



IMO
INTERNATIONAL MARITIME LAW INSTITUTE
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A SUBSIDIARY LEGISLATION TO INCORPORATE THE PROTOCOL ON INTEGRATED COASTAL ZONE MANAGEMENT IN THE MEDITERRANEAN, 2010, TO THE CONVENTION FOR THE PROTECTION OF THE MARINE ENVIRONMENT AND THE COASTAL REGION OF THE MEDITERRANEAN, 1976, INTO THE LAWS OF MALTA.

A Legislation Drafting Project submitted in partial fulfillment of the requirements for the award of the Degree of Master of Laws (LL.M.) in International Maritime Law at the IMO International Maritime Law Institute

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Academic Year 2012/2013

To my Parents

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Acknowledgements

I would like first and foremost to thank my dearest parents, Dr Michael & Dr Jacqueline Tanti-Dougall for their loving support in particular, for instilling in me an ethical approach and passion for the legal profession, as well as my younger sister Mattea, for her unconditional co-operation.

A special thank you to my supervisor at the International Maritime Law Institute (IMLI), Mr Riyaz Hamza for his guidance and useful advice in researching and writing of this Legislation Drafting Project; to the many dedicated lecturers at IMLI, in particular to Professor David J. Attard, for sharing their vast knowledge on the maritime legislative field, as well as to the whole IMLI staff for their commitment, all of whom, lecturers and staff provided me, as a student at IMLI, with a most positive and unforgettable experience.

I would also like to show my gratitude towards my fellow students of the 2012-2013 LL.M. course at IMLI for being excellent classmates and certainly professional colleagues-to-be in the intriguing maritime sector.

Lastly, I would like to express my gratitude towards the Ministry of Foreign Affairs (Malta) as well as the International Maritime Organization (IMO) for providing me with the opportunity to follow my studies at IMLI for an LL.M. degree.

Table of Legal Instruments

Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (1978)

Protocols emanating from the above-mentioned Convention:

- (i) the '*Protocol for the Prevention and Elimination of Pollution in the Mediterranean Sea by Dumping from Ships and Aircraft or Incineration at Sea*';
- (ii) the '*Protocol Concerning Cooperation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea*';
- (iii) the '*Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities*';
- (iv) the '*Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean*';
- (v) 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*';
- (vi) the '*Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal*'; and
- (vii) the '*Protocol on Integrated Coastal Zone Management in the Mediterranean*'.

Environment and Development Planning Act, Chapter 504 of the Laws of Malta

Flora, Fauna and Natural Habitats Protection Regulations, Subsidiary Legislation 504.73 of the Laws of Malta

Marine Policy Framework Regulations, Subsidiary Legislation 504.107 of the Laws of Malta

United Nations Conventions on the Law of the Sea, 1982

Abbreviations

Barcelona Convention	Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean
CAMP	Coastal Area Management Program
EU	European Union
ICZM	Integrated Coastal Zone Management
MAP	Mediterranean Action Plan
MAP Phase II	Action Plan for the Protection of the Marine Environment and the Sustainable Development of the Coastal Areas of the Mediterranean
MEPA	Malta Environment and Planning Authority
UN	United Nations
UNCLOS	United Nations Conventions on the Law of the Sea
UNEP	United Nations Environment Programme

PART 1

EXPLANATORY NOTE

1 A Historical Background to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, 1978

The Mediterranean Sea is located between Europe, northern Africa and southwestern Asia. Its total area is 970,000 square miles. Due to the Mediterranean's large size and central location, it borders twenty-one different nations on three continents.¹

The Mediterranean Sea is an important ecological area for the unique diversity of life found in its waters. This natural heritage has over the years sustained human development, settlement, commerce and resource exploitation.²

However, in recent decades, the Mediterranean Sea has undergone many environmental changes as a result of extensive human activities sustained over thousands of years.³ Human pressure has increasingly intensified, and fishing, pollution, tourism, and coastal development have been recognized as the main driving forces behind its biodiversity changes.⁴

These human threats must be mitigated if current trends of biodiversity loss are to be reversed. It has been held that ecological networks of effective marine protected areas are the cornerstone of any strategy for achieving this vision, to provide lasting protection, to enable restoration and ensure careful use of this natural heritage in managing and protecting species, habitats and ecosystems.⁵

States are now realizing the ever-increasing importance of the economic, social, health and cultural value of the marine environment of the Mediterranean Sea and are now acting to

¹ The 21 nations with coastlines along the Mediterranean Sea are Algeria, Egypt, Libya, Morocco, Tunisia, Cyprus, Israel, Lebanon, Syria, Albania, Bosnia and Herzegovina, Croatia, France Greece, Italy, Malta, Monaco, Montenegro, Slovenia, Spain and Turkey.About.com geography, <<http://geography.about.com/od/lists/a/Mediterranean-Countries.htm>>

² Ameer Abdulla, et al, Status of Marine Protected Areas in the Mediterranean Sea, IUCN, Malaga and WWF, France, 2008, p. 16.

³ Ibid p. 22.

⁴ Ibid p. 16.

⁵ Ibid.

protect and enhance the marine environment to preserve and sustainably develop this common heritage for the benefit and enjoyment of present and future generations.

This protection commenced in 1975, when sixteen (16) Mediterranean countries and the European Community adopted the Mediterranean Action Plan⁶ (MAP), the first-ever Regional Seas Program under the auspices of the United Nations Environment Programme (UNEP).⁷ The Mediterranean countries established a strong framework for cooperation between them for the protection and conservation of the environment within the Mediterranean region. This has been established through the Convention on the Protection of the Marine Environment and the Coastal Region of the Mediterranean, better referred to as the ‘Barcelona Convention.’⁸ The Convention is deemed an ‘umbrella treaty’ which has to be supplemented by the implementation of relevant protocols thereto, relating to specific aspects of environmental protection.⁹

The Barcelona Convention has in fact given rise to seven Protocols, each addressing specific aspects of Mediterranean environmental conservation. These are: (i) the ‘Protocol for the Prevention and Elimination of Pollution in the Mediterranean Sea by Dumping from Ships and Aircraft or Incineration at Sea;’ (ii) the ‘Protocol Concerning Cooperation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea;’ (iii) the ‘Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities;’ (iv) the ‘Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean;’ (v) 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;’ (vi) the ‘Protocol on the Prevention of

⁶ The MAP was adopted on 4 February 1975 by an Intergovernmental Meeting convened by the United Nations Environment Program.

⁷ European Commission <<http://ec.europa.eu/environment/water/marine/barcelona.htm>>

⁸ The Convention was open to signatures in Barcelona on 16 February 1976, and entered into force on 12 February 1978. It was amended in Barcelona on 10 June 1995, changing its name from The Convention for the Protection of the Mediterranean Sea against Pollution and subsequently renamed as the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean.

⁹ Tullio Scovazzi, *The Updating of the Barcelona System, Marine Specially Protected Areas: The General Aspects and the Mediterranean*, Kluwer Law International, the Netherlands, 1991, p. 82.

Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal,' and (vii) the 'Protocol on Integrated Coastal Zone Management in the Mediterranean.'¹⁰

All these instruments, namely the Barcelona Convention and its seven Protocols, collectively constitute the so-called 'Barcelona system.'¹¹

The Barcelona Convention is one of the four main aspects of the MAP. Since the MAP's adoption in 1975 and through its evolution, it has significantly contributed to the process of sustainable development in the Mediterranean region and has represented a substantive and dynamic tool for the implementation of the activities related to the Barcelona Convention and its Protocols by the Contracting Parties. In 1995, the Action Plan for the Protection of the Marine Environment and the Sustainable Development of the Coastal Areas of the Mediterranean (MAP Phase II) was adopted by the Contracting Parties, replacing the MAP of 1975.¹²

Between 1995 and 1996, the MAP and the Barcelona system underwent important changes. The main objective thereof was to adopt the Barcelona system to the development of international law in the field of the protection of the environment, as adopted by the United Nations Conference on Environment and Development (Rio de Janeiro 1992). The texts of the most existing protocols have been improved and new protocols have been adopted. In addition, the amended text reflects and applies to a regional scale. The main ideas arose from the 1992 Rio Conference, with principles such as sustainable development, the precautionary principle, and the integrated management of the coastal zones.¹³

¹⁰ United Nations Environment Programme Mediterranean Action Plan for the Barcelona Convention <<http://www.unepmap.org/index.php?module=content2&catid=001001001>>

¹¹ Tullio Scovazzi, p. 82.

¹² European Commission <<http://ec.europa.eu/environment/water/marine/barcelona.htm>>

¹³ Tullio Scovazzi, p. 83.

Today, the Barcelona Convention and MAP are deemed more active than ever. The Contracting Parties are now twenty-two,¹⁴ and are determined to protect the Mediterranean marine and coastal environment to achieve sustainable development.¹⁵ As a result thereof, the vision of the Barcelona Convention is one of healthy ecosystems, populations and economies founded on conservation and sustainable use.

The main objectives of the Barcelona System are many and varied: (i) to assess and control marine pollution, (ii) to ensure sustainable management of natural marine and coastal resources, (iii) to integrate the environment in social and economic development, (iv) to protect the marine environment and coastal zones through prevention and reduction of pollution, (v) to eliminate pollution as much as possible whether land or sea-based, (vi) to protect the natural and cultural heritage, (vii) to strengthen solidarity among Mediterranean coastal States as well as (viii) to contribute to the improvement of the quality of life.¹⁶

The Barcelona Convention refers mainly to four types of pollution, namely (a) pollution caused by dumping from ships and aircraft, (b) pollution from ships, (c) pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil, and pollution from land-based sources.

In this aspect, one may refer to the United Nations Convention on the Law of the Sea (UNCLOS), Part XII, entitled ‘Protection and Preservation of the Marine Environment,’ where it establishes the general obligation of States to “*protect and preserve the marine environment.*”¹⁷ It also provides for measures that States are to carry out to prevent, reduce and control pollution of the marine environment¹⁸ and to take all necessary measures to ensure that activities under their jurisdiction are conducted in such a manner so as not to

¹⁴ Albania, Algeria, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, the European Community, France, Greece, Israel, Italy, Lebanon, Libya, Malta, Monaco, Montenegro, Morocco, Slovenia, Spain, Syria, Tunisia and Turkey.

¹⁵ European Commission <<http://ec.europa.eu/environment/water/marine/barcelona.htm>>

¹⁶ Ibid.

¹⁷ UNCLOS, Article 192.

¹⁸ Ibid, Article 194.

cause damage through pollution to other States and their environment. Furthermore, it encourages cooperation between States, on a global or regional level.¹⁹

The European Union (EU) and all the EU Mediterranean Member States are Contracting Parties to the Convention. It provides for international cooperation between the States and international organizations concerned and maintains that each party must assume appropriate measures to protect and enhance the marine environment in that Mediterranean Sea area so as to contribute towards its sustainable development and to prevent, abate, combat and eliminate as much as possible pollution in the Mediterranean Sea.²⁰ Furthermore, it requests the Contracting Parties to promote the integrated management of the coastal zones, taking into account the protection of areas of ecological and landscape interest and the rational use of natural resources.²¹

The Barcelona Convention and its Protocols may be regarded as ‘the’ cornerstone for the promotion of environmental protection and integration in the Mediterranean, especially since they build upon the provisions of UNCLOS to provide a comprehensive framework for such protection.

¹⁹ Ibid, Article 197.

²⁰European Union External Action Treaties Office Database,
<<http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=487&back=7405>>

²¹ Article 4.3(e) of the Barcelona Convention.

2 A Historical and Legal Background to the Integrated Coastal Zone Management Protocol

2.1 What is Integrated Coastal Zone Management

Integrated Coastal Zone Management (ICZM) is the delicate equilibrium that exists in the coastal environment, referring to the transition point between the land and the sea. It also refers to the multiple activities that make use of these resources, which necessitates the need for a holistic approach for effective management.²² Coastal zone management can therefore be defined as the holistic process that aims to promote and to maintain the sustainable development of a defined coastal area.²³ This entails the need to address the existing biological, physical, social and economic characteristics present within this geographical area and to identify the best practical mechanism for its strategic management.²⁴

Therefore, its objective is to facilitate, through the rational planning of activities, the sustainable development of coastal zones by ensuring that the environment and landscapes are taken into account in harmony with economic, social and cultural development.²⁵

This is more important nowadays since the attractiveness of coastal zones is under increasing pressure: coastal resources are depleted beyond their carrying capacity, scarcity of space leads to conflicts between uses, there are large seasonal variations in population and employment, and the natural ecosystems that support the coastal zones suffer degradation. The coastal areas are particularly exposed to risks. In addition, important sectors of the

²² Malta Environment and Planning Authority <<http://www.mepa.org.mt/integrated-coastal-zone>>

²³ Ibid.

²⁴ Ibid.

