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MEDITERRANEAN ACTION PLAN

18th Ordinary Meeting of the Contracting Parties to
the Convention for the Protection of the Marine Environment
and the Coastal Region of the Mediterranean and its Protocols

Istanbul, Turkey, 3-6 December 2013

JOINT UNEP/IMO NOTE ON THE REGIONAL MARINE POLLUTION EMERGENCY RESPONSE CENTRE FOR THE MEDITERRANEAN SEA (REMPEC)

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Executive summary

The Extended Functional Review of the UNEP/MAP components, including REMPEC, conducted in response to a request by the Contracting Parties to the Barcelona Convention, recommended three options to increase the performance and financial sustainability of the UNEP/MAP Components. Under all three options REMPEC would cease to be administered by IMO through UNEP and would, instead, be re-established as a "national body with a regional function".

Subsequently, the Bureau of the Contracting Parties to the Barcelona Convention and its Protocols (the Bureau), requested the MAP Secretariat and UNEP to accelerate discussions with IMO and provide a clear and comprehensive joint state of play by 15 November 2013 with, to the extent possible, fully-costed alternative operational scenarios, including, but not limited to, those proposed by the Functional Review, to allow an informed decision to be taken at the upcoming meeting of Contracting Parties. This document responds to that request.

The document briefly recaps the present remit, status and staffing of REMPEC, noting that, as a consequence of the present situation, any costs associated with the implementation of any selected scenario would also be charged to the MTF.

The document then notes that the primary issue with the present structure of REMPEC is the high proportion of costs funded by the MTF which go towards staffing and operations and the imbalance between programme and administrative staff when compared with other similar centres, and presents two options to address these concerns:

- Option 1 – re-establish REMPEC as a National Centre with a regional mandate (recommendation under all three scenarios of the Extended Functional Review);
- Option 2 – maintain a ‘streamlined’ REMPEC as a UN Centre administered by IMO; and
- Option 3 – re-establish REMPEC as a National Centre with an International status by having its Head a UN official and the remaining staff seconded by the host country. It is a hybrid of option 1.

The advantages and disadvantages of the 3 options may be summarized as:

	Option 1 – re-establish REMPEC as a national Centre	Option 2 – maintain REMPEC as an international centre under IMO	Option 3 – Hybrid International/National Centre
Total salary and implementation costs in 2014-2015 biennium, €'000	1,460	1,427	1,460
Annual salary costs following implementation, €'000	311	427	311
Key advantages	Ongoing cost reduction, ‘payback’ on implementation costs of 2.5 years; Standard approach for all RACs.	Lower cost of implementation but retains some annual cost savings, ‘payback’ on implementation costs of 3.5 years; Retention of	Ongoing cost reduction, “payback” on implementation costs of 2.5 years;

	Option 1 – re-establish REMPEC as a national Centre	Option 2 – maintain REMPEC as an international centre under IMO	Option 3 – Hybrid International/National Centre
		international status allows for continued delivery of mandate, no amendment to Protocols or Conventions; Significantly lower level of implementation risk.	
Key risks	Loss of international status presents a risk to emergency response role; Legal issues with respect to relevant Conventions and Protocols; Significant implementation costs; Loss of institutional memory and IMO technical advice and backstopping; Risks associated with such a major transition in operational arrangements.	Lack of clarity over long-term funding expectations for MAP, consequently may provide only short-term solution; Lower annual cost savings following implementation; Staff streamlining would reduce capacity to take on expanded role should that be necessary.	Loss of full international status presents a risk to emergency response role; Legal issues with respect to relevant Conventions and Protocols; Significant implementation costs; Loss of institutional memory and IMO technical advice and backstopping; Risks associated with such a major transition in operational arrangements.

While the option recommended by the Extended Functional Review and option 3 would offer €116k greater annual savings in staff costs than the alternative option 2, the lower annual cost saving figure of €135k under Option 2 offers the following advantages:

- **Financial** – the total costs for the 2014-2015 biennium specifically would be lower under Option 2 due to the reduced cost of implementation. It may be noted that a phased implementation over the 2014-2015 and the 2016-2017 biennia would further reduce the costs of Option 2 in the 2014-2015 biennium. While the amount of the short-term saving would vary, delaying the separation of the Senior Programme Officer until 2016 would reduce the cost for 2014-2015 by approximately €155k, although at the expense of delaying costs of €199k to the following biennium;
- **Operational effectiveness** – the international status of the Centre offers significant advantages particularly with regard to its role as an emergency response centre for the region in accordance with its mandate; and
- **Legal arrangements** – the implementation of option 1 and option 3 would require a revision to the relevant treaty instruments which explicitly refer to REMPEC's status as an international centre administered by IMO and UNEP. The retention of this status would mean that revisions to the legal arrangements underpinning the MAP would not be necessary.

Introduction and background

1. The Seventeenth Ordinary Meeting of the Contracting Parties to the Barcelona Convention held in Paris, France (February 2012), called on the UNEP/MAP Secretariat to undertake an Extended Functional Review of the UNEP/MAP Components, which includes REMPEC. The draft report of the Review was presented to the 76th Meeting of the MAP Bureau held in Algiers, Algeria (February 2013), while its final version was considered by the MAP Focal Points Meeting held in Athens, Greece (April 2013). The report recommended three options to increase the performance and financial sustainability of the UNEP/MAP Components. Under all three options REMPEC would cease to be administered by IMO through UNEP and would, instead, be re-established as a "national body with a regional function". In this connection, the IMO Secretariat, as one of the two organizations administering REMPEC was requested by the UNEP/MAP Coordinator to contribute its views on the recommendations affecting REMPEC and an IMO note was accordingly submitted to the MAP Focal Points Meeting held in April 2013¹.
2. The Bureau of the Contracting Parties to the Barcelona Convention and its Protocols (the Bureau) which met at its 77th session in Ankara, Turkey, from 1 to 3 July 2013, requested the MAP Secretariat and UNEP to accelerate discussions with IMO on REMPEC and provide a clear and comprehensive joint state of play by 15 November 2013 with, to the extent possible, alternative operational scenarios including, but not limited to, those proposed by the Functional Review. The Bureau requested that each option proposed be fully costed, providing also all necessary information on the process and cost of transition to allow for an informed decision to be taken at the upcoming meeting of Contracting Parties. The Bureau further requested that the Maltese Government, as the host country of REMPEC, should be duly consulted.
3. In response to the abovementioned requests, this document has been prepared jointly by UNEP and IMO which, as appropriate, have consulted with representatives of Malta, as the host Government. In addressing the requests of the Bureau, and taking into account the recommendations of the Extended Functional Review and other options discussed at relevant MAP meetings, the document presents:
 - a recap of the institutional establishment and legal framework of REMPEC and the consequent contractual position with regard to the implementation costs of any decision taken;
 - the present situation at REMPEC – a brief summary of the present staffing and operational position of REMPEC;
 - options for the future operation of REMPEC – a consideration of two possible future operating models for REMPEC, along with their associated costs (both in terms of implementation and ongoing operation), and operational issues arising as a result of the change from the present situation. The options considered are:
 - Functional review proposal – the model proposed by the Functional Review, requiring a withdrawal of IMO from the administration of the Centre and its re-establishment as a national centre with a regional function; and

