



UNEP-PNUE



REGIONAL MARINE POLLUTION EMERGENCY RESPONSE CENTRE
FOR THE MEDITERRANEAN SEA (REMPEC)



EURO-MEDITERRANEAN PARTNERSHIP

EUROMED COOPERATION ON MARITIME SAFETY AND PREVENTION OF POLLUTION FROM SHIPS
(SAFEMED)

EU-Funded MEDA Regional Project MED 2005/109-573

**Synthesis of the assessment of the situation regarding the
implementation and enforcement of the
MARPOL Annex I in the following countries and of the
recommendations for improvement**

Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Syria, Tunisia, Turkey (*SAFEMED
Countries*) and **Albania, Croatia, Montenegro** (*REMPEC Countries*)

SAFEMED Task 3.1 P

a Report
prepared under the Project

**EUROMED Cooperation on Maritime Safety and
Prevention of Pollution from Ships
SAFEMED (MED 2005/109-573)**

financed by the European Commission
under an IMO/EC contract

EUROMED

presented to REMPEC
by

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October 2008

Disclaimer:

The present report has been prepared within the framework of the EU-Funded MEDA Regional Project “EUROMED Cooperation on Maritime Safety and Prevention of Pollution from Ships SAFEMED - (MED 2005/109-573) being implemented under the responsibility of the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC- IMO/UNEP) as well as REMPEC’s complementary activities in the field of operational pollution from ships in the Mediterranean region.

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I. Introduction

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 Convention 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 the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC-IMO/UNEP) of 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 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. The Activity 3 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 allocated additional financial resources from its Mediterranean Trust Fund budget in order to extend these actions to Mediterranean coastal States which are not MEDA/SAFEMED eligible countries and not EU member States, namely Albania, Bosnia Herzegovina, Croatia and Montenegro.

The two projects focused on the following actions:

1. Evaluation of the needs for assistance of the Mediterranean countries for implementing MARPOL (Annex I) 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. the Assessment of the situation and needs in the Mediterranean Partners regarding national legislation for the implementation of the relevant provisions of MARPOL (Annex I) 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 harmonizing 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 for the implementation of the MARPOL Convention with regard to the problem of illicit oil discharges from ships, focusing in particular on the monitoring, early identification of ships discharging polluting substances, appropriate sanctions, and make appropriate recommendations.

For the completion of those actions consultants undertook field missions in the SAFEMED partner countries (Algeria, Egypt, Israel, Jordan, Lebanon, Morocco, Syria, Tunisia and Turkey) and in the Mediterranean coastal States which are not SAFEMED eligible countries and not EU members States (Albania, Croatia and Montenegro). Unfortunately it was not possible to arrange a visit to Bosnia Herzegovina.

The tasks of the field missions were:

Firstly, to carry out needs assessment:

1. collect information on the policy of the national authorities of the countries visited 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 Annex I;
3. assess the legislative and enforcement capabilities of the countries visited to fulfilled 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 Recognized Organizations (RO's), where applicable, is compliant with the obligations of MARPOL Annex I;

- 3.1 assess the existence of reporting procedures for violations of MARPOL as required under Article 4 (3) of the Convention and their effective enforcement;
- 3.2 assess the existence of a national legal framework as a basis for prosecuting offenders for infringements of MARPOL Annex I regarding illicit oil discharges.

Secondly, to issue recommendations on:

1. the necessary adaptations of the national legislations; and,
2. the necessary measures and corresponding means to fulfill the obligations under MARPOL Annex I.

The consultant prepared a comprehensive questionnaire (Annex II) to assist in the collection of information. The field missions were undertaken and the mission reports have been produced. Annex I provides an extract of the national recommendations contained in the countries' reports. The present report is the synthesis of the assessment of the current situation within the countries visited regarding MARPOL Annex I implementation and enforcement and of the proposed recommendations for improvement. This synthesis is done in a regional perspective taking into account the Regional Strategy with a view of identifying, in particular, the supporting activities which should be conducted under the SAFEMED II Project and within the framework of REMPEC's programme of activities.

II. General introduction

The constant increase of the maritime transport in the Mediterranean Sea, which is expected to continue, is producing a relevant impact to the marine environment. Operational pollution from ships by illegal discharges of oil and oily mixtures into the sea is considered to be the main sources of marine pollution from ships. The provisions of the MARPOL Convention Annex I regarding the prevention of the pollution of the sea by oil and oily mixtures by ships lay down equipment requirements, technical operational standards, and strict conditions for the discharge of oily residues into the sea, with more stringent requirements for the Mediterranean Sea designated as a special area under MARPOL Annex I. And indeed the protection of the marine environment from the operational pollution from ships will very much depend on an effective implementation and enforcement of the provisions of the MARPOL Convention by the Mediterranean countries parties as a flag State, port State and coastal State.

The Convention requests 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:

- . Party 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 law regarding ships flying the flag of the country wherever the violation occurs and regarding foreign ships for any violation within its jurisdiction.

Knowing that each country has its own specificities (some are more advanced than others in developing their own system) and that the national country reports prepared under the present consultancy contain detailed assessment of the situation and recommendations which are specific to each of them, it is not the purpose of this report to go into the details of each reports but to concentrate on the main and common characteristics. For the details, one should refer to the national report and to the recommendations addressed to the relevant national authorities who are expected to implement them.

Therefore the purpose of this synthesis is on the basis of the reports produced, not to go into the details but to focus on the main and common impediments of these countries to fulfill their obligations under the MARPOL Annex I as identified and to concentrate on the regional perspective taking into account the Regional Strategy and the actions to be taken to support the national authorities in improving the situation.

III. Assessment of the situation

All the countries visited are party to the MARPOL Convention Annex I and as preliminary comments it should be noted that:

1. With the exception of Israel, Jordan and Montenegro all the other countries are on the black list of the Paris MOU (Albania, Syria, Lebanon, Egypt, and Morocco) or on the grey list (Turkey, Algeria, Croatia and Tunisia) that demonstrates that a number of ships flying the flag of these countries are not complying with the requirements of the relevant international conventions including in particular the MARPOL Annex I; and, that these States are not fulfilling well their flag State obligations. It is expected that the situation would improve because a substantial number of old ships have been removed from service and part of them replaced by new ships, several countries seeing their fleet decreasing in number since 2006; and also because we can see some improvement in fulfilling flag State duties.

2. There is progress and continuous improvement in most of the countries regarding port State control. There is still a lot to be done to reach the expected level of standards but the efforts are very encouraging. When data are available, the PSC inspection reports show that there are quite a number of MARPOL equipments discrepancies and oil record book discrepancies (which are indications of potential illegal discharges).

3. Although it is generally admitted that the operational pollution from ships is still an important problem in the Mediterranean Sea, none of the countries produced reports of alleged discharge violations at sea, that reflects that there is not yet in place in most of the countries an efficient system for the surveillance, detection, and prosecution of illegal discharges. However, the countries reported quite a number of pollutions which lead to sanctions (mainly administrative sanctions) and which occurred in port areas with the small ships (small boats, fishing vessel, and pleasure crafts) being the main polluters.

4. Except Croatia none of the other countries visited are communicating to IMO, following the MEPC/Circ.318, the information called for by articles 8, 11 and 12 of the MARPOL convention. There are no (very few) reliable statistics available on the matter.

5. Most of the existing maritime codes and maritime laws address mainly the maritime safety and they contain very little on the prevention of the pollution of the marine environment from ships (MARPOL) and sometimes there are inconsistencies with the MARPOL Convention.

6. The laws sanctioning marine pollution which apply to the pollution by ships are in most cases environmental laws, general by nature and not well adapted to violations of the discharges requirements of the MARPOL Convention.

The main and common characteristics of the current national systems will be considered according to the following aspects:

- 1) The legal frameworks;
- 2) The organizational structures;
- 3) The capabilities.

3-1. The legal frameworks

The most important common characteristic is that the national legal systems do not provide a robust legal base for MARPOL Annex I implementation and enforcement.

Although countries acceded to the MARPOL Convention and the Convention together with its Annexes I and II have been promulgated making them national laws, in most of them no dedicated laws and regulations for the effective implementation of their technical and operational requirements have been yet adopted. There are no enabling laws which provide the proper legal bases for the adoption of specific rules and regulations transposing the technical requirements of MARPOL Annex I. In most cases, rules and regulations regarding survey and certification and port State control inspection related to MARPOL requirements have to be issued. Table I summarises the situation in the countries with regard to the legal framework.

