as wind and hydropower energy. In addition, the coastal State, in general, controls authorization of marine scientific research. The coastal State has the exclusive right to establish artificial islands, offshore installations and structures, including safety zones, in the EEZ. From the perspective of the coastal State the EEZ brings a great deal of economic benefit it as it has exclusive rights to exploit its natural living and non-living resources. The EEZ should also bring a great advantage to protection of the marine environment and conservation of living resources, including habitat. However, this requires that the coastal State not only adopt laws and regulations that would protect the marine environment but also effectively implement and enforce these laws.

In relation to shipping, the coastal State’s legal powers in the EEZ are more restricted as under international law foreign vessels have the same rights of freedom of navigation as they do in the high seas. Nonetheless, the EEZ does offer legal powers for the coastal State to protect its marine environment not otherwise available if the zone were to remain as high seas. Most important is the ability of the coastal State to establish a PSSA or a special area under Article 211(6) of the Convention (pls specify). Otherwise, the legal powers of the coastal State over a foreign vessel in its EEZ engaged in illegal pollution of the marine environment is limited to requesting information and only if there are *clear grounds* for believing the vessel is violating discharge laws, and can only detain or arrest the vessel if there is risk of *major damage* to its marine environment.

The activities over which the EEZ offers weak or no advantage to the coastal State at this stage would be against illegal human trafficking, drug trafficking and arms trafficking. Furthermore, the coastal State has little or no legal powers over controlling atmospheric pollution as defined under the 1982 LOS Convention, protection of underwater cultural heritage, genetic resources.

---

<sup>33</sup> However, under the 1982 LOS Convention, the coastal State must allow third party states access to any surplus of its total allowable catch from the EEZ.

The potential negative aspect of the EEZ could be seen in its parcelling out of the sea and its economically valuable resources, and creating possible discord and even conflict among States [“resource conflicts’]. In this regard, especially in a crowded and resource stressed sea as the Mediterranean Sea, the need for close cooperation among States is critical in order to avoid EEZ related resources disputes. Articles 122-123 of the 1982 LOS Convention was drafted for this very reason. Article 123, under the title of *Cooperation of States bordering enclosed or semi-enclosed seas* calls on States bordering an enclosed or semi-enclosed sea to:

*cooperate with each other in the exercise of their rights and in the performance of their duties, and to ... (a) to coordinate the management, conservation, exploration and exploitation of the living resources of the sea; (b) to coordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment; (c) to coordinate their scientific research policies and undertake where appropriate joint programmes of scientific research in the area; (d) to invite, as appropriate, other interested States or international organizations to cooperate with them in furtherance of the provisions of this article.*

Regional and sub-regional cooperation amongst the States in the Mediterranean Sea is clearly a key component for assuring that the twin advantage of EEZs- economic and environmental- be derived the Mediterranean Sea.

## **18. How competence is exercised by Mediterranean States (flag/coastal/port)**

The Mediterranean Sea cannot be analyzed as a monolithic entity but must be assessed within regions and sub-regions. Standards adopted and applied differ among individual States as well as between regions and sub-regions. For example, statistics show that vessels from the southern region of the Mediterranean Sea tend to have higher levels of violations of international standards. One of the issues that emerged after the Erika (1999) and Prestige (2002) maritime accidents in EU waters and the subsequent adoption by the EU of more stringent laws and regulations for port State control, was the creation of “ports of convenience” in the Mediterranean Sea, where the same standards were not being applied against foreign vessels as in the EU ports. Consequently, ships that were not allowed entry into EU ports because they were sub-standard were able to find acceptance in other Mediterranean ports. Furthermore, there is a difference among the Mediterranean flag States in relation to their ratification and implementation of the many IMO conventions for safety of navigation and protection of the marine environment. There is need for further information as to the degree of harmonization of the laws of the different Mediterranean coastal States for implementation and enforcement of laws for protection of the marine environment against the various activities that was discussed above.

## **19. Present problems**

In many cases international law has already laid down the relevant principles and rules for the conducting maritime activities. It therefore remains for States to access to these rules and, most important, to apply and enforce them. The most evident problem in the Mediterranean Sea is the need for the States to adopt and enforce those rights and obligations for protection of the marine environment of the Mediterranean Sea, its cultural heritage and, generally, for a sustainable development of the area as provided under international law.

The Mediterranean Sea is one of the busiest shipping routes in the world and as a result there is a high risk of operational discharges that include illegal discharges of oily wastes, legal exchange of ballast water, as well as the risk of accidental discharges. The Mediterranean Sea is also an important route for the transport of oil and gas, both by tankers and pipelines and the volume of energy transport is expected to increase in the coming years. Moreover, there is a growing trade in LNG that will bring further shipments and the construction of LNG facilities in the Mediterranean Sea. However, there is a lack of regional coordination and harmonization among all Mediterranean State in relation to ratification of existing international and regional agreements for shipping and transport of dangerous and hazardous substances as well as harmonized implementation and enforcement of laws and regulations, including actions taken against foreign vessels at the port State level. Another area where there is discrepancy among the Mediterranean coastal States includes adopting measures such as the establishment of marine protected areas. Furthermore, there is no PSSA established in the Mediterranean Seas, effective port state control and coordination or harmonization of standards at the regional level.

The question of energy development is an issue that requires further investigation given the increase of licensing of offshore energy developments in the Mediterranean Sea. There is the question of standards for how energy sources, such as oil and gas, are being explored and exploited, in particular regarding polluting activities from oily discharges, emissions, waste disposal, dumping, and removal of offshore structures. There is a lack of regional standards.

Tourism is a prominent activity in the Mediterranean bringing thousands of commercial cruise ships, leisure crafts and yachts to the sea. In addition to the operational pollution created by this tourism-related traffic is the problem of dumping at sea, especially in areas that remain high seas and less subject to monitoring and enforcement by flags of convenience and ports of convenience.

Other issues that deserve more attention by Mediterranean States, as well as by others, are consideration of the human element in maritime activities (often overlooked) as well as safety of maritime activities.

Marine living resources in the Mediterranean Sea have been subject to IUU and overfishing for decades. Marine mammals have been threatened by various activities such as fishing practices. The Mediterranean monk seal, for example is almost extinct found in small numbers only off the

coastal of Turkey and Croatia. There is also great risk to habitat destruction, including damage to the coral system in the Mediterranean. Despite the precarious situation of living marine resources there is a disparity and lack of coordination in the measures taken, such as protected areas or PSSAs, in the Mediterranean Sea including at the sub-regional levels.

Proposals for more comprehensive and effective governance will need to take into account the fact that not all Mediterranean states command sufficient financial and human resources to be able to participate equally, equitably and effectively in such governance and its mechanisms and institutions.

For example, it is important that states ratify existing treaties and incorporate them into national legislation. Such a process might be slowed down, however, if a state does not have enough legal specialists able to appreciate the importance of the treaties, advise their government accordingly, and then draft the necessary legislation.

Other states may wish to participate fully in ecological protection but lack enough qualified personnel or financial resources for sustainable engagement.

Provision for adequate solidarity funds should therefore be seriously considered. For example, the Mediterranean Development Bank might prioritize marine undertakings, while other aid can target the training of personnel (legal, scientific, etc.) in those states that need to invest further in human resources.

The issue of maritime delimitation, that is the problems associated with the inability of the Mediterranean States either establish or where necessary, to come to agreements on maritime delimitation of their boundaries with neighboring States, also hinders full implementation of coastal State jurisdiction to adopt and enforce laws to protect the marine environment as allowed under international law. The establishment of protection zones such as EEZ or similar zones would enhance protection of the marine environment of the Mediterranean Sea.

## **20. Possible ways forward**

The current governance situation in the Mediterranean Sea, where there is an incoherence of legislation, in adequate cooperation and unresolved disputed zones, needs to be improved for integrated maritime policy-making in the Mediterranean to be achievable. This will require above all a strong cooperative spirit and institutional mechanisms for creating a proactive rather than the reactive patchwork approach of States.

In overcoming the inherent challenges of establishing maritime zones in the Mediterranean Sea as outlined in this report a number of tools are available. The development of common zones is a possible way that has been used in other seas where there are similar problems of delimitation of

maritime zones due to overlapping zones and other factors making delimitation by mutual agreement problematic.

The recent adoption by the Mediterranean States of the Integrated Coastal Zone Management (ICZM) Protocol is an important development in the improvement of governance in the Mediterranean Sea through integrated management, especially as there already exists an institutional body, the Mediterranean Commission on Sustainable Development (MCSD), which has been expressly referred to in the amended Barcelona Convention, for the coordination of policy. The MCSD is an innovative body that incorporates both States and NGOs who are full members, to work together in promoting good governance. The need for coordinated policy-making is important and the MCSD could play a facilitative role in this area, as can the new ICZM Protocol, which stresses the importance of participation of all stakeholders.