¹ (UNEP(DEPI)/MED WG 376/Inf.4)

- Streamlined delivery through IMO – an alternative model in which the Centre would remain under IMO administration but would transition to a leaner structure with lower grading of posts to increase the proportion of funds available for activities.
- Hybrid National Centre with an International status– this model similar to option 1 requires a withdrawal of IMO from the administration of the Centre and its re-establishment as a National centre with an international status hosted by a Party.
- Conclusion – the document concludes with a summary of the merits and challenges associated with each option.

Institutional and legal framework for REMPEC

4. REMPEC was established by the Parties to the Barcelona Convention as a Regional Centre and hosted in Malta by the Maltese Government. It operates on the basis of decisions taken and activities determined by the Contracting Parties to the Barcelona Convention, and is administered by IMO as a result of legal arrangements between UNEP and IMO (formerly IMCO) undertaken in 1976. These arrangements were undertaken by the Executive Director of UNEP on the basis of the mandate given by the Diplomatic Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region for the Protection of the Mediterranean Sea, convened in Barcelona, Spain, 2-16 February 1976.
5. The Diplomatic Conference adopted on 16 February 1976 the Convention for the Protection of the Mediterranean Sea against Pollution, the Protocol for the Prevention of Pollution of the Mediterranean Sea by Dumping from Ships and Aircraft, and the Protocol concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances, in Cases of Emergency. These three instruments entered into force on 12 February 1978. The text of the latter Protocol makes reference to “the Regional Centre”.
6. Resolution 2 (“Interim Arrangements”) of the Diplomatic Conference states:

Quote:

“The Conference, (omissis)...

1. Notes with appreciation the announcement by the Executive Director of the United Nations Environment Programme of his willingness to carry out the Secretariat functions relating to the Convention for the Protection of the Mediterranean Sea against Pollution, the Protocol for the Prevention of the Mediterranean Sea by Dumping from Ships and aircraft, and the Protocol concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in Cases of Emergency, and to provide the necessary facilities for this purpose;
2. Calls on the Executive Director of the UNEP in co-operation with the other international organizations concerned to continue the preparatory work for a draft Protocol for the Protection of the Mediterranean Sea against Pollution from Land-Based Sources;
3. Also calls on the Executive Director, pending the entry into force of the Convention and Protocols, to make interim arrangements as may be required for the achievement of the objectives of this Convention and to continue to convene working groups of Government experts to prepare additional

protocols, in co-operation with the international organizations concerned, as recommended in the Action plan approved at the Intergovernmental Meeting held in Barcelona in 1975.”

Unquote

7. Resolution 7 of the Diplomatic Conference “Establishment of a Regional Oil-Combating Centre for the Mediterranean” states:

Quote:

“The Conference,

1. *Decides to accept the offer of the Government of the Republic of Malta to host such a Regional Centre;*
2. *Requests the Executive Director of the United Nations Environment Programme, after consultations with the Government of Malta and the Inter-Governmental Maritime Consultative Organization, to assist in the early establishment of a Regional Oil-Combating Centre in Malta having the objectives and functions set out in the annex to this resolution;*
3. *Welcomes the intention of the Executive Director of the United Nations Environment Programme to entrust to the Inter-Governmental Maritime Consultative Organization the functions and responsibility as Co-operating Agency for the establishment and operation of the aforesaid Regional Centre, it being understood that the exercise of functions and responsibilities by IMCO should not lead to an increase in its budget;*
4. *As a consequence requests the Executive Director of the United Nations Environment Programme to submit, in the light of comments made at the Conference of Plenipotentiaries, a report on the establishment of the Regional Oil-Combating Centre to the Governing Council of UNEP at its fourth session and to seek to obtain such further authorization from the Council as he may need to draw on the Fund of UNEP for the purpose of defraying the expenses involved in the establishment and initial operating costs of the Centre. This authorization might be requested on the assumption that the operating expenses of the Centre will be gradually defrayed by means of voluntary multilateral or individual contributions from governments of the Mediterranean Region, from international organizations and from non-governmental organizations. The financing of the Centre should be reviewed at the meeting of the Contracting Parties to the Convention and the appropriate Protocol, when these instruments have entered into force;*
5. *Further requests the Executive Director of the United Nations Environment Programme to report to the coastal States of the Mediterranean Region at the next intergovernmental meeting of these States and thereafter annually on the work and activities of the Centre.”*

Unquote

8. On the basis of the mandate provided by the Diplomatic Conference, the Executive Director of the UNEP and the Secretary General of the then IMCO signed a Project Document related to the establishment and operation of the Centre on 2 September 1976 and the Centre officially opened on 11 December 1976. A new project document is developed and signed every 2 years outlining the activities and budget of the Centre.
9. As requested in paragraph 4 of Resolution 7 quoted above, the Intergovernmental Review Meeting of Mediterranean Coastal States and the First Meeting of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related Protocols (Geneva, 5-10 February 1979) reviewed the institutional and financial arrangements (cf. UNEP/IG.14/9) and agreed on the establishment of a Mediterranean Regional Trust Fund for the Protection of the Mediterranean Sea Against

Pollution (MTF) as well as a budget for the Regional Oil-Combating Centre which provided for the payment of operating costs as well as activities.

