

REPORT

OF THE REGIONAL TECHNICAL MEETING ON THE LEGAL STUDY ON INTEGRATION OF TRANSBOUNDARY EIA/SEA IN THE CONTEXT OF THE BARCELONA CONVENTION AND ITS PROTOCOLS

Introduction

1. The regional technical meeting on the Legal Study on integration of transboundary Environmental Impact Assessment/Strategic Environmental Assessment (TbEIA/SEA) in the context of the Barcelona Convention and its Protocols was held in Athens on 6 February 2025. It was organised by the Priority Actions Programme Regional Activity Centre (PAP/RAC), with the support of a consultant, and moderated by the Deputy Director of PAP/RAC UNEP/MAP - Barcelona Convention.
2. The meeting was held as a part of the activities funded under the Bilateral Cooperation Agreement between the Italian Ministry of Environment and Energy Security (MASE) and UNEP/MAP.
3. In addition to PAP/RAC and UNEP/MAP representatives, the following countries participated to the meeting: Bosnia and Herzegovina, Cyprus, Greece, Israel, Italy, Malta, Montenegro, Morocco, Slovenia, Tunisia, Türkiye. Egypt, Lebanon and Spain apologised for not being able to participate. The List of participants is attached as Annex 1.

Key Discussion Points

4. The Coordinator of UNEP/MAP - Barcelona Convention, Ms. Tatjana Hema, in online connection, opened the meeting and welcomed the participants. She introduced the purpose of the meeting and briefly presented the work carried out so far, thanking Italy for funding the activity within the bilateral agreement as well as the PAP/RAC consultant, Ms. Daniela Addis, for the Legal Study conducted so far, the Contracting Parties for their cooperation and participation, Mr. Prem and all the team of PAP/RAC.
5. Ms. Hema recalled that the evolution of the law after the 1976 Barcelona Convention, amended in 1995, considered the subject of environmental assessments in a much more comprehensive way. UNEP MAP is aware of the other international instruments on the subject, such as the Espoo Convention and its SEA Protocol. Thus, it is deemed necessary to determine how to implement environmental assessments and how to improve the related regulatory framework. During the elaboration of the present study the possibility to provide further contributions in its drafting was given. She therefore recommended that the meeting serve to exchange views and listen to the opinions of the Contracting Parties on the proposal drafted thus far, taking into account the existing regulatory framework, particularly the provisions of the ICZM Protocol, with a view to improving them. She also invited the participants to come up with such proposals, and related possible implementing activities for the next biennium to be presented for consideration of the Conference of the Parties to the Barcelona Convention (COP24).
6. The Deputy Director of PAP/RAC, Mr. Marko Prem, also welcomed the participants and thanked the consultant for the excellent work done, the organisational staff and Ms. Lada Jakelic of PAP/RAC for the administrative matters. He presented the agenda attached as Annex 2, explaining the aims of the meeting and what is expected from the participants.

7. Mr. Prem recalled that the consultant had previously prepared a feasibility study on the same issue, which was presented at the Athens meeting on 13 March 2024. He recalled the upcoming events: the Focal Points meeting in May, where the proposal emerging from today's meeting will be considered; the MAP NFPs meeting in September; and the COP24 in Egypt in December, where the final proposal will be considered.
8. Ms. Addis provided a presentation on the overall context and background on TbEIA/SEA in the context of the Barcelona Convention and its Protocols, and in particular the Feasibility Study conducted in 2024 with the legal options for considerations at the present meeting. Her presentation is attached as Annex 3 to this report.
9. In the introduction to her presentation, Ms. Daniela Addis expressed her gratitude to UNEP/MAP - Barcelona Convention and PAP/RAC and to all the organisers and thanked the participants to the regional technical meeting. She specified that the aim of the technical meeting is to present and discuss the Draft Legal Study on the proposal with options – based on the previous Feasibility Study that was already discussed on the meeting of 13 March 2024, and prepared also thanks to the inputs provided by UNEP/MAP and feedback gained from the bilateral meetings with some of those Mediterranean countries that are not bound by the Espoo Convention and its SEA Protocol - to include in the UNEP MAP/Barcelona Convention System a comprehensive process on transboundary Environmental Assessments (EIA/SEA), and related requirements, and possible implementing activities to be put forward for consideration of the Conference of the Parties to the Barcelona Convention (COP24); and thus to comment the proposals and get feedback and recommendations to finalise the Study as well as the proposal for submission to COP24.
10. In the presentation the consultant gave an overview of the background of the Legal Study and thus on the main conclusions of the previous Feasibility Study, including the consultations during the bilateral meetings she had with some of the Contracting Parties not subject to the UNECE instruments.
11. She recalled that in the list of deliverables of the Programme of Work and Budget for 2024–2025, adopted by Decision IG.26/14 of the Meeting of the Contracting Parties to the Barcelona Convention and its Protocols at their last session (COP23, which took place in Portoroz-Slovenia), was expected also a Legal Study aimed at develop a proposal with options to integrate transboundary Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) into the Barcelona Convention framework, including consistent draft amendments to the text of the Barcelona Convention and to those of its Protocols, based on the findings of the previous Feasibility Study and possible implementing activities to be put forward for consideration of the Conference of the Parties to the Barcelona Convention (COP24).
12. Ms. Addis reminded that the international legal framework for transboundary environmental assessments is provided by the Espoo Convention and its SEA Protocol - and for EU Member States also by the relevant Directives and sectorial legislation - which contain detailed definitions and procedures that countries are required to follow in the framework of mutual cooperation.
13. She stressed that the FS concluded that the Barcelona Convention system includes binding general obligations requiring the CPs to undertake environmental assessments, embracing the transboundary aspects, and provides for EIA/SEA requirements in a manner which is broadly consistent with the requirements of the Espoo Convention and its SEA Protocol. However, it does not give the same level of detail, e.g. by not specifying the exact projects, plans and programmes to which it applies, in such a clear and binding manner as stipulated in the UNECE instruments. In particular, the Barcelona Convention system expressly includes provisions that the Contracting Parties “shall undertake environmental impact assessment for proposed activities that are likely to cause a significant adverse impact on the marine environment”, as provided for in Article 4.3 of the Convention, referring to the geographical area of the whole maritime waters of the Mediterranean Sea (Barcelona Convention, Article 1), therefore including the transboundary

aspects. And also provides binding general obligations for the application of environmental assessments (BC, article 4.3 letters c and d), even if without postulating detailed guidance on the process to be followed, in a homogeneous and coordinated manner by all Contracting Parties

