



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



IMO-OMI

**CENTRE REGIONAL MEDITERRANEEN POUR L'INTERVENTION
D'URGENCE CONTRE LA POLLUTION MARINE ACCIDENTELLE (REMPEC)**



UNEP-PNUE

**MEDITERRANEAN ACTION PLAN
PLAN D'ACTION POUR LA MEDITERRANEE**



First Meeting of National Experts on the
feasibility of a legal regional instrument
on prevention of pollution from pleasure
craft activities in the Mediterranean

REMPEC/WG.24/6
15 December 2004

Original: English

Monaco, 8-10 December 2004

REPORT
OF THE FIRST MEETING OF NATIONAL EXPERTS
ON THE FEASIBILITY OF A LEGAL REGIONAL INSTRUMENT
ON PREVENTION OF POLLUTION FROM PLEASURE CRAFT
ACTIVITIES IN THE MEDITERRANEAN

Monaco, 8 - 10 December 2004

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INTRODUCTION

1. The First Meeting of National Experts on the feasibility of a legal regional instrument on prevention of pollution from pleasure craft activities in the Mediterranean was convened in Monaco, between 8 and 10 December 2004. The Meeting was organized by the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), and was held at the Auditorium Rainier III, in Monte Carlo, Monaco, thanks to the logistic and financial support of the Government of Monaco.

2. The main objectives of the Meeting were to discuss the feasibility of a legal regional instrument on prevention of pollution from pleasure craft activities in the Mediterranean and to decide on the content as well as on the form that this instrument could have within the Barcelona system. Prior to the Meeting, REMPEC circulated the proposed legal regional instrument to the Contracting Parties, United Nations Environment Programme/Mediterranean Action Plan (UNEP/MAP) and International Maritime Organization (IMO).

3. REMPEC official Prevention Focal Points were invited to participate in the Meeting. The invitation was also extended to the Co-ordinating Unit of the Mediterranean Action Plan (MEDU) and to IMO. In agreement with Monaco, representatives from Institut du Droit Economique de la Mer (INDEMER) were also invited to attend the Meeting as observers.

4. The following Contracting Parties to the Barcelona Convention attended the Meeting:

ALBANIA	LEBANON
BOSNIA AND HERZEGOVINA	LIBYA
CROATIA	MALTA
CYPRUS	MONACO
EGYPT	MOROCCO
EUROPEAN COMMISSION	SERBIA AND MONTENEGRO
FRANCE	SYRIAN ARAB REPUBLIC
GREECE	TUNISIA
ISRAEL	TURKEY
ITALY	

5. IMO and INDEMER also participated in the Meeting. MEDU as well as Algeria and Spain informed REMPEC that, due to others commitments, no representative could participate in the Meeting. At the last moment, due to unforeseen reasons, the Slovenian representative could not attend the Meeting.

6. A complete list of participants is given in **Annex I** to the present report.

AGENDA ITEM 1: OPENING OF THE MEETING

7. The Director of REMPEC, Rear Admiral Roberto Patrino, and Mr. Passeron, representative of Monaco to UNESCO, opened the Meeting and welcomed the participants. The Director of REMPEC thanked the Government of Monaco for its support, which made possible to organize the Meeting. He then recalled the adoption in 2002 of the Protocol Concerning Cooperation in Preventing Pollution from Ships and, in Cases of Emergency,

Combating Pollution of the Mediterranean Sea (Prevention and Emergency Protocol) and its recent entry into force. He underlined that pollution from pleasure craft was addressed in the Protocol, under port reception facilities requirements. He also pointed out that, in order to reduce the risk of pollution, emphasis has been given to actions related to prevention of pollution in the Centre's Regional Strategy for Prevention of and Response to Marine Pollution from Ships in the Mediterranean, currently under preparation, which also included pleasure craft activities.

