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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: MONTENEGRO

a Report

**prepared within the framework of REMPEC’s complementary activities in the field of
operational pollution from ships in the Mediterranean Region
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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 Montenegro took place from the 12 to the 14 of February 2008. The Maritime Safety Department 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 services having an involvement in this matter. The objectives of those meetings were, working together with the representatives of the services concerned, to conduct an assessment of the situation, identify needs for improvement and 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 mechanism in Montenegro for the implementation and enforcement of MARPOL Annex I are the following:

- 1) Montenegro is in the process of developing a new legal framework:
 - The Maritime Safety Department is currently drafting new laws and regulations related to maritime safety, maritime security and marine environment protection;
 - The Maritime Safety Department does not have sufficient staff to undertake this task in the given timeframe;
 - The Maritime Safety Department urgently needs advices and assistance for discharging its regulatory duties;
 - Concerning more specifically MARPOL implementation and enforcement, the Ministry of Justice as well as other administrations should be involved in this drafting process.
- 2) Organizational structures:
 - Regarding flag State and port State responsibilities, the administrative organization is satisfactory;

- Regarding the coastal State responsibilities, the current organization should benefit from the establishment of a new legal framework which shall confirm the duties and responsibilities of the administrations involved and provide for the necessary adjustments;
 - The Ministry of Justice is not sufficiently directly involved in this matter and the magistrates should be familiarized with the MARPOL Convention.
- 3) Need of strengthening the enforcement capabilities:
- Enhancing the standards practices of port State control inspectors through specialized training courses on MARPOL.
 - Strengthening the surveillance and control capabilities by conducting an evaluation of the need according to the major sources of operational oil pollution and programming the use of the resources accordingly;
 - Strengthening the enforcement capabilities by the training of all the various category of personnel involved including the familiarization of the magistrates.
- 4) Need for a strongest involvement in regional co-operation on MARPOL enforcement:
- Need to take actions for becoming Party to the Paris MOU on port State control;
- Need for an active participation in promoting regional and sub-regional co-operation on information exchange, surveillance and harmonization of enforcement measures, in particular in the Adriatic Sea.
- 5) Montenegro does not fulfill its reporting obligation under MARPOL.
- Montenegro does not communicate to IMO the information called for by articles 8, 11, and 12 following MEPC/ Circ. 318.

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 Montenegro 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 do Montenegro fulfil 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

Montenegro formally declared its independence on 3rd June 2006, and on 19th October 2007, the Assembly approved the Constitution of Montenegro. As a new independent State, Montenegro acceded by succession to a number of IMO Conventions including the MARPOL Convention with all its Annexes with the exception of the Annex VI. Following

the dissolution of the State Union of Serbia and Montenegro on 3 June 2006, all Treaty actions undertaken by Serbia and Montenegro continue to be in force with respect to Republic of Serbia. Montenegro has informed that it wished to succeed to MARPOL ANNEX I/II with effect from the same date, i.e. 3 June 2006 (Annex IV: Status of ratification of IMO conventions).

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

Being a new State and having acceded only recently to the MARPOL Convention, making it national law, there are not yet in place dedicated laws and regulations for an effective implementation and enforcement of the MARPOL Annex I. Currently the Maritime Safety Department is preparing draft national laws to address maritime safety, maritime security and marine environment protection. The aims of these draft national laws are:

- from one hand, to transpose into the legal system the provisions of the relevant IMO conventions to which Montenegro recently acceded, and
- from the other hand, to integrate the relevant EU Directives into their legislation according to the Protocol of Harmonization with EU (**Protocol** approving the action plan for **harmonization** of economic systems of the Republic of Serbia and the Republic of Montenegro).

The timeframe for the completion of this work is July/August this year (2008). One of the six new laws under preparation is related to the prevention of the pollution of the marine environment from ships.

According to the information provided during the visit, the scope of the draft law on the prevention of the pollution under preparation intends to be very broad, referring to several international Conventions and subject matters not necessarily related to each other (MARPOL, OPRC, CLC, FUND, LC, AFS, Ballast Water). Such a way of doing may be understood in a case of a maritime/environment Code, assuming that the structure of the Code will make clear the specificity of each subject matter.

