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(REMPEC)**



MEDITERRANEAN ACTION PLAN

**REMPEC Project “SAFEMED complementary activities in the field of
operational pollution from ships in the Mediterranean region”**

National Report: CROATIA

a Report

**prepared within the framework of REMPEC’s complementary activities in the field of
operational pollution from ships in the Mediterranean Region
(REMPEC/CONT/15/2007)**

**presented to REMPEC
by**

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I. Introduction

1 Background

The Contracting Parties to the Barcelona Convention adopted, at their 14th Ordinary Meeting (8-11 November 2005), the Regional Strategy for Prevention of and Response to Marine Pollution from Ships. The Strategy includes twenty-one objectives to be reached by 2015, one of these being the improvement of the level of enforcement of the MARPOL Annex I requirements and the prosecution of discharge offenders in the region (Objective 4.7).

This objective is being partly fulfilled through the implementation by REMPEC of a specific activity of the SAFEMED Project (EU/MEDA financed Project entitled “EUROMED COOPERATION ON MARITIME SAFETY AND PREVENTION OF POLLUTION FROM SHIPS- SAFEMED”). The SAFEMED Project is being implemented in ten Euromed Mediterranean Partners, namely Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, Tunisia and Turkey.

The primary objective of the Project is to mitigate the existing imbalance in the application of maritime legislation in the region between the Mediterranean Partners that are not members of the EU and those who are members, through promoting a coherent, effective and uniform implementation of the relevant international conventions and rules aimed at better protection of the marine environment in the Mediterranean region.

Activity 3 of the SAFEMED Project addresses the protection of the marine environment from the pollution from ships. This activity aims at identifying impediments and needs for the effective implementation and enforcement of the MARPOL Convention taking into account REMPEC’s Regional Strategy for Prevention of and Response to Marine Pollution from ships.

REMPEC sourced additional financial resources from its Mediterranean Trust Fund (MTF) budget in order to extend Activity 3 of the SAFEMED Project to Mediterranean coastal States which are not MEDA/SAFEMED eligible countries and not EU member States, namely Albania, Bosnia Herzegovina, Croatia and Montenegro.

2 Mission assignment

The tasks assigned to the consultant relate to the prevention and control of operational oil pollution from ships (MARPOL Annex I) in the Mediterranean region (see Annex I: Terms of reference). The consultant prepared a comprehensive questionnaire (Annex II: Questionnaire) to assist in the collection of information and he undertook a needs assessment field mission. The field mission in Croatia took place from 19th to 21st of February 2008. The Inspection Division of the Directorate for Safety of Navigation and Protection of the Sea prepared a program of visits and organized a series of meetings (Annex V: List of persons met). Using the questionnaire as a guide for collecting information and assessing the

situation, the consultant had a number of meetings with representatives of relevant administrations. The objectives of those meetings were the following: to work together with representatives of the Administrations concerned, to conduct an assessment of the situation, to identify needs for improvement and to agree on propositions for future actions. The assessment focused on six major components:

- . Legal framework;
- . Organizational structures;
- . Implementation and enforcement capabilities;
- . Co-operation on MARPOL enforcement;
- . Reporting and collection of statistics;
- . Improvement.

The outcomes of this field mission are presented in this report.

II Executive summary

The main characteristics of the existing Croatian mechanism for MARPOL Annex I implementation and enforcement are the following:

- 1) Croatia has in place a recent comprehensive legal framework which is in a continuous process of development; however a number of Ordinances, rules and regulations requested by the existing laws still have to be issued.
- 2) Appropriate institutional and organizational structures to address implementation and enforcement issues are in place; however the Ordinances to be issued according to the Coast Guard Act should clarify some pending responsibilities and organizational issues.
- 3) Need of maintaining and strengthening the enforcement capabilities:
 - a) Need of maintaining and strengthening the efficiency of port State control inspectors through specialized training courses on MARPOL.
 - b) Need of maintaining and strengthening the enforcement capabilities by training all the various categories of personnel involved including the familiarization of the magistrates.

- c) Need of adopting a program and plans for an optimized use of the existing resources and of establishing a coordinating mechanism for detecting illegal discharges.
- 4) Need for a strong involvement in regional co-operation on MARPOL enforcement:
 - a) Need for continuing and strengthening the efforts in improving the regional co-operation on port State control regarding MARPOL enforcement under the Paris/MOU;
 - b) Need for an active participation in promoting regional and sub-regional co-operation on information exchange, surveillance, detection, control and harmonization of enforcement measures.
- 5) Croatia fulfills its reporting obligations under MARPOL.

III Assessment of the situation

MARPOL Annex I regulations aim at preventing and minimizing the pollution of the marine environment by oil from the machinery spaces of all ships as well as the cargo areas of oil tankers. The regulations relate to the construction, the equipment and the operation of the ships, in particular the control of operational discharge of oil at sea.

The Convention requires the Administration (i.e. the government of the Flag State) and the competent authority of a Party to promulgate laws and regulations and to take all other steps which may be necessary to give full and complete effect to the Convention.

Such laws and regulations shall impose *inter alia* that:

- . Ships shall hold valid certificates and be subject to inspection while in a port of another Party. Administration shall issue procedures for survey, inspection, certification and Port State control;
- . When appropriate, ships shall be subject to inspection for the purpose of verifying whether the ship has discharged oil in violation of the Convention. Parties shall co-operate in the detection of violations and the enforcement of the provisions of the Convention;
- . Violations of the Convention's requirements shall be prohibited and sanctions shall be established under the law of the country of the ship's flag wherever the violation occurs and be applicable to foreign ships for any violation within its jurisdiction.

The purpose of the assessment in Croatia is to get an overview of the system in place and its effectiveness in implementing and enforcing the MARPOL Annex I requirements, in particular the oil discharge requirements and see how Croatia fulfills its obligations, as a Flag State, Port State and Coastal State, under MARPOL Annex I:

- . What is the legal framework in place?
- . What is the organizational structure in place?
- . What are the implementation and enforcement capabilities?

3-1 Overview of the legal framework

Following its independence from the former Yugoslavia the 25 June 1991, Croatia became a Party to most of the IMO Conventions, including the MARPOL Convention (all Annexes) by succession. MARPOL Annexes I and II entered into force in Croatia on 08/10/1991 (Annex IV: Status of ratification of IMO Conventions). The IMO Conventions to which Croatia acceded have been promulgated making them national laws.

Croatia became a Party to the United Nations Convention on the Law of the Sea (UNCLOS) by succession from the former Yugoslavia the 5 April 1995.

Croatia has in place a comprehensive legal framework for maritime safety and marine environment protection from pollution by ships. The legal framework is composed of:

- the Maritime Code adopted by the Croatian Parliament on 8 December 2004, which entered into force on 21 December 2004 and was amended on 23 July 2007;
- the Maritime Domain and Sea Ports Act adopted by the Croatian Parliament on September 2003, which entered into force on 7 October 2003 and was amended on 27 December 2006; and,
- laws, decrees and regulations issued on the basis of the Maritime Code and of the Maritime Domain and Sea Ports Act.

The Maritime Code is the basic law on the basis of which the legal system for maritime affairs and for the safety of navigation and the protection of the marine environment is built on:

- The Code defines the geographical scope of the law that includes the ports, the internal waters, the territorial sea and the Exclusive Economic Zone. Pursuant to the article 1018 of the Code the provisions of the articles 32, 33 (establishment of the EEZ) and 41 (pollution) entered into force on 1st January 2008 following the Decision of the Croatian Parliament. According to Article 41 “while navigating in the EEZ of the Republic of Croatia, ships are under the obligation to observe the generally accepted international regulations and standards as well as Croatian regulations concerning the prevention of polluting the sea from ships.”
- The Code establishes the legal regime for the safety of navigation in the ports, the internal waters and in the territorial sea of Croatia and for the protection and preservation of the marine environment in all sea areas over which Croatia exercise its jurisdiction.
- The Code determines the rules applying to the ships flying the flag of Croatia. Those provisions apply also to yachts, boats and floating and fixed offshore facilities and to all ships (foreign ships) navigating or located in the territorial sea or internal waters of Croatia.
- According to Article 6 of the Code, it is a duty of the Republic of Croatia to protect the marine environment and to cooperate with countries in the region and to participate to work of regional and international organizations to establish general and regional rules, measures, recommended practices and procedures for the purpose of preventing, reducing and monitoring the pollution of the sea and the marine environment from ships.
- Part eleven of the Code defines maritime offences, establishes the offence proceeding process and determines the level of penalties.

The Maritime Domain and Sea Ports Act:

- Establishes the legal status and determines the limits of the sea ports, the internal waters and the territorial sea (maritime domain on which Croatia exercises its sovereignty) which constitute the geographical scope of the Act;
- Regulates the use and the protection of maritime domain and the sea ports;
- Designates the authorities responsible for implementing and enforcing this Act and other regulations issued according to it within the ports and maritime domain; and
- Establishes a procedure for dealing with infringements.