8. Mr. Passeron recalled shortly the background that led to the preparation of a proposal for a Convention dealing with prevention of pollution from pleasure craft in the Mediterranean. He pointed out the strong concern of Monaco on the issue and expressed the wish that the outcome of the Meeting would be an appropriate instrument ensuring the effective protection of the marine environment from pollution generated by pleasure craft activities, in the view of its adoption by the Contracting Parties.

AGENDA ITEM 2: RULES OF PROCEDURE

9. The Meeting decided to apply, *mutatis mutandis*, the rules of procedure for Meetings and Conferences of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related Protocols (UNEP/IG.43/6, Annex XI).

AGENDA ITEM 3: ELECTION OF OFFICERS

10. Participants unanimously elected Ms. Maja Markovic Kostelac (Croatia) as Chairperson, Mr. Malek Smaoui (Tunisia) as Vice-Chairperson and Mr. Pierre Bouchet (Monaco) as Rapporteur.

AGENDA ITEM 4: ADOPTION OF THE AGENDA AND ORGANIZATION OF WORK

4.1 Working Languages

11. The working languages of the Meeting were English and French. Simultaneous English/French interpretation was provided for all the sessions. All working documents, prepared by REMPEC prior to the Meeting, were also available in English and French.

4.2 Adoption of the Agenda

12. Taking into consideration the request of the Thirteenth Ordinary Meeting of the Contracting Parties to the Barcelona Convention, which, while supporting the preparation of a legal regional instrument, mandated REMPEC to examine the feasibility of such an instrument, Mr. Palomares, IMO representative, proposed to the Meeting to address first the form of the instrument, since its feasibility should be discussed before considering the instrument itself. The Meeting agreed with the proposal and adopted the Agenda reproduced in **Annex II** of the present report.

4.3 Organization of Work

13. The Chairman, pursuant to the decision of the Meeting, requested the Secretariat to revise the draft agenda and timetable of the Meeting presented in documents REMPEC/WG.24/4/1 and REMPEC/WG.24/4/3.

AGENDA ITEM 5: DRAFT LEGAL INSTRUMENT: INTRODUCTION AND GENERAL COMMENTS

14. The Director of REMPEC introduced document REMPEC/WG.24/5 and its Addendum, containing the proposed legal instrument and a description of possible options for the form that such an instrument could take within the Barcelona system. He recalled the process that led to the preparation of the Annex to this document and stated that it should serve as a basis for the discussion.

15. He underlined that the objectives of the Meeting were to agree on the form that the instrument should take, as well as on the issues that should be addressed. He commented on all possible options that could be suitable within the Barcelona system and recommended to the Meeting to take into consideration in particular the option consisting of a Resolution of the Contracting Parties calling for developing guidelines, to be elaborated within the framework of the REMPEC Regional Strategy for the implementation of the Prevention and Emergency Protocol.

16. The IMO representative was requested by the Chairman to introduce the comments IMO had submitted regarding the proposed legal instrument. He presented general and specific comments prepared by his Organization as reproduced in document REMPEC/WG.24/5/1. He stated that in the opinion of IMO, a non-mandatory instrument (Code of Conduct, Guidelines, etc.) referring to the pertinent provisions of the global Conventions and promoting regional cooperation for their implementation at regional level, would be more appropriate. As an example, he mentioned the Caribbean region where specific guidelines had been successfully put into effect.

17. The Secretariat presented document REMPEC/WG.24/5/2 containing the comments of UNEP/MAP on the feasibility of a legal regional instrument on prevention of pollution from pleasure craft activities in the Mediterranean. Not being in favor of a new mandatory legal instrument within the Barcelona system, UNEP/MAP expressed its preference for provisions developed and implemented within the REMPEC Strategy.

18. The Meeting took note of the information provided by REMPEC as well as of the comments submitted by IMO and UNEP/MAP.

AGENDA ITEM 6: DISCUSSION ON THE FORM OF THE DRAFT LEGAL INSTRUMENT

19. The Chairman invited the Meeting to review and discuss possible options as presented by the Director of REMPEC under document REMPEC/WG.24/5/Add.1.