²⁵ European Union External Action Treaties Office Database , <<http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=7405>>

coasts, such as tourism, fisheries and agriculture, are among the sectors most vulnerable to possible changes in climate.²⁶

The coastal zones are of critical importance to Europe as they are home to a majority of citizens and an increasing percentage of our economic activities take place there. The coastal zones provide important economic, transport, residential and recreational functions, all of which depend on its physical characteristics, appealing landscape, cultural heritage, natural resources, and rich marine and living resources.²⁷

2.2 The History of ICZM Policy

Many European countries' coastal zones tend to face problems of deterioration of their natural, socio-economic and cultural resources. The impacts of climate change are expected to further increase the exposure of the coast to flooding and erosion. Yet, coastal planning activities or development decisions still take place in a sectoral way, hardly being linked to each other. This fragmented approach to planning and management leads to inefficient use of resources, conflicting claims on space and missed opportunities for more sustainable coastal development.²⁸

In 1973, the Council of Europe passed a Resolution on the Protection of the Coastline. From 1973 to 1981 the first European Community action programs on the environment were launched, drawing special attention to matters concerning the planning and ecological management of coastal areas in Europe. This led to the European Coastal Charter and

²⁶ Commission of the European Communities, Brussels, 7.6.2007, COM(2007) 308 Final Communication from the Commission, Report to the European Parliament and the Council: An evaluation of Integrated, Coastal Zone Management (ICZM) in Europe, pp. 3-4.

²⁷ Commission of the European Communities, Brussels, 27.09.2000 COM(2000) 547 Final Communication from the Commission to the Council and the European Parliament on Integrated Coastal Zone Management: A Strategy For Europe.

²⁸ European Commission <<http://ec.europa.eu/environment/iczm/home.htm>>

the subsequent Resolution of the European Parliament in 1982. Both emphasize the need for integrated planning of coastal areas.²⁹

The United Nations (UN) Earth Summit of Rio de Janeiro in 1992 kick-started the development of focused EU policy on ICZM. Following this, there was the adoption of the Agenda 21 including its important and innovative chapter on oceans and coastal zones, where Mediterranean countries agreed to revise the Barcelona Convention, aiming at modernizing and upgrading its concepts, principles and provisions, putting them in line with the Rio Declaration and the Agenda 21 and integrating coastal zones in its scope.

Consecutively, the European Council adopted resolutions on ICZM, acknowledging that the integrated approach was important for coastal management.³⁰ In fact, in 2000, the EU Commission adopted two documents, namely a Communication from the Commission to the Council and the European Parliament on 'Integrated Coastal Zone Management: A Strategy for Europe'³¹ and a proposal for a European Parliament and Council Recommendation concerning the implementation of ICZM in Europe. This Recommendation was adopted by the European Parliament and the European Council on 30 May 2002, outlining steps which the Member States should take to develop national strategies for ICZM, based on common ICZM principles. Furthermore, it defines the principles for sound coastal planning and management. These include the need for planning based on sound and shared knowledge, the need to take a long-term and cross-sector perspective, to pro-actively involve stakeholders and the need to take into account both the terrestrial and the marine components of the coastal zone.³²

This led to a major achievement for UNEP/MAP, which was the adoption by the Contracting Parties to the Barcelona Convention of a new Protocol on ICZM signed in Madrid on 21 January 2008.

²⁹ Ibid.

³⁰ Ibid.

³¹ COM/00/547 of 17 September 2000.

³² European Commission <<http://ec.europa.eu/environment/iczm/home.htm>>

In 2010, the EU took a significant step forward in strengthening the legal framework for ICZM in the Mediterranean, and on 13 September 2010, the Council adopted the decision to ratify the ICZM Protocol to the Barcelona Convention.³³

The Protocol is based on and further develops the amended Convention.³⁴ Having been ratified by six contracting parties, the Protocol entered into force on the 24 of March 2011.³⁵

By means of Decision 2009/89/EC of 4 December 2008, the Council signed the Protocol on ICZM in the Mediterranean to the Barcelona Convention on behalf of the Community.³⁶

2.3 Overview of the Protocol

The ICZM Protocol is the seventh Protocol in the framework of the Barcelona Convention and it represents a crucial milestone in the history of MAP. It completes the set of Protocols for the Protection of the Marine Environment and the Coastal Mediterranean Region. It will

³³ In his statement welcoming the Council decision, European Environment Commissioner Janez Potočnik said that the adoption of the Council's decision will mean that problems of coastal degradation in the Mediterranean can now be tackled more effectively. He stressed that the EU ratification decision "sends a strong signal of commitment from the EU to the protection and sustainable management of the Mediterranean coast."

³⁴ UNEP(DEPI)/MED IG 20/8 Annex II, Page 7, Decision IG 20/2, Adoption of the Action Plan for the implementation of the ICZM Protocol for the Mediterranean (2012-2019), The 17th Meeting of the Contracting Parties,

<<http://www.pap-theoastcentre.org/razno/Decision%20-%20-%20ICZM%20Action%20Plan.pdf>>

³⁵ Moreover, to complement the efforts by EU coastal Member States and regions to implement the EU ICZM Recommendation, the European Commission launched the OURCOAST initiative. OURCOAST gathers and disseminates case-studies and practical examples of coastal management practice in Europe.

³⁶ Official Journal of the European Union L279/1, II (Non-legislative acts), International Agreements, Council Decision of 13 September 2010, concerning the conclusion, on behalf of the European Union, of the Protocol on Integrated Coastal Zone Management in the Mediterranean to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (2010/631/EU), 23 October 2012.

facilitate the Mediterranean countries to better manage and protect their coastal zones, as well as to deal with the emerging coastal environmental challenges, such as climate change.³⁷

The ICZM Protocol is forward looking and proactive as it aims at preventing and not only reacting to coastal problems. Furthermore, it is comprehensive as it covers all crucial issues for the coastal environment and its protection. It also ensures institutional coordination, coordination of national, regional and local authorities, involvement of non-governmental organizations, and other competent organizations as well as the integrity of sea and land areas.³⁸ It is a unique legal instrument on ICZM in the entire international community and could serve as a model for other regional seas.³⁹

Moreover, it includes various measures and it is the first time the issue of ICZM has been addressed in a legally binding international instrument.⁴⁰ Signatories of the Protocol have obliged themselves to establish a non-construction zone along the coastline of not less than 100 meters in width. The thinking behind the measure is that human activities are the main threat to the Mediterranean's coasts resulting in the degradation of coastal zones and the loss of biodiversity.⁴¹

The Protocol provides for several other measures, including the establishment of a common framework for the integrated management of the Mediterranean coastal zone. Contracting States must also 'endeavour to ensure the sustainable use and management of coastal zones in

³⁷European Union External Action Treaties Office Database ,
<<http://ec.europa.eu/world/agreements/prepareCreateTreatiesWorkspace/treatiesGeneralData.do?step=0&redirect=true&treatyId=7405>>

³⁸ Ibid.

³⁹ Ibid.

⁴⁰Lindsay, David, Malta Independent on Sunday, 'Malta Commits to Halting Construction within 100 metres from Coast,' Sunday, 27 January 2008,
<<http://www.independent.com.mt/articles/2008-01-27/news/malta-commits-to-halting-construction-within-100-metres-from-coast-202756/>>

⁴¹ The Protocol stipulates that signatory countries, 'shall establish in coastal zones, as from the highest winter waterline, a zone where construction is not allowed. Taking into account, inter alia, the areas directly and negatively affected by climate change and natural risks, this zone may not be less than 100 metres in width.' ICZM Protocol Article 8(2)(a).

order to preserve the coastal natural habitats, landscapes, natural resources and ecosystems, in compliance with international and regional legal instruments.’⁴²

Moreover, Paul Mifsud, Coordinator of the UN Environment Program’s MAP of UNEP, who also served as the conference’s Secretary-General, observed that ‘this is a pioneering protocol and it constitutes an added value for the Barcelona Convention and the Mediterranean Action Plan. It is the first time that Integrated Coastal Zone Management is fully addressed by a legally-binding international instrument.’⁴³

The Mediterranean coastal zones continue to experience severe environmental pressure and degradation of coastal resources. The ICZM Protocol provides a framework to stimulate a more concerted and integrated approach, involving public and private stakeholders including civil society and economic operators. Such an inclusive approach, based on best available scientific observation and knowledge, is required to address these problems more effectively and to achieve a more sustainable development of the Mediterranean coastal zones.⁴⁴

⁴²ICZM Protocol Part II, Article 8(1).

⁴³Lindsay, David; Malta Independent on Sunday, ‘Malta Commits to Halting Construction within 100 metres from Coast,’ Sunday, 27 January 2008, <<http://www.independent.com.mt/articles/2008-01-27/news/malta-commits-to-halting-construction-within-100-metres-from-coast-202756/>>

⁴⁴Official Journal of the European Union L279/1, II (*Non-legislative acts*) International Agreements, Council Decision of 13 September 2010, concerning the conclusion, on behalf of the European Union, of the Protocol on Integrated Coastal Zone Management in the Mediterranean to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (2010/631/EU).

3 The Need for Malta to Implement the Protocol

Having a population of more than 400,000, Malta has to be self-sufficient and provide for all the socio-economic needs that a country requires. However, because of its limited size, the Maltese coastline has been extensively made use of, creating competition for space and resources. This has led to a negative impact on coastal zones because of the years of unsustainable development, and which has also led to degradation of habitats found therein.

Coastal zones within the Maltese Islands have been extensively made use of for a variety of reasons, varying from structural development that requires such a location for its operational purposes, such as industries, a power station and ports, to structural development that benefits from a coastal location but does not necessitate such space for its operation, such as hotels, residential and commercial areas.⁴⁵

Furthermore, the Maltese coast possesses exploitable resources⁴⁶ which, unfortunately, have not been made use of in a sustainable manner. The effect of this on the natural resources found in such coastal areas has been neglected as a result of the absence of coastal zone management.⁴⁷

Therefore, the provisions of the ICZM Protocol would be beneficial for Malta because there is the need to protect and manage effectively and efficiently the coastal zones of Malta, as well as to establish a common legal framework with other Mediterranean States as contemplated in the ICZM Protocol, so as to strengthen regional cooperation for this purpose. The need for Malta to implement the Protocol arises with regard to the need to promulgate legislation on the preservation and judicious use of the coastal zone for the benefit and future generations,⁴⁸ as well as due to the increase in anthropic pressure on the coastal zones of the Mediterranean Sea which is threatening their fragile nature.

⁴⁵ Malta Environment and Planning Authority, <<http://www.mepa.org.mt/implementation>>

⁴⁶ Such as mineral extraction.

⁴⁷ Malta Environment and Planning Authority <<http://www.mepa.org.mt/implementation>>

⁴⁸ Preamble to the Protocol

During the period of 2000 to 2002, Malta benefited from funding under the MAP for a Coastal Area Management Program (CAMP) which has the aim of introducing and applying the principles, methodologies and practices of sustainable coastal management in Malta, particularly in the North West area.⁴⁹

It would therefore be in the interest of Malta to try to halt and reverse the process of coastal zone degradation as well as to significantly reduce the loss of biodiversity of coastal ecosystems.

Such legislation is also important because of the threat posed to coastal zones due to climate change, which is likely to result, *inter alia*, in a rise in sea level. Therefore, it would be beneficial for Malta to adopt sustainable measures as established within the Protocol to reduce such negative impact.⁵⁰

It would be suitably added to the Environment and Development Planning Act⁵¹ (the Act) as it will significantly contribute to the subject matter contemplated therein, as although it provides laws on the environment, it does not deal comprehensively with coastal zone management as pertained in the ICZM Protocol. The Act has the aim of protecting '*the environment, to make provision for the planning and management of development and for the establishment of an authority with powers to that effect and for matters connected therewith or ancillary thereto.*' Therefore, the addition of the provisions found in the ICZM Protocol to the Act will contribute to the global protection which the Act is currently providing to the local environment, and will therefore provide it with additional ground on which to further its protection thereof.

Article 8 (2) (b) of the Act stipulates that one of the functions of the Malta Environment and Planning Authority (MEPA) shall be the formulation and implementation of policies relating to the promotion of sustainable development, protection and management of the environment and the sustainable management of natural resources, and on such other matters as may be necessary for the better carrying out of the provisions of the Act. Therefore, with the

⁴⁹ Malta Environment and Planning Authority, <<http://www.mepa.org.mt/iczm>>

⁵⁰ Preamble to the Protocol.

⁵¹ Chapter 504 of the Laws of Malta.

implementation of the ICZM Protocol, MEPA will be granted adequate powers so as to further protect the environment in the area of coastal zone management.

Furthermore, the Act states that MEPA is responsible for the sustainable management of the environment and natural resources and planning,⁵² as well as that it is responsible for the provision of education, training and public awareness programs relating to environmental protection, and the sustainable management of the environment and natural resources.⁵³ Therefore, the ICZM Protocol would be an additional benefit to increase public awareness of ICZM in the Maltese Islands.

The incorporation of the ICZM Protocol into Maltese law would, as mentioned above, increase the coverage of protection that the Act currently provides. In this respect, one may refer to subsidiary legislations to the Act that relate to specific environmental issues.

For example, one may refer to the Subsidiary Legislation 504.73 entitled ‘Flora, Fauna and Natural Habitats Protection Regulations’, the aim thereof being to contribute towards ensuring biodiversity in the territory of the Member States of the European Community through the conservation of natural habitats and of wild fauna and flora in the Maltese Islands.⁵⁴

In another Subsidiary Legislation 504.107 entitled ‘Marine Policy Framework Regulations,’ one finds reference to an assessment which the competent Authority shall make of Malta’s marine waters, and in doing so, shall take into account elements regarding coastal, transitional and territorial waters covered.⁵⁵

Although current Maltese legislation covers most aspects of environment and marine protection, there is the absence of a comprehensive legal framework that incorporates an all

⁵² Environment and Development Planning Act, Article 8(4)(c).