3-1-1 Status of transposition of MARPOL Annex I into national laws

The provisions of the MARPOL convention and in particular those of Annex I are fully transposed into the Croatian legal system.

Part III “safety of Navigation” of the Maritime Code deals with ships (Title V), floating and fixed offshore facilities (Title VI) and boats and yachts (Title VII). Article 76 (Title V) requires that ships comply with the provisions of the Code regarding the safety of navigation and the protection of the marine environment and in particular with the regulations and technical rules adopted on the bases of the Code.

Survey and certification

Compliance by the Croatian ships with the provisions of article 76 is determined by a recognized organization (RO), the Croatian Register of Shipping, which carries out the survey and certification of Croatian ships, according to technical rules which should be adopted by the Ministry of the sea, tourism, transport and development (article 77). Currently it is the Croatian Register of Shipping which prepares the rules for technical supervision of sea-going ships that are endorsed by the Ministry. The rules for technical supervision of sea-going ships do transpose the provisions of the IMO Conventions and are regularly updated. According to article 1019 a special Act shall regulate the conditions which the RO and authorized bodies shall meet as well as the procedure for issuing authorizations. Pending the adoption of such Act, the Croatian Register of Shipping will perform the tasks and responsibilities of RO and authorized bodies. Prior to the accession of the Republic of Croatia

to the European Union, provisions of the Croatian Register of Shipping shall apply to the procedure of preparation, enactment, publication and coming into force of the Technical Rules. The procedure for the adoption of technical rules by the Ministry is under preparation.

The same requirements are imposed to floating and fixed offshore facilities (articles 102 and 103) and to boats and yachts (articles 111 and 113). According to article 1030 the Croatian Register of Shipping has adopted or shall adopt Technical Rules for Yachts and Boats.

Inspection and port State control

Inspection of the implementation of the provisions of the Code and of the regulations pertaining to the safety of navigation and the protection of the marine environment adopted on the bases of the Code shall be carried out by safety of navigation inspectors from the Ministry and port authorities/ harbor master's offices (article 165). The procedure for conducting inspections, including inspections of foreign ships when in Croatian ports, shall be prescribed by the Minister through special Regulations (article 166). Inspection of foreign ships in the ports of Croatia shall be conducted in compliance with the procedures established by the Paris Memorandum of Understanding on Port State Control. Pursuant to article 1021 of the Code which refers to the articles 165 and 166, the Minister of the Sea, Tourism, Transport and Development issued the Ordinance on Carrying out Control Inspection of Shipping which entered into force on 3 October 2005. The Ordinance is a very comprehensive and detailed document which contains the provisions of the IMO Resolutions and Guidelines and of the Paris Memorandum of Understanding on Port State Control. Articles 168 to 178 of the Code and the Ordinance on Carrying out Control Inspection of Ships define the actions to be taken and the procedure to follow in cases of deficiencies.

Illegal discharges

Regarding the discharge requirements, the Maritime Domain and Sea Ports Act prohibits the discharge into the sea and port areas of solid and liquid wastes and cargo residues from ships as well as of other pollutants (article 90). The Maritime Code, in addition to general provisions addressing prevention of pollution of the marine environment from ships, require that ships, while navigating in the EEZ of the Republic of Croatia, comply with the generally accepted international regulations and standards as well as with Croatian regulations concerning prevention of pollution from ships (article 41).

Port reception facilities

Pursuant to the Maritime Code, the Maritime Domain and Sea Ports Act as well as to the Regulations concerning the requirements that sea ports must meet (which entered into force on 11 August 2004), Port authority of sea ports shall ensure that the port is equipped with adequate facilities for handling and collecting ship-generated waste and cargo residues in accordance with the provisions of MARPOL Convention. Under Article 168.2 of the Maritime Code and the Ordinance on Inspection, if an inspection establishes that the slop tanks of a ship are full or its equipments are out of order, the ship shall be prohibited to leave the port until the deficiency have been corrected.

Environmental safe handling of oil in port

A specific Ordinance (Ordinance on handling dangerous goods, conditions and method of performing carriage in marine transport, loading and unloading of dangerous goods, bulk and other cargoes in ports, and methods for preventing the spreading of oil spills) issued on March 2004 by the Minister of the Sea, Tourism, Transport and Development pursuant to article 1025 of the Maritime Code, contains provisions regarding safety measures for handling oils in ports and methods for preventing the spreading of oil spill(Section V of the Ordinance).

3-1-2 Status of the relevant national legislations relating to the enforcement of MARPOL Annex I

Part Eleven of the Maritime Code is dedicated to Maritime offences. Article 989 defines a maritime offence as an offence against the regulations regarding maritime safety and marine environment protection governing the activities in the ports and in the sea areas of the Republic of Croatia or those over which Croatia has sovereign rights, by the ships flying the flag of Croatia (including Croatian boats, yachts, floating and fixed offshore facilities) and all other ships sailing or staying in the Croatian sea areas.

Article 998 of the Code imposes fines from 5000 HRK up to 250 000 HRK(Kuna) if the inspection establishes that the ship is not in seaworthy conditions (articles 76 and 166). Similar provisions do exist for floating and fixed offshore facilities and for boats and yachts.

Article 1001 of the Code imposes fines from 2000 HRK up to 15 000 HRK to the Captain of a ship or boat or yacht or to a member of the crew acting on his behalf, if, when navigating in the EEZ of Croatia, he fails to respect the international regulations and standards and Croatian regulations regarding the prevention of the pollution of the sea from ships.

Article 1002 of the Code imposes fines from 1000 HRK up to 15 000 HRK to the Captain or to a crew member of a ship, boat or yacht who fails to fulfill his obligations under the regulations concerning the protection of the marine environment.

Indeed administrative control over enforcement of the Maritime Code and of the regulations adopted on its basis is done through inspections and Port State control in accordance with the Ordinance on carrying out inspections of shipping. The Ordinance provides for rectification and detention measures in case of deficiencies and describes the criteria to apply and reasons for detention of a ship.

Part VI of the Maritime Domain and Sea ports Act is dedicated to infringements specified in this Act. Article 116 of the Act imposes fines from 50,000.00 HRK up to 1,000,000.00 HRK to a person who has discharged into the sea solid and liquid wastes and cargo residues from ships (article 90). Article 113 of the Act imposes fines from 10,000HRK up to 50.000 HRK to a port authority or a concessionaire failing to equip the port with reception facilities as specified in article 83.

3-1-3 Prosecution process

Prosecution of maritime offences and infringements is described in identical terms in the Maritime Code (articles 989, 990, 991, 992) and in the Maritime Domain and Sea ports Act (articles 109, 110, 111).

The proceeding for maritime offences and infringements are governed by the Offences Act and the infringement regulations.

The harbor master's office shall decide in first instance in cases of alleged offences.

Offence proceedings shall be conducted by the Council for Offences/Infringements in harbor master's office.

The Council for Offences/infringements may be appointed for the territory covered by two or more harbor master's offices.

Appeal against the ruling of the Council for Offences shall be dealt with by the High Magistrate's Court.

The Council for Offences consists of:

1. A president and two members who may have deputies;
2. The members of the Council and their deputies shall be appointed by the Minister, at the proposal of the harbor master, from among expert staff of the harbor master's office or the ministry;

3. The president and his deputy must have a university degree in law and must pass bar examination.

Inspections, control and investigations within the maritime domain are performed by duly authorized Ministry's maritime domain inspectors and harbor master's office inspectors. Inspections and control of maritime domain can also be done by authorized government employees of the Ministry.

If an authorized inspector establishes that a law or other regulations have been violated he shall:

- 1) Order rectification;
- 2) Issue an infringement order;
- 3) Request initiation of an offence procedure and send the case to the council for offences;
- 4) Order that legal persons be fined 5,000.00 kuna and physical persons 500.00 Kuna on the spot.

Hot pursuit can be undertaken by police vessels, warships or military aircrafts or other vessels or aircrafts authorized for that purpose. In the EEZ hot pursuit shall begin only in cases where violation of the regulations applicable in EEZ has been committed (article 46 of the Maritime Code).

3.2 Overview of the organizational structure

The overall responsibility for the implementation and enforcement of the MARPOL Convention belongs to the Ministry of the Sea, Transport and Development. The Ministry has the main responsibility regarding the implementation of MARPOL Annex I as flag State, port State and coastal State. It is the regulatory body on the matter.

3-2-1 Maritime administration

The Ministry of the Sea, Transport and Development consists of a State Secretary for the sea and two Directorates: a Directorate for maritime traffic, maritime domain and ports; and a Directorate for safety of navigation and protection of the sea.