This process may be very long. A Code is, in most cases, a compilation of existing legislations. When it comes to developing a new legal system and in particular new laws (which is the situation of Montenegro), it may be more appropriate to draft specific dedicated laws which will be complemented by decrees, instructions and guidelines. That should be the way forward for transposing the MARPOL technical requirements into the national legal system and for sanctioning the violations to such requirements. That probably will be a faster way of doing.

3-1-2 Enforcement and sanctions to violation of MARPOL Annex I

Regarding enforcement and sanctions, the on going drafting process imply coordination among the relevant enforcement administrations/services: the administrations/services carrying out the responsibilities of flag State, port State and coastal State (Montenegro Coast Guard). The Ministry of Justice should also be involved due to its responsibility regarding the prosecution and punishment process in cases of violation of the law of Montenegro.

Due to the growing threat on the marine environment of a continuously increasing number of pleasure crafts sailing in Montenegro waters and using the Montenegro facilities, the law on the prevention of the pollution from ships under preparation will apply to all kind of boats, yachts and floating object.

An information notice for domestic and foreign navigators (www.msd-ups.org) has been issued in March 2007 indicating that: a) ships, boat and yachts are subject to inspection and survey; b) pleasure crafts shall posses permits and certificates; c) it is forbidden for ships to discharge into the sea oily waste (oily bilge water, oil residue, oily ballast water, etc.) and for boats and yachts to discharge into the sea fuel, oil and oily compounds, sewage waste and garbage which shall be kept on board and discharge in appropriate reception facilities in the marinas; and, d) violation proceeding will be conducted against legal and physical persons committing “maritime” violation (the administrative procedure will be conducted by the Harbor Master’s Offices). No information was provided regarding the prosecution and sanction process neither regarding the legal bases for judicial action.

3-2 Overview of the organizational structure

The administration of Montenegro is a newly established one, largely build on the previous structures.

The overall responsibility for the implementation and enforcement of the MARPOL convention belong to the Maritime Safety Department. Although the Maritime Safety Department has the main responsibility regarding the implementation of MARPOL Annex I as flag State and port State, when it comes to enforcement as coastal State, such responsibility is shared with the Montenegro Coast Guard which is a coordinating body and with the maritime border police .

3-2-1 Maritime administration

The Maritime Safety Department established under the Ministry of Transport and Maritime Affairs is responsible for shipping, port and all maritime activities, and to carry out the duties as flag State, port State and coastal State. It determines the Government policy on maritime affairs and it is the regulatory body on this field.

At the central level, under the authority of the General Manager Mrs. ISIC JASMINA, the Maritime Safety Department, located in Bar the main port of Montenegro, consists of three Divisions:

- The Technical Inspectorate Division;
- The Safety of Navigation Division; and,
- The Administrative and Legal Division.

The Technical Inspectorate Division is composed of the Inspectorate Office, the Prevention Pollution Office and the Yachts Registry Office. The Inspectorate Office carry out all central administration duties regarding survey and certification, flag State inspection and port State control. The Prevention Pollution Office is dealing with pollution control and enforcement. The Yachts Registry is responsible for pleasure crafts and small boats.

The Safety of Navigation Division is composed of the Maritime Telecommunication Office, the Search and Rescue Office, the Aids to Navigation Office and the Technical Office. The Maritime Rescue Coordination Center (MRCC – Bar) operates under the authority of the Safety of Navigation Division.

The Administrative and Legal Office is dealing with the administration, finance and legal issues related to the functioning of the Department. The legal Office is not involved in the regulatory work of the other technical Offices and it does not have the expertise for it.

There are about 52 employees in the Maritime Safety department most of them with maritime expertise among which 8 surveyors all captain or chief engineer.

The local administration consists of 2 Harbor Master's Offices one in Bar the other in Kotor. The Harbor Master's Office of Bar has 3 branch offices: Ulcinj, Budva and Virpazar. The Harbor Master's Office of Kotor has 2 branch offices: Tivat and Zelenika.

The Harbor Master's Offices perform administrative, inspection and control duties regarding maritime safety and security and marine environment protection that include port State control, inspection, surveillance and involvement in violation proceeding against persons committing "maritime" violations.

For port State control of conventional ships (above 500 GT/SOLAS ships) there are 4 well qualified PSC inspectors; 2 in Bar and 2 in Kotor. For ships below 500 GT in particular for pleasure craft there are about 275 inspectors dispatched in the 2 Harbor Master's Offices and the 5 branch offices.

