



UNITED  
NATIONS

EP

UNEP(DEPI)/MED WG.443/Inf.14



UNITED NATIONS  
ENVIRONMENT PROGRAMME  
MEDITERRANEAN ACTION PLAN

31 July 2017  
Original: English

Meeting of the MAP Focal Points

Athens, Greece, 12-15 September 2017

**Agenda items 5: Specific Matters for Consideration and Action by the Meeting**

**Report on the Activities of the Mediterranean Network of Law Enforcement Officials relating to MARPOL within the framework of the Barcelona Convention (MENELAS), as requested by Decision IG.21/9**

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UNEP/MAP  
Athens, 2017

### **Note by the Secretariat**

Pursuant to Decision IG.21/9 on the Establishment of a Mediterranean Network of Law Enforcement Officials relating to the International Convention for the Prevention of Pollution from Ships (MARPOL) within the framework of the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (“the Barcelona Convention”), the 18<sup>th</sup> Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (COP 18) (Istanbul, Turkey, from 3 to 6 December 2013) requested the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), as the relevant Regional Activity Centre of the Barcelona Convention, to act as the Secretariat of this network and to report on its activities to the Contracting Parties at each of their Ordinary Meetings.

The activities carried out by the network during the biennium 2014 – 2015 were briefly reported to the 19<sup>th</sup> Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (COP 19) (Athens, Greece, from 9 to 12 February 2016), in paragraph 89 of the Progress Report on UNEP/MAP Activities Carried Out During the 2014-2015 Biennium, as laid down in document UNEP(DEPI)/MED IG.22/3.

In this context, since this is the first stand-alone report, the Report on the Activities of the Mediterranean Network of Law Enforcement Officials relating to MARPOL within the framework of the Barcelona Convention (MENELAS), as set out in the present document, covers the period December 2013 – June 2016 and is submitted to the present meeting prior to onward transmission to the 20<sup>th</sup> Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (COP 20) to be convened in Tirana, Albania from 17 to 20 December 2017, for its consideration, as requested by Decision IG.21/9.

**Report on the Activities of the Mediterranean Network of Law Enforcement Officials relating to MARPOL within the framework of the Barcelona Convention (MENELAS), as requested by Decision IG.21/9**

**Background**

The 18<sup>th</sup> Meeting of the Contracting Parties to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (“the Barcelona Convention”) and its Protocols (COP 18) (Istanbul, Turkey, from 3 to 6 December 2013) decided to establish the Mediterranean Network of Law Enforcement Officials relating to the International Convention for the Prevention of Pollution from Ships (MARPOL) within the framework of the Barcelona Convention (MENELAS), the overall objective of which is to facilitate cooperation between its members in order to improve the enforcement of the international regulations regarding discharges at sea from ships as laid down in MARPOL (UNEP(DEPI)/MED IG.21/9, Decision IG.21/9).

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

**MENELAS information system**

According to the MENELAS Terms of Reference (ToRs), as adopted by COP 18, the MENELAS information system is an internet based tool comprising two main parts:

- a public one where general information is made available to the public in order to raise awareness on the problem of illicit discharges from ships at sea, the aim of the network, its participating and associate members, its activities and achievements; and
- a restricted area used for participating members only, where any request for assistance can be posted.

The Project Steering Committee of the Regional – Governance and Knowledge generation (ReGoKo) Project, funded by the Global Environment Facility (GEF), decided to implement a specific activity aimed at developing and maintaining a MENELAS website, which started in March 2015 and was implemented in close coordination with REMPEC and Plan Bleu, as implementing Agency of the ReGoKo Project.

The design of the MENELAS website was finalised by the Consultant in June 2015. The Uniform Resource Locator (URL) was purchased and the hosting entity was contracted in August 2015 for an initial three-year period until August 2018. Arrangements were made to ensure that this was extended for a further three-year period until August 2021.

