



IMO-OMI



UNEP-PNUE

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



---

**MEDITERRANEAN ACTION PLAN**

**REMPEC Project “SAFEMED complementary activities in the field of  
operational pollution from ships in the Mediterranean region”**

**National Report: ALBANIA**

**a Report  
prepared within the framework of REMPEC’s complementary activities in the field of  
operational pollution from ships in the Mediterranean Region  
(REMPEC/CONT/15/2007)**

**presented to REMPEC  
by**

**Jean Claude Sainlos**

**October 2008**

**Disclaimer:**

The present report has been prepared for the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC- IMO/UNEP) within the framework of a REMPEC Project “SAFEMED complementary activities in the field of operational pollution from ships in the Mediterranean region”.

The views expressed in this report are those of the consultant and cannot be attributed in any way to the IMO, UNEP, MAP, REMPEC or the consultant’s employer.

The designations employed and the presentation of the material in this report do not imply the expression of the opinion whatsoever on the part of the IMO, UNEP, MAP and REMPEC concerning the legal status of any State , Territory , city, or area , or its authorities, or concerning the delimitation of their frontiers or boundaries .

**Acknowledgement:**

The consultant wish to thanks Mr. Sokol KAPIDANI, Director of the Maritime Transport Policy Directorate, Ministry of Public work, Transport and Telecommunication, for his co-operation and for the support provided by the personnel of the Directorate.

His thanks go also to Mr. Arben MALOKU from the Maritime Transport Policy Directorate, Mr. Gesin DOSARI Harbor Master of the Port of Durres and Mrs. Nari PANARITI Director of Pollution Prevention Policies at the Ministry of Environment, Forests and Water Administration for their co-operation and support during the visit.



## **Table of contents**

<b>I</b>	<b><u>Introduction</u></b>	Page 1
	1 Background	Page 1
	2 Mission assignment	Page 1
<b>II</b>	<b><u>Executive summary</u></b>	Page 2
<b>III</b>	<b><u>Assessment of the situation</u></b>	Page 3
	<b>3-1 <u>Overview of the legal framework</u></b>	Page 4
	3-1-1 Status of transposition of MARPOL Annex I into national laws	Page 5
	3-1-2 Status of the relevant national legislations relating to the enforcement of MARPOL Annex I	Page 5
	3-1-3 Prosecution process	Page 5
	<b>3-2 <u>Overview of the organizational structure</u></b>	Page 6
	3-2-1 Maritime administration	Page 6
	3-2-2 Legal Administrations	Page 7
	3-2-3 Other Administrations	Page 7
	<b>3-3 <u>Implementation and enforcement capabilities</u></b>	Page 8
	3-3-1 Capabilities to carry out flag State and port State duties	Page 8
	3-3-2 Capabilities to carry out coastal State responsibilities	Page 8
	3-3-3 Training of personnel	Page 9
	<b>3-4 <u>Co-operation on MARPOL enforcement</u></b>	Page 9
	3-4-1 Co-operation within the framework of the Paris/ MOU on Port state control	Page 9
	3-4-2 Co-operation with neighboring countries	Page 9
	<b>3-5 <u>Reporting and statistics(MEPC/Circ.318)</u></b>	Page 10
<b>IV</b>	<b><u>Assessment of the needs for improvement and assistance</u></b>	Page 10
	<b>4-1 <u>Overview of the difficulties experienced</u></b>	Page 10

4-1-1	Difficulties in exercising flag State responsibilities	Page 10
4-1-2	Difficulties in exercising port State control	Page 11
4-1-3	Difficulties in the detection, prosecution and sanctioning of violations	Page 11
<b>4-2</b>	<b><u>Evaluation of the needs for improvement</u></b>	Page 12
4-2-1	Developing an appropriate legal framework	Page 12
4-2-2	Increasing resource capabilities	Page 13
4-2-3	Training of personnel	Page 14
4-2-4	Raising awareness	Page 14
<b>4-3</b>	<b><u>Needs for regional co-operation</u></b>	Page 14
<b>V</b>	<b><u>Recommendations</u></b>	Page 15
<b>5-1</b>	<b><u>Actions to be taken at the national level</u></b>	Page 15
5-1-1	Development of a comprehensive legal framework for preventing and Controlling operational oil pollution from ships	Page 16
5-1-2	Strengthening implementation and enforcement capabilities	Page 17
5-1-3	Strengthening the prosecution system	Page 18
<b>5-2</b>	<b><u>Actions to be taken at the regional level</u></b>	Page 18
5-2-1	Joint the Paris /MOU	Page 18
5-2-2	Through REMPEC promote regional co-operation on information exchange, monitoring and surveillance, and harmonization of enforcement measures including the preparation of regional manual and guidelines	Page 18
5-2-3	Participate to the development of sub-regional arrangement in the Adriatic	Page 19
<b>VI</b>	<b><u>Conclusions</u></b>	Page

## **List of Annexes**

**Annex I:** Terms of reference

**Annex II:** Questionnaire

**Annex III:** List of IMO instruments and documents to refer to

**Annex IV:** Status of ratification of IMO conventions

**Annex V:** List of persons met





## **I Introduction**

### **1 Background**

The Contracting Parties to the Barcelona Convention adopted, at their 14<sup>th</sup> Ordinary meeting (8-11 November 2005), the Regional Strategy for Prevention of and Response to Marine Pollution from Ships. The Strategy includes twenty-one objectives to be reached by 2015, one of these being the improvement of the level of enforcement of the MARPOL Annex I requirements and the prosecution of discharge offenders in the region (Objective 4.7).

This objective is being partly fulfilled through the implementation by REMPEC of a specific activity of the SAFEMED Project (EU/MEDA financed Project entitled “EUROMED COOPERATION ON MARITIME SAFETY AND PREVENTION OF POLLUTION FROM SHIPS- SAFEMED”). The SAFEMED Project is being implemented in ten Euromed Mediterranean Partners, namely Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, Tunisia and Turkey.

The primary objective of the Project is to mitigate the existing imbalance in the application of maritime legislation in the region between the Mediterranean Partners that are not members of the EU and those who are members, through promoting a coherent, effective and uniform implementation of the relevant international conventions and rules aimed at better protection of the marine environment in the Mediterranean region.

Activity 3 of the SAFEMED Project addresses the protection of the marine environment from the pollution from ships. This activity aims at identifying impediments and needs for the effective implementation and enforcement of the MARPOL Convention taking into account REMPEC’s Regional Strategy for Prevention of and Response to Marine Pollution from ships.

REMPEC sourced additional financial resources from its Mediterranean Trust Fund (MTF) budget in order to extend Activity 3 of the SAFEMED Project to Mediterranean coastal States which are not MEDA/SAFEMED eligible countries and not EU member States, namely Albania, Bosnia Herzegovina, Croatia and Montenegro.

### **2 Mission assignment**

The tasks assigned to the consultant relate to the prevention and control of operational oil pollution from ships (MARPOL Annex I) in the Mediterranean region (see Annex I: Terms of Reference). The consultant prepared a comprehensive questionnaire (Annex II: Questionnaire) to assist in the collection of information. He also undertook a needs assessment field mission in Albania, which took place from the 25<sup>th</sup> to the 28<sup>th</sup> of May 2008. The Maritime Transport Policy Directorate prepared a program of visits and organized a series of meetings (Annex V: List of persons met). Using the questionnaire as a guide for collecting information and assessing the situation, the consultant had a number of meetings

with representatives of relevant Administrations having an involvement in this matter. The objectives of those meetings were the following: to work together with representatives of the administrations concerned, to conduct an assessment of the situation, to identify needs for improvement and to agree on propositions for future actions. The assessment focused on six major components:

- . Legal framework;
- . Organizational structures;
- . Implementation and enforcement capabilities;
- . Co-operation on MARPOL enforcement;
- . Reporting and collection of statistics;
- . Improvement.

