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Agenda item 18(a)

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EXTERNAL RELATIONS

(a) Relations with the United Nations and the specialized agencies

Note by the Secretary-General

SUMMARY

Executive summary: This document updates the Council on the current situation of the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC) and the outcome of the Functional Review of the United Nations Environment Programme, Mediterranean Action Plan (UNEP/MAP) System regarding the future sustainable operation of REMPEC

Strategic direction: 7

High-level action: 7.2.3

Planned output: 7.2.3.2

Action to be taken: Paragraph 14

Related documents: C 108/15(a)/3, C 108/15(a)/4, C 108/WP.4, C 108/D (paragraph 15(a).4) and C 109/12(a)/1

Background

1 The Council may recall that, at its 108th session, it considered the background to the financial situation at REMPEC outlined by the Secretary-General, which was further updated at C109. In considering the then financial situation at C 109 and the outcome of the Preparatory Meeting of the Contracting Parties to the Barcelona Convention, UNEP and IMO – organized at IMO Headquarters on 26 September 2012 (see document C 109/12(a)/1) – regarding the future sustainable operation of REMPEC and a roadmap for longer-term operation of the Centre, C 109 requested the Secretary-General to keep the Council informed of any developments on the issues addressed. In this context, C 109 noted that the aforementioned meeting was supportive of REMPEC and its long-term viability, although several Contracting Parties to the Barcelona Convention expressed concerns over its cost structure, which should be addressed through the Functional Review undertaken by the Bureau of UNEP's Mediterranean Action Plan.

2 The Council may further recall that C 109 also agreed to extend, throughout 2013, the financial contingency provision to REMPEC in the same amount and on the same conditions as previously agreed to at C 108; and requested the Secretary-General to provide information on the financial situation of REMPEC for consideration at its present session.

Developments since C 109

Extended Functional Review

3 The 17th Conference of the Parties to the Barcelona Convention in Paris, France (February 2012), called on the UNEP/MAP Secretariat to undertake an Extended Functional Review of the UNEP/MAP components, including REMPEC. In response, the UNEP/MAP Secretariat commissioned a consultancy company to carry out this work. The draft report of the Review was presented to the 76th Meeting of the MAP Bureau held in Algiers, Algeria (February 2013), while its final version was considered by the MAP Focal Point meeting held in Athens, Greece (April 2013). The report recommended three options to increase performance and financial sustainability of the UNEP/MAP components, all three options essentially requiring the re-establishment of REMPEC as a "national body with a regional function". In this connection, the IMO Secretariat was requested by the UNEP/MAP Coordinator to contribute its views on the recommendations affecting REMPEC and an appropriate note was accordingly submitted to the MAP Focal Point meeting.

4 Whilst recognizing that a decision to re-establish REMPEC as a "national body with a regional function" rests with the Contracting Parties to the Barcelona Convention, the IMO Secretariat note highlighted a number of legal, financial and logistic implications that would need to be duly addressed, were any of the options to be implemented, such as:

- .1 Legal – the change from a regional to a national body would have an impact on the United Nations status of REMPEC and on associated legal texts;
- .2 Administrative – should the Contracting Parties decide to re-establish REMPEC as a national body with a regional function, IMO would not be involved in the future administration of a national entity;
- .3 Separation of staff and their compensation – staff members at REMPEC are employed by IMO under a project with UNEP and are therefore holders of United Nations contracts, for a fixed term. IMO staff members, whether at REMPEC or at Headquarters, enjoy the same rights and entitlements, including indemnities for compulsory separation;
- .4 Existing fixed assets – under article 7.5 of the project document between IMO and UNEP, "non-expendable equipment purchased with funds administered by UNEP remains the property of UNEP until its disposal is authorized by UNEP, in consultation with IMO";
- .5 Intellectual property rights (e.g. REMPEC publications) – the fate of such rights will need careful examination;
- .6 Existing work programme and ongoing TC projects – these will have to be transferred to the "national entity" or terminated early;
- .7 Host country agreement – the Centre has entered into contractual agreements for the provision of basic utilities (water, electricity, telephones and internet, maintenance of premises and equipment). It is anticipated that

none of these agreements should give rise to cancellation liabilities. It should also be noted that article 11.2 of the host country agreement specifies that, in the event that the Centre is moved from Malta, the Agreement should cease to be in force after a reasonable period to allow for the removal of the Centre's assets; and

- .8 Timelines – the implementation plan in the report of the Review recommends that there be three stages, with the re-establishment of REMPEC as a national body taking place during the second stage, sometime during 2014. However, the Review report does not give details on how to achieve this.