10. Since the entry into force of the Convention and Protocols in 1978, all decisions regarding staff and budget have been taken by the Ordinary Meetings of the Contracting Parties to the Barcelona Convention and its Protocols. In this regard, the various Decisions on the Programme of Work and Budget all contain the following paragraph and reference to the relevant biennium, providing the legal authority for UNEP to disburse MTF funds for staff purposes on behalf of the Contracting Parties:

“Approve the staffing of the Coordinating Unit and the MAP Components for 2012-2013 as indicated in Annex II to the present decision” (Decision IG 20/8 e.g.)

11. The Protocol concerning Cooperation in Preventing Pollution from Ships and, in cases of Emergency, Combating Pollution of the Mediterranean Sea adopted on 25 January 2002, which replaced the Protocol concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in Cases of Emergency, contains the following definition of the Centre in article 1(f):

Quote:

““Regional Centre” means “the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea” (REMPEC), established by Resolution 7 adopted by the Conference of Plenipotentiaries of the Coastal States of the Mediterranean Region on the Protection of the Mediterranean Sea at Barcelona on 9 February 1976, which is administered by the International Maritime Organization and the United Nations Environment Programme, and the objectives and functions of which are defined by the Contracting Parties to the Convention.”

Unquote

12. The implications of these arrangements could be summarized as follows:

1. UNEP had been originally entrusted, on a provisional basis pending the entry into force of the Convention and Protocols, with the Secretariat functions of the Convention and several Protocols including the Emergency Protocol; on the assumption that any related expenses to the implementation of the Mediterranean Action Plan (voluntary contributions excepted) will be supported by the Contracting Parties through an appropriate funding mechanism (the MTF);
2. to discharge effectively its responsibility, UNEP, on behalf of the Contracting Parties and pursuant to 1 above, entered into administrative arrangements with IMO for the administration of the Centre, a regional institution of the Barcelona Convention created under the Emergency Protocol and Resolution 7 of the Diplomatic Conference, under the premise that there would be no budgetary impact for IMO as agreed by the representatives of the Mediterranean coastal States;
3. these arrangements were confirmed by the Intergovernmental Review Meeting of Mediterranean Coastal States and the First Meeting of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related Protocols, and all subsequent changes in staffing and staff levels of the Secretariat (i.e. the MAP components), have been approved by the Contracting Parties; and
4. a change in the current administrative arrangements is not a mere procedural process, as there are consequences of a treaty law nature, so due regard would

need to be given to the applicable treaty law in force under which REMPEC operates, namely the 1976 Emergency and the 2002 Prevention and Emergency Protocols which are currently in force and any associated resolutions thereof. The note previously prepared by the IMO Secretariat, document UNEP(DEPI)/WG.376/INF/4, refers.

Therefore, whereas it is for the Contracting Parties to decide on whatever type of changes they believe are necessary with regard to the Centre, which is established under two separate international treaties, any financial consequence of such a decision will have to be ultimately supported by the MTF. As a consequence, in analyzing options for reforms, it is necessary to consider not just the ongoing costs of the revised operating model but also the one-off implementation costs associated with the reforms, an approach also followed by the Extended Functional Review.

Present situation at REMPEC

13. The Centre was originally established in 1976 with three professional staff members: Director (P5); Deputy Director in charge of administration (P4); Deputy Director in charge of technical matters (P4); and supporting local staff. The extension of the mandate of the Centre to hazardous and noxious substances in 1989, and the inclusion of prevention of pollution from ships in its mandate as of 2002, brought about successive changes to the functions of the staff component of the Centre to match its increased responsibilities.
14. The current staffing table of the Centre and related MTF costs (2013 cost, from original project document for 2012-2013), as approved by the Contracting Parties, are shown below:

Current Designation	Grade	Budget/year (Euro)
Director	D1	171,903
Senior Programme Officer	P5	139,046
Programme Officer (OPRC)	P4	120,828
Administrative/Financial Assistant ²	G7	19,674
Assistant to the Director	G7	30,115
Administrative Assistant/Secretary	G5	26,863
Secretary	G4	25,776
Technical Assistant (Logistics)	G4	27,124
TOTAL		561,329

These figures provide a baseline for comparison purposes when assessing the cost reduction ultimately achievable following the implementation of the options presented below.

² IMO contributes Euro 13,000 per annum paid from IMO's share of Project Support Costs to complement the MTF's cost of the salary of the Administrative/Financial Assistant

15. In delegating the administration of the Centre to UN entities, the Contracting Parties agreed that its staff would be governed by UN regulations and rules and, accordingly, all staff members currently employed at REMPEC are holders of contracts with the IMO. Although as a Specialized Agency of the United Nations, IMO Staff Regulations and Staff Rules may differ on some points with the UN Staff Regulations and Staff Rules as applicable to UNEP, they are based on the same principles and follow the same practices, and the key points are summarized in Annex I.

Options for the future operation of REMPEC

16. The primary issue with the present structure of REMPEC is the high proportion of costs funded by the MTF which go towards staffing and operations. While this has gradually become the reality over the years, it remains the case that the REMPEC officers are carrying out MAP work, for the delivery of objectives and activities agreed by the Contracting Parties under the biennial work programmes. A significant proportion of the approved MAP activities for REMPEC are today being funded through, or directly by, IMO, with the agreement of the Contracting Parties³. This gradual adjustment – from the MTF funding staff, operations and activities, to the MTF now funding mainly staff and operations and IMO funding agreed activities – nonetheless leads to two main concerns for the respective stakeholders:

- for the Contracting Parties, that the ratio of MTF funding going towards staffing and operational costs, on the one hand, and towards activities of the adopted biennial work programmes, on the other, needs re-balancing; and
- for IMO and REMPEC, that the relatively ‘fixed’ nature of salary costs provides little flexibility when incoming cash receipts follow a variable pattern, which has led to cash-flow difficulties for the Centre in recent years.

17. It is therefore necessary that options be developed and agreed upon that address these challenges, while also facilitating, where feasible, the continuation of IMO funding for activities of the approved biennial work programmes. Two such options have been considered below.

³ IMO’s contribution has historically been in the region of €200,000 biennially over recent years, excluding the SAFEMED and SAFEMED II projects delivered by REMPEC and funded by the EC.

