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**MEDITERRANEAN ACTION PLAN (MAP)  
REGIONAL MARINE POLLUTION EMERGENCY RESPONSE CENTRE FOR THE  
MEDITERRANEAN SEA (REMPEC)**

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Twelfth Meeting of the Focal Points of the Regional  
Marine Pollution Emergency Response Centre  
for the Mediterranean Sea (REMPEC)

REMPEC/WG.41/11/1  
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Agenda Item 11

**ENHANCING COOPERATION IN THE FIELD OF ILLICIT SHIP POLLUTION DISCHARGES  
IN THE MEDITERRANEAN**

**Note by the Secretariat**

**SUMMARY**

**Executive Summary:** The document provides information on possible ways and means to enhance cooperation in the field of illicit ship pollution discharges in the Mediterranean, taking into account the Report of the Meeting of the Mediterranean Network of Law Enforcement Officials relating to MARPOL within the framework of the Barcelona Convention (MENELAS) (Toulon, France; 29 September – 1 October 2015), as laid down in document REMPEC/WG.41/INF.4.

**Actions to be taken:** Paragraph 37

**Related documents:** UNEP(DEPI)/MED IG.20/8, UNEP(DEPI)/MED IG.21/9, UNEP(DEPI)/MED IG.22/28, REMPEC/WG.37/8, REMPEC/WG.41/INF.3, REMPEC/WG.41/INF.4

**Background**

1 The Contracting Parties to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (“the Barcelona Convention”) have fully realised the need for close cooperation among the States and international organisations concerned in a coordinated and comprehensive regional approach for the protection and enhancement of the marine environment in the Mediterranean Sea Area. In particular, Article 6 thereof calls on the Contracting Parties thereto to take all measures in conformity with international law to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area caused by discharges from ships and to ensure the effective implementation in that Area of the rules which are generally recognised at the international level relating to the control of this type of pollution.

2 Moreover, the Contracting Parties to the Protocol concerning Cooperation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea (“the 2002 Prevention and Emergency Protocol”) to the Barcelona Convention consider that the cooperation of all the coastal States of the Mediterranean Sea is called for to prevent pollution from ships and to respond to pollution incidents. They acknowledged the role of the International Maritime Organization (IMO) and the importance of cooperating within the framework of this Organization, in particular in promoting the adoption and the development of international rules and standards to prevent, reduce and control pollution of the marine environment from ships. They also recognised the importance of cooperation in the Mediterranean Sea Area in promoting the effective implementation of international regulations to prevent, reduce and control pollution of the marine environment from ships.

3 Articles 4 and 6 of the International Convention for the Prevention of Pollution from Ships (MARPOL) refer respectively to violation as well as the detection of violations and enforcement of the Convention. In particular, the penalties specified under the law of a Party thereto shall be adequate in severity to discourage violations of the said Convention and shall be equally severe irrespective of where the violations occur. Moreover, Parties thereto shall cooperate in the detection of violations and the enforcement of the provisions of the said Convention, using all appropriate and practicable measures of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence.

4 At the Seventeenth Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (COP 17), which was held in Paris, France from 8 to 10 February 2012, the Contracting Parties thereto adopted the Paris Declaration (UNEP(DEPI)/MED IG 20/8), which reaffirmed the resolution of the Contracting Parties to:

*“- take all necessary measures to make the Mediterranean a clean, healthy and productive sea with conserved biodiversity and ecosystems (...)*

*By ensuring, in view of the predicted increase in maritime traffic, the continuous strengthening of capacities and resources to prevent and respond to marine pollution caused by shipping, in particular through judicial and operational cooperation.”*

5 The Eighteenth Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (COP 18), which was convened in Istanbul, Turkey, from 3 to 6 December 2013, acknowledged however that oil slicks were regularly reported at sea, testifying that illegal discharges were taking place on a recurrent basis, thus adversely affecting the fragile marine environment of the Mediterranean Sea. The Contracting Parties to the Barcelona Convention were also conscious that, in order to address this cross boundary pollution, they should share their relevant experience and knowledge and, as far as possible, cooperate in the identification, investigation of and enforcement actions after such violations (UNEP(DEPI)/MED IG.21/9).