The outcomes of this field mission are presented in this report.

## **II Executive summary**

The main characteristics of the existing Albanian mechanism for MARPOL Annex I implementation and enforcement are the following:

- 1) The Albania maritime administration is dramatically understaffed, therefore not able to fulfill its obligations under MARPOL.
- 2) Although the Maritime Code has been recently adopted, the legal framework in place does not transpose the MARPOL requirements.
- 3) Organizational structures:
  - Discussion are on going regarding the restructuring of the maritime administration but presently there is no sufficient staff for discharging central administration duties;
  - Regarding the flag State responsibilities, the current administrative arrangements should be reconsidered;
  - Regarding the port State control responsibilities proper administrative arrangements have to be put in place;
  - Regarding the coastal State responsibilities, the current organization should benefit from the expected development of the legal framework, which shall confirm the duties and responsibilities of the administrations involved and provide for the necessary adjustments;

- The Ministry of Justice is not sufficiently directly involved in this matter and the magistrates should be familiarized with the MARPOL Convention.
- 4) Need of strengthening the enforcement capabilities:
- Enhancing the standards practices of port State control inspectors (additional PSC inspectors will have to be recruited) through specialized training courses on MARPOL.
  - Strengthening the surveillance and control capabilities by conducting an evaluation of the need according to the major sources of operational oil pollution and by programming the use of the resources accordingly;
  - Strengthening the enforcement capabilities by training all categories of personnel involved, by getting the magistrates familiar with the issue.
- 5) Need for a strongest involvement in regional co-operation on MARPOL enforcement:
- to follow up the request put forward for becoming Party and take actions to join as soon as possible the Paris MOU on port State control;
  - ensure an active participation by promoting regional and sub-regional co-operation on information exchange, surveillance and harmonization of enforcement measures, in particular in the Adriatic Sea.
- 6) Albania does not fulfill its reporting obligation under MARPOL.

Albania does not communicate to IMO the information called for by articles 8, 11, and 12 following MEPC/ Circ. 318.

### **III Assessment of the situation**

MARPOL Annex I regulations aim at preventing and minimizing the pollution of the marine environment by oil from the machinery spaces of all ships as well as the cargo areas of oil tankers. The regulations relate to the construction, the equipment and the operation of the ships, in particular the control of operational discharge of oil at sea.

The Convention requires the Administration (i.e. the government of the Flag State) and the competent authority of a Party to promulgate laws and regulations and to take all other steps which may be necessary to give full and complete effect to the Convention.

Such laws and regulations shall impose *inter alia* that:

- . Ships shall hold valid certificates and be subject to inspection while in a port of another Party. Administration shall issue procedures for survey, inspection, certification and Port State control;
- . When appropriate, ships shall be subject to inspection for the purpose of verifying whether the ship has discharged oil in violation of the Convention. Parties shall co-operate in the detection of violations and the enforcement of the provisions of the Convention;
- . Violations of the Convention's requirements shall be prohibited and sanctions shall be established under the law of the country of the ship's flag wherever the violation occurs and be applicable to foreign ships for any violation within its jurisdiction.

The purpose of the assessment in Albania is to get an overview of the system in place and its effectiveness in implementing and enforcing the MARPOL Annex I requirements, in particular the oil discharge requirements and see how Albania fulfills its obligations, as a Flag State, Port State and Coastal State, under MARPOL Annex I:

- . What is the legal framework in place?
- . What is the organizational structure in place?
- . What are the implementation and enforcement capabilities?

### 3-1 Overview of the legal framework

Since the 90ies, Albania is engaged in a political and economical change and the country is currently working towards joining the European Union. The current Constitution of Albania was adopted by Referendum on 22 November 1998 and it has been promulgated on 28 November 1998. The legal regime and the institutional set up are in continuous development. The legal framework related to the prevention and control of pollution of the marine environment from ships is based on laws which have been recently adopted.

Albania is Party to the MARPOL Convention. The country acceded to MARPOL Annexes I and II on 09/01/07 which entered into force in Albania on 09/04/07. The MARPOL Convention has been promulgated making it national law.

In addition, Albania acceded to the United Nations Convention on the law of the Sea on 23 June 2003.

The basic laws related to the protection of the marine environment from the pollution by ships are the following: the Maritime Code promulgated by the Law Nr 9251 dated 08/07/2004 which entered into force in July 2005; and the Law Nr 8905 for the protection of

the marine environment from pollution and damage adopted in 2003 and amended in June 2006 (Note that translation into English of those laws does not exist, therefore the consultant could not carry out a detailed analysis of the existing legal system. However, on the basis of the information provided, it has been possible to reach some conclusions on the main issues).

### 3-1-1 Status of transposition of MARPOL Annex I into national laws

The Maritime Code is the basic law for maritime affairs and for the safety of navigation as well as for the protection of the marine environment; however there are no specific laws and regulations transposing the MARPOL requirements into the Albanian legal system.

The Maritime Code contains general provisions concerning survey, certification and inspection of ships including inspection of foreign ships. The responsibility of survey and certification of Albanian ships is given to the Albania Register of Shipping which is an administrative State entity.

The Maritime Code defines the pollution of the sea as an offence and imposes penalties up to 2500 Euros.

According to the Code the ports are expected to provide reception facilities for ships generated wastes.

### 3-1-2 Status of the relevant national legislations relating to the enforcement of MARPOL Annex I

In cases of pollution of the sea by ships, both the Maritime Code and the law for the protection of the marine environment will apply. Each of these has their own definition of the offence of pollution of the sea by ships and their own regime of sanctions. In case of violation, the Maritime Code imposes fines up to 2500 Euros and the law for the protection of the marine environment up to 8000 Euros.

### 3-1-3 Prosecution process

Offences committed within port's jurisdiction are dealt with by the Harbor Master and those committed within the territorial sea of Albania by the Coast Guard relevant officers. Reports of alleged offences are transmitted to the public prosecutor who will initiate the proceeding in the judicial Court of the place where the offences occurred.

### 3-2 Overview of the organizational structure

The overall responsibility for the implementation and enforcement of the MARPOL Convention belong to the Maritime Transport Policy Directorate. Although the Maritime Transport Policy Directorate has the main responsibility regarding MARPOL implementation as flag State and port State, when it comes to enforcement as coastal State, such responsibility is shared with other Ministries and entities. However responsibilities in that case (coastal State responsibility) do not seem to be clearly established.

The Maritime Transport Policy Directorate is part of the Ministry of Public Works, Transport and Telecommunication.

#### 3-2-1 Maritime administration

The Maritime Transport Policy Directorate is currently composed of 2 sectors and 1 unit:

- The sector of maritime transport and ports (3 persons);
- The sector of security forces in ports and ships (3 persons);
- The unit of project implementation (2 persons).

With the Director, and without counting the secretaries, the total number of staff is 8 professionals.

Duties related to maritime safety and marine environment protection (MARPOL) are carried out by the sector of maritime transport and ports which is manned with 3 officers including the chief of the sector. The existing manning is dramatically insufficient for performing all central administration's duties regarding flag State and port State responsibilities ( and not only regarding MARPOL implementation). It is very difficult, not to say impossible, to fulfill the treaties obligations and implement and enforce national laws in such conditions.

Proposals have been made and discussions are taking place for reorganizing the ministry of public works, transport and telecommunication and in particular the maritime administration. In particular, it is proposed to establish a Maritime Administration General Directorate composed of 4 Directorates:

- The Maritime Transport Policy Directorate (1 director, 3 experts);
- The Safety Certification and Technical Matters Directorate (1 director, 4 experts);
- The Project Management Directorate (1 director, 2 experts);and,
- The Legal and Foreign Affairs Directorate (1 director, 3 experts).

