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Agenda Item 5: Specific Matters for Consideration and Action by the Meeting, including draft Decisions

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 November 2021 to June 2023, as requested by Decision IG.21/9

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UNEP/MAP
Athens, 2023

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 2020-2021 biennium were reported to the Twenty-second Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (COP 22) (Antalya, Türkiye, 7-10 December 2021), in a report covering the period from November 2019 to October 2021, as laid down in document UNEP/MED IG.25/Inf.9.

In this context, the present document, which covers the period from November 2021 to June 2023, provides information on the activities carried out so far by the network during the 2022-2023 biennium, and is submitted to the present meeting, prior to onward transmission to the Twenty-third Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (COP 23) (Portorož, Slovenia, 4-8 December 2023), 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 November 2021 to June 2023, as requested by Decision IG.21/9

Background

The Eighteenth Ordinary 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, Türkiye, 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, twenty (20) Mediterranean coastal States and the European Union (EU) have nominated their Designated Representatives (DR) to participate in MENELAS.

Fifth Meeting of MENELAS (Floriana, Malta, 22-23 February 2023)

The Fifth Meeting of MENELAS was organised by the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) in Floriana, Malta, from 22 to 23 February 2023, with in-person participation complemented by the use of hybrid meeting capabilities, pursuant to the Programme of Work and Budget 2022-2023² 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 2022-2023, notably:
 - the draft common marine oil pollution detection/investigation report;
 - the draft decision to apply criteria for a common minimum level of fines for each offense provided for under the Annexes to MARPOL, within the framework of the Barcelona Convention; and
 - modalities of possible creation and operation of a regional “Blue Fund”, including in terms of governance and financing.
- to discuss about 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 2024-2025 and elect the chair of the network for the said period.

All MENELAS DR were invited to attend the Fifth Meeting of MENELAS that gathered over twenty-five (25) participants from fifteen (15) Contracting Parties to the Barcelona Convention that were participating members of MENELAS (Albania, Bosnia and Herzegovina, Croatia, Egypt, France, Greece, Israel, Lebanon, Malta, Morocco, Slovenia, Spain, Tunisia, Turkey, and the EU), as well as six (6) organisations, the activities of which were relevant to the work of MENELAS, namely the United Nations Office on Drugs and Crime (UNODC), the International Criminal Police Organization-

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

² UNEP/MED IG.25/27, Decision IG.25/19.

INTERPOL, the OSPAR Commission³, the Bonn Agreement⁴, the Baltic Marine Environment Protection Commission (Helsinki Commission or HELCOM)⁵ and the RAMOGE Agreement⁶.

The Fifth Meeting of MENELAS adopted a set of Conclusions and Recommendations and agreed on the re-establishment of the working group within MENELAS to oversee, through correspondence coordinated by the Secretariat (REMPEC), the completion of relevant work.

The Fifth Meeting of MENELAS also agreed to include the following items in the MENELAS Programme of Activities for the period 2024-2025:

- the further examination of the draft decision to apply criteria for a common minimum level of fines for each offense provided for under the Annexes to MARPOL, within the framework of the Barcelona Convention;
- the further development of modalities of possible creation and operation of a regional “Blue Fund”, including in terms of governance and financing; and
- the establishment of a MENELAS database on illicit ship pollution discharges in the Mediterranean.

The report of the Fifth Meeting of MENELAS was submitted to the Fifteenth Meeting of the Focal Points of REMPEC (Kappara, Malta, 13-15 June 2023), as set out in document REMPEC/WG.56/INF.4, for its information.

Implementation of the MENELAS Programme of Activities for the period 2022-2023

Since November 2021 and, with a view to implementing the MENELAS Programme of Activities for the period 2022-2023, REMPEC has been following up on the Conclusions and Recommendations adopted by the Fourth Meeting of MENELAS (online, 21-22 April 2021).

