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Agenda Item 3: Thematic Decisions

Agenda Item 5: Ministerial Session

**Report on the Activities of the Mediterranean Network of Law Enforcement Officials Relating to MARPOL
within the Framework of the Barcelona Convention (MENELAS) for the period from July 2017 to October 2019,
as requested by Decision IG.21/9**

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UNEP/MAP
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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 Eighteenth Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (COP 18) (Istanbul, Turkey, 3-6 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 to the Barcelona Convention at each of their Ordinary Meetings.

The activities carried out by the network during the 2016-2017 biennium were reported to the Twentieth Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (COP 20) (Tirana, Albania, 17-20 December 2017), in a report covering the period from December 2013 to June 2017, as laid down in document UNEP(DEPI)/MED WG.443/Inf.14.

In this context, the present document, which covers the period from July 2017 to October 2019, provides information on the activities carried out so far by the network during the 2018-2019 biennium, and is submitted to the present meeting, 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) for the period from July 2017 to October 2019, as requested by Decision IG.21/9

Background

The 18th 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, 3-6 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)¹, 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.

So far, nineteen (19) Mediterranean coastal States and the European Union have nominated their Designated Representatives (DR) to participate in MENELAS.

Second Meeting of MENELAS (Valletta, Malta, 28-29 November 2017)

The Second Meeting of MENELAS was organised by the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) in Valletta, Malta from 28 to 29 November 2017, pursuant to the Programme of Work and Budget for 2016-2017² of the Mediterranean Action Plan (MAP) of the United Nations Environment Programme (UNEP), also referred to as UNEP/MAP.

The principal objectives of the Meeting were:

- to examine the implementation of the MENELAS Programme of Activities for the period 2016-2017 as well as to discuss and agree on the items to be included in the MENELAS Programme of Activities for the period 2018-2019 and elect the chair of the network for the said period; and
- to discuss the French proposal for the creation of two new judicial cooperation tools within the framework of the Regional Strategy for Prevention of and Response to Marine Pollution from Ships (2016-2021)³, hereinafter referred to as the Regional Strategy (2016-2021), and MENELAS, as requested by the Twelfth Meeting of the Focal Points of REMPEC (St. Julian's, Malta, 23-25 May 2017).

All MENELAS DR were invited to attend the Second Meeting of MENELAS that gathered eighteen (18) participants from thirteen (13) Contracting Parties to the Barcelona Convention that were participating members of MENELAS (Albania, Croatia, European Union, France, Greece, Israel, Malta, Montenegro, Morocco, Slovenia, Spain, Tunisia and Turkey), one (1) Contracting Party to the Barcelona Convention that was not a participating member of MENELAS (Italy) as well as one (1) organisation, the activities of which were relevant to the work of MENELAS, namely the Centre of Documentation, Research and Experimentation on Accidental Water Pollution (Cedre).

Amongst others, the Second Meeting of MENELAS adopted a set of Conclusions and Recommendations, elected Morocco as chair of the network for the period 2018-2019 and agreed on the establishment of a working group within MENELAS to:

¹ UNEP(DEPI)/MED IG.21/9, Decision IG.21/9.

² UNEP(DEPI)/MED IG.22/28, Decision IG.22/20.

³ UNEP(DEPI)/MED IG.22/28, Decision IG.22/4.

- examine in greater detail the French proposal to create two new judicial cooperation tools within the framework of the Regional Strategy (2016-2021) and MENELAS, namely a common detection report and a regional “Blue Fund”;
- provide answers to the questions raised by the Meeting, including the question of judicial prosecution by a third State; and
- study the possible establishment of an intervention mechanism and harmonisation of pecuniary sanctions for illicit ship pollution discharges in the Mediterranean.

The Second Meeting of MENELAS also agreed to include the following items in the MENELAS Programme of Activities for the period 2018-2019:

- the examination of the French proposal, and more particularly the creation of a common detection report and a regional “Blue Fund”, by the above-mentioned working group;
- the study of the possible establishment of an intervention mechanism and harmonisation of pecuniary sanctions for illicit ship pollution discharges in the Mediterranean, by the above-mentioned working group;
- the marine oil pollution detection/investigation reports;
- the establishment of a MENELAS database on illicit ship pollution discharges in the Mediterranean; and
- the 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 Second Meeting of MENELAS was submitted to the Thirteenth Meeting of the Focal Points of REMPEC (Floriana, Malta, 11-13 June 2019), as set out in document REMPEC/WG.45/INF.13, for its information.

Third Meeting of MENELAS (Valletta, Malta, 15-16 October 2019)

The Third Meeting of MENELAS was organised by REMPEC in Valletta, Malta from 15 to 16 October 2019, pursuant to the UNEP/MAP Programme of Work and Budget for 2018-2019⁴.