14. The consultant recalled that due consideration was given to the recent BBNJ Agreement, in particular its Part IV (Articles 27-39), dedicated to transboundary environmental assessments, underlining that Especially for those Mediterranean countries that are also parties to the BBNJ or intend to become such after their signature, there is a reinforced obligation to conduct environmental assessments also in areas outside national jurisdiction and in any case taking into account the impacts they may cause to other states, thus being consistent with the concept of transboundary nature. Already 13 Barcelona Convention CPs have signed the BBNJ Agreement, including 4 of the 10 Mediterranean countries not parties to the UNECE instruments: Egypt, Monaco, Morocco and Türkiye.
15. Concerning the national level, the analysis revealed that the Environmental Assessment legislation in those countries that are not part of the EU and UNECE usually does not contain provisions on how to carry out procedures in the case of transboundary impacts. There is still limited information available on how Mediterranean countries cooperate on notification, exchange of information and consultations in assessing transboundary impacts of projects, plans or programmes. In addition, the relevant legislation is very varied and inhomogeneous and, as such, does not facilitate the comparability and, possibly, enforceability in a transboundary context. Beyond the possibility, always achievable, for each Country to adopt the appropriate necessary legislation at the national level, as well as to adhere to the existing international conventions on the subject, aspects relating to the environmental assessment of transboundary impacts of projects, plans or programmes could thus be regulated and managed by enriching and supplementing the UNEP/MAP Barcelona Convention system.
16. Ms. Addis then concluded that the FS presented a list of proposed options that could be taken, even in combination, for the introduction and adoption of transboundary EIA/SEA procedures throughout the Mediterranean region. These options include: a. Continuation of the current policy framework; b. Invitation of the CPs that have not yet done so to adhere to the relevant international instrument, i.e., the Espoo Convention and its SEA Protocol; c. Update of “draft guidelines for environmental assessment in a transboundary context on the procedures for notification, exchange of information and consultation among the Mediterranean States” (drafted under the work programme of the Mediterranean Action Plan Programme for 2018–2019, used so far for training purposes); d. promote the use of and facilitate Countries to enter into bilateral or multilateral agreements to enhance the effective implementation of the transboundary Environmental Assessment; e. Amendment of the existing Barcelona Convention to include a dedicated article to introduce the transboundary EIA and SEA concept and main elements of the procedures; f. Amendment of the existing relevant Protocols of the Barcelona Convention to include a separate Title/Chapter containing articles dedicated to the transboundary EIA and SEA procedures; g. Adoption of a specific Protocol on transboundary EIA and SEA, reflecting the procedures and degree of detail provided by the Espoo Convention and its SEA Protocol, adapted as necessary to the characteristics of the Mediterranean; h. Implementation of pilot transboundary CAMP projects on transboundary EIA/SEA to test and improve the related activities, to facilitate engagement and to help to build trust between the concerned countries.
17. She also recalled that as part of the assignment, bilateral consultations in online meetings were conducted with the national authorities responsible for EIA and SEA in the Mediterranean countries not bound by the Espoo Convention and its SEA Protocol, with the aim to discuss and gather their inputs on proposed measures. A questionnaire has been drafted and sent to representatives before the online bilateral meetings to facilitate discussions in order to gather their contributions, inviting them to indicate the position and the degree of preference of their

country to such proposed options, briefly giving reasons and explanations for their position expressed. Of the 10 mentioned countries contacted, only 3 responded (Morocco, Türkiye and Israel).

18. In the discussion that followed the representative of Türkiye thanked Ms. Addis for her excellent work and informed that they had signed the BBNJ Agreement last September 2024 and will ratify it and asked that the FS be updated accordingly.
19. Ms. Addis explained that the FS is completed and would not be updated anymore. However, this information is well noted.
20. The representative of Tunisia, stressing that the environmental assessments are necessary because pollution doesn't recognize borders, commented that the fact that the FS is closed doesn't mean that the options foreseen are closed, and that all options can be mixed together to be discussed and negotiated.
21. Mr. Prem confirmed this approach, with the possibility of further elaboration of the proposal to be made, as the meeting has been convened for this purpose.
22. Ms. Hema recalled that an independent legal study had been carried out to provide support for the decision to be taken by the Contracting Parties. This does not mean a yes or no to what is proposed in the study. If the Parties feel that there are other proposals, even with a different approach, the meeting is an opportunity to make comments and suggestions. They will be happy to accept them, provided they are concrete proposals.
23. After the coffee break, Ms. Addis presented the draft Legal Study. The presentation is available as Annex 4 to this report. She explained that the heading assumption of the Legal Study is that the transboundary environmental assessment is already included in the Barcelona Convention as a general mandatory obligation (expressed by the "title" of Article 4 "General obligations" and the modal verb "shall" that holds para. 3, imposing a mandatory obligation), under Article 4.3 letters (c) and (d) in conjunction with Article 1, for Contracting Parties "to undertake environmental impact assessment for proposed activities that are likely to cause a significant adverse impact on the marine environment" "of other States or areas beyond the limits of national jurisdiction", thus explicitly including the transboundary concept of environmental assessments. The obligation to undertake transboundary environmental assessments already provided for in the Barcelona Convention, expressed directly for EIA but including also the SEA, therefore implies the need of implementing measures to be taken to render it operational. This fundamental logical step that the environmental assessments envisaged by the Barcelona Convention include not only EIA but also SEA, embracing transboundary ones, as a natural legal implication of the concept with respect to when it was adopted and amended (1976-1995), is confirmed by the provisions contained in one of its implementing Protocols, the ICZM Protocol, whose articles 19 and 29 regulate both SEA and transboundary environmental assessments. It is argued, in fact, that according to the so-called "framework convention and protocol approach" the implementing protocols of a framework convention, such as the Barcelona Convention, can only provide the detailing rules and the setting of specific targets in a coherent manner what is already regulated in general, with guiding principles and broad commitments for its parties and a general system of governance, by the mother Convention.
24. She then presented what she defined as a preface to each of the proposed options, the "core" or minimum reference content for all of them, that should be present in order to effectively integrate transboundary environmental assessments into the UNEP/MAP Barcelona Convention system and make them operational.
25. Ms. Addis also clarified that only the legal options listed in the FS (in points C), E), F) and G) of the table), are taken up and extended with the required degree of detail, as options presented in the Legal Study for the integration of the transboundary EIA/SEA into the framework of the

Barcelona Convention and intended as a “tool kit” to operationalize the underlined general legal obligation.

26. On the contrary, options considered in letters A), B), D), and H) in the FS, due to their non-legal nature, are not analyzed further in the Legal Study. The so-called ‘zero option’ (the ‘do nothing’/no Barcelona system action option), is not consistent with the specific obligations set in the Barcelona Convention to undertake transboundary environmental assessments, which implies the need of implementing measures to be taken to render it operational, is still partly unimplemented but current. Also, options sub b) and d), being political inputs, and sub lett. h), being a model procedure to concretely implement transboundary EIA/SEA specific cases, are not considered in the Legal Study.
27. Finally, she presented in detail each of the proposed legal options analyzed in the Study.
28. Illustrating option 1 – defined as the 'soft option', due to its characteristic of not being strictly enforced, mandatory or required, and which is usually developed by an expert working group to provide advice rather than to enforce compliance – the consultant highlighted that it provides for an updated formulation of the content of the draft Guidelines, prepared by PAP/RAC in April 2019, to a more detailed technical degree and in line with international standards. The consultant invited the participants to consider that these guidelines are still in draft form and have not been formally adopted to date; therefore, reference can only be made to their content if and to the extent that it is deemed useful as a starting point for a more in-depth and detailed elaboration to be adopted.
29. She commented that, from a procedural point of view, this option envisages that guidelines or standards are developed and submitted to the COP for adoption by a specific Decision of the Conference of the Parties either as a specific Decision adopting them; or set out in an Annex to the Barcelona Convention or to a Protocol to the Barcelona Convention, taking into account the instrument by which they are adopted or to which they are annexed - whether option 2 (letter e), option 3 (letter f) or option 4 (letter g) - particularly with regard to the degree of bindingness, detail and its main characteristics.
30. She stressed that it might be questionable whether or not the “non-legally binding” guidelines are consistent with the provisions of the Barcelona Convention on the implementation of the EIA/SEA as binding obligations.
31. She then presented option 2, which envisages the proposal to amend the Barcelona Convention to include a new provision expressly mentioning transboundary environmental assessments. In addition, consideration could be given to including Guidelines as an annex. Ms. Addis remarked that, since the Barcelona Convention falls into the category of framework conventions, defining the fundamental principles and main reference elements of the entire system of protection of the Mediterranean Sea, the proposal for its amendment can only refer to the adjustment of the current provision, but however in terms of fundamental principles and not in terms of detailed rules. Thus the detailed rules could be contained either in a special Annex, taking up the content of the draft guidelines, modifying them in terms that are more stringent and taking into account the provisions of the Espoo Convention and its SEA Protocol, as well as of the BBNJ Agreement; or by using the usual Protocols, which are instruments specifically envisaged to better detail the rules set forth in the Convention. She also observed that, if further clarification of the current legal scope of the provision of the Convention is deemed useful, its amendment could concern the express mention of both the transboundary element of environmental assessments EIA/SEA, leaving the details of the process envisaged, as seen, either to a separate Annex to the Convention or to a Protocol. She commented that the Barcelona Convention framework would thus be more explicitly aligned with the main international references on this thematic area of concern.