If such proposed reorganization is accepted, that will be already a tremendous improvement.

At the regional level, there are 4 harbor master's offices: Durres, Vlora, Shengini and Saranda. The total number of personnel in harbor master's offices should be 87 however there are only 45 persons in position, among which 28 inspectors (11 in Durres, 8 in Vlora, 5 in Shengini and 4 in Saranda). Only 2 inspectors (1 in Durres and 1 in Vlora) are qualified for port State control, but none are yet authorized by law or regulation to carry out port State control inspection of foreign ships.

### 3-2-2 Legal Administration

The Maritime Transport Policies Directorate should be the regulatory body for the construction, the equipment and the operation of merchant ships however the consultant did not identify any staff with the legal qualification to carry out this task (no legal service, no legal staff). Most of the recent legal work has been done probably by foreign experts under assistance projects. The local executing bodies of the Directorate are the harbor master's offices.

Regarding sanctions to marine pollution, the Ministry of Environment, Forests and Water Administration is also a regulatory body but the Ministry is lacking of staff with a proper legal background.

The Ministry of Justice is the primary Authority for the enforcement of criminal law: prosecution, judgment and sanction. However it seems that the Ministry of Justice is not involved as it should be and the magistrates are not familiarized with maritime Conventions and in particular with the MARPOL Convention.

### 3-2-3 Other Administrations

According to law Nr 8875 dated 04/04/2002, the Albania Coast Guard, which is a branch of the Navy, is the law enforcement body within the sea areas under Albania jurisdictions for safety of navigation, immigration and pollution, and is responsible for search and rescue.

The pollution prevention policies Directorate of the Ministry of Environment has an Environment Inspectorate which should deal with all kind of pollution including marine pollution. However the capabilities of the inspectorate are very limited (few inspectors, not qualified).

### 3-3 Implementation and enforcement capabilities

#### 3-3-1 Capabilities to carry out flag State and port State duties

The existing manning of the Maritime Transport Policies Directorate is definitively insufficient for performing all central administration's duties, particularly those of flag State and port State.

Currently there are:

- 27 ships above 500GT under the Albania flag for a total tonnage of 60.000GT;
- 200 fishing vessels; and,
- 400 small boats and yachts.

The ships above 15 meters length and 75 hp require certification and shall be registered.

Survey and certification for the conventional ships is done by the Albania Register of Shipping and ships are inspected by the harbor master's inspectors twice a year.

To carry out its work, the Albania Register of Shipping has 4 surveyors and the harbor master's offices have 28 inspectors. However there are only 2 qualified port State control inspectors whom have not been yet formally authorized. There is an estimate average of 10 ships calling at Durres port every day plus 7 ferries per day (only 1 PSC inspector in Durres who has other duties). Again the number of surveyors and inspectors is insufficient.

The ports are in the process of concluding contracts with private companies for the collection and treatment of ship generated wastes.

#### 3-3-2 Capabilities to carry out coastal State responsibilities

Regarding illegal discharges, the harbor masters are responsible of pollution control within the port area which should be done through the harbor master's inspectors. 28 inspectors are dispatched in the 4 harbor master's offices (11 in Durres, 8 in Vlora, 5 in Shengini and 4 in Saranda).

According to the Law Nr 8875 dated 04/04 2002 the Albania Coast Guard is responsible of controlling pollution at sea within the areas under Albanian jurisdictions. To fulfill its mandate, the Coast Guard has 30 ships available, among which 15 patrol boats of more than 20 meters length. There are 3 ships permanently at sea. The Border Police and the Custom have their own boats patrolling at sea for their own needs.



Although the Coast Guard has as one of its responsibilities the control of marine pollution, none of its officers have a good knowledge of MARPOL and its discharges requirements and the Coast Guard does not have monitoring and detection equipment.

The VTS Center is equipped with radar and AIS system which can be use to assist in detecting possible offenders.

### 3-3-3 Training of personnel

Surveyors (from the Albania Register of Shipping) and inspectors (from harbor master's offices) are occasionally trained outside the country. There is a strong need of specialized training on MARPOL for this category of personnel.

There is no training on MARPOL implementation and enforcement for any other category of personnel from other administrations involved or which may be involved in detection, control and investigation of illegal discharges (the Coast Guard, the environment, the police and the Justice).

### 3-4 Co-operation on MARPOL enforcement

#### 3-4-1 Co-operation within the framework of the Paris MOU on port State control

Albania is not party to the Paris MOU on port State control. Following the adoption by the Parliament two month ago of a law authorizing Albania to become party to the Paris MOU, a request has been put forward by the country to the Secretariat of the Paris MOU.

#### 3-4-2 Co-operation with neighboring countries

In April 2002 Albania became party to the Barcelona Convention's 1976 Protocol concerning co-operation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in Cases of Emergency. Albania did not sign neither acceded to the 2002 Protocol concerning Co-operation in Preventing Pollution from Ships and, in cases of Emergency, Combating Pollution of the Mediterranean Sea, which entered into force in 2004.

Within the framework of this Protocol, Albania supports and intends to contribute to the Regional strategy for prevention of and response to marine pollution from ships developed by REMPEC and adopted in November 2005 by the Contracting Parties to the Barcelona Convention.

Albania is not Party to the sub-regional agreement between Croatia, Italia and Slovenia on preparedness and response in cases of emergency in the Adriatic Sea, but

Albania is very much interested in participating in regional cooperation for protecting the Adriatic Sea.

### 3-5 Reporting and statistics (MEPC/Circ.318)

Albania does not fulfill its reporting obligation under articles 8 and 11 of MARPOL Convention. Information does not exist. Information are not systematically collected and compiled. No annual reports on discrepancies, violations, alleged discharges violations, and on penalties imposed are send to IMO.

## **IV Assessment of the needs for improvement and assistance**

### 4-1 Overview of the difficulties experienced

#### 4-1-1 Difficulties in exercising flag State responsibilities

In the Report for 2007 of the Paris MOU, the Albania flag appears second on the black list with 98 detentions for 344 ships inspected between 2004 and 2006, qualifying the Albanian flag a very high risk flag. The same Report estimated the level of performance of the Albania Register of Shipping very low.

The difficulties in exercising flag State responsibilities are mainly due to:

- 1) insufficient staff in central administration (Maritime Transport Policies Directorate) to carry out all the duties of a central administration on this matter in particular the regulatory work;
- 2) the absence of rules and regulations transposing into the legal system the technical provisions of the relevant conventions, which is partly a consequence of the lack of staff mentioned above; and,
- 3) The poor performance of the Albania Register of Shipping regarding the surveys and certifications and the need to reconsider the existing arrangement regarding recognized organization.

#### 4-1-2 Difficulties in exercising port State control

The difficulties regarding port State control of foreign conventional ships relate to:

- 1) Insufficient port State control inspectors;
- 2) The port State control inspectors have not been formally authorized to carry out inspections of foreign ships;
- 3) The absence of regulations regarding the method and procedures for carrying out inspections;
- 4) The current PSC practices are far from complying with the Paris MOU standards.

#### 4-1-3 Difficulties in the detection, control, prosecution and sanctioning of violations

The difficulties in detecting, controlling and investigating illegal discharges are mainly due to:

- 1) The Coast Guard officers do not have knowledge of MARPOL and its discharges requirements;
- 2) As a consequence of the above, to control pollution is a secondary priority among the various missions of the Coast Guard;
- 3) Pollution detection equipment is not available; and,
- 4) There is no plan for a coordinated use of the equipments of the various administrations (custom, border police) to monitor and control pollution.

