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and the Coastal Region of the Mediterranean and its Protocols

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Agenda Item 3: Thematic 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 2019 to October 2021, as requested by Decision IG.21/9

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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 2018-2019 biennium were reported to the Twenty-first Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (Naples, Italy, 2-5 December 2019), in a report covering the period from July 2017 to October 2019, as laid down in document UNEP/MED IG.24/Inf.9.

In this context, the present document, which covers the period from November 2019 to October 2021, provides information on the activities carried out so far by the network during the 2020-2021 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 November 2019 to October 2021, 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, 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.

Fourth Meeting of MENELAS (online, 21-22 April 2021)

The Fourth Meeting of MENELAS was organised by the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) remotely from 21 to 22 April 2021, pursuant to the Programme of Work and Budget 2020-2021² 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 2020-2021, and 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 2022-2023 and elect the chair of the network for the said period.

All MENELAS DR were invited to attend the Fourth Meeting of MENELAS that gathered over fifty (50) participants from seventeen (17) Contracting Parties to the Barcelona Convention that were participating members of MENELAS (Albania, Bosnia and Herzegovina, Croatia, Cyprus, Egypt, France, Greece, Israel, Libya, Malta, Montenegro, Morocco, Spain, the Syrian Arab Republic, Tunisia, Turkey, and the European Union), as well as nine (9) organisations, the activities of which were relevant to the work of MENELAS, namely the International Oil Pollution Compensation Funds (IOPC Funds), the International Criminal Police Organization-INTERPOL, the OSPAR Commission³, the Bonn Agreement⁴, the Baltic Marine Environment Protection Commission (Helsinki Commission or HELCOM)⁵ and the RAMOGE Agreement⁶, as well as the Chair of the North Sea Network of Investigators and Prosecutors (NSN) and President of the Network of Prosecutors on Environmental Crime in the Baltic Sea Region (ENPRO), and The MedFund.

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

² UNEP/MED IG.24/22, Decision IG.24/14.

³ the Commission 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.

The Fourth Meeting of MENELAS adopted a set of Conclusions and Recommendations, elected Turkey as chair of the network for the period 2022-2023 and agreed to extend the mandate of the working group within MENELAS until 30 September 2022 to oversee, through correspondence coordinated by the Secretariat, the completion of relevant work.

The Fourth Meeting of MENELAS also agreed to include the following items in the MENELAS Programme of Activities for the period 2022-2023:

- the finalisation of a draft common marine oil pollution detection/investigation report, within the framework of the Barcelona Convention and MENELAS;
- the further development of modalities of possible creation and operation, including in terms of governance and financing, of a regional “Blue Fund”;
- the finalisation of 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; and
- the establishment of a MENELAS database on illicit ship pollution discharges in the Mediterranean.

The report of the Fourth Meeting of MENELAS was submitted to the Fourteenth Meeting of the Focal Points of REMPEC (online, 31 May-2 June 2021), as set out in document REMPEC/WG.51/INF.8, for its information.

Implementation of the MENELAS Programme of Activities for the period 2020-2021

Since November 2019 and, with a view to implementing the MENELAS Programme of Activities for the period 2020-2021, REMPEC has been following up on the Conclusions and Recommendations adopted by the Third Meeting of MENELAS (Valletta, Malta, 15-16 October 2019).

The working group within MENELAS, which was established, as agreed by the Third Meeting of MENELAS, worked through correspondence coordinated by the Secretariat (REMPEC), and focused essentially on reviewing existing applicable sanctions at national level with regard to illicit ship pollution discharges.

On the basis of the work of the working group within MENELAS, the Secretariat (REMPEC) prepared elements of 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 were discussed at the Fourth Meeting of MENELAS and agreed to be taken as a basis for the finalisation of the said draft decision.