Flying the flag of Montenegro there are 6 ships above 500 GT (SOLAS ships) and 175 ships below 500 GT. Registered in Montenegro there are about 2000 sailing boats/pleasure crafts.

The Maritime Safety Department has contracted a private company "Hemosan", which, under certain conditions, is authorized and responsible for the collection, treatment and disposal of oily wastes and other wastes from ships.

Regarding collection of statistics and reporting, the Maritime Safety Department at the moment does not collect statistics on a systematic basis neither report to IMO. However according to the information provided there are an estimate amount of 2000 vessels calling in or calling out the ports of Montenegro per year (same ferries and ships calling regularly or periodically the ports of Montenegro, which means there are not to many vessels to be inspected) and an amount of 1500 yachts(much more inspections to be undertaken).

3-2-2 Other Administrations

To carry out maritime duties at sea, the Montenegro established the Coordination Body of the Republic of Montenegro Coast Guard (KTOS). Taking part in the activities of the KTOS are the Maritime Safety Department, the Harbor Master's Offices, the Maritime Border Police and the Regional Center for Underwater de-mining and Diving training in Bijela. The KTOS geographical area of responsibility is divided in 6 sectors: Podgorica, Herceg Novi, Kotor, Budva, Bar and Ulcinj.

The Maritime Border Police is a specialized Unit of the State Border branch of the police (Ministry for internal affairs) organized, trained and equipped for safety, security, control and police at sea. The Maritime Border Police consists of three Maritime Border Police Divisions: Podgorica, Herceg Novi and Bar.

3-2-3 Legal Administration

The Maritime Safety Department is the regulatory body for the construction, the equipment and the operation of ships (the safety and marine environment protection from ships) and, under the supervision of the Maritime Safety Department the Harbor Masters are the executing bodies.

Indeed the Ministry of Justice, public prosecutors and magistrates are the main authorities for the enforcement of Montenegrin laws (criminal laws): judicial, prosecution, judgment and sanction. However it seems that the Ministry of Justice is not sufficiently involved in prosecution and sanction of illegal oil discharges.

3-3 Implementation and enforcement capabilities

It is important to keep in mind that: a) Montenegro is a newly independent State still in the process of developing a new legal system and establishing a new administration; b) the Montenegrin coast is 294 km length of very attractive areas which make the tourism important for the economy; c) the volume of maritime traffic calling in the main ports is limited; and, d) only 6 ships above 500 GT are flying the flag of Montenegro but there are quite a large number of boats below 500 GT and more importantly a growing number of pleasure crafts registered in Montenegro or visiting Montenegro.

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

3-3-1 Capabilities to carry out flag State and port State duties

According to its regulatory function, the drafting of new laws and regulations regarding maritime safety, maritime security and marine environment protection is a highest priority for the Maritime Safety Department. But the task is so enormous that the current capabilities of the Maritime Safety Department for drafting new laws and regulations are far from been sufficient (number of staff and experience) in spite of the dedication and the quality of the staff involved. The staff involved is well qualified in their own area of expertise as captain or chief engineer but they are lacking experience and knowledge in other related matters, and they don't have a legal background neither a strong public administration/international organizations experience.

Taking into account the small number of ships flying the flag of Montenegro and the limited volume of maritime traffic, the capabilities for performing flag State and port State technical duties seems to be sufficient for conventional ships: 8 surveyors for surveys and certifications of 6 ships; and 4 port State control inspectors for inspection of foreign ships. It should be noted that Montenegro is not Party to any port State control MoU and therefore their PSC inspectors do not follow PSC MOU method of work and procedures.

But for the survey, inspection and control of small boats (below 500GT) and of domestic and foreign pleasure crafts (sailing boats or motor boats), the 275 inspectors dispatched into the 7 harbour master's offices are considered as insufficient and they need urgent specific training.

3-3-2 Capabilities to carry out coastal State responsibilities

The Coordination Body of the Coast Guard of the Republic of Montenegro is in a position to mobilize and engage 21 fast small patrol boats, 4 large vessels and 5 tug boats, as well as aviation units of the Ministry of Internal Affairs and of the Army.

The Maritime Border Police has available 2 patrol boats and 19 patrol vessels.

The Maritime Rescue Coordination Centre (MRCC BAR) is equipped with an AIS base station with ECDIS viewer providing data on all seagoing vessels passing through the MRCC's area of responsibility. That capacity can be used for identifying a potential polluter.