5 The MAP Focal Point meeting of April 2013 heard differing views on the options recommended in the Review report, and also considered an additional option under which no change would be made to any MAP component (no re-establishment of REMPEC as a "national body with a regional function") but, instead, all of the MAP components would see a 15 per cent cut in their budgets, as of 2014. The funds thus saved would be pooled into a financing mechanism for future projects to be carried out by the UNEP/MAP components. The UNEP/MAP Secretariat has requested all Contracting Parties to submit comments on some or all of the four options and, indeed, to present new ones; it has equally requested all MAP components to provide an analysis of the impacts of all four proposals. The views/analyses received would then assist the UNEP/MAP Secretariat to condense them into, possibly, one or two options for approval by a MAP Focal Points' meeting in September, and subsequent endorsement, together with the 2014-2015 MAP budget and work programme, by a Meeting of Contracting Parties in December 2013.

Current financial situation

6 The current UNEP/IMO project document was signed, in the usual manner, to cover REMPEC's operations and activities during the 2012-2013 biennium. However, because of the financial difficulties affecting the MAP, the Contracting Parties have instructed UNEP that disbursements against those budgets are limited to the rate of collection of contributions from Contracting Parties to the Mediterranean Trust Fund (MTF).

7 The Council will recall that, owing to the aforementioned policy, the contracts of REMPEC staff in 2012 were initially for three months, and were subsequently extended on a monthly, two- or three-monthly basis, depending on the level of contributions in the MTF. The situation is somewhat better in 2013, as the available funds enabled REMPEC staff contracts to start the year with contracts ending on 30 June 2012. At the time of processing this document, further funds have been received enabling contracts to be renewed until the end of August 2013 and, in this context, the Secretary-General has written to the Executive Director of UNEP requesting that priority be given, in the disbursement of MTF monies, to ensuring the salaries of staff serving the MAP components through to the end of 2013.

Future implications

8 While it is not possible at this stage to determine which option will be favoured by the Contracting Parties to the Barcelona Convention with respect to the future of the MAP system, and therefore whether REMPEC is to remain a UN-administered entity linked to IMO but with a 15 per cent budget cut, or whether it is to be re-established as a "national body with a regional function" and no link to IMO, it is clear that each option will entail some reform of REMPEC.

9 If its United Nations status is maintained, the concomitant 15 per cent budget cut will force a cost reduction, with little margin for flexibility because, today, the REMPEC budget is broken down into some €561,000 for staff (76%), €97,500 for operational expenditure (13%) and €80,000 for activities (11%) (note that the latter amount does not include IMO or other donor funding for activities). Accordingly, there would probably be a requirement to reduce the staff complement and use the resulting savings for activities. That being the case, some indemnities would need to be paid for compulsory separation.

10 If REMPEC's re-establishment as a "national centre with regional function" is agreed, then, from IMO's perspective, this would effectively signify a closure of the UN-administered centre with all the implications listed in paragraph 4, including the payment of indemnities to staff either for the conversion of their contracts from United Nations to national status (should they choose to be employed by the "new" Centre), or for their separation (should they choose not to do so). In this context, the report of the Functional Review itself estimated the potential cost at between €200,000 and €400,000, figures that will need recalculation once the decision of the Contracting Parties and the intentions of the REMPEC staff are known.

11 In this respect, the IMO Secretariat, in its note to the MAP Focal Point meeting in April 2013, underlined that these amounts, relating as they do to liabilities accumulated over the years towards staff working directly and solely on delivery of the Mediterranean Action Plan (MAP), should be recoverable from UNEP. Furthermore, in his above-mentioned letter to the Executive Director of UNEP, the Secretary-General has reiterated the point that, while the Organization would be contractually obliged to pay such indemnities in the first instance, the cost thereof must be borne by the UNEP/MAP system, for a variety of legal reasons, just as the same system would, on the natural conclusion of the project, have to bear the cost of other indemnities such as repatriation grants, payment of accrued leave, etc.

12 Whilst the staff indemnities may be the largest cost elements involved, other expenditure may also need to be covered, as a result of ending IMO's participation in REMPEC, although these are harder to estimate. They may include, for example, penalties on early termination of lease arrangements for office equipment or costs associated with storing or transporting financial records and other key information to IMO. These costs too will only be determined once decisions are taken by the Contracting Parties.

13 The Secretariat will keep the Council informed of further developments with respect to such decisions and, equally important, any agreed plan for their implementation which, in the Secretariat's view, should be developed by the UNEP/MAP system as an orderly, programmed and financed transition.

Action requested of the Council

14 The Council is invited to consider the information provided in this document and take action as it may deem appropriate.
