
**MEDITERRANEAN ACTION PLAN (MAP)
REGIONAL MARINE POLLUTION EMERGENCY RESPONSE CENTRE FOR THE
MEDITERRANEAN SEA (REMPEC)**

Seventh Meeting of the Mediterranean Network of Law
Enforcement Officials relating to MARPOL within the
framework of the Barcelona Convention (MENELAS)

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Agenda Item 4: Guidelines to ensure the uniform and effective implementation of the consolidated draft Decision on minimum criteria, as adjusted, in the Mediterranean region

Consolidated draft Decision, as adjusted, 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
Proposals for amendments

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Note by the Secretariat

This document provides information on proposals for amendments to the *consolidated draft Decision, as adjusted, 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* based on the assessment and findings of the *draft Study on possible criteria and possible minimum levels of fines for each offense provided for, under the Annexes to MARPOL* and the associated *draft Guidelines to support the uniform and effective implementation of the consolidated draft Decision on minimum criteria, as adjusted, in the Mediterranean region*.

Background

1 The work on the possible harmonisation of pecuniary sanctions for MARPOL violations, in the Mediterranean region, has been pursued within MENELAS since 2017. Successive meetings recognised the need to promote greater regional convergence on the identification of minimum criteria and minimum levels of fines for violations of MARPOL Annexes provisions, and progressively carried out the work from an initial review of national penalty regimes towards the preparation of a relevant draft Decision to apply criteria for a common minimum level of fines for each offence provided for under MARPOL Annexes, taking into account relevant experience under other regional framework, notably HELCOM.

2 In 2024, the Working Group within MENELAS reviewed sanctions provided at national level for illicit ship-pollution discharges during the period 2020-2023 and consolidated comments received from Contracting Parties on the draft Decision. This work, reported in document REMPEC/WG.59/2, identified also the need for further technical analysis, guidance and consideration of the possible criteria and levels of fines.

3 The Sixth Meeting of MENELAS (Malta, 4-5 December 2024) concurred with the Working Group's specific proposals and agreed to use the consolidated draft Decision, as the basis for further work, prior to its submission to the Sixteenth Meeting of REMPEC Focal Points.

Mandate from the Sixteenth Meeting of the REMPEC Focal Points

4 The Sixteenth Meeting of the REMPEC Focal Points (Malta, 13-15 May 2025) endorsed the continuation of this work and agreed to the re-establishment of the Working Group within MENELAS to oversee, through correspondence coordinated by the Secretariat, the completion of:

- .1 further work on the consolidated draft decision, as adjusted, taking into account the outcome of the discussions held at the Meeting
- .2 carry out a detailed study on possible criteria and possible minimum levels of fines for the offences identified in the consolidated draft decision, as adjusted, taking into account the specificities of each Contracting Party (hereinafter referred to as "draft Study"); and
- .3 develop associated draft guidelines to ensure the uniform and effective implementation of the consolidated draft decision, as adjusted, in the Mediterranean region, taking into consideration information from CPs on how quantities of waste discharged from polluting ships might be measured (hereinafter referred to as "draft Guidelines").

5 This approach preserved the distinction between the criteria to be applied in an individual case and the possible minimum levels of fines. It also responded to the request for practical methodologies, particularly on the measurement or estimation of quantities discharged from ships. The draft Study and the associated draft Guidelines have been prepared within this mandate and constitute important tools to inform, rather than predetermine, conclusions and recommendation of MENELAS and REMPEC Focal Points on the text of the consolidated draft Decision, as adjusted and relevant follow up actions.

Proposed amendments to the consolidated draft Decision, as adjusted, and matters requiring further Guidance

6 The present document considers the text of the consolidated draft Decision, as adjusted, prepared further to the conclusions of the Sixth MENELAS Meeting, and presents considerations based on the assessment and findings as set out in the detailed Study and in the associated draft Guidelines.

7 The proposed amendments pursue a twofold objective: first, to enhance the technical and legal precision of the draft Decision; and second, to preserve its nature as a regional decision setting out common principles, while leaving detailed methodologies for calculation and evidentiary assessment to the Guidelines and to measures adopted at national level for its implementation.

