

REGIONAL MARINE POLLUTION EMERGENCY
RESPONSE CENTRE FOR THE MEDITERRANEAN SEA

CENTRE REGIONAL MEDITERRANEEN POUR L'INTERVENTION
D'URGENCE CONTRE LA POLLUTION MARINE ACCIDENTELLE

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Seminar on financial questions, liability and
compensation for consequences of accidents
causing pollution by oil and other
harmful substances

REMPEC/WG.2/5
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REPORT
OF THE SEMINAR ON FINANCIAL QUESTIONS,
LIABILITY AND COMPENSATION
FOR CONSEQUENCES OF ACCIDENTS
CAUSING POLLUTION BY OIL
AND OTHER HARMFUL SUBSTANCES

MALTA, 8-12 October 1990



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PLAN D' ACTION POUR LA MEDITERRANEE



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INTRODUCTION

1. The Seminar on financial questions, liability and compensation for consequences of accidents causing pollution by oil and other harmful substances was convened in Malta from 8 to 12 October 1990, in accordance with recommendations concerning the future activities of the Centre, adopted by the Sixth Ordinary Meeting of the Contracting Parties to the Convention for the protection of the Mediterranean Sea against Pollution and its related Protocols, Athens, 3-6 October 1989 (UNEP(OCA)MED IG.1/5 Annex V).

2. In conformity with the Recommendations of the Contracting Parties and with reference to the conclusions of the Workshop on Combating Accidental Pollution of the Mediterranean Sea by Harmful Substances, which was held in Malta from 22 to 26 May 1989 (ROCC/WG.1/5) the main objective of the Seminar was:

- a) to provide the participants with an overall view of financial questions, liability and compensation for consequences of accidents causing pollution by oil and other harmful substances.
- b) to discuss and to approve conclusions and proposed recommendations concerning legal, administrative and financial aspects of mutual assistance.

3. All official governmental Focal Points of REMPEC have been invited to nominate a participant in the Seminar taking into consideration its objective.

PARTICIPANTS

4. Participants nominated by 12 Mediterranean coastal States, as well as representatives of International Maritime Organization (IMO) and United Nations Environment Programme (UNEP) participated in the Seminar. The following lecturers also took part in the Seminar: Professor P.W. BIRNIE, Director, IMO International Maritime Law Institute (IMLI), Mr. C. DOUAY, Avocat Général Honoraire près la Cour d'Appel de Paris, Dr. M.A. FAWZI, Advisor to Egyptian Environment Affairs Agency (EEAA), Mr. M. JACOBSSON, Director, International Oil Pollution Compensation Fund (IOPCF), Mr. D.L. JOHN, Managing Director, Offshore Pollution Liability Association Limited (OPOL), Professor P.K. MUKHERJEE, Senior Deputy Director, IMO International Maritime Law Institute (IMLI), Mr. N.D. TONGE, Assistant Manager, North of England P and I Association Ltd., Dr. I.C. WHITE, Managing Director, International Tanker Owners Pollution Federation Limited (ITOPF). The list of participants is given in ANNEX I of the present Report.

AGENDA ITEM 1: OPENING OF THE SEMINAR

5. The Seminar was opened by the Honorable Dr. Stanley ZAMMIT, Parliamentary Secretary for the Environment of the Republic of Malta.

6. Mr. K. VOSKRESENSKY, Director, Marine Environment Division, IMO, welcomed the participants on behalf of Mr. W.A. O'NEIL, Secretary-General of the Organization, and expressed appreciation and gratitude for the continuing host state support for REMPEC by the Government of Malta.

7. He underlined that major oil tanker accidents which occurred recently had again drawn attention to the fact that, in addition to technical problems, legal and financial questions are also important and that particularly in cases of mutual assistance operations, such legal, administrative and financial questions are decisive.

8. He pointed out that no single country was actually able to face a major accidental marine pollution using only its own resources. Therefore regional co-operation and mutual assistance are indispensable. He also stressed the importance of existing Conventions and Protocols on these matters developed within the IMO, namely the International Convention on Civil Liability for Oil Pollution Damage, 1969 (CLC) and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971 as well as Protocols of 1984 relating thereto.

9. The representative of UNEP/MAP, Mr. I. DHARAT welcomed the participants on behalf of MAP Coordinator Mr. A. MANOS. He also thanked Hon. Dr. Stanley ZAMMIT, Parliamentary Secretary for the Environment of Malta for his introductory statement and for the generous support of the Government of Malta for hosting the REMPEC Centre. He expressed the thanks of UNEP/MAP to IMO for its technical assistance in implementing the various activities of the Centre and to other organizations for their close co-operation in the preparation of the Seminar. On behalf of UNEP he welcomed the participant from Albania whose country recently became Contracting Party to the Barcelona Convention and its four Protocols.

10. Mr. I. DHARAT dwelt briefly on the history and the objectives of the present Seminar. He stressed the difficult position of the developing countries who suffer the worst from pollution resulting from oil and other harmful substances. He stressed the importance of prevention measures and the need for more training, improvement of systems of communication and closer co-operation and co-ordination between the Coastal States of the region.

11. He referred to Article 12 of the Barcelona Convention on the need for the formulation of appropriate procedures for the determination of liability and compensation for damage resulting from pollution of the marine environment. For this purpose, a study concerning a Mediterranean Inter-State Guarantee Fund and liability and compensation for damage resulting from pollution of the Mediterranean marine environment, was undertaken. He also referred to the decision of the last meeting of the Contracting Parties (Athens, October 1989), which authorized the Secretariat to develop procedures for liability and compensation. He expressed the hope that the deliberations during this meeting will assist the Secretariat in its preparation of these procedures.

AGENDA ITEM 2: ORGANIZATION OF THE SEMINAR**Rules of Procedure**

12. Following the proposal of Mr. I. DHARAT, UNEP/MAP, the Seminar accepted that Rules of Procedure should be adopted and to this end decided to apply, mutatis mutandis, those applicable to the meetings and conferences of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against pollution and its related Protocols (UNEP/IG.43/6, Annex XI).

Election of Officers

13. The participants unanimously elected Mr. Loizos LOIZIDES (Cyprus) as Chairman of the Seminar; Mr. Malek SMAOUI (Tunisia), Vice-Chairman and Mr. Jean-Francois LEVY (France), Rapporteur.