Table I: Legal framework/technical and operational requirements

	MARPOL Annex I status	UNCLOS status	REMPEC Protocol(s) status	Dedicated Maritime laws (enabling laws)	Dedicated Rules and regulations (survey and certification)	Procedures For surveys, inspections and certifications	Applicability to non conventional ships
Algeria	Accession 31/01/1989 Entry into force 01/05/1989 Promulgated 31/05/1988	Signed 10/12/1982 Ratified 11/06/1996	Ratified the 1976 Protocol 11/01/1981 Signed the 2002 Protocol, not yet ratified	Maritime code 23/10/1976 as Amended 25/06/1998 (very little on MARPOL, does'nt provide a robust legal bases)	No rules and regulations transposing MARPOL Annex I technical requirements	No rules regarding methods and procedures for survey and certification and inspection	Uncertainty, but on going work to address the issue
Egypt	Accession 07/08/1986 Entry into force 07/11/1986	Signed 10/12/82 Ratified 26/08/1983	Party to the 1976 Protocol But not yet party to the 2002 Protocol	The Environmental Law of 27/01/1994 and the Presidential Decree No399/2004	Implementing regulations promulgated by Prime ministerial Decrees of 1995 and 2005		
Israel	Accession 31/08/1983 Entry into force 02/10/1983		Party to the 1976 Protocol But not yet party to the 2002 Protocol	The Israeli Shipping and Ports regulations Chap IV (1983/1987) Port Regulations (1982) Chap II, V	Rules and regulations are regularly issued and updated	Procedures have been issued and guidances are provided to the inspectors	

	MARPOL Annex I status	UNCLOS status	REMPEC Protocol(s) status	Dedicated Maritime laws (enabling laws)	Dedicated Rules and regulations (survey and certification)	Procedures For surveys, inspections and certifications	Applicability to non conventional ships
Jordan	Accession 02/06/2006 Entry into force 02/09/2006	Accession 27/11/1995		A draft Maritime law has been prepared in 2002 which should replace the Maritime Law of 1972	No dedicated regulations	No procedures	
Lebanon	Accession 18/07/1983 Entry into force 02/10/1083	Signed 07/12/84 Ratification 05/01/1995	Party to the 1976 Protocol But not yet party to the 2002 Protocol	No dedicated laws transposing MARPOL provisions	No dedicated regulations	No procedures	
Morocco	Accession 12/10/1993 Entry into force 12/01/1994	Signed 10/12/1982 Ratification 31/05/2007	Party to the 1976 Protocol But not yet party to the 2002 Protocol	Enabling legislation integrating MARPOL provisions should be adopted soon	No dedicated regulations	Instructions and guidances are provided	
Syria	Accession 09/11/1988 Entry into force 09/02/1989		Party to the 1976 Protocol But not yet party to the 2002 Protocol	The law No 9 of 23 February 2006 The law No 46 of 5 Dec 2006	Implementing instructions from the ministry of transport through Order No 1409 of 8 Oct 2006		

	MARPOL Annex I status	UNCLOS status	REMPEC Protocol(s) status	Dedicated Maritime laws (enabling laws)	Dedicated Rules and regulations (survey and certification)	Procedures For surveys, inspections and certifications	Applicability to non conventional ships
Tunisia	Accession 10/10/1980 Entry into force 02/10/1983	Signed 10/12/1982 Ratification 24/04/1985	Party to the 1976 Protocol But not yet party to the 2002 Protocol	No dedicated laws transposing MARPOL provisions	No dedicated regulations	Instructions and guidances are provided	
Turkey	Accession 10/10/1990 Entry into force 10/01/1991		Ratified on 04/06/2003 the 2002 Protocol	Enabling legislation integrating MARPOL provisions should be adopted soon	Related regulations have been prepared waiting for adoption	Instructions, guidances and procedures are provided	
Albania	Accession	Accession 23/06/2003	Party to the 1976 Protocol But not yet party to the 2002 Protocol	The Maritime Code 08/07/2004	No By Laws and regulations transposing MARPOL Annex I technical requirements	No rules regarding methods and procedures for survey and certification and inspection	

	MARPOL Annex I status	UNCLOS status	REMPEC Protocol(s) status	Dedicated Maritime laws (enabling laws)	Dedicated Rules and regulations (survey and certification)	Procedures For surveys, inspections and certifications	Applicability to non conventional ships
Croatia	Accession Entry into force 08/10/1991	Succession 05/04/1995	Ratified on 01/10/2003 the 2002 Protocol	The Maritime Code 08/12/2004 The Maritime Domain and Sea ports Act Sept 2003	By Laws, Decrees and Regulations have been issued	For survey and certification procedures are issued by RO, For PSC inspections the 03/10/2005 Ordinance on carrying out control inspection of shipping	The Maritime Code apply to boats and yachts
Montenegro	Accession 2006 Entry into force 2006	Accession 23/10/2006	Not yet party to the 2002 Protocol	Maritime Laws under preparation	Decrees and Regulations to be prepared An information notice for domestic and foreign navigators has been issued in March 2007	No rules regarding methods and procedures for survey and certification and inspection	The 2007 Information notice relates to all kind of ships including small boats and yachts

Regarding the enforcement and the sanction to the violation of MARPOL Annex I requirements, in most cases, the countries have a law (criminal law) on the protection of the environment which includes the protection of the marine environment and /or specific provisions in a maritime law referring to marine pollution offences. More often the marine pollution is described in general terms which covers all together dumping, accidental pollution and intentional pollution; the wording used is not always appropriate and there are a number of inconsistencies. Although those laws or provisions can be used and are used against pollution offenders, they are not establishing a robust penal regime adequate for sanctioning violations to MARPOL. There are also differences among the countries regarding the level and types of penalties imposed and regarding the prosecution procedures. More often the environmental laws have been prepared by personnel who don't have a full knowledge of the MARPOL Convention that explains the inconsistencies and the use of inappropriate language. Table II summarises the legal regime for sanctioning MARPOL Annex I violations in the countries.

Table II: Legal regime for sanctioning MARPOL Annex I violation

	Enforcement laws Sanctioning MARPOL violations	Scope of the laws	Type of sanctions	Level of sanctions	Prosecution process	Court
Algeria	The Maritime Code as amended on 25/06/1998 The Law on the protection of the environment 19/07/2003	Territorial sea: 12 nm Contiguous zone: 24 nm Fishing zones: 32 nm west coast 52 nm east coast	Criminal sanctions including prison	6 months of prison up to 5 years and a fine of 20 000 DA up to 10 000 000 DA or of one or the other of those 2 the sanction is double in case of second offence	Agents authorized to collect evidences and investigations are designated by Laws Evidences reports are forwarded to the public Prosecutor who initiate the proceeding	The court of the port where the infringement took place or the port of call of the ship for infringement at sea
Egypt	The Environmental Law Of 27/01/1994	Territorial sea and the EEZ	Criminal sanctions including prison	The maximum amount for fines is fixed at EGP 500 000 (equivalent 61 000 E)	The Egyptian Environmental Affairs Agency will collate evidences and initiate the legal proceeding following the code of penal procedure	General prosecutor Criminal court
Israel	The Ordinance on the prevention of sea water pollution by oil 1980	Territorial sea	Criminal sanctions including prison	Fines up to a maximum of 75 000 US \$, in case of second offence prison up to a maximum of 1 Year may be imposed	The Marine and Coastal Division MCEd of the Ministry of Environment is responsible of the whole prosecution process up to the court where it will act as prosecutor and witness	MCEd will introduce the case to the first instance court

	Enforcement laws Sanctioning MARPOL violations	Scope of the laws	Type of sanctions	Level of sanctions	Prosecution process	Court
Jordan	The Aqaba Special Economic Zone law 2000 And ASEZ regulation No 21 (2001) [draft Maritime Law to be adopted]	Territorial sea	Administrative and criminal sanctions including prison	Fines up to a maximum of 9.5 million US \$ and/or 3 years of prison	Follow the code of penal procedure	The first instance court of Aqaba
Lebanon	Port and Harbors Regulations Order No 31 of 26/01/1966 Environment Protection Code Law No 444 of 29/07/2002	Port areas Territorial sea	Administrative Sanctions Criminal sanctions including prison	Fines up to 4 600 E and /or 1 year prison	The Coast Squad and the Ministry of Environment have law enforcement powers	
Morocco	No specific criminal law Law of 28/04/1961 related to the police in port areas Law of 08/04/1981 on the EEZ	Port areas EEZ	Administrative sanctions	Symbolic penalties	Port officers impose administrative sanctions	
Syria	The law No 9 of 23/02/2006 related to the protection of the marine environment from pollution	Territorial Sea and "adjacent international waters"	Administrative sanctions	Fines up to a maximum of 26 000E	Proceedings before the Commission of first instance and the Higher Commission on pollution	The Commission of first instance and the Higher Commission on pollution are administrative tribunal

	Enforcement laws Sanctioning MARPOL violations	Scope of the laws	Type of sanctions	Level of sanctions	Prosecution process	Court
Tunisia	The Environmental Law of 02/08/19988 as modified by the law of 30/11/1992 The law of 18/03/1999 related to commercial ports (Code des Ports)	Sea areas under Tunisian jurisdictions Ports areas	Criminal sanctions Criminal sanctions including prison	Fines from 100 up to a maximum of 50 000 Dinars Fines from 10 000 up to 50 000 Dinars and 3 up to 6 months prison or one or the other of those 2	Designated "Experts controleurs" from the Agence National Pour l'Environment" have the legal capacity to collect evidences Report of evidences is transmitted to the public prosecutor (ANPE has the authority by law to conclude transaction with the offender that suspend the proceeding. The "Code des Ports" designates the agents whom have the legal capacity to establish report of evidences. The reports are transmitted to the public prosecutor for proceeding. The Port Authority has the authority by law to conclude transaction with the offender that suspend the proceeding	First instance court of the place of the offence First instance court of the place of the offence