8 The matrix contained in the table below presents the principal proposed amendments to the text of the consolidated draft Decision, as adjusted. It is to be noted that these amendments should be distinguished from those matters, addressed in the draft Guidelines that require the Meeting's further consideration, discussion and guidance. References to paragraphs relate to the current consolidated draft Decision, as adjusted, reproduced in the Appendix to the present document.

Consolidated Matrix				
Text of the consolidated draft Decision as adjusted	Phrase to which the comment refers	Comment	Nature of the comment	Amendment / action proposed
Preamble: MARPOL Annexes	Annex III is included in the offence inventory but omitted from the MARPOL recital.	This creates an inconsistency in the legal basis	Editorial and technical correction	Add an express reference to MARPOL Annex III on harmful substances carried in packaged form
Part I.1(c): Annex III	"Discharges against MARPOL Annex III"	"Jettisoning"	Technical and terminological clarification with substantive implications for the description of the offence.	Replace the generic reference to "discharges" with wording reflecting the Annex III offence, namely "illegal jettisoning" of harmful substances in packaged form
Part I.1(e): Annex V	"Discharges against MARPOL Annex V and violations of the obligations to keep the Oil Record Book..."	"Garbage Record Book"	Editorial and technical correction.	Replace "Oil Record Book" with "Garbage Record Book".
Part I.1(f): Annex VI	"Air emissions, shipboard incineration or water pollution against MARPOL Annex VI."	"Discharge of exhaust gas cleaning system effluent and residues"	Substantive clarification of scope	Clarify whether the reference to "water pollution" is intended to cover the discharge of Exhaust Gas Cleaning System effluent and residues, and if so replace or use more precise terminology
Part I.6: unit of account	"Unit of account means the monetary unit of measurement used under the Barcelona Convention"	No reference in the Barcelona Convention.	Substantive legal correction.	Review or delete the assertion that the Barcelona Convention uses a "unit of account", since no such reference exists in the Convention.
Part I.8: jurisdictional	"Having regard to the established Exclusive Economic Zones of the Contracting Parties..."	"Maritime zones established in accordance with international law."	Substantive legal and jurisdictional amendment.	Replace the reference to "Exclusive Economic Zones" with "maritime zones established in

				accordance with international law”, or equivalent wording.
Part II.6: ship characteristics	“Gross tonnage of the ship, type of the ship, and type of pollutant.”	Proposal to add measures taken by the company or other legal or natural person liable in order to prevent the discharge or mitigate its impact”	Potentially substantive addition.	Consider adding preventive or mitigating measures taken by the Company or other liable person as an additional general criterion. The comment is framed as a question and does not itself propose a final formulation.
Annex II: Cargo Record Book b) i)	“Quantity of cargo not accounted for, based on consumption calculations.”	“Based on cargo documentation, tank soundings and prewash recordings”	Technical and operational clarification of the quantification method.	Expand or clarify the evidential basis for determining unaccounted cargo, including cargo documentation, tank soundings and prewash records.
Annex III title	Illegal jettisoning of harmful packages in packaged form”	Illegal jettisoning of harmful packages	Editorial/typo and technical correction	The harmful substance, rather than the package itself, is the subject regulated by MARPOL Annex III. Consider replace with “Illegal jettisoning of harmful substances carried in packaged form”.
Annex V: a) Illegal discharge of garbage	“Quantity of substance discharged ... with each tonne of illegally discharged substance.”	“Quantity in cubic metres as per Annex V”	Technical correction with practical implications for quantification.	Review the unit of measurement for garbage under Annex V and, if appropriate, replace “tonne” with “cubic metres”.
Annex VI: a) terminology	“sulphur oxides (SOx) and particular matter...”	“Particulate matter (PM)”	Editorial/typo and technical terminology correction.	Replace “particular matter” with “particulate matter (PM)”.
Annex VI: c) terminology	“Exhaust Gas Cleaning System (EGCS) residue...”	“EGCS”	Editorial/typo and technical terminology correction.	Replace “EGCS” with the correct acronym “EGCS”.