One of the main responsibilities of the Directorate for maritime traffic, maritime domain and ports is the preparation of laws and regulations (the legal and regulatory work). This Directorate is composed of: a Department for administrative, legal and international affairs; a Department for maritime traffic and shipping; a Department for maritime domain and sea ports; and a Department for technical affairs. This Directorate currently employs 17 persons.

The Directorate for safety of navigation and protection of the sea has as a main responsibility the implementation and the monitoring of the implementation of laws and regulations adopted in the field of maritime and shipping industry. This Directorate is composed of: an Inspection Division; a Department for managing maritime traffic and search and rescue operations; and, the National Centre for Coordinating Search and Rescue at Sea and Maritime Traffic Control (MRCC Rijeka). At the central level, the Directorate employs 16 persons among which 13 are employed in the field of search and rescue and traffic control. At the local level the Directorate comprises 8 harbor master offices (Pula, Rijeka, Senj, Zadar, Sibenik, Split, Ploce and Dubrovnik) with 79 branch offices as regional units employing a total of 331 persons. There are around two inspectors (PSC inspectors) in each harbor master office, with the exception of the harbor master office of Senj, and one in the Directorate. All together there are 15 inspectors. In addition, there are 160 authorized persons for inspections of boats and yachts. Harbor master's offices consist of a Traffic Department, an Inspection Department, a Law Department and an Administration Department.

Pursuant to Article 78 of the Maritime Code, the Ministry empowered a recognized organization, the Croatian Register of Shipping, to carry out the survey of ships and to issue certificates. The authorization is based on an Agreement drafted according to the IMO Resolutions A.739 (18) and A.789 (19), as well as to the EU Directive 94/57/EC. The Croatian Register of Shipping is an autonomous public institution operating for 57 years as the only authorized organization for statutory certification of vessels entered in the registers of the Republic of Croatia. The Croatian register of shipping regularly publishes technical rules for classification and statutory certification of sea going ships. It has a total of 100 employees, of which 30 are on site surveyors deployed in 10 branch offices, and 32 technical experts in the head quarter office. The surveyors and experts are highly qualified. The monitoring of the work of the RO is done through flag State inspections performed by the inspectors of the Ministry; auditing and participation of representatives from the Ministry at the level of assistant Minister as members of the Governing Council of the Croatian Register of Shipping.

Pursuant to the Maritime Domain and Sea Ports Act, the Croatian ports are subject to classification by the Ministry of the Sea, Transport and Development according to their size and to the importance and their respective activities. As for public ports of special (international) importance, the port authority management board is composed of four representatives of the Government, one of them being from the harbor master's office in the jurisdiction of which the port authority is located. The representatives are all appointed by the Government. With the consent of the Minister, the management board of the port authority appoints the Director of the port authority. For the ports of county and local importance, the County Government appoints the members of the management board of the port authority, while the Minister appoints one member from the harbor master's office within the jurisdiction where the port authority is located.

Port authority shall equip its ports with adequate reception facilities for the collection of ships generated waste and cargo residues. Port authority shall also prepare rules and regulations. These rules and regulations shall *inter alia* address the protection of the

environment. The rules and regulations must be confirmed by the relevant harbor master's office.

Pursuant to article 1029 of the Maritime Code, the activities and tasks to be performed by the Croatian Coast Guard shall be established by the Coast Guard Act. The latter has been recently issued, however further development by laws (Ordinances) is still in process. One of the ordinances should address the delegation of duties from the Maritime Code to the Coast Guard personnel. The Croatian Coast Guard is established as a separate unit within the Croatian Navy. The new Coast Guard Act maintains the inter-agency coordination and cooperation system. Eight Ministries coordinate their activities on sea monitoring, among which the Ministry of the Sea, Tourism, Transport and Development.

3-2-2 Legal Administration

The Ministry of Justice, public prosecutors and magistrates are the primary authorities for the enforcement of Croatian laws (criminal laws), including judicial, prosecution, judgment and sanction. However the Justice, the high Magistrate's Court, is involved only in cases of an appeal against the ruling of the Council for Offences/infringements. Except in that exceptional situation it does not seem that the Ministry of Justice is deeply involved in prosecution and sanction of illegal oil discharges.

3-2-3 Other Administrations

The Ministry of Environmental Protection, Physical Planning and Construction is responsible for the protection of the coast and the sea from pollution, with the exception of the pollution from ships, boats and yachts and floating and fixed offshore facilities, which is governed by the Maritime Code and the Maritime Domain and Sea ports Act as well as all relevant regulations adopted in accordance with these laws. Nevertheless the Ministry of Environment and the Ministry for the Sea, Tourism, Transport and Development are closely cooperating and supporting each other. An Agreement on inspection services on the marine environment provides the framework for such a co-operation. A new agreement on the share of responsibility regarding marine and coastal environment is under preparation.

The Police, the Air Forces and the Navy may be involved in hot pursuit of a ship in case of violation of the Maritime Code or the Maritime Domain and Sea ports Act (article 46 of the Code). They are all co-operating within the framework of the Coast Guard arrangement.

3-3 Implementation and enforcement capabilities

The total Croatian Adriatic coast line is 5835 km length of very attractive areas which make the tourism important for the economy; it includes 1240 islands and islets with a total coast line of 4058 km length. The total length of the mainland coast is 1 777 km.

In 2006 the number of ships above 500 GT (SOLAS ships) calling in Croatian ports was 7, 253. In 2006 the number of ships above 500 GT flying the flag of Croatia was 114 representing a total tonnage of 1.283.588 GT. It has been indicated that there are around 265 ships above 100 GT registered in Croatia for a total tonnage of 1.488.215 GT. There are also a large number of small boats (below 100GT) and pleasure crafts (yachts) registered in Croatia. Around 110.000 pleasure crafts are registered in Croatia and it is estimated that 55.000 foreign pleasure crafts are sailing in the Croatian sea or using the Croatian ports every year.

The major threat for the marine environment of Croatia (as a potential source of pollution /illegal or accidental discharges) comes from the pleasure crafts and the small boats, and from the traffic of merchant ships passing off of the coasts of Croatia and sailing towards the ports of the north Adriatic or leaving the north Adriatic, as well as from the traffic calling to the main ports (of international importance).

3-3-1 Capabilities to carry out flag State duties.

Currently the capabilities of Croatia to carry out its responsibilities as flag State are satisfactory. The existing arrangement with the Croatian Register of Shipping serves the purpose and it works efficiently (although Croatia was on the grey list of the PARIS MOU in 2006 for 13 detentions during the period 2004-2006). However prior to the accession of Croatia to the European Union new regulations regarding recognized organizations should be issued and the Ministry for the Sea, Tourism, Transport and Development shall adopt the Technical Regulations required by the Maritime Code. The Ministry may lack of dedicated personnel to carry out that regulatory function, which is presently undertaken by the Croatian Register of Shipping.

3-3-2 Capabilities to carry out Port State duties.

Regarding port State control of foreign ships, as of 1st January 2007, there were officially 16 PSC inspectors, however only 14 PSC inspectors are effectively carrying port State control inspections. This is notably insufficient when you consider that those inspectors have other responsibilities. There are currently more than 10 vacant positions to be filled but it appears that it is difficult to recruit qualified people. During the period 2000/2004, the percentage of ships inspected was of 45%, and in 2007, it went down to 26%.

For the survey, inspection and control of small boats (below 500GT) and of domestic and foreign pleasure crafts (sailing boats or motor boats), the 160 authorized persons for inspection dispatched into the 8 harbor master's offices and 79 branch offices are considered as insufficient and there is a plan for increasing their number.

Regarding port reception facilities, all major ports provide reception facilities in accordance with MARPOL and the EU Directive. That is done through contracts with private companies, the cost is recovered directly. It is envisaged that in the future, the cost will be incorporated into the port fees.

3-3-3 Capabilities to carry out coastal State responsibilities.

Within the Maritime Domain (ports, internal waters and territorial sea) the administrative control over enforcement of the Maritime Domain and Sea ports Act shall be undertaken by authorized staff of the Ministry of the Sea and of county State administration offices, pursuant to State administration system Act. Inspection control over enforcement of the Maritime Domain and Sea ports Act and other regulations passed on its bases shall be performed by the Ministry's maritime domain inspectors and the harbor master's office inspectors (article 94 of the Act). According to Article 95, inspections and control of maritime domain can also be done by authorized Government employees of the Ministry. In terms of human resources, it seems that the possibility to adjust the capabilities to the needs is there but the personnel should be trained.

In the EEZ it is unclear who are the staff authorized to performed control over enforcement of the Croatian law (Maritime Code article 41), although the police and the military forces (navy, air forces) are mentioned in cases of hot pursuit in the EEZ (Article 46 of the Code). Nevertheless, in cases of alleged offences in the EEZ, the offence proceeding will be initiated and conducted according to the provisions of the Maritime Code (article 989, 990, 991 and 992). This means that the offence proceeding will be conducted by the Council for offences.