⁵³ Ibid, Article 8(4)(e).

⁵⁴ Article 2(1) of the Flora, Fauna and Natural Habitats Protection Regulations.

⁵⁵ Article 6(1) of the Marine Policy Framework Regulations.

inclusive legal regulation on coastal zone management. The need for Malta, therefore, to implement this Protocol is manifestly clear in order to protect and safeguard the coastal zones to the degree that the ICZM Protocol requires its Members to oblige; this to protect the ICZM in the Mediterranean. Moreover, such procedure of implementing the Protocol into Maltese Law is important as Malta is an island and must do its utmost to protect its coastline.

4 The Procedure for the Implementation of the Protocol into Maltese Law

Malta is already a signatory to the ICZM Protocol and therefore the next step is for Malta to ratify the Protocol through the enactment of a domestic legal instrument. This is done by means of a Legal Notice, which contains a particular number and the year in which it would be published. The Legal Notice must be signed by the Minister responsible, who in this case is the Minister for the Environment. It is then published in the Government Gazette.

After such publication, it will consequently be added to the Laws of Malta appearing as a Subsidiary Legislation under the Environment and Development Planning Act, Chapter 504 of the Laws of Malta.

Such Legal Notice shall be entitled “Environment and Development Planning Act (Integrated Coastal Zone Management) Regulations.”

As already explained, since the Environment and Development Planning Act⁵⁶ deals with the protection of the environment, it would be best for the ICZM Protocol to be implemented therewith since the Protocol and the Act both relate to the protection of the environment. Therefore, the implementation of the Protocol through a Subsidiary Legislation to this Act would be the best way to implement it as it will contribute significantly to the theme contemplated therein, and this is evidenced in what the Act endeavors to achieve, and also, contemplates the duty of every person, as well as of the government, to protect the environment.

⁵⁶ Chapter 504 of the Laws of Malta.

5 Explanation of the Draft Text

As explained earlier, the ICZM Protocol may be implemented through a Legal Notice and henceforth becomes a Subsidiary Legislation under the Environment and Development Planning Act, Chapter 504 of the Laws of Malta.

However, it is worth mentioning that under Maltese law, there exist two different approaches that may be resorted to when implementing a Convention or a Protocol into domestic legislation; both are deemed to be accepted under Maltese law and for that reason the law drafted in terms of both such approaches have hereunder been annexed. Although both approaches aim at implementing the ICZM Protocol, the approach adopted in each is different.

The first approach found in Annex I offers a comprehensive approach as to the implementation of the Protocol since the provisions of the Protocol are fully integrated into the Legal Notice.

The second approach found in Annex II is the implementation of the Protocol through the incorporation of the original text of the Protocol in the Schedule to the regulations. However, the Protocol has been supplemented by further provisions in the regulations that enable the ICZM Protocol to find better application to the Maltese Islands.

Furthermore, having discussed both approaches, it would be highly recommendable for the Maltese Government to implement the Protocol through the use of the first option, found in Annex I, rather than the second, the reason being that the first approach provides for a better framework for the incorporation and implementation of the Protocol into domestic legislation as the provisions have been individually adapted to cater for the Maltese Islands,⁵⁷ whereas in

⁵⁷ One such example is that in the regulations provided in Annex 1, the provision on Coastal forests and woods, which are nonexistent in Malta, has been left out, whereas in the second approach in Annex 2, it is part and parcel of the Protocol and has been excluded by means of an introductory provision in the regulations.

the second, it is the Protocol *per se* which must be referred to in its entirety, with the aid of a few introductory provisions to ensure the Protocol's satisfactory implementation.

The proposed Legal Notices are called "Integrated Coastal Zone Management Regulations" as they aim at protecting the coastal zone of the Maltese Islands.

Within the proposed Legal Notices, there is no contents page, as this is not usually done under Maltese law. Moreover, the first draft law in Annex I is divided into 'Parts' with a sub-heading for each part to provide an indication of what is going to be dealt within each section respectively. In the case of the second draft law in Annex 2, the Protocol itself is divided into Parts.

With regard to the definitions, in the first draft regulations in Annex I, most of the definitions found therein are taken from the Protocol itself. However, certain definitions were left out and others were added as was appropriate for an integral approach for the implementation of the Protocol. However, with regard to the second draft regulations, found in Annex II, the definitions are found in the Protocol scheduled to the regulations, and a few definitions have been added to the regulations as in the case of the first regulations.

Moreover, MEPA has been identified as the competent authority to carry out the functions set out in the main Act under which these proposed Legal Notices fall under; such Authority has also been given the responsibility of fulfilling most of the provisions in the proposed Legal Notices.

To assist MEPA with such responsibilities, there has been the creation of a completely new Directorate under the proposed Legal Notices. The purpose for such Directorate is to further implement the provisions of the proposed Legal Notices as a specific body, equipped with the knowledge and hands-on experience and competence. The Directorate will be composed of a Director and between six to eight other Members. These will be chosen from specific categories as mentioned in the proposed Legal Notices. The Directorate's main function is to carry out any responsibilities that are related to ICZM that may be delegated to it by MEPA.

Complementary to the body of the Directorate is the establishment of the office of the Chief Executive Officer. Such office has the main function of overseeing the work of the Directorate.

Furthermore, since the ICZM Protocol does not refer directly to penalties, in the proposed Legal Notices a section has been specifically included to address enforcement, identifying offences and penalties. This contemplates the many and varied circumstances of infringement and contravention of the law, and the penalties thereto. Worth noting is that the penalties carried in the proposed Legal Notices correspond with penalties found in other laws such as the Flora, Fauna and Natural Habitats Protection Regulations previously referred to.⁵⁸ Therefore, the penalties provided in the proposed Legal Notices cannot be deemed excessive since they are consistent with current Maltese Law enforcement.

The proposed Legal Notice in Annex I also incorporates under Part X '*Other Provisions*' a section dealing with situations where the provisions would not be applicable. This section includes defense and national security as found in Article 4 of the ICZM Protocol, as well as the inclusion of public safety and health, salvage operations and the investigations of offences. In the second draft in Annex II, there is also the reference to the non-applicability of the Protocol with regard to issues of public safety and health, salvage operations and the investigations of offences, whereas defense and national security are incorporated in the Protocol, which is scheduled to the regulations.

Furthermore, Article 4 of the Protocol entitled '*Preservation of rights*' was incorporated into the proposed Legal Notice in Annex I under Part X, as it was considered that it would be better placed under this section. This is because Article 4 refers to the rights and claims relating to the Law of the Sea, and no act or activity undertaken on the basis of the proposed Legal Notice shall constitute grounds for claiming, contending or disputing any claim to national sovereignty or jurisdiction. In this regard, with reference to Annex II, such article is found in the Protocol itself, scheduled to the regulations.

⁵⁸ Subsidiary Legislation 504.73.

In the Protocol, Article 10 (3) entitled '*Coastal forests and woods*' makes provision for the parties to adopt measures intended to preserve or develop coastal forests and woods located, in particular, outside specially protected areas. However, such provision was omitted from the proposed Legal Notice in Annex I and rendered non-applicable in Annex II since Malta does not have any coastal forests and coastal woods.

Moreover, Article 33 of the Protocol entitled '*Meetings of the parties*' was not included in the proposed Legal Notice, since such Article is not deemed relevant for Maltese domestic purposes. This Article refers to the ordinary meetings to be held between the parties to the Protocol, which shall be held in conjunction with the meetings of the Contracting Parties to the Barcelona Convention. Such Article also sets out the functions of the meetings. In this regard, Articles 34-40 have also been omitted from the regulations in Annex I as they do not relate to the implementation of the Protocol *per se*. Moreover, the same articles have been rendered non-applicable in the regulations found in Annex II for the same reason.

PART 2

DRAFT OF MALTESE LEGISLATION

Annex I

Integrated Coastal Zone Management Regulations – Model 1

SUBSIDIARY LEGISLATION 504.00

Integrated Coastal Zone Management Regulations

21st April 2013

LEGAL NOTICE 000 OF 2013

PART I General Provisions

1. The title of these regulations is the Integrated Coastal Zone Management Regulations. Citation
2. For the purpose of these regulations and unless the context otherwise requires: Interpretation

‘the Authority’ means the Malta Environment and Planning Authority established under Article 6 of Chapter 504 of the Laws of Malta and includes any body or other person acting on its behalf under powers delegated by the Authority under these regulations, and the Minister may, by order in the Gazette, designate different bodies or persons as a competent authority for different provisions and different purposes of these regulations;

‘Centre’ means the Priority Actions Programme Regional Activity Centre;

‘coastal zone’ means the geomorphologic area either side of the seashore in which the interaction between the marine and land parts occurs in the form of complex ecological and resource systems made up of biotic and abiotic components coexisting and interacting with human communities and relevant socioeconomic activities;

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

“Directorate” means the Integrated Coastal Zone Management Directorate as established under Article 7 of these regulations;

‘integrated coastal zone management’ means a dynamic process for the sustainable management and use of coastal zones, taking into account at the same time the fragility of coastal ecosystems and landscapes, the diversity of activities and uses, their interactions, the maritime orientation of certain activities and uses and their impact on both the marine and land parts.

‘local council’ means a local council established under the Local Councils Act;

‘Minister’ means the Minister responsible for the environment;

‘Organisation’ means the United Nations Environment Programme;

‘Protocol’ means the Protocol on Integrated Coastal Zone Management on the Mediterranean of the Barcelona Convention;

‘small islands’ means Comino, Cominetto, the General’s Rock and Filfla.

3. (1) The aim of these regulations is to establish a common framework for the integrated management of the Mediterranean coastal zone. **Scope**

(2) Measures taken pursuant to these regulations shall be designed to increase anthropic pressure on the coastal zones of the Mediterranean Sea which is threatening their fragile nature and halt and reverse the process of coastal zone degradation and of significantly reducing the loss of biodiversity of coastal ecosystems.

(3) These regulations establish the provisions required for the implementation in Malta of the Protocol.

4. (1) (a) These regulations shall apply to the Mediterranean Sea area as defined in Article 1 of the Convention. **Geographical Coverage**

(b) The area is also defined by:

(i) the seaward limit of the coastal zone, which shall be the external limit of the territorial sea of Parties; and

(ii) the landward limit of the coastal zone, which shall be the limit of the competent coastal units as defined by the

Parties.

PART II
Administration

5. The Authority shall be responsible for the administration and implementation of these regulations. Administration

6. (1) The Authority shall appoint a Chief Executive Officer with the approval of the Minister. Such appointment shall be for a period of three years which may be extended for further periods of three years each. Chief Executive Officer

(2) The Chief Executive Officer shall be responsible for the implementation of the objectives of the Authority in the exercise of its functions and without prejudice to the generality of the foregoing shall:

(a) assume full responsibility for the overall supervision and control of the Directorate;

(b) with the approval of the Authority, assign to the Directorate such duties which are by, or in accordance with, the provisions of these regulations vested in such Directorate;

(c) co-ordinate the workings of the Directorate with any local council, the Organisation or the Centre;

(d) develop the necessary strategies for the implementation of the objectives of the Authority;

(e) advise the Authority on any matter it may refer to him or on any matter on which he considers his advice necessary or expedient; and

(f) carry out such other functions and duties as the Authority may assign to him from time to time.

(3) The Chief Executive Officer may be dismissed by the Authority at any time for a just cause and it shall be a just cause if the Authority determines that he has not achieved the targets and objectives set for him by the Authority.

7. (1) There is hereby established a Directorate of the Authority for the protection of integrated coastal zone management, to be known as the Integrated Coastal Zone Management Directorate, hereinafter referred to as 'the Directorate' which shall consist of not less than seven and not more than nine Members. The Directorate
- (2) The Directorate shall have the responsibility of integrated coastal zone management protection in the Maltese Islands, and anything that related to or is ancillary thereto.
- (3) The Authority shall in writing vest in the Directorate established under sub-article (1) such of its functions as relate or are ancillary to the matters for which it is responsible as will enable the Directorate to give effect to the strategies, policies and directives of the Authority and to otherwise discharge effectively and efficiently the functions of the Authority in their respective areas of operation.
- (4) The Directorate shall be subject to the overall supervision and control of the Authority.
- (5) The Directorate established under sub-article (1) shall be headed by a Director who is to have adequate experience or knowledge in the respective area of operation who shall either be a public officer detailed for duty with the Authority or any employee of the Authority, or a person detailed to work for the Authority in accordance with an agreement made between the Authority and a public or private undertaking.
- (6) Such Director shall be appointed by the Authority with the approval of the Minister for a period of three years which may be extended for further periods of three years each.
- (7) Where in these regulations anything is to be done by or against or with respect to the Authority, or any notice is to be or may be given to the Authority, any such thing or notice may also be done by or against or with respect to or be given to the Directorate under whose jurisdiction the matter falls by reason of a delegation of function to such Directorate; and for the purposes aforesaid any reference in these regulations to the Authority

includes a reference to the appropriate Directorate.