The Eco-toxicological Institute of Montenegro has experts and the capabilities for sampling and analyzing oil samples.

In terms of boats and aviation units, the capabilities may seem to be sufficient, however specialized detection equipment is lacking and the personnel has not been trained with a view to detecting and collecting evidences of illegal oil discharges.

3-3-3 Training of personnel

The administration of Montenegro is a newly established administration and there is a strong need of training for all categories of personnel.

3-4 Co-operation on MARPOL enforcement

3-4-1 Co-operation within the framework of the Paris MoU on Port state control

Montenegro is not Party to the Paris MoU on port State control. It is the intention of Montenegro to become party to the Paris MoU, however that will imply strong efforts to upgrade their practices to reach the standard of the Paris MoU.

3-4-2 Co-operation with neighboring countries

Montenegro intends to access to the Barcelona Convention's Protocol concerning Co-operation in Preventing Pollution from Ships and, in cases of Emergency, Combating Pollution of the Mediterranean Sea, which was adopted and entered into force in 2004.

Within the framework of this Protocol, Montenegro supports the Regional strategy for prevention of and response to marine pollution from ships developed by REMPEC and adopted in November 2005 by the Contracting Parties to the Barcelona Convention. One of the objectives of the Maritime Safety Department is to establish close working relations with REMPEC and to be more involve in regional cooperation.

Montenegro is not participating in the Adriatic initiative regarding the cooperation between Croatia, Italia and Slovenia on preparedness and response in case of emergency. However, Montenegro is conscious of the need of cooperation among the Adriatic countries to address the issue of illegal discharges in particular illegal discharges from passing ships. Montenegro has bilateral cooperation with Italia (Italian Coast Guard) and Croatia. It was the case recently following information from EMSA transmitted by the Italian Coast Guard regarding a possible oil slick detected by satellite in the area of Montenegro. Montenegro sent to the location a boat and helicopter from the Maritime Border police to confirm the existence of the slick and to collect samples, and using the MRCC AIS station tried to identify the ships which were in the area at the time. Montenegro informed Italia, Croatia, EMSA and REMPEC of the result of its actions.

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

Montenegro does not fulfill its reporting obligation under articles 8 and 11 of MARPOL Convention. Presently information are not systematically collected and compiled. No annual reports on discrepancies, violations, alleged discharges violations, and on penalties imposed are send to IMO.

IV Assessment of the needs for improvement and assistance

4-1 Overview of the difficulties encountered

4-1-1 Difficulties in exercising flag State and port State responsibilities

Pending the adoption of new laws and regulations which probably should be followed with consequential administrative adjustments, the present surveys and certifications arrangements concerning conventional ships are satisfactory. Regarding port State control of foreign conventional ships, there is a need of upgrading and improving the procedures and practices to bring them up to the standard of the Paris MoU. The key towards improvement is through training, in particular specialized training courses on MARPOL.

For the survey, certification (including issuance of permit) and inspection of domestic and foreign non conventional ships, small boats and pleasure crafts which are for the Montenegrin Authorities a priority target (because of the threat they present to the marine environment due to theirs large number), the personnel is not sufficient in number and not sufficiently qualified.

4-1-2 Difficulties in the detection, prosecution and sanction of violations

At the moment the difficulties encountered by Montenegro are the consequences of that transitory period during which a legal system has to be put in place and an administration to be set up. Uncertainty will prevail, regarding the legal bases for action and the legal authority of the administrations involved, up to the time new laws and decrees, transposing into the national legal system the provisions of the MARPOL convention, establishing sanctions for violations and defining responsibilities among administrations concerned will be adopted. Nevertheless what is seen as a difficulty to day should also be considered as an opportunity to develop a modern and up to date legal system.

Although the Harbor Master's Offices, the Montenegro Coast Guard (KTOS) and the Maritime Border Police are performing (or supposed to perform) inspection, control, surveillance and "laws enforcement" it is unclear (according to the information provided and taking into account that new laws are under preparation) on which legal bases they are acting,

and what are the specific institutional arrangements? (ex: texts establishing duties and functions of the coordination body of the coast guard ?). The main difficulties are of legal and institutional nature more than capabilities in terms of equipment and personnel. Indeed the resources capabilities should be improved, in particular with specialized equipment for oil pollution detection and with training of personnel.