AGENDA ITEM 3: ADOPTION OF THE AGENDA

14. The Seminar adopted the agenda given in ANNEX II of the present Report. The list of documents is presented in ANNEX III.

AGENDA ITEM 4: REVIEW OF FINANCIAL QUESTIONS, LIABILITY AND COMPENSATION FOR CONSEQUENCES OF ACCIDENTS CAUSING POLLUTION BY OIL AND OTHER HARMFUL SUBSTANCES.

15. The Director of REMPEC introduced document REMPEC/WG.2/3 describing the programme of lectures prepared by the Centre. He emphasized that the proposed programme was primarily aimed at giving to the participants in the Seminar a review of the nature of legal and financial problems faced in case of emergency caused by accidental marine pollution, as well as of existing schemes in the field of liability and compensation. He also conveyed regrets of Mr. A. BARISICH of the Commission of the European Communities who was unable to come due to the sudden passing away of one of his close colleagues as well as those of Mrs. M. REMOND-GOUILLOUD who was prevented from coming because of professional reasons.

16. The programme of lectures, which includes a list of texts of lectures and papers distributed during the Seminar, is given in ANNEX IV of the present Report. The lectures and panels were delivered by: Professor P.W. BIRNIE, Director, IMO International Maritime Law Institute (IMLI), Mr. C. DOUAY, Avocat Général Honoraire près la Cour d'Appel de Paris, Dr M.A. FAWZI, Advisor to Egyptian Environment Affairs Agency (EEAA), Mr. M. JACOBSSON, Director, International Oil Pollution Compensation Fund (IOPCF), Mr. D.L. JOHN, Managing Director, Offshore Pollution Liability Association Limited (OPOL), Mr. J.F. LEVY, Secretary General of the Mission Interministérielle de la Mer, France, Professor P. K. MUKHERJEE, Senior Deputy Director, IMLI, Mr. J.C. SAINLOS, Director, REMPEC, Mr. N.D. TONGE, Assistant Manager, North of England P and I Association Ltd., and Dr. I.C. WHITE, Managing Director, International Tanker Owners Pollution Federation Limited (ITOPF).

17. The Seminar judged the information provided by various lecturers to be of great interest for persons in charge of legal and financial questions related to accidents causing pollution by oil and other harmful substances at national level as well as for the authorities competent for dealing with questions related to mutual assistance. The Seminar requested the Centre to publish, in English and in French, texts of lectures, in order to provide references for the Mediterranean coastal States.

AGENDA ITEMS 5 AND 6: CONCLUSIONS AND PROPOSED RECOMMENDATIONS REGARDING LEGAL, ADMINISTRATIVE AND FINANCIAL ASPECTS OF MUTUAL ASSISTANCE

18. The Director of REMPEC introduced document REMPEC/WG.2/4 containing:

- a) Draft conclusions regarding the legal, administrative and financial aspects of mutual assistance in case of emergency;
- b) Recommendations proposed by the Centre concerning the principles which should be applied and the actions which should be taken at a national as well as at regional level to facilitate and accelerate co-operation amongst Mediterranean coastal States in case of emergency;
- c) Proposed Principles and Guidelines concerning the co-operation and mutual assistance that should be incorporated in Part A: "Arrangements and Operational Procedures" of the Regional Information System.

19. Participants in the Seminar were invited to comment and to express their remarks on these proposals which appear in the document REMPEC/WG.2/4.

Conclusions of the Seminar

20. On the basis of the discussions that followed lectures presented in accordance with the Agenda Item 4., and after having examined and debated the draft conclusions and proposals contained in the document REMPEC/WG.2/4, the participants approved the text appearing in paragraphs 20.1 to 20.5 as conclusions of the Seminar. These identify the principles and the actions considered as essential and which should be applied and implemented in the following 5 areas at national and/or regional level:

1. National arrangements for preparedness and response to accidental marine pollution.
2. International conventions and national legislations.
3. Bilateral operational agreements between neighbouring coastal States.
4. The reimbursement of the costs of assistance.
5. The facilitation and co-ordination of assistance.

20.1 National arrangements for preparedness and response to accidental marine pollution

- i) Experience has shown that intervention and response measures taken immediately after an accident help to prevent and to reduce its detrimental consequences. Pollution damage, as well as the cost of response measures would be even more reduced when such measures and restoration would have been carried out without delay in a consistent and methodical way. From all points of view, it is therefore important that the entities responsible for the pollution or their representatives, and/or the competent authorities of the State or States threatened by pollution, or other States at the request of the threatened State, can quickly intervene after an accident. The international assistance will hence contribute to a reduction of damages in the threatened country.
- ii) As soon as the public authorities are informed of an accident, they should establish immediate contact with the parties responsible for the vessel, or with their representatives, and consult them if they decide to intervene in order to carry out the operations in as efficient manner as possible from environmental, technical and financial point of view.
- iii) All Parties to the Protocol Concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency having to face accidental pollution by oil or other harmful substances shall undertake every practicable pollution response measure. Parties to the Protocol shall endeavour to maintain and promote their contingency plans and means for combating pollution and finally they shall use their best endeavours to render assistance to any Party requesting assistance. Parties to the Protocol should in addition avail themselves with a communication system effective enough to ensure a satisfactory implementation of the national plan for preparedness and response. They shall take measures in order to co-ordinate, in the framework of the regional agreement, the use of national communication means in such a way as to make sure that the reception, transmission and dissemination of all requests and urgent information concerning a case of emergency is done with necessary reliability and promptness.
- iv) The intervention of public authorities, co-operation and mutual assistance require preparedness by the States, unless there cannot be any quick and efficient action, and hence it is impossible to comply with the obligations of the Protocol. Accordingly, national arrangements for preparedness and response are indispensable. It includes good administrative organisation with a clear knowledge of responsible authorities for taking action and of co-ordination thereof. It also includes existence of equipment allowing the States Parties, to initiate the response operations without waiting for the arrival of the possible assistance from another country during the crucial first days, which enable protection of the most sensitive sites.
- v) In order for the assistance from other States to be swiftly obtained and so that mutual assistance operations could be carried out with maximum efficiency, the national arrangement for preparedness and response should involve special institutional and administrative provisions

concerning all aspects of mutual assistance. In this regard, the States should, on the one hand, refer to the Protocol as well as to the Guidelines for co-operation in combating marine pollution approved in September 1987 (UNEP/IG.74/5) and, on the other hand, should take into account, once it is approved by the Contracting Parties, the check-list which appears in Appendix VI of Annex VI of the present Report.