Establishment of a forum at the regional level for discussion and negotiation of ways to resolve maritime delimitation issues, examining the experience of other regional seas (explain further please), boundary disputes. The UPM could play an important role, especially in providing the necessary diplomatic and financial resources.

The Mediterranean countries should be encouraged to work through established and respected non-governmental actors or organizations to utilize their tools and expertise, not simply at the technical level, but perhaps more important at the political and social level so as to enhance the cooperation amongst the Mediterranean States. The Barcelona Convention system (MAP), the GFCM, and the IUCN are three organizations that should play a major role in promoting and facilitating cooperation.

International Courts and Tribunals can play a useful role in enhancing certainty as far as borders between maritime zones are concerned as well as regarding the rights and duties of States within such zones. Recourse to such Courts and Tribunals for settling disputes should not be seen as a hostile act but rather as a normal occurrence between States that wish to coexist peacefully, in particular within a semi-enclosed sea as the Mediterranean. Consultative opinions, (versus submission of legal dispute for binding decision) especially from the Law of the Sea Tribunal (ITLOS), while not binding upon the Parties, could be helpful in clarifying the legal problems inherent in the existing patchwork of maritime zones in the Mediterranean and ways to overcome its drawbacks. They could be requested on the basis of an authorizing agreement from the Parties whose formulation and conclusion could be discussed. These results could be made public or remain private as requested by the Parties. Issues that are submitted to international courts, such as the International Court of Justice or ITLOS, for binding decisions are published and available to the public.

One area that does not attract much public attention but is of importance is marine scientific research. One way to move forward at the regional level in the Mediterranean would be to build

upon the principle in article 123 of the 1982 LOS Convention calling for coordination of scientific research policies and the development of joint programmes of scientific research in the area. To this end, to strengthen this principle in the existing regional organizations by developing a mechanism inspired by article 247 of UNCLOS [Marine scientific research projects undertaken by or under the auspices of international organizations]. One area already is offering such cooperation in the Mediterranean Sea is operational oceanography. Based on this provision a network of Mediterranean scientific research centers could be developed which could be based on a code of conduct regrouping the best practices as far as the exchange of data, for example, is concerned. Also based on this provision, a consortium of regional organizations an annual (or every two years) conference for the marine science in this area could be hosted. The idea to have a consortium rather than one single regional organization is to favor an integrated approach at the scientific communities' level. Such gathering should include the appropriate decision making aspect level.

## **21. Recommendations:**

### *1. Ratification by all Mediterranean States of all regional instruments.*

The Barcelona Convention and its Protocols provide a fairly comprehensive legal framework for protection of the marine environment. The Barcelona Convention and its Protocols provide for obligations as well as the ways and means to improve and develop the existing governance structure. However, not all the Mediterranean countries have ratified all the Protocols and not all of the Protocols are in effect. The EC and related bodies should make promotion of full participation and implementation of these legal instruments by all EU Mediterranean States a priority, and use the new Marine Strategy to promote region-wide participation by non-EU Mediterranean States. Furthermore, the EC in conjunction with Mediterranean MAP should develop a continuous review of the Barcelona system including the ways and means to improve and develop the existing system and its relationship with Marine Strategy and ensure that actions, initiatives and policies be closely linked with one another;

### *2. Establish on-going cooperative and systematic mechanism for exchange of information*

All Mediterranean States should ratify all international and regional treaties related to protection of the environment (eg. Barcelona protocols, IMO, UNEP and UNESCO convention) and adopt implementing legislation to give full effect. Furthermore, there should be an ongoing cooperative and systematic mechanism to ensure sharing of information and data related to implementation legislation especially taking into account the duties for cooperation within the regional context as expressed in Articles 122-123 of the 1982 LOS Convention;

### *3. Strengthen port state control*

The EC together with maritime authorities from all Mediterranean States should cooperate to strengthen port State jurisdiction in all Mediterranean countries. Under

international law ports have the legal power to refuse entry to ships which have violated the laws and standards of the coastal State, including international law obligations related to pollution or IUU fishing. This discretionary power to exclude or make entry into Mediterranean ports by such ships should be made compulsory. There should be ongoing efforts to promote awareness of this legal jurisdiction to all Mediterranean States so as to ensure uniformity of port standards and prevent the risk of “ports of convenience” in the Mediterranean;

4. *Strengthen flag state implementation of international shipping standards*

The primary responsibility to ensure that ships engaged in international navigation are in compliance with international shipping standards as established by international conventions and generally accepted international rules and standards, falls upon the registry of the State to which the vessel is registered. A critical step to improve the quality of shipping in the Mediterranean Sea by ships flying flags registered to Mediterranean States is to strengthen flag State compliance with international conventions and standards. This will require proactive engagement by all Mediterranean stakeholders, including the EC, the IMO, national maritime authorities, classification societies and others. The immediate objective should be to develop a way to encourage or compel the full implementation of international obligations;

5. *Strengthen implementation of international environmental agreements (IEAs)*

Although there are many International Environmental Agreements (IEAs), they do not address all risks to the environment, such as the risk to marine life from underwater noise pollution. Furthermore, in a regional setting, such as the Mediterranean, it is important that all States implement legal obligations stemming from such IEAs in a harmonized manner. The EC and the Mediterranean States should cooperate and seek to expand the scope and harmonize the implementation at the respective national level of obligations imposed by IEAs;

6. *Priority should be given to establishing region-wide network of MPAs*

Marine protected areas are recognized as important tools for protecting marine biodiversity against risks from fishing, shipping and other activities, especially in areas where marine biodiversity is at risk. The EC Wildlife and Bird Directives requires EC members States to establish a network of marine protected areas of European importance. The IUCN Countdown 2010 initiative to halt the loss of global biodiversity by 2010 includes the establishment of a global network of MPAs. The Barcelona system introduced an innovative Protocol for establishment of marine protected areas in the Mediterranean Sea, including in areas beyond national jurisdiction (high seas). However, maps of MPAs in the Mediterranean show a regional imbalance. There are more MPAs in the northern developed areas than in the southern non-EU areas. The biodiversity of the Mediterranean Sea cannot be limited to sub-regions and must be addressed in a region-wide manner. Priority must be given by all Mediterranean States to promote a region-wide, inter-related and planned network of MPAs to ensure optimal protection of marine biodiversity.

7. *Explore establishment of PSSA(s) in the Mediterranean*

The Mediterranean Sea is one of the busiest shipping routes in the world. Protection of the marine environment and marine biodiversity should be further promoted by the Mediterranean States by studying the possibility of having areas of the sea designated by the IMO as a PSSA (Particularly Sensitive Sea Areas). The PSSA is specifically tailored to address threats to the marine environment from shipping and allows measures, such as routing and reporting requirements, to be imposed by international consensus at the IMO that might otherwise be more politically and legally problematic if done unilaterally by individual states;

8. *Create a common and coordinated approach to IUU fishing by foreign flagged vessels*

As an important international shipping route many non-Mediterranean flagged vessels navigate through the Mediterranean Sea. In addition, foreign flagged fishing vessels engage in IUU fishing activities in the Mediterranean. It is important to create a common and coordinated regional approach in addressing possible violations of international or regional laws and standards by these third party States. This requires an enhanced sharing of information and data among Mediterranean States, developing harmonized sanctions against violations, systematic reporting of violations and capacity building in those States requiring further support.

9. *Enhance the regional approach to addressing common problems*

An effective environmental governance system for the Mediterranean Sea should be based on a strong regional approach built on best practices and not on a minimum common denomination strategy. Mediterranean States should engage in a proactive effort to develop, share and export to one another successful approaches and solutions to environmental problems. The active involvement of NGOs and other expertise resources should be encouraged and applied to develop innovative best practices;

10. *Look at the 2008 EC Marine Directive as a possible regional model*

The 2008 EC Marine Strategy Directive should be looked at as a possible model for the entire region. Both sub-regions, as identified under the Directive and subdivisions of these sub-regions can be developed as "joint management areas" for the marine environment and resources with the participation of non-EU member states. Such "joint management" areas can serve as important bridges to forming cooperation in shared resource management and protection among neighboring States, critical to creating the regional cooperative approach necessary for developing an effective environmental governance system for the region;

11. *Implement marine spatial planning at the sub-regional and regional levels*

Marine spatial planning (MSP) is an emerging approach for integrating and managing competing uses of the sea and land and forms part of the integrated coastal zone management (ICZM) approach. The new EC Marine Strategy has adopted MSP. The Mediterranean States in 2008 adopted the new ICZM Protocol which also includes MSP. The Mediterranean States in cooperation with the EC should examine the application of marine spatial planning at the sub-regional and regional levels; It is important for

neighboring States to cooperate in developing a sub-regional MSP which could be integrated into a larger MSP for the region as a whole;