Relationship with the Draft Detailed Study and Draft Guidelines

9 The consolidated draft Decision, as adjusted, the draft Study and the associated draft Guidelines form one package but perform different functions. The draft decision establishes the regional policy framework and identifies the offences and criteria. The draft Study provides the comparative and methodological evidence necessary to inform on criteria and possible minimum levels. The draft Guidelines provide a tool for a uniform and effective implementation of the draft Decision.

10 The draft Guidelines emphasise that the draft Decision should operate as a floor, not a ceiling, and that national law prevails where constitutional or procedural requirements differ. They also explain that administrative fines may be initiated by competent authorities and imposed by courts where national

law so provides, provided the resulting penalties remain effective, proportionate and dissuasive. This treatment is consistent with the non-criminal administrative focus agreed by the Sixth MENELAS and with the need to respect UNCLOS constraints concerning foreign vessels.

11 The present work does not seek to create a regional criminal-law regime. Rather, it addresses a harmonised administrative-penalty framework, to be implemented in accordance with the Contracting Parties' respective national legal systems and the applicable international law.

Next Steps

12 In this context and based on the content of the present document, the Secretariat proposes to consider and comment, as appropriate, the proposed amendments based on the findings and recommendations arising from the draft Study and the associated draft Guidelines to the text of the consolidated draft Decision, as adjusted, as set out in **Appendix** to the present document and consolidated in the matrix included herein;

Actions requested by the Meeting

13 **The Meeting is invited to:**

- .1 **take note** of the information provided in the present document; and
- .2 **comment** as deemed appropriate.

Appendix

**Consolidated draft decision, as adjusted, 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**

Decision [XX]**Criteria for a common minimum level of fines for each offense provided for under the Annexes to MARPOL, within the framework of the Barcelona Convention**

The Contracting Parties to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean and its Protocols at their [XX] Meeting,

Having regard to the Barcelona Convention, in particular Article 6 thereof, whereby Contracting Parties shall take all measures in conformity with international law to prevent, abate, combat and to the fullest possible extent eliminate pollution of the Mediterranean Sea Area caused by discharges from ships and to ensure the effective implementation in that Area of the rules which are generally recognised at the international level relating to the control of this type of pollution,

Having also regard to the Protocol concerning Cooperation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea, in particular Article 4 paragraph 2 thereof, whereby the Parties shall take measures in conformity with international law to prevent the pollution of the Mediterranean Sea Area from ships in order to ensure the effective implementation in that Area of the relevant international conventions in their capacity as flag State, port State and coastal State, and their applicable legislation,

Having further regard to the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, and as further amended by the Protocol of 1997 (MARPOL), in particular Annex I thereof on regulations for the prevention of pollution by oil, Annex II thereof on regulations for the control of pollution by noxious liquid substances in bulk, Annex IV thereof on prevention of pollution by sewage from ships, Annex V thereof on the prevention of pollution by garbage from ships, and Annex VI thereof on the prevention of air pollution from ships, as amended, notably regulation 14 thereof on sulphur oxides (SO_x) and particulate matter, as well as Appendix VII thereto on emission control areas (ECAs),

Recalling that the Mediterranean Sea is defined as a “special area” under MARPOL Annex I and MARPOL Annex V,

Recalling also the designation of the Mediterranean Sea Emission Control Area for Sulphur Oxides and Particulate Matter (Med SO_x ECA) under MARPOL Annex VI,

[placeholder for further preambular paragraphs]

1. *Adopt* the 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, set out in the Annex to this Decision; and
2. *Request* the Contracting Parties to take the necessary measures to apply the 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.