32. Ms. Addis then illustrated option 3, which foresees the proposal to amend the existing relevant Protocol/s of the Barcelona Convention to include a separate Title/Chapter containing articles dedicated to the transboundary EIA and SEA procedures. She clarified that this option is divided into two proposed sub-options: 3.a - the option to amend the existing Protocols to the Barcelona Convention that are relevant to the EIA/SEA issues; 3.b - the option to amend only one selected Protocol of the existing relevant ones to the Barcelona Convention. This proposed option 3 foresees to insert some more detailed articles on transboundary environmental assessments in the relevant Protocol/s, evaluating if it is deemed appropriate to include further elements and clarifications in a separate annex. She argued that, at any rate, dedicated guidelines, training activities and projects would be included to complete the proposal. She also recalled that the Protocols to the Barcelona Convention are typically legally binding instruments that establish specific, detailed concrete obligations and limited, definite commitments for its contracting Parties, setting specific time-bound targets, which require the adoption of implementing legislation. She highlighted that for this option the geographical coverage of each individual Protocol must also be considered, which does not necessarily include the potentially transboundary aspects and in any case not necessarily all maritime zones: considering, for example, the geographical scope of application of the ICZM Protocol, which is defined by the seaward limit of the territorial sea, thus excluding the other marine zones (continental shelf, EEZ, etc). Thus, amending one or more of the existing Protocols to incorporate the elements of the EIA/SEA transboundary would not achieve the expected result, as it would be partially applicable to the area covered by that specific Protocol rather than being applicable to the entire UNEP/MAP Barcelona Convention system. Finally, she pointed out that, between these two proposals, option 3.b has the undoubted advantage of concentrating the amendments as well as the adoption of new rules in a single instrument, ensuring greater homogeneity and coherence, perhaps by including a specific section or provision on coordination and adaptation of the Barcelona Convention framework. If it is considered a viable tool to establish lists, e.g. listing activities, projects, plans and programmes to be considered as the object of the environmental assessments, these should be included in an Annex that can be changed more easily.
33. She then presented option 4, which foresees the proposal to adopt a specific Protocol, a specific binding legal instrument providing for and regulating transboundary Environmental Assessments in the form of both EIA and SEA, taking into account the procedures and degree of detail provided by the relevant international instruments and the peculiarities of the UNEP/MAP Barcelona Convention system; a new Protocol, to be added to the protocols to the Barcelona Convention, dedicated to transboundary environmental assessments, adapted to the characteristics of the Mediterranean, as appropriate. She recalled that, as well illustrated in the Feasibility Study, the transboundary environmental assessments are internationally recognized and their key procedural requirements are well-detailed in structured steps in the main reference instruments, which should be reflected in this option. She argued that - especially compared to options 3.a and 3.b which are much more complex, cumbersome and less effective as expected results - the adoption of a new Protocol would have the advantage of being able to regulate in a homogeneous manner, in a single specific legally binding instrument, the entire thematic area of transboundary environmental assessments specifically applicable to the marine and coastal areas of the Mediterranean, also providing for a coordination and adaptation section with the other provisions of the UNEP/MAP Barcelona Convention system. Another advantage of adopting an ad hoc Protocol – she said, recalling the Protocol of another Regional Sea Convention, the Protocol on Environmental Impact Assessment in a Transboundary Context to the Tehran Convention - is the issue on the geographical coverage, which is prejudicial in option 3, whereas in this case the definition would be written adapting it to the needs of a comprehensive scope covering the whole Mediterranean Sea.
34. The participants were invited to submit their comments and concrete proposals, which will be taken into consideration for the finalization of the Legal Study as the outcome that will form the

legal basis of the Draft Decision to be submitted for consideration at COP24, incorporating the proposed options and possible implementing activities.

35. Mr. Prem thanked the consultant for the clear and comprehensive presentation; he informed that they have received comments from Spain and Israel; the latter is present at the meeting and thus invited to illustrate them directly. The Spanish comments will be taken into account when finalizing the Study.
36. The Programme Management Officer of UNEP/MAP - Barcelona Convention, Mr. Ilias Mavroeidis, recalled that, as also made clear in the Study and by the consultant, one should speak of new guidelines rather than an update of the draft guidelines prepared in 2019. He also invited the participants to make any comments they deem useful and, if appropriate, also new proposals, provided they are operational.
37. The representative of Greece commented that option 2, which provides for an amendment to the Barcelona Convention, would not achieve the desired objectives, nor would the two options under 3.a and 3.b, with the proposed amendment to the Protocol(s), partially achieve them. It would be preferable to have a new specific, dedicated protocol instead and therefore opts for option 4. He mentioned that the EU Member States already have the obligation to implement the Espoo Convention and EU Directives so any new instruments should take this into account.
38. The representative of Cyprus argued that the EU Member States and the Contracting Parties of the Espoo Convention and its Protocol are interested on how the transboundary Environmental Assessments can be implemented in the non-EU Member States e non-Espoo Convention parties. The timeframe must also be taken into account when choosing the option. She asked for information on the procedure for the adoption of the guidelines, including whether and to what extent they would be binding and how they would be utilized. She then indicated option 2, suggesting that the best approach might be to add some words to the text of the Barcelona Convention and adopt the Guidelines as an annex.
39. The representative of Tunisia thanked Daniela for the very rich and clear presentation with all the options proposed. He believed that the transboundary Environmental Assessments are useful for all CPs that have not ratified the same protocols and do not share the same level of implementation of the Barcelona Convention system. He argued that the BC is not implemented in the same way and to the same extent in all CPs due to differences in finance, resources and technological knowledge. The main problem of the Barcelona Convention – he said - is the ability to implement it, how to set it up within national legislation. Tunisia is considering the transboundary EAs in the coastal areas for activities such as aquaculture, tourism, etc., as they have seen that these activities already have an impact on the country. He added that he believed that the experience gained and what we already have should be capitalized and used in a specific protocol that will be submitted to the COP. He then thanked for this opportunity to discuss this huge issue.
40. The representative of Bosnia and Herzegovina said that all options are acceptable to them as they would help to implement the Barcelona system. She proposed to work on the guidelines and in parallel on the implementation of pilot transboundary CAMP projects on transboundary EIA/SEA to test and improve the related activities, to facilitate engagement and to help to build trust between the concerned countries, together with the legal asset under the proposed options 2 or 3.
41. The representative of Israel argued that the FS did not explain why all options were not being explored. She suggested to develop the guidelines first, which are very important, as there is no need to jump to the legally binding components. A significant change represented by the other options 2, 3 and 4 would require more in-depth consideration, including issues such as when and how the Espoo Convention and its SEA Protocol were implemented. Only after this analysis - she

said – we may consider adopting elements of the UNECE instruments to be integrated into the BC system, concluding that there is still much to learn by better understanding how the environmental assessments in transboundary context work in practice by the Contracting Parties.