*12. Enhance cooperation among States as provided under the 1982 LOS Convention*

The majority of the Mediterranean States are parties to the 1982 LOS Convention. Articles 122-123 of the 1982 LOS Conventions specifically apply to semi-enclosed seas such as the Mediterranean Sea. Article 123 specifically provides that states bordering a semi-enclosed should cooperate in management, conservation, exploration and exploitation of marine living resources, coordinate implementation of their rights and duties in respect to protection of the marine environment, coordinate scientific research policies including undertaking joint scientific research programmes, and invite other interested (third party) states or organizations to cooperate with them. Close cooperation should be actively pursued at all levels for a number reasons including political, economic and scientific. Cooperation at the regional level will reduce the possibility of future conflicts in policies, laws and approaches and thereby reduce political pressures in good relations. It will also promote sharing of experiences and good practices creating a synergy for more innovative approaches. Economically, cooperation could allow for pooling and sharing of resources reducing costs by avoiding unnecessary overlapping or repetitive actions. Cooperation will also promote ensuring funding in those areas that may lack the economic or political capacity to develop or implement needed measures for protection of the environment. Lastly, given that the Mediterranean is a common heritage shared by all Mediterranean States, each has a vested and shared interest to provide for the best scientific research that will promote protection of the environment. Cooperation will allow for enhanced sharing of scientific information, reduce the costs of scientific research and enhance the likelihood of developing sound scientific practices for promotion of the protection and rehabilitation of the Mediterranean marine environment. Furthermore, the 1982 LOS Convention contained detailed provisions on international cooperation for scientific research providing further basis to establish collaborative mechanisms at the regional/sub-regional level for cooperation in scientific research;

*13. Promote the role of the Mediterranean Commission on Sustainable Development*

The Mediterranean Commission on Sustainable Development (MCSD), which is part of the MAP, enjoys an important role as a body able to bring together a variety of different stakeholders and activities under the common umbrella of sustainable development. The MCSD prepared a region-wide Strategic Action Plan which included as part of its four main objectives the enhancement of governance at all levels, and seven priority fields of action that included tourism, transport, marine resources and coastal areas. The role of MCSD should be promoted, especially as a forum for developing greater cooperation among the Mediterranean States;

*14. Promote further support of UNEP-MAP and GFCM*

The EC and all other Mediterranean States should continue to provide support to UNEP-MAP and GFCM, and promote periodical meetings. There should be a proactive effort to develop activities within the EU and outside to actively engage non-EU parties;

*15. Promote regular meetings between Mediterranean States and stakeholders*

An essential aspect for promoting cooperation among the Mediterranean States is to promote regular periodical meetings between the States and the different stakeholders who would work towards creating a system of coherence towards both eventual establishment of national jurisdictional zones and cooperative solutions for obtaining protection of the marine environment and sustainable use of the sea. The IUCN brought together a group of experts to examine the problems of governance in the Mediterranean Sea for protection of the marine environment and how to improve governance. The IUCN Mediterranean Governance Expert Group concluded that cooperation was the key component for furthering environmental governance in the Mediterranean Sea. And while the establishment of maritime jurisdictions, especially by establishing EEZs throughout the Mediterranean Sea could advance environmental governance in principle, in practice without close cooperation and collaboration the results for the environment could in fact be negative, such as in the case of fisheries;

*16. Integrate the IUCN Resolution on Mediterranean Governance into regional activities*

The IUCN is a unique organization composed of governments as well as NGOs. For this reason it provides a unique forum for dialogue and for developing ideas and approaches for protection of the environment in a less formalistic governmental setting. It is able to act as a bridge between governments and NGOs and further good environmental governance. Many important international environmental conventions, approaches and initiatives began at the IUCN. In October 2008 the IUCN World Congress, with the affirmative votes of the Mediterranean member governments, adopted a Resolution that was developed by the IUCN Mediterranean Governance Expert Group.<sup>34</sup> The Resolution called for the IUCN and its partners facilitate four actions: first, to develop a permanent informal consultative process that would promote dialogue among the Mediterranean coastal States towards the development of maritime jurisdictions to ensure coherence among the different jurisdictions; second, to develop the necessary legal and scientific bases to implement the solutions developed by the informal consultative process; third, to support the participation of every Mediterranean State in the informal consultative process while respecting their sovereignty and jurisdiction; and fourth, to reinforce all other cooperative efforts with other regional and sub-regional organizations, and to collaborate with other regional organizations such as the Mediterranean Action Plan (MAP) and its regional activity centers (RAC), ACCOBAMS, CGPM. Given the affirmative vote of Mediterranean government members to the IUCN Congress the IUCN Resolution should be integrated into regional activities seeking to improve governance of the marine environment;

*17. Expand UPM activities for improved governance of the Mediterranean*

---

<sup>34</sup> See Annex IV

The Union for the Mediterranean (UPM) was established during a summit held in Paris on 13 July 2008. Four resolutions were adopted during the summit, which included working towards de-pollution of the Mediterranean Sea. The UPM could provide an important forum to implement actions developed to promote governance of the marine environment. Furthermore, the scope of activities of the UPM could be further expanded to include improvement of governance in the Mediterranean Sea and benefit from the expertise and work of existing efforts such as the IUCN;

*18. Enhance the role of the Mediterranean Development Bank*

Funding will be necessary to promote activities, studies, researches, seminars, meetings, and projects to promote governance for the Mediterranean Sea. The participation of Mediterranean Development Bank should be enhanced together with other donors;

*19. Promote further study of inter-disciplinary studies of governance for the Mediterranean*

Governance is an inter-disciplinary issue. The impact of governance issues on the environment and ripple effects at the social and economic levels needs to be further investigated by experts in economic social field;

*20. Conduct further studies for establishing maritime zones and alternative joint zones in overlapping areas of potential EEZs*

Studies should be conducted to learn what approaches, projects, methods etc. for advancing governance, especially in the establishing maritime jurisdictions such as EEZs in where there marine areas overlap between neighboring States. For example, a study should be conducted to investigate joint management or common zones that have been successful, as well as those that have not been successful, to develop possible principles or guidelines for developing similar zones in the Mediterranean;

*21. Adopt a gradualist and phased approach to resolving maritime boundary problems in the Mediterranean*

The Mediterranean Sea, because of its limited marine space, presents geographical and political challenges for States in exercising their rights under international law to establish maritime zones, and in particular EEZs up to 200 nautical miles. And while some regions of the Mediterranean are less problematic than others, overall the challenges remain. The political sensitivities as a result are important. In order to optimize the likelihood of long-term success in improving governance in the Mediterranean a gradual and phased approach should be adopted and to not engage in any ambitious attempt to solve all problems of the Mediterranean at the same time. It is advisable to begin with the “low-hanging” fruit and slowly graduate to the more challenging issues. Confidence development will be a key element in any approach creating trust among the Parties and promoting the understanding that the protection of the Mediterranean marine environment is a common interest that will require joint action; and

*22. Improvement of governance should begin by immediately addressing non-maritime zones delimitation issues*

The first step that could be immediately addressed are those non-maritime zone delimitation actions that are possible to implement which do not require resolution of maritime boundary issues and do not prejudice actions taken in this regard, as these may involve time-consuming processes that can take years and be too late for taking those measures that must be taken immediately for protection of the marine environment, such as establishing MPAs or PSSAs.

## **Annex I**

### **Summary of discussions**

The meeting began with one of the participants commenting that the term “governance” was broad and could have a different meaning within different contexts- raising the question of how to define the term “governance”? The same participant commented that one part of the definition of “governance” involved the adoption, making and enforcement of laws. Another participant raised the role of “management” as an essential aspect of “good governance”. Following a discussion on this point it was agreed that for purposes of the meeting and the present report that the question of governance would be limited to law-making (prescriptive) and enforcement components in international law of the sea, and how it applies to the current legal status of the Mediterranean Sea. Reference was also made to the World Bank definition of “good governance” that highlights the importance of actors other than the state (the public and the market), and also as a means of conflict resolution and to create social opportunities. The group agreed to address the question of “good governance” for the Mediterranean within the “legal” framework and analyze the existing jurisdictional situation in the Mediterranean Sea and the impact upon effective governance, as well as some of the social and economic impacts. Based upon the observations and conclusions the Group would provide proposals and recommendations for future action. The Group agreed that the subject matter was complex and broad and that the report would simply highlight key issues.

In addition, there was detailed discussion as to the approach the Group should adopt in analyzing the role of the existing maritime zones in the Mediterranean to the question of governance. One of the participants had suggested that the Group commence with examining and listing the various ‘activities’ that had an environmental impact on the Mediterranean and then placing these activities within the context of maritime jurisdictions under international law and the 1982 LOS Convention. While there was not specific decision adopted by the Group on this point the discussion that followed was focused on various activities, as well as different measures and approaches adopted in the past to address environmental concerns in the Mediterranean within the existing maritime zone situation.