Annex

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

I INTRODUCTION

- 1) The following acts are violations of MARPOL:
 - a) Discharges against MARPOL Annex I and violations of the obligations to keep the Oil Record Book, including missing or wrong entries and/or lack of signature therein;
 - b) Discharges against MARPOL Annex II and violations of the obligations to keep the Cargo Record Book, including missing or wrong entries and/or lack of signature therein;
 - c) Discharges against MARPOL Annex III;
 - d) Discharges against MARPOL Annex IV;
 - e) Discharges against MARPOL Annex V and violations of the obligations to keep the Oil Record Book, including missing or wrong entries and/or lack of signature therein; and
 - f) Air emissions, shipboard incineration or water pollution against MARPOL Annex VI.
- 2) Only those offences against the regulations of MARPOL which are subject to administrative fines are addressed in the harmonised system of fines.
- 3) The Contracting Parties should - as far as possible within the framework of their legal systems - aim at adopting legislation which allows fines to be imposed on a legal person (shipowner/operator of a ship). The financial capacity of the legal or natural person liable should be considered when determining the level of the fine imposed.
- 4) There should be no difference in the level of fines imposed on nationals of the Contracting Parties and foreigners.
- 5) Repeat offenders should be imposed a higher fine compared to the previous cases.
- 6) "Unit of account" means the monetary unit of measurement used under the Barcelona Convention.
- 7) Violations of the duty to keep the Oil Record Book, the Cargo Record Book, and the Garbage Record Book properly are regarded as continuing offences. The offence begins when no proper entry is made.
- 8) Having regard to the established Exclusive Economic Zones of the Contracting Parties and the national jurisdiction related thereto, the criteria are applicable to all ships violating regulations of MARPOL.

II GENERAL CRITERIA

The following general criteria are common for all violations of MARPOL listed in paragraph I 1) above:

- 1) The degree of culpability or fault of the responsible person, within the meaning of the legal system of the Contracting Party concerned. These circumstances refer to notions of liability (e.g. intention, recklessness, negligence, etc.) where these are used to qualify the degree of illegal behaviour. In this context, if MARPOL discharge regulations were violated by night, this fact may be interpreted as pointing to an intentional violation.
- 2) A previous violation by the same natural or legal person.
- 3) The damage caused by an illegal discharge to the environment or human health, including, where relevant, its impact on fishing, tourism and coastal communities. Migratory patterns in the affected area should also be considered.
- 4) Level of cooperation with authorities in investigating the offence, either circumventing or obstructing the investigation, or assisting the authorities in said investigation.
- 5) Any economic benefits generated or expected to be generated from the offence.
- 6) [Gross tonnage of the ship, type of the ship, and type of pollutant.](#)

III SPECIFIC CRITERIA AND MINIMUM LEVEL OF FINES

In those cases where, under national legislation, offences against MARPOL may be subject to administrative fines, the fines to be imposed should be based on the following criteria:

1) *MARPOL Annex I*

- a) Illegal discharge of oil (Regulations 15 and 34)

Criteria:

- Quantity of illegally discharged oil
- Environmental damage caused by the discharge

Minimum fine: [XX] units of account

- b) Violation of the duty to keep the Oil Record Book properly (Regulation 17, paragraphs 4-6, and Regulation 36, paragraphs 5-7)

The minimum fine indicated refers to cases in which a quantity of 1 tonne was not recorded in the Oil Record Book, or entries are missing for a period of more than one week.

- i) No Oil Record Book kept on board

Criteria:

- Period of time during which no Oil Record Book was kept on board (level of fine should be based on the duration of time in which no Oil Record Book was kept)
- Quantity of sludge not accounted for, based on consumption calculations

Minimum fine: [XX] units of account

- ii) Oil Record Book is kept on board, but entries are missing or wrong, and/or lacking signature

Criteria:

- Quantity of sludge for which entries are missing or wrong (the level of fine should increase at least with each tonne of sludge for which no entries, or wrong entries, were made)
- Duration of time during which no entries, or wrong entries, were made (amount of fine should be based on the length of the period during which the Oil Record Book was not kept properly).

