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A REGIONAL APPROACH FOR THE EUROPEAN UNION MARINE STRATEGY: THE CASE OF MARINE PROTECTED AREAS IN THE MEDITERRANEAN

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1. THE REGIONAL APPROACH OF THE EUROPEAN UNION MARINE ENVIRONMENTAL POLICY

The European Union (EU; previously the European Community) is an international organization that now includes twenty-seven member States, seven of which are Mediterranean countries (Cyprus, France, Greece, Italy, Malta, Slovenia and Spain). It is entitled to exercise exclusive competences in the field of fisheries management and conservation. In the field of protection of the environment, the competences of the European Union are shared with those of its Member States.

As far as the sea is concerned, the main European Union instrument is today Directive 2008/56/EC of 17 June 2008, establishing a framework for Community action in the field of marine environmental policy (Marine Strategy Framework Directive). The Directive aims at establishing “a framework within which Member States shall take the necessary measures to achieve or maintain good environmental status in the marine environment by the year 2020 at the latest” (Art. 1, para. 1). Of particular interest for the development of the marine policy of the European Union is the subject of marine protected areas, on which some consideration will be made hereunder, as far as the Mediterranean is concerned.

The Mediterranean Sea is one of the four marine regions identified by Art. 4, para. 1, of the Directive¹. In its turn it is divided into four subregions, namely “Western Mediterranean Sea”,

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¹ The others are the Baltic Sea, the North-east Atlantic Ocean and the Black Sea.

“Adriatic Sea”, “Ionian Sea and Central Mediterranean Sea” and “Aegean-Levantine Sea”². According to Art. 3, para. 2, marine regions and subregions are designated for the purpose of facilitating the implementation of the Directive and are determined taking into account hydrological, oceanographic and biogeographic features.

To achieve the coordination needed for the development of marine strategies, the European Union Member States “shall, where practical and appropriate, use existing regional institutional cooperation structures, including those under Regional Sea Conventions, covering that marine region or subregion” (Art. 6, para. 1). The cooperation structures in question are established to coordinate activities carried out by countries bordering the same marine region or subregion. A major element of this form of cooperation, which involves both European Union Member States and third States, are regional sea conventions:

“For the purpose of establishing and implementing marine strategies, Member States shall, within each marine region or subregion, make every effort, using relevant international forums, including mechanisms and structures of Regional Sea Conventions, to coordinate their actions with third countries having sovereignty or jurisdiction over waters in the same marine region or subregion.

In that context, Member States shall, as far as possible, build upon relevant existing programmes and activities developed in the framework of structures stemming from international agreements such as Regional Sea Conventions” (Art. 6, para. 2).

² For the policy aspects of the European Union action see, in general, European Commission, *Progress Report on the EU's Integrated Maritime Policy*, doc. SEC(2009) 1343 of 2010, and, as regards the Mediterranean, the Communication from the European Commission to the Council and the European Parliament *Towards an Integrated Maritime Policy for better Governance in the Mediterranean*, doc. COM(2009) 466 final of 11 September 2009. For general considerations on international cooperation for the Mediterranean see European Commission – EuropeAid Cooperation Office, *Study on the Current Status of Ratification, Implementation and Compliance with Maritime Treaties Applicable to the Mediterranean Sea Basin*, Part 2, December 2009, para. 10; IUCN, *Towards a better Governance of the Mediterranean*, Gland, 2010.

In the case of the Mediterranean, the most relevant regional sea convention is the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, which is explicitly recalled in Art. 3, para. 10, of the Directive³.

2. THE BARCELONA SYSTEM FOR THE PROTECTION OF THE MEDITERRANEAN MARINE ENVIRONMENT

The so-called Barcelona system is a notable instance of fulfilment of the obligation to co-operate for the protection of the marine environment in a semi-enclosed sea⁴.