In particular, the Secretariat (REMPEC) finalised a draft decision to apply criteria for a common minimum level of fines for each offense provided for under the Annexes to MARPOL, within the framework of the Barcelona Convention, which was discussed at the Fifth Meeting of MENELAS that agreed to take the draft decision as a basis for the further work, notably on the minimum fines, and requested the Secretariat (REMPEC) to carry out a review of existing applicable sanctions at national level with regard to illicit ship pollution discharges.

Moreover, having noted with satisfaction the first-hand experience in the Mediterranean region on the use of the draft common marine oil pollution detection/investigation report in the margins of a coordinated aerial surveillance operation for illicit ship pollution discharges in the Mediterranean (OSCAR-MED) held in 2022 within the framework of the RAMOGE Agreement, the Secretariat (REMPEC) finalised the said report within the framework of MENELAS, which was discussed at the Fifth Meeting of MENELAS and subsequently endorsed by the Fifteenth Meeting of the Focal Points of REMPEC, taking as a basis the standard forms to report detected pollution adopted by relevant regional and international organisations, namely the International Maritime Organization (IMO), the North Sea Network of Investigators and Prosecutors (NSN)⁷, the Bonn Agreement, as well as HELCOM, and adapting them to the Mediterranean Sea area by adding appropriate references to the Barcelona Convention. The Fifth Meeting of MENELAS also stressed the importance to obtain further practical experience in the Mediterranean region with the use of the said report and recommended that it was further used during a forthcoming OSCAR-MED operation to be organised by the Secretariat of

³ the OSPAR Commission was established by the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention).

⁴ Agreement for Cooperation in Dealing with Pollution of the North Sea by Oil and Other Harmful Substances, 1983.

⁵ the governing body of the Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention).

⁶ Accord relatif à la Protection de l'Environnement Marin et Côtier d'une Zone de la Mer Méditerranée.

⁷ a body associated with the OSPAR Commission.

the RAMOGE Agreement, with the possible participation of interested Mediterranean coastal States, as observers.

Furthermore, the Fifth Meeting of MENELAS highlighted that further work was necessary to develop the modalities of possible creation and operation of a regional “Blue Fund”, including in terms of governance and financing, and asked the Secretariat (REMPEC), in this respect, to develop draft terms of reference for the provision of consultancy services for the development of such modalities, and to submit these to participating members for their comments and feedback.

Additionally, with regard to the establishment of a MENELAS database on illicit ship pollution discharges in the Mediterranean, the Fifteenth Meeting of the Focal Points of REMPEC acknowledged the importance of the Country Profiles as well as the Mediterranean Integrated Geographical Information System on Marine Pollution Risk Assessment and Response (MEDGIS-MAR) databases and datasets, including that related to illicit ship pollution discharges, and also the contribution of the Contracting Parties to the Barcelona Convention in the maintenance and updating of these databases.

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 taken steps to maintain and update the MENELAS Information System (<http://www.menelas.org>), as appropriate.

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, pilots related to the enhanced management of marine litter from sea-based sources in ports and marinas have been implemented in Algeria, Morocco and Tunisia through the EU-funded “Marine Litter MED II” Project. This work has entailed pilot implementation, executed jointly between the Mediterranean Pollution Assessment and Control Programme (MED POL) and REMPEC, in one marina regarding the handling of waste and application of tailored waste handling management plans, as well as implementation of the region-wide Operational Guidelines on the provision of reception facilities in ports and the delivery of ship-generated wastes in the Mediterranean, and the 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, adopted by the Twenty-first Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (COP 21) (Naples, Italy, 2-5 December 2019). The Secretariat (REMPEC) also contributed to the preparation of the EU-funded “Marine Litter MED PLUS” Project proposal, ensuring continuity and building on the outcome of the first two phases of the project, as well as integrating relevant aspects of the IMO Strategy/Action Plan to address marine plastic litter from ships and the updated 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 (LBS Protocol) adopted by the Twenty-second Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (COP 22) (Antalya, Türkiye, 7-10 December 2021), in the said proposal.