20. The Meeting, after exhaustive discussion, decided not to retain the hypothesis of a legally binding instrument and consequently excluded both the adoption of a new Protocol and amendments to the existing Prevention and Emergency Protocol 2002.

21. The Meeting then agreed on the form of a Resolution, in the view of its submission to the Contracting Parties for adoption. The Resolution will contain a set of principles, to be taken into consideration for the further development of specific guidelines on the prevention of pollution from pleasure craft activities. Both the principles and the guidelines have to be considered within the framework of the REMPEC Regional Strategy for prevention of and response to marine pollution from ships.

AGENDA ITEM 7: DISCUSSION ON THE SUBSTANCE OF THE DRAFT LEGAL INSTRUMENT

22. The Chairman presented the content of document REMPEC/WG.24/5, explaining the rationale that the Meeting should keep in mind when proposing modifications or amendments to it, namely to ensure that the contents of the instrument remains within the general objectives and limits of the Barcelona system, and to avoid any overlap with relevant international rules and regulations and/or with the already existing Barcelona legal instruments.

23. The Meeting reviewed, discussed, and amended the content of the proposed text, and agreed on the text of the Resolution, including the set of Principles, which constituted the framework for the Guidelines to be developed by REMPEC.

24. The document agreed upon is reproduced in **Annex I** to the present Report.

AGENDA ITEM 8: OTHER BUSINESS

25. No issue was raised under this agenda item.

AGENDA ITEM 9: ADOPTION OF THE REPORT OF THE MEETING

26. The Meeting adopted the text prepared by the Secretariat as amended.

AGENDA ITEM 10: CLOSURE OF THE MEETING

27. The Director of REMPEC thanked the participants for their constructive work. The Meeting expressed its deep appreciation to the Government of Monaco for hosting and supporting the event and thanked the Chairperson for conducting the work sessions so efficiently.

28. The Chairperson closed the Meeting at 12.30 on Friday, 10 December 2004.

ANNEX(E) I

LIST OF PARTICIPANTS

LISTE DES PARTICIPANTS

ALBANIA / ALBANIE

XHAXHIU Shkelqim

Director of Maritime Transport Directorate
Ministry of Transport and Telecommunication
Boulevard SKENDERBERG
S.Toptani Street No. 4
Tirana

Tel No: **+355 (4)** 224 456, 220 479
Tel:(Mobile): **+355 (68)** 20 55 804
Fax No: **+355 (4)** 220 479/ 234 654
E-mail: shxhaxhiu@yahoo.com

BOSNIA AND HERZEGOVINA / BOSNIE ET HERZEGOVINE

ALIC Ramiza (Ms.)

Hydro-Environment Economist
Institute of Hydro-Engineering
1 Stjepana Tomica Street
71000 Sarajevo

Tel No: **+ 387 (33)** 212 466
Fax No: **+ 387 (33)** 207 949
E-mail: ramiza.alic@heis.com.ba

CROATIA / CROATIE

SELJANOVSKI Boris

Port State Control Inspector
Ministry of Sea, Tourism, Transport and Development
Prisavlje 14
10 000 Zagreb

Tel No: **+385 (22)** 217 216
Fax No: **+385 (22)** 217 378
E-mail: boris.seljanovski@pomorstvo.hr

CROATIA / CROATIE (cont.)

MARKOVCIĆ KOSTELAC Maja (Ms.)