	Enforcement laws Sanctioning MARPOL violations	Scope of the laws	Type of sanctions	Level of sanctions	Prosecution process	Court
Turkey	<p>The Environmental Law No 2872 of 9/8/1983 as amended in 1986, 2006</p> <p>The By Law of 3/4/2007 related to determination of violation and collecting of administrative fines inflicted per the Environmental law</p>	Sea areas under Turkish jurisdiction	<p>The law provides for administrative penalties.</p> <p>In cases of wrong or misleading information and avoidance of giving information legal action can be initiated on the bases of the Turkish criminal law</p>	<p>Administrative fines</p> <p>Judicial sanction can be imposed including prison from 6 months up to 1 year</p>	<p>The Ministry of Environment delegated to the Under Secretariat for maritime affairs, the Coast guard and the 4 metropolitan municipalities the authority to control and investigate violation to the law and to impose administrative fines to the offenders;</p> <p>Regulations provide guidance regarding the collection of evidences and fix the procedures to follow when imposing fines</p>	The cases when the justice should be involved are limited
Albania	<p>The Maritime Code of 08/07/2004</p> <p>The Law for the protection of the marine environment from pollution of 2003 as amended in 2006</p>	Port areas, internal water and territorial sea	Penal penalties	<p>The code imposes fines up to 2005 E</p> <p>The environmental law imposes fines up to 8000E</p>	<p>Within port jurisdiction the Harbor Master have the law enforcement power.</p> <p>Within the territorial sea the Coast Guard relevant officers have the law enforcement power;</p> <p>Reports are transmitted to the public prosecutor who initiate the proceeding</p>	Judicial court of the place where the offences occurred

	Enforcement laws Sanctioning MARPOL violations	Scope of the laws	Type of sanctions	Level of sanctions	Prosecution process	Court
Croatia	The Maritime Code of 08/12/2004 as amended on 23/07/2004. The Maritime Domain and Sea Ports Act of Sept 2003 as amended on 27/12/2006	Ports, internal waters, territorial sea and EEZ Sea Ports, Internal waters, Territorial sea	The law provides for administrative penalties. idem	Fines from 5000 up to 250 000HRK if the inspection establish non compliance, Fines from 2000 up to 15 000HRK for infringement in the EEZ Fines from 1000 up to 15 000HRK for failing to fulfill its obligations under the law. The Maritime Domain and sea ports Act imposes fines from 50 000 up to 1 000 000HRK for illegal discharges	Inspection, control and investigations within the maritime domain are performed by authorized maritime domain inspectors and harbor master's office inspectors. The harbor master's office initiate the proceeding for maritime offences and infringement which shall be conducted by the Council for Offences Uncertainties do exist regarding the enforcement within the EEZ	Councils for Offences established in Harbor Master's Offices Appeal against the ruling of the council of offences shall be dealt with by the High Magistrate's Court
Montenegro	No enforcement law sanctioning MARPOL violations The information notice of March 2007 refers to the prohibition of discharges into the sea of oily wastes and to proceeding which will be conducted in cases of maritime violation				The administrative / prosecution procedure will be conducted by the Harbor Master's Offices	

Regarding “non conventional ships” (below 400GT/150GT: *small boats, fishing vessels, pleasure crafts*) which are an important source of pollution, few countries have in place an applicable legal regime when the other are currently working on the matter or considering to do it in the near future.

3-2. The organizational structures

Maritime Administrations have the responsibility for the implementation and enforcement of the MARPOL Annex I as flag State and port State; as coastal State they share that responsibility with other Ministries.

Another very important common characteristic is that the central maritime administrations do not have enough personnel for discharging all their national and international responsibilities in particular their regulatory functions (preparing enabling laws, issuing and up dating as often as necessary technical rules and regulations). Such a situation explains largely the weaknesses of the legal systems mentioned above.

The organization of the maritime administrations for the execution (at the local level) of the responsibilities of flag State and port State are generally satisfactory. However in many countries the arrangements and the relations with the recognized organizations as well as their auditing and monitoring should be revisited with the view to enhance the flag State performance in particular regarding MARPOL compliance. The participation to MOU on port State control contributed significantly to enhance the performance of the countries in port State control inspection of foreign ships.

Table III: Organizational structure for flag State and port State responsibilities (Maritime administrations)

	Coastal State responsibility Ministry(ies) responsible	Administrations responsible for Monitoring and detection	Administrations responsible for collecting Evidences and investigation	Prosecutors and magistrates involvement
Algeria	The Merchant Marine Directorate The Coast Guard has the overall responsibility regarding the control and the police of the pollution of the marine environment The Ministry of Environment has a general responsibility regarding the protection of the marine environment	The Coast Guard Other administrations cooperate with the Coast guard: the police/civil protection, the gendarmerie, the Navy, the air forces, the custom	The dully authorized agents from: The Coast guard, the maritime administration, the officers of the port authorities, and the inspectors from the Environment. In addition the other administrations participating in the law enforcement are : the police/civil protection, the gendarmerie, the navy, the custom	Not sufficiently involved
Egypt	The Egyptian Environmental Affairs Agency (EEAA) has an overall responsibility regarding the protection of the marine environment with a coordinating role and cooperate with EAFMS	Egyptian Armed Forces: Air Forces, Navy. The Coast Guard	EEAA	Not sufficiently involved
Israel	The Marine and Coastal Environment Division MCED (Ministry of Environment) has the overall responsibility regarding the control and the police of the pollution of the marine environment MCED cooperate with the Shipping and Port Directorate	MCED	MCED (7 MCED MARPOL inspectors)	Not sufficiently involved

	Coastal State responsibility Ministry(ies) responsible	Administrations responsible for Monitoring and detection	Administrations responsible for collecting Evidences and investigation	Prosecutors and magistrates involvement
Jordan	The Aqaba Special Economic Zone Authority ASEZA has an overall responsibility regarding the protection of the marine environment	ASEZA with the support of the Royal Naval Forces	ASEZA	Lack of familiarity with MARPOL
Lebanon	The Ministry of Environment MOE	The Coast Squad The Lebanese Army	The Coast Squad, 'MOE'	Not sufficiently involved
Morocco	No laws or Decrees establishing responsibilities among various ministries and specifying procedures	No legal texts defining responsibility in this field. Should be the responsibility of the Royal Navy with coordinating arrangements with the Royal Air Forces, the Gendarmerie and the Fisheries Department	No designated officers having authority for evidence collecting and investigation	Not involved
Syria	The General Directorate of Ports GDP	GDP through its Military Affairs Directorate	GDP and the Commission of First Instance for evaluation of Pollution Damage	Not involved
Tunisia	The Agence National de Protection de l'Environment ANPE is responsible for investigation and reporting of evidences of pollution of the marine environment	No legal texts defining responsibility in this field. The Service National de Surveillance Côtière SNSC and the Garde National Maritime GNM report to ANPE any pollution they may detect at sea	Designated 'Experts Controleurs' of ANPE have the legal capacity for evidence collecting and investigation	Not sufficiently involved

	Coastal State responsibility Ministry(ies) responsible	Administrations responsible for Monitoring and detection	Administrations responsible for collecting Evidences and investigation	Prosecutors and magistrates involvement
Turkey	The Ministry of Environment has an overall responsibility for executing the Environmental Law No2872 Regarding the control, the investigation and the sanction of the pollution of the marine environment from ships the Ministry of Environment delegated part of its responsibilities to: the Under-Secretariat for Maritime Affairs UMA, the Coast Guard and the 4 Metropolitan Municipalities	The Coast Guard, The 4 Metropolitan Municipalities UMA (within the port areas)	The Coast Guard, The 4 Metropolitan Municipalities UMA (within the port areas)	Not sufficiently involved
Albania	The Albania Coast Guard (branch of the Navy) is the law enforcement body that include pollution by ships (Law No8875 of 04/04/2002)	The Albania Coast Guard	The Albania Coast Guard	Not involved
Croatia	The Ministry of the Sea, Transport and development	Within the maritime domain: Harbor Master's Offices with the support of other administrations through the Coast Guard arrangement In the EEZ it is unclear	Within the maritime domain: Authorized harbor master's office inspectors and Ministry's maritime domain inspectors In the EEZ it is unclear	Not sufficiently involved
Montenegro	No laws or Decrees establishing responsibilities among various ministries and specifying procedures; To carry out maritime duties at sea the Coordinating Body of the Republic of Montenegro Coast Guard (KTOS) has been established. Part 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 & diving	Should be the KTOS	No designated officers having authority for evidence collecting and investigation	Not involved

Regarding the coastal State responsibilities, in particular regarding illegal discharges at sea, in most cases, the legal systems and the institutional arrangements do not establish clearly the duties and responsibilities of the various Ministries and administrations which could and should be involved. The responsibilities are not always placed with the administration(s) which have the capabilities to undertake such responsibilities. In some cases, the Ministry of Environment has the responsibility of the control of the pollution at sea when it does not have the capabilities to do it. More often co-ordination arrangements amongst Ministries or administrations with the view to utilize the existing national capabilities do not exist. Empowered law enforcement agents for illegal discharges are rarely designated by the laws or decrees.