- vi) When designating the competent national authorities, particularly those authorized to act on behalf of the State when requesting assistance or deciding to supply the requested assistance, the States should be aware of the difficulties linked to the process of decision-making in the area of mutual assistance and they should ensure that the designated entity is of an appropriate level to make a decision. The decision to put at the disposal of another Contracting Party equipment purchased for the protection of its own national coastline is indeed a difficult one.
- vii) The setting-up of a national arrangement, the preparation of a contingency plan and, above all, the acquisition of response equipment require a financial investment and operational and maintenance expenses which are often high. Certain Mediterranean countries have difficulties in ensuring this type of financing. In order to help these States to acquire the minimum equipment necessary for response and communication and to train the personnel, the possibilities of obtaining international financing (UNDP, World Bank ...) should be explored. As has been the case with the Maltese government, certain Mediterranean countries could, within the framework of bilateral co-operation with the European Economic Community, choose to use a part of available funds for the acquisition of equipment and for organising training activities. At the request of the States, the Centre could help them to prepare projects to be submitted for financial assistance to possible donors.
- viii) Quite often the responsible national authorities cannot rapidly undertake all the necessary measures because of budgetary restrictions or rigid rules on public finances. Hence, to be able to swiftly intervene or undertake response operations, public authorities should be able to have access to financial resources. This financing could be obtained through a national fund set up especially for emergency purposes or, according to circumstances and depending on applicable liability and compensation schemes, through payment facilities granted under the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1971 Fund Convention) wherever this Convention applies, or through reimbursement guarantees by the third party liability insurer of the shipowner.

20.2 International Conventions and national legislations

- i) International Conventions have been prepared within the framework of IMO with the following objectives:

a) to limit risks of pollution from ships and to stipulate the obligations to report to coastal States in case of an accident likely to cause risk of pollution.

* International Convention for the Prevention of Pollution from Ships 1973 as modified by the Protocol of 1978 relating thereto (MARPOL 73/78).

b) to set conditions on the right of intervention of coastal States on the high seas.

* International Convention Relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969.

* Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances Other than Oil, 1973.

c) to determine the salvage regime which would be more favourable for the protection of the environment when the 1989 Convention enters into force.

* International Convention on Salvage, 1989 (not in force).

d) to provide victims of pollution due to oil spillages with compensation for damages suffered.

* International Convention on Civil Liability for Oil Pollution Damage (CLC 1969), 1969.

* Protocol of 1984 to amend the International Convention on Civil Liability for Oil Pollution Damage (CLC 1969), 1984. (not in force)

* International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1971 Fund Convention), 1971.

* Protocol of 1984 to amend the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1971 Fund Convention), 1984. (not in force).

ii) The objectives of these Conventions are to favour the rapid intervention by public authorities and under the conditions and limitations stipulated by the Conventions in case of accidental oil pollution, to financially reimburse the measures of prevention and response, including those taken by a State giving assistance to another State, whether it would be at the request of the latter or on its own initiative. Once these mechanisms are applicable, they would considerably facilitate the co-operation and mutual assistance amongst States in case of emergency.

iii) In order to facilitate mutual assistance amongst Mediterranean coastal States in case of emergency, particularly in case of accidental oil pollution, the Mediterranean States which are not Party to the above mentioned Conventions should take appropriate steps towards ratifying or accessing to these Conventions.

- iv) To this end, IMO or IOPCF should assist those States which so request in the preparation of national legislation which would permit them to become Parties to these Conventions and to assure their application at national level.
- v) Moreover, work is presently under way within IMO to establish a Convention concerning Liability and Compensation in case of Pollution by Hazardous Substances. On the one hand it aims at establishing a liability regime similar to the CLC 1969, mentioned above, and on the other hand it aims at remedying insufficient compensation under the Convention on Limitation of Liability for Maritime Claims (LLMC 1976).
- vi) Finally the Contracting Parties should take into account the principles established by the United Nations Convention of the Law of the Sea (UNCLOS).

20.3 Bilateral operational agreements between neighbouring coastal States

- i) In the framework of the general regional agreement, bilateral operational agreements between neighbouring coastal States represent, without doubt, the best method of pre-determining the conditions of co-operation and establishing the responsibilities at the appropriate level. These agreements are intended to facilitate the development of response operations, and to co-ordinate the use of the means in a determined geographical area.
- ii) In general, these agreements:
 - a) determine the extent of co-operation between the responsible authorities at the operational level for the implementation of the agreement;
 - b) define, within the geographic area of application of the agreement, the areas of responsibility;
 - c) divide the responsibilities and anticipate the transfer of responsibility from one State to another;
 - d) establish the principles of command and liaison, and define the corresponding structures;
 - e) provide arrangements concerning the operation of ships and aircraft within the geographical area of the application of the agreement.

Principally, these agreements outline in advance the financial conditions and administrative clauses of the actions which permit rapid intervention in case of emergency, whilst doing away with lengthy negotiations during the very event.

- iii) It would be particularly relevant that between neighbouring Mediterranean coastal States, bilateral operational agreements would be signed. In effect, it is the most systematic and complete way of determining in advance the conditions and clauses of action. The negotiation of such agreements permits precision which would avoid possible administrative or financial difficulties. The Centre conforming to its functions can help the States which so request to prepare such Agreements.

20.4 The reimbursement of the costs of assistance

- i) As regards pollution, the generally applied principle is that the polluter will bear the cost related to the preventive and response measures taken by the public authorities. Marine pollution being an insurable risk, the shipowners take out an insurance.
- ii) As far as the escape or discharge of persistent oil from tankers is concerned, international Conventions and private agreements on liability and compensation provide for prompt reimbursement for the costs of response operations conducted by the States. Thus the costs of response measures undertaken by public authorities can be claimed on a case by case basis and within the applicable regimes, either directly from the ship owner's insurer or from the administrator of the applicable fund.
- iii) Under the Civil Liability and Fund Conventions all entities including States which take response measures have the right for compensation if these measures are considered reasonable. The same principle applies in the case of a State providing assistance to another State.
- iv) Hence, in case of State to State assistance, the principle which should be applied, unless it is otherwise agreed by the interested parties, is that of the reimbursement of the costs of assistance provided by a State at the request of another State.