42. The representative of Slovenia noted that, for them, this process had already been adopted. He suggested working on the development of guidelines as a first step and, in parallel, the drafting of a new protocol to be ratified or the adaptation of existing ones, e.g. the amendment of the ICZM Protocol. He also noted that it would be useful to consider the implementation of projects to test what is to be adopted. He also suggested inviting the Secretariat and Parties to the Espoo Convention and its SEA Protocol to exchange views and experiences.
43. Ms. Hema recalled what is asked and what the CPs attention and responses should focus on: what each option entails, the amendments, the work to be done. She pointed out that the ICZM Protocol already contains important provisions: the proposal could therefore consist, for example, of adding one or more articles to complement it. She reiterated that more concrete and detailed proposals are needed as the decision and the details of what is required from the parties need to be finalized, seeing what exactly need to be decided, in a concrete way and not in general. She asked that if an amendment proposal is made, it be concretized with a detailed proposal.
44. The representative of Morocco thanked the entire team and Ms. Addis for the quality of the work done and the study produced, which was evidently written by an expert with a lot of experience and in a clear manner on an otherwise complex subject. He pointed out that it should be taken into account that when it comes to procedures, notifications, etc., CPs usually do not accept them without a legally binding agreement. He said that the proposed options are very good, agreeing that option zero should not be considered as it is not acceptable. Four options were presented, all of them valid: they are ready to listen to the position of the other countries as well and then decide together.
45. The representative of Tunisia referred to technical considerations and pointed out that no new instruments should be added. Option 3 seems too complex and should not be considered. Options 1 and 2 were virtually mirror images. He concluded that option 1, i.e. preparation of Guidelines, should be considered.
46. Mr. Mavroeidis intervened to comment that option 1 does not require to change the legal system and that Contracting Parties may use technical guidelines adopted by a COP decision.
47. The representative of Türkiye argued that, from a technical and legal point of view, the best option is the combination of options 1 and 4, as option 1 is not a binding tool, and then it should be combined with option 4, which is legally binding, supporting the adoption of a new dedicated protocol elaborated taking into account the valuable experience of CPs.
48. The representative of Israel thanked Ms. Addis for her work. She recalled that they had already sent their position in writing, which they would illustrate at the meeting. They certainly recognize the importance of the theme. However, they believe that the focus should not be on creating a new instrument, but rather on implementing the existing legal framework of the BC and its Protocols. Therefore, they believe the so-called ‘zero option’ should also be considered, since the Barcelona Convention System already includes those elements that are suitable to improve and implement the existing legal framework. They therefore stated that Israel cannot accept a legally binding instrument in any of the proposals. They recognize the added value of the BC system and believe there is no need for additional elements. In their opinion, there should be further legal examination and study concerning the practice and degree of implementation of existing instruments, including the UNECE instruments, in the Mediterranean, in order to learn more about the existing framework, understand what is in place and how it has been applied and

implemented. She therefore requested that an update of the content of the aforementioned guidelines be considered (option 1), without any binding element being recognized. She also argued that options b. *Invitation of the CPs that have not yet done so to adhere to the relevant international instrument, i.e., the Espoo Convention and its SEA Protocol*; and d. *Promote the use of and facilitate Countries to enter into bilateral or multilateral agreements to enhance the effective implementation of the transboundary Environmental Assessment* of the FS should be considered. In conclusion, she confirmed that what is currently provided for in the framework of the BC is sufficient and does not need further instruments but can be implemented using non-binding and non-mandatory measures and instruments.

49. The representative of Bosnia and Herzegovina asked that the guidelines under lett. c on page 43 of the FS be updated to include SEA.
50. Ms. Addis clarified that it is the title of the guidelines and as such it could not be changed, but they would certainly include SEA.
51. The representative of Cyprus stated that whichever position they want to take, they have to take into account the degree of difficulty in adopting each of the proposed options. She then asked whether option 1 would provide that the guidelines, if adopted as an annex to the BC or to a Protocol, would be mandatory/legally binding. She considered that the solution presented in Option 2, i.e. to amend the BC, providing for the adoption of specific guidelines as an annex, is the simplest and therefore the most feasible approach.
52. The representative of Italy commented that EAs are not only obligations but primarily instruments of cooperation and invited to reflect on what we want to do in our common sea. She said that much has been learned from the UNECE instruments. The BC system need a legal instrument on the subject, but it is also important to ensure proper data exchange. She then read out the outcome of last year meeting in Rome, recognizing the value of the work of the International Bank. She also suggested not including the scoping phase in the core content outlined in the draft Legal Study, in view of the fact that it is not mandatory in the EU. As a substitute, it could be envisaged to notify information and communicate interest in participating in the process.
53. The other representative of Italy recalled that they are supporting this process because they are convinced that supporting a specific instrument would help to improve the scenario. The issues raised so far concerned the opportunity of avoiding any duplication with existing instruments; the question of whether to start from scratch or from a low point in the process of assessing transboundary activities. We can envisage agreeing on a process at a formal level, such as a COP decision to twin the CPs with the Espoo Convention and then supporting this with capacity building tools to help non-UNECE countries to better understand how it works and its value. He said it should be agreed to involve the Espoo Secretariat to exchange information and to establish a process to arrive at the adoption of a binding instrument, preferably a dedicated protocol. He proposed to formally agree to work together over the next two years to exchange experiences and to move towards the adoption of a binding instrument.
54. The representative of Malta argued that all the options have pros and cons, as it was well illustrated by Ms. Addis. He reiterated - as did the other States already party to other international instruments - the importance of harmonizing the option to be adopted with existing instruments so that there is no overlap or duplication.
55. The representative of Morocco emphasised the importance of adopting actions and measures that facilitate and support States in understanding and applying these processes. He suggested that option 1 be improved with the FS option d., which provides to “promote the use of and facilitate Countries to enter into bilateral or multilateral agreements to enhance the effective implementation of the transboundary environmental assessment”.

56. The representative of Tunisia thanked the consultant for the work done with the Legal Study. He noted that the BC is not implemented in the same way in all CPs. He considered important to have directives on the subject, but without being mandatory, to allow the country to prepare itself and build experience, also through projects, to evaluate the implementation and application of these measures. He also considered appropriate to give countries the time necessary for these mechanisms, options and directives to be implemented without difficulty. He therefore reaffirmed their agreement on option 1, with small modification and the provision of accompanying measures.
57. Mr. Prem summarized the point on the need that has emerged to support and facilitate the exchange of experience, knowledge, data, etc. between countries, as a necessary precondition for the future development of a binding instrument. Guidelines should be prepared for adoption by the COP, in line with existing international instruments, which provide for mechanisms to adequately assist countries to better understand and apply transboundary EAs processes. The second step should therefore be devoted to the development of a binding instrument such as the Protocol.
58. The representative of Greece opted for the proposal described by Italy to draft guidelines as a first step, to achieve practical results on EIA/SEA activities and based on such experiences decide on the adoption of a binding instrument in parallel. The priority is the guidelines, which must be very clear and complete, with precise transboundary results, and then move on to the drafting and adoption of a binding instrument.
59. The representative of Israel agreed that a study of existing tools and mechanisms should be carried out in parallel with the development of guidelines, in order to better understand the pros and cons, as it is important to learn from existing instruments.
60. Ms. Addis recalled as a key point that transboundary environmental assessments EIA/SEA are already included in the Barcelona Convention system as a general obligation, which implies that implementing measures need to be adopted to make it operational. Consequently, further measures on the integration of transboundary EIA/SEA shall be adopted in order to better implement the framework of the Barcelona Convention, taking into account the characteristics and specificities of the Mediterranean area, bearing in mind that the EU Member States and the UNECE Parties are already obliged to comply with legal instruments on transboundary EIA/SEA; therefore, an option that is in harmony with the international framework, while adapting it to the characteristics of the Mediterranean area, is called for.

Conclusions and Recommendations

61. The participants to the regional technical meeting on Legal Study on integration of the Transboundary EIA/SEA in the context of the Barcelona Convention and its Protocols (Athens, 6 February 2025), noting the conclusions of the Feasibility Study and the proposals of the Legal Study, agreed that the best way forward is to follow a 2-step approach and therefore recommend to the Contracting Parties:
 - 1) As a first essential step, to prepare guidelines (option 1 of the Legal Study), in harmony with the international framework (the United Nations Economic Commission for Europe-UNECE instruments, the Convention on Environmental Impact Assessment in a Transboundary Context-Espoo Convention and its Protocol on Strategic Environmental Assessment-SEA Protocol, and EU EAs) to be developed in the next biennium for submission to COP25 through a draft Decision.