Minimum fine: [XX] units of account

2) *MARPOL Annex II*

- a) Illegal discharge of noxious liquid substances (Regulation 13)

Criteria:

- Quantity of substance discharged illegally (the level of fine should increase at least with each tonne of illegally discharged substance)
- Category of substance (X, Y or Z)
- Environmental damage caused by the discharge

Minimum fine: [XX] units of account

b) Violation of the duty to keep the Cargo Record Book properly (Regulation 15)
The minimum fine indicated refers to cases in which a quantity of 1 tonne was not recorded in the Cargo Record Book, or entries are missing for a period of more than one week.

i) No Cargo Record Book kept on board

Criteria:

- Period of time during which no Cargo Record Book was kept on board (level of fine should be based on the duration of time in which no Cargo Record Book was kept)
- Quantity of cargo not accounted for, based on consumption calculations

Minimum fine: [XX] units of account

ii) Cargo Record Book is kept on board, but entries are missing or wrong, and/or lacking signature

Criteria:

- Duration of time during which no entries, or wrong entries, were made (the level of fine should be calculated on the basis of the length of the period in which the Cargo Record Book was not properly kept)
- Quantity and category of substance (X, Y or Z) for which entries are missing or wrong

Minimum fine: [XX] units of account

3) *MARPOL Annex III*

Illegal jettisoning of harmful packages in packaged form (Regulation 8)

Criteria:

- Quantity of harmful substances contained in packages
- Lack of proper stowage, packaging, labelling of packages containing harmful substances

Minimum fine: [XX] units of account

4) *MARPOL Annex IV*

Illegal discharge of sewage (Regulation 11)

Criteria:

- Quantity of sewage discharged
- Duration of illegal discharge
- Distance from nearest land
- Whether discharge has been instantaneous or at a moderate rate
- Speed of the ship
- Visibility of effluents and/or solids and/or discoloration of the surrounding water
- Lack of approved sewage treatment plant

Minimum fine: [XX] units of account

5) *MARPOL Annex V*

a) Illegal discharge of garbage (Regulations 3 and 6)

Criteria:

- Quantity of substance discharged (the level of fine should increase at least with each tonne of illegally discharged substance)
- Type of substance (plastics, wood, food wastes, etc.)
- Distance from nearest land
- Lack of treatment of garbage through a comminuter or grinder
- Feasibility/practicability of visiting a near port reception facility without significant deviation from the established route
- Degree of harmful nature of the discharge to the marine environment:
 - cleaning agents including carcinogenic components
 - vulnerability of habitat and protected species to interactions with lost fishing gear
- Lack of garbage management plan

Minimum fine: [XX] units of account

b) Violation of the duty to keep the Garbage Record Book properly (Regulation 10, paragraph 3)

The minimum fine indicated refers to cases in which a quantity of 1 tonne was not recorded in the Garbage Record Book or entries are missing for a period of more than one week.

i) No Garbage Record Book kept on board

Criteria:

- Period of time during which no Garbage Record Book was kept on board (level of fine should be based on the duration of time in which no Garbage Record Book was kept)
- Quantity and type of garbage not accounted for, based on consumption calculations

Minimum fine: [XX] units of account

ii) Garbage Record Book is kept on board, but entries are missing or wrong and/or lack of signature

Criteria:

- Quantity and type of garbage for which entries are missing or wrong (the level of fine should increase at least with each tonne of garbage for which no entries, or wrong entries, were made)
- Duration of time during which no entries, or wrong entries, were made (the level of fine should be calculated on the basis of the length of the period in which the Garbage Record Book was not properly kept)

Minimum fine: [XX] units of account

6) *MARPOL Annex VI*

a) Illegal emission of ozone-depleting substances (ODS), nitrogen oxides (NO_x), sulphur oxides (SO_x) and particular matter, and volatile organic compounds (VOC) (Regulations 12, 13, 14 and 15)

Criteria:

- Duration of emission
- Type of emitted substances

Minimum fine: [XX] units of account

- b) Illegal incineration of ship-generated wastes on board a ship (Regulation 16)

Criteria:

- Duration of incineration
- Type of incinerated substances

Minimum fine: [XX] units of account

- c) Illegal discharge of Exhaust Gas Cleaning System (EGCS) residue (Regulations 4 and 14)

Criterion:

- Lack of operation of an equivalent method of compliance provided under Regulation 4 ('EGCS' or 'scrubbers')

Minimum fine: [XX] units of account