Option 1 – Re-establish REMPEC as a National Centre with a regional mandate (recommendation under all three scenarios of the Extended Functional Review):

Summary of approach

18. This option was outlined in the Extended Functional Review, the key points being that REMPEC would be re-established as a national body with a regional function⁴. This would require the closure of the existing Centre and the re-opening of a new Centre, no longer associated with or administered by IMO but by an appropriate Host Country.

Advantages

19. The advantages of this approach, and the reason for its recommendation, were set out in the Extended Functional Review, the key points being:

- structural consistency with other RACs – the exceptional case of establishment of REMPEC as a UN-administered centre rather than a national centre, would be removed providing for a consistent structure across all RACs; and
- reduction of administrative costs – the Extended Functional Review estimated that the establishment of REMPEC as a national centre, along with the removal of two General Service posts, would save approximately €251,000 annually⁵.

Disadvantages and risks

20. While the advantages of this approach were considered fully in the Extended Functional Review, UNEP and IMO believe that some key issues and risks, associated with removing the international status of the Centre, were not fully considered in that report.

21. In particular, consideration should be given to the implications with respect to treaty law.

22. Currently, both the 1976 Emergency Protocol and the 2002 Prevention and Emergency Protocol are in force. The 1976 Protocol refers to the Regional Centre and Resolution 7 of the 1976 Diplomatic Conference was the legal authority for its establishment and structure. The 2002 Protocol, as mentioned above, contains a definition of the “Regional Centre” in article 1. Since the entry into force of the Convention and its Protocols, the Contracting Parties have to abide by their provisions, which further to their legally-binding nature, became of obligatory compliance. Those provisions state that the governing body of the Convention is the Meetings of the Contracting Parties. Therefore decisions by the Contracting Parties can modify what was decided in Resolution 7. Such a decision would not be a procedural one as it has financial, legal, political and other types of implications. According to article 43 of the Rules of Procedure for Meetings and Conferences of the Contracting Parties to the Barcelona Convention and its Protocols, a two thirds majority vote is required for the adoption of substantive decisions – in case consensus cannot be reached. As regards the 2002 Protocol, the references in article 1 of the Protocol to both “the Centre administered by IMO and UNEP”, as well as to Resolution 7, could only be amended via a Diplomatic Conference. In this regard, attention should be paid to article 22 of the amended Barcelona Convention which states:

⁴ Extended Functional Review – page 43 – ‘REMPEC’

⁵ Extended Functional Review – page 44 ‘REMPEC’.

Quote

2. *“Any Contracting Party to this Convention may propose amendments to any protocol. Such amendments shall be adopted by a diplomatic conference which shall be convened by the Organization at the request of two thirds of the Contracting Parties to the protocol concerned;*

4 *Acceptance of amendments shall be notified to the Depositary in writing. Amendments adopted in accordance with paragraph 3 of this article shall enter into force between Contracting Parties having accepted such amendments on the thirtieth day following the receipt by the Depositary of notification of their acceptance by at least three fourths of the Contracting Parties to this Convention or to the protocol concerned, as the case may be.”*

Unquote

23. Further, and as noted in the Extended Functional Review⁶, the duality of the identities of national centres with a regional focus has its challenges, including most notably:

“The duality of the RAC’s identities (i.e. national organisations with regional mandates and focuses) is sometimes problematic where the host country requires substantive priorities to be addressed, which may not align with overall MAP priorities. This is particularly a concern where MTF funds are being used.”

24. Moreover, and particularly in view of the emergency response aspects of REMPEC’s role and the potentially cross-border/international nature of those emergencies within its mandate, the transition from an internationally-administered centre under a United Nations Specialized Agency, experienced in coordinating an international response to an international incident, to a national body, would increase the risks associated with responding to such an incident in the future – thus reducing the effectiveness of the Centre in one of the key aspects of its role – and consequently pose further risks to the delivery of the mandate of the MAP as a whole. Indeed, Article 12.2 of the 2002 Prevention and Emergency Protocol provides for the Centre, where Parties engaged in an operation to combat marine pollution cannot agree on its organization, to coordinate the activity of the facilities put into operation by those Parties for that very purpose. It is from this treaty provision, the practical implementation of which implies the need for a Centre and staff complement with international status, that the said risks to the delivery of the MAP mandate derive.

Implementation approach

25. The effect of the acceptance of this option by the Contracting Parties would be a full withdrawal of IMO from the Centre, and the establishment of a new staff complement with the necessary infrastructure. The key implementation steps in this transition would include:

- separation of staff – it would be necessary to separate all staff at the Centre, whether or not they would then be recruited by the new national centre, as they presently hold a staff contract with IMO and these could not be novated;
- recruitment of national staff – in order to ensure continuation of service, it would be necessary to begin the recruitment of national staff before the separation of all IMO staff had been completed. It is assumed that there would be a minimum

⁶ Page 25 – “Institutional arrangements”

handover period (say, two months) during which time the international and national professional staff would both be in place, although this would not apply if the existing staff were reappointed on national contracts. This assumes that the national centre would also be located in Malta. Should this not be the case, the handover and transitional arrangements would inevitably be more complex;

- transfer of files – while activity-related documentation would remain during the transition to the new Centre, those files which form a part of IMO’s financial records would be transferred back to IMO HQ; and
- termination of lease arrangements and disposal of plant and equipment – depending on the nature and location of any future national Centre, it would be necessary to close the offices, dispose of surplus plant and equipment and terminate any outstanding lease arrangements.

26. To ensure an orderly transition between structures, and taking into account the notice period for the staff involved, IMO and UNEP believe it would be necessary to allow for a six month transitional period during which time staff would gradually be separated and national Centre staff recruited.