Moreover, having agreed to take the standard forms developed and used by relevant regional and international organisations, namely the International Maritime Organization (IMO), the NSN, the Bonn Agreement, and HELCOM, as a basis for the finalisation of a draft common marine oil pollution detection/investigation report, within the framework of the Barcelona Convention and MENELAS, the Fourth Meeting of MENELAS also stressed the importance to obtain first-hand experience in the Mediterranean region with the implementation of the said standard forms and recommended that these were used during a forthcoming coordinated aerial surveillance operation for illicit ship pollution discharges in the Mediterranean (OSCAR-MED) to be organised by the Secretariat of the RAMOGE Agreement, with the participation of Mediterranean coastal States and, possibly, interested Contracting Parties to the Bonn Agreement and HELCOM and their respective secretariats. The Fourteenth Meeting of the Focal Points of REMPEC subsequently agreed to invite Mediterranean coastal States to participate in the forthcoming OSCAR-MED, as appropriate, and requested the Secretariat (REMPEC) to submit the finalised draft common marine oil pollution detection/investigation report to the Fifteenth Meeting of the Focal Points of REMPEC to be held tentatively in 2023 for endorsement.

Furthermore, the Fourth Meeting of MENELAS highlighted that further work was necessary to develop the modalities of possible creation and operation, including in terms of governance and financing, of a regional “Blue Fund”, as proposed by France in 2017. The meeting noted with interest that the setting up of such modalities was one of the actions contemplated by the Action Plan of the draft Mediterranean Strategy for the Prevention, Preparedness, and Response to Marine Pollution from Ships (2022-2031), and asked the Secretariat (REMPEC), in this respect, to explore how to develop more concretely these modalities, and to submit elements for such modalities to the next meeting of MENELAS.

During the intersessional period, the Secretariat (REMPEC) liaised with the Croatian presidency of the network regarding its proposal to possibly define criteria to determine the reparation of environmental damage beyond the compensation of the cleaning operations resulting from pollution of the marine environment from ships and to harmonise practices to that end, which was presented at the Fourth Meeting of MENELAS. Whilst expressing appreciation to Croatia for providing information on its proposal and recognising that the scope of the proposal addressing liability and compensation to environmental damage within the Barcelona Convention and its Protocols, went beyond the MARPOL Convention, the Fourth Meeting of MENELAS encouraged Croatia, in the context of the on-going consultation on the UNEP/MAP Programme of Work and Budget for 2022-2023, to request the inclusion of an activity/survey on the application of Article 16 of the Barcelona Convention and the related guidelines, to be coordinated by the Coordinating Unit for the MAP - Barcelona Convention Secretariat, in consultation with MAP Components.

Additionally, with regard to the establishment of a MENELAS database on illicit ship pollution discharges in the Mediterranean, the Fourteenth Meeting of the Focal Points of REMPEC encouraged the Contracting Parties to the Barcelona Convention to regularly update their Country Profiles, the Mediterranean Integrated Geographical Information System on Marine Pollution Risk Assessment and Response (MEDGIS-MAR), and the MENELAS Information System.

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 launched, amongst others, its new REMPEC.2.0 website (<https://www.rempec.org>) as well as the new MENELAS Information System (<http://www.menelas.org>). All REMPEC websites are now hosted on the server of the Regional Activity Centre for Information and Communication (INFO/RAC) together with the Preparedness for Oil-polluted Shoreline clean-up and Oiled Wildlife interventions’ (POSOW) and MEDGIS-MAR websites, which were transferred in 2019.

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 organised the Sub-Regional Meeting on the Better Management of Marine Litter from Sea-based Sources in Ports and Marinas in the Adriatic (Sliema, Malta, 29-30 January 2020), which was part of the 2018-2019 activities funded by the Cooperation Agreement between the Italian Ministry of Environment, Land and Sea (IMELS) and UNEP, to discuss the outcome of the national pilots and follow-up measures in the Adriatic, including the implementation of the Operational Guidelines on the provision of reception facilities in ports and the delivery of ship-generated wastes in the Mediterranean, as well as 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 (Naples, Italy, 2-5 December 2019). The Secretariat (REMPEC) contributed to the preparation of the EU-funded “Marine Litter-MED II” Project proposal, ensuring continuity and building on the outcome of the first phase of the project, as well as integrating relevant aspects of the IMO Action Plan to address marine plastic litter from ships in the said proposal. It also attended the First Meeting of the Working Group of Experts on Upgrading the Regional Plan on Marine Litter Management (videoconference, 31 March - 1 April 2021).