This principle has indeed the following advantages:

- a) the Party asked to provide assistance will not be tempted to limit its assistance and it will be more willing to rapidly provide all assistance deemed necessary by the requesting Party;
 - b) the requesting Party will be urged to ask only for the necessary and reasonable assistance according to the circumstances;
 - c) knowing that assistance will not be free of charge the coastal State will have to make an effort to develop its national contingency arrangements for preparedness and response, and to have a minimum of equipment;
 - d) the polluter will know that he will also have to pay the cost of assistance;
 - e) The negotiation of a financial basis will not become a reason for delayed response to a request for assistance.
- v) In other respects, a State Party to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damages (IOPC Fund) who asks for assistance of another State, can obtain from the IOPC Fund credit facilities to this effect, if its request satisfies the conditions stipulated in the Convention and in Rule 12 of the Internal Regulations of the IOPC Fund which refers to extension of credit facilities with respect to preventive measures.

- vi) If the threatened State is not Party to the Civil Liability and Fund Conventions, and if the TOVALOP or CRISTAL Agreements apply, it can probably obtain from the tanker owner's third party liability insurer or from CRISTAL the reimbursement for the costs of assistance requested from another State, if this requested assistance is reasonable and justified.
- vii) In case of bilateral agreements providing that assistance will be free of charge, nothing prevents the assisting State to present a reimbursement claim to the polluter or to the country which received assistance to act as mandatory of the assisting State.
- viii) Practices regarding reimbursement of assistance costs used by States involved in mutual assistance operations should not contradict "polluter pays" principle. On the contrary, these States should co-operate to successfully carry out all actions in connection with compensation claims.
- ix) Nevertheless, in the case where international legal regimes which are in force or the TOVALOP or CRISTAL Agreements do not permit obtaining or obtaining within a reasonable delay the total reimbursement of the costs for preventive and response measures, the Party requesting assistance may request the assisting Party either to waive in whole or in part the reimbursement or to postpone it. In considering such requests the States, Parties to the Protocol solicited, should take into consideration the specific needs of certain States of the Mediterranean region. In this respect they should endeavour to preserve the ways of recourse against the responsible party.

20.5 Facilitation and co-ordination of assistance

- i) At the stage of preparation, both when establishing national contingency plans and within the framework of the regional co-operation, it is necessary to establish structures allowing for mutual assistance. In particular it means setting up in advance modalities of assistance and making available the information which is necessary for formulating and sending requests for assistance.
- ii) One of the principal objectives of the Centre is to facilitate co-operation among the States, Parties to the Protocol, in case of emergency and it is among its functions to undertake pollution response preparedness activities, in particular regarding operations of mutual assistance. In this respect its role is essential.

Within the framework of the development of a Regional Information System, the Centre collects, disseminates and keeps up to date the information necessary to start operations of mutual assistance, notably data concerning the responsible national authorities, equipment, experts and companies offering services.

On the other hand, the Centre helps the States, which so request, to develop their national arrangements and to prepare bilateral operational agreements. It also develops a training programme and periodically organizes exercises for testing the regional communication system in

order to make sure that transmission, reception and dissemination of alerts and information concerning accidents involving oil and other harmful substances, between the Regional Centre and the Contracting Parties themselves, is done rapidly and correctly. Finally, it prepares operational arrangements and guidelines aimed at facilitating mutual assistance between Parties to the Protocol.

- iii) However, the results and benefits of these preparatory activities largely depend on the participation of the States. The creation and efficient operation of some parts of the Regional Information System depends on the relevance of information transmitted by the States, in particular that concerning their national organization and authorities competent for dealing with assistance related questions. Hence, in order to facilitate prompt response and mutual assistance in case of emergency, it is absolutely necessary that Parties to the Protocol co-operate and participate in the execution of the Centre's pollution response preparedness programme.
- iv) In case of a pollution accident, the assistance to a Contracting Party which has to take the response measures may in particular take the form of providing one or more experts who would assist the competent authorities of the requesting country to make a decision concerning the measures to be taken, to evaluate the financial implications and to determine other types of assistance which may be requested.

To that end, on the request of a Party concerned, the Centre can either send one of its own experts or help this Party to obtain assistance of other experts. The expert may assist the Party either during the initial days of response or during the complete duration of the operation.

- v) The role and responsibilities of experts sent by the Centre as well as the duties and obligations of the States towards the experts should also be specified. The Centre should have standing arrangements and instructions for sending experts.
- vi) In most cases, the State concerned will directly receive information necessary to organize the response whether from the vessel concerned, her shipowner or insurer or ITOFF. The State can, in particular through the Regional Information System maintained by the Centre, communicate with other Contracting Parties, with a view to obtaining from them assistance in the form of personnel or equipment. However, during all these actions, the Centre can provide the State concerned with assistance it will request and in order to do so the Centre collects the necessary information. To be able to accomplish this mission the Centre must have at its disposal appropriate means of communication.
- vii) The Centre may also, on the request of the Party concerned and/or in liaison with the authorities of the various countries concerned and with the parties related to the ship, help in obtaining international assistance and in coordinating its supply, whether the resources originate from the governments or from the private sector.

Proposed recommendations

21. Having adopted the above conclusions and after having examined and commented on the proposals contained in the document REMPEC/WG.2/4 the participants approved proposed recommendations which will be submitted to the Seventh Ordinary Meeting of the Contracting Parties for adoption. These proposed recommendations concern the principles that should be applied and the actions which should be undertaken at national as well as at regional level to facilitate and accelerate co-operation amongst the Mediterranean coastal States in case of emergency. They are found in ANNEX V of this Report.

Proposed Principles and Guidelines concerning the co-operation and mutual assistance in case of emergency

22. The Director of REMPEC introduced draft Principles and Guidelines concerning the co-operation and the mutual assistance in case of emergency contained in the document REMPEC/WG.2/4, Part III. These proposals have been prepared by the Centre, in accordance with the new Objectives and Functions of the Centre as approved by the Sixth Ordinary Meeting of the Contracting Parties (UNEP(OCA)/MED IG.1/5, Appendix 1), especially Function H which demands that the Centre "prepares and keeps up to date operational arrangements and guidelines aimed at facilitating co-operation amongst Mediterranean coastal States in cases of emergency".