On 4 February 1975 a policy instrument, the Mediterranean Action Plan (MAP), was adopted by an intergovernmental meeting convened in Barcelona by the United Nations Environment Programme (UNEP). One of the main objectives of the MAP was to promote the conclusion of a framework convention, together with related protocols and technical annexes, for the protection of the Mediterranean environment. This was done on 16 February 1976 when the Convention on the Protection of the Mediterranean Sea against Pollution and two protocols were opened to signature in Barcelona. The Convention, which entered into force on 12 February 1978, is chronologically the first of the so-called regional seas agreements concluded under the auspices of UNEP.

In the years following the Rio Conference on Environment and Development (1992), several components of the Barcelona system underwent important changes. In 1995, the MAP was replaced by the “Action Plan for the Protection of the Marine Environment and the Sustainable

³ Another, but more specific, regional sea convention applying also to the Mediterranean is the Agreement on the Conservation of Cetaceans of the Black Sea, Mediterranean Sea and Contiguous Atlantic Area (Monaco, 1996; ACCOBAMS). The parties to it are bound to “take co-ordinated measures to achieve and maintain a favourable conservation status for cetaceans” and to “prohibit and take all necessary measures to eliminate, where this is not already done, any deliberate taking of cetaceans” (Art. II, para. 1).

⁴ On the Barcelona system see E. Raftopoulos, *Studies on the Implementation of the Barcelona Convention: The Development of an International Trust Regime*, Athens, 1997; J. Ruiz, *Regional Approaches to the Protection of the Marine Environment*, in *Thesaurus Acroasium*, 2002, p. 402; E. Raftopoulos & M.L. McConnell (eds.), *Contributions to International Environmental Negotiation in the Mediterranean Context*, Athens, 2004; T. Scovazzi, *The Developments within the “Barcelona System” for the Protection of the Mediterranean Sea against Pollution*, in *Annuaire de Droit Maritime et Océanique*, 2008, p. 201.

Development of the Coastal Areas of the Mediterranean (MAP Phase II)”. Some of the legal instruments were amended. New protocols were adopted either to replace those which had not been amended or to cover new subjects of cooperation. The present Barcelona legal system includes a framework convention, which has to be implemented through specific protocols, and seven protocols, namely:

a) the Convention on the Protection of the Mediterranean Sea against Pollution which, as amended in Barcelona on 10 June 1995, changes its name into Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (the amendments entered into force on 9 July 2004);

b) the Protocol for the Prevention of the Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft (Barcelona, 16 February 1976; in force from 12 February 1978), which, as amended in Barcelona on 10 June 1995, changes its name into Protocol for the Prevention and Elimination of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft or Incineration at Sea (the amendments are not yet in force);

c) the Protocol Concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency (Barcelona, 16 February 1976; in force from 12 February 1978), which has been replaced by the Protocol Concerning Cooperation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea (Valletta, 25 January 2002; in force from 17 March 2004);

d) the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources (Athens, 17 May 1980; in force from 17 June 1983), which, as amended in Syracuse on 7 March 1996, changes its name into Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities (in force from 11 May 2008);

e) the Protocol Concerning Mediterranean Specially Protected Areas (Geneva, 1 April 1982; in force from 23 March 1986), which has been replaced by the Protocol Concerning Specially Protected Areas and Biological Diversity in the Mediterranean (Barcelona, 10 June 1995; in force from 12 December 1999);

- f) the Protocol Concerning Pollution Resulting from Exploration and Exploitation of the Continental Shelf, the Seabed and its Subsoil (Madrid, 14 October 1994; in force from 24 March 2011);
- g) the Protocol on the Prevention of Pollution of the Mediterranean Sea by Transboundary Movements of Hazardous Wastes and their Disposal (Izmir, 1 October 1996; in force from 18 December 2007);
- h) the Protocol on Integrated Coastal Zone Management in the Mediterranean (Madrid, 21 January 2008; in force from 24 March 2011).