(8) Save as hereinafter provided, the Members of the Directorate shall be appointed by the Prime Minister, after consulting with the Authority, as follows:

(a) not more than three public officers representing the Government being persons who have experience or qualifications in matters concerning any of the following: coastal planning, the marine environment, coastal zone management, the infrastructure, social policy in so far as it relates to land use, economic affairs, agriculture, tourism and transport;

(b) not more than three Members shall be chosen from amongst persons of known integrity and with knowledge of and experience in at least three of the following:

- i. commerce, economy and industry;
- ii. cultural heritage;
- iii. environment, pollution, development, social and community affairs.
- iv. coastal zone management and sustainable development
- v. biology and, or physics
- vi. climate change
- vii. law

(c) not more one Member representing local councils in the Maltese Islands;

(d) not more than one Member representing environmental voluntary organisations sector and, or civil society;

Provided that the Directorate shall be properly constituted and may function notwithstanding any failure to appoint either or both Members of the Directorate under sub-article (c) or (d).

8. (1) No person shall be qualified to be appointed as, or remain, a Director or a Member of the Directorate if he:

(a) is a public officer:

Provided that the Director shall not be considered as a public officer for the purposes of this sub-article;

(b) is a Minister, Parliamentary Secretary or a Member of the House of Representatives, or of the European Parliament;

(c) is a Judge or Magistrate of the Courts of Justice; or

(d) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of his functions as a Member of the Directorate:

Provided that the Minister may determine that the person's interest is not likely to affect the discharge of his functions and upon such determination that person shall be qualified to hold the office of Member of the Directorate provided that the declared interest and the Minister's determination are published in the Gazette; or

(e) is interdicted or incapacitated; or

(f) is convicted of an offence affecting public trust, or of theft or fraud, or of knowingly receiving property obtained by theft or fraud or of bribery or of money laundering; or

(g) is subject to disqualification under Article 320 of the Companies Act.

(2) The Members shall hold office for such period, being not less than three years, as may be specified in the letter appointing them and if no such period is specified shall remain in office for three years. In determining such period of office the Prime Minister shall, as far as practicable, ensure a measure of rotation.

(3) Without prejudice to the provisions of sub-article (4), the Members may resign by letter addressed to the Prime Minister but may not be removed from office except by a resolution of the House of Representatives on the ground of misconduct or inability to perform the duties of their office.

(4) The other Members of the Directorate shall hold office until they are replaced by the Prime Minister, and as long as they remain public officers or Members of the House, as the case may require. Members of the House may also resign from office by letter addressed to the authority appointing them.

(5) A person who has ceased to be a Member of the Authority shall, if he is otherwise qualified, be eligible for reappointment; but no person shall in the aggregate be a Member of the Authority for more than seven consecutive years.

(6) The Directorate shall transmit a copy of the agenda, minutes and relative enclosures of its meetings to the Authority for its information.

9. The Directorate may with the approval of the Authority appoint advisory boards and committees to assist it in the performance of its functions. The functions of the said boards and committees shall be prescribed by the Directorate with the approval of the Authority. Advisory boards and Committees

10. (1) Subject to retaining overall control and supervision, and otherwise observing the provisions of these regulations, the Authority may, with the approval of the Minister, delegate any one or more of its functions under these regulations under such conditions as it may deem appropriate. In particular, but without prejudice to the generality of the foregoing, the Authority may delegate as aforesaid to, or exercise concurrently with, the Commissioner of Police, or any local council, or any other body, authority or contractor. Notice of any such delegation shall be published in the Gazette. Power to delegate

(2) In the execution of its functions under these regulations, the Authority shall consult with the Minister, and it shall have and may exercise all or any one or more of the powers vested in it or entrusted to it by these regulations.

(3) The Authority may also exercise all powers of control over the environment and development as may from time to time be delegated to it in writing by the Minister on behalf of any department or agency of Government.

(4) It shall be the Minister's function to ensure that the Authority is fully informed of Government's strategic directions relative to development, and to monitor the proper execution of such

policies.

(5) The Authority shall execute its duties, functions and responsibilities in accordance with Government's strategic directions relating to development and the environment as well as such policies relating to the environment as is applicable to Malta.

(6) In the pursuance of its functions under these regulations, the Directorate shall, as far as possible, make reference to European best practices and emulate them.

(7) The Directorate shall also ensure that it keeps an audit trail of all its files, including all documentation and reports.

PART III General Principles

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|---|---|
| <p>11. The objectives of integrated coastal zone management are to:</p> <ul style="list-style-type: none">(a) facilitate, through the rational planning of activities, the sustainable development of coastal zones by ensuring that the environment and landscapes are taken into account in harmony with economic, social and cultural development;(b) preserve coastal zones for the benefit of current and future generations;(c) ensure the sustainable use of natural resources, particularly with regard to water use;(d) ensure preservation of the integrity of coastal ecosystems, landscapes and geomorphology;(e) prevent and/or reduce the effects of natural hazards and in particular of climate change, which can be induced by natural or human activities;(f) achieve coherence between public and private initiatives and between all decisions by the public authorities, at the national, regional and local levels, which affect the use of the coastal zone. | <p>Objectives of integrated coastal zone management</p> |
| <p>12. (1) In implementing these regulations, the Authority shall be guided by the following principles of integrated coastal zone</p> | <p>General Principles of</p> |

management:

Integrated
Coastal Zone
Management

- (a) the biological wealth and the natural dynamics and functioning of the intertidal area and the complementary and interdependent nature of the marine part and the land part forming a single entity shall be taken particularly into account;
- (b) all elements relating to hydrological, geomorphological, climatic, ecological, socioeconomic and cultural systems shall be taken into account in an integrated manner, so as not to exceed the carrying capacity of the coastal zone and to prevent the negative effects of natural disasters and of development;
- (c) the ecosystems approach to coastal planning and management shall be applied so as to ensure the sustainable development of coastal zones;
- (d) appropriate governance allowing adequate and timely participation in a transparent decision-making process by local populations and stakeholders in civil society concerned with coastal zones shall be ensured;
- (e) cross-sectorally organised institutional coordination of the various administrative services and regional and local authorities competent in coastal zones shall be required;
- (f) the formulation of land use strategies, plans and programmes covering urban development and socioeconomic activities, as well as other relevant sectoral policies, shall be required;
- (g) the multiplicity and diversity of activities in coastal zones shall be taken into account, and priority shall be given, where necessary, to public services and activities requiring, in terms of use and location, the immediate proximity of the sea;
- (h) the allocation of uses throughout the entire coastal zone should be balanced, and unnecessary concentration and urban sprawl should be avoided;
- (i) preliminary assessments shall be made of the risks

associated with the various human activities and infrastructure so as to prevent and reduce their negative impact on coastal zones;

(j) damage to the coastal environment shall be prevented and, where it occurs, appropriate restoration shall be effected.

(2) For the purposes of integrated coastal zone management, the Authority shall: Coordination

(a) ensure institutional coordination, where necessary through appropriate mechanisms, in order to avoid sectoral approaches and facilitate comprehensive approaches;

(b) organise appropriate coordination between the various authorities competent for both the marine and the land parts of coastal zones in the different administrative services, at the national, regional and local levels;

(c) organise close coordination between national authorities and local councils in the field of coastal strategies, plans and programmes and in relation to the various authorisations for activities that may be achieved through joint consultative bodies or joint decision-making procedures.

(3) Competent national and local coastal zone authorities shall, insofar as practicable, work together to strengthen the coherence and effectiveness of the coastal strategies, plans and programmes established.

PART IV

Protection and Sustainable Use of the Coastal Zone

13. (1) In conformity with the objectives and principles set out in Articles 11 and 12 of these regulations, the Authority shall endeavour to ensure the sustainable use and management of coastal zones in order to preserve the coastal natural habitats, landscapes, natural resources and ecosystems, in compliance with international and regional legal instruments. Protection and Sustainable use of the coastal zone

(2) For this purpose, the Authority:

(a) shall establish in coastal zones, as from the highest winter waterline, a zone where construction is not allowed.

Taking into account, inter alia, the areas directly and negatively affected by climate change and natural risks, this zone may not be less than 100 meters in width, subject to the provisions of subparagraph (b) below. Stricter national measures determining this width shall continue to apply;

(b) may adapt, in a manner consistent with the objectives and principles of these regulations, the provisions mentioned above:

(i) for projects of public interest,

(ii) in areas having particular geographical or other local constraints, especially related to population density or social needs, where individual housing, urbanization or development are provided for by national legal instruments;

(c) shall notify to the Organisation their national legal instruments providing for the above adaptations.

(3) The Authority shall abide by specific criteria for establishing the sustainable use of the coastal zone. Such criteria, taking into account specific local conditions, shall include the following:

(a) identifying and delimiting, outside protected areas, open areas in which urban development and other activities are restricted or, where necessary, prohibited;

(b) limiting the linear extension of urban development and the creation of new transport infrastructure along the coast;

(c) ensuring that environmental concerns are integrated into the rules for the management and use of the public maritime domain;

(d) providing for freedom of access by the public to the sea and along the shore;

(e) restricting or, where necessary, prohibiting the movement and parking of land vehicles, as well as the movement and anchoring of marine vessels, in fragile natural areas on land or at sea, including beaches and dunes.

14. (1) In conformity with the objectives and principles set forth in Articles 11 and 12 of these regulations, and taking into account the relevant provisions of the Barcelona Convention and its Protocols, for ensuring sustainable use of the coastal zone from economic activities, the Authority shall:

Economic
Activities

(a) accord specific attention to economic activities that require immediate proximity to the sea;

(b) ensure that the various economic activities minimise the use of natural resources and take into account the needs of future generations;

(c) ensure respect for integrated water resources management and environmentally sound waste management;

(d) ensure that the coastal and maritime economy is adapted to the fragile nature of coastal zones and that resources of the sea are protected from pollution;

(e) define indicators of the development of economic activities to ensure sustainable use of coastal zones and reduce pressures that exceed their carrying capacity;

(f) promote codes of good practice among public authorities, economic actors and non-governmental organisations.

2. In addition, with regard to the following economic activities, the Authority shall:

(a) guarantee a high level of protection of the environment in the location and operation of agricultural and industrial activities so as to preserve coastal ecosystems and landscapes and prevent pollution of the sea, water, air and soil;

(b) take into account the need to protect fishing areas in development projects and ensure that fishing practices are compatible with sustainable use of natural marine resources;

(c) take into account the need to protect aquaculture and shellfish areas in development projects and regulate aquaculture by controlling the use of inputs and waste

treatment;

(d) encourage sustainable coastal tourism that preserves coastal ecosystems, natural resources, cultural heritage and landscapes, promote specific forms of coastal tourism, including cultural, rural and ecotourism, while respecting the traditions of local populations and regulate or, where necessary, prohibit the practice of various sporting and recreational activities, including recreational fishing and shellfish extraction;

(e) utilisation of specific natural resources:

(i) subject to prior authorisation the excavation and extraction of minerals, including the use of seawater in desalination plants and stone exploitation;

(ii) to regulate the extraction of sand, including on the seabed and river sediments or prohibit it where it is likely to adversely affect the equilibrium of coastal ecosystems;

(iii) to monitor coastal aquifers and dynamic areas of contact or interface between fresh and salt water, which may be adversely affected by the extraction of underground water or by discharges into the natural environment;

(f) Infrastructure, energy facilities, ports and maritime works and structures to subject such infrastructure, facilities, works and structures to authorisation so that their negative impact on coastal ecosystems, landscapes and geomorphology is minimized or, where appropriate, compensated by non-financial measures;

(g) conduct maritime activities in such a manner as to ensure the preservation of coastal ecosystems in conformity with the rules, standards and procedures of the relevant international conventions.

15. (1) The Authority shall take measures to protect the characteristics of certain specific coastal ecosystems. Specific coastal ecosystems

(2) The Authority shall, in addition to the creation of protected

areas and with a view to preventing the disappearance of wetlands and estuaries:

- (a) take into account in national coastal strategies and coastal plans and programmes and when issuing authorisations, the environmental, economic and social function of wetlands and estuaries;
- (b) take the necessary measures to regulate or, if necessary, prohibit activities that may have adverse effects on wetlands and estuaries;
- (c) undertake, to the extent possible, the restoration of degraded coastal wetlands with a view to reactivating their positive role in coastal environmental processes.

(3) The Authority, recognising the need to protect marine areas hosting habitats and species of high conservation value, irrespective of their classification as protected areas, shall:

- (a) adopt measures to ensure the protection and conservation, through legislation, planning and management of marine and coastal areas, in particular of those hosting habitats and species of high conservation value;
- (b) undertake to promote regional and international cooperation for the implementation of common programmes on the protection of marine habitats.

(4) The Authority shall preserve and, where possible, rehabilitate in a sustainable manner dunes and bars.

16. (1) The Authority, recognising the specific aesthetic, natural and cultural value of coastal landscapes, irrespective of their classification as protected areas, shall adopt measures to ensure the protection of coastal landscapes through legislation, planning and management. Coastal landscapes

(2) The Authority shall undertake to promote national and international cooperation in the field of landscape protection.

17. The Authority shall undertake to accord special protection to the small islands and for this purpose to: Islands

- (a) promote environmentally friendly activities in such areas

and take special measures to ensure the participation of the inhabitants in the protection of coastal ecosystems based on their local customs and knowledge, where applicable;

(b) take into account the specific characteristics of the island environment and the necessity to ensure interaction among islands in national coastal strategies, plans and programmes and management instruments, particularly in the fields of transport, tourism, fishing, waste and water, where applicable.