In the absence of information and statistic on cases of detection, prosecution and sanction of violations, it is difficult to assess the efficiency of the Harbor's Master Offices, the Montenegro Coast Guard (KTOS) and the Maritime Border Police on those matters. Although it is also difficult to assess to what extent the Ministry of Justice and magistrates are involved in sanctioning violations to MARPOL Annex I requirements (by conventional ships and non conventional ships/small boats and yachts), it seems that they are not familiar with MARPOL nor involved in this issue.

4-2 Evaluation of the needs for improvement

4-2-1 Developing an appropriate legal framework

Presently the highest priority for the Maritime Safety Department is the finalization of draft laws and regulations and their adoption. In this respect, the Maritime Safety Department urgently needs advice and assistance. Some advice has already been provided during the visit but that is very little compared to what is needed.

Keeping in mind that this report only addresses the implementation and enforcement of MARPOL Annex I with an emphasis on illegal discharges, the needs of the Maritime Safety Department for developing a proper legal system in this field are:

- a) To draft one or two specific laws for implementing and enforcing MARPOL, the objectives being:
 - 1) To transpose into the national legal system the MARPOL technical requirements;
 - 2) To prohibit any violation to these requirements and establish sanctions to such violations; and,
 - 3) The law shall be supplemented with decrees, instructions, circulars and guidelines.

- b) Regarding sanctions to the violation of the requirements, the law shall: provide for a precise definition of the infringement; specify the scope of application of the law; specify also the nature of the sanctions (administrative or criminal), the type of penalties and level (the level of penalties shall be discouraging enough) and the competent Court in front of which an alleged offence will be prosecuted.

- c) Regarding law enforcement, the laws or decrees shall designate the administrations or services responsible of surveillance and detection of violation as well as the personnel having legal authority for collecting evidences, conducting investigation and establishing report of alleged violations. The existing organizational structure involving the Maritime Safety Department, the Coordination Coast Guard and the Maritime Border Police shall be taken into account and reviewed with the view to increase their responsibilities and to enhance their efficiency.

Instructions regarding investigations and prosecution processes shall be issued, including format for reporting alleged violations.

- d) Initiative should be taken to get the Ministry of Justice, the public prosecutors and the magistrates involved in the development of the legal regime (in particular the work of preparation of the law concerning the criminal and sanctions aspect) and to establish close co-operation with a view to obtain the best result of its implementation.

4-2-2 Increasing resources capabilities

With the exception of the specific need of the central administration (the Maritime Safety Department) for discharging its regulatory duties, it doesn't seem that the resources capabilities are an issue at the moment. It is more a question, when preparing the new laws and decrees, of confirming or specifying the responsibilities and strengthening the organizational structure by providing the administrations and services with strong legal bases for acting. However once the new legal framework will be in place, the administrations concerned should proceed to the evaluation of their needs and agree on common program for optimizing the use of the existing resources. The acquisition of specialized equipment for detection to be installed on aircrafts may be considered.

4-2-3 Training of personnel

Training of personnel on MARPOL implementation and enforcement is a permanent priority and a key for improvement. In the case of Montenegro, special attention should be given to the training of personnel involved with small boats and pleasure crafts. The categories of personnel to be trained are:

- 1) Legal staff of legal services of central administrations (to be recruited) ;
- 2) Surveyors, inspectors, port State control officers to get special training on MARPOL;

- 3) Selected “Coast Guard” officers, Maritime Border Police officers, air forces officers and Harbour Master should be trained in discharges monitoring, detection, investigation, evidence gathering, reporting and initiate proceeding.

4-2-4 Raising awareness

The familiarization of the magistrates is a condition for ensuring the effectiveness of an efficient sanction system. Magistrates would have to be familiarized through seminars and special training.

4-3 Needs for regional co-operation

Regional co-operation already exists within the framework of 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), but Montenegro is not Party to the Paris MoU on port State control and not participating to the Adriatic initiative.

Therefore Montenegro should:

- 1) Enhance its ports State control standards and bring its procedures in line with those of the Paris MoU with the view to join as soon as possible the Paris MoU knowing that the cooperation on port State control is, among others, a way to ensure an effective enforcement of MARPOL requirements. Taking into account that for Montenegro one of the major threats of illegal discharges is the one of the passing ships that makes cooperation on port State control even more important.
- 2) As soon as the new legal framework is in place, take the necessary steps to be part of the cooperation among Adriatic countries.
- 3) 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; The Maritime Safety Department should be deeply involved in regional cooperation.