The Ministry of Justice, magistrates and prosecutors are not sufficiently involved in this matter of sanctioning illegal discharges. There are very few cases which have been introduced to the courts. The magistrates are not familiarized with the MARPOL Convention and in particular with its discharges requirements. Table IV summarizes the organizational structure related to coastal State responsibilities in the countries.

Table IV: Organizational structure –Coastal State responsibilities

	Central Administration Implementation and enforcement As flag State and coastal State	Local administration	Flag State responsibility Relation with RO	Port State responsibility PSC
Algeria	The Merchant Marine Directorate (Ministry of Transport) Is the regulatory body with the overall responsibility	The local maritime administration (maritime affairs administrators) is under the authority of the Coast Guard (Ministry of Defense) Responsibilities: ship registry, survey and certification, ship inspection and control, and the protection of the maritime public domain and the marine environment	There are contracts with ROs but there are not up to date. The control and audit of the RO have to be organized	There are 30 PSC officers. Procedures and practices need to be improved
Egypt	The Egyptian Authority for Maritime Safety	Field offices at the main Egyptian ports	Contracts with 9 ROs	There are 16 PSC officers
Israel	The Shipping and Port Directorate (Ministry of Transport) Is the regulatory body with the overall responsibility	3 main ports Haifa Ashdod and Eilat	14 flag State inspectors /surveyors Contracts with 6 RO The IOPP certificate is issued by the Israel administration/ surveyor	14 port State control Officers(the same surveyors) Cooperation with the Marine and Coastal Environment Division (Ministry of Environment) MARPOL inspectors who inspect the MARPOL documentation
Jordan	The Jordan Maritime Authority (Ministry of transport)	Port of Aqaba	3 flag State surveyors Contracts with 8 RO	3+2 PSC officers

	Central Administration Implementation and enforcement As flag State and coastal State	Local administration	Flag State responsibility Relation with RO	Port State responsibility PSC
Lebanon	The Directorate General of Land and Maritime Transport DGLMT (Ministry of Public Works and Transport)	Harbor Master's Offices in 7 regions(7 main Harbors)	DGLMT has contract with the Lebanese Bureau of Shipping as well as with several other ROs. No control and monitoring of ROs DGLMT issue the IOPP certificate	insufficient PSC officers
Morocco	The Merchant Marine Directorate(Minister of Transport, Merchant marine) Is the regulatory body with the overall responsibility	9 ' Quartiers Maritime 'carry out ships inspection, flag State and port State control	21 ships inspectors/surveyors for merchant ships Contracts with 4 ROs 35 inspectors/surveyors for fishing vessels	Same as flag State
Syria	The General Directorate of Port (Ministry of Transport) Is the regulatory body with the overall responsibility	Port Departments of Latakia, Tartous, Banyas and Arwad)	10 flag State inspectors/surveyor Contracts with ROs No control and monitoring of ROs	6 PSC officers
Tunisia	The Merchant Marine Directorate General DGMM (Ministry of Transport) is the regulatory and the policy making body; The Merchant Marine and Ports Office OMMP (public enterprise attached to the Ministry of transport is the executing body)	The OMMP is locally organized in 7 regional Districts (services regional de la sécurité maritime) with 40 authorized inspectors/surveyors ensuring flag State survey and port State inspection	40 authorized inspectors/surveyors Contracts with 3 ROs	Same as flag State

	Central Administration Implementation and enforcement As flag State and coastal State	Local administration	Flag State responsibility Relation with RO	Port State responsibility PSC
Turkey	The Under-Secretariat for Maritime Affairs (Under the Prime Minister) is the regulatory and the policy making body.	7 regional Directorates and 71 Harbor Master's Offices	77 contracted PSC and FSI experts, 189 ship inspection officers(PSC/FSI), 22 assistants maritime experts and 27 maritime experts Contracts with 10 ROs	Same as flag State
Albania	The Maritime transport Policy Directorate (Ministry of Public Works transport and Communication) 'should be' the regulatory body	4 Harbor master's offices	Survey and certification are delegated to the Albania Register of Shipping which has 4 surveyors. Albania ships are inspected by the harbor master's inspectors twice a year	Only 2 qualified PSC inspectors
Croatia	The State Secretary for the Sea (Ministry of the Sea, Transport and Development) is the regulatory and the policy making body.	8 Harbor Master's Offices with 79 branch offices	Survey and certification are delegated to the Croatian Register of Shipping which has 30 on site surveyors deployed in 10 branch offices	2 PSC inspectors in each harbor master's offices 160 authorized persons for the inspection of boats and yachts
Montenegro	The Maritime Safety Department (Ministry of Transport and Maritime Affairs) is the regulatory and the policy making body.	2 Harbor Master's Offices in Bar and Kotor with 3 branch offices in Bar and 2 in Kotor. The harbor master's offices perform administrative, inspection and control duties	8 surveyors for surveys and certification of 6 ships	4 PSC inspectors for conventional ships

3-3. The capabilities

Capabilities to carry out flag State and coastal State duties

As mentioned above, the common characteristic is that the central maritime administrations do not have sufficient personnel with the necessary knowledge and experience to undertake the regulatory work.

Regarding survey, certification, inspection and port State control inspection, it seems that the number of inspectors and port State control inspectors are globally sufficient. Indeed some countries need to recruit additional inspectors. The difficulties relate mainly with the arrangements and relations with the recognized organizations which need to be revisited to improve flag State performances; and, with the standards of practices and methods of inspections and port State control inspections which need to be enhanced in particular through the issuance of guidelines and specialized training courses on MARPOL for the inspectors.

Capabilities to carry out coastal State responsibilities

As mentioned above, more often it is not clearly defined which are the ministry (ies) or administration(s) responsible for surveillance, detection, and gathering of evidence regarding illegal discharges at sea. The consequences of such a situation are that the resources and capabilities existing within the countries are not fully used, in particular the resources (vessels, aircrafts and helicopters) of the administrations which are already exercising various missions at sea.

When there is a coast guard, and when the responsibility of controlling the pollution of the marine environment has been given to the coast guard, the coast guard should have a coordinating role and the possibility of getting the support of the means of the other administrations which exercise missions at sea (the navy, air forces, custom, the border police) That is rarely the case.

In most of the countries, arrangements and programs for an optimized mobilization and used of the existing resources do not exist and still have to be developed. Such arrangements and programs should be considered in a broader context of policing at sea. Presently, most of the countries do not have specialized dedicated equipments on board of vessel or aircraft for pollution detection (some have video and cameras, few have radars, infra red...). However, AIS facilities, radars do exist in all countries in MRCC/RCC, VTS centers or coastal stations which could contribute in collecting information.

Another important common characteristic is that the personnel who are or should carry out surveillance, detection, and evidence gathering duties have not been trained (or sufficiently trained) for that job and they don't consider this duty as a high priority.

The issue of capabilities to carry out coastal State responsibilities is not so much a question of resources. It is more a question of political will and organization which includes clear definition of responsibilities of the administrations which should be involved and of coordination of the use of the means through appropriate programs. Indeed the acquisition of specialized detection equipments would have to be considered as well, but it should be a second step.

The prosecution process is not as efficient as it should be mainly due to the weaknesses of the legal regimes and of the lack of clarity regarding the establishment of responsibilities. And the poor involvement of the Ministry of Justice together with the lack of familiarization of MARPOL of the prosecutors and the magistrates, do not allow the judicial systems to impose the sanctions and play the discouraging role we should expect them to play.

Maintaining and strengthening the capabilities

Training

All the maritime administrations of the visited countries recognized that the way forward for maintaining and strengthening their capabilities is through the training of all the categories of personnel and they have clearly expressed their needs in that connection. The categories of personnel to be trained on MARPOL implementation and enforcement are:

- 1) Legal staff of legal services of central administrations(to be recruited in many countries);
- 2) Surveyors, inspectors, port State control officers to get special training on MARPOL. The PSC inspectors shall be trained and familiarized with the procedures and practices of the Paris MOU;
- 3) Selected Coast Guard officers, navy officers, air forces officers, custom officers, maritime border police officers and Harbor Master's inspectors should be trained in discharges monitoring and detection;
- 4) Authorized agents for the law enforcement should be trained in discharges detection, evidences gathering, investigation, reporting and initiating proceeding.

The maritime administrations and when consulted the Ministry of Justice recognized that the familiarization of the magistrates with the MARPOL Convention will contribute to ensure the effectiveness of an efficient sanction system. Magistrates would have to be familiarized through seminars and special training.

Regional co-operation

The maritime administrations also recognized that regional cooperation is a good way forward to improve and strengthen their capabilities for enforcing the MARPOL Convention and to address efficiently the issue of illegal discharges by ships in the Mediterranean Sea.

- The countries are already engaged and are making efforts for upgrading, improving and harmonizing the procedures and practices related to port State control and inspection of discharges requirements as well as exchanging information within the framework of port State control MOU's.
- The countries recognized that the REMPEC Protocol and the Regional Strategy recently adopted is the appropriate framework for regional co-operation on MARPOL implementation and enforcement. They are very much interested in regional cooperation through REMPEC on: information exchange; monitoring and surveillance; and harmonization of enforcement measures.
- Most of the countries recognized that the cooperation with neighboring countries through the exchange of information and the pooling of their resources and the coordination of the use of their respective capabilities would be a good way to improve and strengthen their individual and collective ability to address in a cost effective way the issue of illegal discharges off their coasts. They are ready to explore the possibility of developing sub-regional arrangements on that subject.