23. The Director of the Centre indicated that the proposed Principles and Guidelines, which have as objective the facilitation and acceleration of co-operation amongst the Mediterranean coastal States in case of emergency, will be incorporated in Part A: "Arrangements and Operational Procedures" of the Regional Information System once they are finalized and approved, as it has been laid out in the Centre's programme of activities which was approved by the Sixth Ordinary Meeting of the Contracting Parties (UNEP(OCA)MED.WG.3/3/add 1).

24. The participants in the Seminar examined, commented and amended the draft Principles and Guidelines contained in the document REMPEC/WG.2/4, Part III. These Principles and Guidelines are the following:

- Principles and Guidelines concerning roles and responsibilities of experts, sent on mission by the Centre following the request of a State in case of emergency, and duties and obligations of the State towards them.
- Principles and Guidelines concerning the sending, receiving and returning of equipment in the case of international assistance operation.
- Principles and Guidelines concerning arrangements and administrative procedures which could be applied in case of mutual assistance operation.
- Principles and Guidelines concerning arrangements and operational procedures which could be applied in case of a joint operation.

- Check-list of procedures to be followed and persons to be contacted in case of emergency.
- Check-list of principal institutional provisions aimed at facilitating mutual assistance in case of a major marine pollution accident which should be included in national contingency plans.
- Aspects to be considered when faced with the request for entry into a "safe haven".

25. Participants in the Seminar have decided to submit the Principles and Guidelines which appear on Appendices I, II and IV to the Meeting of the Scientific and Technical Committee in May 1991 in the form reproduced in ANNEX VI to the present Report.

26. As far as the other Appendices are concerned the participants were of the opinion that the text also appearing in ANNEX VI to the Report should be further elaborated.

For this purpose the participants in the Seminar proposed forming a small group composed of representatives from four Contracting Parties to the Protocol on Co-operation in Case of Emergency (two representing South countries and two representing North countries). The mandate of this group is to finalize the Appendices with a view to submitting them to the Meeting of the Scientific and Technical Committee in May 1991.

27. The representative of the Co-ordinating Unit of MAP announced the possibility of supporting travel and accommodation expenses of the two representatives of the Southern countries.

28. The participants in the Seminar have identified Cyprus, Egypt, France and Yugoslavia as the four Contracting Parties which should designate their representatives in this Meeting which will be held at REMPEC on 18 and 19 March 1991. The participants in the Seminar invited competent authorities of these four Contracting Parties to inform the Centre before 15 January 1991, on names and titles of their representatives.

29. In order to assure smooth continuation of the work already done, several participants in the Seminar expressed their wish that the representatives designate by the competent national authorities of the four above mentioned Contracting Parties are the persons who participated in this Seminar.

30. With a view to facilitating the work of the group, the Official Focal Points of the Centre are invited to submit their proposals concerning these Appendices before 15 December 1990.

31. The participants in the Seminar draw the attention of the Contracting Parties to the need to put at the disposal of the Centre necessary financial resources for accomplishing the assignments described in Appendix I of the Annex VI of the Report.

AGENDA ITEM 7: OTHER BUSINESS

Draft International Convention on Oil Pollution Preparedness and Response

32. This subject has been included in Agenda Item 7 "Other Business" in order to respond to the suggestions of several delegations present at the Joint Meeting of the Scientific and Technical Committee and the Socio-Economic Committee (Athens, 26 May - 19 June 1990, UNEP(OCA)/MED.WG.12/6) regarding an exchange of views on the draft proposal of the International Convention on Oil Pollution Preparedness and Response (REMPEC/WG.2/INF.7).

33. Mr. K. VOSKRESENSKY, the representative of IMO, spoke about the progress achieved by IMO in the preparation of the diplomatic Conference on International Co-operation on Oil Pollution Preparedness and Response, to be held at the IMO Headquarters, London, from 19 to 30 November 1990.

He underlined that the purpose of the Conference was the consideration and adoption of the International Convention on Oil Pollution Preparedness and Response and related recommendations and resolutions. He also stressed that the primary objective at the Convention was to facilitate mutual assistance and international co-operation in preparing for and responding to an oil pollution emergency.

34. Mr. K. VOSKRESENSKY pointed out that the Convention would fill a gap in the framework of international treaties dealing with marine pollution. He also pointed out that the effectiveness of the regional agreements depended very much on the capacity and resources of the States participating in them. The new Convention will play a particularly important role in providing a legal framework which will facilitate the provision of technical advice and assistance to developing countries in the event of a major oil pollution emergency.

35. Mr. K. VOSKRESENSKY also informed that the IMO and Oil Industry have recently undertaken a Joint Study on assessment of Oil Spill Response (OSR), Education and Training. The aims of this Study are:- assessment of OSR training and education capabilities and needs in certain high risk areas; assistance to governments in the development of contingency plans and improvement and coordination of training and education activities carried by the oil industry, national administrations and inter-governmental organizations in order to minimize duplication of efforts and maximize co-operation in preparedness and response.

36. Mr. K. VOSKRESENSKY underlined the extreme importance of participation to the Conference by representatives from developing countries. He asked participants to the Seminar to draw the attention of the appropriate authorities in their countries on the importance for them to be represented at the OPPR Conference.

37. The participants to the Seminar took note of the information provided and manifested their keen interest in the draft Convention while recalling the important role played by REMPEC within the framework of the Protocol to the Barcelona Convention and they underlined the importance of provision and technical assistance in case of emergency.

Draft Protocol for the Protection of the Mediterranean Sea against Pollution resulting from Exploration and Exploitation of the Continental Shelf and the Sea-bed and its Subsoil

38. The Director of REMPEC presented to the participants of the Seminar the draft Protocol for the Protection of the Mediterranean Sea against Pollution resulting from Exploration and Exploitation of the Continental Shelf and the Sea-bed and its Subsoil (REMPEC/WG.2/INF.8), and in particular its provisions concerning contingency planning and assistance in case of emergency. He also announced that the last Meeting of the Bureau of the Contracting Parties had decided to hold a new Expert Meeting from 8 to 11 January 1991 to examine the Draft Protocol.

39. The participants in the Seminar have taken notice of the information provided and emphasized the need to make sure that this Protocol is compatible with the Protocol on Co-operation in case of Emergency and with Conventions and Recommendations adopted under the auspices of the International Maritime Organisation.

AGENDA ITEM 8: APPROVAL OF THE REPORT

40. The Seminar approved the text of the present document as the Report of the Seminar on the 12 October 1990.

41. In conclusion, the participants in the Seminar expressed their appreciation to the Director of the Centre and his staff for the excellent preparation and organization of the Seminar; to IMO for its permanent support regarding the management of the Centre, as well as for advice provided; and to UNEP/MAP for its support.