Financial impacts

27. The estimated financial costs to the MAP/MTF for the 2014-2015 biennium, looking at staff costs and implementation costs alone for comparison purposes, and based on the timings and assumptions indicated above, using 2013 budget salary levels as a baseline for IMO staff and assuming a 5% annual increase for, with transitional costs relating solely to staff separation⁷, and using national staff salary costs consistent with those used in the Extended Function Review are set out below⁸:

Cost element	2014 €'000	2015 €'000	2014-2015 biennium €'000
Transitional and implementation costs	605	-	605
Salary costs, IMO staff (end June 2014)	295	-	295
Salary costs, national civil servants (start May 2014)	217	343	560
Total staff costs	1,117	343	1,460

28. In financial terms, the re-establishment of REMPEC as a national Centre would have a significant short-term financial impact on the MTF as the costs associated with the implementation of this recommendation, most notably the separation of all staff members and the recruitment of new staff members based on national rules, are substantial. The costs presented above are on a ‘best estimate’ basis, as there remain significant uncertainties, particularly the location and nature of the new national Centre. For example, while the costs above are based on an assumption that the current host country for REMPEC will also host the national Centre in the current premises, should that not be

⁷ There is inevitably some uncertainty about the final cost of staff separation, which could be influenced by factors including the amount of annual leave taken by staff up to separation, exchange rate fluctuations or changes in the salary scale, and any associated legal costs. The separation costs are therefore a best estimate based on the provisions of IMO’s Staff Regulations and Staff Rules, precedent established by past practice, and the present situation of the staff in question.

⁸ A disaggregation of transitional and implementation costs prepared by IMO is shown in annex 2.

the case, additional costs could also be incurred in order to transfer the Centre's assets and archives to another country or to other premises within the current host country.

29. Furthermore, separation of existing staff from their current service would require that appropriate notice is given to them in accordance with IMO's regulations and rules, which is a minimum of one month, although in view of the nature of this option, with its forced separations, it would only be fair and reasonable to give a longer period of notice. This notice period would be incorporated into the transitional and handover timeframe set out above. The note previously prepared by the IMO Secretariat, document UNEP(DEPI)/WG.376/INF/4, refers.

Recap

30. The option set out in the Extended Functional Review has advantages in terms of the long-term operational costs of the Centre (although these would not be realised until the 2016-2017 biennium as a result of the significant cost of implementation), and the standardization of arrangements with other RACs. Such an approach would increase the level of risk with regard to emergency response within the Centre's remit, raising some complex legal issues with regard to the relevant Conventions and Protocols, and has significant implementation costs in the coming biennium.

Option 2 – Maintaining a 'streamlined' REMPEC as a UN Centre administered by IMO

Parameters and assumptions

31. In developing an alternative option to address the challenges outlined in paragraph 16, whilst avoiding or mitigating the issues and risks identified in paragraphs 21-24, IMO has sought to find an administrative model which maintains the international status of the Centre while reducing the administrative costs, and consequently increasing the proportion of funding available for activities. In developing such a model, certain parameters were established in advance:

- **in order to achieve its mandate REMPEC has to be adequately staffed** – a review of the scope and breadth of the functions of the Centre leads to the conclusion that a minimum of three programme (or Professional) staff members would be necessary to effectively operate the Centre at an acceptable standard to service the objectives and functions of the Prevention and Emergency Protocol 2004 to cover i) prevention of operational pollution from ships, ii) preparedness for and response to accidental marine pollution from oil and iii) other harmful substances). As a result, in place of the existing structure set out in the table under paragraph 14, it would be possible to continue to run the Centre effectively with **one P4 post and two P3 positions**; the specific level of posts has been determined based on the academic qualifications required, breadth of knowledge and experience to execute the expected duties by the professional staff and the experience IMO has with posts with identical responsibilities in its Headquarters. The foregoing staffing assessment is consistent with the conclusion of the Extended Functional Review, and with the original staffing of the Centre at the time of its establishment;
- **no provision for additional Offshore Protocol duties** – the revised structure does not, however, take into account the demands of any new duties arising from the introduction of the Offshore Protocol. Should such duties prove to be extensive in scope they would require additional resources under the three options, whether delivered through an increase in the complement or through activity-specific or project-based funding; and

- **alternative revenue sources not presently in place** – while one way of reducing the net costs to the MTF would be through funding of existing posts or operational costs from other sources, as no formal offer is presently in place at this time, such potential revenue has not been included for comparison purposes.

32. It is further assumed that the scope of operations of the Centre for 2014-2015 will follow the objectives, functions and mandate of REMPEC as embedded in the legal instruments adopted by the Contracting Parties, noting in particular that the draft POW for the 2014-2015 biennium of the MAP (UNEP (DEPI)/MED IG.21/7) indicates that REMPEC would support, either solely or with other MAP components certain “expected results” The following is a listing of expected results extracted from document UNEP (DEPI)/MED IG.21/7 where REMPEC is specifically referred to as one of the components responsible for the implementation of the expected results but does not included expected results attributed to the generic “MAP Components”:

Theme I: Governance

Output 1.2 Implementation gap filled: Contracting Parties supported in meeting the objectives of BC, protocols and adopted strategies

Development of new and revision of existing regional Strategies and Action Plans

Expected results - Regional Strategy for prevention of and response to marine pollution from ships revised and updated

Expected results - Offshore Protocol Action Plan

Theme II: Integrated Coastal Zone Management (ICZM)

Output 2.1 Coastal zone management achieves effective balance between development and protection (sustainable development of coastal zone)

Technical Assistance and Capacity Building

Expected results -: Ranking of ports to be equipped on priority with port reception facilities established and capacity building conducted to facilitate exchange between ship owners, port authorities and other interested parties needs

Theme III: Biodiversity

Output 3.2 Biodiversity conservation and sustainable use (strategic vision, new objectives in the post 2010 context, including fisheries, ballast, non-indigenous species), endangered and threatened species

Information Systems Expected results - A web based Regional Ballast Water Information Exchange System developed and public awareness on ships' ballast water and invasive aquatic species conducted

Theme IV: Pollution Prevention and Control

Output 4.1 Early warning of pollution (spills, dangerous/hazardous substances)

Technical Assistance and Capacity Building

Expected results - National and sub-regional capacities strengthened to respond to a spill and reliable regional assistance developed as a priority (MEDESS 4MS)

Expected results - National marine pollution contingency plans for Libya and Lebanon and a national system for Hazardous Noxious Substance (HNS) for Egypt developed

Output 4.2 Lower Levels of pollution in the Mediterranean marine and coastal environments

Technical Assistance and Capacity Building

Expected results - Mediterranean network of law enforcement officials and related activity such as joint surveillance operation organized

Theme VI: Climate change

Output 6.2 Reduced socio-economic vulnerability

Technical Assistance and Capacity Building

Expected results - Assistance provided in the process of declaring the Mediterranean sea area as an Emission Control Area (ECA) and promoting other agreed tools to mitigate emissions from ships (the package of IMO measures for addressing GHG emission)