Regarding the capabilities in terms of equipment (boats, aircrafts and dedicated equipment) most of the resources to be deployed belong to the harbor master's offices. For example, the harbor master's office from Rijeka has 8 official boats of 11 m long and 1 boat of 20 m long and aerial surveillance can be performed on the basis of a contract with a private company. If needed, additional equipment from other administrations (navy, air forces, police...) can be requested and mobilized under the Coast Guard Arrangement. The Maritime Rescue Coordination Center (MRCC Rijeka) is equipped with an AIS station and an electronic navigational chart (ECDIS viewer) providing data on all seagoing vessels passing through the MRCC's area of responsibility. This capacity is used or can be used for identifying a potential polluter. No information regarding dedicated specialized detection equipment was provided.

Currently within a joint project between Croatia and Norway, financed by the Norwegian Government, the feasibility of the setting up of a coordinating mechanism for collecting evidence of illegal discharges by ships using satellite and aircrafts is being looked at. On the side of Croatia, the Ministry for the Sea and Transport (MRCC), the Ministry of Defense (Croatian air forces and the Coast Guard), as well as the Ministry of Sciences are involved in this project. EMSA is also associated to this project.

3-3-4 Training of personnel

The Ministry for the Sea, Tourism, Transport and Development has training programs, training capabilities and regularly organizes training courses and seminars.

The personnel involved in Flag State Implementation (most of the work is done by the surveyors of the RO who are well trained) and in Port State Control (PSC inspectors) as well as in control and investigation, is generally well trained. However there are specific training needs in the following fields: inspection related to MARPOL compliance, detection of MARPOL violations, air surveillance and means for detection and gathering evidence of MARPOL violations, criteria for MARPOL violations punishment.

Croatia as a Party to the Paris MOU regularly sent PSC officers to the training courses and seminars organized by the Paris MOU.

No mention was made of seminars or workshops on this specific subject targeting magistrates and members of Council for offences, in particular those who require legal knowledge.

3-4 Co-operation on MARPOL enforcement

3-4-1 Co-operation within the framework of the Paris MOU on Port State Control.

Croatia is a member to the Paris MOU and participates actively to the Paris MOU, by cooperating with other Mediterranean countries also members of the Paris MOU, in particular the Adriatic countries. The percentage of ships inspected has decreased those past years. In 2006 with a number of individual ships of 1356 Croatia carried out 370 inspections among which 248 with deficiencies resulting in 31 detentions. In 2006 the percentage of individual ships inspected was 27.29%.

3-4-2 Co-operation with neighboring countries

Croatia is Party to the Barcelona Convention's 1976 Protocol concerning co-operation in Combating Pollution of the Mediterranean Sea by Oil and other Harmful Substances in

Cases of Emergency. Croatia ratified on 01/10/2003 the 2002 Protocol Concerning Co-operation in Preventing Pollution from Ships and, in Cases of Emergency, Combating Pollution of the Mediterranean Sea (replacing the above mentioned Protocol), which entered into force in 2004. Within the framework of this Protocol, Croatia supports and contributes to the Regional strategy for prevention of and response to marine pollution from ships developed by REMPEC and adopted in November 2005 by the Barcelona Convention's Contracting Parties.

Croatia cooperates with Italy and Slovenia in the framework of the Adriatic initiative, in particular on preparedness and response to accidental marine pollution (Sub-regional trilateral Contingency Plan). Croatia is very much in favor of extending this sub-regional cooperation to issues related to the enforcement of MARPOL Annex I (also in line with the goal of the article 6 of the Maritime Code).

3-5 Reporting and statistics (MEPC/Circ.318)

In accordance with the MEPC/Circ. 318 regarding the mandatory reporting system under MARPOL, the Croatian maritime administration sent to IMO on April 2007 reports for the years 2004, 2005 and 2006.

3-5-1 Reports on alleged discharged violations.

In 2006 Croatia reported 3 cases of discharges of oil which were dealt with by a council for infringement. The first was a discharge of 10 liters of diesel oil in a marina by an Italian vessel; the fines imposed amounted 5.150,00 Kunas (09/08/06). The second was a discharge of 3 liters of oil in a marina by an Austria vessel; the fines imposed amounted 2.200,00 Kunas (31/08/06). The third was a discharge of 500 liters of oily waters in a fishing port by a Croatian vessel; the fines imposed amounted 7.000,00 Kunas (08/09/06).

3-5-2 Reports by the port State under its port State control duties.

	2004	2005	2006
1) Ships inspected:	471	26	356
2) IOPP certificate discrepancies:	2	0	3
3) Oil record book discrepancies:	25	31	55
4) Require equipment not functioning:	5	18	59
5) Ships detained:	3	1	10

3-5-3 Report by flag State on penalties imposed.

The consultant was not provided with information on penalties imposed to ships flying the Croatian flag. However according to the Paris MOU in 2006, 58 Croatian ships were inspected among which 39 had deficiencies and 4 were detained.

IV Assessment of the needs for improvement and assistance

4-1 Overview of the difficulties experienced

4-1-1 Difficulties in exercising flag State responsibilities.

According to the 2006 Report of the Paris MOU, Croatia was on the Grey List of flag State, and the Croatian Register of Shipping with 325 inspections and 4 detentions during the period 2004-2006 was classified as 'medium' for its level of performance. Although the system in place is serving the purpose of flag State responsibilities, improvements are needed. Croatia should rapidly enter in the White List. As requested by the Maritime Code and as part of the process of joining the European Union, new regulations shall be adopted regarding Recognized Organizations as well as the role and involvement of the Ministry for the Sea and Transport.

4-1-2 Difficulties in exercising port State control.

The main difficulty relates to the insufficient number of port State control inspectors and to the difficulty of recruiting qualified personnel for filling the vacant positions.

4-1-3 Difficulties encountered in detecting, prosecuting and violation sanctioning

The system described above is satisfactory when it comes to control, investigation, prosecution and sanction. A good legal system, institutional arrangements and capabilities are in place. However there are some uncertainties and weaknesses. The uncertainties can be found in the legal system whilst the weaknesses are mainly related to coordination arrangements and to the use of the existing capabilities.

- a) Uncertainties do exist regarding the enforcement within the EEZ of the Croatian laws and of the international Conventions (MARPOL) concerning the protection of the marine environment (Maritime Code). The Maritime Domain and Sea Ports Act clearly designates the authorized personnel empowered to control and investigate infringements within the internal waters and territorial sea and to initiate prosecution. But the

Maritime Code establishing the EEZ is unclear as for who should carry out those responsibilities in the EEZ. In addition, there are not clear indications on how the provisions of the Code concerning the EEZ or applicable within the EEZ will be enforced. The harbor master's offices (harbor master's inspectors) need to be provided with clarifications on this particular point and what are their role and responsibilities (in particular regarding, detection, control and investigation).

- b) Although no comprehensive information was provided on the Croatian Coast Guard (coast guard arrangements) and in particular regarding the Act addressing the activities and tasks of the Coast Guard (recently issued) neither on the Ordinances under preparation, it seems that currently the potentiality of the Coast Guard (coast guard arrangement) is not fully used for the purpose of detecting, controlling and investigating illegal discharges from ships. The existing capabilities of the harbor master's offices, the Navy, the air forces and the police should be used in a coordinated manner according to a specific plan and program, including the development and the acquisition of specialized technology.
- c) The penalties imposed under the Croatian laws are not enough severe to discourage their violation.

4-2 Evaluation of the needs for improvement

4-2-1 Continue to develop the legal system

Croatia is engaged in a continuous process of developing its legal system with a view to:

- a) effectively implement and enforce the IMO conventions to which Croatia is party;
- b) fulfill its commitments under the Paris MOU; and
- c) bring its legislation in line with the EU legislation prior to joining the EU.

In this process of continuously developing its legal system Croatia should:

- 1) With a view to clarify the enforcement issue within the EEZ, the Minister for the Sea, Tourism, Transport and Development, pursuant to the Article 1023 of the Maritime Code, and with the approval of the Minister of Environment, shall issue regulations regarding the protection of the marine

environment in the EEZ (Article 41 par.3). Regulations applicable to ships shall be the sole responsibility of the Minister for the Sea and Transport.

The Coast Guard Act (article 1029), together with its Ordinances (under preparation) should also contribute to clarify the enforcement issue within the EEZ with respect to authorized authorities (personnel) for control, investigation and prosecution.

- 2) Pursuant to Article 1019 of the Code, regulations regarding recognized organizations shall be issued (establishing a new system) and measures shall be taken for the Ministry to adopt and issue the technical regulations required in Article 77 (which are presently issued by the Croatian Register of Shipping).
- 3) The level of the fines imposed in case of violation should be re-considered to make it more dissuasive, particularly for serious deliberate infringements.

4-2-2 Maintain and strengthen the enforcement capabilities.