In terms of design, the MENELAS website is made of six (6) main sections:

1. “About MENELAS”, which provides information on the scope, governance, membership, method of work, information system and activities of the network;
2. “Member Profiles” providing publicly available information on the participating members’ legal framework, operational structure, including MENELAS DR and other relevant authorities, annual reports as well as surveillance activities carried out individually or in cooperation with others in the Mediterranean Sea Area;

3. “News & Events”, which provides information on latest news, archived news and a calendar of forthcoming events and activities relevant to MENELAS;
4. “Information Resources” providing access to relevant documents, namely annual reports, case studies, decisions of the Contracting Parties to the Barcelona Convention, past training/workshops/meetings/exercises/operations reports, technical reports and other documents;
5. “Links”, which provides a list of relevant websites, including those of similar networks in other regional agreements; and
6. “Forum / Hotline”, which is a restricted area aimed at facilitating the exchange of information between participating members only, where requests for specific information can be made, restricted information can be shared on *inter alia* their legal framework, "tips" for investigators, special techniques/devices/tools, evidence gathering/procedures, lessons learnt, post-case analyses, and where all participating members can be alerted of a specific emergency through a hotline with the possibility to interact with each other accordingly.

The MENELAS information system was launched on 14 December 2015 and was made available both in English and French through the following website: <http://www.menelas.org/>.

#### **2015 MENELAS Meeting (Toulon, France, 29 September – 1 October 2015)**

The 2015 MENELAS Meeting was organised by REMPEC in Toulon, France, from 29 September 2015 to 1 October 2015, pursuant to the Programme of Work for 2014-2015 of the Mediterranean Action Plan (MAP) of the United Nations Environment Programme (UN Environment), also referred to as UN Environment/MAP.

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

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

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

- marine oil pollution detection/investigation report;
- establishment of a MENELAS database on illicit ship pollution discharges in the Mediterranean;

- review existing applicable sanctions at national level with regard to illicit ship pollution discharges; and
- measures to charge reasonable costs for the use of port reception facilities or, when applicable, apply a No-Special-Fee system.

The report of the 2015 MENELAS Meeting was disseminated to the Contracting Parties to the Barcelona Convention and submitted to the Twelfth Meeting of the Focal Points of REMPEC, which was convened in St. Julian's, Malta, from 23 to 25 May 2017, as set out in document REMPEC/WG.41/INF.4, for its consideration.

### **OSCAR-MED 2015 (Toulon, France, 29-30 September 2015)**

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

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

The OSCAR-MED 2015 operation resulted in twenty-four (24) hours of uninterrupted flight – three (3) air patrol aircraft from France, Italy and Spain being equipped with night sensors, to detect marine pollution from ships in the designated area. In total, a hundred and ninety-three (193) vessels were monitored during the said operation and three (3) CleanSeaNet satellite images provided by the European Maritime Safety Agency (EMSA) completed this monitoring. A public prosecutor from the Tribunal de Grande Instance de Marseille was on stand-by.

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

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

At COP 18, at the time of establishing MENELAS, the Contracting Parties to the Barcelona Convention acknowledged the relevant work carried out on the issue of ship sourced pollution and consequently stressed the need for the UN Environment/MAP-Barcelona Convention Secretariat in collaboration with REMPEC to further exploit possible synergies with EMSA in the framework of Decision IG.21/9 (UNEP(DEPI)/MED IG.21/9). They also acknowledged the proven effectiveness of dedicated networks of investigators and sanctioning authorities

established under the Regional Seas framework such as the North Sea Network of Investigators and Prosecutors (NSN) and the Baltic Sea Network of Environmental Crime Prosecutors (ENPRO).

This is also reflected in Specific Objective 8 (To improve the level of enforcement and the prosecution of discharge offenders) of the Regional Strategy for Prevention of and Response to Marine Pollution from Ships (2016-2021) (UNEP(DEPI)/MED IG.22/28), hereinafter referred to as the Regional Strategy (2016-2021).

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

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

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

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

The Centre also participated at and intervened during the Mediterranean Coast Guard Functions Forum (MCGFF) Annual Conference 2016 entitled "*Mediterranean: sharing experiences among Coast Guard functions*", which was convened in Naples, Italy, from 30 June 2016 to 2

July 2016, inviting the MCGFF to consider, through its working groups, to contribute towards the implementation of the Regional Strategy (2016-2021), in particular Specific Objective 7 (Improved follow-up of pollution events as well as monitoring and surveillance of illicit discharges), bearing in mind that maritime monitoring and surveillance are identified as belonging to Coast Guard functions.