18. (1) The Authority shall adopt all appropriate measures to preserve and protect the cultural, in particular archaeological and historical, heritage of coastal zones, including the underwater cultural heritage, in conformity with the applicable national and international instruments. Cultural heritage

(2) The Authority shall ensure that the preservation in situ of the cultural heritage of coastal zones is considered as the first option before any intervention directed at this heritage.

(3) The Authority shall ensure in particular that elements of the underwater cultural heritage of coastal zones removed from the marine environment are conserved and managed in a manner safeguarding their long-term preservation and are not traded, sold, bought or bartered as commercial goods.

19. (1) The Authority shall take the necessary measures to ensure the appropriate involvement in the phases of the formulation and implementation of coastal and marine strategies, plans and programmes or projects, as well as the issuing of the various authorisations, of the various stakeholders with a view to ensuring efficient governance throughout the process of the integrated management of coastal zones. Participation

(2) The various stakeholders shall include:

- (i) the territorial communities and public entities concerned,
- (ii) economic operators,
- (iii) non-governmental organisations,
- (iv) social actors,
- (v) the public concerned.

Provided that such participation shall involve, inter alia, consultative bodies, inquiries or public hearings, and may extend to partnerships.

(3) The Authority shall provide information in an adequate, timely and effective manner so as to ensure such participation.

(4) Mediation or conciliation procedures and a right of administrative or legal recourse should be available to any stakeholder challenging decisions, acts or omissions, subject to the participation provisions established by the Authority with respect to plans, programmes or projects concerning the coastal zone.

- 20.** (1) The Authority shall carry out at the national level, as well as at the local level in collaboration with local councils, awareness-raising activities on integrated coastal zone management and develop educational programmes, training and public education on this subject. Awareness-Raising, Training, Education And Research

(2) The Authority shall organise, directly, multilaterally or bilaterally, or with the assistance of the Organisation or the Centre educational programmes, training and public education on integrated management of coastal zones with a view to ensuring their sustainable development.

(3) The Authority shall provide for interdisciplinary scientific research on integrated coastal zone management and on the interaction between activities and their impacts on coastal zones.

(4) For this purpose, there shall be established a specialized research centre, the purpose of which is to further knowledge of integrated coastal zone management, to contribute to public information and to facilitate public and private decision-making.

PART V

Instruments for Integrated Coastal Zone Management

- 21.** (1) The Authority shall use and strengthen existing appropriate mechanisms for monitoring and observation, or create new ones if necessary. It shall also prepare and regularly update national inventories of coastal zones which should cover information on resources and activities, as well as on institutions, legislation and Monitoring and observation mechanisms and networks.

planning that may influence coastal zones.

(2) In order to promote exchange of scientific experience, data and good practices, the Authority shall participate, at the appropriate administrative and scientific level, in a Mediterranean coastal zone network, in cooperation with the Organisation.

(3) With a view to facilitating the regular observation of the state and evolution of coastal zones, the Authority shall set out an agreed reference format and process to collect appropriate data in national inventories.

(4) The Authority shall take all necessary means to ensure public access to the information derived from monitoring and observation mechanisms and networks.

22. The Authority shall undertake to cooperate for the promotion of sustainable development and integrated management of coastal zones, taking into account the Mediterranean Strategy for Sustainable Development and complementing it where necessary. To this end, the Authority shall define, with the assistance of the Centre, a common national framework for integrated coastal zone management in the Mediterranean to be implemented by means of appropriate regional action plans and other operational instruments, as well as through their national strategies. Strategy for integrated coastal zone management

23. (1) The Authority shall further strengthen or formulate a national strategy for integrated coastal zone management and coastal implementation plans and programmes in conformity with the integrated management objectives and principles of this Act and shall inform the Organisation about the coordination mechanism in place for this strategy. National coastal strategies, plans and programmes.

(2) The national strategy, based on an analysis of the existing situation, shall set objectives, determine priorities with an indication of the reasons, identify coastal ecosystems needing management, as well as all relevant actors and processes, enumerate the measures to be taken and their cost as well as the institutional instruments and legal and financial means available, and set an implementation schedule.

(3) Coastal plans and programmes, which may be self standing or

integrated in other plans and programmes, shall specify the orientations of the national strategy and implement it at an appropriate territorial level, determining, inter alia, and where appropriate, the carrying capacities and conditions for the allocation and use of the respective marine and land parts of coastal zones.

(4) The Authority shall also define appropriate indicators in order to evaluate the effectiveness of integrated coastal zone management strategies, plans and programmes, as well as the progress of implementation of these regulations.

- 24.** (1) Taking into account the fragility of coastal zones, the Authority shall ensure that the process and related studies of environmental impact assessment for public and private projects likely to have significant environmental effects on the coastal zones, and in particular on their ecosystems, take into consideration the specific sensitivity of the environment and the interrelationships between the marine and terrestrial parts of the coastal zone. Environmental assessment
- (2) In accordance with the same criteria, the Authority shall formulate, as appropriate, a strategic environmental assessment of plans and programmes affecting the coastal zone.
- (3) The environmental assessments should take into consideration the cumulative impacts on the coastal zones, paying due attention, inter alia, to their carrying capacities.
- 25.** (1) For the purpose of promoting integrated coastal zone management, reducing economic pressures, maintaining open areas and allowing public access to the sea and along the shore, the Authority shall adopt appropriate land policy instruments and measures, including the process of planning. Land policy
- (2) To this end, and in order to ensure the sustainable management of public and private land of the coastal zones, the Authority may, inter alia, adopt mechanisms for the acquisition, cession, donation or transfer of land to the public domain and institute easements on properties.
- 26.** For the implementation of national coastal strategies and coastal plans and programmes, the Authority may take appropriate Economic, financial and

measures to adopt relevant economic, financial and/or fiscal instruments intended to support local, regional and national initiatives for the integrated management of coastal zones. fiscal instruments

PART VI
Risks Affecting the Coastal Zone

- 27.** Within the framework of national strategies for integrated coastal zone management, the Authority shall develop policies for the prevention of natural hazards. To this end, they shall undertake vulnerability and hazard assessments of coastal zones and take prevention, mitigation and adaptation measures to address the effects of natural disasters, in particular of climate change. National hazards
- 28.** (1) In conformity with the objectives and principles set out in Articles 11 and 12 of these regulations, the Authority, with a view to preventing and mitigating the negative impact of coastal erosion more effectively, shall undertake to adopt the necessary measures to maintain or restore the natural capacity of the coast to adapt to changes, including those caused by the rise in sea levels. Coastal erosion
- (2) The Authority, when considering new activities and works located in the coastal zone including marine structures and coastal defence works, shall take particular account of their negative effects on coastal erosion and the direct and indirect costs that may result. In respect of existing activities and structures, the Authority shall adopt measures to minimize their effects on coastal erosion.
- (3) The Authority shall endeavor to anticipate the impacts of coastal erosion through the integrated management of activities, including adoption of special measures for coastal sediments and coastal works.
- (4) The Authority shall also undertake to share scientific data that may improve knowledge on the state, development and impacts of coastal erosion.
- 29.** (1) The Authority shall promote international cooperation to respond to natural disasters, and to take all necessary measures to Response to natural

address in a timely manner their effects.

disasters

(2) The Authority shall coordinate use of the equipment for detection, warning and communication at its disposal, making use of existing mechanisms and initiatives, to ensure the transmission as rapidly as possible of urgent information concerning major natural disasters. The Authority shall notify the Organisation which national authorities are competent to issue and receive such information in the context of relevant international mechanisms.

(3) The Parties undertake to promote mutual cooperation and cooperation among national, regional and local authorities, non-governmental organisations and other competent organisations for the provision on an urgent basis of humanitarian assistance in response to natural disasters affecting the coastal zones of the Mediterranean Sea.

PART VII

International Cooperation

- 30.** (1) The Authority shall undertake, directly or with the assistance of the Organisation or the competent international organisations, to cooperate in the training of scientific, technical and administrative personnel in the field of integrated coastal zone management, particularly with a view to:
- (a) identifying and strengthening capacities;
 - (b) developing scientific and technical research;
 - (c) promoting centres specialised in integrated coastal zone management;
 - (d) promoting training programmes for local professionals.
- (2) The Authority shall undertake, directly or with the assistance of the Organisation or the competent international organisations, to promote scientific and technical research into integrated coastal zone management, particularly through the exchange of scientific and technical information and the coordination of its research programmes on themes of common interest.
- 31.** For the purposes of integrated coastal zone management, the Authority shall, directly or with the assistance of the Organisation or the competent international organisations, cooperate for the provision of scientific and technical assistance,

Training and research

Scientific and technical assistance

including access to environmentally sound technologies and their transfer, and other possible forms of assistance, to Parties requiring such assistance.

- 32.** (1) The Authority shall also cooperate in the exchange of information on the use of the best environmental practices, directly or with the assistance of the Organisation or the competent international organisations. Exchange of information and activities of common interest
- (2) With the support of the Organisation, the Authority shall in particular:
- (a) define coastal management indicators, taking into account existing ones, and cooperate in the use of such indicators;
 - (b) establish and maintain up-to-date assessments of the use and management of coastal zones;
 - (c) carry out activities of common interest, such as demonstration projects of integrated coastal zone management.
- 33.** The Authority shall endeavour, directly or with the assistance of the Organisation or the competent international organisations, bilaterally or multilaterally, to coordinate, where appropriate, its national coastal strategies, plans and programmes related to contiguous coastal zones. Transboundary cooperation
- 34.** (1) Within the framework of these regulations, the Authority shall, before authorising or approving plans, programmes and projects that are likely to have a significant adverse effect on the coastal zones of other States, cooperate by means of notification, exchange of information and consultation in assessing the environmental impacts of such plans, programmes and projects, taking into account Article 24 of these regulations and Article 4(3)(d) of the Convention. Transboundary environmental assessment
- (2) To this end, the Authority undertakes to cooperate in the formulation and adoption of appropriate guidelines for the determination of procedures for notification, exchange of information and consultation at all stages of the process.

(3) The Authority may, where appropriate, enter into bilateral or multilateral agreements for the effective implementation of this Article.

PART VIII Institutional Provisions

- 35.** The Authority shall designate a Focal Point to serve as liaison with the Centre on the technical and scientific aspects of the implementation of these regulations and to disseminate information at the national and local level. Focal point
- 36.** The Authority shall submit to the ordinary meetings of the Contracting Parties of the Protocol, reports on the implementation of these regulations, in such form and at such intervals as these Meetings may determine, including the measures taken, their effectiveness and the problems encountered in their implementation. Reports
- 37.** (1) The Organisation shall be responsible for coordinating the implementation of the Protocol. For this purpose, it shall receive the support of the Centre, to which it may entrust the following functions: Institutional coordination
- (a) to assist the Parties to define a common regional framework for integrated coastal zone management in the Mediterranean;
 - (b) to prepare a regular report on the state and development of integrated coastal zone management in the Mediterranean Sea with a view to facilitating implementation of the Protocol;
 - (c) to exchange information and carry out activities of common interest;
 - (d) upon request, to assist the Parties:
 - (i) to participate in a Mediterranean coastal zone network,
 - (ii) to prepare and implement their national strategies for integrated coastal zone management,
 - (iii) to cooperate in training activities and in scientific and technical research programmes,

(iv) to coordinate, when appropriate, the management of transboundary coastal zones;

(e) to organise the meetings of the Focal Points;

(f) to carry out any other function assigned to it by the Parties.

2. For the purposes of implementing these regulations, the Authority, the Organisation and the Centre may jointly establish cooperation with non-governmental organisations the activities of which are related to the Protocol.

Part IX

Offences and Penalties

38. (1) Any person -

Offences

(a) who fails to observe the provisions of these regulations or of any other lawful order given by virtue of any provision of these regulations, or

(b) who infringes any restriction, prohibition or need imposed by these regulations or by virtue thereof, or

(c) who acts in contravention of any provision of these regulations, or

(d) who makes a statement or presents information or documentation, which such person knows to be false for the purpose of obtaining the approval of a permit or derogation, or

(e) who conspires or attempts to conspire, aids or attempts to aid, abets or attempts to abet, counsels or attempts to counsel, procures or attempts to procure any other person to contravene the provisions of these regulations, or to fail from complying with any one of these provisions, including any lawful order given by virtue of any provision of these regulations, or to infringe any restriction, prohibition or need imposed by these regulations or by virtue thereof, shall be guilty of an offence against these regulations.

(2) Any person who commits, or attempts to commit an offence

against these regulations shall, on conviction, be liable:

(a) in the case of a first offence, a fine of not less than four hundred and sixty-five euro and eighty-seven cents (€465.87), but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37);

(b) in the case of a second or subsequent offence, a fine of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69), but not exceeding four thousand and six hundred and fifty-eight euro and seventy-five cents (€4,658.75), or imprisonment for a period not exceeding two years, or both such fine and imprisonment:

Provided that any such fines do not together exceed the limits imposed by the Act.