Summary of approach

33. In order to achieve the necessary reduction in operational costs, it is necessary to review both the number of posts, and the grades of those posts. Following a detailed review, IMO has concluded that the following changes would be feasible, while still maintaining the Centre's capacity to deliver, based on the premise established in Resolution 7 of the 1976 Diplomatic Conference, that there is to be no additional cost to IMO for its continued exercise of functions and responsibilities over REMPEC:

- **reduction in grade of Professional (Programme Officer) posts** – while the grading and staffing of the present structure has been agreed over a number of years by the Contracting Parties, it is necessary to recognize that such a structure will not meet future requirements. As a result, IMO believe that, in place of the existing structure set out in the table under paragraph 14, it would be possible to continue to run the Centre effectively with **one P4 post and two P3 positions**; and
- **reduction in number of General Service (administrative) posts** – as noted in the Extended Functional Review, the ratio of general staff to programme staff at REMPEC is the highest in the MAP system. In order to address this, IMO believe it would be possible to **reduce the number of General Service posts to three**. This is consistent with the target ratio set out in the Extended Functional Review and would be achieved by streamlining administrative functions to the extent possible.

34. The implementation of these two initiatives would result in a staffing table as shown below:

Current Designation	Grade	Budget/year (Euro)⁹
Head of Office	P4	120,828
Programme Officer	P3	114,592
Programme Officer	P3	114,592
Administrative/Financial Assistant ²	G7	19,674
Assistant to the Head of Office	G7	30,115
Administrative Assistant/Secretary	G5	26,863

⁹ For retained staff, figures are based on budget (2013) salaries to allow for a comparison with present staff costs presented in the table under paragraph 14, and the savings from implementation of Option 1 set out in paragraph 19. For new staff, figures are based on existing UN salary scales for Malta, at dependency rate.

Current Designation	Grade	Budget/year (Euro) ⁹
TOTAL		426,664

35. This leaner structure would represent a significant streamlining of grade and post, achieving annual savings of €135k to the MTF following its implementation, without additional costs and burdens for IMO in providing its administrative functions over REMPEC.

Implementation approach

36. As with the option recommended by the External Functional Review, the benefits of the revised structure could only be realized through a programme of separation for some existing staff of the Centre. UNEP and IMO believe that this could best be achieved by completing the transition within the coming biennium – in view of the age and tenure of the staff there is little to be gained by delaying implementation until the staff in question separate of their own accord, whether by retirement or other means.

37. Since the Centre would remain in place, and a number of staff would continue in employment providing an institutional memory, there would be no relocation costs associated with this implementation, and no need for a significant overlap of incoming and outgoing staff for handover purposes. The implementation steps would therefore involve:

- the separation of the Director and Senior Programme Officer, the former at mid-2014, the latter at the end of that year, and their replacement at approximately the same times by P3-grade Programme Officers; and
- the separation of the Secretary and the Technical Assistant (Logistics), such work to be absorbed and distributed amongst the remaining General Service staff or, as necessary, bought in.

38. This would complete the transition by 1 January 2015.

Financial impacts

39. The estimated salary and implementation costs to the MAP/MTF for the 2014-2015 biennium, based on the timings indicated above, using 2013 budget salary levels as a baseline and assuming a 5% annual increase, with transitional costs relating to staff separation¹⁰ and assuming €30,000 recruitment costs for each new programme officer, are set out below¹¹:

Cost element	2014 €'000	2015 €'000	2014-2015 biennium €'000
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¹⁰ There is inevitably some uncertainty about the final cost of staff separation, which could be influenced by factors including the amount of annual leave taken by staff up to separation, exchange rate fluctuations or changes in the salary scale, and any associated legal costs. The separation costs are therefore a best estimate based on the provisions of IMO's Staff Regulations and Staff Rules, precedent established by past practice, and the present situation of the staff in question.

¹¹ A disaggregation of transitional and implementation costs is provided in annex 2.

Transitional and implementation costs	423	30	453
Salary costs, IMO staff	527	447	974
Salary costs, national civil servants	-	-	-
Total staff costs	950	477	1,427

40. The benefits of this option could be realized within the current biennium, with more funds being available for activities during 2014-2015 than under Option 1, as the implementation costs associated with this option are significantly lower.
41. It would be possible, should it be preferred by the Contracting Parties, to implement this option in a phased manner over the 2014-2015 and the 2016-2017 biennium. This would have the advantage of minimising transition risks, and from a financial perspective would in principle have the effect of deferring an element of the implementation costs to future biennia, with a proportion of the reduction in operating costs not being realized until implementation is completed. The net effect of this would be a reduction in the costs for 2014-2015 and an increase in 2016-2017.
42. To take a specific example, should the existing Senior Programme Officer be retained until mid-2016, the costs for the 2014-2015 biennium would be approximately €1,272k¹², a reduction of €155k for the biennium, while a further €199k of implementation costs to be incurred in 2016-2017 to complete the transition to the new structure.

Advantages

43. The key advantage of this approach is risk mitigation – while the changes proposed in the staffing of the Centre present operational and technical challenges, the degree of change in nature is significantly lower and, consequently, the risks associated with implementation are equally lower, something which is also reflected in the significantly lower implementation costs. The Centre can continue to deliver its mandate with the international status and capability to allow it to deal effectively with emergency situations as well as regular programme delivery.
44. In addition, with the thorough streamlining implemented in 2014-2015, the staff cost component would be reduced by some €135,000 from that point forward, increasing the MTF funds available for activities.

Disadvantages and Risks

45. There are some risks associated with the selection of this approach, the main ones identified by UNEP and IMO being:
- **ongoing pressure on budgets** – while the Centre is being significantly streamlined under this option, operating costs will continue to be at a level higher than those of a national centre. If the downward pressure on budgets of the MAP were to continue in future biennia, then there will remain few if any efficiency savings to be made with REMPEC as presently structured, standard wage increases will once again reduce the funds available for activities, and the question of a national centre will inevitably re-emerge. This option presents a long-term solution only if, in the view of the Contracting Parties, the long-term funding of the MAP is likely to continue at a level no lower than the present biennium with appropriate inflationary adjustments; and

¹² Comprising €255k transitional and implementation costs, €1,017k in salary costs

- **transitional arrangements** – the separation of two senior staff will inevitably put significant pressure on the remaining staff and the incoming more junior replacements. There will inevitably be challenges in continuing the high standard of REMPEC’s work through the implementation period.