The principal objectives of the Meeting were:

- to examine the implementation of the MENELAS Programme of Activities for the period 2018-2019, including the report of the MENELAS Working Group established by the Second Meeting of MENELAS (Valletta, Malta, 28-29 November 2017), and to discuss about operational cooperation to combat illicit ship pollution discharges in the Mediterranean as well as cooperation with other regional and international organisations; and
- to discuss and agree on the items to be included in the MENELAS Programme of Activities for the period 2020-2021 and elect the chair of the network for the said period.

All MENELAS DR were invited to attend the Third Meeting of MENELAS that gathered eighteen (18) participants from thirteen (13) Contracting Parties to the Barcelona Convention that were participating members of MENELAS (Albania, Bosnia and Herzegovina, Croatia, Egypt, European Union, France, Greece, Israel, Malta, Montenegro, Morocco, Tunisia and Turkey) as well as three (3) organisations, the activities of which were relevant to the work of MENELAS, namely the *Union des Procureurs généraux de la Méditerranée* (UPGM) as well as the International Institute for Justice and the Rule of Law (IIJ) and Integrated Ocean Tracking Solutions (IOTS). In addition, a recorded speech by the Executive Secretary Baltic Marine Environment Protection Commission (Helsinki Commission or HELCOM) was shown during the opening of the Meeting and a live presentation was made remotely by the Environment Laboratories of the International Atomic Energy Agency (IAEA).

⁴ UNEP(DEPI)/MED IG.23/23, Decision IG.23/14.

Amongst others, the Third Meeting of MENELAS discussed about new administrative and judicial cooperation tools, the harmonisation of pecuniary sanctions for illicit ship pollution discharges in the Mediterranean, operational cooperation as well as cooperation with other regional and international organisations, amongst others. The participants actively contributed to the discussions by sharing their opinions as well as experiences on cooperative approaches that could contribute to the enhanced effectiveness of law enforcement activities with a view to further deterring illicit ship pollution discharges in the Mediterranean.

Whilst operationalising discussions from previous meetings, and under the Moroccan presidency of the network, the Meeting mandated the working group within MENELAS to:

- prepare a draft common marine oil pollution detection/investigation report;
- study the modalities of possible creation and operation, including in terms of governance and financing, of a regional "Blue Fund", as proposed by France;
- review existing applicable sanctions at national level with regard to illicit ship pollution discharges;
- prepare a draft decision to apply criteria for a common minimum level of fines for each offense provided for under the Annexes to MARPOL.

The Third Meeting of MENELAS adopted a set of Conclusions and Recommendations, elected Croatia as chair of the network for the period 2020-2021 and also agreed to include the following items in the MENELAS Programme of Activities for the period 2020-2021:

- the further examination of the creation of new administrative and judicial cooperation tools, within the framework of the Regional Strategy (2016-2021) and MENELAS, by the above-mentioned working group;
- the further examination of the harmonisation of pecuniary sanctions for illicit ship pollution discharges in the Mediterranean, by the above-mentioned working group;
- the examination of the possibility to define criteria to determine environmental damage beyond the normal compensation of the cleaning operations resulting from pollution of the marine environment from ships and to harmonise practices to that end, as proposed by Croatia;
- the establishment of a MENELAS database on illicit ship pollution discharges in the Mediterranean, and
- the measures to charge reasonable costs for the use of port reception facilities or, when applicable, apply a No-Special-Fee system.

Implementation of the MENELAS Programme of Activities for the period 2018-2019

Since December 2017 and, with a view to implementing the MENELAS Programme of Activities for the period 2018-2019, REMPEC has been following up on the Conclusions and Recommendations adopted by the Second Meeting of MENELAS as well as the Third Meeting of MENELAS.

The working group within MENELAS, which was established, as agreed by the Second Meeting of MENELAS, was operationalised and has been working through correspondence coordinated by the Secretariat (REMPEC), as requested by the Third Meeting of MENELAS.

Moreover, with regard to the establishment of a MENELAS database on illicit ship pollution discharges in the Mediterranean, the Centre upgraded the Mediterranean Integrated Geographical Information System on Marine Pollution Risk Assessment and Response (MEDGIS-MAR), which was complemented with fifteen (15) new features, including a data layer related to illicit ship pollution discharges allowing to report them by pollution type ("MARPOL Annex I", "MARPOL Annex II", "MARPOL Annex III", "MARPOL Annex IV", "MARPOL Annex V", "MARPOL Annex

VI” or “other”), by nature of the sanction finally imposed (“fine”, “imprisonment”, “community service”, “conditional discharges” or “others”), etc.

REMPEC, through the participation of a representative from the International Maritime Organization (IMO), was represented at the Workshop on ship-source pollution (Implementation of Directive 2005/35/EC⁵) (Lisbon, Portugal, 13 November 2018) organised by the European Maritime Safety Agency (EMSA), and has been kept abreast of the discussions within the Correspondence Group on Ship-Source Pollution (SSP) established to develop a harmonised reporting template under Directive 2005/35/EC.