The resource capability is mainly a staff issue as well as an issue of coordinating and optimizing the use of the existing equipment.

- 1) The number of port State control inspectors and of authorized personnel for inspection of small boats and yachts should be increased. Recruiting additional staff to carry out the regulatory work requested under article 77 of the Maritime Code should be considered.
- 2) The Coast Guard Act and its Ordinances shall specify the activities and tasks from the Maritime Code to be performed by the Coast Guard. This shall include monitoring, detection, control and investigation of pollution of the sea from ships, in particular from ships sailing in the territorial sea and the EEZ of Croatia (not calling at a Croatian port). A program and plans for an optimized use of the means of the Coast Guard should be adopted. The result of the ongoing joint Croatia/Norway project should be used to put in place a coordinating mechanism for collecting evidence of illegal discharges, in particular those from passing ships. The program and plans for the use of Coast Guard means should reflect and take into account the establishment of such a mechanism

The acquisition of additional specialized equipment in particular equipment for discharge detection to be installed on aircrafts should be considered and studied within this context.

4-2-3 Training of personnel

Training of personnel on MARPOL implementation and enforcement is a permanent priority and a key for improvement. The categories of personnel to be trained are:

- 1) Surveyors, inspectors, port State control officers, who should undergo special training on MARPOL (mainly the Paris MOU training program);
- 2) Legal staff of the Law Department of the harbor master's offices, in particular those members of the Council for infringement, through specialized seminars and training;
- 3) Authorized inspectors to control enforcement must be trained in various fields such as discharges monitoring, detection, investigation, evidence gathering, reporting and initiating proceeding. Selected navy officers and air forces officers should also be trained on those topics.

4-2-4 Raising awareness

- 1) A key condition for ensuring the effectiveness of an efficient system is to get magistrates acquainted with these issues. Although the Croatian judicial courts are not very much involved in the prosecution process, which is done mainly through the Council for infringement, the Croatian magistrates should be familiarized with pollution violations under MARPOL through seminars and workshops. Members of Councils for infringement and magistrates should participate to such seminars and workshops.
- 2) Awareness campaign on the prevention of pollution from ships should be periodically organized to inform the public at large and the owner of boats and yachts about the issue and the fines imposed in case of violation.

4-3 Needs for regional co-operation

Taking into account that one of the main threats regarding illegal pollution from ships is represented by the passing traffic off of the coasts of Croatia, one of the most efficient ways to address this issue is through the sub-regional cooperation. Croatia should initiate and develop regional and sub-regional cooperation on that matter.

Regional co-operation already exist within the framework of the Paris MOU, the Barcelona Convention's Protocol concerning co-operation in preventing pollution from ships

and in cases of emergency, combating pollution of the Mediterranean Sea (Prevention and Emergency Protocol) and the Adriatic initiative. The following should be noted:

- 1) The co-operation under the Paris MoU need to be strengthened with respect to MARPOL Convention enforcement;
- 2) The Prevention and Emergency Protocol and the Strategy for the prevention of, preparedness for and response to marine pollution from ships are the appropriate frameworks for regional co-operation on MARPOL implementation and enforcement;
- 3) Sub-regional cooperation in the Adriatic is definitively a good way forward to address the issue of illegal discharges, in particular from passing ships;
- 4) Bilateral co-operation with neighboring countries should be encouraged.

The sub regional co-operation should focus on information exchange and harmonization of procedures, and consider the pooling of resources for monitoring, surveillance and gathering of evidence.

V Recommendations

5-1 Actions to be taken at national level

5-1-1 Further develop the legal system.

The Minister for the Sea and Transport should adopt and issue the rules and regulations required by the Maritime Code, in particular:

- 1) The regulations regarding the protection of the marine environment of the EEZ from the pollution from ships (article 1023);
- 2) The regulations regarding the recognized organizations (article 1019);
- 3) The technical regulations of the article 77;
- 4) Ensure that the Coast Guard Act (Article 1029) establishing the activities and tasks from the Maritime Code to be performed by the Coast Guard and its Ordinances do address the control and investigation of infringements in particular in the EEZ; and,
- 5) Take the necessary actions to make the regime of sanctions adequate in severity to discourage violations.

5-1-2 Strengthening implementation and enforcement capabilities

The Minister for the Sea and Transport should continue to give a high priority to effectively performing the responsibilities of flag State and coastal State and to ensure the necessary budgetary allocation to recruit and retain high caliber professional civil servants for administration and inspection duties (FSI, PSCO).

The Ministry should:

- 1) make all efforts to recruit additional PSC inspectors (fill the vacant positions); and,
- 2) increase the number of authorized inspectors for boats and yachts.

Regarding the capabilities for exercising coastal State responsibilities, in particular for the enforcement of discharges requirements, the following actions should be considered:

- 1) to clarify the responsibilities within the EEZ concerning control of enforcement;
- 2) to adopt a program and plans to optimize the use of the means of the Coast Guard partners;
- 3) to establish a coordinating mechanism for monitoring and detecting illegal discharges (follow-up of the ongoing Croatia / Norway project);
- 4) to initiate a study for the acquisition of specialized dedicated detection equipment.

The training of personnel is a prerequisite for developing and maintaining implementation and enforcement capabilities. The Ministry for the Sea and Transport and the Coast Guard partners should ensure that through national or regional training courses, the personnel mentioned under section 4.2.3 of the present report are trained.

5-1-3 Strengthening the prosecution system

The magistrates should be familiarized with the MARPOL Convention through national and regional seminars and special training.

Regular meetings between specialized magistrates, members of the Council for infringement and with officers from the harbor master's offices, the navy, the air forces, the ports (port authority), as well as port State control inspectors should be organized with the view to strengthening the enforcement and prosecution system.

5-1-4 Educating the public

A public awareness campaign on the prevention of the pollution of the marine environment from pleasure crafts should be launched with a view to informing the general public, in particular the users of pleasure crafts (Croatian citizens and foreigners).

5-2 Actions to be taken at the regional level

5-2-1 Strengthen the regional co-operation on MARPOL enforcement through port State control under the Paris MOU.

Special efforts should be made to improve and harmonize the procedures and practices related to port State control and inspection of discharges requirements and in promoting information exchange.

5-2-2 Use the Prevention and Emergency Protocol and the Regional Strategy as the appropriate framework for regional co-operation on MARPOL implementation and enforcement with the view to:

a) Promote regional co-operation on:

- 1) Information exchange;
- 2) Monitoring and surveillance;
- 3) Harmonization of enforcement measures.

b) Promote the preparation of regional manual and guidelines.

5-2-3 Croatia should take actions with a view to encouraging cooperation among the Adriatic countries and promote the development of a sub-regional agreement on the matter.

Considering that Croatia has already initiated the process of adopting a modern and up-to-date legal regime and of bringing its own maritime legislation in line with the European legislation as part of the preparation to the accession to the EU, the proposed recommendations are fully achievable. It is primarily to the Ministry of the Sea and Transport to issue the pending Ordinances and Regulations required by the Maritime Code. The capabilities is not an issue, and the focus should be on planning and coordinating the use of existing resources, although budgetary allocation will have to be secured.

Croatia should continue to benefit of the support provided by the European Union in the framework of the accession process and REMPEC should continue to provide assistance to Croatia in implementing the Prevention and Emergency Protocol as well as implementing and enforcing the relevant IMO Conventions. REMPEC should, if requested, assist Croatia in strengthening the legal system and in particular in developing a sub-regional agreement. REMPEC could also assist in organizing training courses and seminars.

VI Conclusions

Although the present report is not the result of a long and in depth review, it nevertheless provides a good picture of the current situation in Croatia regarding the implementation and enforcement of MARPOL Annex I. The assessment made in co-operation with the Directorate for Safety of Navigation and Protection of the Sea, using the questionnaire and meeting with relevant personnel of various administrations and services concerned help in getting a general understanding of the current situation and in identifying weaknesses and needs for improvement. The actions to be taken to address the weaknesses and the way forward to improve the system were also discussed, mainly with the Assistant Minister Capt. Mario Babic, from the Maritime Policy Directorate and with the Head of the Inspection Division, Mrs. Tatjana Krilic, from the Directorate for Safety of Navigation and Protection of the Sea, during the debriefing meeting at the end of the field mission. The recommendations contained in this report largely reflect the outcomes of these discussions.

The field assessment showed that Croatia has in place a legal regime and institutional structures for an efficient MARPOL Annex I implementation and enforcement system. There are some weaknesses which can be easily corrected and the system is in a continuous process of improvement. However, the system needs to be strengthened to address properly the two main threats identified, which are pollution from pleasure crafts and illegal discharges from passing ships.

To efficiently address illegal discharges from passing ships, Croatia should use the sub-regional co-operation as a way forward. To this end, REMPEC should be seen as a facilitator for the development of a sub-regional agreement.