Recap

46. The retention of REMPEC as an international centre administered by IMO has a significantly lower transitional implementation costs, while the reduction in staffing levels and post grades means that overall operational costs can be reduced. While the longer-term operating costs are estimated to be €135,000 lower than present salary levels, compared with an annual €250,000 saving under the option presented by the Extended Functional Review, option 2 is a lower risk option, as the international status and the institutional knowledge of the centre is maintained.

Option 3 – Re-establish REMPEC as a National Centre with an International status:

47. The implication of the implementation of this option will be similar to option 1 as outlined above. The Centre will be re-established as a national centre hosted by the concerned Party. Staff will be seconded/hired by the host country except for the Head of the Centre who will be a UNEP staff seconded by UNEP. The level/grade and seniority will determine the running annual cost of such Centre.

Conclusion

48. The key features of the three options presented are summarized in the table below.

	Option 1 – re-establish REMPEC as a national Centre	Option 2 – maintain REMPEC as an international Centre under IMO	Option 3 -
Total salary and implementation costs in the 2014-2015 biennium, €’000	1,460	1,427	1,460
Annual salary costs following implementation, €’000	311	427	311 including salary cost of UN Official
Key advantages	Ongoing cost reduction, ‘payback’ on implementation costs of 2.5 years Standard approach	Lower cost of implementation but retains some annual cost savings, ‘payback’ on implementation costs	Ongoing cost reduction, ‘payback’ on implementation costs of 2.5 years

	Option 1 – re-establish REMPEC as a national Centre	Option 2 – maintain REMPEC as an international Centre under IMO	Option 3 -
	for all RACs	of 3.5 years Retention of international status allows for continued delivery of mandate, no amendment to Conventions and Protocols Significantly lower level of implementation risk	
Key risks	<p>Loss of international status presents a risk to emergency response role</p> <p>Legal issues with respect to relevant Conventions and Protocols</p> <p>Significant implementation costs</p> <p>Loss of institutional memory and IMO technical advice and backstopping</p> <p>Risks associated with such a major transition in operational arrangements</p>	<p>Lack of clarity over long-term funding expectations for MAP, consequently may provide only short-term solution</p> <p>Lower annual cost savings following implementation</p> <p>Staff streamlining would reduce capacity to take on expanded role, should that be necessary</p>	<p>Loss of full International status may presents a risk to emergency response role</p> <p>Legal issues with respect to relevant Conventions and Protocols</p> <p>Significant implementation costs</p> <p>Loss of institutional memory and IMO technical advice and backstopping</p> <p>Risks associated with such a major transition in operational arrangements</p>

49. The Contracting Parties should be aware that, given the extent of change required, the 2014-2015 biennium will be one of change and challenge for REMPEC under either option, and the long-term success of the Centre, and the effective discharge of its mandate, will require the continued financial and non-financial support of all stakeholders.

50. Should a decision on either option presented in this document not be taken at the forthcoming COP, the Contracting Parties should further be aware that it will not be

possible to take even initial steps for closing or transforming REMPEC until such a decision is taken. Given also that the Centre cannot be closed or transformed overnight, irrespective of the option selected, an adequate budget will need to be confirmed by the COP in order to maintain and continue the Centre's existing operational arrangements until a firm decision is reached by the Contracting Parties, while taking into account also the six month transition period that is required.

51. Annex 1 – Pertinent aspects of IMO's Staff Regulations and Staff Rules

To provide the necessary context for the implementation costs relating to the two options for the future operation of REMPEC, the following paragraphs summarize the IMO Staff Regulations and Staff Rules which are relevant for the purpose of implementing any decision related to the operation of the Centre, namely reclassification of posts, termination of appointments and assignment grants:

- *Reclassification of posts:* in the case of a post being downgraded, the incumbent will retain the grade already held, on the basis of "present incumbent only" in that post. If and when the post subsequently falls vacant, it will be filled at the new, lower grade.
- *Separation:* when the Secretary General terminates a fixed term appointment, the concerned staff will be paid a termination indemnity which amount may vary depending on the length of service and the circumstances under which the contract is terminated. With regards to internationally recruited staff, the Organization is also under an obligation to pay for the return and repatriation grant of the concerned staff member.
- *Assignment grant:* a staff member shall be paid an assignment grant when the staff member travels at the expense of the Organization on initial appointment expected to be of at least one year's duration.

Annex 2 – Disaggregation of estimated transitional and implementation costs

While transitional and implementation costs necessarily involve a degree of estimation, as noted in the document, the following table provides a disaggregation of the figures presented in the tables following paragraphs 27 and 38 in the document:

	Option 1		Option 2	
	2014, €	2015, €	2014, €	2015, €
Accrued annual leave	24	-	19	-
Termination indemnity	503	-	330	-
Repatriation	56	-	33	-
Removal and travel	22	-	11	-
Recruitment cost	-	-	30	30
TOTAL	605	-	423	30

These cost estimates a best estimate based on the provisions of IMO's Staff Regulations and Staff Rules, precedent established by past practice, and the present situation of the staff in question. Should the implementation of Option 2 be phased over two biennia as mentioned in paragraph 41, transitional and implementation costs in the biennium would be estimated at €255,000.

Annex 3 – Example of 2 Models of arrangements that exist in NOWPAP and Caribbean regions

Regional Centres for Pollution Preparedness, Emergency Response and Cooperation in other Regional Seas Conventions and Action Plans

Information is provided in this section using two examples of how other regions have organized themselves on the important area of pollution preparedness, response and cooperation. It is expected that these examples will be of assistance to the Contracting Parties of the Barcelona Convention in their decision making process.