Head of International and Legal Department (Maritime Administration)
Ministry of Sea, Tourism, Transport and Development
Prisavlje 14
10 000 Zagreb

Tel No: **+385 (1) 616 90 25**
Fax No: **+385 (1) 619 59 56**
E-mail: maja.markovic@pomorstvo.hr

CYPRUS / CHYPRE

EFSTRATIOU Ioannis

Marine Surveyor A
Department of Merchant Shipping
Ministry of Communication and Works
Kylinis Street, Mesa Geitonia
4007 Lemesos
(P.O. Box 56193, CY 3305)

Tel No: **+ 357 (25) 848 100**
Fax No: **+ 357 (25) 848 200**
E-mail: jefstratiou@dms.mcw.gov.cy

EGYPT / ÉGYPTÉ

MOUSSA KHATAB Mohamed El Sayed

Head of Conventions Department
Central Maritime Inspection Department
Ports and Lighthouses Administration
Gate No 1 Ras El Tien
Elgomrek – Alexandria

Tel No:: **+20 (3) 480 22 99 Ext. 233**
Tel (Home) : **+20 (3) 427 47 55, 427 20 47**
Tel (Mobile): **+20 (01)235 85 146**
Fax No:: **+20 (3) 487 56 33**
E-mail: engmkhatab@link.net

EUROPEAN COMMISSION / COMMISSION EUROPEENNE

WIECZORKIEWICZ Michal

Policy Officer
DG TREN
Maritime Transport and Maritime Safety Unit
European Commission
1049 Brussels

Tel No: **+32 (2) 29 86 819**
Fax No: **+32 (2) 29 69 066**
Email: michal.wieczorkiewicz@cec.eu.int

FRANCE / FRANCE

SILVESTRE Daniel

Chargé de mission/Administrateur Civil
Secrétariat Général de la Mer
Service du Premier Ministre
16, Boulevard Raspail
75007 Paris
FRANCE

Tel No: **+33 (1) 536 34 153**
Fax No: **+33 (1) 536 34 178**
E-mail: daniel.silvestre@sgmer.pm.gouv.fr

BISSUEL Jean Louis

Chargé de mission/Affaires Maritimes
Ministère du Affaires Etrangères
Direction du Affaires Economiques et Financières
6 rue de Talleyraud
75007 Paris

Tel No: **+33 (1) 431 744 35**
Fax No: **+33 (1) 431 758 74**
E-mail: jean.louis.bissuel@diplomatic.gouv.fr

GREECE / GRECE

ANOUSAKI Maria (Ms.)

Hellenic Ministry of Mercantile Marine
Marine Environment Protection Division
109 Ipsilantou Street
18532 Piraeus

Tel No: **+30 (210) 419 13 51**
Fax No: **+30 (210) 422 04 40**
 +30 (210) 422 04 41
E-mail: dpthap@mail.yen.gr

ISRAEL / ISRAEL

LESHEM Zeev

Director, Economic International Affairs
Shipping and Ports Administration
Ministry of Transport
15 a Pal-Yam Street
P.O. Box 806
Haifa 31999

Tel No: **+972 (4) 863 21 01**
Fax No: **+972 (4) 863 21 11**
E-mail: zeevl@mot.gov.il

ITALY/ ITALIE

GRECO Giovanni

Lieutenant Commander in charge of the National small craft
(working and pleasure crafts) and Port State Control training activities
Ministero delle Infrastrutture e dei Trasporti
Commando Generale del Corpo delle Capitanerie di Porto VI
Reparto-Sicurezza della Navigazione
Ponte dei Mille
Stazione Marittima
16126 Genova

Tel No: **+39 (010) 251 81 54**
Fax No: **+39 (010) 247 82 45**
E-mail: 003@sicnavge.it

LEBANON / LIBAN

NAHLE Mohamad

Engineer
Directorate General of Land and Maritime Transport
Ministry of Public Works and Transport
George Picot Street
Starco Buildings 3rd Floor
Beirut

Tel No: **+961 (1) 378 33 50**
Fax No: **+961 (1) 372 767**
E-mail: ministry@transportation.gov.lb

LIBYA/ LIBYE

AMER Mohamed Massoud

Head, Office of Planning and Emergency
Environment General Authority (EGA)
P.O. Box 83618
El-Gheran
Tripoli