IV. Recommendations

As explained in the introduction of this synthesis, the suggested detailed recommendations for each individual country should be seen in the national country reports. The following recommendations relate to activities aiming at assisting the relevant national authorities in implementing the suggested recommendations regarding their country as well as the regional activities which would contribute to the strengthening of national and regional systems for effective implementation and enforcement of MARPOL Annex I with a special emphasis on illegal discharges at sea. Keeping in mind the Regional Strategy, the recommendations concentrate on the main and common impediments as described above and distinguish between activities directed to strictly national issues (legal and institutional frameworks), activities aiming at strengthening the capabilities through training and those to be undertaken within a regional context as individual and collective support.

To achieve the objectives of the Regional Strategy of having in place, within the Mediterranean region, national and regional systems for an effective implementation and enforcement of MARPOL Annex I, the first priority for the countries must be to ensure that they have a proper and robust national legal and institutional framework. That is a prerequisite and all the other related activities will depend and be built on it. Therefore the emphasis must be put on developing and strengthening the legal and institutional frameworks.

4-1. Legal and institutional frameworks

Most of the countries are in need of improving and strengthening their legal and institutional frameworks: put in place a comprehensive legal system for an effective implementation and enforcement of MARPOL Annex I; and set up an organizational structure with clearly defined division of responsibilities among administrations concerned regarding the control of the pollution at sea. To achieve that objective the countries may wish to request assistance.

When considering the assistance which may be provided on this specific subject we should keep in mind that a group of countries (Turkey, Croatia, Montenegro and Albania), as part of the preparation process for the accession to the EU, are already engaged, with the assistance of the European Commission, in bringing their legal system in line with the EU one and that another group of countries (Morocco, Egypt, Algeria and Tunisia) have benefited or are benefiting, through for example twining projects, of the assistance of the EU.

Therefore it should be within this context that the assistance should be considered. The European Commission, in cooperation with REMPEC, and using the national reports, should integrate in their assistance programs this specific activity. REMPEC should explore the possibility for the Integrated Technical Co-operation Programme of IMO to financially support activities on this subject that REMPEC could implement in the countries which will not benefit of assistance of the EU.

The expertise required for that assistance relate to drafting laws and regulations addressing:

- a) technical issues (transposing the technical requirements into the legal system);
- b) offences and administrative and criminal sanctions (criminal law); and
- c) Organizational structures and institutional arrangements (that imply a good knowledge and experience of the coordination of missions at sea).

Indeed the national authorities should strengthen the capabilities (recruit additional staff) of the central maritime administration for undertaking, with external assistance, this regulatory work.

4-2. Training

The training is foreseen as a prerequisite for developing and maintaining implementation and enforcement capabilities.

Training courses can be organized nationally with or without external assistance, and regionally by the existing mechanisms: REMPEC, the EC/EMSA and the Paris MOU.

Legal staff of legal services of central administrations

One of the urgent training activities required is the training of the personnel (who in the central administration) is or will be in the future in charge of the regulatory work (refer above). As it has been done under SAFEMED I and it will probably continue to be done under SAFEMED II, candidates from central maritime administrations should get fellowships for training courses at WMU or IMLI. Such fellowships should not be limited to candidates from the SAFEMED partners; therefore other potential sources of funding should be explored. The planned training course program should put a special emphasize on MARPOL implementation and enforcement or it may be appropriate to organize a specialized (tailor made) training course program for a short term session.

Surveyors, inspectors, port State control inspectors

Surveyors, inspectors, port State control inspectors should be periodically trained with the view to enhance their methods and practices of inspection up to the standards of the Paris MOU in particular regarding MARPOL compliance and enforcement. When feasible, national courses with or without external assistance should be organized. But as much as possible inspectors should be sent to specialized training courses for port State control inspectors which are periodically organized within the framework of the Paris MOU or the EU by EMSA. Sponsoring such participation should be explored together with putting a special emphasis to MARPOL compliance and enforcement to some of those courses. REMPEC, within the limit of its resources and with the support of IMO, should also organise regional PSC inspection training courses specially dedicated to MARPOL Annex I within a perspective of strengthening the regional cooperation on the enforcement of MARPOL.

Training on discharges monitoring, detection, evidence gathering, investigation and reporting

National and regional training courses should be organized for officers in charge of detecting illegal discharges at sea from the coast guard, the navy, the air forces, the custom, the border police and for the law enforcement authorized agents (authorized for establishing evidences report). REMPEC should support such national courses and within the limit of its own resources, organise regional ones.

Familiarization of magistrates

The magistrates and public prosecutors should be familiarized with the MARPOL Convention and in particular with its discharges requirements. This can be done through national and regional seminars. REMPEC should support such national seminars and within the limit of its own resources, organise regional ones.

Joint seminar for magistrates and officers in charge of pollution detection and law enforcement agents should also be organized at the national as well as at the regional level. Special training session of one month for magistrates may be considered and the place where to organize it should be explored as well as the funding.

4-3. Regional support and cooperation

Article 6 of the MARPOL Convention request the Parties to co-operate in the detection of violations and the enforcement of the provisions of the Convention, using all appropriate and practicable measures of detection and environmental monitoring, adequate procedures for reporting and accumulation of evidence.

The following regional activities should contribute to the strengthening of national systems and developing regional co-operation for an efficient enforcement of MARPOL Annex I with a special emphasis on illegal discharges at sea.

The PSC MOU's

The regional co-operation on MARPOL enforcement through the port State control should be strengthened within the framework of the port State control MOU's: the MED/MOU, the ESCWA/MOU (Mashreq countries Egypt, Jordan, Lebanon, [Palestine] and Syria) and the Paris MOU. In those frameworks 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 in promoting information exchange. And co-operation among those MOU's on this specific subject within a regional perspective should be encouraged.

REMPEC should be invited to participate to those MOU's meetings with the view to make the link and to ensure the coordination with other activities carried out in other frameworks on the same subject (already included in the Regional Strategy).

The REMPEC Protocol and the Regional Strategy

REMPEC is the appropriate framework for promoting the regional co-operation on MARPOL enforcement.

REMPEC should promote the co-operation among the Mediterranean countries on: information exchange; monitoring and surveillance; and, harmonization of enforcement measures. That should be done through the organization of regional seminars and workshops. Those seminars and workshops should aim at amongst other: developing procedures and arrangements for information exchange and monitoring illegal discharges at sea; and harmonizing as much as feasible the various prosecution processes and the sanctions regimes and in co-operating in prosecuting the offenders.

The MEDEXPOL 2007 Seminar was already a step in that direction. One of its outcomes was the proposal of the establishment of a network of selected magistrates involved in this subject. Only two countries have nominated a magistrate. If the countries really want to benefit of regional cooperation it is necessary for them to participate actively otherwise, no doubt, very little will happen.

Those seminars and workshops should be supplemented by pilot activities like those already planned under the regional strategy:

- Initiating air surveillance campaigns between neighboring countries;
- Experimenting in co-operation with other partners (EMSA) coordinating mechanisms for detecting illegal discharges using various sources of information including satellite images, AIS facilities etc.

For assisting the country to address some specific issues, REMPEC, according to the need and at the request of the countries, should develop technical guidance documents. For example, the guidelines recently developed by REMPEC regarding pleasure craft will be a good guidance document which should help the countries in addressing the issue of preventing and controlling the pollution of the sea by pleasure crafts.

A manual for assisting the countries in transposing in national laws and regulations the MARPOL Convention (Annex I) should be prepared

Sub regional co-operation

When considering the geography of the Mediterranean region and the maritime traffic (shipping lanes) in this enclosed sea it is understandable that countries in regions like the Adriatic sea and the Western part of the Mediterranean sea are considering the co-operation with their neighboring countries as a way forward to address the illegal discharges from the ships passing off of their coast.

Sub regional agreements regarding co-operation in cases of accidental pollution already exist between Croatia, Italy and Slovenia in the Adriatic; between Algeria, Morocco and Tunisia in the Western Mediterranean Sea; and, between Cyprus, Egypt and Israel in the eastern part of the Mediterranean Sea. Those agreements may be a starting point for the development of new agreements on sub regional co-operation on controlling illegal discharges at sea but there are other possibilities.

At the request of the countries, REMPEC should provide assistance in exploring the various possibilities for developing sub regional co-operation on controlling illegal discharges at sea and in facilitating the negotiation of such agreements. The region to start with may be the Adriatic if the Adriatic countries confirmed their wishes. The second may be the Western Mediterranean Sea.

Data collection and reporting

With the view to get as much as possible an accurate picture of the violations of MARPOL and the prosecution of the offences to that Convention, REMPEC may ask and the countries may agree to transmit to REMPEC the part of the mandatory report (MEPC/Circ.318) they should send to IMO which related to MARPOL Annex I violations.

V. Conclusions

The report tried to provide a synthetic view of the situation within the countries visited regarding the implementation and enforcement of the MARPOL Annex I, explaining what are the main common impediments and needs of those countries. The proposed recommendations aim at assisting the countries in addressing those impediments and in responding to their needs. The proposed recommendations, presented more as a comprehensive regional plan of action, intend to be realistic and it is expected that it shall contribute to improve the national systems and to establish a robust regional cooperation on this matter leading to a significant reduction of illegal discharges in the Mediterranean Sea.

