

6th Meeting of the Focal Points of the
Regional Marine Pollution Emergency
Response Centre for the Mediterranean
Sea (REMPEC)

REMPEC/WG.21/6
13 January 2003

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Agenda Item 6

**THE PROCESS OF REVISION OF 1976 EMERGENCY PROTOCOL
AND THE ADOPTION OF THE NEW PREVENTION AND EMERGENCY PROTOCOL
(PROTOCOL CONCERNING CO-OPERATION
IN PREVENTING POLLUTION FROM SHIPS AND, IN CASES OF EMERGENCY,
COMBATING POLLUTION OF THE MEDITERRANEAN SEA)**

Note by REMPEC

Background

At their Tenth Ordinary Meeting held in Tunis, 18-21 November 1997, the Contracting Parties adopted a Resolution on the Regional Strategy on Prevention of the Pollution of the Marine Environment by Ships, proposed by the 1996 Meeting of REMPEC Focal Points, and decided that, as a consequence, "the Emergency Protocol is to be amended in order to introduce the provisions necessary to implement this strategy".

Pursuant to this decision, a Meeting of National Legal and Technical Experts on the Amendments to the Emergency Protocol was convened in Malta, 23-24 November 1998, to discuss draft amendments to the 1976 Emergency Protocol. The text proposed and the recommendations made by this Meeting were subsequently submitted to and discussed by the REMPEC's Focal Points Meeting, held in Malta, 25-28 November 1998. The REMPEC's Focal Points Meeting agreed on a number of amendments and decided that the further preparatory work should be carried out in close cooperation between UNEP/MEDU, IMO and REMPEC with a view to harmonizing the amendment process with that of the revised Barcelona Convention system.

In accordance with this decision, a team of consultants nominated in full agreement by UNEP/MAP, IMO and REMPEC met at REMPEC premises in Malta, 2-5 March 1999. On the basis the draft document agreed by the REMPEC's Focal Points Meeting and in conformity with its decision, additional extensive and substantive amendments were introduced to the Emergency Protocol.

Taking into consideration the developments that followed the Erika accident, the MAP Coordinating Unit (MEDU) initiated a new round of discussions with the consultants in order to reflect the principles emerging from the lessons learned from the Erika accident in the revised Emergency Protocol. On that basis, MEDU submitted a report to the Bureau of the Contracting Parties (Damascus, 31 October-1 November 2000) which recommended MEDU to convene, together with REMPEC and IMO, a meeting of experts responsible for examining the text of the draft revision in Monaco.

Second Meeting of National Legal and Technical Experts (Monaco, 2-6 April 2001)

During this meeting a document was discussed containing the draft text, some observations and modifications proposed by the Contracting Parties and IMO in relation to this text, and the complementary amendments prepared jointly by MEDU and REMPEC. The Meeting reached an agreement on the text and approved the **draft Protocol Concerning Cooperation in Preventing Pollution from Ships and in Combating Pollution of the Mediterranean Sea by Oil and Hazardous and Noxious Substances in Cases of Emergency**. The European Community expressed a reservation *ad referendum* regarding Article 1(d) of the draft Protocol. The Meeting also decided to recommend the adoption of a new Protocol, in view of the extensive and substantive amendments contained in the draft Protocol. It was further decided that the above draft Protocol would be circulated to the Contracting Parties for comments.

Meeting of MAP National Focal Points (Athens, 11-14 September 2001)

Following the dissemination of the draft Protocol, during summer 2001 further amendments were submitted by the European Community and circulated to the Contracting Parties. REMPEC and MEDU informed the Meeting of MAP Focal Points which took place in Athens (11-14 September 2001) about these last developments and the Meeting agreed that all the Contracting Parties would be asked to submit their comments on the new amendments from the EC to REMPEC in writing and that MEDU and REMPEC would then jointly convene in Malta, in October 2001, an open-ended *ad hoc* meeting, under the chairmanship of Malta, composed of representatives of the IMO, the European Community and members of the Bureau of the Second Meeting of National Legal and Technical Experts on the Amendments to the Emergency Protocol to the Barcelona Convention. The purpose of this open-ended *ad hoc* meeting would be to review the new amendment proposals and to facilitate the negotiating process. The Meeting also agreed that the text resulting from the open-ended *ad hoc* meeting would be submitted to the Twelfth Ordinary Meeting of the Contracting Parties for their consideration.

Open-ended Ad-hoc Meeting (Malta, 29-30 October 2001)

In accordance with the above decisions the open-ended *ad hoc* meeting of the Working Group of Experts on the Amendments to the Emergency Protocol to the Barcelona Convention was held in Malta, 29-30 October 2001. The meeting discussed the new amendments proposed by the European Commission with respect to the text of the new draft Emergency Protocol, as approved by the Second Meeting of National Legal and Technical Experts and examined additional comments and proposals, presented by other Contracting Parties (Bosnia and Herzegovina, Italy and Monaco). The representatives of Cyprus, Egypt, the European Community, France, Greece, MEDU and REMPEC attended the meeting. IMO could not attend the open-ended *ad hoc* Meeting; however, it provided written comments regarding the amendments proposed by the European Commission. After thorough consideration and discussion of the EC proposals, the open-ended *ad hoc* Meeting (Reference Document UNEP(DEC)/MED IG.13/Inf.10 "Note by the Secretariat on the Emergency Protocol") suggested that the text of certain Articles be submitted for final discussion and approval to the Third Meeting of National Legal and Technical Experts, to be held in Malta in January 2002.