Tel: (Mobile): **+218 (91) 213 52 91**
Fax No: **+218 (21) 361 28 36**
E-mail: DR_AMERT@yahoo.com
 dr_amer@yahoo.com

MALTA / MALTE

BUGEJA David

Senior Port Officer and Deputy Harbour Master
Malta Maritime Authority
Marina Pinto
Valletta VLT 10
MALTA

Tel No: **+356 21 22 22 03**
Fax No: **+356 21 24 44 19**
Email: david.bugeja@mma.gov.mt

MONACO / MONACO

SACOTTE Jean-Charles

Charge de Mission au Ministère d'Etat
Place de Visitation – Monaco Ville
BP 552
98015 Monaco Cedex

Tel No: **+377 (-) 93 15 87 41**
Fax No: **+377 (-) 93 50 95 91**
Email: jsacotte@gouv.mc

CROVETTO Christophe

Rédacteur
Délégation à l'Environnement International et Méditerranéen
Direction des Relations Extérieures
Ministère d'Etat
Place de Visitation – Monaco Ville
BP 552
98015 Monaco Cedex

Tel No: **+377 (-) 93 15 81 32**
Fax No: **+377 (-) 93 50 95 91**
Email: ccrovetto@gouv.mc

BOUCHET Pierre

Directeur Adjoint
Direction des Affaires Maritime
Quai Jean Charles Rey
B.P. 468
MC-98012 Monaco Cedex

Tel No: +377 (-) 93 15 86 78
Fax No: +377 (-) 93 15 37 15
E-mail: pbouchet@gouv.mc

MOROCCO / MAROC

KEFFAOUI Khadija (Ms.)

Chef de Service de la Prévention et de la Pollution
Ministère de l'Équipement et du Transport
Direction de la Marine Marchande
Boulevard Félix Houphouët Boigny
21222 Casablanca

Tel No: **+212 (22) 27 37 90, 22 19 36**
Fax No: **+212 (22) 27 33 40**
E-mail: keffaoui@yahoo.fr

SERBIA AND MONTENEGRO / SERBIE ET MONTENEGRO

RAKOČEVIĆ Veljko

Senior Advisor for the Implementation of
the International Regulations \\
Directorate for Maritime Safety
Maršala Tita br.7
Bar 85000

Tel No: **+381 (85)** 313 240
Fax No: **+385 (85)** 313 274
Email : msa.intreg@cg.yu

SYRIA / SYRIE

SAEED Waseem

Chemical Engineer in Banias Port
Marine Anti-Pollution Department
General Directorate of Ports
Ministry of Transport
P.O. Box 505,
Al Gazair Street
Lattakia

Tel No: **+963 (41)** 472 597, 472 593
Fax No: **+963 (41)** 47 58 05
E-mail: danco@net.sy

TUNISIA / TUNISIE

SMAOUI Malek

Directeur de la Conservation de la Nature et du Milieu Rural
Ministère de l'Environnement et du Développement Durable
Immeuble ICF
Centre Urbain Nord
El Menzah 1080 - Tunis

Tel No: **+216 (71)** 703 394
Tel(Mobile): **+216 (98)** 32 35 77
Fax No: **+216 (71)** 704 340
Email: malek.smaoui@voila.fr

TURKEY / TURQUIE

TURAN Zakir

Ministry of Environment and Forestry
General Directorate of Environmental Management
Department of Marine and Coastal Management
Eskişehir Yolu 8 Km.
06100 Ankara

Tel No: **+90 (312)** 287 99 63 ext 2423
Fax No: **+90 (312)** 285 58 75
Email: zakir-turan@yahoo.com

TURKEY / TURQUIE (cont.)