The Group discussed the role and importance of maritime zones, in particular the EEZ, for the Mediterranean Sea and what the benefits would be for each of the Mediterranean coastal States to exercise fully and in accordance with international law its rights and obligations to establish maritime zones. All agreed that the Mediterranean Sea presented challenges because of overlapping zones, such as in the case of the Aegean Sea and the Alboran Sea, but that not all areas of the Mediterranean were problematic for delimitation of maritime zones. The question was also raised as to the importance of maritime zones for regional cooperation, which is one of the obligations under Articles 122-123 of the LOS Convention. One of the participants gave the example of the North Sea and Baltic Sea where maritime zones have been delimited and where there is successful regional cooperation under the regional sea programmes of OSPAR and HELCOM respectively. The Group, however, recognized the differences between the North Sea and Baltic Sea from the more complex situation in the Mediterranean.

In examining the possible ways to avoid conflict in resolving the problems of maritime zones in the Mediterranean, the Group examined the regional tools available under the existing regional regime, such as the Barcelona system, which consists of the Convention for the Protection of the Mediterranean Sea and its Protocols. One of the Protocols, known as the SPAMI Protocol created an innovative regime that allows for joint establishment of a protected marine area that includes parts of the high seas. This was offered as an example of a regional measure that could be further developed to promote protection of the marine environment where no EEZ has been established. However, it was noted that under international law, laws and regulations adopted for a protected area established in a high seas area would not be enforceable against non-Mediterranean State Parties. Giving the example of the SPAMI Protocol to the Barcelona Convention, which is enforceable against the State Parties to the Protocol, the Protocol includes a provision where third parties can be invited to comply with the Protocol but cannot be legally enforced against them.

As another possible solution and a way to overcome the complexities and difficulties of delimitation between overlapping zones in the Mediterranean Sea one participant raised the possibility of establishing common zones. The Group also discussed the possibility of the Mediterranean States adopting a common attitude towards third party non-Mediterranean States. The Group did agree that further study should be done on possible common approaches and joint development zones,<sup>35</sup> using the model of joint exploration and exploitation of resources (eg offshore oil and gas explorations projects.)

The Group examined existing maritime zones, including alternative (*sui generis*) zones such as fishing and ecological protection zones. One of the participants, in support of expanding fisheries zones in the Mediterranean as an interim alternative to establishment of EEZs, brought up the 2003 Venice *Declaration of the Ministerial Conference for the Sustainable Development of Fisheries in the Mediterranean* and specifically paragraph 10 where the Parties adopted the position that .... *the creation of fisheries protection zones permits the improvement of conservation and control of fisheries and thus contributes to better resource management and to our common commitment to combat IUU fishing.* The same participant was of the view that the Group should promote the position adopted by the Venice Declaration for the establishment of fisheries zones in the Mediterranean. However, it should be noted that a lot of the problems of IUU and non-sustainable fisheries practices in the Mediterranean occur rather within the coastal area of +/-50 nm, this is to say beyond the span of the riparian's State territorial waters. Furthermore, one of the participants advised the group that there were virtually no non-Mediterranean State fishing in the Mediterranean area of the high seas. Thus, the problem of fisheries was primarily regional involving Mediterranean coastal States. This point is important in addressing the problem of enforcement against third parties (non-Mediterranean parties). Thus, for fisheries, this issue would appear not to be a problem. The problem of fishing is already addressed within the General Fisheries Commission for the Mediterranean (GFCM) as the regional organization responsible for the evaluation and management of fishery resources in the whole Mediterranean Basin. The effectiveness of this organization needs however to be

---

<sup>35</sup> Thomas Mensah "Joint Development Zones as an Alternative Dispute Settlement" in Rainer Lagoni and Daniel Vignes (eds) *Maritime Delimitation* ( Martinus Nijhoff, Leiden Boston 2006)

further enhanced as compliance with and enforcement of its (binding) recommendation is not yet satisfactory.

The benefit of establishing fisheries zones would primarily be for a coastal State to protect its own fish stock against other Mediterranean States and not against non-Mediterranean States. However, from a legal stand point, alternative zones, such as fishing or ecological protection zones, would not resolve the problem of overlapping zones. Once again, in these circumstances, any such alternative zone would still have to be established in accordance with international law, which requires the mutual agreement of the adjacent or opposite States. Thus, alternative zones do not resolve the problem of overlapping zones in the Mediterranean Sea. However, they are useful in those areas that do not present boundary challenges.

An important legal point highlighted by the Group was the legal difference between the requirements for the existence of, respectively, an EEZ and a continental shelf. Under international law, a coastal State does not have to make any declaration or take any formal action to establish a continental shelf as it belongs automatically to the appurtenant state. The legal issue is in establishing borders, that is the delimitation of the continental shelf when there is an overlap between opposite or adjacent states. Given that there is no area of the Mediterranean Sea wider than 400 nautical miles all of the Mediterranean Sea continental shelf is under the sovereignty and jurisdiction of a coastal State. The problem in certain areas is one of *delimitation* of the boundaries between neighboring States where there is an overlap of the boundaries. In contrast to the continental shelf, an EEZ must be established by formal acts of the coastal State, which expressly requires that in such circumstances the State must either agree to the delimited boundaries or in the absence of reaching a mutual agreement, submit the dispute for resolution to a third party dispute resolution body, under Part XV of the 1982 LOS Convention.

In relation to the continental shelf there was some discussion on the laying of cables and pipelines and the rights of coastal States under international law and the 1982 LOS Convention. Given the military nature of cables it was noted that this remained a highly secret area of the law of the sea. However, on the question of routing of cables and pipelines on the continental shelf, under the 1982 LOS Convention, although the coastal States has exclusive rights to the natural resources of the continental shelf, and the routing of cables and pipelines requires its consent, the coastal State cannot impede the rights of all states to lay cables and pipelines. The coastal State can also impose standards and conditions for protection of the environment. In addition, the coastal State has exclusive drilling rights on the continental shelf. Given the potential offshore projects in the Mediterranean Sea, this is one of the areas for potential conflict where delimitation of the continental shelf under international law has not been successfully achieved.

In examining the relationship between maritime zones and governance, the Group examined shipping and related issues for the Mediterranean Sea. These included issues of operational and accidental pollution from vessels, both legal (such as ballast water exchange) and illegal, such as oily discharges in violation of the Marpol Convention.<sup>36</sup> One participant discussed findings of a surveillance on illegal discharges in another regional sea that showed a significant decrease in

---

<sup>36</sup>The International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL).

illegal discharges where there are delimited maritime zones and active enforcement of laws and regulations. In response to questions as to the volume of Mediterranean flagged or owned/operated shipping and non-Mediterranean flagged or owned/operated vessels, one of the participants advised the Group the joint report by REMPEC and SAFEMED “Study of Maritime Traffic Flows in the Mediterranean Sea”, as well as the publication by the IUCN of a report on the “Maritime traffic effects on biodiversity in the Mediterranean Sea” as recent studies examining shipping in the Mediterranean. The question was raised as to what benefits would accrue to the Mediterranean coastal States if all maritime zones and boundaries were established under international law and the 1982 LOS Convention. The point was raised that under the 1982 LOS Convention ships retained freedom of navigation as in the high seas when navigating in the EEZ or continental shelf waters of a coastal State. Furthermore, that under the 1982 LOS Convention, the prescriptive (law-making) and enforcement powers recognized to the coastal and port state over foreign flagged vessels was limited. Moreover, even in cases where the 1982 LOS Convention provided the coastal or port State with enforcement competence, the flag State always had priority to assume investigation and prosecution upon request. Nonetheless, as commented by one of the participants, the Group agreed that although limited the competence recognized to the coastal and port states under the 1982 LOS Convention over foreign vessels was better than if the area remained as high seas. In particular, the Group noted the possibility of establishing a “Particularly Sensitive Sea Area (PSSA) through the International Maritime Organization.

The PSSA is a concept that was developed by the IMO for marine areas that are of special environmental significance and threatened by international shipping activities.<sup>37</sup> The relationship between the IMO PSSA and the 1982 LOS Convention is implicit. According to the 1982 LOS Convention, a coastal State, based upon scientific and technical evidence may have special *mandatory* measures approved by the competent international organization for areas of its EEZ where existing international rules and standards are inadequate to protect the marine environment from vessel source pollution. The question remains, however, as to the designation of areas of high seas as IMO designated PSSAs, as the 1982 LOS Convention only makes express reference to the adoption of *mandatory* measures for the EEZ. There is also the view that the IMO PSSA can be used as a measure for other international environmental conventions such as the Convention for Biological Diversity. In 2003 the WWF Mediterranean Programme proposed to the Barcelona Convention Secretariat that nine areas of the Mediterranean be designated as PSSA. However, in terms of legal certainty, the 1982 LOS Convention clearly allows for additional *mandatory* measures to be adopted in the EEZ. Even if areas of the high seas were designated as a PSSA by the IMO, serious issues remain as to the enforceability of measures (associated measures) adopted. It was also pointed out that the designation of a PSSA takes years and is quite complicated and thus would not provide immediate solutions to vessel-source problems in the Mediterranean Sea.