(3) The Court shall order the offender to remove the causes of the offence and to undo anything which was done without a permit within a time sufficient for the purpose, but in any case not exceeding three months from the date of judgement, to be fixed by the Court; and, if the offender fails to comply with any such order within the time so fixed, he shall be liable to a fine of not less than fifty-eight euro and twenty-three cents (€58.23) and not more than one hundred and sixteen euro and forty-seven cents (€116.47), as the Court may fix, for every day that the default continues after the expiration of the said time.

(4) Any person who has been found guilty of committing an offence against these regulations shall also pay for the expenses incurred for remedying the damage caused by the said infringement, and for any other expense incurred or mitigation measures required to remedy such doings, damage and infringement.

(5) The provisions of Article 23 and 30(1) of the Criminal Code shall, *mutatis mutandis*, apply to proceedings in respect of offences against these regulations.

(6) Notwithstanding the provisions of Article 370 of the Criminal Code, proceedings for an offence against these regulations shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in

accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

(7) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), in respect of proceedings for any offence against these regulations.

PART X
Other Provisions

- 39.** The provisions of these regulations shall not apply in cases of:
- (a) defence and national security,
 - (b) public safety and health,
 - (c) salvage operations and
 - (d) the investigation of offences.
- Non-
Applicability of
these
Provisions
- 40.** (1) Nothing in these regulations shall prejudice the rights, the present and future claims or legal views relating to the Law of the Sea, in particular the nature and the extent of marine areas, the delimitation of marine areas between States with opposite or adjacent coasts, the right and modalities of passage through straits used for international navigation and the right of innocent passage in territorial seas, as well as the nature and extent of the jurisdiction of the coastal State, the flag State or the port State.
- (2) No act or activity undertaken on the basis of these regulations shall constitute grounds for claiming, contending or disputing any claim to national sovereignty or jurisdiction.
- (3) The provisions of these regulations shall be without prejudice to stricter provisions respecting the protection and management of the coastal zone contained in other existing or future national or international instruments or programmes.

Annex II

Integrated Coastal Zone Management Regulations – Model 2

SUBSIDIARY LEGISLATION 504.00

Integrated Coastal Zone Management Regulations

21st April 2013

LEGAL NOTICE 000 OF 2013

1. The title of these regulations is the Integrated Coastal Zone Management Regulations. Citation

2. For the purpose of these regulations and unless the context otherwise requires: Interpretation

the ‘Authority’ means the Malta Environment and Planning Authority established under Article 6 of Chapter 504 of the Laws of Malta and includes such other body or person as the Minister responsible for the Environment may by order in the Gazette prescribe and different bodies or persons may be designated as the competent authority for different provisions and different purposes of these regulations. Chap 504

‘Directorate’ means the Integrated Coastal Zone Management Directorate as established under Article 5 of these regulations;

‘local council’ means a local council established under the Local Councils Act;

‘small islands’ means Comino, Cominetto, the General’s Rock and Filfla.

3. The Authority shall be responsible for the administration and implementation of these regulations. Administration

4. (1) The Authority shall appoint a Chief Executive Officer with the approval of the Minister. Such appointment shall be for a period of three years which may be extended for further periods of three years each Chief Executive Officer

(2) The Chief Executive Officer shall be responsible for the implementation of the objectives of the Authority in the exercise of its functions and without prejudice to the generality of the foregoing shall:

- (a) assume full responsibility for the overall supervision and control of the Directorate;
- (b) with the approval of the Authority, assign to the Directorate such duties which are by, or in accordance with, the provisions of these regulations vested in such Directorate;
- (c) co-ordinate the workings of the Directorate with any local council, the Organization or the Centre;
- (d) develop the necessary strategies for the implementation of the objectives of the Authority;
- (e) advise the Authority on any matter it may refer to him or on any matter on which he considers his advice necessary or expedient; and
- (f) carry out such other functions and duties as the Authority may assign to him from time to time.

(3) The Chief Executive Officer may be dismissed by the Authority at any time for a just cause and it shall be a just cause if the Authority determines that he has not achieved the targets and objectives set for him by the Authority.

5. (1) There is hereby established a Directorate of the Authority for the protection of integrated coastal zone management, to be known as the Integrated Coastal Zone Management Directorate, hereinafter referred to as 'the Directorate' which shall consist of not less than seven and not more than nine Members. The Directorate

(2) The Directorate shall have the responsibility of integrated coastal zone management protection in the Maltese Islands, and anything that related to or is ancillary thereto.

(3) The Authority shall in writing vest in the Directorate established under sub-article (1) such of its functions as relate or are ancillary to the matters for which it is responsible as will enable the Directorate to give effect to the strategies, policies and directives of the Authority and to otherwise discharge effectively and efficiently the functions of the Authority in their respective areas of operation.

(4) The Directorate shall be subject to the overall supervision and control of the Authority.

(5) The Directorate established under sub-article (1) shall be headed by a Director who is to have adequate experience or knowledge in the respective area of operation who shall either be a public officer detailed for duty with the Authority or any employee of the Authority, or a person detailed to work for the Authority in accordance with an agreement made between the Authority and a public or private undertaking.

(6) Such Director shall be appointed by the Authority with the approval of the Minister for a period of three years which may be extended for further periods of three years each.

(7) Where in these regulations anything is to be done by or against or with respect to the Authority, or any notice is to be or may be given to the Authority, any such thing or notice may also be done by or against or with respect to or be given to the Directorate under whose jurisdiction the matter falls by reason of a delegation of function to such Directorate; and for the purposes aforesaid any reference in these regulations to the Authority includes a reference to the appropriate

Directorate.

(8) Save as hereinafter provided, the Members of the Directorate shall be appointed by the Prime Minister, after consulting with the Authority, as follows:

(a) not more than three public officers representing the Government being persons who have experience or qualifications in matters concerning any of the following: coastal planning, the marine environment, coastal zone management, the infrastructure, social policy in so far as it relates to land use, economic affairs, agriculture, tourism and transport;

(b) not more than three Members shall be chosen from amongst persons of known integrity and with knowledge of and experience in at least three of the following:

- i. commerce, economy and industry;
- ii. cultural heritage;
- iii. environment, pollution, development, social and community affairs.
- iv. coastal zone management and sustainable development
- v. biology and, or physics
- vi. climate change
- vii. law

(c) not more one Member representing Local councils in the Maltese Islands;

(d) not more than one Member representing environmental voluntary organizations sector and, or civil society;

Provided that the Directorate shall be properly constituted and may function notwithstanding any failure to appoint

either or both Members of the Directorate under sub-article (c) or (d).

6. (1) No person shall be qualified to be appointed as, or remain, a Director or a Member of the Directorate if he:

(a) is a public officer:

Provided that the Director shall not be considered as a public officer for the purposes of this sub-article;

(b) is a Minister, Parliamentary Secretary or a Member of the House of Representatives, or of the European Parliament;

(c) is a Judge or Magistrate of the Courts of Justice; or

(d) has a financial or other interest in any enterprise or activity which is likely to affect the discharge of his functions as a Member of the Directorate:

Provided that the Minister may determine that the person's interest is not likely to affect the discharge of his functions and upon such determination that person shall be qualified to hold the office of Member of the Directorate provided that the declared interest and the Minister's determination are published in the Gazette; or

(e) is interdicted or incapacitated; or

(f) is convicted of an offence affecting public trust, or of theft or fraud, or of knowingly receiving property obtained by theft or fraud or of bribery or of money laundering; or

(g) is subject to disqualification under Article 320 of the Companies Act.

(2) The Members shall hold office for such period, being not less than three years, as may be specified in the letter appointing them and if no such period is specified shall remain in office for three years. In determining such period of office the Prime Minister shall, as far as practicable, ensure a measure of rotation.

(3) Without prejudice to the provisions of sub-article (4), the Members may resign by letter addressed to the Prime Minister but may not be removed from office except by a resolution of the House of Representatives on the ground of misconduct or inability to perform the duties of their office.

(4) The other Members of the Directorate shall hold office until they are replaced by the Prime Minister, and as long as they remain public officers or Members of the House, as the case may require. Members of the House may also resign from office by letter addressed to the authority appointing them.

(5) A person who has ceased to be a Member of the Authority shall, if he is otherwise qualified, be eligible for reappointment; but no person shall in the aggregate be a Member of the Authority for more than seven consecutive years.

(6) The Directorate shall transmit a copy of the agenda, minutes and relative enclosures of its meetings to the Authority for its information.

7. The Directorate may with the approval of the Authority appoint advisory boards and committees to assist it in the performance of its functions. The functions of the said boards and committees shall be prescribed by the Directorate with the approval of the Authority. Advisory
Boards and
Committees

8. (1) Subject to retaining overall control and supervision, and otherwise observing the provisions of these regulations, the Authority may, with the approval of the Minister, delegate any one or more of its functions under these regulations under such conditions as it may deem appropriate. In particular, but without prejudice to the generality of the foregoing, the Authority may delegate as aforesaid to, or exercise concurrently with, the Commissioner of Police, or any local council, or any other body, authority or contractor. Notice of any such delegation shall be published in the Gazette.

(2) In the execution of its functions under these regulations, the Authority shall consult with the Minister, and it shall have and may exercise all or any one or more of the powers vested in it or entrusted to it by these regulations.

(3) The Authority may also exercise all powers of control over the environment and development as may from time to time be delegated to it in writing by the Minister on behalf of any department or agency of Government.

(4) It shall be the Minister's function to ensure that the Authority is fully informed of Government's strategic directions relative to development, and to monitor the proper execution of such policies.

(5) The Authority shall execute its duties, functions and responsibilities in accordance with Government's strategic directions relating to development and the environment as well as such policies relating to the environment as is applicable to Malta.

(6) In the pursuance of its functions under these regulations, the Directorate shall, as far as possible, make reference to European best practices and emulate them.

(7) The Directorate shall also ensure that it keeps an audit trail of all its files, including all documentation and reports.

9. (1) Any person -

Offences and Penalties

(a) who fails to observe the provisions of these regulations or of any other lawful order given by virtue of any provision of these regulations, or

(b) who infringes any restriction, prohibition or need imposed by these regulations or by virtue thereof, or

(c) who acts in contravention of any provision of these regulations, or

(d) who makes a statement or presents information or documentation, which such person knows to be false for the purpose of obtaining the approval of a permit or derogation, or

(e) who conspires or attempts to conspire, aids or attempts to aid, abets or attempts to abet, counsels or attempts to counsel, procures or attempts to procure any other person to contravene the provisions of these

regulations, or to fail from complying with any one of these provisions, including any lawful order given by virtue of any provision of these regulations, or to infringe any restriction, prohibition or need imposed by these regulations or by virtue thereof, shall be guilty of an offence against these regulations.

(2) Any person who commits, or attempts to commit an offence against these regulations shall, on conviction, be liable:

(a) in the case of a first offence, a fine of not less than four hundred and sixty-five euro and eighty-seven cents (€465.87), but not exceeding two thousand and three hundred and twenty-nine euro and thirty-seven cents (€2,329.37);

(b) in the case of a second or subsequent offence, a fine of not less than one thousand and one hundred and sixty-four euro and sixty-nine cents (€1,164.69), but not exceeding four thousand and six hundred and fifty-eight euro and seventy-five cents (€4,658.75), or imprisonment for a period not exceeding two years, or both such fine and imprisonment:

Provided that any such fines do not together exceed the limits imposed by the Act.

(3) The Court shall order the offender to remove the causes of the offence and to undo anything which was done without a permit within a time sufficient for the purpose, but in any case not exceeding three months from the date of judgement, to be fixed by the Court; and, if the offender fails to comply with any such order within the time so fixed, he shall be liable to a fine of not less than fifty-eight euro and twenty-three cents (€58.23) and not more than one hundred and sixteen euro and forty-seven cents (€116.47), as the Court may fix, for every day that the default continues after the expiration of the said time.

(4) Any person who has been found guilty of committing an offence against these regulations shall also pay for the expenses incurred for remedying the damage caused by the

said infringement, and for any other expense incurred or mitigation measures required to remedy such doings, damage and infringement.

(5) The provisions of Article 23 and 30(1) of the Criminal Code shall, mutatis mutandis, apply to proceedings in respect of offences against these regulations.

(6) Notwithstanding the provisions of Article 370 of the Criminal Code, proceedings for an offence against these regulations shall be taken before the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), as the case may be, and shall be in accordance with the provisions of the Criminal Code regulating the procedure before the said courts as courts of criminal judicature.

(7) Notwithstanding the provisions of the Criminal Code, the Attorney General shall always have a right of appeal to the Court of Criminal Appeal from any judgement given by the Court of Magistrates (Malta) or the Court of Magistrates (Gozo), in respect of proceedings for any offence against these regulations.

10. The Protocol on Integrated Coastal Zone Management in the Mediterranean done at Madrid on the twenty-first day of January two thousand and eight shall form part of the Laws of Malta. Incorporation of the Protocol into Maltese Law

11. (1) The provisions of these regulations shall not apply in cases of: Non-Applicability of these Provisions

- (a) Public safety and health;
- (b) Salvage operations, and
- (c) The investigation of offenses.

(2) Without prejudice to the generality of Article 10 of the Protocol, sub-paragraph 3 thereof entitled ‘Coastal forests and woods’ shall no longer apply.

(3) Articles 33-40 of the Protocol shall not apply.