ATASOY Cemalettin
Port State Control Officer
Undersecretariat for Maritime Affairs
Meclis-i Mebusan Caddesi No. 151
Kabatas
Istanbul

Tel No: **+90 (212) 249 21 97**
Fax No: **+90 (212) 293 42 97**
Email: **cemalettinasoy@denizcilik.gov.tr**

UNITED NATIONS ORGANIZATIONS
ORGANISATIONS DES NATIONS-UNIES

**INTERNATIONAL MARITIME ORGANIZATION (IMO)/ ORGANIZATION MARITIME
INTERNATIONALE (OMI)**

PALOMARES Miguel

Senior Deputy Director
Pollution Response and TC Co-ordination
Marine Environment Division
International Maritime Organization
4 Albert Embankment
London SE1 7SR
U.K.

Tel No: + 44 (207) 587 3218
Fax No: + 44 (207) 587 3210
E-mail: mpalomares@imo.org

OBSERVERS/OBSERVATEURS

LUCCHINI Laurent

Professeur
12-14 rue de parc Alexandre III
F-06400 Cannes
FRANCE

Tel No: +33 (04) 93 94 36 69
Fax No: +33 (04) 93 94 36 69
Email: l.lucchini@indemer.org

VAN DER MENSBRUGGE Yves

Professeur
Institut de Droit Economique de la Mer (INDEMÉR)
Av. Des Commorans 10
1150 Bruxelles
BELGIUM / BELGIQUE

Tel No : + 32 (2) 7718 780
Fax No: + 32 (2) 76 20 866
E-mail: --

INTERPRETERS/INTERPRETES

PERRIER Nicole

SCHMIDT Alexandra

SECRETARIAT / SECRETARIAT

**REGIONAL MARINE POLLUTION EMERGENCY RESPONSE CENTRE FOR THE
MEDITERRANEAN SEA (REMPEC)
CENTRE REGIONAL MEDITERRANEEN POUR L'INTERVENTION D'URGENCE CONTRE LA
POLLUTION MARINE ACCIDENTELLE (REMPEC)**

PATRUNO Roberto
Director

KHODJET EL KHIL Lilia
Technical Officer

BONAVIA Amanda
Secretary/Administrative Assistant

MIZZI Ruth
Bilingual Secretary

REMPEC
Manoel Island
Gzira GZR 03
MALTA

Tel: **+356** 21 33 72 96/7/8
Fax: **+356** 21 33 99 51
E-mail: rempec@rempec.org

ANNEX II

AGENDA

1. Opening of the Meeting.
2. Rules of procedure.
3. Election of officers.
4. Adoption of the agenda and organization of work.
5. Draft legal instrument: Introduction and general comments.
6. Discussion on the form of the draft legal instrument.
7. Discussion on the substance of the draft legal instrument.
8. Other business
9. Adoption of the Report of the Meeting.
10. Closure of the Meeting.

ANNEX III

Draft Resolution for the sustainable development and respect of the marine environment by pleasure craft activities in the Mediterranean Sea

The Contracting Parties to the Barcelona Convention

Bearing in mind the relevant provisions of the United Nations Convention on the Law of the Sea, done at Montego Bay on 10 December 1982, which is in force and to which many Mediterranean Coastal States and the European Community are Parties, as well as the applicable provisions of relevant IMO Conventions, in particular those of the MARPOL 73/78 Convention for the Prevention of Pollution from Ships;

Taking into account the provisions of the Convention on Biological Diversity (Rio de Janeiro, 1992);

Considering also the provisions of the 1995 Barcelona Convention and its relevant Protocols, and in particular the "Prevention and Emergency" Protocol adopted in 2002;

Bearing in mind the measures adopted within the framework of the Regional Seas Programme of UNEP;

Acknowledging that the principle of freedom of navigation implies the freedom to carry out pleasure craft activities without prejudice to the recognised rights and obligations of the coastal State over marine areas within its jurisdiction;

Noting the considerable increase of pleasure craft activities in the past decades and aware of the role that tourism plays in the achievement of sustainable development;

Fully aware of how this kind of activities favours cultural, economic, social, sport and leisure exchanges;