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

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

### **Implementation of the MENELAS Programme of Activities for the period 2016-2017**

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

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

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

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

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

Finally, REMPEC contributed to the drafting of the Global Public Goods and Challenges (GPGC) / Environment and Sustainable Management of Natural Resources including Energy

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

The component coordinated by REMPEC focuses on measures related to the better management of sea-based litter in ports, more specifically, the application of charges at reasonable costs for the use of port reception facilities or, when applicable, application of No-Special-Fee system, as well as the provision of reception facilities and the delivery of ship-generated wastes in selected major ports and marinas in the Mediterranean (Budget: EUR 204,000).

Following the approval of the “Marine Litter-MED” Project by the EU, a letter of agreement for the implementation of part of the Project was signed by IMO and UN Environment/MAP on 16 December 2016.

#### **Twelfth Meeting of the Focal Points of REMPEC (St. Julian’s, Malta, 23-25 May 2017)**

With a view to implementing Specific Objectives 7 (Improved follow-up of pollution events as well as monitoring and surveillance of illicit discharges) and 8 (To improve the level of enforcement and the prosecution of discharge offenders) of the Regional Strategy (2016-2021) and, taking into account the Report of the 2015 MENELAS Meeting, as set out in document REMPEC/WG.41/INF.4, the Twelfth Meeting of the Focal Points of REMPEC, which was convened in St. Julian’s, Malta, from 23 to 25 May 2017, reviewed document REMPEC/WG.41/11/1, proposing the following types of cooperation in the field of illicit ship pollution discharges in the Mediterranean :

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

Having noted the information provided in documents REMPEC/WG.41/11/1 and REMPEC/WG.41/INF.4, the Meeting:

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



- agreed to inform the Secretariat about their interests in organising future coordinated aerial surveillance operations for illicit ship pollution discharges in specific parts of the Mediterranean Sea with a view to enhancing operational cooperation in that field; and
- requested the Secretariat to continue to liaise with relevant regional and international organisations with a view to ensuring the necessary cooperation, which may include regular information exchange and reciprocal representation, amongst others, especially within the framework of the Regional Strategy (2016-2021) and MENELAS.

At the Twelfth Meeting of the Focal Points of REMPEC, France introduced document REMPEC/WG.41/11/2 providing information on the proposal made by the Government of France to develop a regional jurisdiction together with a regional report.

In particular, France explained that, in order to strengthen cooperation between Contracting Parties to the Barcelona Convention in the area of repression of acts of pollution, France proposed to develop a regional jurisdiction along with a joint report that would enable the courts of the said Parties to prosecute all individuals suspected of having committed pollution, irrespective of the place of pollution, except territorial seas. He also provided details on the suggestion from France to accompany this judicial cooperation with the downstream establishment of a “Blue Fund” to which a part of the pecuniary sanctions would be transferred.

The Meeting expressed interest but also some concerns on this proposal, in particular questioning whether it fell within the mandate of REMPEC and the remit of the Barcelona Convention or not, as well as what Model 1 meant in terms of “a State authorising all other States to intervene in its waters, except for territorial waters, in matters concerning research and identification of maritime pollution”, as laid down in paragraph 18 of the said proposal.

France informed the Meeting that their proposal was purposely very simplified since it was seen as a long-term initiative and that more details could be provided at a later stage with the assistance of the Secretariat. He also clarified that the reference to the intervention of States in another State’s waters, except for territorial waters, was not the key issue in their proposal, since its primary objective was to enhance cooperation in the field of illicit ship pollution discharges in the Mediterranean.

Following discussions on the proposal put forward by France, the Meeting:

- took note of the French proposal for the creation of two (2) judicial cooperation tools within the framework of the Regional Strategy (2016-2021) and MENELAS;
- invited France to submit, with the assistance of the Secretariat, a working document refining its proposal, for further consideration and discussions at the next MENELAS Meeting; and
- requested the Secretariat to report on the outcome of the discussions held within the framework of MENELAS to the next Meeting of the Focal Points of REMPEC.