Annex I : Terms of reference

Background

Currently, the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) is implementing a European Union (EU) financed MEDA project entitled “EUROMED COOPERATION ON MARITIME SAFETY AND PREVENTION OF POLLUTION FROM SHIPS - SAFEMED”. The SAFEMED Project is being implemented in ten EUROMED Mediterranean Partners, namely Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Palestinian Authority, Syria, Tunisia and Turkey.

The primary objective of the SAFEMED Project is to mitigate the existing imbalance in the application of maritime legislation in the region between the Mediterranean Partners that are not members of the EU and those who are members, through promoting a coherent, effective and uniform implementation of the relevant international conventions and rules aimed at better protection of the marine environment in the Mediterranean region by having safer shipping and preventing pollution from ships.

The SAFEMED Project is divided into eight major activities each of which are sub-divided into preliminary (P) and/or operational (O) tasks. The results of preliminary tasks will be applied for the planning and implementation of the operational tasks. The Project also provides for the recruitment of short-term experts to implement a range of activities/tasks.

REMPEC sourced additional financial resources in order to implement the same activities in the Mediterranean coastal States which are not MEDA/SAFEMED eligible countries and not EU members States, Namely Albania, Bosnia Herzegovina, Croatia and Montenegro.

Assignment

The Project addresses protection of the marine environment, it aims at identifying impediments and needs for the implementation of the MARPOL Convention taking into consideration REMPEC's Regional Strategy for Prevention of and Response to Marine Pollution from Ships adopted with a view of facilitating the implementation of the Prevention and Emergency Protocol to the Barcelona Convention. It relates to prevention and control of operational pollution from ships in the Mediterranean region.

In order to achieve this Project shall focus on the following actions:

1. Evaluation of the needs for assistance of the Mediterranean countries for implementing MARPOL taking into consideration REMPEC's Regional Strategy for Prevention of and Response to Marine Pollution from Ships in relation to the Prevention and Emergency Protocol to the Barcelona Convention;
2. Identification of the impediments of the Contracting Parties to the Prevention and Emergency Protocol to the Barcelona Convention to implement effectively their commitments;
3. Assessment of the situation and needs in the Mediterranean Partners regarding the national legislation for the implementation of the relevant provisions of MARPOL in relation with the monitoring and detection of illegal discharges as well as the prosecution of offenders;
4. Identification of national competent administrative bodies/institutions which are in charge of monitoring illicit discharges and collection of evidence;
5. Identification of national competent legal authorities and bodies (courts/tribunals) for prosecution of offenders;
6. Propose initiatives aimed at harmonising as much as possible the relevant national legislations in the Mediterranean Partners;
7. Consider the possible future adoption, by the Mediterranean Partners, of similar EU legislation with regard to the problem of illicit oil discharges from ships, focussing in particular on the monitoring, early identification of ships discharging polluting substances, appropriate sanctions, and make appropriate recommendations.

For the completion of the above tasks the Consultant shall:

I) Questionnaire

The Consultant will be in charge of drafting a questionnaire to be approved by REMPEC to assist in the collection of information.

II) Needs assessment – field mission

1. collect information on the policy of the national authorities of the beneficiaries regarding ratification of MARPOL including the acceptance of the optional Annexes;
2. collect and update information on the status of transposition into national law of MARPOL and its Annexes
3. assess the legislative and enforcement capabilities of the beneficiaries to fulfil their obligations under MARPOL as flag States, port States and coastal States and in particular:
 - 3.1. assess whether conditions of delivery of certificates, where applicable, or delegation of duties to Recognised Organisations (RO's), where applicable, is compliant with the obligations of MARPOL;

- 3.2. assess the existence of reporting procedures for violations of MARPOL as required under Article 4 (3) of the Convention and their effective enforcement;
- 3.3. assess the existence of a national legal framework as a basis for prosecuting offenders for infringements of MARPOL Annex I regarding illicit oil discharges;
4. if such framework as described in 3.2 exists, assess its performance in terms of:
 - 4.1. existence of investigation of casualties involving pollution.
 - 4.2. legal system of proof/evidence;
 - 4.3. efficiency of technical procedures to gather evidence;
 - 4.4. efficiency of prosecution;
 - 4.5. adequacy of the system of sanctions, in terms of proportionality and dissuasive effects
5. issue recommendations on necessary adaptations of the national legislations, if any and on necessary measures and corresponding means to fulfil the obligations of beneficiaries under MARPOL.

Annex II: Questionnaire on prevention and control of operational oil pollution from ships (MARPOL Annex I)

I Organizational structures

Provide general information on the following governmental authorities including an organization chart illustrating the national setup and an indication of the number of employees for each relevant category.

1. Maritime Administration

Administrative authorities responsible for the implementation and enforcement of MARPOL Annex I:

- Legislation/regulations (enabling legislation)
- Implementation of regulations
- Surveys (instructions to surveyors, delegation of surveys)
- Issue of certificates/records of ship certification
Survey reports/equipment approval
- Compliance monitoring /inspections/investigations/detection
Violation reports/prosecution of offenders
(compiling of evidence and preparation of cases for prosecution)
- International co-operation on MARPOL enforcement
- Reporting (to IMO) and collection of statistics

2. Legal Administration (*Justice*)

Competent authorities, in particular legal authorities, involved in the enforcement and prosecution process:

- Preparation of Legislative jurisdiction, i.e. jurisdiction to prescribe legislation as:
 - flag State
 - port State
 - coastal State
- Enforcement legislation, i.e. jurisdiction to establish the constituting elements of violations and sanctions as:
 - flag State
 - port State
 - coastal State
- Prosecution process:
 - competent authority to whom to report offences
 - competent authority responsible for collating all relevant evidence for a prosecution
 - competent authority responsible for assessing the evidence and carrying out prosecution in court
 - type of court where the alleged offences are tried
 - competent authority responsible for enforcing penalties
 - competent authority responsible for informing other government departments

II Legal framework

1. Status of transposition of MARPOL Annex I into national laws (see Code for the Implementation of Mandatory IMO Instruments, Res. A.973(24)) (*Maritime Administration*)

Describe or provide your State's relevant national legislation relating to the implementation of MARPOL Annex I.

- Obligations of Contracting Government/Party:
 - Art. 4 (violations and sanctions)
 - Art. 5 (issue and acceptance of certificates and special rules on inspection of ships)
 - Art. 6 (detection of violations and enforcement of the Convention)
 - Art. 7 (undue delay to ships)
 - Art. 11 (communication of information to IMO, in particular annual statistical reports of penalties actually imposed for infringement of the Convention)
 - Art. 17 (promotion of technical co-operation)
 - Annex I Reg. 8 (issue or endorsement of a certificate by another Government)
 - Annex I Reg. 15.7 (control of discharge of oil, investigations (machinery space))
 - Annex I Reg. 34.7 (control of discharge of oil, investigations (cargo area))
- Flag State obligations:
 - Art. 4(1) and (3) (violations and sanctions)
 - Art. 6(4) (detection of violations and enforcement of the Convention, investigations)
 - Annex I Reg. 6 (surveys)
 - Annex I Reg. 7 (issue or endorsement of certificate (IOPP Certificate))
 - Annex I Reg. 9 (form of certificate)
 - Annex I Reg. 10 (duration and validity of certificate)
 - Annex I Reg. 12 (oil fuel tank protection – approval of design and construction)
 - Annex I Reg. 14 (oil filtering equipment – approval)
 - Annex I Reg. 15 (control of discharge of oil – design approval)
 - Annex I Reg. 29.2.1 (slop tanks – approval)
 - Annex I Reg. 30.6.5.2 (pumping, piping and discharge arrangements – establishment of Annex I requirements)
 - Annex I Reg. 30.7 (pumping, piping and discharge arrangements – positive means of loading, transporting or discharging cargo)
 - Annex I Reg. 31.2 and .4 (oil discharge monitoring and control system – approval)
 - Annex I Reg. 32 (oil/water interface detector – approval)
 - Annex I Reg. 36.9 (Oil Record Book, Part II – development of oil record book for ships of less than 150 gross tonnage)
 - Annex I Reg. 38.8 (reception facilities – notification on alleged inadequacies of port reception facilities)
 - Annex I Reg. 39.2.2 (special requirements for fixed or floating platforms – approval of record form)
- Port State obligations:
 - Art. 4(2) (violations and sanctions)
 - Art. 5 (inspection of certificates)
 - Art. 6 (inspection to detect violations of the discharge standards)
 - Art. 7 (undue delay to ships)
 - Annex I Reg. 11 (port State control on operational requirements)
 - Annex I Reg. 17.7 (Oil Record Book, Part I – inspection without unduly delay)
 - Annex I Reg. 36.8 (Oil Record Book, Part II – inspection without unduly delay)
 - Annex I Reg. 38.4 and .5 (reception facilities within special area)

- Annex I Reg. 38.6 (reception facilities within special area – notification to IMO (Red Sea))
- Coastal State obligations and rights:
 - **MARPOL** Art. 4 (any violations within the jurisdiction of a coastal State Party to the Convention must be an offence under the law of that Coastal State and sanctions must be imposed under that law)
 - **UNCLOS** (*Maritime Administration/Foreign Affairs/Justice/Environment*)
 - Art. 211(5) (coastal States may in their exclusive economic zone or an established equivalent marine area such as a pollution zone adopt laws and regulations for the prevention, reduction and control of pollution from vessels conforming to and giving effect to MARPOL)
 - Art. 220 (enforcement by coastal States)
 - Art. 226 (investigation of foreign vessels)
 - Art. 111 (right of hot pursuit)
 - Art.223 (measures to facilitate proceedings)
 - Art. 231 (notification to the flag State and other States concerned)
 - Art. 228 (suspension and restrictions on the institution of proceedings)

2. Legal system/enforcement regime (*Maritime Administration and Justice*)

Describe or provide your State's relevant legislation relating to the enforcement of MARPOL Annex I.