Regarding prosecution and sanction the difficulties relate to:

- 1) The limited involvement of the Ministry of Justice and of the magistrates in the prosecution and sanction of violation of the pollution requirements set by the MARPOL Convention;
- 2) The absence of cooperation between personnel in charge of law enforcement and the magistrates;
- 3) The absence of instructions or guidelines regarding collection of evidence and initiation of a prosecution process; and

- 4) The level of sanctions which may be imposed is very low to be sufficiently discouraging.

#### 4-2 Evaluation of the needs for improvement

Although Albania got and will probably continue to get external assistance, it is a prerequisite for the Minister in charge of maritime transport to secure the necessary budgetary allocation for ensuring a sufficient staffing of the maritime administration at the central level as well as at the local level. If this is not done, all the expected benefits of the assistance will be lost and Albania will not be able to establish and maintain a system for implementing and enforcing laws and regulations regarding maritime safety and protection of the marine environment in accordance with its international obligations.

##### 4-2-1 Developing an appropriate legal framework

Keeping in mind that this report only addresses the implementation and enforcement of MARPOL Annex I with an emphasize on illegal discharges, and taking into account the existing laws (the Maritime Code and the Environment Law), the needs of the Maritime Transport Policies Directorate to be fulfilled in order to for develop a proper legal system in this field are the following:

- 1) Regarding the technical and administrative requirements:
  - a) To review the Maritime Code having in mind the MARPOL requirements and make the necessary amendments;
  - b) To prepare and adopt decrees and regulations transposing into the national legal system the MARPOL technical requirements;
  - c) To prepare and adopt instructions, circulars and guidelines concerning inspections of ships;
  - d) To reconsider the existing arrangement regarding recognized organization for survey and certification and adopt new regulations to address this issue (in line with IMO Resolutions A.739 (18) and A.789 (19)).
- 2) Regarding sanctions of the violation of MARPOL requirements:
  - a) To review the provisions regarding marine pollution offences in the existing laws (Maritime Code and law on environment). These shall provide for a precise definition of the infringement; specify where the

law apply, to whom and to which type of ships; specify also the nature of the sanctions (administrative or criminal) and the type of penalties;

- b) To reconsider the present level of penalties which shall be adequate in severity to discourage any violation; and
  - c) To confirm or specify the proceeding process and the Court where an alleged offence will be tried.
- 3) Regarding law enforcement:
- a) Administrations or services responsible for surveillance and detection of violation as well as the personnel having legal authority for collecting evidence, conducting investigation and establishing reports of alleged violations shall be designated in appropriate texts, this should also be the case for the Albania Coast Guard. The existing arrangements involving the Coast Guard, the Maritime Border Police and the Custom shall be reviewed with the view to increasing their responsibilities and to enhance their efficiency.
  - b) Instructions regarding investigation and prosecution processes shall be issued, including a format for reporting alleged violations.
- 4) Initiative should be taken to get the Ministry of Justice, the public prosecutors and the magistrates involved in further developing the legal regime and to establish close co-operation with them.

#### 4-2-2 Increasing resource capabilities

##### 1) Human resources

For the Minister of public Works, Transport and Telecommunication of Albania, one of his highest priorities with respect to maritime transport should be to secure budgetary resources for restructuring and recruiting sufficient staff for the central maritime administration and inspectors for the harbor master's offices. The proposal for restructuring the Ministry currently under discussion is a good step forward.

- a) The Maritime Transport Policies Directorate dramatically needs additional qualified staff to carry out its central administration duties, particularly its regulatory one.

- b) Additional qualified inspectors, in particular port State control inspectors, need to be recruited and duly authorized for conducting inspection of foreign ships.

## 2) Equipment

The focus should be on:

- a) Optimizing and coordinating the use of the existing equipments;
- b) Studying and considering the acquisition of specialized equipment for discharges detection;
- c) Ensuring that the Coast Guards officers are properly trained to do the job.

### 4-2-3 Training of personnel

Training of personnel on MARPOL implementation and enforcement is a permanent priority and a key for improvement. The categories of personnel to be trained are:

- 1) Legal staff of legal services of central administrations (to be recruited);
- 2) Surveyors, inspectors, port State control officers to get special training on MARPOL. The PSC inspectors shall be trained and familiarized with the procedures and practices of the Paris MOU;
- 3) Selected Coast Guard officers, Maritime Border Police officers, air forces officers and Harbor Master's inspectors should be trained in discharges monitoring, detection, investigation, evidence gathering, reporting and initiate proceeding.

### 4-2-4 Raising awareness

A key condition for ensuring the effectiveness of an efficient system is to get magistrates acquainted with these issues. Magistrates would have to be familiarized through seminars and special training.

## 4-3 Needs for regional co-operation

Regional co-operation already exists within the framework of the Barcelona Convention's Protocol concerning co-operation in preventing pollution from ships and in cases of emergency, combating pollution of the Mediterranean Sea (Prevention and Emergency Protocol). Albania is not yet party to the Paris MOU on port State control

although a request to that effect has been presented to the Paris MOU Secretariat. Moreover, Albania is not participating to the Adriatic initiative.

Therefore Albania should:

- 1) As a follow-up of its request to the Paris MOU Secretariat, enhance its ports State control standards and bring its procedures in line with those of the Paris MOU with the view to join the latter as soon as possible, bearing in mind that the cooperation on port State control is among others a way to ensure an effective enforcement of MARPOL requirements. Since for Albania one of the major threats of illegal discharges is the passing ships, cooperation on port State control appears even more crucial.
- 2) As soon as the country has in place an appropriate legal framework as well as a proper maritime administration structures and staff, take the necessary steps to be part of the cooperation arrangements established among the Adriatic countries on this matter and develop such cooperation rapidly.
- 3) The “Prevention and Emergency Protocol” and the Strategy for the prevention of, preparedness for and response to marine pollution from ships developed by REMPEC is the appropriate framework for regional co-operation on MARPOL implementation and enforcement. The Maritime Transport Policies Directorate should be deeply involved in this cooperation. Albania should accede to the 2002 “Prevention and Emergency Protocol”.

The regional and sub-regional co-operation should focus on information exchange and harmonization of procedures, and consider the pooling of resources on monitoring, surveillance and gathering of evidence.

## **V Recommendations**

### **5-1 Actions to be taken at the national level**

The highest priority actions proposed are to restructure the maritime administration and to secure budgetary allocations for manning this administration with sufficient and qualified staff.

### 5-1-1 Development of a comprehensive legal framework for preventing and controlling operational oil pollution from ships

The Maritime Administration Directorate should seek the assistance of REMPEC and of the European Commission to:

- 1) Revisit the Maritime Code with a view to amend it, in order to ensure an effective implementation and enforcement of the MARPOL convention in particular regarding:
  - a) Providing the legal basis for adopting and updating technical regulations;
  - b) Providing the legal basis for survey, certification and inspections including for sanctions in cases of deficiencies;
  - c) Redefining the violation of the requirements to the MARPOL Convention;
  - d) Establishing a penalty regime adequate in severity to discourage violations;
  - e) Designating the personnel having the legal authority for collecting evidence, conducting investigations and establishing reports of alleged violations as well as the Court where alleged violations will be tried.
- 2) Prepare and issue decrees (by laws), regulations and instructions aiming at:
  - a) Transposing and updating when necessary the technical requirements;
  - b) Delegating survey and certification responsibilities to recognized organizations;
  - c) Authorizing PSC inspectors to control and inspect foreign ships;
  - d) Providing instructions and guidance for port State control and inspection;



- e) Providing instructions and guidance for detection, gathering evidences and investigation in case of violation of the discharge requirements.