In parallel, prepare an analysis of the existing legal instruments and experiences at international and national level in the Mediterranean area on Transboundary Environmental

Assessments and also, as appropriate, propose through the PoW of COP24 to promote the exchange of experiences and best practices, to promote training and capacity building initiatives in cooperation with the Espoo Secretariat, taking into account the international framework and the implementation of demonstration projects on EIA/SEA in a transboundary context in the Mediterranean, in order to support the Contracting Parties to better understand the process and to apply the guidelines once adopted.

- 2) As a second step, based on the results of the implementation of the guidelines, the Contracting Parties may consider the preparation of a legally binding instrument, e.g. as suggested in the Legal Study.

Closing remarks

62. The PAP/RAC Deputy Director closed the meeting at 17.00, thanking for the work done by the consultant, the PAP/RAC team, the interpreters, the participants and all those who contributed to the meeting.

**LEGAL STUDY ON INTEGRATION OF TRANSBOUNDARY EIA/SEA
IN THE CONTEXT OF THE BARCELONA CONVENTION AND ITS PROTOCOLS**

**Regional consultation meeting
(Royal Olympic Hotel, Athens, 6 February 2025)**

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UNEP/MAP	Mr. Ihab TAREK Legal Officer- Governance
PAP/RAC	Mr. Marko PREM Deputy Director
PAP/RAC	Ms. Lada JAKELIĆ Administrative officer
EXPERT	Ms. Daniela ADDIS Consultant
INTERPRETER	Ms. Eirini THEOFYLAKTOPOULOU
INTERPRETER	Ms. Agapi Maria KOTSYFA

**LEGAL STUDY
ON INTEGRATION OF TRANSBOUNDARY EIA/SEA
IN THE CONTEXT OF THE BARCELONA CONVENTION AND ITS PROTOCOLS**

Regional consultation meeting

Athens, 6 February 2025

AGENDA

Opening and Welcome
Aims of the meeting
Introduction and background Conclusions of the Feasibility Study, consultations with the CPs
Presentation of the draft Legal Study <i>General overview of the Legal Study and focus on the various options/scenarios to integrate transboundary EIA/SEA into the MAP-Barcelona Convention framework</i>
Tour de table for presentation, Q&A and comments <i>Discussion, comments and suggestions</i>
Recap on the key suggestions and points made <i>Next steps</i>
Conclusions and wrap up <i>Closing Remarks and end of the meeting</i>

Legal Study on integration of transboundary EIA/SEA in the context of the Barcelona Convention and its Protocols

By: Daniela Addis

Regional Meeting, Athens 6 February 2025



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Aim of the meeting



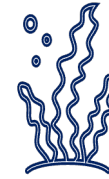
- **Present and discuss the draft Legal Study on the proposal with options, based on the previous Feasibility Study and on inputs provided by UNEP/MAP and feedback gained from the bilateral meetings with Mediterranean non-UNECE countries, to include in the UNEP MAP/Barcelona Convention System a comprehensive process on transboundary Environmental Assessments (EIA/SEA) to be put forward for consideration of the Conference of the Parties to the Barcelona Convention (COP24).**
- **Comment the proposals and get feedback and recommendations to finalise the Study and the proposal for submission to COP24.**



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Introduction and background



Following the **Programme of Work and Budget for 2024–2025 (Decision IG.26/14 - COP23)**, a **Legal Study** was realised aimed at **develop a proposal with options to integrate transboundary Environmental Impact Assessment (EIA) and Strategic Environmental Assessment (SEA) into the Barcelona Convention framework**, including consistent draft amendments to the text of the Barcelona Convention and to those of its Protocols, based on the findings of the previous FS, and possible implementing activities to be put forward for consideration of the Conference of the Parties to the Barcelona Convention (COP24).



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Programme of Work and Budget 2024–2025 (Dec. IG.26/14)

Main activity	Expected deliverable	Lead Component	Total MTF Budget 2024-2025
Outcome 4.1. Sustainability of coastal and marine resources achieved through the synergetic implementation of planning and management approaches, including the adequate consideration of Land-Sea Interactions (LSI)			210,916 €
4.1.1. Prepare National ICZM strategies (Workshop, in-house expertise, consultancy)	<ul style="list-style-type: none"> a) National Strategy for Lebanon prepared and submitted for adoption by relevant national authority. b) Climagine approach applied as a participatory foresight approach supporting the preparation of National ICZM strategies. c) Support provided to the implementation of the National ICZM Strategy for Tunisia through the establishment of a national ICZM network and the preparation of a communication plan d) CPs supported in the implementation in the ICZM Protocol, in particular regarding the application of transboundary EIA and SEA in cooperation with the Espoo Convention and its Kiev Protocol implementation e) Legal study on integration of transboundary EIA/SEA into the Barcelona Convention framework including consistent draft amendments to the text of the Barcelona Convention and to those of its Protocols, elaborated and submitted to COP24 	PAP/RAC	50,000 €

Conclusions of the Feasibility Study

The international legal framework for transboundary environmental assessments is provided by the **Espoo Convention** and its **SEA Protocol**, with detailed definitions and procedures that countries are required to follow in the framework of mutual cooperation.

Barcelona Convention system

- expressly includes provisions that the CPs *“shall undertake environmental impact assessment for proposed activities that are likely to cause a significant adverse impact on the marine environment”* (BC Art 4.3), referring to the **geographical area of the whole maritime waters of the Mediterranean Sea** (BC, Art 1), therefore **including the transboundary aspects**;
- provides **binding general obligations for the application of environmental assessments** (BC, article 4.3 letters c and d), without postulating detailed guidance on the process to be followed, in a homogeneous and coordinated manner, by all Contracting Parties.



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Conclusions of the Feasibility Study

2023 UN BBNJ Agreement - Part IV (Articles 27-39) is dedicated to environmental impact assessments (EIAs), which includes EIAs and SEAs supporting the consideration of cumulative and transboundary impacts. Among its objectives, to build and strengthen the capacity of Parties, particularly developing States Parties, comprising coastal African States, to prepare, conduct and evaluate EIA and SEA in support of the objectives of the BBNJ (Art. 27 lett. f). Article 29 provides an obligation for Parties to promote the use of environmental assessments and thus the adoption and implementation of the standards and/or guidelines developed in relevant legal instruments, frameworks and bodies of which they are members. 13 BC CPs have signed the BBNJ Agreement, including 4 of the 10 Mediterranean countries not parties to the UNECE instruments: Egypt, Monaco, Morocco and Türkiye.

National level - Environmental Assessment legislation in countries not parties to the EU and UNECE usually does not contain provisions on how to carry out procedures in the case of transboundary impacts.

There is still limited information available on how Mediterranean countries cooperate in assessing transboundary impacts of projects, plans or programmes. In addition, the relevant legislation is very varied and inhomogeneous and, as such, does not facilitate the comparability and, possibly, enforceability in a transboundary context.

These aspects could be regulated and managed by enriching and supplementing the UNEP/MAP Barcelona Convention system.