6 In this context and, as further explained in document REMPEC/WG.37/8, the Contracting Parties to the Barcelona Convention decided, at COP 18 (UNEP(DEPI)/MED IG.21/9, Decision IG.21/9), to establish the Mediterranean Network of Law Enforcement Officials relating to MARPOL within the framework of the Barcelona Convention (MENELAS), the overall objective of which is to facilitate cooperation between its members in order to improve the enforcement of the international regulations regarding discharges at sea from ships as laid down in MARPOL. This cooperation does not prejudice the rights and duties of each participating State under the said Convention or any other relevant Treaty it may be a Party to such as the United Nations Convention on the Law of the Sea (UNCLOS). MENELAS aims at improving the understanding and cooperation between its members in the different stages of the enforcement process, i.e. detection, investigation and enforcement measures taken by the competent authorities following possible violation.

7 Furthermore, the Nineteenth Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (COP 19), which was held in Athens, Greece, from 9 to 12 February 2016, adopted Decision IG.22/4 related to the Regional Strategy for Prevention of and Response to Marine Pollution from Ships (2016-2021) (UNEP(DEPI)/MED IG.22/28), hereinafter referred to as the Regional Strategy (2016-2021), which is presented in the Annex to document REMPEC/WG.41/INF.3.

8 Therefore, with a view to implementing Specific Objectives 7 (Improved follow-up of pollution events as well as monitoring and surveillance of illicit discharges) and 8 (To improve the level of enforcement and the prosecution of discharge offenders) of the Regional Strategy (2016-2021) and, taking into account the outcome of the 2015 MENELAS Meeting, which was convened in Toulon, France, from 29 September 2015 to 1 October 2015 (REMPEC/WG.41/INF.4), there seems to be scope for enhancing the following types of cooperation in the field of illicit ship pollution discharges in the Mediterranean:

- .1 administrative and judicial cooperation;
- .2 operational cooperation; and
- .3 cooperation with other regional and international organisations.

### **Administrative and judicial cooperation**

9 Contracting Parties to the Barcelona Convention cooperate bilaterally at the administrative and judicial levels in the field of illicit ship pollution discharges in the Mediterranean, usually on a case-by-case basis. However, following the approach adopted in other regions with the establishment of similar networks, MENELAS was essentially established with a view to enhancing such cooperation at the Mediterranean level.

10 So far, fourteen (14) Mediterranean coastal States and the European Union have nominated their Designated Representatives (DR) to participate in MENELAS.

11 The 2015 MENELAS Meeting was organised by the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) in Toulon, France, from 29 September 2015 to 1 October 2015, pursuant to the Programme of Work for 2014-2015 of the Mediterranean Action Plan (MAP) of the United Nations Environment Programme (UN Environment), also referred to as UN Environment/MAP, adopted by COP 18.

12 As indicated in document REMPEC/WG.41/INF.4, the principal objectives of the 2015 MENELAS Meeting were to present regional and international developments relevant to MENELAS, discuss various issues related to illicit ship pollution discharges, from collecting, recording and documenting evidence, to carrying out coordinated aerial surveillance operations as well as reporting. The 2015 MENELAS Meeting was also an opportunity to present the MENELAS information system, share information on present cases of interest and discuss cooperation with other regional and international organisations.

13 All MENELAS DR were invited to attend the 2015 MENELAS Meeting that gathered eighteen (18) participants from twelve (12) Contracting Parties to the Barcelona Convention (Albania, Algeria, Croatia, European Union, France, Greece, Israel, Montenegro, Morocco, Slovenia, Spain and Tunisia), three (3) regional organisations (RAMOGE Agreement, Plan Bleu and REMPEC) as well as one (1) international organisation (International Criminal Police Organization-INTERPOL).

14 Amongst others, the 2015 MENELAS Meeting adopted a set of Conclusions and Recommendations, elected France to chair the Network for the period 2016-2017 and agreed to include the following items in the MENELAS Programme of Activities for the said period:

- .1 marine oil pollution detection/investigation report;
- .2 establishment of a MENELAS database on illicit ship pollution discharges in the Mediterranean;
- .3 review existing applicable sanctions at national level with regard to illicit ship pollution discharges; and
- .4 measures to charge reasonable costs for the use of port reception facilities or, when applicable, apply a No-Special-Fee system.

15 Since October 2015, REMPEC carried out preparatory work to follow up on the above-mentioned Conclusions and Recommendations, in particular with a view to implementing the MENELAS Programme of Activities for the period 2016-2017.

16 More specifically, the MENELAS information system, which was developed in the context of the Regional – Governance and Knowledge generation (ReGoKo) Project implemented by Plan Bleu with technical support from the Centre and funded by the Global Environment Facility (GEF), was launched on 14 December 2015 and was made available both in English and French through the following website: <http://www.menelas.org/>.