Conscious, nevertheless, of the risks that this kind of traffic constitutes to the environment and to safety at sea;

Anxious, therefore, to promote and facilitate the practice of pleasure craft activities while fully respecting the competence of the State in accordance with international law;

Wishing to harmonise, where necessary, the application of international, regional, or national rules relating to pleasure craft activities;

Desirous of establishing a regime to regulate these activities that would be adapted to the Mediterranean Sea, a semi-enclosed sea with a delicate ecological balance, and that would fit in with the different uses coastal areas are put to;

Considering, furthermore, that in this particular field, it is important to strengthen the cooperation that has been developed between coastal States of the Mediterranean;

Taking into consideration REMPEC's Regional Strategy for Prevention of and Response to Marine Pollution from Ships, [adopted during the 14th Ordinary Meeting of the Contracting Parties convened in November 2005], which includes the prevention of pollution from pleasure craft activities as a specific objective;

ADOPT the principles underlying the sustainable development and respect for the environment by pleasure craft activities in the Mediterranean Sea, set out in the Annex to the present resolution;

MANDATE REMPEC to develop comprehensive guidelines to enable the principles to be applied in the Mediterranean region, taking into account previous work done on pleasure craft activities and to present these guidelines to the 15th Ordinary Meeting of the Contracting Parties for adoption;

COMMIT themselves to apply, individually or in cooperation, the principles adopted by the present Resolution, which constitute the framework of the Guidelines to be developed by REMPEC;

INVITE non-Mediterranean States whose pleasure craft sail the Mediterranean sea to adopt principles analogous to those recommended by the present Resolution.

ANNEX

PRINCIPLES TO BE RETAINED FOR THE DEVELOPMENT OF THE GUIDELINES

Section I. General principles

.1 Definitions

The following definitions apply to these terms:

1. "Pleasure craft" means all kinds of craft using any type of propulsion system, be it privately owned or chartered, used for pleasure, sport or leisure.

2. "Pollution" means the introduction by man, directly or indirectly, [within the framework of pleasure craft activities], of substances or energy into the marine environment, including estuaries, which results or is likely to result, in such deleterious effects as harm to living resources and marine life, hazard to human health, hindrance to marine activities, including fishing and other legitimate uses of the sea, impairment of quality for use of seawater and reduction of amenities.
3. "Biological diversity" means the variability of living organisms from all sources including *inter alia* terrestrial, marine and other aquatic ecosystems and the ecological complex of which they are part; this includes diversity within species, between species and of ecosystems.
4. "Authorities" means the competent national authorities entitled to ensure maritime safety and to protect the marine environment.
5. "Marina" means all reception and berthing facilities for pleasure craft, specifically intended or equipped for this purpose, including zones reserved for pleasure craft in those ports that are accessible to all types of vessels.

.2 Application

The guidelines should apply to pleasure craft, marinas and relevant facilities.

Section II. Principles relating to prevention of pollution by pleasure craft and protection of the marine environment

.1 Polluting discharges

- a) The Contracting Parties should prohibit operational discharges consisting of oil or oily mixtures, sewage and garbage, as provided respectively in Annexes I, IV and V in the MARPOL 73/78 Convention.
- b) The Contracting Parties should take all necessary measures to prevent spillages into the sea of pleasure craft fuel during refuelling operations.

.2 Retention on board of polluting wastes

The Contracting Parties should ensure that the operational wastes referred to in Section II, Point 1 are kept on board in tanks or other storage containers until their disposal in appropriate reception facilities.

.3 Anti-fouling systems

- a) Contracting Parties should prohibit the use, by pleasure-craft, of anti-fouling systems as provided in the International Convention on the Control of Harmful Anti-fouling Systems on Ships, 2001.
- b) Contracting Parties should take the appropriate measures in order to collect, handle, process and dispose of wastes originating from anti-fouling systems mentioned in the above paragraph, so as to protect human health and the environment.