- 12.** The text of the said Protocol appears in the Schedule to these regulations which is being published in the English language with the English text of these regulations. Language of Protocol

SCHEDULE

**PROTOCOL
ON INTEGRATED COASTAL ZONE MANAGEMENT IN THE
MEDITERRANEAN**

THE CONTRACTING PARTIES TO THE PRESENT PROTOCOL,

BEING PARTIES to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, adopted at Barcelona on 16 February 1976, and amended on 10 June 1995,

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

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

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

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

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

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

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

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

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

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

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

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

HAVE AGREED AS FOLLOWS:

PART I

GENERAL PROVISIONS

Article 1

General obligations

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

Article 2

Definitions

For the purposes of this Protocol:

- (a) 'Parties' means the Contracting Parties to this Protocol;
- (b) 'Convention' means the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, done at Barcelona on 16 February 1976, as amended on 10 June 1995;
- (c) 'Organisation' means the body referred to in Article 17 of the Convention;
- (d) 'Centre' means the Priority Actions Programme Regional Activity Centre;
- (e) 'coastal zone' means the geomorphologic area either side of the seashore in which the interaction between the marine and land parts occurs in the form of complex ecological and resource systems made up of biotic and abiotic components coexisting and interacting with human communities and relevant socioeconomic activities;
- (f) 'integrated coastal zone management' means a dynamic process for the sustainable management and use of coastal zones, taking into account at the same time the fragility of coastal ecosystems and landscapes, the diversity of activities and uses, their interactions, the maritime orientation of certain activities and uses and their impact on both the marine and land parts.

Article 3

Geographical coverage

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

The area is also defined by:

- (a) the seaward limit of the coastal zone, which shall be the external limit of the territorial sea of Parties; and
 - (b) the landward limit of the coastal zone, which shall be the limit of the competent coastal units as defined by the Parties.
2. If, within the limits of its sovereignty, a Party establishes limits different from those envisaged in paragraph 1 of this Article, it shall communicate a

declaration to the Depositary at the time of the deposit of its instrument of ratification, acceptance, approval of, or accession to this Protocol, or at any other subsequent time, in so far as:

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

(b) the landward limit is different, either more or less, from the limits of the territory of coastal units as defined above, in order to apply, *inter alia*, the ecosystem approach and economic and social criteria and to consider the specific needs of islands related to geomorphological characteristics and to take into account the negative effects of climate change.

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

Article 4

Preservation of rights

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

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

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

4. Nothing in this Protocol shall prejudice national security and defence activities and facilities; however, each Party agrees that such activities and facilities should be operated or established, so far as is reasonable and practicable, in a manner consistent with this Protocol.

Article 5

Objectives of integrated coastal zone management

The objectives of integrated coastal zone management are to:

- (a) facilitate, through the rational planning of activities, the sustainable development of coastal zones by ensuring that the environment and landscapes are taken into account in harmony with economic, social and cultural development;
- (b) preserve coastal zones for the benefit of current and future generations;
- (c) ensure the sustainable use of natural resources, particularly with regard to water use;
- (d) ensure preservation of the integrity of coastal ecosystems, landscapes and geomorphology;
- (e) prevent and/or reduce the effects of natural hazards and in particular of climate change, which can be induced by natural or human activities;
- (f) achieve coherence between public and private initiatives and between all decisions by the public authorities, at the national, regional and local levels, which affect the use of the coastal zone.

Article 6

General principles of integrated coastal zone management

In implementing this Protocol, the Parties shall be guided by the following principles of integrated coastal zone management:

- (a) the biological wealth and the natural dynamics and functioning of the intertidal area and the complementary and interdependent nature of the marine part and the land part forming a single entity shall be taken particularly into account;
- (b) all elements relating to hydrological, geomorphological, climatic, ecological, socioeconomic and cultural systems shall be taken into account in an integrated manner, so as not to exceed the carrying capacity of the coastal zone and to prevent the negative effects of natural disasters and of development;
- (c) the ecosystems approach to coastal planning and management shall be applied so as to ensure the sustainable development of coastal zones;

- (d) appropriate governance allowing adequate and timely participation in a transparent decision-making process by local populations and stakeholders in civil society concerned with coastal zones shall be ensured;
- (e) cross-sectorally organised institutional coordination of the various administrative services and regional and local authorities competent in coastal zones shall be required;
- (f) the formulation of land use strategies, plans and programmes covering urban development and socioeconomic activities, as well as other relevant sectoral policies, shall be required;
- (g) the multiplicity and diversity of activities in coastal zones shall be taken into account, and priority shall be given, where necessary, to public services and activities requiring, in terms of use and location, the immediate proximity of the sea;
- (h) the allocation of uses throughout the entire coastal zone should be balanced, and unnecessary concentration and urban sprawl should be avoided;
- (i) preliminary assessments shall be made of the risks associated with the various human activities and infrastructure so as to prevent and reduce their negative impact on coastal zones;
- (j) damage to the coastal environment shall be prevented and, where it occurs, appropriate restoration shall be effected.

Article 7

Coordination

1. For the purposes of integrated coastal zone management, the Parties shall:
 - (a) ensure institutional coordination, where necessary through appropriate bodies or mechanisms, in order to avoid sectoral approaches and facilitate comprehensive approaches;
 - (b) organise appropriate coordination between the various authorities competent for both the marine and the land parts of coastal zones in the different administrative services, at the national, regional and local levels;
 - (c) organise close coordination between national authorities and regional and local bodies in the field of coastal strategies, plans and programmes and

in relation to the various authorisations for activities that may be achieved through joint consultative bodies or joint decision-making procedures.

2. Competent national, regional and local coastal zone authorities shall, insofar as practicable, work together to strengthen the coherence and effectiveness of the coastal strategies, plans and programmes established.

PART II

ELEMENTS OF INTEGRATED COASTAL ZONE MANAGEMENT

Article 8

Protection and sustainable use of the coastal zone

1. In conformity with the objectives and principles set out in Articles 5 and 6 of this Protocol, the Parties shall endeavour to ensure the sustainable use and management of coastal zones in order to preserve the coastal natural habitats, landscapes, natural resources and ecosystems, in compliance with international and regional legal instruments.

2. For this purpose, the Parties:

(a) shall establish in coastal zones, as from the highest winter waterline, a zone where construction is not allowed. Taking into account, *inter alia*, the areas directly and negatively affected by climate change and natural risks, this zone may not be less than 100 meters in width, subject to the provisions of subparagraph (b) below. Stricter national measures determining this width shall continue to apply;

(b) may adapt, in a manner consistent with the objectives and principles of this Protocol, the provisions mentioned above:

1. for projects of public interest,

2. in areas having particular geographical or other local constraints, especially related to population density or social needs, where individual housing, urbanisation or development are provided for by national legal instruments;

(c) shall notify to the Organisation their national legal instruments providing for the above adaptations.

3. The Parties shall also endeavour to ensure that their national legal instruments include criteria for sustainable use of the coastal zone. Such criteria, taking into account specific local conditions, shall include, *inter alia*, the following:

- (a) identifying and delimiting, outside protected areas, open areas in which urban development and other activities are restricted or, where necessary, prohibited;
- (b) limiting the linear extension of urban development and the creation of new transport infrastructure along the coast;
- (c) ensuring that environmental concerns are integrated into the rules for the management and use of the public maritime domain;
- (d) providing for freedom of access by the public to the sea and along the shore;
- (e) restricting or, where necessary, prohibiting the movement and parking of land vehicles, as well as the movement and anchoring of marine vessels, in fragile natural areas on land or at sea, including beaches and dunes.

Article 9

Economic activities

1. In conformity with the objectives and principles set forth in Articles 5 and 6 of this Protocol, and taking into account the relevant provisions of the Barcelona Convention and its Protocols, the Parties shall:
 - (a) accord specific attention to economic activities that require immediate proximity to the sea;
 - (b) ensure that the various economic activities minimise the use of natural resources and take into account the needs of future generations;
 - (c) ensure respect for integrated water resources management and environmentally sound waste management;
 - (d) ensure that the coastal and maritime economy is adapted to the fragile nature of coastal zones and that resources of the sea are protected from pollution;
 - (e) define indicators of the development of economic activities to ensure sustainable use of coastal zones and reduce pressures that exceed their carrying capacity;
 - (f) promote codes of good practice among public authorities, economic actors and non-governmental organisations.

2. In addition, with regard to the following economic activities, the Parties agree:

(a) Agriculture and industry to guarantee a high level of protection of the environment in the location and operation of agricultural and industrial activities so as to preserve coastal ecosystems and landscapes and prevent pollution of the sea, water, air and soil;

(b) Fishing

(i) to take into account the need to protect fishing areas in development projects;

(ii) to ensure that fishing practices are compatible with sustainable use of natural marine resources;

(c) Aquaculture

(i) to take into account the need to protect aquaculture and shellfish areas in development projects;

(ii) to regulate aquaculture by controlling the use of inputs and waste treatment;

(d) Tourism, sporting and recreational activities

(i) to encourage sustainable coastal tourism that preserves coastal ecosystems, natural resources, cultural heritage and landscapes;

(ii) to promote specific forms of coastal tourism, including cultural, rural and ecotourism, while respecting the traditions of local populations;

(iii) to regulate or, where necessary, prohibit the practice of various sporting and recreational activities, including recreational fishing and shellfish extraction;

(e) Utilisation of specific natural resources

(i) to subject to prior authorisation the excavation and extraction of minerals, including the use of seawater in desalination plants and stone exploitation;

(ii) to regulate the extraction of sand, including on the seabed and river sediments or prohibit it where it is likely to adversely affect the equilibrium of coastal ecosystems;

(iii) to monitor coastal aquifers and dynamic areas of contact or interface between fresh and salt water, which may be adversely affected by the extraction of underground water or by discharges into the natural environment;

(f) Infrastructure, energy facilities, ports and maritime works and structures to subject such infrastructure, facilities, works and structures to authorisation so that their negative impact on coastal ecosystems, landscapes and geomorphology is minimized or, where appropriate, compensated by non-financial measures;

(g) Maritime activities to conduct maritime activities in such a manner as to ensure the preservation of coastal ecosystems in conformity with the rules, standards and procedures of the relevant international conventions.

Article 10

Specific coastal ecosystems

The Parties shall take measures to protect the characteristics of certain specific coastal ecosystems, as follows:

1. Wetlands and estuaries

In addition to the creation of protected areas and with a view to preventing the disappearance of wetlands and estuaries, the Parties shall:

(a) take into account in national coastal strategies and coastal plans and programmes and when issuing authorisations, the environmental, economic and social function of wetlands and estuaries;

(b) take the necessary measures to regulate or, if necessary, prohibit activities that may have adverse effects on wetlands and estuaries;

(c) undertake, to the extent possible, the restoration of degraded coastal wetlands with a view to reactivating their positive role in coastal environmental processes.

2. Marine habitats

The Parties, recognising the need to protect marine areas hosting habitats and species of high conservation value, irrespective of their classification as protected areas, shall:

(a) adopt measures to ensure the protection and conservation, through legislation, planning and management of marine and coastal areas, in particular of those hosting habitats and species of high conservation value;

(b) undertake to promote regional and international cooperation for the implementation of common programmes on the protection of marine habitats.

3. Coastal forests and woods

The Parties shall adopt measures intended to preserve or develop coastal forests and woods located, in particular, outside specially protected areas.

4. Dunes

The Parties undertake to preserve and, where possible, rehabilitate in a sustainable manner dunes and bars.

Article 11

Coastal landscapes

1. The Parties, recognising the specific aesthetic, natural and cultural value of coastal landscapes, irrespective of their classification as protected areas, shall adopt measures to ensure the protection of coastal landscapes through legislation, planning and management.

2. The Parties undertake to promote regional and international cooperation in the field of landscape protection, and in particular, the implementation, where appropriate, of joint actions for transboundary coastal landscapes.

Article 12

Islands

The Parties undertake to accord special protection to islands, including small islands, and for this purpose to:

(a) promote environmentally friendly activities in such areas and take special measures to ensure the participation of the inhabitants in the protection of coastal ecosystems based on their local customs and knowledge;

(b) take into account the specific characteristics of the island environment and the necessity to ensure interaction among islands in national coastal

strategies, plans and programmes and management instruments, particularly in the fields of transport, tourism, fishing, waste and water.

Article 13

Cultural heritage

1. The Parties shall adopt, individually or collectively, all appropriate measures to preserve and protect the cultural, in particular archaeological and historical, heritage of coastal zones, including the underwater cultural heritage, in conformity with the applicable national and international instruments.
2. The Parties shall ensure that the preservation in situ of the cultural heritage of coastal zones is considered as the first option before any intervention directed at this heritage.
3. The Parties shall ensure in particular that elements of the underwater cultural heritage of coastal zones removed from the marine environment are conserved and managed in a manner safeguarding their long-term preservation and are not traded, sold, bought or bartered as commercial goods.

Article 14

Participation

1. With a view to ensuring efficient governance throughout the process of the integrated management of coastal zones, the Parties shall take the necessary measures to ensure the appropriate involvement in the phases of the formulation and implementation of coastal and marine strategies, plans and programmes or projects, as well as the issuing of the various authorisations, of the various stakeholders, including:

- the territorial communities and public entities concerned,
- economic operators,
- non-governmental organisations,
- social actors,
- the public concerned.

Such participation shall involve, *inter alia*, consultative bodies, inquiries or public hearings, and may extend to partnerships.