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FS - List of proposed options

TABLE 1. PROPOSED OPTIONS FOR TRANSBOUNDARY EIA/SEA PROCEDURES IN THE MEDITERRANEAN REGION

Options	Main characteristics	Pros	Cons
<p>a. Continuation of the current policy framework</p>	<p>In the continuation of the current situation, a development in the exchange of information is envisaged, through both formal (including through UNEP/MAP) and more informal modes of communication.</p> <p>It is also expected that there will be increasing cooperation in sharing information on marine environmental policy innovations that may be relevant to environmental assessments.</p> <p>This option includes both the continuation of existing activities and the addition of some new elements into the MAP Programme of Work (but not including new instruments or the modification of existing ones), supporting EIA/SEA through a number of activities, including:</p> <ul style="list-style-type: none"> - capacity building on tools, MSP application, ecosystem approach, assessment of cumulative impacts, etc; - support on notification procedures; - exchange of best practices; etc. 	<p>No change to the current status, with no required commitment to the CPs and no additional expenditure. Development of cooperation and collaboration on a voluntary basis.</p> <p>UNEP/MAP has long experience in this type of support and activities, which can be implemented without delay as they are activities to be included in the Programme of Work, without the need to negotiate or adopt new/updated instruments.</p>	<p>Lack of the benefits of transboundary EAs for the entire Mediterranean basin; in particular, without the benefits enhanced through the inclusion of stakeholders from affected countries, including a lack of improvement in decision-making, promotion of understanding between the community and developers, enhancement of international cooperation, including awareness of the importance of the environment in such cooperation, and avoidance of conflict.</p> <p>It would not necessarily lead to tangible results.</p> <p>It will require mobilization of additional external resources for its implementation.</p>

TABLE 1. PROPOSED OPTIONS FOR TRANSBOUNDARY EIA/SEA PROCEDURES IN THE MEDITERRANEAN REGION

Options	Main characteristics	Pros	Cons
<p>b. Invitation of the CPs that have not yet done so to adhere to the relevant international instrument, i.e., the Espoo Convention and its SEA Protocol</p>	<p>The option to encourage the invitation of the CPs that have not yet done so to adhere to the Espoo Convention and its SEA Protocol is envisaged to be supported by providing a Mediterranean linkage mechanism within the MAP Barcelona Convention System to guarantee a smooth and optimistic adaptation and implementation.</p> <p>To facilitate accession, the guidelines prepared in the context of Espoo and other supporting tools (i.e. dedicated workshops, system-funded support projects, etc.) could be adapted to the Mediterranean context in order to accompany this process in the most agile and collaborative manner.</p>	<p>The opportunity to utilize of a well-established legal framework internationally recognized for preventing and reducing adverse transboundary environmental impacts from proposed activities/plans and programmes, suitably adapted to the characteristics and needs of the Mediterranean, within the MAP Barcelona Convention System.</p> <p>Also with the support of the MAP Barcelona Convention System, which would facilitate their application in the Mediterranean context, new mechanisms, procedures and structures are avoided, saving time and money for the countries.</p>	<p>As this is merely an invitation, which is not binding, it would not necessarily lead to tangible results.</p> <p>Being a non-legally binding option, it has to be considered the missed opportunity for the CPs and the region to have:</p> <ul style="list-style-type: none"> - a unified system/process to which all Contracting Parties commit coherently; - a more specific focus on the marine and coastal environment compared to the current available instruments regulating EIA/SEA. It could be effective in combination with other proposed options.

TABLE 1. PROPOSED OPTIONS FOR TRANSBOUNDARY EIA/SEA PROCEDURES IN THE MEDITERRANEAN REGION

Options	Main characteristics	Pros	Cons
<p>c. Update of “draft <i>guidelines for environmental assessment in a transboundary context on the procedures for notification, exchange of information and consultation among the Mediterranean States</i>”</p>	<p>The draft <i>guidelines</i> should be updated, based on consultations with the CPs, in the light of the internationally recognized tools already adopted (i.e. in the Espoo context), adapted to the Mediterranean framework, while providing mechanisms and further support to facilitate their understanding and application.</p>	<p>Possibility of having a homogeneous model of transboundary Environmental Assessments procedures and requirements to be followed, shared by all Mediterranean countries, although not binding, leaving complete margins of national discretion.</p>	<p>As this is a merely reference but non-binding tool, it would not necessarily lead to tangible results.</p> <p>It could be effective in combination with other proposed options.</p> <p>It will require mobilization of additional external resources for its implementation.</p>

TABLE 1. PROPOSED OPTIONS FOR TRANSBOUNDARY EIA/SEA PROCEDURES IN THE MEDITERRANEAN REGION

Options	Main characteristics	Pros	Cons
<p>d. Promote the use of and facilitate Countries to enter into bilateral or multilateral agreements to enhance the effective implementation of the transboundary environmental assessment</p>	<p>The main elements of such agreements should be those identified by the Espoo Convention (Appendix VI), which also apply to the SEA Protocol, referring as main contents to notification, exchange of information and consultation in assessing the environmental impacts of plans, programmes, and projects, in a manner that should be largely consistent with the requirements of the Article 2(4) of the Espoo Convention.</p> <p>The Bucharest Agreement concluded among the countries of South-East Europe in 2008 (which mainly regulates the EIA process) should be an important reference. The main elements of the Bucharest Agreement are the following ones: 1. Notification of the designated Competent Authority and point of contact to all Parties and the Secretariat (of Espoo Convention); 2. Adoption of criteria for the identification of significant adverse transboundary impacts; 3. Development of guidelines on the implementation of the same agreement; 4. Establishment of joint working groups to determine detailed arrangement for communication and consultations when joint proposed activities are considered; 5. Establishment of a 30 day timeframe for the affected Party to respond to notification; 6. Having the notification available in the English language; 7. The need to translate documentation into the official language of the affected Party.</p>	<p>This option is in accordance with Article 4(3)(d) of the BC and also as provided for in the ICZM Protocol, Article 29.</p>	<p>As this is merely a promotion, an invitation, which is not binding, it would not necessarily lead to tangible results.</p> <p>Being a non-legally binding option, it has to be considered the missed opportunity for the CPs and the region to have:</p> <ul style="list-style-type: none"> - a unified system/process to which all Contracting Parties commit coherently; - a more specific focus on the marine and coastal environment compared to the current available instruments regulating EIA/SEA. <p>It could be effective in combination with other proposed options.</p>

TABLE 1. PROPOSED OPTIONS FOR TRANSBOUNDARY EIA/SEA PROCEDURES IN THE MEDITERRANEAN REGION

Options	Main characteristics	Pros	Cons
<p>e. Amendment of the existing Barcelona Convention to include a dedicated article to introduce the transboundary EIA and SEA concept and main elements of the procedures</p>	<p>The amendment of the Convention implies the application of the procedure provided, in general terms, by the Vienna Convention on the Law of Treaties, (Part IV-Amendment and modification of treaties, articles 39-41), and therefore by article 22 of the same Barcelona Convention.</p> <p>The latter, in particular, provides that amendments to the Convention have to be adopted by a 3/4 majority vote of the Contracting Parties to the Convention which are represented at the diplomatic conference requested by 2/3 of them. Amendments enter into force between CPs having accepted such amendments after 30 days of the notification of their acceptance by at least 3/4 of the CPs.</p>	<p>This option would represent a binding important decision, agreed at least by the great majority, on the role that is intended to be attributed to transboundary environmental assessments in the Mediterranean system.</p> <p>The added value for the CPs can include:</p> <ul style="list-style-type: none"> • a unified system/process to which all Contracting Parties commit coherently; • a more specific focus on the marine and coastal environment compared to the current available instruments regulating EIA/SEA; and • the opportunity to include activities which are larger in scope but with smaller threshold which would not be covered by other instruments but are considered as important for the Mediterranean Sea and coast. 	<p>The process to be followed for the adoption of the amendments will entail negotiation and ratification processes which are complex and very time consuming, considering that the Convention as amended in 1995 entered into force in 2004, 9 years later.</p>