.4 Exhaust gas emissions

- a) With reference to Annex VI of the MARPOL 73/78 Convention, the Contracting Parties should establish maximum levels allowed for exhaust gas and particle emissions originating from pleasure craft engines.
- b) The Contracting Parties should develop quality standards for the fuels used by pleasure craft with a view to reducing harmful exhaust gas and particle emission to the levels stipulated under paragraph a).

.5 Sound emissions

The Contracting Parties should establish maximum levels permitted for sound emissions from engine-powered pleasure craft.

.6 Principles related to reporting procedure from pleasure craft

Each Party should issue instructions to skippers or any other persons in charge of pleasure craft, to report to the nearest Coastal State authorities, by the most rapid and adequate channels in the circumstances, the presence, characteristics and extent of pollution of the marine environment observed at sea.

Section III. Principles relating to protective measures

.1 Water sports activities

The Contracting Parties should, individually or in cooperation with one another, ensure that recreational craft activities, including competitive events and other water sports events, do not jeopardize life at sea nor cause undue harm to the environment.

.2 Specially protected sea areas

In accordance with international law and considering the characteristics of each specially protected sea area in the Mediterranean, the Contracting Parties should regulate the passage of pleasure craft as well as any stopping or mooring within such areas inside their territorial waters.

.3 Protection of marine fauna and flora and ecosystems

- a) The Contracting Parties should request all pleasure craft to respect international, regional and national regulations, with regard to protection and the safeguarding of marine fauna and flora.
- b) The Contracting Parties should take all necessary measures of a regulatory and administrative nature, to preserve from the impacts of pleasure craft marine activities coastal ecosystems in general, protected areas, and in particular the Specially Protected Areas of Mediterranean Importance (SPAMI).

.4 Protection of underwater archaeological heritage

The Contracting Parties should take all necessary measures with the aim of preventing any impact, by pleasure craft, on the underwater heritage, if such impact would constitute an infringement of national or international laws.

Section IV. Principles relating to marinas

.1 Operation of marinas

- a) The Contracting Parties should undertake to carry out environmental impact assessment prior to the construction or development of marinas.
- b) The Contracting Parties should take all necessary measures with the aim of eliminating the discharge into the sea of wastewater and other wastes generated by the operation of marinas.

.2 Development of marinas

- a) The Contracting Parties should foster the development of necessary reception facilities for pleasure craft in their marinas, and should keep each other informed of progress made in this regard. They should attach particular importance to the standardisation of equipment and, to this end, should establish all the useful links with the competent bodies in this field.

- b) The Contracting Parties should ensure the development, for their marinas, of plans for the management and processing of operational wastes collected *in situ*.

.3 Environmental awareness

The Contracting Parties should ensure that persons involved in the administration and management of marinas have the knowledge to deal with issues related to protection of the marine environment.

Section V. Principles relating to administrative measures

.1 Identification

The Contracting Parties should, as far as reasonable and practicable, introduce into their legislation, if they have not already done so, a system by means of which pleasure craft falling under their jurisdiction may be identified.

.2 Qualification

The Contracting Parties should, as far as reasonable and practicable, taking into account the characteristics of the pleasure craft, ensure that the skipper or any other person in charge of the operation of a pleasure craft is adequately qualified to operate the craft safely.

.3 Insurance

The Contracting Parties should, as far as reasonable and practicable, ensure that the pleasure craft are covered by an appropriate insurance.

.4 Communications and reports

The Contracting Parties should communicate to REMPEC with the shortest possible delay, their legislative and statutory texts regulating pleasure craft activities, the modifications made thereto, as well as the status of implementation of the Guidelines. REMPEC should in turn transmit such information to other Contracting Parties.

Section VI. Principles relating to monitoring and control of pleasure craft activities

In conformity with international law, the competent authorities should exercise monitoring and control of pleasure craft activities and take any measures that they are entitled to apply in the marine areas under their sovereignty or jurisdiction.