Protection of the Mediterranean Sea against pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil. Accession to the Offshore Protocol of the Barcelona Convention

2011/0304(NLE) - 31/05/2012 - Legislative proposal

PURPOSE: to allow the European Union to accede to the Protocol for the Protection of the Mediterranean Sea against pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil.

PROPOSED ACT: Council Decision.

IMPACT ASSESSMENT: no impact assessment was undertaken.

BACKGROUND: the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean, also known as the "Barcelona Convention" came into force on 9 July 2004. The European Union is Contracting Party to the Convention, as are Italy, Greece, Spain, France, Slovenia, Malta and Cyprus, together with 14 other Mediterranean countries which are not Member States of the European Union. Article 7 of the amended Convention specifically obliges Parties to take all appropriate measures to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil.

One of the Protocols of the Barcelona Convention deals with Protection of the Mediterranean Sea against pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil (commonly referred to as the "**Offshore Protocol**"). However, the European Union has neither signed nor ratified the Offshore Protocol. The Commission proposed to the Council [COM(94)397 final] the signature of the Protocol prior to its adoption by the Conference of the Parties in October 1994. At that time, it was deemed more appropriate to work further on a Community regime for environmental liability rather than anticipate it through an international agreement.

The Offshore Protocol entered into force on 24 March 2011. Some Member States of the European Union that are Contracting Parties to the Barcelona Convention have already announced in the last months their intention to ratify the Protocol too.

A recent Commission communication on offshore safety develops the areas where action is needed to maintain the safety and environmental credentials of the European Union and proposes concrete actions. One of the areas identified is **international cooperation to promote offshore safety and response capabilities worldwide** and one of the related actions is the exploration of the potential of regional conventions. In particular, the Communication recommends the re-launch in close collaboration with the Member States concerned, of the process towards bringing into force the Offshore Protocol. For its part, the European Parliament, in itsresolution of 13 September 2011, stressed the importance of bringing fully into force the un-ratified 1994 Mediterranean Offshore Protocol.

To highlight the importance of this text, it should be remembered that there are more than **200 active offshore platforms** in the Mediterranean and more installations are under consideration. Due to the semi-closed nature and special hydrodynamics of the Mediterranean Sea, an accident of the kind of the Gulf of Mexico in 2010 could have immediate adverse transboundary consequences on the Mediterranean economy and fragile marine and coastal ecosystems. Failure to address effectively the risks emanating from such activities could gravely compromise the efforts of several Member States to achieve and maintain good environmental status in their marine waters as required by Directive 2008/56/EC of the European Parliament and of the Council establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive). In addition, taking the necessary action would contribute to meeting the commitments and respecting the obligations into which Greece, Spain, France, Italy, Cyprus, Malta, Slovenia and the Union itself have entered as Contracting Parties of the Barcelona Convention.

In relation to the **Offshore Protocol**, it is particularly important to bear in mind the strong probability of transboundary environmental effects in case of accidents in a semi-enclosed sea such as the Mediterranean Sea. It is therefore appropriate for the European Union to take all necessary actions in support of safety of offshore exploration and exploitation activities and for the protection of the marine environment in the Mediterranean Sea.

It is essential to ensure close cooperation between the Member States and the institutions of the Union, both in the process of negotiation and conclusion and in the fulfillment of the commitments entered into. That obligation to cooperate flows from the requirement of unity in the international representation of the Union. Therefore, those Member States that are Contracting Parties to the Barcelona Convention and that have not yet done so should take the necessary steps to finalise the procedures to ratify or accede to the Offshore Protocol.

It is proposed that the EU should now accede to the Offshore Protocol.

LEGAL BASIS: Article 192 (1), in conjunction with Article 218(6)(a) of the Treaty on the functioning of the European Union (TFEU). It should be noted that the Offshore Protocol concerns a field in large measure covered by Union law. This includes, for instance, elements such as the protection of the marine environment, environmental impact assessment and environmental liability. Subject to the final decision of legislators on this matter, the Offshore Protocol is furthermore consistent with the objectives of the proposed Regulation on safety of offshore oil and gas prospection, exploration and production activities, including on authorisation, environmental impact assessment and technical and financial capacity of operators.

CONTENT: with this Decision, it is proposed that the Union's accession to the Protocol for the Protection of the Mediterranean Sea against pollution resulting from exploration and exploitation of the continental shelf and the seabed and its subsoil be approved on behalf of the Union.

Main objectives of the Protocol: the Offshore Protocol covers a wide range of exploration and exploitation activities, permit requirements, removal of abandoned or disused installations, use and removal of harmful substances, liability and compensation requirements and coordination with other Parties of the Barcelona Convention at regional level.

Basic principles: from a technical point of view, the Parties to the Protocol shall take, individually or through bilateral or multilateral cooperation, all appropriate measures to **prevent, abate, combat and control pollution in the Protocol Area resulting from activities**, *inter alia* by ensuring that the best available techniques, environmentally effective and economically appropriate, are used for this purpose.

With a view to the application of these basic general principles, the Protocol provides for the following:

- all activities in the Protocol Area, including erection on site of installations, shall be subject to the prior written authorization for exploration or exploitation from the competent authority;
- the strict respect of the highest environmental standards and requirements by operators and of international standards regarding waste, as well as the use, the storage and the disposal of harmful or noxious substances and materials in order to reduce to a minimum the risk of pollution;
- **the application of safety measures**: to ensure that activities undertaken observe the highest possible safety standards with regard to the design, construction, placement, equipment, marking, operation and maintenance of installations;
- the operator has to ensure on the installations adequate equipment and devices, maintained in good working order, for protecting human life, preventing and combating accidental pollution and facilitating prompt response to an emergency;
- the drawing up of contingency plans ensuring that the parties can cooperate in combating accidental pollution in the Mediterranean by oil and other harmful substances and provide mutual assistance in cases of emergency;
- the undertaking of scientific and technological research for the purpose of developing new methods to reduce the risk of pollution in the Mediterranean;
- measures for liability and compensation in the event of damage to the marine environment.

Area covered: the geographical coverage of the Protocol is the Mediterranean Sea area as defined in the Barcelona Convention, including the continental shelf, the seabed and its subsoil.

Implementation: the provisions of the Offshore Protocol will need to be implemented by different levels of administration and economic operators. The Member States and their relevant competent authorities will be responsible for the design and implementation of certain detailed measures laid down in the Offshore Protocol, such as the establishment of a national monitoring system and the adoption and enforcement of appropriate rules and procedures for the determination of liability and compensation for damage.

BUDGETARY IMPLICATION: the proposal has no impact on the EU’s budget.