TABLE 1. PROPOSED OPTIONS FOR TRANSBOUNDARY EIA/SEA PROCEDURES IN THE MEDITERRANEAN REGION

Options	Main characteristics	Pros	Cons
<p>f. Amendment of the existing relevant Protocols of the Barcelona Convention to include a separate Title/Chapter containing articles dedicated to the transboundary EIA and SEA procedures</p>	<p>The amendment of the 5 relevant Protocols (Land-Based Sources Protocol, Prevention and Emergency Protocol, SPA/BD Protocol, Offshore Protocol, ICZM Protocol) implies the application of the procedure provided, in general terms, by the Vienna Convention on the Law of Treaties, (Part IV-Amendment and modification of treaties, articles 39-41), and therefore by article 22 of the same Barcelona Convention.</p> <p>The latter, in particular, provides that amendments to the Protocols have to be adopted by a 3/4 majority vote of the Contracting Parties to such protocol/s which are represented at the diplomatic conference requested by 2/3 of the Contracting Parties to the protocol/s concerned. Amendments enter into force between CPs having accepted such amendments after 30 days of the notification of their acceptance by at least 3/4 of the CPs to the protocol/s concerned.</p>	<p>Intervening on each individual protocol would guarantee the homogeneous application of the mechanisms and procedures envisaged by the transboundary environmental assessments in all sectors considered by the Barcelona system.</p> <p>The added value for the CPs can include:</p> <ul style="list-style-type: none"> • a unified system/process to which all Contracting Parties commit coherently; • a more specific focus on the marine and coastal environment compared to the current available instruments regulating EIA/SEA; and • the opportunity to include activities which are larger in scope but with smaller threshold which would not be covered by other instruments but are considered as important for the Mediterranean Sea and coast. 	<p>The process to be followed for the adoption of the amendments will entail negotiation and ratification processes which are complex and very time consuming.</p> <p>The amendment of the existing relevant Protocols will be even more time consuming than the development of a new instrument.</p> <p>It should be also noted that the protocols have a limited number of parties compared to the Barcelona Convention (on average from 7 to 12) and therefore would not in themselves guarantee the application of transboundary environmental assessment tools to the entire Mediterranean.</p>

TABLE 1. PROPOSED OPTIONS FOR TRANSBOUNDARY EIA/SEA PROCEDURES IN THE MEDITERRANEAN REGION

Options	Main characteristics	Pros	Cons
<p>g. Adoption of a specific Protocol on transboundary EIA and SEA, reflecting the procedures and degree of detail provided by the Espoo Convention and its SEA Protocol, adapted as necessary to the characteristics of the Mediterranean</p>	<p>Adoption of a specific Protocol on transboundary EIA and SEA, reflecting the procedures and degree of detail provided by the Espoo Convention and its SEA Protocol, adapted as necessary to the characteristics of the Mediterranean.</p> <p>The content of this proposal for a new protocol should focus in particular on the points and include the relevant elements highlighted in the FS analysis.</p>	<p>Possibility to have a specific legal instrument dedicated to the topic.</p> <p>The adoption of a specific protocol on these instruments of transboundary EAs, regarding all the areas covered by the Barcelona Convention and its currently seven Protocols, and thus applicable to them, would simplify the work of organising and writing it, focusing on a single instrument.</p> <p>The general content of this proposed new protocol is in principle already available, being able to rely on the in-depth analysis developed through the Feasibility Study.</p> <p>The added value for the CPs can include:</p> <ul style="list-style-type: none"> • a unified system/process to which all Contracting Parties commit coherently; • a more specific focus on the marine and coastal environment compared to the current available instruments regulating EIA/SEA; and • the opportunity to include activities which are larger in scope but with smaller threshold which would not be covered by other instruments but are considered as important for the Mediterranean Sea and coast. 	<p>The process to be followed for the preparation and the adoption of the new specific Protocol will entail negotiation and ratification processes which are complex and very time consuming.</p> <p>May the new Protocol will have a limited number of parties and therefore would not in itself guarantee the application of transboundary environmental assessment tools to the entire Mediterranean</p>

TABLE 1. PROPOSED OPTIONS FOR TRANSBOUNDARY EIA/SEA PROCEDURES IN THE MEDITERRANEAN REGION

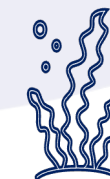
Options	Main characteristics	Pros	Cons
<p>h. Implementation of pilot transboundary CAMP projects on transboundary EIA/SEA to test and improve the related activities, to facilitate engagement and to help to build trust between the concerned countries</p>	<p>The operational tool of the CAMP projects originate within the framework of the Coastal Area Management Programme (CAMP), launched in 1989 to respond to local, national, and regional priorities in the Mediterranean. CAMP projects support sustainability and resilience in the region by taking into account national circumstances, including the legal, administrative and cultural context of Mediterranean countries; in particular, they are an example of local implementation of the Integrated Coastal Zone Management (ICZM) Protocol of the Barcelona Convention.</p> <p>The CAMP projects, approved by the Meeting of the Contracting Parties to the Barcelona Convention, are coordinated by the PAP/RAC (with the involvement of other RACs) together with national governments and now also developed in the transboundary context, they can be a valuable voluntary, non-binding tool to develop, apply and implement transboundary EIA and SEA.</p>	<p>The new generation of the transboundary CAMP projects can be used as valid tool to facilitate the institutional activity on implementing transboundary EIA/SEA on pilot areas of two or more CPs, based on the cooperation between the countries involved and the support of UNEP MAP RACs, in particular PAP/RAC.</p> <p>It could be used for capacity building.</p>	<p>As this is a merely voluntary non-binding tool, it would not necessarily lead to tangible results.</p> <p>it will require mobilization of additional external resources for its implementation.</p> <p>Being a non-legally binding option, it has to be considered the missed opportunity for the CPs and the region to have:</p> <ul style="list-style-type: none"> - a unified system/process to which all Contracting Parties commit coherently; - a more specific focus on the marine and coastal environment compared to the current available instruments regulating EIA/SEA. <p>It could be effective in combination with other proposed options.</p>

Consultations with CPs

Country	Email with letter of invitation to be available for direct consultations	Reply and agreement emails	Online bilateral meeting	Expressed positions
Algeria	18.11.2024			
Egypt	18.11.2024			
Israel	18.11.2024	4,11,12,13,17/12/2024	30/12/2024	Israel is NOT in a position to: - agree to the integration of Transboundary EIA/SEA into the BC, and therefore objects to amendments to the text of the BC on this matter. Guidelines must remain voluntary which would preclude and annex to the Barcelona Convention or a Protocol to the Barcelona Convention; - ratify the Espoo Convention.
Lebanon	18.11.2024			
Libya	18.11.2024			
Monaco	18.11.2024			
Morocco	18.11.2024	20,21,22,25,27,28/11/2024; 2/12/2024	28/11/2024	lett c) Update of "draft guidelines": 4 out of 5; lett e) Amendment of BC: 1 out of 5; lett f) Amendment of relevant Protocols to BC: 1 out of 5; lett g) Adoption of a specific Protocol on transboundary EIA/ SEA: 1 out of 5.
Syria	18.11.2024			
Tunisia	18.11.2024			
Türkiye	18.11.2024	27,29/11/2024; 2,13,18/12/2024	12/12/2024	lett c) Update of "draft guidelines": 4 out of 5. This option might be combined with the one under letter g; lett e) Amendment of BC: 3 out of 5; lett f) Amendment of relevant Protocols to BC: 2 out of 5; lett g) Adoption of a specific Protocol on transboundary EIA/ SEA: 5 out of 5. It is highly recommended to organize more workshops/regional meetings and to develop such documents in order to learn best practices and good experiences and to transfer knowledge among CP's. For instance, workshops could be organized specifically on procedural difficulties, disputes, negotiations and the benefits of implementing EIA/SEA in a transboundary context.



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Thank you!



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Presentation of the draft Legal Study



General overview of the Legal Study and focus on the various options/scenarios to integrate transboundary EIA/SEA into the MAP-Barcelona Convention framework.

Heading assumption: **the transboundary environmental assessment - expressed directly for EIA but including also the SEA - is already included in the Barcelona Convention as a general binding obligation, implying the need of implementing measures to be taken to render it operational.**

"Framework convention and protocol approach" the implementing protocol (i.e. **ICZM Protocol**) of a framework convention (Barcelona Convention), can only provide the detailing rules and the setting of specific targets in a coherent manner what is already regulated in general by the mother Convention.