Taking into consideration the importance of certain pending issues it was suggested that the Third Meeting of National Legal and Technical Experts would meet for three days (instead of two as proposed by MAP Focal Points), to be followed, after a one-day break to finalize the text, by a two-day Conference of Plenipotentiaries for signature of the text of the new Emergency Protocol.

On 2 November 2001, Turkey submitted to the Secretariat an amendment on the Draft Protocol.

12th Ordinary Meeting of the Contracting Parties (Monaco, 14-17 November 2001)

Based on the document UNEP(DEC)/MED IG.13/Inf.10 ("Note by the Secretariat on the Emergency Protocol") the Twelfth Ordinary Meeting of the Contracting Parties held in Monaco, 14-17 November

2001, recommended to the Contracting Parties to adopt the new Protocol formula rather than the amendments to the present Protocol. It also recommended to the Secretariat to finalize the text adopted by the Second Meeting of National Legal and Technical Experts on the Amendments to the Emergency Protocol to the Barcelona Convention (Monaco, 2-6 April 2001), taking into account the inputs from the Contracting Parties, and to make the necessary arrangements to convene a Third Meeting of National Legal and Technical Experts followed by a Conference of Plenipotentiaries to adopt the new Protocol, to be held in January 2002 in Malta, at the kind invitation of the Maltese Government.

At the Meeting, the European Community reserved itself to present a final proposal with regard to its new proposed amendments, taking into account the relevant comments raised during this meeting. It pointed out that the Council of the Community would need to be consulted and promised to make every effort to provide the Secretariat with its final proposal as soon as possible. The proposals by EC were received mid December 2001.

Third Meeting of National Legal and Technical Experts (Malta, 20-22 January 2002)

In conformity with the request of the Twelfth Ordinary Meeting of the Contracting Parties the Third Meeting of National Legal and Technical Experts on the Amendments to the Emergency Protocol was held in Malta 20-22 January 2002 at the kind invitation of the Maltese Government. As the basis for discussion during the Third Experts' Meeting the Secretariat proposed to use the draft Protocol, as adopted by the Second Meeting of National Legal and Technical Experts and including the results of the open-ended *ad hoc* meeting held in Malta in October 2001, and the final proposals submitted by the EU and Turkey respectively. The Meeting thoroughly discussed and commented on the text of the draft Protocol and on the proposed substantive amendments and agreed upon the final version of the draft Protocol concerning Cooperation in Preventing Pollution from Ships and in Combating Pollution of the Mediterranean Sea by Oil and Hazardous and Noxious Substances in Cases of Emergency which was reproduced in Annex III to the document UNEP(DEC)/MED WG.197/2.

The Meeting also reviewed and gave guidance for the finalization of draft resolutions prepared by the Secretariat for presenting to the Conference of Plenipotentiaries convened for 24-25 January 2002.

Conference of Plenipotentiaries on the Protocol concerning Cooperation in Preventing Pollution from Ships and in Combating Pollution of the Mediterranean Sea by Oil and Hazardous and Noxious Substances in Cases of Emergency (Malta, 24-25 January 2002)

Pursuant to the recommendation of the Twelfth Ordinary Meeting of the Contracting Parties and at the kind invitation of the Government of Malta the Conference of Plenipotentiaries was convened in Valletta on 24 and 25 January 2002. Document UNEP(DEC)/MED WG.197/2, containing the draft Protocol concerning Cooperation in Preventing Pollution from Ships and in Combating Pollution of the Mediterranean Sea by Oil and Hazardous and Noxious Substances in Cases of Emergency, served as the basis for the deliberations of the Conference.

The Conference decided to modify the title of the Protocol to the following: **Protocol concerning Cooperation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea**. On the basis of its deliberations and in accordance with Article 15(1) of the Barcelona Convention the Conference on 24 January 2002 adopted the new Protocol. In conformity with Article 25 of the Barcelona Convention this Protocol replaces the Protocol concerning Cooperation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in Cases of Emergency of 1976 (Emergency Protocol). In addition, the Conference adopted three Resolutions concerning respectively signature, ratification, acceptance, approval of and accession to the Protocol, interim arrangements and tribute to the Government of Malta.

The new Protocol was open for signature in Valletta, Malta on 25 January 2003 when eighteen Contracting Parties to the Barcelona Convention signed it. Subsequently, the Protocol remained open for signature by any other Contracting Party until 25 January 2003, in Madrid, Spain.

The **Meeting of Focal Points is invited to**

- a) take note of the information provided by REMPEC and of the work carried out by the Centre, together with MEDU and IMO, in relation to the revision of the Emergency Protocol and the adoption of the new Protocol concerning Cooperation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea (Prevention and Emergency Protocol).
- b) complete and amend as necessary the information concerning the signature, ratification, acceptance, approval of and accession to the new Prevention and Emergency Protocol.