The updating and the additions to the Barcelona system show that the parties consider it as a dynamic body capable of being subject to re-examination and improvement, whenever appropriate. Each of the new instruments contains important innovations. The protocols even display a certain degree of legal imagination in finding constructive ways to address complex environmental problems.

3. MARINE PROTECTED AREAS

A marine protected area can generally be understood as an area of marine waters or seabed that is delimited within precise boundaries (including, if appropriate, buffer zones) and that is granted a special protection regime because of its significance for a number of reasons (ecological, biological, scientific, cultural, educational, recreational, etc.)⁵. Marine protected

⁵ This broad notion of marine protected area does not substantially depart from the definition of “protected area” given by the Art. 2 of the Convention on Biological Diversity (“a geographically defined area which is designated or regulated and managed to achieve specific conservation objectives”). The World Conservation Union (IUCN) has defined a protected area as “an area of land and/or sea especially dedicated to the protection and maintenance of biological diversity, and of natural and associated cultural resources and managed through legal or other effective means”. It has developed a number of protected area management categories, all applicable to the marine environment, namely: Strict Nature Reserve (protected area managed mainly for science); Wilderness Area (protected area managed mainly for wilderness protection); National Park (protected area managed mainly for ecosystem protection and recreation); Natural Monument (protected area managed mainly for conservation of specific natural features); Habitat/Species Management Area (protected area managed mainly for conservation through management intervention); Protected Landscape/Seascape (protected area managed mainly for landscape/seascape conservation and recreation); Managed Resource Protected Area (protected area managed mainly for the sustainable use of natural ecosystems).

areas are a rather flexible instrument that can be limited to those protection measures which are necessary to ensure the prescribed objectives, without unnecessarily burdening maritime activities that can be carried out in an environmentally sustainable way. The establishment of marine protected areas, as a key element of marine environmental protection, is linked to the most advanced concepts of environmental policy, such as sustainable development, precautionary approach, integrated coastal zone management, marine spatial planning, ecosystem approach and transboundary cooperation.

Under the United Nations Convention on the Law of the Sea (Montego Bay, 1982), the obligation “to protect and preserve the marine environment” (Art. 192) can be complied, *inter alia*, by adopting measures “necessary to protect and preserve rare or fragile ecosystems as well as the habitat of depleted, threatened or endangered species and other forms of marine life” (Art. 194, para. 5). This provision, which implies the creation of marine protected areas, applies everywhere in the sea, including the high seas and the seabed⁶.

A number of policy instruments call for action towards the establishment of marine protected areas. They include Agenda 21, the action programme adopted in Rio de Janeiro by the 1992 United Nations Conference on Environment and Development, and the Plan of Implementation of the World Summit on Sustainable Development (Johannesburg, 2002). The latter confirms the need to “maintain the productivity and biodiversity of important and vulnerable marine and coastal areas, including in areas within and beyond national jurisdiction”. To achieve this aim, the Plan puts forward the objective of a representative network of marine protected areas and the deadline of 2012 for its achievement.

Lastly, the United Nations General Assembly, by its 2010 Resolution on “Oceans and the Law of the Sea”, reaffirmed the need for States to continue and intensify their efforts, directly or through competent international organizations, to develop and facilitate the use of diverse approaches and tools for conserving and managing vulnerable marine ecosystems, including the establishment of marine protected areas, consistent with international law, as reflected in United Nations Convention on the Law of the Sea, and based on the best scientific

⁶ See T. Scovazzi, *Marine Protected Areas on the High Seas: Some Legal and Policy Considerations*, in *International Journal of Marine and Coastal Law*, 2004, p. 1; in E.J. Molenaar, *Managing Biodiversity in Areas beyond National Jurisdiction*, in *International Journal of Marine and Coastal Law*, 2007, p. 89.

information available, and the development of representative networks of any such marine protected areas by 2012.