#### 5-1-2 Strengthening implementation and enforcement capabilities

As part of the maritime administration restructuring process the following urgent recruitments should be made:

- 1) Additional qualified staff to carry out central administration duties in particular the regulatory one (the proposal already made seems to be reasonable);
- 2) Additional port State control inspectors in particular for the port of Durres.

The Maritime Transport Policy Directorate in cooperation with the Albania Coast Guard should initiate the adoption of a program for controlling illegal discharges in sea areas under Albania jurisdictions with the following goals:

- 1) Ensuring that among the missions of the Coast Guard, the control of illegal discharges will be given the priority it should have;
- 2) Assigning such mission to selected and trained Coast Guard officers;
- 3) Adopt surveillance program/plan optimizing the use of existing means including those of other administrations (Custom, Border Police);
- 4) Consider the acquisition of detection equipment and sampling devices;
- 5) Having arrangement with laboratory for sampling analyses.

Training of personnel is a prerequisite for developing and maintaining implementation and enforcement capabilities of the administration. The Maritime Transport Policies Directorate and the Coast Guard should ensure that through national or regional training courses the following categories of personnel will get proper training:

- 1) The legal staff of the central administration (to be recruited). Sending this category of personnel to IMLI –Malta or WMU- Malmo for specific short term training session should be seriously considered;
- 2) The surveyors and inspectors should have special training on MARPOL Convention, in particular port State control inspectors;
- 3) Selected “Coast Guard” officers, Maritime Border Police officers, air forces officers and Harbor Masters should be trained in discharges

monitoring, detection, evidence gathering, investigating, reporting and initiating proceeding.

### 5-1-3 Strengthening the prosecution system

The magistrates should be familiarized with the MARPOL Convention through national and regional seminars and special training.

Regular meetings between specialized magistrates and public prosecutors with officers from the “Coast Guard”, the Maritime Border Police, the air forces, the Harbor Masters, as well as port State control inspectors should be organized with the view to strengthening the prosecution system.

Instructions regarding the prosecution processes shall be issued, including format for reporting alleged violations.

## 5-2 Actions to be taken at the regional level

5-2-1 As part of the on going process to joint the Paris MOU and with the view to participating and benefit from the regional co-operation on MARPOL enforcement through port State control, special efforts should be made on upgrading, improving and harmonizing the procedures and practices related to port State control and inspection of discharges requirements and preparing for information exchange.

5-2-2 Albania should accede to the “Prevention and Emergency Protocol” and use such Protocol and the Regional Strategy as the appropriate framework for regional co-operation on MARPOL implementation and enforcement, with the view to promoting:

- a) Regional co-operation on:
  - 1) Information exchange;
  - 2) Monitoring and surveillance;
  - 3) Harmonization of enforcement measures.
  
- b) the development of Sub-regional arrangements in the Adriatic. To this end the use of the mediation and assistance of REMPEC should be considered; and,
  
- c) the preparation of regional manual and guidelines.

The benefit expected from the above recommendations will very much depend of the availability of personnel within the maritime administration to execute and implement most of the actions recommended. That applies to the actions to be taken at the national level as well as to the actions to be taken at the regional level. What is proposed is achievable; it will require legal advices and assistance and probably some external financial and technical support. Considering that the European Union has as an objective to mitigate the existing imbalance in the application of maritime legislation in the region between the Mediterranean Partners that are not members of the EU and those who are members, Albania, which is engaged in the process of joining the EU, may wish to seek financial and technical assistance from the European Union for an effective and harmonized implementation and enforcement of MARPOL Annex I, in particular regarding the discharges requirements.

REMPEC will continue to provide assistance to Albania within the framework of the Protocol to implement and enforce the relevant IMO conventions, in developing legal system and sub-regional arrangement, as well as in providing training.

## **VI Conclusions**

Although the present report is not the result of a long and in depth review, it nevertheless provides a good picture of the current situation in Albania regarding the implementation and enforcement of MARPOL Annex I. The assessment made in co-operation with the Maritime Transport Policies Directorate, using the questionnaire and meeting with relevant personnel of various administrations and services concerned help in getting a general understanding of the current situation and in identifying weaknesses and needs for improvement. The actions to be taken to respond to the problems and difficulties and the way forward to develop a comprehensive system were also discussed, mainly with the Maritime Transport Policy Directorate. The recommendations contains in this report reflect largely the outcomes of these discussions.

This field assessment shows the weaknesses of the Albanian system and suggests actions which should be taken to improve it. It is for the Minister of Public works, Transport and Telecommunication to make the policy decisions regarding the most urgent actions to be taken (restructuring and staffing of the maritime administration) and with the Maritime Transport Policy Directorate to take the lead for the establishment of a proper and up to date system (working in co-operation with the others ministries concerned especially the Ministries of Defense and of Justice).

Albania should also use the sub-regional co-operation as a way forward to improve its ability in addressing this issue. To this end, REMPEC should be seen as a facilitator for the development of a sub-regional agreement.



## **Annex I: Terms of reference**

### **Background**

Currently, the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) is implementing a European Union (EU) financed MEDA project entitled “EUROMED COOPERATION ON MARITIME SAFETY AND PREVENTION OF POLLUTION FROM SHIPS - SAFEMED”. The SAFEMED Project is being implemented in ten EUROMED Mediterranean Partners, namely Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, Tunisia and Turkey.

The primary objective of the SAFEMED Project is to mitigate the existing imbalance in the application of maritime legislation in the region between the Mediterranean Partners that are not members of the EU and those who are members, through promoting a coherent, effective and uniform implementation of the relevant international conventions and rules aimed at better protection of the marine environment in the Mediterranean region by having safer shipping and preventing pollution from ships.

The SAFEMED Project is divided into eight major activities each of which are sub-divided into preliminary (P) and/or operational (O) tasks. The results of preliminary tasks will be applied for the planning and implementation of the operational tasks. The Project also provides for the recruitment of short-term experts to implement a range of activities/tasks.

REMPEC sourced additional financial resources in order to implement the same activities in the Mediterranean coastal States which are not MEDA/SAFEMED eligible countries and not EU members States, Namely Albania, Bosnia Herzegovina, Croatia and Montenegro.

### **Assignment**

The Project addresses protection of the marine environment, it aims at identifying impediments and needs for the implementation of the MARPOL Convention taking into consideration REMPEC's Regional Strategy for Prevention of and Response to Marine Pollution from Ships adopted with a view of facilitating the implementation of the Prevention and Emergency Protocol to the Barcelona Convention. It relates to prevention and control of operational pollution from ships in the Mediterranean region.

In order to achieve this Project shall focus on the following actions:

1. Evaluation of the needs for assistance of the Mediterranean countries for implementing MARPOL taking into consideration REMPEC's Regional Strategy for Prevention of and Response to Marine Pollution from Ships in relation to the Prevention and Emergency Protocol to the Barcelona Convention;
2. Identification of the impediments of the Contracting Parties to the Prevention and Emergency Protocol to the Barcelona Convention to implement effectively their commitments;
3. Assessment of the situation and needs in the Mediterranean Partners regarding the national legislation for the implementation of the relevant provisions of MARPOL in relation with the monitoring and detection of illegal discharges as well as the prosecution of offenders;
4. Identification of national competent administrative bodies/institutions which are in charge of monitoring illicit discharges and collection of evidence;
5. Identification of national competent legal authorities and bodies (courts/tribunals) for prosecution of offenders;
6. Propose initiatives aimed at harmonising as much as possible the relevant national legislations in the Mediterranean Partners;
7. Consider the possible future adoption, by the Mediterranean Partners, of similar EU legislation with regard to the problem of illicit oil discharges from ships, focussing in particular on the monitoring, early identification of ships discharging polluting substances, appropriate sanctions, and make appropriate recommendations.