The Centre has also been looking at various options to maintain REMPEC information systems and improve the quality, speed and effectiveness of decision-making process in case of marine pollution incidents through the development and introduction of technical and decision support tools. In this respect, REMPEC has been considering the possibility to host and transfer the MENELAS Information System (<http://www.menelas.org>), which has not been operational for some time, on a new server as part of the development of the new REMPEC website.

Finally, with regard to measures to charge reasonable costs for the use of port reception facilities or, when applicable, apply a No-Special-Fee system, REMPEC has been implementing various activities related to the better management of marine litter from sea-based sources in ports and marinas in the Mediterranean, within the framework of the EU-funded “Marine Litter-MED” Project as well as the Cooperation Agreement between the Italian Ministry of Environment, Land and Sea (IMELS) and UNEP.

In particular, within the framework of the EU-funded “Marine Litter-MED” Project aimed at supporting the Contracting Parties to the Barcelona Convention from Southern Mediterranean / European Neighbourhood, namely Algeria, Egypt, Israel, Lebanon, Libya, Morocco and Tunisia, 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 Convention⁶, the Centre:

- prepared a Study based on a literature review on existing best practices in the Mediterranean as well as other European regional seas for the application of charges at reasonable costs and of the No-Special-Fee system for the use of port reception facilities;
- prepared draft Operational Guidelines on the provision of reception facilities in ports and the delivery of ship-generated wastes in the Mediterranean, hereinafter referred to as “the draft Operational Guidelines”;
- prepared a draft Guidance Document to determine the application of charges at reasonable costs for the use of port reception facilities or, when applicable, application of the No-Special-Fee system, in the Mediterranean, hereinafter referred to as “the draft Guidance Document”; and
- carried out a field visit for Port Authority representatives to the Port of Antwerp (Antwerp, Belgium, 30-31 October 2018), in collaboration with the Antwerp Port Authority.

Within the framework of the EU-funded “Marine Litter-MED” Project as well as the Cooperation Agreement between IMELS and UNEP, the beneficiary countries of which are the Contracting Parties to the Barcelona Convention of the Adriatic region (Albania, Bosnia and Herzegovina, Croatia, Italy, Montenegro and Slovenia), REMPEC:

⁵ Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements, as amended.

⁶ UNEP(DEPI)/MED IG.21/9, Decision IG.21/7.

- co-organised the Regional Meeting on Marine Litter Best Practices (Izmir, Turkey, 9-10 October 2018) during which the main elements of the draft Operational Guidelines and the draft Guidance Document were presented;
- co-organised the Second Regional Meeting on Marine Litter Best Practices, jointly organised with the MARLICE 2019 International Forum on Marine Litter and Circular Economy (Seville, Spain, 8-10 April 2019), during which the draft Operational Guidelines and the draft Guidance Document were presented and discussed in a specific break-out group held on 8 April 2019 in the margins thereof; and
- has been carrying out pilots to determine the application of charges at reasonable costs for the use of port reception facilities or, when applicable, application of No-Special-Fee system, in the major ports selected for this purpose, as well as pilots related to the provision of reception facilities in ports and the delivery of ship-generated wastes in the marinas selected for this purpose.

The Thirteenth Meeting of the Focal Points of REMPEC (Floriana, Malta, 11-13 June 2019) agreed upon the final versions of the Operational Guidelines and the Guidance Document, which took into account the newly adopted requirements arising from Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU⁷ and repealing Directive 2000/59/EC⁸.

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 UNEP/MAP-Barcelona Convention Secretariat in collaboration with REMPEC to further exploit possible synergies with EMSA within 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).

In this respect, the Second Meeting of MENELAS as well as the Third Meeting of MENELAS called on the Secretariat (REMPEC) to liaise with the relevant regional and international organisations to which participating members were Parties with a view to ensuring the necessary cooperation, which may include regular exchange of information and reciprocal representation at their respective meetings, amongst others. It also asked participating members to inform the relevant regional and international organisations to which they were Parties of the outcome of the Meeting and to report on the outcome of discussions within the said organisations at the next meeting of MENELAS.

In particular, REMPEC attended the Fourteenth Inter-Secretariat Meeting between the Regional Agreements Secretariats, DG ECHO⁹ and EMSA (Copenhagen, Denmark, 21 February 2018) during which it presented developments within MENELAS, amongst others, as well as the Third Steering Committee for the SAFEMED IV Project (Lisbon, Portugal, 3-4 September 2019) organised by EMSA. It was also represented, through the participation of an IMO representative, at the following meetings also organised by EMSA, which were relevant to the work of MENELAS:

⁷ Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC, as amended.

⁸ Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues, as amended.