2. With a view to ensuring such participation, the Parties shall provide information in an adequate, timely and effective manner.

3. Mediation or conciliation procedures and a right of administrative or legal recourse should be available to any stakeholder challenging decisions, acts or omissions, subject to the participation provisions established by the Parties with respect to plans, programmes or projects concerning the coastal zone.

Article 15

Awareness-raising, training, education and research

1. The Parties undertake to carry out, at the national, regional or local level, awareness-raising activities on integrated coastal zone management and to develop educational programmes, training and public education on this subject.
2. The Parties shall organise, directly, multilaterally or bilaterally, or with the assistance of the Organisation, the Centre or the international organisations concerned, educational programmes, training and public education on integrated management of coastal zones with a view to ensuring their sustainable development.
3. The Parties shall provide for interdisciplinary scientific research on integrated coastal zone management and on the interaction between activities and their impacts on coastal zones. To this end, they should establish or support specialized research centres. The purpose of this research is, in particular, to further knowledge of integrated coastal zone management, to contribute to public information and to facilitate public and private decision-making.

PART III

INSTRUMENTS FOR INTEGRATED COASTAL ZONE MANAGEMENT

Article 16

Monitoring and observation mechanisms and networks

1. The Parties shall use and strengthen existing appropriate mechanisms for monitoring and observation, or create new ones if necessary. They shall also prepare and regularly update national inventories of coastal zones which should cover, to the extent possible, information on resources and activities, as well as on institutions, legislation and planning that may influence coastal zones.

2. In order to promote exchange of scientific experience, data and good practices, the Parties shall participate, at the appropriate administrative and scientific level, in a Mediterranean coastal zone network, in cooperation with the Organisation.

3. With a view to facilitating the regular observation of the state and evolution of coastal zones, the Parties shall set out an agreed reference format and process to collect appropriate data in national inventories.

4. The Parties shall take all necessary means to ensure public access to the information derived from monitoring and observation mechanisms and networks.

Article 17

Mediterranean strategy for integrated coastal zone management

The Parties undertake to cooperate for the promotion of sustainable development and integrated management of coastal zones, taking into account the Mediterranean Strategy for Sustainable Development and complementing it where necessary. To this end, the Parties shall define, with the assistance of the Centre, a common regional framework for integrated coastal zone management in the Mediterranean to be implemented by means of appropriate regional action plans and other operational instruments, as well as through their national strategies.

Article 18

National coastal strategies, plans and programmes

1. Each Party shall further strengthen or formulate a national strategy for integrated coastal zone management and coastal implementation plans and programmes consistent with the common regional framework and in conformity with the integrated management objectives and principles of this Protocol and shall inform the Organisation about the coordination mechanism in place for this strategy.

2. The national strategy, based on an analysis of the existing situation, shall set objectives, determine priorities with an indication of the reasons, identify coastal ecosystems needing management, as well as all relevant actors and processes, enumerate the measures to be taken and their cost as well as the institutional instruments and legal and financial means available, and set an implementation schedule.

3. Coastal plans and programmes, which may be selfstanding or integrated in other plans and programmes, shall specify the orientations of the national strategy and implement it at an appropriate territorial level, determining, *inter alia*, and where appropriate, the carrying capacities and conditions for the allocation and use of the respective marine and land parts of coastal zones.

4. The Parties shall define appropriate indicators in order to evaluate the effectiveness of integrated coastal zone management strategies, plans and programmes, as well as the progress of implementation of the Protocol.

Article 19

Environmental assessment

1. Taking into account the fragility of coastal zones, the Parties shall ensure that the process and related studies of environmental impact assessment for public and private projects likely to have significant environmental effects on the coastal zones, and in particular on their ecosystems, take into consideration the specific sensitivity of the environment and the interrelationships between the marine and terrestrial parts of the coastal zone.

2. In accordance with the same criteria, the Parties shall formulate, as appropriate, a strategic environmental assessment of plans and programmes affecting the coastal zone.

3. The environmental assessments should take into consideration the cumulative impacts on the coastal zones, paying due attention, *inter alia*, to their carrying capacities.

Article 20

Land policy

1. For the purpose of promoting integrated coastal zone management, reducing economic pressures, maintaining open areas and allowing public access to the sea and along the shore, Parties shall adopt appropriate land policy instruments and measures, including the process of planning.

2. To this end, and in order to ensure the sustainable management of public and private land of the coastal zones, Parties may, *inter alia*, adopt mechanisms for the acquisition, cession, donation or transfer of land to the public domain and institute easements on properties.

Article 21

Economic, financial and fiscal instruments

For the implementation of national coastal strategies and coastal plans and programmes, Parties may take appropriate measures to adopt relevant economic, financial and/or fiscal instruments intended to support local, regional and national initiatives for the integrated management of coastal zones.

PART IV

RISKS AFFECTING THE COASTAL ZONE

Article 22

Natural hazards

Within the framework of national strategies for integrated coastal zone management, the Parties shall develop policies for the prevention of natural hazards. To this end, they shall undertake vulnerability and hazard assessments of coastal zones and take prevention, mitigation and adaptation measures to address the effects of natural disasters, in particular of climate change.

Article 23

Coastal erosion

1. In conformity with the objectives and principles set out in Articles 5 and 6 of this Protocol, the Parties, with a view to preventing and mitigating the negative impact of coastal erosion more effectively, undertake to adopt the necessary measures to maintain or restore the natural capacity of the coast to adapt to changes, including those caused by the rise in sea levels.
2. The Parties, when considering new activities and works located in the coastal zone including marine structures and coastal defence works, shall take particular account of their negative effects on coastal erosion and the direct and indirect costs that may result. In respect of existing activities and structures, the Parties should adopt measures to minimize their effects on coastal erosion.
3. The Parties shall endeavour to anticipate the impacts of coastal erosion through the integrated management of activities, including adoption of special measures for coastal sediments and coastal works.
4. The Parties undertake to share scientific data that may improve knowledge on the state, development and impacts of coastal erosion.

Article 24

Response to natural disasters

1. The Parties undertake to promote international cooperation to respond to natural disasters, and to take all necessary measures to address in a timely manner their effects.
2. The Parties undertake to coordinate use of the equipment for detection, warning and communication at their disposal, making use of existing mechanisms and initiatives, to ensure the transmission as rapidly as possible of urgent information concerning major natural disasters. The Parties shall notify the Organisation which national authorities are competent to issue and receive such information in the context of relevant international mechanisms.
3. The Parties undertake to promote mutual cooperation and cooperation among national, regional and local authorities, non-governmental organisations and other competent organizations for the provision on an urgent basis of humanitarian assistance in response to natural disasters affecting the coastal zones of the Mediterranean Sea.

PART V

INTERNATIONAL COOPERATION

Article 25

Training and research

1. The Parties undertake, directly or with the assistance of the Organisation or the competent international organisations, to cooperate in the training of scientific, technical and administrative personnel in the field of integrated coastal zone management, particularly with a view to:
 - (a) identifying and strengthening capacities;
 - (b) developing scientific and technical research;
 - (c) promoting centres specialised in integrated coastal zone management;
 - (d) promoting training programmes for local professionals.
2. The Parties undertake, directly or with the assistance of the Organisation or the competent international organisations, to promote scientific and technical

research into integrated coastal zone management, particularly through the exchange of scientific and technical information and the coordination of their research programmes on themes of common interest.

Article 26

Scientific and technical assistance

For the purposes of integrated coastal zone management, the Parties undertake, directly or with the assistance of the Organisation or the competent international organisations to cooperate for the provision of scientific and technical assistance, including access to environmentally sound technologies and their transfer, and other possible forms of assistance, to Parties requiring such assistance.

Article 27

Exchange of information and activities of common interest

1. The Parties undertake, directly or with the assistance of the Organisation or the competent international organisations, to cooperate in the exchange of information on the use of the best environmental practices.
2. With the support of the Organisation, the Parties shall in particular:
 - (a) define coastal management indicators, taking into account existing ones, and cooperate in the use of such indicators;
 - (b) establish and maintain up-to-date assessments of the use and management of coastal zones;
 - (c) carry out activities of common interest, such as demonstration projects of integrated coastal zone management.

Article 28

Transboundary cooperation

The Parties shall endeavour, directly or with the assistance of the Organisation or the competent international organisations, bilaterally or multilaterally, to coordinate, where appropriate, their national coastal strategies, plans and programmes related to contiguous coastal zones. Relevant domestic administrative bodies shall be associated with such coordination.

Article 29

Transboundary environmental assessment

1. Within the framework of this Protocol, the Parties shall, before authorising or approving plans, programmes and projects that are likely to have a significant adverse effect on the coastal zones of other Parties, cooperate by means of notification, exchange of information and consultation in assessing the environmental impacts of such plans, programmes and projects, taking into account Article 19 of this Protocol and Article 4(3)(d) of the Convention.
2. To this end, the Parties undertake to cooperate in the formulation and adoption of appropriate guidelines for the determination of procedures for notification, exchange of information and consultation at all stages of the process.
3. The Parties may, where appropriate, enter into bilateral or multilateral agreements for the effective implementation of this Article.

PART VI

INSTITUTIONAL PROVISIONS

Article 30

Focal Points

Each Party shall designate a Focal Point to serve as liaison with the Centre on the technical and scientific aspects of the implementation of this Protocol and to disseminate information at the national, regional and local level. The Focal Points shall meet periodically to carry out the functions deriving from this Protocol.

Article 31

Reports

The Parties shall submit to the ordinary meetings of the Contracting Parties, reports on the implementation of this Protocol, in such form and at such intervals as these Meetings may determine, including the measures taken, their effectiveness and the problems encountered in their implementation.

Article 32

Institutional coordination

1. The Organisation shall be responsible for coordinating the implementation of this Protocol. For this purpose, it shall receive the support of the Centre, to which it may entrust the following functions:

(a) to assist the Parties to define a common regional framework for integrated coastal zone management in the Mediterranean pursuant to Article 17;

(b) to prepare a regular report on the state and development of integrated coastal zone management in the Mediterranean Sea with a view to facilitating implementation of the Protocol;

(c) to exchange information and carry out activities of common interest pursuant to Article 27;

(d) upon request, to assist the Parties:

- to participate in a Mediterranean coastal zone network pursuant to Article 16,
- to prepare and implement their national strategies for integrated coastal zone management pursuant to Article 18,
- to cooperate in training activities and in scientific and technical research programmes pursuant to Article 25,
- to coordinate, when appropriate, the management of transboundary coastal zones pursuant to Article 28;

(e) to organise the meetings of the Focal Points pursuant to Article 30;

(f) to carry out any other function assigned to it by the Parties.

2. For the purposes of implementing this Protocol, the Parties, the Organisation and the Centre may jointly establish cooperation with non-governmental organisations the activities of which are related to the Protocol.

Article 33

Meetings of the Parties

1. The ordinary meetings of the Parties to this Protocol shall be held in conjunction with the ordinary meetings of the Contracting Parties to the

Convention held pursuant to Article 18 of the Convention. The Parties may also hold extraordinary meetings in conformity with that Article.

2. The functions of the meetings of the Parties to this Protocol shall be:

- (a) to keep under review the implementation of this Protocol;
- (b) to ensure that this Protocol is implemented in coordination and synergy with the other Protocols;
- (c) to oversee the work of the Organisation and of the Centre relating to the implementation of this Protocol and providing policy guidance for their activities;
- (d) to consider the efficiency of the measures adopted for integrated coastal zone management and the need for other measures, in particular in the form of annexes or amendments to this Protocol;
- (e) to make recommendations to the Parties on the measures to be adopted for the implementation of this Protocol;
- (f) to examine the proposals made by the meetings of Focal Points pursuant to Article 30 of this Protocol;
- (g) to consider reports transmitted by the Parties and making appropriate recommendations pursuant to Article 26 of the Convention;
- (h) to examine any other relevant information submitted through the Centre;
- (i) to examine any other matter relevant to this Protocol, as appropriate.

PART VII

FINAL PROVISIONS

Article 34

Relationship with the Convention

1. The provisions of the Convention relating to any Protocol shall apply with respect to this Protocol.
2. The rules of procedure and the financial rules adopted pursuant to Article 24 of the Convention shall apply with respect to this Protocol, unless the Parties to this Protocol agree otherwise.

Article 35

Relations with third parties

1. The Parties shall invite, where appropriate, States that are not Parties to this Protocol and international organisations to cooperate in the implementation of this Protocol.
2. The Parties undertake to adopt appropriate measures, consistent with international law, to ensure that no one engages in any activity contrary to the principles and objectives of this Protocol.

Article 36

Signature

This Protocol shall be open for signature at Madrid, Spain, from 21 January 2008 to 20 January 2009 by any Contracting Party to the Convention.

Article 37

Ratification, acceptance or approval

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

Article 38

Accession

As from 21 January 2009 this Protocol shall be open for accession by any Party to the Convention.

Article 39

Entry into force

This Protocol shall enter into force on the 30th day following the deposit of at least six instruments of ratification, acceptance, approval or accession.

Article 40

Authentic texts

The original of this Protocol, of which the Arabic, English, French and Spanish texts are equally authentic, shall be deposited with the Depositary.

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

DONE AT MADRID, SPAIN, this twenty-first day of January two thousand and eight.

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