3.1. The Barcelona System Regime

In the Mediterranean, a regional regime for marine protected areas has been established under the already mentioned 1995 Protocol concerning specially protected areas and biological diversity⁷. The European Union is a party to this protocol together with six of its seven Mediterranean member States⁸.

While the sphere of application of the previous 1982 Protocol did not cover the high seas, the 1995 Protocol applies to all the maritime waters of the Mediterranean, irrespective of their legal condition, to the seabed and its subsoil and to the terrestrial coastal areas designated by each of the Parties. The extension of the application of the Protocol to the high seas areas was seen by the parties necessary to protect those highly migratory marine species (such as marine mammals) which, because of their natural behaviour, do not respect the artificial boundaries drawn by man on the sea.

To overcome the difficulties arising from the fact that different kinds of national coastal zones have been proclaimed and that several maritime boundaries have yet to be agreed upon by the Mediterranean States concerned, the Protocol includes two very elaborate disclaimer provisions:

“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 State 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, freedom of navigation on the high seas, the right and the 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 and the port State.

⁷ *Supra*, para. 2.

⁸ The exception is Greece.

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” (Art. 2, paras. 2 and 3)⁹.”

The idea behind such a display of juridical devices is simple. On the one hand, the establishment of intergovernmental cooperation in the field of the marine environment cannot prejudice all the different questions which have a legal or political nature; but, on the other hand, the very existence of such questions, whose settlement is not always likely to be achieved in the short term, should neither prevent nor delay the adoption of measures necessary for the protection of the marine environment in the Mediterranean.

The Protocol provides for the establishment of a List of Specially Protected Areas of Mediterranean Importance (SPAMI List)¹⁰. The SPAMI List may include sites which “are of importance for conserving the components of biological diversity in the Mediterranean; contain ecosystems specific to the Mediterranean area or the habitats of endangered species; are of special interest at the scientific, aesthetic, cultural or educational levels” (Art. 8, para. 2). The existence of the SPAMI List does not exclude the right of each Party to create and manage protected areas which are not intended to be listed as SPAMIs, but deserve to be protected under its domestic legislation.

The procedures for the listing of SPAMIs are specified in detail in the Protocol:

“Proposals for inclusion in the List may be submitted:

- (a) by the Party concerned, if the area is situated in a zone already delimited, over which it exercises sovereignty or jurisdiction;
- (b) by two or more neighbouring Parties concerned if the area is situated, partly or wholly, on the high sea;
- (c) by the neighbouring Parties concerned in areas where the limits of national sovereignty or jurisdiction have not yet been defined” (Art. 9, para. 2).

⁹ The model of the disclaimer provision was, *mutatis mutandis*, Art. IV of the Convention on the Conservation of Antarctic Marine Living Resources (Canberra, 1980).

¹⁰ The idea of a “list of landscapes and habitats of Black Sea importance” has been retained in Art. 4, para. 5, of the Black Sea Biodiversity and Landscape Protection Protocol (Sofia, 2002).

In fact the submission of a joint proposal may become a way to promote new forms of co-operation between the States concerned, irrespective of the fact that their maritime boundaries have not yet been defined.

In proposing a SPAMI, the Party or Parties concerned shall indicate the relevant protection and management measures, as well as the means for their implementation (Art. 9, para. 3). As paper areas would not comply with the Protocol, protection, planning and management measures “must be adequate for the achievement of the conservation and management objectives set for the site in the short and long term, and take in particular into account the threats upon it” (Annex 1, para. D, 2).

Once the areas are included in the SPAMI List, all the parties agree “to recognize the particular importance of these areas for the Mediterranean”, as well as “to comply with the measures applicable to the SPAMIs and not to authorize nor undertake any activities that might be contrary to the objectives for which the SPAMIs were established” (Art. 8, para. 3). This gives to the SPAMIs and to the measures adopted for their protection an *erga omnes partes* effect, that is an effect with respect to all the Parties to the Protocol.