- National laws establishing the elements of violations together with clear objective evidence
 - Requirements for the control of operational pollution
 - Requirement for ship survey and certification
 - Place where the law applies:
 - Internal waters including ports
 - Territorial sea
 - Strait used for international navigation
 - Exclusive economic zone or equivalent maritime zone
 - High seas
- The regime of sanctions
 - The nature of sanctions imposed:
 - Administrative penalties
 - Civil penalties
 - Penal or criminal penalties
 - Type of penalties and level:
 - Monetary penalties/level of the fines (minimum and maximum)
 - Disqualification from performing a specific activity
 - Imprisonment/duration (if such is the case, under which circumstances?)
 - To whom the penalties apply:
 - The master of the ship
 - The ship owner
 - The owner of the cargo
 - Any other implicated person

3. Prosecution process (*Justice*)

- Securing a conviction
 - Are there any guidelines or instructions relating to the collection and assessment of evidence?

- Prosecuting offences
 - Are there any guidelines or instructions relating to the presentation of evidence in court?
 - Type of court where the alleged offence will be tried
 - Magistrate level
 - Civil court
 - Criminal court
 - Means of proof

III Implementation and enforcement capabilities

Does your Administration (Maritime and Legal) have the necessary legal authority (clear definition of responsibilities) and resources (human and material) to regulate, administer, ensure compliance with and enforce the MARPOL pollution prevention requirements as flag State, port State and coastal State?

1. Capabilities to carry out flag State duties (own ships) (*Maritime Administration*)
 - a) Sufficient qualified administration and legal staff
 - b) Sufficient qualified and experimented surveyors and inspectors
 - c) Delegation of duties to recognized organizations
2. Capabilities to carry out port State duties (port State control on foreign ships) (*Maritime Administration*)
 - a) Sufficient qualified and experimented port State inspectors
 - b) Sufficient qualified investigation and prosecution staff
 - c) Designated authority responsible for communicating with flag State and port State Administration
3. Capabilities to carry out coastal State responsibilities (*Maritime Administration and others: coast guard, Defence—including Navy, air force—, customs...*)
 - a) Monitoring/observation/detection capabilities:
Does your State have the necessary monitoring, observation and detection capabilities? Which are the governmental entities in charge of those responsibilities?
 - Dedicated vessel (coast guard, Navy vessel)
 - Dedicated aircraft (coast guard, Navy, air force, customs)
 - Remote sensing and radar technology
 - Access to satellite images
 - b) Are there designated officials having authority to draw up a statement of a violation or of findings (*procès-verbal*)?
 - c) Ability of gathering evidence using the following techniques:
 - Photographs
 - Video
 - SLAR (side looking airborne radar)
 - Infra red
 - UV
 - FLIR (forward looking infra red camera)
 - Positioning system
 - Oil samples analyses
 - Darkness identification
 - Satellite
 - Use of colour code

- Radio recording
 - Computer modelling
 - Port inspection report
- d) Are there permanent instructions (procedures) on gathering and presenting evidence (compiling a dossier for prosecution purposes) according to the requirements of the national prosecution procedures?
 - e) Are there sufficient qualified competent authorities responsible for compiling a prosecution dossier?
 - f) Are prosecutors and magistrates aware and familiar with MARPOL violations and enforcement? (*Justice*)
4. Training of personnel (*Maritime administration and others*)
 - a) Does a training programme exist?
 - b) Does your country have Training capabilities?
 - c) Are national seminars and courses regularly organized?
 - d) What are the training needs?

IV Co-operation on MARPOL enforcement

MARPOL calls for co-operation and interchange as a mutual effort of enforcement among States Parties. Such co-operation may take several forms: Memoranda of Understanding on port State control and arrangements in respect of monitoring, surveillance, investigation, gathering of evidence and prosecution.

1. Mediterranean MOU (*Maritime Administration*)
Provide information on the use and benefit of the network of the port State control MOU in respect of MARPOL enforcement.
 - a) Percentage of foreign ships entering your ports that were inspected
 - b) Exchange of information on detection of deficiencies
 - c) Requests for inspection or specific investigation
2. Co-operation with neighbouring countries/regional co-operation (*Maritime Administration and others*)
Co-operation on information exchange and pooling of resources on monitoring, surveillance, gathering of evidence as well as harmonization of procedures and joint training activities will be beneficial for a more effective MARPOL enforcement.
 - a) Does your country have experience in such co-operation?
 - b) Does your Administration consider the development of such co-operation as a good way to improve the performance of the Mediterranean countries individually and collectively in MARPOL enforcement?
 - c) Is your Administration aware of the Regional Strategy for Prevention of and Response to Marine Pollution from Ships developed by REMPEC and adopted in November 2005 by the Mediterranean countries?

V Reporting (to IMO) and compiling of statistics

MEPC/Circ.318 provides the format for a mandatory reporting system under MARPOL with a view to facilitate communication to the Organization of information called for by Articles 8, 11 and 12 and Regulation 38 of Annex I. The data from these reports are useful to assess the effectiveness of the application of the convention and for statistical purposes. Parties are requested to submit their annual reports by 30 September of the following year.

The following is the MEPC/Circ.318 questionnaire.

- Annual enforcement report on alleged discharge violations (*Maritime Administration and Justice*)
 1. Date of incident
 2. Name and IMO No. of the ship
 3. Flag State to whom alleged violation was referred and date
 4. Name of port or location of incident
 5. Type of substance spilled and estimated quantity
 6. Summary of alleged offence, evidence; other action taken by coastal State
 7. Party responding to alleged violation and date
 8. Action taken by flag State including official proceedings
 9. Concluding comments by coastal State including those on official proceedings

- Annual statistics reports (*Maritime Administration*)
 - Section 1: Report by the port State under its port State control
 1. Number of ships boarded during report period
 2. IOPP Certification discrepancies:
 - a) No certificate or equivalency
 - b) Certificate or equivalency discrepancy
 - c) Compliance rate
 3. Oil Record Book discrepancies:
 - a) No record book or equivalency
 - b) Oil record book or equivalency discrepancy
 - c) Compliance rate
 4. MARPOL equipment discrepancies:
 - a) Required equipment not on board
 - b) Required equipment not functioning
 - c) Compliance rate
 5. Number of ships detained in port or denied entry

 - Section 2: Port State report about violations resulting in detention or denial of entry
 1. Name and IMO No. of the ship
 2. Violation description
 3. Action taken

 - Section 3: (1) Report by port State on penalties imposed
Type of violation; Fines (maximum, minimum, average); Imprisonment
 1. Illegal discharges
 2. Oil Record Book
 3. IOPP Certificate
 4. Other

 - Section 3: (2) Report by flag State on penalties imposed
 1. Illegal discharges
 2. Oil Record Book
 3. IOPP Certificate
 4. Other

VI Improvements (*Maritime Administration and others*)

1. Please describe the difficulties experienced:
 - a) In exercising flag State responsibilities (survey and certification)
 - b) In exercising port State control (inspection)

- c) In the detection, prosecution and sanctioning of violations
2. Please indicate needs for improvement, if any, as regards:
- a) Increasing resource capabilities (qualified personnel, better use of existing equipment available within the country, pooling resources with neighbouring countries...)
 - b) Training of personnel (surveyors, inspectors, investigators)
 - c) Raising awareness amongst prosecutors and magistrates and familiarizing them with MARPOL requirements
 - d) Organizing meetings between professionals and magistrates
3. Consider actions to be taken at the national and regional levels with a view to improving the capability of countries of the Mediterranean region and of the whole region to effectively implement and enforce MARPOL.

Introductory note to the questionnaire

The questionnaire attached to this note aims at assisting the relevant national authorities in collating, with the help of a consultant, information with a view to providing a comprehensive picture of the current situation in your country concerning the implementation and enforcement of MARPOL Annex I regarding the prevention and control of operational oil pollution from ships.