Annex I: National recommendations *(Extract)*

Algeria

Actions to be taken at the national level

1 Improving the existing legal framework for preventing and controlling operational oil pollution from ships:

- 1-1 The ministry of transport, the Merchant Marine Directorate (DMM), should:
- a) revisit and amend the maritime code with the view to incorporate into it provisions related to the MARPOL convention;
 - b) Issue rules and regulations transposing into the legal system the technical requirements of MARPOL in particular regarding survey and certification and port State control inspection;
 - c) Revisit the authorization and delegation to the recognized organizations and update the existing contracts;
 - d) Ensure that as part of the process of addressing the issue of non conventional ships the applicability of MARPOL requirements will be taken into account.
- 1-2 The ministry of environment in co-operation with the ministry of transport, the DMM, should amend the 2003 law with the view that the law refers explicitly to the MARPOL convention and to the discharges requirements of that convention.

To achieve this work the Ministry of Transport and the Ministry of Environment may request the assistance and support of REMPEC as part of the SAFEMED II project and of the MED Regional Strategy.

2 Strengthening implementation and enforcement capabilities

- 2-1 The Minister of Transport should make all efforts to recruit additional staff for the DMM with the view to ensure a full and effective undertaking of all central administration duties with respect to the national and international responsibilities of the ministry.
- 2-2 Regarding the capabilities for exercising coastal State responsibilities, in particular for the enforcement of discharges requirements, the coast guard in co-operation with the DMM should improve the system by:

- a) the adoption of a program and plans for the optimization of the use of the means of the Coast Guard and of the other administrations regarding surveillance, monitoring and detection of illegal discharges;
- b) the establishment of a coordinating mechanism for monitoring and detection of illegal discharges using various sources of information;
- c) the Initiation of a study for the acquisition of specialized dedicated detection equipment.

2-3 The training of personnel is a prerequisite for developing and maintaining implementation and enforcement capabilities, the Ministry of Transport and the Coast Guard should ensure that through national courses organized by the maritime superior institute or regional courses the following categories of personnel will get proper training:

- a) Legal staff of legal services of central administrations
- b) Surveyors, inspectors, port State control officers to get special training on MARPOL;
- c) Selected coast guard officers, Navy officers, air forces officers, custom officers and port officers should be trained in discharges monitoring and detection;
- d) Authorized agents for the law enforcement must be trained in discharges detection, evidence gathering, investigation, reporting and initiate proceeding.

3 Strengthening the prosecution system

3-1 The magistrates should be familiarized with the MARPOL convention through national and regional seminars and special training. As it has been done in the past specialized training session should be organized for magistrates by the maritime superior institute.

3-2 Regular meetings between magistrates and the authorized law enforcement agents from the various administrations should be organized with the view to strengthen the enforcement and prosecution system.

Egypt

Actions to be taken at the national level

- 1 Development of a comprehensive legal framework for preventing and controlling operational oil pollution from ships**
 - 1-1 Encourage and, where necessary, assist Egypt in strengthening enforcement provisions in the Environmental Law by ensuring the availability of adequate administrative as well as penal/criminal sanctions, increasing existing fine levels on par with EU legislation and providing for additional sanctions, such as disqualification from performing a professional activity;
 - 1-2 Update references in the Environmental Law to the new MARPOL Annex I and remove from the Law any imprecise or ambiguous terminology.

- 2 Strengthening implementation and enforcement capabilities**
 - 2-1 Provide training in technical, legal and administrative aspects of MARPOL implementation and enforcement to relevant Government agencies, including the Egyptian Armed Forces;
 - 2-2 Explore avenues for providing Egypt with the necessary modern technology and equipment for pollution monitoring and detection purposes, particularly in the more distant offshore areas located in Egypt's maritime zone and along the coast of the Red Sea south of Safaga;
 - 2-3 Identify and assess resources available within Egypt and identify opportunities for pooling such resources for MARPOL purposes.

- 3 Strengthening the prosecution system**
 - 3-1 Explore avenues for providing Egypt with the necessary modern technology and equipment
 - 3-2 Consider the needs of prosecutors' offices in employing personnel versed in MARPOL technical matters;
 - 3-3 Raise awareness and provide training on marine environmental issues and the specifics of MARPOL in all technical, legal and administrative facets to prosecutors, judges and their staff.

Israel

Actions to be taken at the national level

1 Strengthening implementation and enforcement capabilities

- 1-1 Regarding the capabilities for exercising flag State and port State responsibilities, although the performances are fully satisfactory, the staffing of the Shipping and Port Directorate for discharging those duties will become soon an issue which will have to be address.
- 1-2 Regarding the capabilities for exercising coastal responsibilities it may be worth reviewing the current system with the view either to confirm the current policy which is a restricted one in terms of geographical coverage or to engage into a more comprehensive one which should include all the sea areas under Israeli jurisdictions. In carrying such a review budgetary implications as well as consequential institutional changes for the two options should be carefully study.
- 1-3 The training of personnel is a prerequisite for developing and maintaining implementation and enforcement capabilities, the Shipping and Port Directorate as well as the Marine and Coastal Environment Division (MCED, Ministry of Environment) 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;
 - b) The surveyors and inspectors should have special training on MARPOL, in particular port State control inspectors;
 - c) The MCED MARPOL inspectors should be trained in discharges monitoring, detection, evidence gathering, investigation, reporting and initiating proceeding.

2 Improvement of the legal regime for controlling and sanctioning operational oil pollution from ships

Once the review of the current system will have been conducted it would be appropriate to revisit the existing legal regime with the view to modernize it and to reflect if necessary the decision made regarding the political option.

3 Strengthening the prosecution system

- 3-1 The magistrates should be familiarized with the MARPOL convention through national and regional seminars and special training.
- 3-2 The possibility of creating specialized courts for dealing with infringement to MARPOL should be considered.
- 3-3 Regular meetings between specialized magistrates and prosecutors (law firm involved in the prosecution process) with the MCED MARPOL inspectors, the lawyers from the Ministry of environment and of the Directorate, the Deputy Director of MCED, the ports (port authority), as well as port State control inspectors should be organized with the view to strengthen the prosecution system

Jordan

Actions to be taken at the national level

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

- 1-1 Assist Jordan, as appropriate, in seeing through the reform of maritime legislation as suggested in Aref Fakhry, Report on a Revised Maritime Law for Jordan, IMO, PR338 "Technical Advisory Services," December 2002, while ensuring that fines and sanctions provided for in the draft Maritime Law are increased, at least in line with levels found in the ASEZ Law;
- 1-2 Assist Jordan in establishing national guidelines on evidence collection and presentation;
- 1-3 Assist Jordan in addressing any gaps in national seafarers' disciplinary legislation with a view to ensuring that MARPOL is exhaustively and fully transposed into national legislation;
- 1-4 Provide any necessary assistance in legal drafting and policy support to relevant national authorities.

2 Strengthening implementation and enforcement capabilities

- 2-1 Increase the number of qualified legal and administrative staff, as well as surveyors within JMA;
- 2-2 Explore avenues for providing Jordan with the necessary modern technology and equipment for monitoring and detection purposes;
- 2-3 Provide training in all aspects of implementation and enforcement, particularly in legal matters and ship surveys and inspections, to relevant Government agencies, including the Ministry of Justice and the courts, the Royal Naval Force and the Royal Jordanian Air Force.

3 Strengthening the prosecution system

Explore avenues for providing Jordan with the necessary modern technology and equipment for data gathering purposes;

Raise awareness on marine environmental issues and the specifics of MARPOL amongst prosecutors and judges.

Lebanon

Actions to be taken at the national level

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

- 1-1 Adopt urgently needed MARPOL enabling legislation, taking into consideration the work and recommendations contained in Aref Fakhry, Report on Lebanese Maritime Legislation, IMO, PR227 TC04 RAB/97/201 1151, November 2001 and repeal, concurrently, obsolete or archaic legislation;
- 1-2 Adopt implementing legislation required pursuant to the Law on the protection of the environment from pollution caused by noxious waste and hazardous substances, promulgated by Law No. 64 of 12 August 1988, the Environmental Protection Code, promulgated by Law No. 444 of 29 July 2002, and the Law laying down the responsibilities of and organizing the Ministry of Environment, promulgated by Law No. 690 of 26 August 2005;
- 1-3 Without prejudice to the foregoing, activate MOE's enforcement powers pursuant to Articles 4(7) and 6(7) of the Law laying down the responsibilities of and organizing the Ministry of Environment.

2 Strengthening implementation and enforcement capabilities

- 2-1 Increase manpower and enhance staff qualifications, particularly in the legal and administrative spheres, across the board of relevant agencies;
- 2-2 Provide training in technical, legal and administrative aspects of MARPOL implementation and enforcement to relevant Government agencies;
- 2-3 Explore avenues for providing Lebanon with the necessary modern technology and equipment for pollution monitoring and detection purposes;
- 2-4 Identify and assess resources available within Lebanon, including laboratories for analyzing pollution samples, and identify opportunities for pooling and strengthening such resources for MARPOL purposes.