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

V Recommendations

5-1 Actions to be taken at the national level

5-1-1 Development of a comprehensive legal framework for preventing and controlling operational oil pollution from ships:

- 1) The Maritime Safety Department, as part of its on going regulatory work regarding the preparation of new laws on maritime safety, maritime security and marine environment protection, should prepare a specific law (or 2 laws, one on technical aspects the other on the criminal aspect) on MARPOL implementation and enforcement together with decrees, instructions and guidelines. For that the Maritime Safety Department should:
 - a) Seek advices and assistance;
 - b) Recruit, if possible, additional staff with legal expertise and maritime experience;
 - c) Make use as background material of the EU Directive 2005/35 “On ship-source pollution and on the introduction of penalties for infringements” as well as other relevant national legislations;
 - d) Involved in this process the Ministry of Justice as well as other ministries concerned.
- 2) The laws and decrees to be adopted should also address the organizational structures, precise the responsibilities of the administrations involved and provide the relevant personnel s with the necessary legal authority.

To achieve this work the Maritime Safety Department should request assistance and support of REMPEC and of the European Commission.

5-1-2 Strengthening implementation and enforcement capabilities

- 1) Regarding the capabilities for exercising flag State and port State responsibilities for ships above 500 GT, the arrangements and the resources capabilities are sufficient and satisfactory. However, for port State control, the Maritime Safety Department should take the necessary measures to enhance the standard and procedures for port State control.

The resources needed for survey, certification, inspection and control of small boats and pleasure crafts should be study carefully and if necessary recruitment should be made.

The Maritime Safety Department should get the necessary budgetary allocation for keeping the ability of recruiting and retaining high calibre professional civil servants for administration and inspection duties (FSI, PSCO).

- 2) Regarding the capabilities for exercising coastal State responsibilities in particular for the enforcement of discharges requirements, the improvement will result of the adoption of a new legal framework in particular with the confirmation of the responsibilities and duties of the administrations concerned and the consequential adjustment in the organizational structures .The improvement will also come from a proper evaluation of the resources needed, including specialized equipments, and a program for their deployment.
- 3) The training of personnel is a prerequisite for developing and maintaining implementation and enforcement capabilities, the Maritime Safety department and the Maritime Border Police should ensure that through national courses or regional courses the following categories of personnel will get proper training:
 - a) The legal staff of the central administration. Sending this category of personnel to IMLI –Malta or WMU- Malmo for specific short term training session should be seriously considered;
 - b) The surveyors and inspectors should have special training on MARPOL, in particular port State control inspectors;
 - c) Selected “Coast Guard” officers, Maritime Border Police officers, air forces officers and Harbor Masters should be trained in discharges monitoring, detection, evidence gathering, investigating, reporting and initiating proceeding.

5-1-3 Strengthening the prosecution system

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

The possibility of creating specialized courts for dealing with infringement to MARPOL should be considered.

Regular meetings between specialized magistrates and public prosecutors with officers from the “Coast Guard”, the Maritime Border Police, the air forces, the Harbour Masters, as well as port State control inspectors should be organized with the view to strengthen the prosecution system.

5-2 Actions to be taken at the regional level

5-2-1 Initiate as soon as possible the process to joint the Paris MOU with the view to participate and benefit of the regional co-operation on MARPOL enforcement through port State control. For that to happened special efforts should be made on upgrading, improving and harmonizing the procedures and practices related to port State control and inspection of discharges requirements and preparing for information exchange.

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

- a) Regional co-operation on:
 - 1) Information exchange;
 - 2) Monitoring and surveillance;
 - 3) Harmonization of enforcement measures.
- b) The development of Sub-regional arrangements in particular in the Adriatic. To this end the use of the mediation and assistance of REMPEC should be considered; and,
- c) The preparation of regional manual and guidelines.

The benefit expected from the implementation of the above recommendations will very much depend of the level of involvement of the relevant Montenegro Administrations concerned and their will to cooperate together, that applies to the actions to be taken at the national level as well as to the actions to be taken at the regional level. What is proposed is achievable, it will require urgently legal advices and assistance and may be some external financial and technical support. Considering that the European Union has as an objective 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. Montenegro may wish to seek financial and technical assistance from the European Union for an effective and harmonized implementation and enforcement of MARPOL Annex I in particular regarding the discharges requirements.