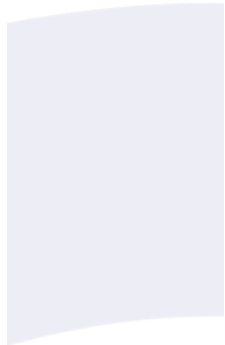
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“Core” content to the individual options proposed



- an EIA/SEA **procedure** for listed proposed activities, **projects, plans** and **programmes** that are likely to cause significant adverse transboundary impact. A provision to conduct a ‘cumulative impact assessment’.
- the **notification** of affected Parties as early as possible, the **minimum content**, the **procedure to be followed**, a **list of contact points for notification**, a recommended **format for notification**, **the deadline to express interest in participating in the transboundary consultation**;
- the EIA/SEA **Documentation** containing a listed minimum information (proposed activity and its alternatives, **environmental report**; environment likely to be affected, potential environmental impact, mitigation measures, data used, information gaps, a non-technical summary, outline for monitoring programmes), including a **scoping procedure** with early participation of the affected Party/ies; translation of the non-technical summary;
- the **consultation** of affected Parties without undue delay;
- the **public participation** of the affected Party/ies, within a reasonable time frame;
- the **final decision on the proposed activity, project/plan/programme**, to be transmitted to the affected Party/ies, along with reasons and considerations on which it was based.
- biennial **national reports** on the EIA/SEA activities and results, to be included as part of the national implementation reports submitted by the CPs through the reporting system.



State where the activity is being planned



NOTIFICATION

Request for participation to the EIA /SEA →

← Answer on participation

To public and authorities for comments →

← Comments

← Consultation between parties →

EIA /SEA DOCUMENTATION

State that is likely to be affected



FINAL DECISION →



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List of options

Legal options listed in letters **c), e), f)** and **g)** of the FS **are considered and extended** in the Legal Study.

Options considered in letters **a), b), d),** and **h)** of in the FS **are NOT analyzed further** in the Legal Study:

Let. a) so-called 'zero option' (the 'do nothing'/no Barcelona system action option), is not an option consistent with the specific obligations set in the Barcelona Convention;

Let. b) and **d)** being political inputs;

Let. h) a model procedure to concretely implement transboundary EIA/SEA specific cases.

Proposed legal options



OPTION 1. Updated formulation of the content of the draft “guidelines for environmental assessment in a transboundary context among the Mediterranean States”, to a more detailed technical degree and in line with international standards.

Procedure

Guidelines or standards are developed adapting them to the Mediterranean context and consistent with the framework of the Barcelona Convention, and submitted to the COP for adoption by a specific COP Decision either as a **specific Decision adopting them** or set out in an **Annex to the Barcelona Convention** or to a **Protocol to the Barcelona Convention**.



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Draft Guidelines for environmental assessment in a transboundary context on the procedures for notification, exchange of information and consultation among the Mediterranean states under the ICZM Protocol

The Guidelines recommend that BC CPs:

- Take on board LSIs in EAs (including transboundary ones), in particular interactions and impacts that can alter the equilibrium of marine and terrestrial areas due to natural processes, as well as mutual impacts of maritime activities on land and terrestrial activities on sea; and
- Adopt guidelines on the procedures for notification, exchange of information and consultation at all stages, as appropriate.

The Guidelines refer to the EC and its SEA Protocol and the relevant European Union Directives for EIA and SEA specifying basic requirements and good practice recommendations for:

- **Notification procedures**
- **Exchange of information**
- **Consultations**

The Guidelines formulate general good practice recommendations for transboundary assessments under the BC:

- (a) Parties should set up adequate arrangements (outlining responsibilities and decision-making steps) to ensure an appropriate governance framework is in place to support **smooth transboundary consultations and completion of procedures**.
- (b) Close collaboration is necessary between the countries taking part in transboundary procedures, preferably through setting up **coordination bodies**. Points of contact (if not already appointed under pertinent international instruments) should be used to establish coordination bodies composed of relevant national authorities (e.g., competent authorities supervising EA processes; designated EC and/or its SEA Protocol contact points; BC and/or ICZM Protocol Focal Points) in the concerned (affected and countries of origin) countries.
- (c) **Bilateral or multilateral agreements** are strongly encouraged, especially for the countries where the existing development plans and commitments indicate multiple transboundary assessments could be expected in the future, as well as for sub-regions or clusters of countries with similar geographic, natural, or cultural characteristics.
- (d) To enhance the efficiency and effectiveness of transboundary procedures, it is useful to **determine significance of impacts** before the country of origin notifies the affected country. Bilateral or multilateral cooperation could be used to agree on such criteria among concerned countries, or possibly on a sub-regional level. In defining these criteria, the sensitivity of the coastal zone and objectives for achieving GES in the Mediterranean should be considered. Moreover, precautionary and prevention principles should apply.

Proposed legal options



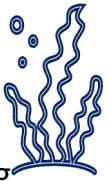
OPTION 2. Amendment of the Barcelona Convention to include a new provision expressly mentioning transboundary environmental assessments, may **including the updated content of the draft Guidelines as an Annex.**

If further clarification of the current legal scope of the provision of the Convention is deemed useful, its amendment could concern the express mention of both the transboundary element of environmental assessments and the strategic environmental assessments alongside environmental impact assessments, leaving the details of the process envisaged either to **a separate annex to the Convention or to a protocol.**



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Barcelona
Convention





Proposed legal options

OPTION 3. Amendment of the existing relevant Protocol/s of the BC to include a separate Title/Chapter containing articles dedicated to the transboundary EIA and SEA procedures.

SUB-OPTION 3.a - Amend the existing Protocols to the BC that are relevant to the EIA/SEA issues;

SUB-OPTION 3.b - Amend only one selected Protocol of the existing relevant ones to the BC, including a specific section/provision on coordination and adaptation of the BC framework. It has the advantage of concentrating the amendments and adoption of new rules in a single instrument, ensuring greater homogeneity and coherence.

Evaluate to include further elements and clarifications in a separate annex including an update of the content of the draft guidelines. To establish lists, these should be included in an annex that can be changed more easily.

Dedicated guidelines, training activities and projects would be included to complete the proposal.

Geographical coverage of each individual protocol must be considered, not necessarily includes the potentially transboundary aspects and all maritime zones.



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Relevant Protocols to the Barcelona Convention



Five out of seven BC Protocols contain provisions that bear certain similarities with transboundary EIA/SEA procedures, and for which amendments could be envisaged to include the requirements and procedures of transboundary environmental assessments:

- 1. Land-Based Sources Protocol:** EIA procedure requirement for pollution prevention (recital referring to BC art 4)
- 2. Prevention and Emergency Protocol** (recital referring to BC art 4)
- 3. SPA/BD Protocol:** evaluation of possible impact, including the cumulative impacts, of planning process leading to decisions that could significantly affect protected areas and species and their habitats (art 17)
- 4. Offshore Protocol:** EIA requirement for authorisation or renewal of authorisation and for the protection of Specially Protected Areas (artt 5.1.a and 21)
Guidelines for the conduct of EIA under the Offshore Protocol (COP 22 Decision IG.25/15), as informal guidance not addressing transboundary aspects.
- 5. ICZM Protocol:** general principle on preliminary assessment for risk; EIA procedure requirement taking into consideration the specific sensitivity of the environment, LSI, cumulative impacts and carrying capacity, SEA (artt. 6, 19 and 29).



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Proposed legal options

OPTION 4. Adoption of a specific Protocol on transboundary EIA and SEA, adapted as necessary to the characteristics of the Mediterranean, providing for a coordination and adaptation section with the other provisions of the UNEP/MAP Barcelona Convention system.

Advantage: to regulate in a homogeneous manner, in a single specific legally binding instrument, the entire thematic area of transboundary environmental assessments specifically applicable to the marine and coastal areas of the Mediterranean.

Geographical coverage: a definition adapted to the needs of a comprehensive scope covering the whole Mediterranean Sea.



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Thank you!



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