---

<sup>37</sup> Julian P Roberts and J. Sian H. Pullen, “A review of global experience with particularly sensitive sea areas (PSSAs)” in Nilufer Oral & Francois Simard (eds) *Maritime traffic effects on biodiversity in the Mediterranean Sea: Legal mechanisms to address maritime impacts on Mediterranean biodiversity* (IUCN, Gland, Switzerland and Malaga 2008) 49-94

In addition to the above activities, participants raised the importance of other activities in the Mediterranean that required further attention such as underwater cultural heritage, marine scientific research, offshore energy development, genetic resources, noise pollution and aquaculture. The Participants agreed that there was a lack of regional coordination or harmonization on these activities, and that further study into developing legal instruments at the regional instrument should be pursued. Those participants experienced with marine scientific research commented that this was a particularly complex and delicate subject matter and that the impact of maritime zones on maritime scientific research in the Mediterranean would be significant as if all the coastal States were to declare an EEZ thereby eliminating all high seas from the Mediterranean Sea, the freedom to conduct scientific research would be impacted. For this reason, regional coordination and harmonization of standards should be considered.

The Group agreed that there was an important role to play for the Barcelona Convention and the Mediterranean Action programme for promoting measures to improve environmental governance in the Mediterranean Sea noting that the existing regional legal framework was innovative in many respects and should be further promoted. In addition to the SPAMI Protocol, the Barcelona Convention includes the Izmir Protocol on the transport of hazardous substances, the recently adopted ICZM Protocol and the Compliance mechanism, all representing progressive measures and firsts among the thirteen existing regional seas programmes. The ICZM Protocol is of particular importance as the marine environment includes the coastal zone. The Protocol has strengthened the natural link between activities that are regulated by law of the sea and the coastal zones. This stronger link created by the ICZM Protocol has a direct impact on the governance of the sea. For example, coastal development has an impact on marine habitat and biodiversity. It is important to develop policies and regulations that treat these two zones as an integrated unit. The objective of integrated coastal zone management is to coordinate different coastal and marine activities so as to minimize negative impacts on the coast and marine environment.

One of the participants made a presentation of a series of maps of the Mediterranean Sea showing existing marine protected areas (MPAs), shipping routes as well as one map depicting maritime zones. The map of the existing MPAs clearly showed a significant discrepancy between the number of MPAs in the western Mediterranean as compared to the Eastern. There was considerable discussion on the map depicting various maritime zones questioning the accuracy of the map. All agreed that mapping of maritime zones was problematic and could create more problems than benefits and that the report should not include a map of maritime zones.

Among other issues discussed included the important issue of financing and the economic discrepancy in the Mediterranean. All agreed that there was a need to assure greater economic assistance to parts of the Mediterranean needing such assistance.

There was discussion as to establishing a forum for periodical meetings between the Mediterranean States and various stake holders to work towards resolution of national jurisdictional zones and cooperative projects for protection of the marine environment. However, not all participants agreed that these types of forums would be useful as they had not been thus far. Others, however, believed that pursuing this type of soft diplomacy could be useful.

The Group also discussed the emerging concept of marine spatial planning for the Mediterranean Sea, particularly in light of the new EU Marine Strategy. There was a discussion as to how this would apply to a large marine area as the Mediterranean. The Group noted the importance of sub-seas and regions as outlined in the EU Maritime Strategy.

In summary, the participants engaged in what can best be described as a rigorous discussion as to the different actions that could be taken to address the outstanding problems of “good governance” in the Mediterranean Sea within the framework of maritime zones. There was agreement and disagreement on various proposals, but all agreed that the establishment of maritime zones as provided under international law and the 1982 Law of the Sea Convention, which were recognized and agreed to by all States, would enhance the effectiveness of *environmental* governance in the Mediterranean. Participants, however, did note that the establishment of maritime zones, such as an EEZ, would not alone create good governance, as maritime zones without adequate laws and regulations fortified by effective monitoring and enforcement of such laws and regulations would fail to achieve good environmental governance.

The participants also agreed that while the optimal situation for the Mediterranean Sea would be for each of the coastal States to have established and delimited all maritime zones, including an EEZ, so that there would be no remaining area of high seas, together with full implementation of all regional and international obligations for protection of the marine environment, there was recognition that achieving this situation in the Mediterranean, given the geographic and political complexities in some areas, would very likely be a long-term endeavor and that given that the environmental situation in the Mediterranean was urgent, there was a need for all States to adopt measures within the short-term to advance good governance for the protection of the marine environment with the legal and management tools available. The participants agreed that waiting would be detrimental to the sustainability of the Mediterranean marine environment. However, the participants also agreed that all efforts should be made by States to facilitate and expedite the peaceful and lawful establishment of maritime zones in the Mediterranean, and that an important outcome of this report should be to provide recommendations as to a “way forward” to achieve this goal.

*Participants:*

*Ranier Fsadni*, Mediterranean Institute, University of Malta, Malta

*Elie Jarmache*, Chargé de mission, Direction des programmes et de la stratégie, IFREMER

*Nilufer Oral*, Lecturer at the Istanbul Bilgi University Law School, Istanbul, Turkey

*Irini Papanicolopulu*, Senior Researcher, University of Milano-Bicocca, Milan, Italy

*José Juste Ruiz*, Professor of International Law, University of Valencia, Spain

*Michel Prieur*, Professor of International Law, University of Limoges, France

*Larbi Sbai*, Conseiller de M. le Secrétaire Général, Département Pêche Maritime, Morocco

*Tullio Scovazzi*, Professor of International Law, University of Milano-Bicocca, Milan, Italy.

*Fancois Simard*, Deputy Head, Senior Advisor for Fisheries, Global Marine Programme, IUCN

*Tullio Treves*, Judge at the International Tribunal for the Law of the Sea and Professor of International Law, University of Milan, Italy

*Juan L Suarez-de Vivero*, University of Seville, Department of Human Geography, Spain

## Annex II

### Main International Treaties applicable in the Mediterranean

#### A. Ratification Table

	Albania	Algeria	Bosnia-Herz.	Croatia	Cyprus	Egypt	France	Greece	Israel	Italy	Lebanon	Libya	Malta	Monaco	Montenegro	Morocco	Slovenia	Spain	Syria	Tunisia	Turkey	EC	
1982 LOS Convention	X	X	X	X	X	X	X	X		X	X		X	X	X	X	X	X		X		X	
1995 SFS Agreement					X		X	X		X			X	X			X	X					X
2001 UCH Convention				X							X	X			X		X	X		X			
1992 CBD	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
1979 CMS	X	X		X	X	X	X	X	X	X		X	X	X		X	X	X	X	X	X		X
1979 Berne Convention	X		X	X	X		X	X		X			X	X		X	X	X		X	X	X	X
1974 SOLAS	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
1973/78 MARPOL	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	
1989 Salvage	X			X		X	X	X		X							X	X	X	X			
1988 SUA	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	
2000 Smuggling Prot.	X	X	X	X	X	X	X			X	X	X	X	X	X		X	X		X	X	X	X
1976 Barcelona Conv.	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
1995 Barcelona Amend.	X	X		X	X	X	X	X	X	X			X	X	X	X	X	X	X	X	X	X	X
1976 Dumping Prot.	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X
1995 Dumping Prot.	X			X	X	X	X			X			X	X	X	X	X	X		X	X	X	X
1976 Emergency Prot.	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X
2002 Emergency Prot.				X	X		X	X					X	X	X		X					X	X
1980 LBS Prot.	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X
1996 LBS Prot.	X			X	X		X	X		X			X	X	X	X	X	X	X	X	X	X	X
1982 SPA Prot.	X	X	X	X	X	X	X	X	X	X	X	X	X	X		X	X	X	X	X	X	X	X
1995 SPA Prot.	X	X		X	X	X	X			X			X	X	X		X	X	X	X	X	X	X
1994 Offshore Prot.	X				X											X					X		
1996 HW Prot.	X												X		X	X					X	X	
2008 ICZM Prot.																							
1996 ACCOBAMS	X	X		X	X		X	X		X	X	X	X	X		X	X	X	X	X	X		
1982 Paris MOU				X	X		X	X		X			X				X	X					
1996 Med. MOU		X			X	X			X		X		X			X				X	X	X	
1949 GFCM	X	X		X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X	X
1969 ICCAT	X	X		X	X	X	X			X		X	X			X		X	X	X	X	X	X

## B. Additional Information

Treaties are referred to with the abbreviation used in the ratifications table. For each treaty membership only by Mediterranean States and the EC is indicated. The website of the relevant international organization/international body is also given.

