

ANNEX IV

CONCLUSIONS AND RECOMMENDATIONS

The Fifth Meeting of 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 Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (“the Barcelona Convention”) (MENELAS), hereinafter referred to as the Meeting, which was held in Floriana, Malta, from 22 to 23 February 2023, with in-person participation complemented by the use of hybrid meeting capabilities:

1 **expressed** appreciation for the financial support provided by the Mediterranean Trust Fund (MTF);

2 **encouraged** the Mediterranean coastal States as well as the relevant regional and international organisations to which they were Parties to provide voluntary contributions to support future activities and meetings of MENELAS;

3 **thanked** Türkiye, as chair of the network for the period 2022-2023, and the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), as Secretariat, for the work they carried out with regard to the implementation of the MENELAS Programme of Activities for the said period as well as for their respective contributions to the preparation and successful organisation of the Meeting;

4 **recognised** the importance of the active engagement of the Mediterranean coastal States and the European Union participating in the network in accordance with its terms of reference;

5 **urged** the Mediterranean coastal States, which had not already done so, to nominate their MENELAS Designated Representatives as soon as possible, in consultation with the relevant authorities;

6 **invited** the Mediterranean coastal States, which had not already done so, to ratify the MARPOL Convention and its six Annexes;

Agenda Item 2 Draft common marine oil pollution detection/investigation report

7 **appreciated** the efforts made by the Secretariat towards the finalisation of the draft common marine oil pollution detection/investigation report within the framework of the Barcelona Convention and MENELAS, hereinafter referred to as the draft common report;

8 **noted** with interest that the draft common report was finalised taking as a basis the standard forms adopted by relevant regional and international organisations, namely the International Maritime Organization (IMO), the North Sea Network of Investigators and Prosecutors (NSN)¹, the Bonn Agreement², as well as the Baltic Marine Environment Protection Commission (Helsinki Commission or HELCOM)³, to report detected pollution, and adapting it to the Mediterranean Sea area by adding appropriate references to the Barcelona Convention;

¹ a body associated with the Commission established by the Convention for the Protection of the Marine Environment of the North-East Atlantic (OSPAR Convention), the latter referred to as the OSPAR Commission.

² Agreement for Cooperation in Dealing with Pollution of the North Sea by Oil and Other Harmful Substances, 1983.

³ the governing body of the Convention on the Protection of the Marine Environment of the Baltic Sea Area (Helsinki Convention).

9 **invited**, in this regard, the Secretariat to liaise with the regional and international organisations referred to in paragraph 8 above to seek their views or endorsement, as appropriate, on the proposed adjustments and explore the possibility to jointly adopt the draft common report for use in the Bonn Agreement, HELCOM and Mediterranean Sea areas;

10 **noted** with satisfaction the first-hand experience in the Mediterranean region with the use of the draft common report in the margins of a coordinated aerial surveillance operation for illicit ship pollution discharges in the Mediterranean (OSCAR-MED) held in 2022 within the framework of the RAMOGE Agreement⁴, and **valued** the information provided by the Secretariat of the RAMOGE Agreement to that end;

11 **stressed** the importance to obtain further practical experience in the Mediterranean region with the use of the draft common report, and **recommended** that it was further used during a forthcoming OSCAR-MED operation to be organised by the Secretariat of the RAMOGE Agreement, with the possible participation of interested Mediterranean coastal States, as observers;

12 **agreed** that the draft common report should consist of:

- .1 the Standard Pollution Observation/Detection Log and Completion Guide, as presented in **Annex 1** and **Annex 2** respectively to document REMPEC/WG.53/2; and
- .2 the Pollution Observation/Detection Report on Polluters and Combatable Spills (IMO), as presented in **Annex 3** to document REMPEC/WG.53/2.