17 Furthermore, between May and September 2016, REMPEC was assisted by a lawyer, who worked on a voluntary part-time basis, with a view to analysing relevant information at Mediterranean level and synthesising findings into short reports that will be the basis for preparing working documents for the next MENELAS meeting to be held in 2017, on the following issues:

- .1 IMO mandatory reporting system under MARPOL;
- .2 specific marine oil pollution detection/investigation reports;
- .3 applicable sanctions applied by Contracting Parties to the Barcelona Convention with regard to illicit ship pollution discharges; and
- .4 developments on the review of Recommendation 19/14 of the Baltic Marine Environment Protection Commission (Helsinki Commission or HELCOM) on a harmonized system of fines in case a ship violates anti-pollution regulations.

18 To that end, in July 2016, the Secretariat requested all MENELAS DR, through Circular Letter No. 12/2016, to provide the Centre, in consultation with REMPEC Prevention Focal Points and other relevant authorities/stakeholders, as may be appropriate, with the following:

- .1 a copy of their specific marine oil pollution detection/investigation report template used for legal proceedings when pollution of the sea occurs; and
- .2 information on the applicable sanctions in their respective country with regard to illicit ship pollution discharges by completing the attached brief questionnaire.

19 Finally, REMPEC contributed to the drafting of the Global Public Goods and Challenges (GPGC) / Environment and Sustainable Management of Natural Resources including Energy Thematic Programme (ENRTP) UN Environment Project document, including budget, for the "Marine Litter-MED" Project that aims at supporting the Contracting Parties to the Barcelona Convention from Southern Mediterranean / EU Neighbourhood to implement the Regional Plan on Marine Litter Management in the Mediterranean in the Framework of Article 15 of the Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources and Activities ("the LBS Protocol") to the Barcelona Convention, through the implementation of a number of measures envisaged in the updated National Action Plans (NAPs) endorsed by COP 19.

20 The component to be coordinated by REMPEC will focus on measures related to the better management of sea-based litter in ports, more specifically, the application of charges at reasonable costs for the use of port reception facilities or, when applicable, application of No-Special-Fee system, as well as the provision of reception facilities and the delivery of ship-generated wastes in selected major ports and marinas in the Mediterranean (Budget: EUR 204,000). Following the approval of the Marine Litter-MED Project by the EU, and a long negotiation period, a letter of agreement for the implementation of part of the Project was signed by IMO and UN Environment/MAP on 16 December 2016.

21 In this context, the Secretariat proposes that:

- .1 Contracting Parties to the Barcelona Convention that have not yet nominated their MENELAS DR do so as soon as possible;
- .2 administrative and judicial cooperation in the field of illicit ship pollution discharges in the Mediterranean is further enhanced within the framework of the Regional Strategy (2016-2021) and MENELAS, taking into account the outcome of the Marine Litter-MED Project, as appropriate, with a particular focus on the items identified in the MENELAS Programme of Activities for the period 2016-2017, which may lead to the establishment of possible common procedures in the future; and
- .3 all MENELAS DR that have not yet responded to Circular Letter No. 12/2016 do so as early as possible with a view to facilitating the work of the Secretariat to analyse and report its findings to the next MENELAS meeting to be convened in 2017.

### **Operational cooperation**

22 In parallel with the 2015 MENELAS Meeting, the French Préfecture maritime de la Méditerranée (PREMAR MED) organised, in close cooperation with the Spanish Maritime Safety Agency (SASEMAR) and the Italian Guardia Costiera, a coordinated aerial surveillance operation for illicit ship pollution discharges in the Mediterranean entitled "OSCAR-MED 2015" within the framework of the Accord relatif à la Protection de l'Environnement Marin et Côtier d'une Zone de la Mer Méditerranée (RAMOGE Agreement), which took place on 29 and 30 September 2015 in the RAMOGE area.

23 The OSCAR-MED 2015 operation provided an opportunity for the eighteen (18) participants in the 2015 MENELAS meeting to be briefed on the coordinated aerial surveillance operation and to visit the CROSS MED operational centre (Centre régional opérationnel de surveillance et de sauvetage de Méditerranée) in La Garde, France where it was being coordinated. It was also an opportunity to exchange views with the eight (8) other representatives from France (PREMAR MED and Tribunal de Grande Instance de Marseille), Italy (Guardia Costiera), Monaco (Division de Police Maritime et Aéroportuaire) and Spain (SASEMAR), who participated in the OSCAR-MED 2015 operation.