**For the completion of the above tasks the Consultant shall:**

**I) Questionnaire**

The Consultant will be in charge of drafting a questionnaire to be approved by REMPEC to assist in the collection of information.

**II) Needs assessment – field mission**

1. collect information on the policy of the national authorities of the beneficiaries regarding ratification of MARPOL including the acceptance of the optional Annexes;
2. collect and update information on the status of transposition into national law of MARPOL and its Annexes

3. assess the legislative and enforcement capabilities of the beneficiaries to fulfil their obligations under MARPOL as flag States, port States and coastal States and in particular:
  - 3.1. assess whether conditions of delivery of certificates, where applicable, or delegation of duties to Recognised Organisations (RO's), where applicable, is compliant with the obligations of MARPOL;
  - 3.2. assess the existence of reporting procedures for violations of MARPOL as required under Article 4 (3) of the Convention and their effective enforcement;
  - 3.3. assess the existence of a national legal framework as a basis for prosecuting offenders for infringements of MARPOL Annex I regarding illicit oil discharges;
4. if such framework as described in 3.2 exists, assess its performance in terms of:
  - 4.1. existence of investigation of casualties involving pollution.
  - 4.2. legal system of proof/evidence;
  - 4.3. efficiency of technical procedures to gather evidence;
  - 4.4. efficiency of prosecution;
  - 4.5. adequacy of the system of sanctions, in terms of proportionality and dissuasive effects
5. Issue recommendations on necessary adaptations of the national legislations, if any and on necessary measures and corresponding means to fulfil the obligations of beneficiaries under MARPOL.





## **Annex II: Questionnaire on prevention and control of operational oil pollution from ships (MARPOL Annex I)**

### **I Organizational structures**

Provide general information on the following governmental authorities including an organization chart illustrating the national setup and an indication of the number of employees for each relevant category.

#### 1. Maritime Administration

Administrative authorities responsible for the implementation and enforcement of MARPOL Annex I:

- Legislation/regulations (enabling legislation)
- Implementation of regulations
- Surveys (instructions to surveyors, delegation of surveys)
- Issue of certificates/records of ship certification  
Survey reports/equipment approval
- Compliance monitoring /inspections/investigations/detection  
Violation reports/prosecution of offenders  
(compiling of evidence and preparation of cases for prosecution)
- International co-operation on MARPOL enforcement
- Reporting (to IMO) and collection of statistics

#### 2. Legal Administration (*Justice*)

Competent authorities, in particular legal authorities, involved in the enforcement and prosecution process:

- Preparation of Legislative jurisdiction, i.e. jurisdiction to prescribe legislation as:
  - flag State
  - port State
  - coastal State
- Enforcement legislation, i.e. jurisdiction to establish the constituting elements of violations and sanctions as:
  - flag State
  - port State
  - coastal State
- Prosecution process:
  - competent authority to whom to report offences
  - competent authority responsible for collating all relevant evidence for a prosecution
  - competent authority responsible for assessing the evidence and carrying out prosecution in court
  - type of court where the alleged offences are tried
  - competent authority responsible for enforcing penalties
  - competent authority responsible for informing other government departments

## **II Legal framework**

1. Status of transposition of MARPOL Annex I into national laws (see Code for the Implementation of Mandatory IMO Instruments, Res. A.973(24)) (*Maritime Administration*)

Describe or provide your State's relevant national legislation relating to the implementation of MARPOL Annex I.

- Obligations of Contracting Government/Party:
  - Art. 4 (violations and sanctions)
  - Art. 5 (issue and acceptance of certificates and special rules on inspection of ships)
  - Art. 6 (detection of violations and enforcement of the Convention)
  - Art. 7 (undue delay to ships)
  - Art. 11 (communication of information to IMO, in particular annual statistical reports of penalties actually imposed for infringement of the Convention)
  - Art. 17 (promotion of technical co-operation)
  - Annex I Reg. 8 (issue or endorsement of a certificate by another Government)
  - Annex I Reg. 15.7 (control of discharge of oil, investigations (machinery space))
  - Annex I Reg. 34.7 (control of discharge of oil, investigations (cargo area))
- Flag State obligations:
  - Art. 4(1) and (3) (violations and sanctions)
  - Art. 6(4) (detection of violations and enforcement of the Convention, investigations)
  - Annex I Reg. 6 (surveys)
  - Annex I Reg. 7 (issue or endorsement of certificate (IOPP Certificate))
  - Annex I Reg. 9 (form of certificate)
  - Annex I Reg. 10 (duration and validity of certificate)
  - Annex I Reg. 12 (oil fuel tank protection – approval of design and construction)
  - Annex I Reg. 14 (oil filtering equipment – approval)
  - Annex I Reg. 15 (control of discharge of oil – design approval)
  - Annex I Reg. 29.2.1 (slop tanks – approval)
  - Annex I Reg. 30.6.5.2 (pumping, piping and discharge arrangements – establishment of Annex I requirements)
  - Annex I Reg. 30.7 (pumping, piping and discharge arrangements – positive means of loading, transporting or discharging cargo)
  - Annex I Reg. 31.2 and .4 (oil discharge monitoring and control system – approval)
  - Annex I Reg. 32 (oil/water interface detector – approval)
  - Annex I Reg. 36.9 (Oil Record Book, Part II – development of oil record book for ships of less than 150 gross tonnage)
  - Annex I Reg. 38.8 (reception facilities – notification on alleged inadequacies of port reception facilities)
  - Annex I Reg. 39.2.2 (special requirements for fixed or floating platforms – approval of record form)

- Port State obligations:
  - Art. 4(2) (violations and sanctions)
  - Art. 5 (inspection of certificates)
  - Art. 6 (inspection to detect violations of the discharge standards)
  - Art. 7 (undue delay to ships)
  - Annex I Reg. 11 (port State control on operational requirements)
  - Annex I Reg. 17.7 (Oil Record Book, Part I – inspection without undue delay)
  - Annex I Reg. 36.8 (Oil Record Book, Part II – inspection without undue delay)
  - Annex I Reg. 38.4 and .5 (reception facilities within special area)
  - Annex I Reg. 38.6 (reception facilities within special area – notification to IMO (Red Sea))
  
- Coastal State obligations and rights:
  - **MARPOL** Art. 4 (any violations within the jurisdiction of a coastal State Party to the Convention must be an offence under the law of that Coastal State and sanctions must be imposed under that law)
  - **UNCLOS** (*Maritime Administration/Foreign Affairs/Justice/Environment*)
    - Art. 211(5) (coastal States may in their exclusive economic zone or an established equivalent marine area such as a pollution zone adopt laws and regulations for the prevention, reduction and control of pollution from vessels conforming to and giving effect to MARPOL)
    - Art. 220 (enforcement by coastal States)
    - Art. 226 (investigation of foreign vessels)
    - Art. 111 (right of hot pursuit)
    - Art.223 (measures to facilitate proceedings)
    - Art. 231 (notification to the flag State and other States concerned)
    - Art. 228 (suspension and restrictions on the institution of proceedings)
  
- 2. Legal system/enforcement regime (*Maritime Administration and Justice*)

Describe or provide your State's relevant legislation relating to the enforcement of MARPOL Annex I.