North West Pacific Region (NOWPAP)

In the North West Pacific Region the participating countries, i.e., Japan, the People's Republic of China, the Republic of Korea and the Russian Federation, agreed in 1994 on the adoption of an Action Plan for the Protection, Management and Development of the Marine and Coastal Environment of the Northwest Pacific Region. They decided not to have a convention and therefore there is no protocol on emergency response in case of oil or other harmful substances spills. Considering that the four NOWPAP participating countries are Contracting Parties to the IMO International Convention on Oil Pollution Preparedness, Response and Co-Operation, 1990 (OPRC 1990, which entered into force on 13 May 1995¹³), the NOWPAP participating countries developed the NOWPAP Regional Oil Spill Contingency Plan and adopted it as technical and operational guidelines for regional cooperation in cases of oil spill emergencies in 2003. An associated "Memorandum of Understanding on Regional Cooperation Regarding Preparedness and Response to Oil Spills in the Marine Environment of the Northwest Pacific Region" was signed by all the participating countries, at ministerial level, in Busan, in November 2004. According to this, each NOWPAP participating country is able to request assistance from another participating country in the case of emergencies caused by large oil spill accidents. To deal with the pollution incidents by Hazardous and Noxious Substances (HNS), it was agreed in 2005 to develop a combined Oil and HNS Spill Contingency Plan by adding HNS issues to the existing NOWPAP Regional Oil Spill Contingency Plan rather than developing an independent HNS contingency plan. The NOWPAP member states developed the NOWPAP Regional Oil and HNS Spill Contingency Plan, and adopted it through a Resolution of their Thirteenth Intergovernmental Meeting in 2009.

The Marine Environmental Emergency Preparedness and Response Regional Activity Centre (MERRAC) was established on 22 March 2000 following the decision of the Fourth NOWPAP Intergovernmental Meeting of April 1999, as a joint effort by UNEP and IMO, in the Maritime and Ocean Engineering Research Institute within Korea Ocean Research and Development Institute (MOERI/KORDI) in Daejeon, the Republic of Korea. MERRAC is responsible for regional cooperation in the field of marine pollution prevention and response in the Northwest Pacific region and is supported by UNEP and IMO. There is a memorandum of understanding relating to the establishment and operation of MERRAC, signed by UNEP, IMO and MOERI/KORDI in July 2000. According to the MOU, the role of UNEP and IMO is to provide any non-restricted publications and data/information relevant to UNEP Regional Seas Programme and the NOWAP and to provide technical advice, including provision of guidelines and technical manuals to expand the Centre's capabilities of marine pollution prevention preparedness and response.

¹³ Japan, the People's Republic of China and the Republic of Korea are also Parties to the Protocol on Preparedness, Response and Co-Operation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (OPRC-HNS 2000, which entered into force on 14 June 2007).

The operation of MERRAC is financially supported by the Government of the Republic of Korea. This support includes operational costs such as personnel salaries, travel expenses and other miscellaneous costs, except in cases where these are budgeted for specific projects funded from the NOWPAP Trust Fund. MERRAC does not have UN status since it is not a UN centre. Thus its officers do not hold UN contracts. The staff number varies since two are rather fixed positions and the others are consultants, usually around five.

Cartagena Convention for the Protection and Development of the Marine Environment in the Wider Caribbean Region

The Action Plan adopted in 1981 led to the adoption of the Cartagena Convention in 1983 as a comprehensive umbrella agreement for the protection and development of the marine environment in the region. The Convention has been supplemented by three protocols, among them the Protocol Concerning Cooperation and Development in Combating Oil Spills in the Wider Caribbean Region, adopted at the same time of the convention in 1983, and entered into force on 11 October 1986. The Regional Marine Pollution Emergency Information and Training Center for the Wider Caribbean (REMPEITC-Caribe) is the Regional Activity Centre for the Protocol. The Seventh Intergovernmental Meeting of the Action Plan and Fourth COP of the Cartagena Convention and Protocols, in December 1994, adopted the decision to have a Regional Maritime Pollution Emergency Information and Training Center for the Wider Caribbean Region, based on the initiative of the Netherlands Antilles, and requested IMO and UNEP to consider means to sustain the operation of the Center and to develop the necessary institutional arrangements.

A tripartite agreement for the establishment of the centre was signed between IMO, UNEP and the Netherlands Antilles. With the change in the status of the Netherlands Antilles within the Kingdom of the Netherlands¹⁴, it was agreed to have now two separate memoranda of understanding. The first between UNEP and the Government of Curacao to host the Centre and the second between IMO and the Centre itself, to allow for the provision of technical and financial support for projects and activities in a more clearly identified and structured way. Both MOUs are currently being negotiated. Under the most recent draft MOU, the centre would be established as an entity of the host Government of Curacao. IMO Experts, as they are termed, have always been seconded by governments -in the case of France, by the company Total- but staff members do not hold IMO contracts. The local support staff members are also contracted by the Host Government, which fully funds the centre. IMO through its Technical Assistance Programme provides funds for activities and to a lesser degree UNEP through the Trust Fund for selected workshops.

The staff numbers vary, usually there are two or three consultants, a locally hired full time director and one full time locally recruited office assistant. The levels of the consultants depend on the sponsoring Governments. There are no specific agreements with Governments to provide experts. It is the COP that has adopted decisions which have requested the Coordinator in collaboration with IMO and the Centre itself to approach Host Governments and companies, such as Total, to provide ongoing support. Its nationally-provided director gives only 20% of his time to the Centre; (c) the professional staff (i.e. the so-called "IMO Experts") are not UN employees but secondees provided through Member States of IMO, at IMO's request, for varied periods of time; (d) the only full-time official of the Centre is the locally-recruited office assistant; (e) in the event of an emergency response operation, the so-called "IMO Experts" may, individually, have the expertise and experience to coordinate that action but, in their absence, the Centre itself does not have the capacity

¹⁴ The Netherlands Antilles ceased to exist as part of the Kingdom of the Netherlands with effect from 10 October 2010. From that date onwards Curacao and Sint Maarten enjoy internal self-government within the kingdom. Curacao is a Party to the Cartagena Convention through the Kingdom of the Netherlands, which retains Foreign Affairs and Defense functions.

and, arguably, the mandate; and (f) the Centre does not have the regional “Secretariat” functions usually deriving from a treaty instrument. In respect of (e) and (f), please note that relevant functions under the Oil Spill Protocol to the Cartagena Convention are the responsibility of UNEP “through the Regional Coordinating Unit when established and in close cooperation with the International Maritime Organization” (see Article 9 of the Protocol and Articles 2 and 15 of the Convention).