13 **requested** the Secretariat to carry out final editing and any editorial corrections, which might be identified, as appropriate, in the draft common report, notably following liaison with the regional and international organisations referred to in paragraph 8 above, as well as with the participating member that requested to be provided with the opportunity to share minor editorial adjustments with the Secretariat;

14 further **requested** the Secretariat to submit the draft common report to the Fifteenth Meeting of the Focal Points of REMPEC to be held tentatively on 13-15 June 2023, for endorsement, as appropriate;

Agenda Item 3 **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**

15 **appreciated** the work of the Secretariat on the draft decision to apply criteria for a common minimum level of fines for each offense provided for under the Annexes to MARPOL, within the framework of the Barcelona Convention, as set out in the Appendix to document REMPEC/WG.53/3, hereinafter referred to as the draft decision, and **noted** it provided for a harmonised level of administrative penalties in a non-criminal context;

16 **considered** that further work on the draft decision was necessary, notably on the minimum fines, which should further take into account:

- .1 the fact that, in Annex I (Prevention of pollution by oil) and Annex V (Prevention of pollution by garbage from ships), MARPOL defined the Mediterranean Sea as a “special area” in which, for technical reasons relating to its oceanographical and ecological condition and to its sea traffic, the adoption of special mandatory methods for the prevention of sea pollution was required;

⁴ Accord relatif à la Protection de l’Environnement Marin et Côtier d’une Zone de la Mer Méditerranée.

- .2 the fact that the seventy-nine session of the IMO's Marine Environment Protection Committee (MEPC 79) (London, United Kingdom, 12-16 December 2022) adopted amendments to MARPOL Annex VI concerning the designation of the Mediterranean Sea Emission Control Area for Sulphur Oxides and Particular Matter (Med SO_x ECA), noting that such a designation would establish more stringent controls on sulphur emissions in the Mediterranean, as from 1 May 2025;
 - .3 the need to address the issue of repeat offenders who should be imposed a higher fine compared to the previous cases;
 - .4 the need to ensure that a higher fine should be imposed on intentional violations than on negligent violations;
 - .5 the need to ensure the difference regarding the responsibility of natural or legal persons;
 - .6 the different obligations that participating members might have at national, subregional or international level; and
 - .7 the different capacities and economic development levels of participating members, whilst ensuring a level playing field.
- 17 **agreed** to take the draft decision referred to in paragraph 15 as a basis for the further work;
- 18 **requested** the Secretariat to carry out a review of existing applicable sanctions at national level with regard to illicit ship pollution discharges with a view to taking this into account in the further work;
- 19 **valued** the presentation from the European Union (EU) on the planned revision of the EU Ship-Source Pollution Directive⁵, as well as the latest developments regarding the EU Directive on Port Reception Facilities⁶;

Agenda Item 4 **Modalities of possible creation and operation of a regional “Blue Fund”, including in terms of governance and financing**

- 20 **highlighted** that further work was necessary to develop the modalities of possible creation and operation of a regional “Blue Fund”, including in terms of governance and financing;
- 21 **recalled** that the setting up of the modalities of possible creation and operation of a regional “Blue Fund”, including in terms of governance and financing, was one of the actions contemplated by the Action Plan of the Mediterranean Strategy for the Prevention of, Preparedness, and Response to Marine Pollution from Ships (2022-2031), which was adopted by the Twenty-second Ordinary Meeting of the Contracting Parties to the Barcelona Convention and its Protocols (COP 22) (Antalya, Türkiye, 7-10 December 2021);
- 22 further **invited** the Secretariat to continue liaising with The MedFund that aimed at mobilising public and private actors in order to promote the development and effectiveness of Mediterranean Marine Protected Areas (MPAs), in order to obtain further information on the modalities of creation and operation of this fund;

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

⁶ Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC.

23 **asked** the Secretariat, in this respect, to develop draft terms of reference for the provision of consultancy services for the development of modalities of possible creation and operation of a regional “Blue Fund”, including in terms of governance and financing, and to submit these to participating members for their comments and feedback;

Agenda Item 5 **Establishment of a MENELAS database on illicit ship pollution discharges in the Mediterranean**

24 **valued** the presentation from the EU on the latest developments of a harmonised reporting template in accordance with Article 12 of the EU Ship-Source Pollution Directive;

25 **noted** with interest that the EU harmonised reporting template was developed with a view to being aligned with regional reporting on aerial surveillance under the Bonn Agreement and HELCOM, with reporting to IMO as per MEPC/Circ.318⁷, and with the EU Directive on Port Reception Facilities in terms of scope (waste types);