The questionnaire is designed to be used as a guide for assessing the situation, identifying the weaknesses and evaluating the needs for improvement. It is quite comprehensive and covers the whole issue of implementation and enforcement of MARPOL Annex I regarding the prevention and control of operational oil pollution from ships.

The questionnaire is divided into 6 major components:

1. Organizational structures;
2. Legal framework;
3. Implementation and enforcement capabilities;
4. Co-operation on MARPOL enforcement;
5. Reporting (to IMO) and collection of statistics;
6. Improvement.

When considering the different components of the questionnaire, it appears that various entities or bodies are or should be involved in the overall implementation and enforcement of MARPOL Annex I; therefore, all those entities or bodies should be involved in the provision of the relevant information and comments.

Although the ministry in charge of maritime affairs (the maritime administration) has usually the main responsibility regarding MARPOL's implementation, when it comes to enforcement, such responsibility would be shared with other ministries (for example the ministry of justice, the ministry of defense—including the Navy, the air force—, the coast guard, the ministry of environment...).

The questionnaire should be circulated to those entities or bodies which, in addition to the maritime administration, are involved or should be involved in the overall issue as indicated above. Those entities or bodies should provide information and comments in the part of the questionnaire which is or may be relevant to their responsibilities. The questionnaire gives an indication (in italics within brackets) of the entities or bodies concerned (or which may be concerned) to which the questionnaire should be sent and which should ideally provide information and comments.

The maritime administration having overall responsibility in this matter should coordinate this activity with the assistance of the SAFEMED consultant. The maritime administration should circulate as soon as possible the questionnaire to all relevant entities or bodies having an involvement or which may have an involvement in this matter and should ensure that they provide information and their contribution in time (prior to the visit of the consultant if possible or/and during the visit of the consultant). The maritime administration should organize all necessary meetings between the consultant and the relevant competent authorities from the various entities and bodies involved starting with the maritime administration and finishing with it for a final debriefing

The role of the consultant is to assist the maritime administration and the other administrations involved in collecting and compiling information with a view to conducting an assessment of the situation and identifying needs for improvement as well as propositions for future actions.

It is important for the success of this activity and for the ultimate benefit of the country that the administrations concerned do their utmost to provide information and co-operate between themselves as well as with the consultant.

Annex III: List of IMO instruments and documents to refer to

United Nations Convention on the law of the Sea 1982

IMO Instruments

MARPOL 73/78 consolidated edition 2006

MARPOL “How to do it “2002

IMO Assembly Resolutions

Resolution A.996 (25) Code for the implementation of Mandatory IMO Instruments, 2007

Resolution A.997 (25) Survey Guidelines under the Harmonized System of Survey and Certification, 2007

Resolution A.787 (19) Procedures for Port State Control as amended by Resolution A.882 (21) 1999, including:

Guidelines for discharges requirements under MARPOL Annex I and II;

Guidelines for investigation and inspection carried out under Annex I of MARPOL; and,

Guidelines for the detention of ships

Resolution A 739 (18) Guidelines for the Authorization of Recognized Organizations acting on behalf of the Administration

Resolution A 789 (19) Specifications on the Survey and Certification Functions of Recognized Organizations acting on behalf of the Administration

MSC/Circ.710 – MEPC/Circ.307 Model Agreement for the Authorization of Recognized Organizations acting on behalf of the Administration

MEPC/Circ.318 Formats for a mandatory reporting system under MARPOL 73/78

REMPEC

Protocol concerning Cooperation in Preventing Pollution from Ships and, in case of Emergency, Combating Pollution of the Mediterranean Sea, 2002

The Regional Strategy for Prevention of and Response to Marine Pollution from Ships, 2005

EU Directives

Directive 2000/59/EC on port reception facilities for ship-generated waste and cargo residues; and,

Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements.

Bonn Agreement Manuals

Manual on securing evidence on discharges from ships, 1993

Manual on Effective Prosecution of Offenders – Guidelines on International Cooperation, 2000

Annex IV: Status of ratification of IMO conventions

Status of Treaties: Croatia

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LC 72 08/10/1991 08/10/1991 Succession
INTERVENTION
PROT 73
08/10/1991 08/10/1991 Succession
LC AMEND-78 -
LL 66 08/10/1991 08/10/1991 Succession
LC PROT 96 -
IMSAT AMEND-94 -
INMARSAT OA 76 24/11/1992 24/11/1992 Signature
IMSAT AMEND-98 14/06/1999 31/07/2001 Acceptance
INTERVENTION 69 08/10/1991 08/10/1991 Succession
IMSO AMEND-06 -
LLMC 76 02/03/1993 01/06/1993 Accession
LL PROT 88 31/01/2000 30/04/2000 Accession
LLMC PROT 96 15/05/2006 13/08/2006 Accession
MARPOL ANNEX III 08/10/1991 08/10/1991 Succession
MARPOL ANNEX I/II 08/10/1991 08/10/1991 Succession
BWM 2004 -
BUNKERS 2001 15/12/2006 21/11/2008 Accession
CLC 69 08/10/1991 08/10/1991 Denounced Denounced
CLC PROT 92 12/01/1998 12/01/1999 Accession
CLC PROT 76 -
IMO CONVENTION 08/07/1992 08/07/1992 Acceptance
INMARSAT C 76 24/11/1992 24/11/1992 Accession
IMO AMEND-91 -
AFS 2001 15/12/2006 17/09/2008 Accession
IMO AMEND-93 -
FUND PROT 1992 12/01/1998 12/01/1999 Accession
FUND PROT 1976 -
FUND PROT 2000 -
HNS 96 -
FUND PROT 2003 17/02/2006 17/05/2006 Accession
CSC 72 08/10/1991 08/10/1991 Succession
COLREG 72 08/10/1991 08/10/1991 Succession
CSC AMEND-93 -
FUND 71 08/10/1991 08/10/1991 Denounced Denounced
FAL 65 08/10/1991 08/10/1991 Succession
SPACE STP 73 -
SOLAS AGR 96 -
STCW 78 08/10/1991 08/10/1991 Succession
SOLAS 74 08/10/1991 08/10/1991 Succession
SOLAS PROT 78 08/10/1992 08/10/1991 Succession
SOLAS PROT 88 31/01/2000 30/04/2000 Accession
STCW-F 95 -
SUA 2005 -
SUA PROT 2005 -
TONNAGE 69 08/10/1991 08/10/1991 Succession
STP 71 -
SUA 1988 18/08/2005 16/11/2005 Accession
SUA PROT 1988 18/08/2005 16/11/2005 Accession
SFV PROT 93 08/02/2008 Accession Not yet in force
NAIROBI WRC 2007 -
NUCLEAR 71 -
OPRC 90 12/01/1998 12/04/1998 Accession
MARPOL ANNEX IV 08/10/1991 27/09/2003 Succession

MARPOL ANNEX V 08/10/1991 08/10/1991 Succession
MARPOL ANNEX VI 04/05/2005 04/08/2005 Accession
OPRC/HNS 2000 -
PAL PROT 2002 -
SALVAGE 89 10/09/1998 10/09/1999 Accession
SAR 79 12/01/1998 11/02/1998 Accession
PAL 74 12/01/1998 12/04/1998 Accession
PAL PROT 1976 12/01/1998 12/04/1998 Accession
PAL PROT 1990 12/01/1998 Accession Not yet in force

Annex V: List of persons met

Ministry of the Sea, Tourism, Transport and Development

State Secretary for the Sea

Capt. Marion BABIC Assistant Minister

Capt. Tomislav MILETIC Assistant Minister

Directorate for safety of Navigation and protection of the Sea

Mr. Tatjana KRILIC Head of Inspection Division

Mr. Stjepan VUK Head of Department for Maritime Traffic and Maritime Search and Rescue

Dr. Dubravka LULIC-KRIVIC Coordinator for Environment

Ms; Ivana MAROVIC

Directorate for Maritime Traffic, Maritime Demesne and Ports

Mrs. Maja MARKOVIC KOSTELAC Head of International and Legal Department

Harbor Master Office Rijeka

Cdt. Darko GLAZAR Harbor Master

Capt. Rajko JURMAN Inspector for Environmental Protection

Capt. Branko HOST Nautical Inspector

Mr. Milivoj ANDRAKA Port State Control Inspector

Harbor Master Office Sibenik

Mr. Boris SELJANOVSKI Port State Control Inspector

Port of Rijeka Authority

Capt Rajko JURMAN

Ministry of Environmental Protection Physical Planning and Construction

Department for Sea and Soil Protection

Mrs. Nevia KRUZIC Director

Mrs.Sandra TROSELY STANISIC

Contractor for reception facilities services

Dezinsekcija Co Rijeka: Mr.Ranko DUBMOVIC Director