⁹ Directorate-General for European Civil Protection and Humanitarian Aid Operations.

- the Second Steering Committee for the SAFEMED IV Project (Aqaba, Jordan, 9-10 October 2018); and
- the Workshop on ship-source pollution (Implementation of Directive 2005/35/EC) (Lisbon, Portugal, 13 November 2018).

The Centre also participated in and presented developments related to the better management of marine litter from sea-based sources in ports and marinas in the Mediterranean, within the framework of the EU-funded “Marine Litter-MED” Project as well as the Cooperation Agreement between IMELS and UNEP, at:

- the Second Meeting of the Regional Cooperation Platform on Marine Litter in the Mediterranean (Barcelona, Spain, 9-10 November 2017); and
- the Third Meeting of the Regional Cooperation Platform on Marine Litter in the Mediterranean (Izmir, Turkey, 11-12 October 2018).

A representative from Plan Bleu attended, on behalf of the UNEP/MAP-Barcelona Convention Secretariat and REMPEC, the Symposium “Environmental Protection in the Mediterranean Sea” (Toulon, France, 4-5 July 2019) organised by Mr Robert Gelli, Attorney General at the Court Aix-en-Provence, in partnership with the French Préfecture maritime de la Méditerranée (PREMAR MED) and the General Secretariat of the Sea, and presented MENELAS during the round table on “Oil Pollution”. At the Third Meeting of MENELAS, the representative from the UPGM, on behalf of Mr Robert Gelli, delivered a presentation on the latest developments and activities carried out by the UPGM as well as provided information on the outcome of this Symposium.

Moreover, the Centre liaised with the Secretariat of the Commission established by the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention) / Agreement for Cooperation in Dealing with Pollution of the North Sea by Oil and Other Harmful Substances, 1983 (Bonn Agreement) with regard to the following events that were relevant to the work of MENELAS but to which it could not participate:

- Seminar on Maritime Environmental Crimes - Violations of MARPOL Annexes (Scheveningen, The Netherlands, 6-7 March 2018); and
- Meeting of the NSN (London, United Kingdom, 2-3 May 2019) during which the Secretariat of the OSPAR Convention/Bonn Agreement presented, on behalf of MENELAS, a document providing information on the outcome of the Second Meeting of MENELAS. NSN agreed that future cooperation with MENELAS was convenient, noted that France or Spain could present the outcome of the next MENELAS meeting at NSN 2020, and that the NSN minutes would be sent to MENELAS.

REMPEC has also been in contact with the IAEA Marine Environmental Studies Laboratory to explore possible collaboration in light of its capabilities with regard to monitoring and capacity-building on marine issues. In this respect, during the Third Meeting of MENELAS, the representative from the IAEA Environment Laboratories remotely delivered a presentation on their training and capacity-building activities, including the work of the IAEA within OSINet, the oil spill identification network of experts from the Bonn Agreement, and the possible cooperation with MENELAS. The Third Meeting of MENELAS invited the Secretariat (REMPEC) to explore the possibility of organising, jointly with the IAEA Environment Laboratories, training sessions on the methodologies for oil spill sampling and identification during the period 2020-2021, and to mobilise the necessary external financial resources, as appropriate

Turning to operational cooperation, the Centre liaised with the European Union Agency for Law Enforcement Cooperation (Europol) and the General Secretariat of the International Criminal Police Organization-INTERPOL with regard to the first global law enforcement operation countering marine pollution crime entitled “30 Days at Sea”, the outcome of which was presented by the INTERPOL

General Secretariat during the Thirteenth Meeting of the Focal Points of REMPEC (Floriana, Malta, 11-13 June 2019). Thereafter, REMPEC was contacted by the INTERPOL General Secretariat with regard to the global law enforcement operation entitled Operation “30 Days at Sea 2.0” aimed at tackling pollution offences leading to marine pollution, committed on land or in-land waters and at sea, for which Europol and the European Border and Coast Guard Agency (Frontex) would work together with INTERPOL as joint lead in the European region, facilitating operational planning meetings for Member States of the European Union.

Furthermore, REMPEC participated in and delivered a presentation on “Enhancing Cooperation in the Field of Illicit Ship Pollution Discharges in the Mediterranean” at the 2017 Conference of the Mediterranean Coast Guard Functions Forum (MCGFF) (Antalya, Turkey, 12-13 October 2017).

Last but not least, the Centre addressed the possibility to organise a coordinated aerial surveillance operation for illicit ship pollution discharges, with the participation of coastal States from the Southern Mediterranean, as mentioned by the Second Meeting of MENELAS, in the margins of the Conference “Environment and development in the Mediterranean yesterday, today and tomorrow” on the occasion of the Fortieth Anniversary of Plan Bleu (Paris, France, 5 June 2018) and the 2018 Conference of the MCGFF (Marseille, France, 27-28 June 2018).