24 As indicated in document REMPEC/WG.41/INF.4, the 2015 MENELAS Meeting had been informed by the OSCAR-MED representatives from France, Italy, and Spain that the OSCAR-MED 2015 operation had resulted in twenty-four (24) hours of uninterrupted flight – three (3) air patrol aircraft from France, Italy and Spain being equipped with night sensors, to detect marine pollution from ships in the designated area. In total, a hundred and ninety-three (193) vessels had been monitored during the said operation and three (3) CleanSeaNet satellite images provided by the European Maritime Safety Agency (EMSA) had completed this monitoring. A public prosecutor from the Tribunal de Grande Instance de Marseille had been on stand-by.

25 Whilst no pollution or illicit discharge had been observed during the OSCAR-MED 2015 operation, this was the third OSCAR-MED operation following similar operations held in Palma de Mallorca, Spain from 24 to 26 June 2013 as well as in Hyères, France from 12 to 16 October 2009, and it was clearly a successful illustration of operational cooperation in the field of illicit ship pollution discharges in the Mediterranean.

26 The 2015 MENELAS Meeting welcomed the fact that it was convened in parallel with the OSCAR-MED 2015 operation. The said meeting also recommended the future organisation of coordinated aerial surveillance operations for illicit ship pollution discharges in other parts of the Mediterranean Sea, and requested the Secretariat to liaise with Mediterranean coastal States interested in organising such operations, with a view to enhancing operational cooperation in the Mediterranean region to combat illicit ship pollution and facilitating the mobilisation of the necessary resources.

27 In this context, the Secretariat proposes to call on the Contracting Parties to the Barcelona Convention to express their interests in organising future coordinated aerial surveillance operations for illicit ship pollution discharges in specific parts of the Mediterranean Sea with a view to enhancing operational cooperation in that field.

### **Cooperation with other regional and international organisations**

28 At COP 18, at the time of establishing MENELAS, the Contracting Parties to the Barcelona Convention acknowledged the relevant work carried out on the issue of ship sourced pollution and consequently stressed the need for the UN Environment/MAP-Barcelona Convention Secretariat in collaboration with REMPEC to further exploit possible synergies with EMSA in the framework of Decision IG.21/9 (UNEP(DEPI)/MED IG.21/9). They also acknowledged the proven effectiveness of dedicated networks of investigators and sanctioning authorities established under the Regional Seas framework such as the North Sea Network of Investigators and Prosecutors (NSN) and the Baltic Sea Network of Environmental Crime Prosecutors (ENPRO). This is also reflected in Specific Objective 8 (To improve the level of enforcement and the prosecution of discharge offenders) of the Regional Strategy (2016-2021).

29 As indicated in document REMPEC/WG.41/INF.4, whilst representatives from NSN, ENPRO and the Bonn Agreement Working Group on Operational, Technical and Scientific Questions Concerning Counter Pollution Activities (OTSOPA) had been invited but could not attend the 2015 MENELAS Meeting, the Secretariat was in touch with them and there was a broad interest from their end to enhance cooperation between the said organisations and MENELAS with regard to issues related to illicit ship pollution discharges. The fact that both INTERPOL and the RAMOGE Agreement were represented at the said meeting was an evidence of cooperation between other regional and international organisations and MENELAS.

30 The 2015 MENELAS Meeting asked participating members to inform relevant regional and international organisations to which they were Parties about the outcome of the said meeting and to report on the outcome of discussions in these organisations at the next MENELAS meeting to be held in 2017. It also called on the Secretariat to liaise with relevant regional and international organisations with a view to ensuring the necessary cooperation, which may include regular information exchange and reciprocal representation, amongst others.

31 In this respect, REMPEC participated at the Twentieth Annual Meeting of the INTERPOL Pollution Crime Working Group (PCWG), which was convened in Nimes, France, from 9 to 11 November 2015, in parallel with the international conference entitled "*Security and Environmental Crime: the impact on the environment, economy and economic actors*" hosted by the International Forum on Technology and Security for a safer world (FITS), as well as attended and delivered presentations on illicit ship pollution discharges at:

- .1 the Final Project Results Seminar of the ReGoKo Project organised by Plan Bleu (Antibes, France; 29-30 September 2015);
- .2 the Seminar on Enforcement of Prohibition of Ship Source Pollution organised by EMSA in the framework of the TRACECA II Project Task 5.6, for which the Centre participated as a lecturer (Lisbon, Portugal; 24-25 November 2015);
- .3 the Eleventh Meeting of the EuroMed Maritime Working Group organised by EMSA, which reaffirmed *inter alia*, the need of coordination and cooperation within the framework of the Regional Strategy (2016-2021) and MENELAS (Brussels, Belgium; 20 April 2016); and
- .4 the Seminar entitled "*Climate, biodiversity, blue growth: what solutions for the Mediterranean?*" as well as the international expert seminar entitled "*What solutions for the Mediterranean?*" both organised by the French Ministry of the Environment, Energy and the Sea, in Paris, France, on 27 June 2016 and 23 February 2017, respectively.

32 The Centre also participated at and intervened during the Mediterranean Coast Guard Functions Forum (MCGFF) Annual Conference 2016 entitled "*Mediterranean: sharing experiences among Coast Guard functions*", which was held in Naples, Italy, from 30 June 2016 to 2 July 2016, inviting the MCGFF to consider, through its working groups, to contribute towards the implementation of the Regional Strategy (2016-2021), in particular Specific Objective 7 (Improved follow-up of pollution events as well as monitoring and surveillance of illicit discharges), bearing in mind that maritime monitoring and surveillance are identified as belonging to Coast Guard functions. According to its Terms of Reference, the MCGFF seeks to enhance maritime safety, security and environmental protection activities within the Mediterranean basin as well as potential partnerships for their application, providing solutions to common problems and issues by sharing information, expertise and best practices in a cooperative and consensual manner among Mediterranean countries promoting mutual understanding of regional risks and threats. Its aim is to provide a Forum for an adequate level of discussion, exchanging information on juridical, technical and operational experiences within the framework of current international law, and in close relationship with existing international, European and regional organisations specialised on maritime matters, in order to promote trust and to build working relationships and networks among concerned services.

33 At the European Union (EU) level, within the context of EMSA's work on Remotely Piloted Aircraft Systems (RPAS), REMPEC provided some feedback on the needs of the Mediterranean Sea Area for operational RPAS services to the Consultant performing the independent User Benefit Analysis Study for RPAS services in December 2015.

34 Moreover, the European Border and Coast Guard Agency (Frontex), the European Fisheries Control Agency (EFCA) and EMSA took a significant step in structuring their cooperation on coast guard functions by signing a Tripartite Working Arrangement as foreseen by the amended founding regulations of the three Agencies in October 2016. The agreement sets out the framework for the enhanced synergy between the European agencies that will enable them to support in an effective and cost-efficient way the activities of more than three hundred (300) civilian and military authorities in the EU Member States responsible for carrying out coastguard functions in a wide range of areas such as maritime safety, security, search and rescue, border control, fisheries control, customs control, general law enforcement and environmental protection. Aligned with their mandates, Frontex, EFCA and EMSA will cooperate in sharing maritime information, providing new surveillance and communication services, building capacity, analysing operational challenges and emerging risks in the maritime domain as well as planning and implementing multipurpose operations. Tangible results expected from this cooperation will lead to the provision of enhanced services to EU Member States' coast guard authorities, improving their overall awareness of the maritime domain and supporting their functions in areas as search and rescue operations, surveillance activities, law enforcement, fisheries control and compliance with maritime regulations. To improve the capacity of the national coast guard authorities, the three agencies will, if possible, develop guidelines, recommendations and best practice on coastguard functions and organise specialised training events.

35 Finally, in consultation and collaboration with the Secretariat of the Agreement for cooperation in dealing with pollution of the North Sea by oil and other harmful substances, 1983 (Bonn Agreement), REMPEC sponsored two (2) representatives from Algeria and Tunisia to participate, as observers, in the Special Co-ordinated Extended Pollution Control Operation (SpecialCEPCO 2016) organised in the Netherlands from 5 to 9 September 2016 within the context of the Bonn Agreement.

36 In this context, the Secretariat proposes to continue to liaise with relevant regional and international organisations with a view to ensuring the necessary cooperation, which may include regular information exchange and reciprocal representation, amongst others, especially within the framework of the Regional Strategy (2016-2021) and MENELAS.

#### **Actions requested by the Meeting**

37 **The Meeting is invited to:**

- .1 **take note** of the information provided in the present document; and
- .2 **consider** the proposals put forward by the Secretariat, as laid down in paragraphs 21, 27 and 36 of the present document.