AGENDA ITEM 9: CLOSURE OF THE SEMINAR

42. On Friday, 12 October 1990 at 13.00 hours, the Chairman declared the Seminar closed.

ANNEX(E) I

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ANNEX II

AGENDA

1. Opening of the Seminar.
2. Organization of the Seminar.
3. Adoption of the agenda.
4. Review of financial questions, liability and compensation for consequences of accidents causing pollution by oil and other harmful substances.
5. Proposed conclusions and recommendations of REMPEC concerning legal, administrative and financial matters related to mutual assistance.
6. Approval of conclusions and recommendations.
7. Other business.
8. Approval of the Report.
9. Closure of the Seminar.

ANNEX III

LIST OF DOCUMENTS

Working Documents

REMPEC/WG.2/1	Provisional Agenda
REMPEC/WG.2/2	Annotated Provisional Agenda.
REMPEC/WG.2/3	Introduction to the programme and lectures concerning financial questions, liability and compensation for consequences of accidents causing pollution by oil and other harmful substances.
REMPEC/WG.2/4	Proposed conclusions and recommendations of REMPEC concerning legal, administrative and financial matters related to mutual assistance.
REMPEC/WG.2/5	Report of the Seminar.

Information Documents

REMPEC/WG.2/INF.1	List of documents.
REMPEC/WG.2/INF.2	List of participants.
REMPEC/WG.2/INF.3	Time table.
REMPEC/WG.2/INF.4	IOPCF Claims Manual.
REMPEC/WG.2/INF.5	IOPCF Annual reports.
REMPEC/WG.2/INF.6	TOVALOP and CRISTAL: A guide to Oil Spill Compensation.
REMPEC/WG.2/INF.7	Draft International Convention on Oil Pollution Preparedness and Response, (OPPR/CONF/3) and draft Conference Resolutions (OPPR/CONF/4).
REMPEC/WG.2/INF.8	Draft Protocol for the Protection of the Mediterranean Sea against Pollution Resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Sub-soil (UNEP(OCA)/MED WG.15/4).

Reference Documents

- UNEP Convention for the Protection of the Mediterranean Sea against Pollution and its related Protocols, 1976.
- UNEP/IG.74/5 Guidelines for co-operation in combating marine oil pollution in the Mediterranean, 1987.
- UNEP(OCA)/MED.IG.1/5 Annex to Resolution 7 "Objectives and Functions of a Regional Centre for Combating Pollution of the Mediterranean by Oil and Other Harmful Substances" (Annex 5, Appendix 1).
- UNEP(OCA)/MED.IG.1/5 Report of the Sixth Ordinary Meeting of the Contracting Parties to the Convention for the Protection of the Mediterranean Sea against Pollution and its related Protocols (Athens, 3-6 October 1989).
- ROCC/WG.1/5 Report of the Workshop on combating accidental pollution of the Mediterranean Sea by harmful substances, Malta, 22-26 May 1989.
- UNEP/WG.150/8 Report of the Review Meeting on the structure and functions of the Regional Oil Combating Centre (ROCC), Malta, 23-27 February 1987.
- UNEP(OCA)/MED WG.15/4 Report of the Meeting of the Working Group of Experts on the draft Protocol for the protection of the Mediterranean Sea against pollution resulting from Exploration and Exploitation of the Continental Shelf and the Seabed and its Sub-Soil, May 1990.
- IMO Report of the meeting of the working group of experts on International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969.
- IMO Protocol of 1973 relating to Intervention on the High Seas in cases of Pollution by Substances other than Oil, 1973.
- IMO International Convention on Civil Liability for Oil Pollution Damage, (CLC 1969), 1969.
- IMO Protocol of 1984 to amend the International Convention on Civil Liability for Oil Pollution Damage, (CLC 1969), 1984.
- IMO International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, (FUND 1971), 1971.

- IMO Protocol of 1984 to amend the International Convention on the Establishment of an International Fund for the Compensation for Oil Pollution Damage (FUND 1971), 1984.
- IMO Convention relating to Civil Liability in the Field of Maritime Carriage of Nuclear Substances, (NUCLEAR 1971), 1971.
- IMO Convention on Limitation of Liability for Maritime Claims, (LLMC 1976), 1976.
- IMO International Conference on Liability and Compensation for Damage in connexion with the carriage of Certain Substances by Sea, 1984.
- IMO International Convention on Salvage, 1989.
- IMO Convention on Civil Liability for Oil Pollution Damage Resulting from Exploration and Exploitation of Seabed Mineral Resources, London, 1 May 1977 (not yet in force).
- TOVALOP The Tanker Owners Voluntary Agreement concerning Liability for Oil Pollution TOVALOP (as amended as at February 20th, 1990).
- CRISTAL The Contract regarding a supplement to tanker liability for oil pollution - CRISTAL.
- OECD Recommendation of the Council of OECD of 26 May 1972 on guiding Principles concerning International economic aspects of Environmental Policies whereby the pollutor should bear the cost of prevention and control measures - (C(72) 128).
- OECD Recommendation of the Council of OECD of June 1981 concerning certain financial aspects of actions by public authorities to prevent and control oil spills.
- IMO/UNEP List of Alerts and Accidents in the Mediterranean, REMPEC, January 1990.
- IMO/UNEP List of Companies offering Services in case of emergency in the Mediterranean, REMPEC, January 1990.

- IMO/UNEP Guide for Combating Accidental Marine Pollution in the Mediterranean, Rev.5, ROCC, July 1988.
- IMO/UNEP "Khark 5" Accident Report, REMPEC, January 1990
- IMO/UNEP Proceedings of the Workshop on Combating Accidental Pollution of the Mediterranean Sea by Harmful Substances, Malta, 22-26 May 1989, REMPEC, June 1990.
- IMO Manual on oil pollution.
- IMO Manual on chemical pollution.
- ITOPF Response to marine oil spills, ITOPF, 1987.

ANNEX IV

PROGRAMME OF LECTURES

1. INTRODUCTION

- 1.1 Problems encountered in case of marine pollution emergency and its aftermath. Mr. J.C. SAINLOS, Director, REMPEC.
- 1.2 Roles and functions of private entities who would be involved in a marine pollution accident and its aftermath. Prof. P.K. MUKHERJEE, Senior Deputy Director, IMLI.
- 1.3 Rights and duties of coastal States and flag States which could be involved in a marine pollution emergency and its aftermath. Prof. P.W. BIRNIE, Director, IMLI.