3 Strengthening the prosecution system

- 3-1 Explore avenues for providing Lebanon with the necessary modern technology and equipment for data gathering purposes;

- 3-2 Consider the needs of public prosecutors' offices in employing personnel versed in MARPOL technical matters;
- 3-3 Raise awareness and provide training on marine environmental issues and the specifics of MARPOL in technical, legal and administrative facets to prosecutors, judges and their staff.

Morocco

Actions to be taken at the national level

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

Taking advantage of the work already been done within the framework of the twining project and building up on the proposal made regarding new legislation to be develop, the Merchant Marine Directorate assuming the leading role in this undertaking should:

- 1-1 Prepare and finalize in co-ordination with other ministries concerned a draft specific criminal law for MARPOL enforcement;
- 1-2 In co-operation with other ministries concerned assess the need and when necessary suggest the preparation by the relevant authority of draft laws and Decrees specifying where the responsibilities stand;
- 1-3 Carry out an evaluation of the need for preparing and adopting laws and regulations for transposing MARPOL requirements into the national system.

To achieve this work the Merchant Marine Directorate may request the assistance and support of the EC as a continuity of the twining project and/or of REMPEC as part of the SAFEMED II project and of the MED Regional Strategy.

2 Strengthening implementation and enforcement capabilities.

- 2-1 Regarding the capabilities for exercising flag State and port State responsibilities the Moroccan authorities should, as soon as feasible, increase the staff of the Maritime Navigation Division with a view to strengthen their ability of discharging all the duties of a central administration on this matter in particular the regulatory work including those mentioned above.
- 2-2 Regarding the capabilities for exercising coastal State responsibilities in particular for the enforcement of discharges requirements, an assessment of the existing resources capabilities should be carried out within the broader context of the responsibilities of Morocco in the sea areas under its jurisdictions regarding maritime activities.

Plan and program for the use of existing resources should be adopted with a view of optimizing the resources already available. Studies should be conducted regarding the possible acquisition of additional equipments and specialized equipments.

- 2-3 The training of personnel is a prerequisite for developing and maintaining implementation and enforcement capabilities, the Moroccan authorities 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;
- b) The surveyors and inspectors should have special training on MARPOL, in particular port State control inspectors;
- c) Selected navy officers, air forces officers, gendarmes officers, port officers and fisheries inspectors should be trained in discharges monitoring, detection, evidence gathering, investigation, reporting and initiating proceeding.

3 Strengthening the prosecution system

- 3-1 Instructions regarding gathering evidences, investigations and prosecution should be develop through an inter-ministerial coordinating mechanism.
- 3-2 The magistrates should be familiarized to the MARPOL convention through national and regional seminars and special training.
- 3-3 The possibility of creating specialized courts for dealing with infringement to MARPOL should be considered.
- 3-4 Regular meetings between specialized magistrates and officers from the navy, the air forces, the gendarmes, the ports, the fisheries as well as port State control inspectors should be organized with the view to strengthen the prosecution system.

Syria

Actions to be taken at the national level

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

- 1-1 Perform, using the Questionnaire, a thorough and complete review of Law No. 9/2006, its Implementing Instructions as well as any relevant national legislative instruments in order to ensure that MARPOL Annex I is fully implemented in Syria and to the highest feasible standards, such as those found in similar EU legislation;
- 1-2 Provide for a mechanism under national law whereby amendments to MARPOL Annex I adopted through the “tacit acceptance procedure” are implemented automatically upon their publication in the Official Journal;
- 1-3 Ensure, as appropriate and in accordance with national laws and procedures, that the power to issue violation reports for MARPOL Annex I offences is possessed by public officers on the spot and without the need for them to resort to their respective administrations;
- 1-4 Increase fine levels in Law No. 9/2006 and provide for other sanctions, including imprisonment and disqualification from performing a professional activity, for MARPOL Annex I violations;
- 1-5 Clarify by amendments to Law No. 9/2006, its Implementing Instructions or otherwise the legal stature of the Commission of First Instance for the Evaluation of Pollution Damage and the Higher Commission on Pollution, for instance whether such bodies are administrative, quasi-judicial or judicial organs, and the applicability of laws on procedural matters to them;
- 1-6 Pursue transparency and fairness of the procedure and workings of the Commission of First Instance for the Evaluation of Pollution Damage and the Higher Commission on Pollution, in particular by providing for the publication of those bodies’ decisions.
- 1-7 Perform a review of Law No. 167/1960 in order to ensure that MARPOL Annex I violations are adequately sanctioned under the rules and procedures governing discipline on board Syrian ships.

2 Strengthening implementation and enforcement capabilities

- 2-1 Ear-mark and support within the GDP a legal nucleus charged with the responsibility for following up closely on legal matters relating to MARPOL Annex I and other relevant international maritime conventions, and serving as a back-stop for all branches and departments of the GDP as well as other

Government departments and ministries on any question arising in relation to the implementation and enforcement of MARPOL Annex I;

- 2-2 Explore the readiness and requirements of other ministries and Government departments that could join efforts with the GDP in implementing and enforcing MARPOL Annex I;
- 2-3 Provide training on all aspects of implementation and enforcement of MARPOL Annex I to all relevant staff of the GDP, including surveyors, inspectors, administrative and legal personnel, members of the Commission of First Instance for the Evaluation of Pollution Damage and the Higher Commission on Pollution as well as relevant staff from other Government departments and ministries which have a role to play in the implementation and enforcement of MARPOL Annex I;
- 2-4 Provide specific high-level training to the GDP on the managerial and administrative aspects of setting up and running an efficient PSC system;
- 2-5 Explore avenues for providing Syria with the necessary modern technology and equipment for pollution monitoring and detection purposes;
- 2-6 Prompt the GDP for updates on the provision of reception facilities for ship-borne oil residues and wastes in Syrian ports and explore, as appropriate, the provision of assistance needed in this regard.

3 Strengthening the prosecution system

- 3-1 Clarify and ensure the availability of penal/criminal sanctions, in addition to administrative sanctions, for MARPOL Annex I violations;
- 3-2 Explore the readiness and requirements of the prosecution and judicial authorities with a view to enabling the prosecution of MARPOL Annex I offences;
- 3-3 Raise awareness and provide training on MARPOL Annex I to both prosecutors and judges.

Tunisia

Actions to be taken at the national level

1 Improvement of the existing legal framework for preventing and controlling operational oil pollution from ships:

- 1-1 The Merchant Maritime Directorate (DGMM) should carry out an evaluation of the need for preparing and adopting laws and regulations for transposing MARPOL requirements into the national system.
- 1-2 The Ministry of Transport (DGMM), The Ministry of Environment (ANPE), the Ministry of Justice as well as the Ministry of defense (Navy) working together should conduct a careful analysis of the existing criminal regime for sanctioning violation to MARPOL including prosecution procedures and if judged necessary prepare a specific law for MARPOL enforcement.
- 1-3 According to the outcome of the above mentioned analyses, clarification regarding responsibilities concerning collecting evidences, reporting evidences of alleged violation and investigation shall be made through ministerial Decrees where appropriate.

To achieve this work the DGMM may request the assistance and support of REMPEC as part of the SAFEMED II project and of the MED Regional Strategy

2 Strengthening implementation and enforcement capabilities

- 2-1 Regarding the capabilities for exercising flag State and port State responsibilities the arrangements and the resources capabilities seem to be satisfactory and to a large extent sufficient. Nevertheless effort should be made, in particular by the Merchant Marine and Ports Office (OMMP), to strengthen the resources capabilities for port State control (the need in this area has been on the continuous increase) and for implementing effectively the 18 March 1999 law (Code des ports maritimes de commerce) which is not enforced as far as illegal discharges are concerned.
- 2-2 Regarding the capabilities for exercising coastal State responsibilities in particular for the enforcement of discharges requirements, "La Commission Consultative des Activités Maritimes" should consider and agree on the mobilization of the existing resources capabilities and their use for detecting and collecting evidences of violation (including arresting ships) within the broader context of the responsibilities of Tunisia in the sea areas under its jurisdiction regarding maritime activities. Plan and program for the use of existing resources should be adopted with a view of optimizing the resources

already available. Studies should be conducted regarding the possible acquisition of additional equipments and specialized equipments

- 2-3 The training of personnel is a prerequisite for developing and maintaining implementation and enforcement capabilities, the Tunisian authorities (the various ministries concerned under the overall coordination of the DGMM) 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 (DGMM, OMMP as well as ANPE);
 - b) The surveyors and inspectors should have special training on MARPOL, in particular port State control inspectors;
 - c) Control Experts of ANPE, selected navy officers, air forces officers, gendarmes officers, port officers and authorized agents from the ministry of Transport should be trained in discharges monitoring, detection, evidence gathering, investigation, reporting and initiating proceeding.

3 Strengthening the prosecution system

- 3-1 Instructions regarding gathering evidences, investigations and prosecution should be develop and harmonized through an inter-ministerial coordinating mechanism.
- 3-2 The magistrates should be familiarized with the MARPOL convention through national and regional seminars and special training.
- 3-3 The possibility of creating specialized courts for dealing with infringement to MARPOL should be considered.
- 3-4 Regular meetings between specialized magistrates and Control Experts of ANPE, officers from the navy, the air forces, the gendarmes, the ports (port authority), the fisheries as well as port State control inspectors should be organized with the view to strengthen the prosecution system.