- National laws establishing the elements of violations together with clear objective evidence
  - Requirements for the control of operational pollution
  - Requirement for ship survey and certification
  - Place where the law applies:
    - Internal waters including ports
    - Territorial sea
    - Strait used for international navigation
    - Exclusive economic zone or equivalent maritime zone
    - High seas
  
- The regime of sanctions
  - The nature of sanctions imposed:
    - Administrative penalties
    - Civil penalties
    - Penal or criminal penalties

- Type of penalties and level:
    - Monetary penalties/level of the fines (minimum and maximum)
    - Disqualification from performing a specific activity
    - Imprisonment/duration (if such is the case, under which circumstances?)
  - To whom the penalties apply:
    - The master of the ship
    - The ship owner
    - The owner of the cargo
    - Any other implicated person
3. Prosecution process (*Justice*)
- Securing a conviction
    - Are there any guidelines or instructions relating to the collection and assessment of evidence?
  - Prosecuting offences
    - Are there any guidelines or instructions relating to the presentation of evidence in court?
    - Type of court where the alleged offence will be tried
      - Magistrate level
      - Civil court
      - Criminal court
    - Means of proof

### **III Implementation and enforcement capabilities**

Does your Administration (Maritime and Legal) have the necessary legal authority (clear definition of responsibilities) and resources (human and material) to regulate, administer, ensure compliance with and enforce the MARPOL pollution prevention requirements as flag State, port State and coastal State?

1. Capabilities to carry out flag State duties (own ships) (*Maritime Administration*)
  - a) Sufficient qualified administration and legal staff
  - b) Sufficient qualified and experimented surveyors and inspectors
  - c) Delegation of duties to recognized organizations
2. Capabilities to carry out port State duties (port State control on foreign ships) (*Maritime Administration*)
  - a) Sufficient qualified and experimented port State inspectors
  - b) Sufficient qualified investigation and prosecution staff
  - c) Designated authority responsible for communicating with flag State and port State Administration
3. Capabilities to carry out coastal State responsibilities (*Maritime Administration and others: coast guard, Defence—including Navy, air force—, customs...*)
  - a) Monitoring/observation/detection capabilities:

Does your State have the necessary monitoring, observation and detection capabilities? Which are the governmental entities in charge of those responsibilities?

- Dedicated vessel (coast guard, Navy vessel)
  - Dedicated aircraft (coast guard, Navy, air force, customs)
  - Remote sensing and radar technology
  - Access to satellite images
- b) Are there designated officials having authority to draw up a statement of a violation or of findings (*procès-verbal*)?
- c) Ability of gathering evidence using the following techniques:
- Photographs
  - Video
  - SLAR (side looking airborne radar)
  - Infra red
  - UV
  - FLIR (forward looking infra red camera)
  - Positioning system
  - Oil samples analyses
  - Darkness identification
  - Satellite
  - Use of colour code
  - Radio recording
  - Computer modelling
  - Port inspection report
- d) Are there permanent instructions (procedures) on gathering and presenting evidence (compiling a dossier for prosecution purposes) according to the requirements of the national prosecution procedures?
- e) Are there sufficient qualified competent authorities responsible for compiling a prosecution dossier?
- f) Are prosecutors and magistrates aware and familiar with MARPOL violations and enforcement? (*Justice*)
4. Training of personnel (*Maritime administration and others*)
- a) Does a training programme exist?
  - b) Does your country have Training capabilities?
  - c) Are national seminars and courses regularly organized?
  - d) What are the training needs?

#### **IV Co-operation on MARPOL enforcement**

MARPOL calls for co-operation and interchange as a mutual effort of enforcement among States Parties. Such co-operation may take several forms: Memoranda of Understanding on port State control and arrangements in respect of monitoring, surveillance, investigation, gathering of evidence and prosecution.

1. Mediterranean MOU (*Maritime Administration*)  
Provide information on the use and benefit of the network of the port State control MOU in respect of MARPOL enforcement.

- a) Percentage of foreign ships entering your ports that were inspected
  - b) Exchange of information on detection of deficiencies
  - c) Requests for inspection or specific investigation
2. Co-operation with neighbouring countries/regional co-operation (*Maritime Administration and others*)
- Co-operation on information exchange and pooling of resources on monitoring, surveillance, gathering of evidence as well as harmonization of procedures and joint training activities will be beneficial for a more effective MARPOL enforcement.
- a) Does your country have experience in such co-operation?
  - b) Does your Administration consider the development of such co-operation as a good way to improve the performance of the Mediterranean countries individually and collectively in MARPOL enforcement?
  - c) Is your Administration aware of the Regional Strategy for Prevention of and Response to Marine Pollution from Ships developed by REMPEC and adopted in November 2005 by the Mediterranean countries?

## **V Reporting (to IMO) and compiling of statistics**

MEPC/Circ.318 provides the format for a mandatory reporting system under MARPOL with a view to facilitate communication to the Organization of information called for by Articles 8, 11 and 12 and Regulation 38 of Annex I. The data from these reports are useful to assess the effectiveness of the application of the convention and for statistical purposes. Parties are requested to submit their annual reports by 30 September of the following year.

The following is the MEPC/Circ.318 questionnaire.

- Annual enforcement report on alleged discharge violations (*Maritime Administration and Justice*)
  1. Date of incident
  2. Name and IMO No. of the ship
  3. Flag State to whom alleged violation was referred and date
  4. Name of port or location of incident
  5. Type of substance spilled and estimated quantity
  6. Summary of alleged offence, evidence; other action taken by coastal State
  7. Party responding to alleged violation and date
  8. Action taken by flag State including official proceedings
  9. Concluding comments by coastal State including those on official proceedings
- Annual statistics reports (*Maritime Administration*)
 

Section 1: Report by the port State under its port State control

  1. Number of ships boarded during report period
  2. IOPP Certification discrepancies:
    - a) No certificate or equivalency
    - b) Certificate or equivalency discrepancy
    - c) Compliance rate
  3. Oil Record Book discrepancies:
    - a) No record book or equivalency
    - b) Oil record book or equivalency discrepancy

- c) Compliance rate
- 4. MARPOL equipment discrepancies:
  - a) Required equipment not on board
  - b) Required equipment not functioning
  - c) Compliance rate
- 5. Number of ships detained in port or denied entry

Section 2: Port State report about violations resulting in detention or denial of entry

- 1. Name and IMO No. of the ship
- 2. Violation description
- 3. Action taken

Section 3: (1) Report by port State on penalties imposed

Type of violation; Fines (maximum, minimum, average); Imprisonment

- 1. Illegal discharges
- 2. Oil Record Book
- 3. IOPP Certificate
- 4. Other

Section 3: (2) Report by flag State on penalties imposed

- 1. Illegal discharges
- 2. Oil Record Book
- 3. IOPP Certificate
- 4. Other

**VI Improvements (*Maritime Administration and others*)**

- 1. Please describe the difficulties experienced:
  - a) In exercising flag State responsibilities (survey and certification)
  - b) In exercising port State control (inspection)
  - c) In the detection, prosecution and sanctioning of violations
- 2. Please indicate needs for improvement, if any, as regards:
  - a) Increasing resource capabilities (qualified personnel, better use of existing equipment available within the country, pooling resources with neighbouring countries...)
  - b) Training of personnel (surveyors, inspectors, investigators)
  - c) Raising awareness amongst prosecutors and magistrates and familiarizing them with MARPOL requirements
  - d) Organizing meetings between professionals and magistrates
- 3. Consider actions to be taken at the national and regional levels with a view to improving the capability of countries of the Mediterranean region and of the whole region to effectively implement and enforce MARPOL.

## **Introductory note to the questionnaire**

The questionnaire attached to this note aims at assisting the relevant national authorities in collating, with the help of a consultant, information with a view to providing a comprehensive picture of the current situation in your country concerning the implementation and enforcement of MARPOL Annex I regarding the prevention and control of operational oil pollution from ships.

The questionnaire is designed to be used as a guide for assessing the situation, identifying the weaknesses and evaluating the needs for improvement. It is quite comprehensive and covers the whole issue of implementation and enforcement of MARPOL Annex I regarding the prevention and control of operational oil pollution from ships.