26 **also noted** that reporting would be further developed under the new Ship-Source Pollution Directive, possibly through electronic reporting;

27 **invited** the Secretariat to continue to liaise with the OSPAR Commission/Bonn Agreement Secretariat to obtain further information on the establishment and current use of the NSN Database of Pollution Offences Cases in the North Sea and Reporting Format;

28 **also invited** the Secretariat to continue to liaise with the European Commission and the European Maritime Safety Agency (EMSA) to obtain further information on the development and use of the EU harmonised reporting template as well as to explore the possibility to develop and use a similar database and reporting format for illicit ship pollution discharges in the Mediterranean within the framework of MENELAS;

Agenda Item 6 **Cooperation with other regional and international organisations**

29 **called** on the Secretariat to liaise with the relevant regional and international organisations to which participating members were Parties with a view to ensuring the necessary cooperation, which might include regular exchange of information and reciprocal representation at their respective meetings, amongst others;

30 **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;

31 **valued** the presentation from the HELCOM Secretariat on HELCOM latest activities of relevance to MENELAS;

32 **also valued** the presentation from the OSPAR Commission/Bonn Agreement Secretariat on NSN updates, and **noted** with interest that a joint NSN-Working Group on Operational, Technical and Scientific Questions Concerning Counter-Pollution Activities (OTSOPA) Seminar on Maritime Environmental Crimes dealing with violations of MARPOL Annexes as well as publicity of investigations and convictions would be held in Brussels, Belgium on 29-30 November 2023;

⁷ revised reporting formats for a mandatory reporting system under MARPOL aimed at facilitating communication to the IMO of information called for by articles 8, 11 and 12, regulation 12 of MARPOL Annex I, regulation 7 of MARPOL Annex II and regulation 8 of MARPOL Annex V.

33 **invited** the Secretariat to continue to liaise with the OSPAR Commission/Bonn Agreement Secretariat as well as the HELCOM Secretariat to share experience and best practices on MARPOL Annex VI monitoring and enforcement activities in their respective regions, notably considering the designation of the Med SO_x ECA;

34 further **valued** the presentation from the General Secretariat of the International Criminal Police Organization-INTERPOL on latest activities of relevance to MENELAS, especially the key findings of Operation 30 Days at Sea 3.0 (2020-2021), which was a global enforcement operation targeting onshore and offshore offences leading to marine pollution;

35 similarly **valued** the information provided by the United Nations Office on Drugs and Crime (UNODC) regarding relevant activities of the Global Maritime Crime Programme, Mediterranean and Black Sea;

Agenda Item 7 **Election of Chair for the period 2024-2025**

36 **took note** that informal consultations carried out by the Secretariat were ongoing with a participating member that expressed preliminary interest in being elected as Chair for the period 2024-2025;

37 **requested** the Secretariat to inform participating members of the outcome of such consultations as soon as possible;

Agenda Item 8 **Future work and meetings**

38 **agreed** to include the following items in the MENELAS Programme of Activities for the period 2024-2025:

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

39 **agreed** on the re-establishment of the working group within MENELAS to oversee, through correspondence coordinated by the Secretariat, the completion of the work referred to in paragraphs 38.1 and 38.2 above;

40 **encouraged** the members of the working group within MENELAS to coordinate their comments and feedback with their respective REMPEC Prevention Focal Points and REMPEC Governmental Focal Points, as well as other relevant authorities/stakeholders, as appropriate;

41 **invited** the Secretariat to initiate the intersessional work to be conducted by the working group within MENELAS as soon as possible and to present the results of this work at the next meeting of MENELAS;

42 **recommended** that the next meeting of MENELAS should preferably be held towards the end of 2024, subject to the decision on the Programme of Work and Budget for the biennium 2024-2025 by the Contracting Parties to the Barcelona Convention and provided that the necessary external financial resources were mobilised in time by the Secretariat; and

43 further **requested** the Secretariat to report to the Fifteenth Meeting of the Focal Points of REMPEC on the outcome of the Meeting.