Turkey

Actions to be taken at the national level

1 Improvement of the existing legal framework for preventing and controlling operational oil pollution from ships:

- 1-1 The Under-secretariat for Maritime transportation (UMA) should ensure that laws and regulations for transposing MARPOL requirement are prepared, adopted and updated as deem necessary.
- 1-2 The Ministry of environment, taking the lead, should, in co-operation with the Under-Secretariat for Maritime Affairs, the Coast Guard Command, the Metropolitan Municipalities and the Ministry of Justice, conduct a careful study of the existing enforcement regime for sanctioning violation to MARPOL. If judged necessary a specific law (or laws and bylaws) for MARPOL enforcement should be prepared for adoption.
- 1-3 In the meantime, and taking into account of the outcome of the above mentioned study, the necessary change and adjustment in the organizational structure and the division of responsibilities should be envisaged and action taken accordingly.

To achieve this work the Under-Secretariat for Maritime Transport and the Ministry of Environment may request the assistance and support of REMPEC as part of the SAFEMED II project and of the MED Regional Strategy.

2 Strengthening implementation and enforcement capabilities

- 2-1 Regarding the capabilities for exercising flag State and port State responsibilities the arrangements and the resources capabilities are satisfactory and sufficient due to the recent policy, however the UMA should continue to be accorded a high priority and benefit of necessary budgetary allocation for keeping the ability of recruiting and retaining high caliber professional civil servants for administration and inspection duties (FSI, PSCO).
- 2-2 Regarding the capabilities for exercising coastal State responsibilities in particular for the enforcement of discharges requirements, the improvement will come from the adjustment in the organizational structures and division of responsibilities, in particular with the confirmation of the duties of the Coast Guard.
- 2-3 The training of personnel is a prerequisite for developing and maintaining implementation and enforcement capabilities, the UMA and the Coast Guard 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;
- b) The surveyors and inspectors should have special training on MARPOL, in particular port State control inspectors;
- c) Selected navy officers, air forces officers, port officers and environment inspection team members should be trained in discharges monitoring, detection, evidence gathering, and investigation, reporting and initiating proceeding.

3 Strengthening the prosecution system

- 3-1 The magistrates should be familiarized with the MARPOL convention through national and regional seminars and special training.
- 3-2 The possibility of creating specialized courts for dealing with infringement to MARPOL should be considered.
- 3-3 Regular meetings between specialized magistrates and public prosecutors with officers from the navy, the air forces, the ports (port authority), as well as port State control inspectors should be organized with the view to strengthen the prosecution system.

Albania

Actions to be taken at the national level

The highest priority and the prerequisite for the actions proposed to succeed are the restructuring of the maritime administration and the securing of budgetary allocation for manning this administration with sufficient and qualified staff.

1 Development of a comprehensive legal framework for preventing and Controlling operational oil pollution from ships

Seeking the assistance of REMPEC and of the European Commission, the maritime administration Directorate should:

- 1-1 Revisit the maritime code with a view to make the amendments which may deem necessary to ensure an effective implementation and enforcement of the MARPOL convention in particular regarding:
 - a) Providing the legal bases for adopting and updating technical regulations;
 - b) Providing the legal bases for survey, certification and inspection including for sanctions in cases of deficiencies;
 - c) Redefining the violation of the requirements to the MARPOL convention;
 - d) Establishing a penalty regime adequate in severity to discourage violations;
 - e) Designating the personnel having the legal authority for collecting evidences, conducting investigation and establishing report of alleged violations as well as the court where alleged violations will be tried.

- 1-2 Prepare and issue decrees(by laws), regulations and instructions aiming at:
 - a) Transposing and updating when necessary the technical requirements;
 - b) Delegating survey and certification responsibilities to recognized organizations;
 - c) Authorizing PSC inspectors to control and inspect foreign ships;
 - d) Providing instructions and guidance for port State control and inspection;
 - e) Providing instructions and guidance for detection, gathering evidences and investigation in case of violation of the discharge requirements.

2 Strengthening implementation and enforcement capabilities

2-1 As part of the maritime administration restructuring process the following urgent recruitments should be made:

- a) Additional qualified staff for discharging central administration duties in particular the regulatory one (the proposal already made seems to be reasonable);
- b) Additional port State control inspectors in particular for the port of Durres.

2-2 The maritime transport policy Directorate in cooperation with the Albania Coast Guard should initiate the adoption of a program for controlling illegal discharges in sea areas under Albania jurisdictions with the following goals:

- a) Ensure that among the missions of the Coast Guard the control of illegal discharges will be given the priority it should have;
- b) Assign that mission to selected and trained Coast Guard officers;
- c) Adopt surveillance program/plan optimizing the use of existing means including those of other administrations (custom, border police);
- d) Consider the acquisition of detection equipment and sampling devices;
- e) Having arrangement with laboratory for sampling analyses.

2-3 The training of personnel is a prerequisite for developing and maintaining implementation and enforcement capabilities, the Maritime transport policies Directorate and the Coast Guard 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 (to be recruited). 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, investigation, reporting and initiating proceeding.

3 Strengthening the prosecution system

- 3-1 The magistrates should be familiarized with the MARPOL convention through national and regional seminars and special training.
- 3-2 Regular meetings between specialized magistrates and public prosecutors with officers from the “Coast Guard”, the Maritime Border Police, the air forces, the Harbor Masters, as well as port State control inspectors should be organized with the view to strengthen the prosecution system.
- 3-3 Instructions regarding the prosecution processes shall be issued, including format for reporting alleged violations.

Croatia

Actions to be taken at the national level

1 Further develop the legal system.

The Minister for the Sea and transport should adopt and issue the rules and regulations requested 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 address the control and investigation of infringement in particular in the EEZ; and,
- 5) Take the necessary actions to make the regime of sanctions adequate in severity to discourage violation of the laws.

2 Strengthening implementation and enforcement capabilities

2-1 The Minister for the sea and transport should continue to accord a high priority to effectively performing the responsibilities of flag State and coastal State and to ensure the necessary budgetary allocation for keeping the ability of recruiting and retaining high caliber professional civil servants for administration and inspection duties (FSI, PSCO)

The Ministry should:

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

2-2 Regarding the capabilities for exercising coastal State responsibilities, in particular for the enforcement of discharges requirements, the improvement will come from:

- a) the clarification of the responsibilities within the EEZ concerning control of enforcement;

- b) the adoption of a program and plans for the optimization of the use of the means of the Coast Guard partners;
 - c) the establishment of a coordinating mechanism for monitoring and detection of illegal discharges (follow up of the ongoing Croatia / Norway project);
 - d) the Initiation of a study for the acquisition of specialized dedicated detection equipment.
- 2-3 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 courses or regional courses the following categories of personnel will get proper training:
- a) Surveyors, inspectors, port State control officers to get special training on MARPOL;
 - b) Legal staff of the law Department of the harbor master's offices in particular those members of the council for infringement through seminar and special training ;
 - c) Authorized inspectors for control over enforcement must be trained in discharges monitoring, detection, investigation, evidence gathering, reporting and initiate proceeding. Selected navy officers and air forces officers should also be trained on those topics.

3 Strengthening the prosecution system

- 3-1 The magistrates should be familiarized with the MARPOL convention through national and regional seminars and special training.
- 3-2 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 strengthen the enforcement and prosecution system.

4 Educating the public

A public awareness campaign on the prevention of the pollution of the marine environment from pleasure crafts should be launch with the view to inform and educate the public at large in particular the users of pleasure crafts (Croatian citizens and foreigners).

Montenegro

Actions to be taken at the national level

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

1-1 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.

1-2 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 the assistance and support of REMPEC and of the European Commission.

2 Strengthening implementation and enforcement capabilities

2-1 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 caliber professional civil servants for administration and inspection duties (FSI, PSCO).

- 2-2 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.
- 2-3 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, investigation, reporting and initiating proceeding.

3 Strengthening the prosecution system

- 3-1 The magistrates should be familiarized with the MARPOL convention through national and regional seminars and special training.
- 3-2 The possibility of creating specialized courts for dealing with infringement to MARPOL should be considered.
- 3-3 Regular meetings between specialized magistrates and public prosecutors with officers from the “Coast Guard”, the Maritime Border Police, the air forces, the Harbor Masters, as well as port State control

inspectors should be organized with the view to strengthen the prosecution system.

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
- Port State control (instructions to port State control officers)
- 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, regulatory bodies and legal authorities from central administration within relevant Ministries*)

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

- Preparation of Laws and regulations, technical requirements, as:
 - flag State
 - port State
 - coastal State
- Enforcement legislation, i.e. Laws establishing the constituting elements of violations and (administrative and criminal) 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 undue delay)
 - Annex I Reg. 36.8 (Oil Record Book, Part II – inspection without undue 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, Environment and Justice*)

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

- National laws establishing the elements of violations together with clear objective evidence
 - Requirements for the control of operational pollution
 - 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, Navy, Environment 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, environment...*)
 - 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. Paris 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.