2. RESPONSE MEASURES TO MARINE POLLUTION DAMAGES

- 2.1 Preventive measures - Salvage operation. Mr. C. DOUAY, Avocat Général Honoraire près de la Cour d'Appel de Paris, Membre de l'Académie de Marine, France.
- 2.2. Response to marine oil spills and the role of ITOPF. Dr. I.C. WHITE, Managing Director, ITOPF.

3. LIABILITY AND COMPENSATION FOR MARINE POLLUTION DAMAGES

- 3.1 International Conventions on Liability and Compensation for Oil Pollution Damage and the Activities of the International Oil Pollution Compensation Fund. Mr. M. JACOBSSON, Director, IOPC Fund.
- 3.2 The voluntary compensation schemes TOVALOP and CRISTAL. Dr. I.C. WHITE.
- 3.3 Case Histories - Role of P and I Club, ITOPF and IOPC Fund. Panel: Mr. M. JACOBSSON, Dr. I.C. WHITE and Mr. N.D. TONGE, Assistant Manager, North of England P & I Association Ltd.
- 3.4 Formulation of claims for oil pollution damage within the framework of the international Conventions and voluntary schemes. Mr. M. JACOBSSON and Dr. I.C. WHITE.
- 3.5 Liability and compensation for damages caused by harmful substances other than oil. Mr. N.D. TONGE.
- 3.6 Liability and compensation for damages caused by off-shore drilling. Mr. D.L. JOHN, Managing Director of OPOL.

4. INTERNATIONAL ASSISTANCE

- 4.1. Presentation of the case of assistance to the Portuguese Government during pollution caused by the ARAGON. Mr. J.F. LEVY, Secretary General, Interministerial Mission of the Sea, France and Dr. I.C. White.
- 4.2 Legal, administrative and financial matters related to mutual assistance. Panel: Mr. J.F. LEVY, Dr. M. A. FAWZI, Advisor, Egyptian Environment Affairs Agency, Mr. J.C. SAINLOS and Dr. I.C. White.

LISTE DES TEXTES DES CONFERENCES ET DOCUMENTS
DISTRIBUES PENDANT LE SEMINAIRE

LIST OF LECTURES AND PAPERS
DISTRIBUTED DURING THE SEMINAR

1. Problèmes rencontrés lors d'une pollution marine accidentelle et conséquences de celles-ci, J.C. SAINLOS, Directeur, REMPEC.
Problems encountered in case of marine pollution emergency and its aftermath, J.C. SAINLOS, Director, REMPEC.
2. Roles and functions of private entities who would be involved in a marine pollution accident and its aftermath, Prof. P.K. MUKHERJEE, Deputy Director, IMLI.
3. Rights and duties of coastal and flag States which could be involved in a marine pollution emergency and its aftermath, Prof. P.W. BIRNIE, Director, IMLI.
4. Le régime juridique de l'assistance en mer et la Convention de Londres du 28 avril 1989, C. DOUAY, Avocat Général près de la Cour d'appel de Paris.
5. LLOYD'S Standard Form of Salvage Agreement - LOF 1990.
6. Response to marine oil spills and the role of ITOPF, I.C. WHITE, Managing Director, ITOPF.
7. The International Tanker Owners Pollution Federation Ltd. - Technical Services.
8. Liability and compensation for oil pollution damage and the operations of the International Oil Pollution Compensation Fund, M. JACOBSSON, Director, IOPCF.
9. Rapport annuel du FIPOL, 1989.
IOPC Fund Annual Report, 1989.
10. TOVALOP AND CRISTAL - A guide to oil spill compensation - IOPCF, second edition, 1990.
11. TOVALOP - Tanker Owners Voluntary Agreement concerning Liability for Oil Pollution (incorporating amendments as at February 20th, 1990).
12. CRISTAL - Contract regarding a supplement to tanker liability for oil pollution: Memorandum of explanation; CRISTAL contract; rules of CRISTAL Limited.
13. Manuel des demandes d'indemnisation du FIPOL.
IOPC Fund claims manual.

14. Liability and compensation for damages caused by harmful substances other than oil, N.D. TONGE, Assistant Manager, North of England P & I Association Ltd.
15. Responsabilité et indemnisation pour les dommages causés par les forages pétroliers en mer - L'accord OPOL: accord sur la responsabilité pour la pollution en mer, D.L. JOHN, Administrateur Gérant, OPOL.
Liability and compensation for damages caused by offshore drilling - The offshore pollution liability agreement: OPOL (Part 1), D.L. JOHN, Managing Director, OPOL.
16. Liability and compensation for damages caused by offshore drilling - The offshore pollution liability agreement: OPOL (Part 2), D.L. JOHN, Managing Director, OPOL.
17. Existing frameworks for international co-operation in case of major accidental pollution in Europe, Commission of European Communities (CEC), Brussels, Belgium.
18. Cooperation in counter-pollution response: the European approach, T.G. JACQUES, Ministry of Public Health and Environment, Brussels, Belgium.
19. Faciliter l'obtention d'assistance et coordination de l'assistance internationale, J.C. SAINLOS, Directeur, REMPEC.
Facilitation in obtaining assistance and coordination of international assistance, J.C. SAINLOS, Director, REMPEC.

ANNEX V

PROPOSED RECOMMENDATIONS CONCERNING THE PRINCIPLES WHICH
SHOULD BE APPLIED AND THE ACTIONS WHICH SHOULD BE TAKEN AT NATIONAL LEVEL,
AS WELL AS AT REGIONAL LEVEL TO FACILITATE AND ACCELERATE CO-OPERATION BETWEEN
MEDITERRANEAN COASTAL STATES IN CASE OF EMERGENCY

