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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)**

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EUROMED

presented to REMPEC
by

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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.