**1982 LOS Convention** - *United Nations Convention on the Law of the Sea* (Montego Bay, 12 December 1982), in force as from 16 November 1994: Albania, Algeria, Bosnia-Herzegovina, Croatia, Cyprus, Egypt, France, Greece, Italy, Lebanon, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Tunisia, European Community. See <http://www.un.org/Depts/los/index.htm>

**1995 SFS Agreement** - *United Nations Agreement for the Implementation of the Provisions of the United Nations Convention on the Law of the Sea of 10 December 1982 relating to the Conservation and Management of Straddling Fish Stocks and Highly Migratory Fish Stocks* (New York, 4 December 1995), in force as from 11 December 2001: Cyprus, France, Greece, Italy, Malta, Monaco, Slovenia, Spain, European Community. See <http://www.un.org/Depts/los/index.htm>

**2001 UCH Convention** - *Convention on the Protection of the Underwater Cultural Heritage* (Paris, 2 November 2001), in force as from 2 January 2009: Croatia, Lebanon, Libya, Montenegro, Slovenia, Spain, Tunisia. See <http://portal.unesco.org/en>

**1992 CBD** - *Convention on Biological Diversity* (Rio de Janeiro, 5 June 1992), in force as from 29 December 1993: Albania, Algeria, Bosnia-Herzegovina, Croatia, Cyprus, Egypt, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syria, Tunisia, Turkey, European Community. See <http://www.cbd.int>

**1979 CMS** – *Convention on Migratory Species* (Bonn, 23 June 1979): Albania, Algeria, Croatia, Cyprus, Egypt, France, Greece, Israel, Italy, Libya, Malta, Monaco, Morocco, Slovenia, Spain, Syria, Tunisia, European Community. See <http://www.cms.int>

**1979 Bern Convention** - *Convention on the Conservation of European Wildlife and Natural Habitats* (Bern, 19 September 1979), in force from 1 June 1982: Albania, Bosnia-Herzegovina, Croatia, Cyprus, France, Greece, Italy, Malta, Monaco, Morocco, Slovenia, Spain, Tunisia, Turkey, European Community. See <http://conventions.coe.int>

**1974 SOLAS** - *International Convention for the Safety of Life at Sea* (1 November 1974), in force from 25 May 1980: Albania, Algeria, Croatia, Cyprus, Egypt, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syria, Tunisia, Turkey. See <http://www.imo.org>

**1973/78 MARPOL** - *International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto* (2 November 1973), in force from 2 October 1983: Albania, Algeria, Croatia, Cyprus, Egypt, France, Greece, Israel, Italy, Lebanon, Libya,

Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syria, Tunisia, Turkey. See <http://www.imo.org>

**1989 Salvage** - *International Convention on Salvage* (28 April 1989), in force from 14 July 1996: Albania, Croatia, Egypt, France, Greece, Italy, Slovenia, Spain, Syria, Tunisia. See <http://www.imo.org>

**1988 SUA** - *Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation* (10 March 1988), in force from 1 March 1992: Albania, Algeria, Bosnia-Herzegovina, Croatia, Cyprus, Egypt, France, Greece, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syria, Tunisia, Turkey. See <http://www.imo.org>

**2000 Smuggling Prot.** - *Protocol against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime* (New York, 15 November 2000), in force from 28 January 2004: Albania, Algeria, Bosnia-Herzegovina, Croatia, Cyprus, Egypt, France, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Slovenia, Spain, Tunisia, Turkey, European Community. See <http://www.unodc.org/unodc/index.html>

**1976 Barcelona Conv.** - *Convention for the Protection of the Mediterranean Sea Against Pollution* (Barcelona, 16 February 1976), in force from 12 February 1978: Albania, Algeria, Bosnia-Herzegovina, Croatia, Cyprus, Egypt, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syria, Tunisia, Turkey, European Community. See <http://www.unepmap.org>

**1995 Barcelona Amend.** - *Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean* (Barcelona, 16 February 1976 as amended 10 June 1995), in force from 2 July 2004: Albania, Algeria, Croatia, Cyprus, Egypt, France, Greece, Israel, Italy, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syria, Tunisia, Turkey, European Community. See <http://www.unepmap.org>

**1976 Dumping Prot.** - *Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft* (Barcelona, 16 February 1976), in force from 12 February 1978: Albania, Algeria, Bosnia-Herzegovina, Croatia, Cyprus, Egypt, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Slovenia, Spain, Syria, Tunisia, Turkey, European Community. See <http://www.unepmap.org>

**1995 Dumping Prot.** - *Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft or Incineration at Sea* (Barcelona, 16 February 1976 as amended 10 June 1995), not yet in force: Albania, Croatia, Cyprus, Egypt, France, Italy, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Tunisia, Turkey, European Community. See <http://www.unepmap.org>

**1976 Emergency Prot.** - *Protocol concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in Cases of Emergency* (Barcelona, 16

February 1976), in force from 12 February 1978: Albania, Algeria, Bosnia-Herzegovina, Croatia, Cyprus, Egypt, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Slovenia, Spain, Syria, Tunisia, Turkey, European Community. See <http://www.unepmap.org>

**2002 Emergency Prot.** - *Protocol concerning Co-operation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea* (Malta, 25 January 2002), in force from 17 March 2004: Croatia, Cyprus, France, Greece, Malta, Monaco, Montenegro, Slovenia, Turkey, European Community. See <http://www.unepmap.org>

**1980 LBS Prot.** - *Protocol for the Protection of the Mediterranean Sea Against Pollution from Land-based Sources* (Athens, 17 May 1980), in force from 17 June 1983: Albania, Algeria, Bosnia-Herzegovina, Croatia, Cyprus, Egypt, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Slovenia, Spain, Syria, Tunisia, Turkey, European Community. See <http://www.unepmap.org>

**1996 LBS Prot.** - *Protocol for the Protection of the Mediterranean Sea Against Pollution from Land-based Sources and Activities* (Syracuse, 7 March 1996), in force from 11 May 2008: Albania, Croatia, Cyprus, France, Greece, Italy, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syria, Tunisia, Turkey, European Community. See <http://www.unepmap.org>

**1982 SPA Prot.** - *Protocol Concerning Mediterranean Specially Protected Areas* (Geneva, 3 April 1982), in force from 23 March 1986: Albania, Algeria, Bosnia-Herzegovina, Croatia, Cyprus, Egypt, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Slovenia, Spain, Syria, Tunisia, Turkey, European Community. See <http://www.unepmap.org>

**1995 SPA Prot.** - *Protocol concerning Specially Protected Areas and Biological Diversity in the Mediterranean* (Barcelona, 10 June 1995), in force from 12 December 1999: Albania, Algeria, Croatia, Cyprus, Egypt, France, Italy, Malta, Monaco, Montenegro, Slovenia, Spain, Syria, Tunisia, Turkey, European Community. See <http://www.unepmap.org>

**1994 Offshore Prot.** - *Protocol for the Protection of the Mediterranean Sea Against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Subsoil* (Madrid, 14 October 1994), not yet in force: Albania, Cyprus, Morocco, Tunisia. See <http://www.unepmap.org>

**1996 HW Prot.** - *Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal* (Izmir, 1 October 1996), in force from 28 December 2007: Albania, Malta, Montenegro, Morocco, Tunisia, Turkey. See <http://www.unepmap.org>

**2008 ICZM Prot.** - *Protocol on Integrated Coastal Zone Management* (Madrid, 21 January 2008), not yet in force. See <http://www.unepmap.org>

**1996 ACCOBAMS** - *Agreement on the Conservation of Cetaceans in the Black Sea, Mediterranean Sea and contiguous Atlantic Area* (Monaco, 24 November 1996), in force from 1

June 2001: Albania, Algeria, Croatia, Cyprus, France, Greece, Italy, Lebanon, Libya, Malta, Monaco, Morocco, Slovenia, Spain, Syria, Tunisia. See <http://www.accobams.org>

**1982 Paris MOU** - *Paris Memorandum of Understanding on Port State Control* (Paris, 26 January 1982), in operation since 1 July 1982: Croatia, Cyprus, France, Greece, Italy, Malta, Slovenia, Spain. See <http://www.parismou.org>

**1996 Mediterranean MOU** - *Memorandum of Understanding on Port State Control in the Mediterranean Region* (Malta, 11 July 1997): Algeria, Cyprus, Egypt, Israel, Lebanon, Malta, Morocco, Syria, Tunisia, Turkey. France, Greece, Italy, Spain and the EC have the status of observers. See <http://www.medmou.org>

**1949 GFCM** - *Agreement for the Establishment of a General Fisheries Commission for the Mediterranean* (Rome, 24 September 1949), in force from 20 February 1952: Albania, Algeria, Croatia, Cyprus, Egypt, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syria, Tunisia, Turkey, European Community. See <http://www.gfcm.org/gfcm>