The questionnaire is divided into 6 major components:

1. Organizational structures;
2. Legal framework;
3. Implementation and enforcement capabilities;
4. Co-operation on MARPOL enforcement;
5. Reporting (to IMO) and collection of statistics;
6. Improvement.

When considering the different components of the questionnaire, it appears that various entities or bodies are or should be involved in the overall implementation and enforcement of MARPOL Annex I; therefore, all those entities or bodies should be involved in the provision of the relevant information and comments.

Although the ministry in charge of maritime affairs (the maritime administration) has usually the main responsibility regarding MARPOL's implementation, when it comes to enforcement, such responsibility would be shared with other ministries (for example the ministry of justice, the ministry of defense—including the Navy, the air force—, the coast guard, the ministry of environment...).

The questionnaire should be circulated to those entities or bodies which, in addition to the maritime administration, are involved or should be involved in the overall issue as indicated above. Those entities or bodies should provide information and comments in the part of the questionnaire which is or may be relevant to their responsibilities. The questionnaire gives an indication (in italics within brackets) of the entities or bodies concerned (or which may be concerned) to which the questionnaire should be sent and which should ideally provide information and comments.

The maritime administration having overall responsibility in this matter should coordinate this activity with the assistance of the SAFEMED consultant. The maritime administration should circulate as soon as possible the questionnaire to all relevant entities or bodies having an involvement or which may have an involvement in this matter and should ensure that they provide information and their contribution in time (prior to the visit of the



consultant if possible or/and during the visit of the consultant). The maritime administration should organize all necessary meetings between the consultant and the relevant competent authorities from the various entities and bodies involved starting with the maritime administration and finishing with it for a final debriefing

The role of the consultant is to assist the maritime administration and the other administrations involved in collecting and compiling information with a view to conducting an assessment of the situation and identifying needs for improvement as well as propositions for future actions.

It is important for the success of this activity and for the ultimate benefit of the country that the administrations concerned do their utmost to provide information and cooperate between themselves as well as with the consultant.



### **Annex III: List of IMO instruments and documents to refer to**

United Nations Convention on the law of the Sea 1982

#### **IMO Instruments**

MARPOL 73/78 consolidated edition 2006

MARPOL “How to do it “2002

IMO Assembly Resolutions

Resolution A.996 (25) Code for the implementation of Mandatory IMO Instruments, 2007

Resolution A.997 (25) Survey Guidelines under the Harmonized System of Survey and Certification, 2007

Resolution A.787 (19) Procedures for Port State Control as amended by Resolution A.882 (21) 1999, including:

Guidelines for discharges requirements under MARPOL Annex I and II;

Guidelines for investigation and inspection carried out under Annex I of MARPOL; and,

Guidelines for the detention of ships

Resolution A 739 (18) Guidelines for the Authorization of Recognized Organizations acting on behalf of the Administration

Resolution A 789 (19) Specifications on the Survey and Certification Functions of Recognized Organizations acting on behalf of the Administration

MSC/Circ.710 – MEPC/Circ.307 Model Agreement for the Authorization of Recognized Organizations acting on behalf of the Administration

MEPC/Circ.318 Formats for a mandatory reporting system under MARPOL 73/78

#### **REMPEC**

Protocol concerning Cooperation in Preventing Pollution from Ships and, in case of Emergency, Combating Pollution of the Mediterranean Sea, 2002

The Regional Strategy for Prevention of and Response to Marine Pollution from Ships, 2005

## **EU Directives**

Directive 2000/59/EC on port reception facilities for ship-generated waste and cargo residues; and,

Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements.

## **Bonn Agreement Manuals**

Manual on securing evidence on discharges from ships, 1993

Manual on Effective Prosecution of Offenders – Guidelines on International Cooperation, 2000

## **Annex IV: Status of ratification of IMO conventions**

Status of Treaties: Albania

Printed: 17/10/2008 Page 1 of 2

LC 72 -

INTERVENTION

PROT 73

-

LC AMEND-78 -

LL 66 30/05/2003 30/08/2003 Accession

LC PROT 96 -

IMSAT AMEND-94 -

INMARSAT OA 76 -

IMSAT AMEND-98 -

INTERVENTION 69 -

IMSO AMEND-06 -

LLMC 76 07/06/2004 01/10/2004 Accession

LL PROT 88 -

LLMC PROT 96 07/06/2004 05/09/2004 Accession

MARPOL ANNEX I/II 09/01/2007 09/04/2007 Accession

BWM 2004 -

BUNKERS 2001 -

CLC 69 06/04/1994 05/07/1994 Denounced Denounced

CLC PROT 92 30/06/2005 30/06/2006 Accession

CLC PROT 76 06/04/1994 05/07/1994 Accession

IMO CONVENTION 24/05/1993 24/05/1993 Acceptance

INMARSAT C 76 -

IMO AMEND-91 30/06/2005 07/12/2008 Acceptance

AFS 2001 -

IMO AMEND-93 - 07/11/2002 Acceptance Entered into force for all

IMO Member States on

7/11/2002

FUND PROT 1992 30/06/2005 30/06/2006 Accession

FUND PROT 1976 06/04/1994 22/11/1994 Accession

FUND PROT 2000 -

HNS 96 -

FUND PROT 2003 -

CSC 72 -

COLREG 72 15/04/2004 15/04/2004 Accession

CSC AMEND-93 -

FUND 71 06/04/1994 05/07/1994 Accession

FAL 65 19/12/2005 17/02/2006 Accession

SPACE STP 73 -

SOLAS AGR 96 -

STCW 78 20/03/2002 20/06/2002 Accession

SOLAS PROT 88 -

SFV PROT 93 -

SOLAS 74 07/06/2004 07/09/2004 Accession

SOLAS PROT 78 07/06/2004 07/09/2004 Accession

SUA 2005 -

SUA PROT 2005 -  
TONNAGE 69 03/04/2003 03/07/2003 Accession  
SUA PROT 1988 19/06/2002 17/09/2002 Accession  
STCW-F 95 -  
STP 71 -  
SUA 1988 19/06/2002 17/09/2002 Accession  
NAIROBI WRC 2007 -  
NUCLEAR 71 -  
OPRC 90 02/01/2008 02/04/2008 Accession  
MARPOL ANNEX VI -  
MARPOL ANNEX III 09/01/2007 09/04/2007 Acceptance  
MARPOL ANNEX IV 09/01/2007 09/04/2007 Acceptance  
MARPOL ANNEX V 09/01/2007 09/04/2007 Acceptance  
PAL PROT 2002 16/03/2005 Accession Not yet in force  
SALVAGE 89 14/06/2006 14/06/2007 Accession  
SAR 79 19/06/2003 19/07/2003 Accession  
PAL PROT 1990 16/03/2005 Accession Not yet in force  
OPRC/HNS 2000 -  
PAL 74 16/03/2005 14/06/2005 Accession  
PAL PROT 1976 16/03/2005 14/06/2005 Accession

**Annex IX: List of persons met**

**Ministry of Public Works, Transport and Telecommunication**

Maritime transport Policy Directorate

Mr. Sokol KAPIDANI Director

Mr. Shkelqim XHAXHIU Head of Department of project implementation

Mr. Arben MALOKU Department of maritime transport and ports

Capt. Vladimir NAQELLARI Department of maritime transport and ports

Port of Durres

Mr. Gesin DOSARI Harbor Master

Mr. Muharrem TRUPJA Inspector

Albania register of Shipping

Mr. Admir KOUACI Deputy Director

**Ministry of Defense (Navy)**

Albania Coast Guard

Cdt. Artan MALO

**Ministry of Environment, Forest and Water Administration**

Mrs. Narin PANARITI Director of Pollution Prevention policies