As to the relationship with third countries, the Parties shall “invite States that are not Parties to the Protocol and international organizations to cooperate in the implementation” of the Protocol (Art. 28, para. 1). They also “undertake to adopt appropriate measures, consistent with international law, to ensure that no one engages in any activity contrary to the principles and purposes” of the Protocol (Art. 28, para. 2)¹¹. This provision aims at facing the potential problems arising from the fact that treaties, including the Protocol itself, can produce rights and obligations only among parties.

The Protocol is completed by three annexes, which were adopted in 1996 in Monaco, namely the Common Criteria for the Choice of Protected Marine and Coastal Areas that Could be Included in the SPAMI List (Annex I), the List of Endangered or Threatened Species (Annex II), the List of Species Whose Exploitation is Regulated (Annex III). Under Annex I, the sites

¹¹ Also this provision is shaped on a precedent taken from the Antarctic Treaty System: “Each of the Contracting Parties undertake to exert appropriate efforts, consistent with the Charter of the United Nations, to the end that no one engages in any activity in Antarctica contrary to the principles or purposes of the present Treaty” (Art. X of the 1959 Antarctic Treaty).

included in the SPAMI List must be “provided with adequate legal status, protection measures and management methods and means” (para. A, e) and must fulfil at least one of six general criteria (“uniqueness”, “natural representativeness”, “diversity”, “naturalness”, “presence of habitats that are critical to endangered, threatened or endemic species”, “cultural representativeness”). The SPAMIs must be awarded a legal status guaranteeing their effective long term, protection (para. C.1) and must have a management body, a management plan and a monitoring programme (paras. from D.6 to D.8). Moreover,

“in the case of areas situated, partly or wholly, on the high sea or in a zone where the limits of national sovereignty or jurisdiction have not yet been defined, the legal status, the management plan, the applicable measures and the other elements provided for in Article 9, paragraph 3, of the Protocol will be provided by the neighbouring Parties concerned in the proposal for inclusion in the SPAMI List” (para. C.3)¹².

At the Meeting of the parties held in 2001 the first twelve SPAMIs were inscribed in the list, namely the island of Alborán (Spain), the sea bottom of the Levante de Almería (Spain), Cape Gata-Nijar (Spain), Mar Menor and the East coast of Murcia (Spain), Cape Creus (Spain), Medas Islands (Spain), Columbretes Islands (Spain), Port-Cros (France), the Kneiss Islands (Tunisia), La Galite, Zembra and Zembretta (Tunisia) and the French-Italian-Monegasque sanctuary for marine mammals (so-called Pelagos sanctuary, jointly proposed by the three States concerned¹³). Other SPAMIs have subsequently been added, namely the Cabrera Archipelago

¹² Under Art. 9, para. 3, of the SPA Protocol, “Parties making proposals for inclusion in the SPAMI List shall provide the Centre with an introductory report containing information on the area’s geographical location, its physical and ecological characteristics, its legal status, its management plans and the means for their implementation, as well as a statement justifying its Mediterranean importance; (a) where a proposal is formulated under subparagraphs 2 (b) and 2 (c) of this Article, the neighbouring Parties concerned shall consult each other with a view to ensuring the consistency of the proposed protection and management measures, as well as the means for their implementation; (b) proposals made under paragraph 2 of this Article shall indicate the protection and management measures applicable to the area as well as the means of their implementation”.