**1969 ICCAT** - *International Convention for the Conservation of Atlantic Tunas* (Rio de Janeiro, 14 May 1966), in force from 1969: Albania, Algeria, Croatia, Cyprus, Egypt, France, Italy, Libya, Malta, Morocco, Spain, Syria, Tunisia, Turkey, European Community. See <http://www.iccat.int>

## Annex III

### Coastal Zones of Mediterranean States<sup>38</sup>

#### Part A

#### Summary of national claims and/or delimitation agreements

	Straight Baselines	Contiguity Zone	Archaeological Contiguous Zone	Fisheries Zone	Ecological Protection Zone	Ecological & Fisheries Protection Zone	Exclusive Economic Zone
Albania	X						
Algeria	X	24	24	32/52			
Bosnia-Herzegovina							
Croatia	X					X	
Cyprus	X	24	24				X
Egypt	X						X
France	X	24	24		X		
Greece							
Israel							
Italy	X		X				
Lebanon							
Libya	X			62			
Malta		24	24	25			
Monaco							
Montenegro							
Morocco	X						X
Slovenia					X		
Spain	X	X		X			
Syria	X	24					X
Tunisia	X		24	X			X
Turkey							

#### B. National legislation establishing coastal zones in the Mediterranean

Most national legislation on coastal zones is available, in English translation, in the database maintained by the UN Division for Ocean Affairs and the Law of the Sea (DOALOS) at <http://www.un.org/Depts/los/LEGISLATIONANDTREATIES/index.htm>. For recent legislation, a reference is provided to the official State publication (official gazette).

<sup>38</sup> The information is based upon data provided from the website of the United National Division on Oceans Affairs and the Law of the Sea based upon submissions of states. The authors make no representation as to the validity or accuracy of the claims reported.

Distances indicated are always measured from State baselines.

Information on the continental shelf is not provided, as all States in principle have a continental shelf. In the Mediterranean Sea, some States, due to the geographical configuration, do not have the possibility to claim areas outside the territorial sea. In the remaining cases, the extension of the continental shelf has to be determined by agreement with neighbouring State(s).

### **Albania**

Straight baselines established by *Decree No. 4650, as amended by Decree No. 7366, dated 9 March 1990, on the State Border of the People's Socialist Republic of Albania.*

Territorial sea (12 n.m.).

### **Algeria**

Straight baselines established by *Decree No. 84-181 of 4 August 1984 defining the baselines for measuring the breadth of the maritime zones under national jurisdiction.*

Territorial sea (12 n.m.) established by *Decree No. 63-403 of 12 October 1963 establishing the Breadth of the Territorial Waters.*

Contiguous zone, also for archaeological purposes (24 n.m.), established by *Presidential Decree No. 04-344 of 23 Ramadan 1425 (6 November 2004)*<sup>39</sup>.

Fishing zone (32 n.m. between the western maritime border and Ras Ténès and 52 n. m. between Ras Ténès and the eastern maritime border) established by *Legislative Decree No. 94-13 of 17 Dhu'lhijjah 1414, corresponding to 28 May 1994, establishing the general rules relating to fisheries, 22 June 1994.*

### **Bosnia-Herzegovina**

No legislation available.

### **Croatia**

Straight baselines established by the *Maritime Code, 27 January 1994.*

Territorial sea (12 n.m.).

Ecological and fisheries protection zone, established by the *Decision on the Extension of the Jurisdiction of the Republic of Croatia in the Adriatic Sea, 3 October 2003.* The decision was modified, in the sense that the regime will be applicable to member States of the European Union only after the conclusion of fisheries partnership agreement with the European Community, by the *Decision on Amending the Decision on the Extension of the Jurisdiction of the Republic of Croatia in the Adriatic Sea of 3 October 2003, 3 June 2004.*

### **Cyprus**

Straight baselines.

Territorial sea (12 n.m.), established by the *Territorial Sea Law, No. 45 of 1964.*

Contiguous zones, also for archaeological purposes, (24 n.m.), established by *Law to provide for the Proclamation of the Contiguous Zone by the Republic of Cyprus, 2 April 2004*<sup>40</sup>.

Exclusive economic zone, established by *Law to provide for the Proclamation of the Exclusive Economic Zone by the Republic of Cyprus, 2 April 2004*<sup>41</sup>.

### **Egypt**

Straight baselines established by the *Decree of the President of the Arab Republic of Egypt No. 27 (1990) Concerning the baselines of the maritime areas of the Arab Republic of Egypt, 9 January 1990.*

Territorial sea (12 n.m.) established by *Decree concerning the Territorial Waters of the Arab Republic of Egypt of 15 January 1951, as amended by Presidential Decree of 17 February 1958.*

---

<sup>39</sup> Presidential Decree n. 04-304 of 6 November 2004, published in *Journal Officiel de la République Algérienne*, n. 70, 7 November 2004.

<sup>40</sup> Official Journal n. 3831, 5 April 2004.

<sup>41</sup> Official Journal n. 3831, 5 April 2004.

Exclusive economic zone, proclaimed in the declaration upon ratification of the United Nations Convention on the Law of the Sea, 26 August 1983.

### **France**

Straights baselines established by *Decree of 19 October 1967 defining the straight baselines and the lines enclosing bays used in determining the baselines from which the breadth of the territorial waters is measured.*

Territorial sea (12 n.m.) established by *Law No. 71-1060 of 14 December 1971 regarding the delimitation of French territorial waters.*

Contiguous zone (24 n.m.) established by *Act of 31 December 1987 concerning the campaign against drug trafficking and amending certain provisions of the Penal Code.*

Archaeological zone (24 n.m.) provided in the *Code du Patrimoine*, constituted by *Ordonnance n. 2004-178 of 20 February 2004*<sup>42</sup>.

Ecological protection zone<sup>43</sup>, established by *Law n. 2003-346 of 15 April 2003*<sup>44</sup>, implemented by *Decree n. 2004-33 of 8 January 2004*<sup>45</sup>.

### **Greece**

Territorial sea (6 n.m.) established by *Law No. 230 of 17 September 1936*. For purposes of aviation a limit of 10 n.m. is provided by *Decree of 6/18 September 1931 to define the extent of the territorial waters for the purposes of aviation and the control thereof.*

### **Israel**

Territorial sea (12 n.m.) established by *Territorial Waters Law, 5717/1956, as amended by the Territorial Waters (Amendment) Law, 5750-1990, of 5 February 1990.*

### **Italy**

Straight baselines

Territorial sea (12 n.m.)

Archaeological zone (24 n.m.) established by the *Decree n. 42 of 22 January 2004*<sup>46</sup>.

### **Lebanon**

Territorial waters (12 n.m.) established by *Legislative Decree No. 138 concerning territorial waters and sea areas, of 7 September 1983.*

### **Libya**

Straight baselines.

Territorial sea (12 n.m.) established by *Act No. 2 of 18 February 1959 concerning the delimitation of Libyan territorial waters.*

Fisheries protection zone established by *General People's Committee Decision No. 37 of 1373 from the death of the Prophet (AD 2005) concerning the declaration of a Libyan fisheries protection zone in the Mediterranean Sea.*

### **Malta**

Territorial sea (12 n.m.) established by the *Territorial Waters and Contiguous Zone Act, No. XXXII of 1971, as amended by Acts XLVI of 1975, XXIV of 1978, XXVIII of 1981 and I of 2002.*

Contiguous zone (24 n.m.) established by the *Territorial Waters and Contiguous Zone Act, No. XXXII of 1971, as amended by Acts XLVI of 1975, XXIV of 1978, XXVIII of 1981 and I of 2002.* In the contiguous zone Malta also exercises jurisdiction with respect to prevention of pollution of the marine environment.

---

<sup>42</sup> *Journal Officiel de la République Française*, n. 46, 24 February 2004.

<sup>43</sup> The ecological protection zone applies only to Mediterranean waters. For the rest of its maritime territory, France has declared an exclusive economic zone.

<sup>44</sup> *Journal Officiel de la République Française*, 16 April 2003.

<sup>45</sup> *Journal Officiel de la République Française*, 10 January 2004.

<sup>46</sup> *Gazzetta Ufficiale della Repubblica Italiana*, n. 45, suppl. ord., 24 February 2004.