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 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 ENPRO.

In this respect, the Third Meeting of MENELAS and the Fourth 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, *inter alia*, the 76th session of the IMO's Marine Environment Protection Committee (MEPC 76) (online, 10-17 June 2021). Progress reports on REMPEC activities were prepared and published for MEPC 75 (online, 16-20 November 2020) and for MEPC 76. Developments within MENELAS were presented, amongst others, at the 16th Inter-Secretariat Meeting between Regional Agreement Secretariats, DG ECHO⁷ and EMSA (Brussels, Belgium, 5 February 2020), where synergies and follow-up actions were agreed upon. REMPEC also attended the 17th Inter-Secretariat meeting between Regional Agreement Secretariats, European Commission and EMSA (online, 24-25 February 2021).

The Centre has also been exploring synergies, together with the IMO Secretariat and the Coordinating Unit for the MAP - Barcelona Convention Secretariat, between 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 (LBS Protocol) and the IMO Action Plan to address marine plastic litter from ships, by establishing a 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.

In preparations for the Fourth Meeting of MENELAS, REMPEC liaised with the Secretariat of the IOPC Funds regarding the Croatian proposal to possibly define criteria to determine the reparation of environmental damage beyond the compensation of the cleaning operations resulting from pollution of the marine environment from ships and to harmonise practices to that end.

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 following events:

- Bonn Agreement MARPOL Annex VI Experts Workshop (online, 2-5 February 2021), the outcome of which was jointly presented at the Fourth Meeting of MENELAS by the OSPAR Commission/Bonn Agreement Secretariat and the Chair of the NSN, together with information on the NSN MARPOL Annex VI cases; and
- the 2021 Meeting of the NSN (videoconference, 29 April 2021), during which the Secretariat (REMPEC) provided information on the outcome of the Fourth Meeting of MENELAS.

⁷ Directorate-General for European Civil Protection and Humanitarian Aid Operations.

During the intersessional period, REMPEC liaised with The MedFund in order to obtain information on the modalities of creation and operation, including in terms of governance and financing, of this fund, with a view to supporting the work on the further development of a regional “Blue Fund”. In this respect, during the Fourth Meeting of MENELAS, the representative of The MedFund provided insights as well as shared experience regarding the creation and operation, including in terms of governance and financing, of this fund that aims at mobilising public and private actors in order to promote the development and effectiveness of Mediterranean Marine Protected Areas (MPAs).

At the Fourth Meeting of MENELAS, the representative from the European Union (EU) presented the planned revision of Directive 2005/35/EC⁸, and the development of a harmonised reporting template in accordance with Article 12 thereof, and the HELCOM Secretariat provided information on HELCOM latest activities of relevance to 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 2.0 (1-31 October 2019) that was the second INTERPOL global enforcement operation targeting marine pollution crime, the key findings of which were presented at the Fourth Meeting of MENELAS in an information document (REMPEC/WG.48/INF.7) as well as through a presentation.

Last but not least, the Secretariat (REMPEC) invited the Contracting Parties to the Barcelona Convention to share information on any coordinated aerial surveillance operations for illicit ship pollution discharges. It also discussed with the Secretariat of the RAMOGE Agreement about the possibility of using the draft common marine oil pollution detection/investigation report, within the framework of the Barcelona Convention and MENELAS, during a forthcoming OSCAR-MED to be possibly organised with the participation of Mediterranean coastal States as well as interested Contracting Parties to the Bonn Agreement and HELCOM and their respective secretariats.

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.