¹³ The sanctuary was established under an Agreement signed in Rome in 1999 by France, Italy and Monaco. The sanctuary extends for about 96,000 km² of waters located between the continental coasts of the three countries and the islands of Corsica (France) and Sardinia (Italy). It encompasses waters having the different legal condition of maritime internal waters, territorial sea, ecological protection zone and high seas. They are inhabited by the eight cetacean species regularly found in the Mediterranean, namely the fin whale (*Balaenoptera physalus*), the sperm

(Spain) and Maro-Cerro Gordo (Spain) in 2003, Kabyles Bank (Algeria), Habibas Islands (Algeria) and Portofino (Italy) in 2005, Miramare (Italy), Plemmirio (Italy), Tavolara – Punta Coda Cavallo (Italy) and Torre Guaceto (Italy) in 2008, Bonifacio Mouths (France), Capo Caccia – Isola Piana (Italy), Punta Campanella (Italy) and Al-Hoceima (Morocco) in 2009. With the exception of the Pelagos sanctuary, all the present SPAMIs are limited to coastal waters.

Also to ensure a more representative network of SPAMIs which goes beyond coastal waters, the Meeting of the Parties to the Convention reaffirmed, *inter alia*, in the Declaration adopted on 4 November 2009 in Marrakesh

“the necessity, at the Mediterranean level, of pursuing efforts to identify varied methods and tools for the conservation and management of ecosystems, including the establishment of marine protected areas and the creation of networks representing such areas in accordance with the relevant objectives for 2012 of the World Summit on Sustainable Development (...)”.

The same Meeting of the Parties also adopted Decision IG.19/13, regarding a regional working programme for the coastal and marine protected areas in the Mediterranean.

3.2. The European Union Regime

Directive 92/43 of 21 May 1992 on the Conservation of Natural Habitats of Wild Fauna and Flora (so-called Habitat Directive) is the main European Union instrument laying down biodiversity related obligations. It provides for the establishment of a coherent ecological

whale (*Physeter catodon*), Cuvier’s beaked whale (*Ziphius cavirostris*), the long-finned pilot whale (*Globicephala melas*), the striped dolphin (*Stenella coeruleoalba*), the common dolphin (*Delphinus delphis*), the bottlenose dolphin (*Tursiops truncatus*) and Risso’s dolphin (*Grampus griseus*). In this area, the water currents create conditions favouring phytoplankton growth and abundance of krill (*Meganyctiphanes norvegica*), a small shrimp that is preyed upon by pelagic vertebrates. The parties undertake to adopt measures to ensure a favourable state of conservation for every species of marine mammal and to protect them and their habitat from negative impacts, both direct and indirect (Art. 4). They prohibit in the sanctuary any deliberate “taking” (defined as “hunting, catching, killing or harassing of marine mammals, as well as the attempting of such actions”) or disturbance of mammals. Non-lethal catches may be authorized in urgent situations or for *in-situ* scientific research purposes (Art. 7, a).

network, known as Natura 2000, which comprises “special areas of conservation” designated by Member States in accordance with the provisions of the directive and “special protection areas” designated pursuant to Directive 79/409 of 2 April 1979 on the Conservation of Wild Birds (so-called Birds Directive). Network-related measures are complemented by species-based and general conservation provisions. The Habitats Directive sets out detailed rules on selection of areas, conservation, management, planning and impact assessment.

One criterion for selection relates to sites that represent outstanding examples of typical characteristics of specific biogeographical regions, including the Mediterranean. Habitats and species to be conserved through the designation of special areas of conservation are listed in Annexes I (Natural habitat types of Community interest) and II (Animal and plant species of Community interest). The latter includes several Mediterranean marine animal species, such as seals, cetaceans and the two species of marine turtle known to nest on the beaches of some EU Member States and to reproduce in their waters (*Caretta caretta* and *Chelonia mydas*). The Habitat Directive specifies that, for aquatic species that range over wide areas, special areas of conservation should be proposed only where there is a clearly identifiable area representing the physical and biological factors essential to their life and reproduction (Art 4, para.1)¹⁴.

