The Regionalization of EC Marine Pollution Law: The Example of the Mediterranean Sea

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Following the adoption of a Community Regulation on the protection of the environment in the Mediterranean Region (Medspa) (see Appendix 1) and the establishment of a regional environmental programme (Envireg), this article will examine the impact of these measures on the Community's marine pollution policy in respect of the Mediterranean Sea. As it will be argued that the Community's room for manoeuvre is conditioned by UNEP's Mediterranean Action Programme (in particular the Barcelona Convention and its four protocols) the appropriateness of Medspa and Envireg will be judged in the light of this premises.

Following this overview, some tentative conclusions will be drawn on the possible wider implications of Medspa, Envireg and Norspa (the programme for the Irish Sea, the North Sea, Baltic Sea and North East Atlantic Ocean currently under consideration (see Appendix 2 for text)) for the future development of the Community's marine pollution policy.

Features of the Mediterranean Basin as a "Marine Region"

The exact meaning of the concept of a "marine region" is not undisputed\(^1\) nor even is the definition of the "Mediterranean Basin" settled.\(^2\) As has been pointed out, however, since the delimitation of a marine region is largely determined by political factors the search for a commonly agreed definition of the concept probably serves

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2. See EP Doc A 2–19/85, 14 April 1985, 9. The Barcelona Convention defines as the "Mediterranean Sea Area": "The maritime waters of the Mediterranean Sea proper, including its gulfs and seas, bounded to the west by the meridian passing through Cape Spartel lighthouse, at the entrance of the Straits of Gibraltar, and to the east by the southern limits of the Straits of the Dardanelles between Mehmetcik and Kumakale lighthouses" (Art. 1).
little purpose. In the case of the Mediterranean Sea, its semi-enclosedness has determined its geographical coverage: it is one of the most polluted marine regions in the world. About 650,000 tons of hydrocarbons are discharged into it each year (about 17 times the amount spilled by the Exxon Valdez in Alaska) 75 per cent of which is caused by deliberate discharge of bilge and ballast waters from tankers. The levels of heavy metals, in particular mercury, and synthetic organic compounds like PCBs and DDT which have been found to be present are a matter of great concern. Over 70 per cent of all municipal waste water is discharged without basic primary treatment which, in conjunction with agricultural fertilizers ending up in the sea, leads to eutrophication and the associated problem of algal blooms, fish deaths and damage to the tourist industry. The last, in many Mediterranean countries accounting for as much as 10 per cent of the GNP, is itself a major cause of marine pollution. Even without the seasonal influx of millions of tourists, over-population is putting a severe strain on natural resources, most notably drinking water.

The problems are exacerbated by the geophysical and biological characteristics of the region. A number of large rivers like the Nile, the Rhone, the Ebro and the Po flow into the Mediterranean Sea, carrying a diversity of industrial pollutants into the basin. In addition, the low water exchange and circulation mean that once introduced into the sea, substances remain there for decades.

For the specific characteristics of the Mediterranean to be properly accommodated, the advantages of a regional regime are paramount. Equally important is the fact that it is much easier to achieve progress amongst a few states which have reached a similar stage of development and pursue the common objective of protecting a given marine region, than at a global level where such centripetal forces are absent.6

Yet, the obstacles to the formation and implementation of such a regional regime for the Mediterranean Sea are formidable. The 18 Mediterranean countries, apart from all sharing an interest in the well-being of the Mediterranean, have very little else in common. Divided over three continents, they are often religiously,