Archaeological zone (24 n.m.) established by the *Cultural Heritage Act, No. VI of 2002, as amended by Acts XVIII of 2002, II of 2005 and XXXII of 2007; and Legal Notice 426 of 2007*

Fishing zone (25 n.m.) established by the *Territorial Waters and Contiguous Zone Act, No. XXXII of 1971, as amended by Acts XLVI of 1975, XXIV of 1978, XXVIII of 1981 and I of 2002.*<sup>47</sup>

### **Monaco**

Territorial sea (12 n.m.) established by the *Sovereign Ordinance No. 5094 delimiting the Territorial Waters of Monaco, of 14 February 1973.*<sup>48</sup>

### **Montenegro**

Legislation not available

### **Morocco**

Straights baselines established by *Decree No. 2.75.311 of 11 Rajab 1395 (21 July 1975) defining the Closing Lines of Bays on the Coasts of Morocco and the Geographical Co-ordinates of the Limit of Territorial Waters and the Exclusive Fishing Zone.*

Territorial sea (12 n.m.) established by *Act No. 1.73.211 establishing the Limits of the Territorial Waters and the Exclusive Fishing Zone of Morocco, of 2 March 1973.*

Contiguous zone (24 n.m.) established by *Act No. 1-81 of 18 December 1980, Promulgated by Dahir No. 1-81-179 of 8 April 1981, establishing a 200-nautical-mile Exclusive Economic Zone off the Moroccan coasts.*

Exclusive economic zone established by *Act No. 1-81 of 18 December 1980, Promulgated by Dahir No. 1-81-179 of 8 April 1981, establishing a 200-nautical-mile Exclusive Economic Zone off the Moroccan coasts.* In its exclusive economic zone Morocco also reserves its exclusive right to grant permits for archaeological research.

### **Slovenia**

Territorial sea established by the *Maritime Code (PZ), 23 March 2001.*

Ecological protection zone established by *Law of 12 October 2005*<sup>49</sup>.

### **Spain**

Straight baselines established by *Royal Decree No. 2510/1977 of 5 August 1977.*

Territorial sea (12 n.m.) established by *Act No. 10/1977 of 4 January 1977.*

Contiguous zone (24 n.m.) established by *Act No. 27/1992 of 24 November 1992 concerning national ports and merchant shipping.*

Fisheries protection zone established by *Royal Decree 1315/1997, of 1 August 1997, establishing a Fisheries Protection Zone in the Mediterranean Sea*<sup>50</sup>.

### **Syria**

Straight baselines established by *Law No. 28 dated 19 November 2003 - Definition Act of Internal Waters and Territorial Sea Limits of the Syrian Arab Republic.*

Territorial sea (12 n.m.) established by *Law No. 28 dated 19 November 2003 - Definition Act of Internal Waters and Territorial Sea Limits of the Syrian Arab Republic.*

Contiguous zone (24 n.m.) established by *Law No. 28 dated 19 November 2003 - Definition Act of Internal Waters and Territorial Sea Limits of the Syrian Arab Republic.*

Exclusive economic zone established by *Law No. 28 dated 19 November 2003 - Definition Act of Internal Waters and Territorial Sea Limits of the Syrian Arab Republic.*

---

<sup>47</sup> Malta has recently adopted legislation enabling the Prime Minister to extend the jurisdiction of Malta beyond the actual 25 n.m. limit of its fisheries zone. Law n. 10 of 26 July 2005, in *The Malta Government Gazette*, n. 17795, suppl., 26 July 2005.

<sup>48</sup> The *Act No. 1198 of 27 March 1998 containing the Code of the Sea*, has provided for the possibility to exercise the rights attributed to the State outside its territorial sea, in the contiguous zone and beyond, on the basis of Orders to be adopted.

<sup>49</sup> *Uradni List Republike Slovenije*, n. 93, 21 October 2005.

<sup>50</sup> The fisheries protection zone applies only in the Mediterranean. For the rest of its maritime area Spain has declared an exclusive economic zone.

### **Tunisia**

Straight baselines established by *Decree No. 73-527 of 3 November 1973 concerning baselines*.

Territorial sea (12 n.m.) established by Act No. 73-49 delimiting the territorial waters, of 2 August 1973.

Archaeological zone (24 n.m.) established by *Law n. 86-35 of 9 May 1986*<sup>51</sup>.

Fisheries zone (isobath of 50 m.) established by the *Decree of 26 July 1951*.

Exclusive economic zone established by *Law n. 2005-50 of 27 June 2005*<sup>52</sup>.

### **Turkey**

Territorial sea (6 n.m. in the Aegean Sea, 12 n.m. in the remaining Mediterranean coast and the Black Sea) established by *Act No. 2674 of 20 May 1982, on the Territorial Sea of the Republic of Turkey* and *Decree by the Council of Ministers No. 8/4742*.

---

<sup>51</sup> *Journal Officiel de la République Tunisienne*, n. 31, 13-16 May 1986.

<sup>52</sup> *Journal Officiel de la République Tunisienne*, n. 51, 28 June 2005.

## Annex IV

### **IUCN Resolution 4.066 Improving the governance of the Mediterranean Sea**

AWARE of the environmental, strategic, economic, social and cultural values of the Mediterranean Sea, the *Mare Nostrum*, which represents a common heritage;

RECALLING the Resolutions and Recommendations of IUCN which, since 1958 have underlined the importance of the Mediterranean heritage and, in particular, Resolutions 3.034 *Strengthening the action of the IUCN Centre for Mediterranean Cooperation*, 3.052 *Protected areas in the Mediterranean* and 3.070 *Environmental protection of the Mediterranean Sea from the risk of maritime traffic*, adopted by the 3<sup>rd</sup> IUCN World Conservation Congress (Bangkok, 2004);

ENCOURAGED by the desire and the will to protect the different natural and cultural elements of the Mediterranean region's heritage in a sustainable manner;

CONVINCED of the need to reinforce mutually beneficial cooperation to ensure the sustainable management of natural resources and the preservation of the marine environment of the entire Mediterranean Sea;

INDICATING the particular situation of the Mediterranean Sea with regard to the declaration of Exclusive Economic Zones (EEZs) and other extensions of national jurisdiction;

UNDERLINING therefore the importance of information exchange, the reinforcement of mutual consultations between states bordering on the Mediterranean for the improvement of the governance of the Mediterranean Sea;

AWARE of the relevant clauses in the 1982 United Nations Convention on the Law of the Sea (UNCLOS), in particular those concerning the Exclusive Economic Zone, the Continental Shelf and the protection and conservation of the marine environment;

RECALLING the principles and clauses of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention) and its seven Protocols on: 'Dumping', 'Prevention and Emergency', 'Land-based Sources (LBS)', 'Specially Protected Areas and Biological Diversity', 'Offshore', 'Hazardous Wastes', and 'Integrated Coastal Zone Management (ICZM)';

AWARE OF the objectives of the Convention on Biological Diversity (CDB) adopted in 1992, which calls for the conservation of genetic resources, the sustainable use of their elements and the fair and equitable sharing of the benefits deriving from their exploitation, and for the creation of strategies, plans or national programmes ensuring the conservation and sustainable use of biodiversity;

ALSO AWARE of the objectives of the CBD *Programme of Work on Marine and Coastal Biodiversity*; and

WELCOMING the *Barcelona Process: Union for the Mediterranean*, agreed at a summit in Paris (13 July 2008), and committed to work for the peaceful use of the Mediterranean Sea;

**The World Conservation Congress at its 4<sup>th</sup> Session in Barcelona, Spain, 5–14 October 2008:**

1. CALLS ON IUCN to support, in collaboration with the organizations and processes involved, and in particular the Union for the Mediterranean, the setting up of an informal and permanent consultation process on the governance of the Mediterranean Sea;
2. CALLS ON IUCN to study in detail all the possibilities and conditions with regard to improving the governance of the Mediterranean, basin by basin, including the possible joint declaration of Exclusive Jurisdiction Zones (EJZs) relating to environmental and ecological aspects;
3. CALLS ON IUCN's members and partners to facilitate the implementation of the following actions by relevant States, international organizations and, in particular, the Union for the Mediterranean:
  - (a) to develop an informal consultation process, in the form of a permanent consultation forum, facilitating the exchange of information, exchanges of perspectives between States bordering the Mediterranean on the declarations of each State regarding the extension of its national jurisdiction over the sea, in order to ensure consistency between the respective declarations and thus better governance of the Mediterranean Sea;
  - (b) to create the required bases, at both legal and scientific levels, for the implementation of the solutions proposed through the consultation process;
  - (c) to support the participation of all Mediterranean States, basin by basin, in these informal consultations, ensuring respect for each State's conditions of sovereignty and jurisdiction; and
  - (d) to reinforce all the other possibilities of regional or sub-regional cooperation for improving the governance of the Mediterranean Sea, in collaboration with various international organizations, in particular the Mediterranean Action Plan (MAP) and its centres of regional activity (CRA), the General Fisheries Commission for the Mediterranean (GFCM) and the Convention on Migratory Species – Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and contiguous Atlantic Area (CMS/ACCOBAMS), whilst respecting their respective mandates.

State and agency members of the United States refrained from engaging in deliberations on this motion and took no national government position on the motion as adopted for reasons given in the U.S. General Statement on the IUCN Resolution Process.