4. A COMPREHENSIVE COOPERATION POLICY FOR MARINE PROTECTED AREAS IN THE MEDITERRANEAN

As regards spatial protection measures, the already mentioned Marine Strategy Framework Directive provides for the establishment of comprehensive cooperation policies which are based on instruments developed at both the European Union and the regional sea conventions level. Programmes of measures to achieve or maintain a good environmental status

“shall include spatial protection measures, contributing to coherent and representative networks of marine protected areas, adequately covering the

¹⁴ In 2004, a special regime (Directive 2004/35 of 21 April 2004 on environmental liability with regard to the prevention and remedying of environmental damage) was established for compensation of environmental damage, whether direct or indirect, to species and natural habitats protected under the Habitat Directive.

diversity of the constituent ecosystems, such as special areas of conservation pursuant to the Habitats Directive, special protection areas pursuant to the Birds Directive, and marine protected areas as agreed by the Community or Member States concerned in the framework of international or regional agreements to which they are parties” (Art. 13, para. 4)..

It is evident that the Barcelona system and its Protocol concerning specially protected areas and biological diversity, which is specifically oriented towards the Mediterranean marine environment, is an appropriate framework where the European Union should act in order to contribute to the building of a regional coherent and representative network of marine protected areas¹⁵.

In fact, the European Union already provides funding for a project on the identification of areas of conservation interest, with a view to promoting the establishment of a representative ecological network of protected areas in the Mediterranean, which is being implemented by the UNEP–MAP, Regional Activity Centre for Specially Protected Areas (RAC/SPA). The first phase of the project was achieved in 2009 with the objective to collect the available scientific data for identifying priority conservation areas.

The second phase of the project is devoted to the drafting of presentation reports for the areas identified as candidates for inclusion in the SPAMI List. For this purpose an extraordinary Meeting of the MAP Focal Points for Specially Protected Areas was held in Istanbul in June 2010¹⁶. A number of “operational criteria for identifying SPAMIs in areas of open seas, including the deep sea” have been identified¹⁷. A list of thirteen “priority conservation areas

¹⁵ Other frameworks to establish specific spatial protection measures in the Mediterranean are, in the case of shipping, the International Maritime Organization (IMO), as for the creation of Particularly Sensitive Sea Areas, and, in the case of fisheries, the General Fisheries Commission for the Mediterranean (GFCM), as for the creation of fisheries restricted areas.

¹⁶ For the legal aspect see *International Legal Instruments Applied to the Conservation of Marine Biodiversity in the Mediterranean Region and Actors Responsible for the Implementation and Enforcement*, doc. UNEP(DEPI)/MED WG.348/Inf.7 of 14 May 2010; *Note on the Establishment of Marine Protected Areas beyond National Jurisdiction in the Mediterranean Sea*, doc. UNEP(DEPI)/MED WG.359/Inf.3 of 20 April 2011.

¹⁷ See Annex 1 to doc. UNEP(DEPI)/MED WG.348/3 of 28 May 2010.

lying in the open seas, including the deep sea, likely to contain sites that could be candidates for the SPAMI List” has been drafted¹⁸. The first areas involved are expected to be the Gulf of Lions¹⁹ and the Alboran Sea²⁰. Perhaps others could be added, such as some waters in the Adriatic Sea²¹.

¹⁸ See Annex 2 to doc. UNEP(DEPI)/MED WG.348/3 of 28 May 2010.

¹⁹ “The representatives of France and Spain informed the meeting of their countries’ intention to pursue their cooperation with regard to the Gulf of Lions and to consider the possibility of preparing a proposal for the declaration of a SPAMI in this open-sea, which included deep waters” (see the *Report of the Extraordinary Meeting of the Focal Points for SPAs*, doc. UNEP(DEPI)/MED WG.348/5 of 4 June 2010, para. 50).

²⁰ “The representative of Spain also referred to the wish of his country to pursue the process of cooperation with Morocco and Algeria concerning the Alboran Sea” (*ibidem*, para. 51).

²¹ The workshop “Towards a Representative Network of Marine Protected Areas in the Adriatic” was held in Piran in October 2010 to discuss the subject of marine protected areas in this sub-regional sea.