COUNCIL DECISION

of 17 December 2012

on the accession of the European Union 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

(2013/5/EU)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 192(1), in conjunction with Article 218(6)(a) thereof,

Having regard to the proposal from the European Commission,

Having regard to the consent of the European Parliament [1],

Whereas:

(1) The Convention for the Protection of the Mediterranean Sea against Pollution, which was subsequently renamed as the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (the 'Barcelona Convention'), was concluded on behalf of the European Community by means of Council Decision 77/585/EEC [2] and amendments to the Barcelona Convention were accepted by means of Council Decision 1999/802/EC [3].

(2) In accordance with Article 7 of the Barcelona Convention, the Contracting Parties are 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.

(3) One of the Protocols to 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 (the 'Offshore Protocol'). It entered into force on 24 March 2011. To date, Albania, Cyprus, Libya, Morocco, Syria and Tunisia have ratified it. In addition to Cyprus, some other Member States that are Contracting Parties to the Barcelona Convention have announced recently their intention to also ratify the Protocol.

(4) It is estimated that there are more than 200 active offshore platforms in the Mediterranean and more installations are under consideration. Hydrocarbon exploration and exploitation activities are expected to increase after the discovery of large fossil fuels reserves in the Mediterranean. Due to the semi-enclosed nature and special hydrodynamics of the Mediterranean Sea, an accident of the kind that occurred in the Gulf of Mexico in 2010 could have immediate adverse transboundary consequences on the Mediterranean economy and fragile marine and coastal ecosystems. It is likely that in the medium term other mineral resources contained in the deep sea, seabed and subsoil will be the subject of exploration and exploitation activities.

(5) Failure to address effectively the risks emanating from such activities could gravely compromise the efforts of all the Member States having the obligation to take the necessary measures to achieve and maintain good environmental status in their marine waters in the Mediterranean, as required by Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) [4]. 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.

(6) The Offshore Protocol covers a broad range of provisions which will need to be implemented by different levels of administration. While it is appropriate for the Union to act in support of safety of offshore exploration and exploitation activities, bearing in mind, inter alia, the high probability of cross-border effects of environmental problems related to such activities, the Member States and their relevant competent authorities should be responsible for certain detailed measures laid down in the Offshore Protocol.

(7) The Commission Communication entitled 'Facing the challenge of the safety of offshore oil and gas activities', adopted on 12 October 2010, identifies the need for 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. It recommends re-launching in close collaboration with the Member States concerned, the process towards bringing into force the Offshore Protocol.

(8) The Council in its Conclusions on safety of offshore oil and gas activities, adopted on 3 December 2010, stated that the Union and its Member States should continue to play a prominent role in striving for the highest safety standards in the framework of international initiatives and fora and regional cooperation such as in the Mediterranean. The Council also called on the Commission and Member States to make best use of existing international conventions.

[1] Consent of 20 November 2012 (not yet published in the Official Journal).
[2] OJ L 240, 19.9.1977, p. 1.
[3] OJ L 322, 14.12.1999, p. 32.
[4] OJ L 164, 25.6.2008, p. 19.

(9) The European Parliament, in its resolution of 13 September 2011, stressed the importance of bringing fully into force the unratified Offshore Protocol, targeting protection against pollution resulting from exploration and exploitation.

(10) One of the objectives of the environment policy of the Union is promoting measures at international level to deal with regional environmental problems. In relation to the Offshore Protocol, it is particularly important to bear in mind the high 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 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.

(11) The Commission is also proposing a Regulation on safety of offshore oil and gas prospection, exploration and production activities (the 'proposed Regulation').

(12) The Offshore Protocol concerns a field which is 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 the proposed Regulation, the Offshore Protocol is furthermore consistent with the objectives thereof, including those concerning authorisation, environmental impact assessment and technical and financial capacity of operators.

(13) 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 fulfilment 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.

(14) The Union should therefore accede to the Offshore Protocol,

HAS ADOPTED THIS DECISION:

Article 1

The accession of the European Union 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 is hereby approved on behalf of the Union.

The text of the Offshore Protocol is attached to this Decision.

Article 2

The President of the Council is hereby authorised to designate the person(s) empowered to proceed, on behalf of the Union, to the deposit of the instrument of approval with the Government of Spain which assumes the functions of Depositary, as provided for in Article 32(2) of the Offshore Protocol, in order to express the consent of the Union to be bound by the Offshore Protocol [1].

Article 3

This Decision shall enter into force on the day of its adoption.

Done at Brussels, 17 December 2012.

For the Council
The President
S. ALETRARIS

[1] The date of entry into force of the Offshore Protocol for the Union will be published in the *Official Journal of the European Union* by the General Secretariat of the Council.