And indeed REMPEC will continue to provide assistance to Montenegro in implementing the REMPEC Protocol and in Implementing and enforcing the relevant IMO conventions, especially in developing legal system and sub-regional arrangement, and training.

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 Montenegro regarding the implementation and enforcement of MARPOL Annex I.

The assessment made in co-operation with the Maritime Safety Department, 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 the problems and difficulties encountered. The actions to be taken to respond to the problems and difficulties and the way forward to develop a comprehensive system were also discussed, mainly with the Maritime Safety Department and with the General Manager of the Maritime Safety Department, during the debriefing meeting at the end of the field mission. The recommendations contains in this report reflect largely the outcomes of those discussions.

This field assessment shows that Montenegro faces a number of problems and difficulties which require, as suggested, actions to be taken. It is for the Maritime Safety Department to take the lead for the establishment of a proper and up to date system and working in co-operation with the others ministries concerned especially the Ministry of Justice with the view to undertake the appropriate actions.

Montenegro should also use the sub-regional co-operation as a way forward to improve its ability in addressing this issue, to this end REMPEC should be seen as a facilitator in this process.

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: Montenegro

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BWM 2004 -
BUNKERS 2001 -
CLC 69 23/02/2007 Denounced Denounced
CLC PROT 92 -
CLC PROT 76 -
IMO CONVENTION 10/10/2006 10/10/2006 Acceptance
IMO AMEND-91 10/10/2006 07/12/2008 Accession
AFS 2001 -
IMO AMEND-93 -
CSC 72 - 03/06/2006 Succession
COLREG 72 - 03/06/2006 Succession
CSC AMEND-93 -
FUND PROT 2000 -
FUND PROT 2003 -
HNS 96 -
FUND PROT 1992 -
FAL 65 - 03/06/2006 Succession
FUND 71 -
FUND PROT 1976 -
INMARSAT C 76 - 03/06/2006 Succession
INMARSAT OA 76 - 03/06/2006 Succession
IMSAT AMEND-94 -
IMSAT AMEND-98 -
LC 72 23/02/2007 03/06/2006 Succession
LC AMEND-78 -
INTERVENTION
PROT 73
- 03/06/2006 Succession
IMSO AMEND-06 -
INTERVENTION 69 - 03/06/2006 Succession
LLMC 76 -
LLMC PROT 96 -
LL PROT 88 -
LC PROT 96 -
LL 66 - 03/06/2006 Succession

MARPOL ANNEX III - 03/06/2006 Succession
MARPOL ANNEX I/II - 03/06/2006 Succession
MARPOL ANNEX IV - 03/06/2006 Succession
NUCLEAR 71 -
OPRC 90 -
OPRC/HNS 2000 -
MARPOL ANNEX V - 03/06/2006 Succession
MARPOL ANNEX VI -
NAIROBI WRC 2007 -
PAL 74 -
SALVAGE 89 -
SAR 79 - 03/06/2006 Succession
SFV PROT 93 -
PAL PROT 1976 -
PAL PROT 1990 -
PAL PROT 2002 -
STP 71 -
STCW-F 95 -

SOLAS PROT 88 -
SOLAS PROT 78 - 03/06/2006 Succession
SOLAS 74 - 03/06/2006 Succession
STCW 78 - 03/06/2006 Succession
SOLAS AGR 96 -
SPACE STP 73 -
SUA PROT 2005 -
TONNAGE 69 - 03/06/2006 Succession
SUA 2005 -
SUA 1988 - 03/06/2006 Succession
SUA PROT 1988 - 03/06/2006 Succession

Annex V: List of persons met

Ministry of Transport and Maritime Affairs

Maritime Safety Department

Mrs. Isic JASMINA General Manager

Capt. Krsto RAKOCEVIC Advisor

Capt. Predrag RATKOVIC Head of the Sea Prevention Pollution Division

Capt. Vladan RADONJIC Head of Search and Rescue Division

Harbor Master's Office of BAR

Mr. Goran JURISIC Maritime safety and security inspector

Private company "Hemosan" authorized to collect treat and dispose of oily waste and residues from ships;

Mr. Zoran NIKITOVIC General Manager