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 MAP-Barcelona Convention Secretariat in collaboration with REMPEC to further exploit possible synergies with the European Maritime Safety Agency (EMSA) within the framework of Decision 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 NSN and the Network of Prosecutors on Environmental Crime in the Baltic Sea Region (ENPRO).

In this respect, the Fifth 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 might 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, *inter alia*, the 77th, 78th and 79th sessions of the IMO's Marine Environment Protection Committee (MEPC 77: online, 22-26 November 2021; MEPC 78: online, 6-10 June 2022; MEPC 79: London, United Kingdom, 12-16 December 2022). A progress report on REMPEC activities was prepared and published for MEPC 78. Developments within MENELAS were presented, amongst others, at the 18th and 19th Inter-Secretariat meeting between Regional Agreement Secretariats, European Commission and EMSA (18th meeting: online, 15-16 February 2022; 19th meeting: London, United Kingdom, 31 January-1 February 2023) as well as the 5th Steering Committee Meeting of the SAFEMED IV Project (online, 31 March 2022) and the 1st Steering Committee Meeting of the SAFEMED V Project (Lisbon, Portugal, 23 November 2022) organised by EMSA.

The Centre has also been exploring synergies, together with the IMO Secretariat and the Coordinating Unit for the MAP-Barcelona Convention Secretariat, between the updated Regional Plan on Marine Litter Management in the Mediterranean in the Framework of Article 15 of the LBS Protocol and the IMO Strategy/Action Plan to address marine plastic litter from ships, by maintaining and strengthening the dialogue between UNEP/MAP and IMO to ensure synergies between the EU-funded "Marine Litter Med II" Project and the IMO-Food and Agriculture Organization of the United Nations (FAO)-Norway GloLitter Partnerships Project.

Moreover, the Secretariat (REMPEC) liaised with the OSPAR Commission/Bonn Agreement Secretariat as well as the Chair of the NSN and President of ENPRO, and was represented at the 2022 Meeting of the NSN (Brussels, Belgium / online; 25-26 April 2022) and the 2023 Meeting of the NSN (Billund, Denmark / online; 25-26 April 2023), during which the Secretariat (REMPEC) provided information, respectively, on the outcome of the Fourth Meeting of MENELAS as well as the activities of MENELAS for the period from November 2019 to October 2021, and the outcome of the Fifth Meeting of MENELAS. The OSPAR Commission/Bonn Agreement Secretariat provided information on NSN updates at the Fifth Meeting of MENELAS.

During the intersessional period, REMPEC provided inputs to the European Commission on the evaluation and impact assessment for the revision of the EU Ship-Source Pollution Directive⁸, the planned revision of which was presented at the Fifth Meeting of MENELAS by the representative from the EU, together with the latest developments regarding the EU Directive on Port Reception Facilities⁹ as well as the harmonised reporting template in accordance with Article 12 of the EU Ship-Source Pollution Directive. The HELCOM Secretariat also provided information on HELCOM latest activities of relevance to MENELAS at the Fifth Meeting of MENELAS.

Turning to operational cooperation, the Centre liaised with the General Secretariat of the International Criminal Police Organization-INTERPOL with regard to Operation 30 Days at Sea 3.0 (2020-2021) that was the third INTERPOL global enforcement operation targeting onshore and offshore offences leading to marine pollution, the key findings of which were presented at the Fifth Meeting of MENELAS. The Centre also liaised with UNODC that presented relevant activities of its Global Maritime Crime Programme, Mediterranean and Black Sea during the Fifth Meeting of MENELAS.

Last but not least, the Secretariat (REMPEC) liaised with the Secretariat of the RAMOGE Agreement with a view to ensuring that the draft common marine oil pollution detection/investigation report be used in the margins of OSCAR-MED 2022.

⁸ 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.

⁹ 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/EU and repealing Directive 2000/59/EC.