1. The Contracting Parties should incorporate in their national systems for preparedness and response special institutional and administrative provisions related to aspects of mutual assistance. For this purpose they should take into account the check-list of the principle institutional provisions aimed at facilitating mutual assistance in case of a major marine pollution accident, which appears in Appendix VI of the Principles and Guidelines concerning co-operation and mutual assistance (1).
2. The Centre should endeavour to help the States which so request in the preparation of projects for the acquisition of response equipment which could be presented to possible sources of international financing.
3. The Mediterranean States which are not Party to the International Convention on Civil Liability for Oil Pollution Damage and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage should take the necessary steps to become Party to these Conventions.
4. Prior to any accident the neighbouring States should endeavour to conclude bilateral agreements, including among others arrangements specifying in advance the financial conditions and administrative modalities related to co-operation in case of emergency. In conformity with its functions, the Centre will endeavour to help the States which so request to prepare such agreements.
5. The Contracting Parties involved in actions of mutual assistance should not by their practice concerning the reimbursement of costs of assistance be in contradiction with the "polluter pays" principle, according to which the polluter bears the costs of prevention and pollution response, taken by the public authorities.
6. The principle which should be applied in case of State to State assistance, unless a bilateral agreement exists including financial arrangements covering this question, is that of reimbursement of costs of assistance provided by a State at the request of another State. If measures are taken by a Party on its own initiative, this Party bears the cost of these measures.
7. However, when the whole or a part of the expenses cannot be recovered under existing international legal regimes or under the TOVALOP and CRISTAL agreements, the Party requesting assistance may ask the Party providing assistance to waive the reimbursement of non-recoverable expenses. It may also request for the postponement of reimbursement. In considering such requests Parties to the Protocol solicited should take into consideration the specific needs of certain States of the Mediterranean region.

(1) The reference will be completed later.

ANNEX VI

PROPOSED PRINCIPLES AND GUIDELINES
CONCERNING CO-OPERATION AND MUTUAL ASSISTANCE

(that should be incorporated in Part A: "Arrangements
and Operational Procedures" of the Regional Information System)

Proposed Principles and Guidelines concerning co-operation and mutual assistance which appear in Appendices I to VII to this Annex have been prepared by the Centre in accordance with the new Objectives and Functions of the Centre as approved by the Sixth Ordinary Meeting of the Contracting Parties (UNEP(OCA)/MED. 1G.1/5), in particular with the Function H which requires the Centre "to prepare and keep up to date operational arrangements and guidelines aimed at facilitating co-operation between Mediterranean coastal States in cases of emergency".

- Appendix I : Principles and Guidelines concerning role and responsibilities of experts sent on mission by the Centre following the request of a State in case of an emergency, and duties and obligations of States towards them.
- Appendix II : Principles and Guidelines concerning the sending, receiving and returning of equipment in case of international assistance operation.
- Appendix III : Principles and Guidelines concerning arrangements and administrative procedures which could be applied in case of mutual assistance operation.
- Appendix IV : Principles and Guidelines concerning arrangements and operational procedures which could be applied in case of a joint operation.
- Appendix V : Check-list of procedures to be followed and persons to be contacted in case of emergency.
- Appendix VI : Check-list of principal institutional provisions aimed at facilitating mutual assistance in case of a major marine pollution accident which should be included in national contingency plans.
- Appendix VII : Aspects to be considered when receiving a request for entry in a safe haven.

APPENDIX I

PRINCIPLES AND GUIDELINES CONCERNING ROLE AND RESPONSIBILITIES OF EXPERTS
SENT ON MISSION BY THE CENTRE, FOLLOWING THE REQUEST OF A STATE IN CASE OF
EMERGENCY, AND DUTIES AND OBLIGATIONS OF STATES TOWARDS THEM

1. The Contracting Parties to the Protocol concerning Co-operation in Combating Pollution of the Mediterranean Sea by Oil and Other Harmful Substances in Cases of Emergency (Protocol to the Barcelona Convention) may, in case of accidents causing or likely to cause marine pollution, request inter alia assistance in the form of expert advice from either the Regional Centre or from another Contracting Party.
2. A directory of experts and Centres of expertise able to offer this type of assistance in case of emergency has been established and regularly updated by the Regional Centre.
3. On the request of a State in case of emergency, the Centre can, if the circumstances necessitate it, send an expert with a view to providing national authorities with advice and technical expertise which they may need during the initial period in order to decide which measures to take. This advice and technical expertise may include:
 - assessment of the situation;
 - adapting national response organization to the circumstances of the accident;
 - response methods and techniques;
 - experts, equipment and products which can be requested from other Contracting Parties or from private organizations
4. Role and responsibility of the expert are to help national authorities in taking decisions and, in this respect, he only has an advisory role. Every operational decision, as well as its consequences, fall under the complete responsibility of the competent authorities of the requesting State.
5. In all his/her activities related to such an advisory mission, the expert should endeavour to protect the interests of the State which requested his/her services in particular concerning protection of the environment and of the resources and taking into account economic and financial implications.
6. The State requesting the assistance of an expert should endeavour to specify as precisely as possible, considering the given circumstances, the field or fields of expertise required.
7. The State requesting the assistance of an expert should make the necessary arrangements concerning immigration procedures and customs clearance for the expert and material (including written or electronically recorded) which the expert may bring with him/her in order to help him/her in executing his/her duties.

8. The authorities of the requesting State should also make the necessary arrangements for accommodation of the expert and provide him/her with necessary working space and office facilities. They should also provide for free access of the expert to necessary communication facilities (telephone, telex, telefax, radio) which he/she may need in his/her work.

9. Initial financing (air tickets, daily subsistence allowance, etc ...) of the expert's mission will be taken in charge by the Regional Centre.

APPENDIX II

PRINCIPLES AND GUIDELINES CONCERNING THE SENDING,
RECEIVING AND RETURNING OF EQUIPMENT
IN CASE OF INTERNATIONAL ASSISTANCE OPERATION

1. International assistance, by one or more States, in case of accidents resulting in serious marine pollution may necessitate transfer of equipment and products from one country to another.
2. Sending, receiving and returning of such material creates a number of logistic, administrative and legal problems which should be resolved quickly, since a delay in the above chain of actions may considerably reduce the efficiency of the assistance. General arrangements in this regard should be adopted prior to any accident and could be usefully included in the national contingency plan. Thus only the details of application remain to be settled at the time of action.
3. Following the detailed evaluation of the situation, the State requesting assistance should specify as precisely as possible the type and quantity of equipment and products needed.
4. The State supplying assistance should, in its reply, attach a detailed list of equipment and products available including necessary technical specifications (dimensions, weights, capacities), precise power requirement (type of fuel, consumption, etc ...) and envisaged transport modalities. It should also indicate equipment needed for handling such material in the port or airport of entry, number of people required for off-loading operations and necessary means of transportation of response material to the site of the accident.
5. In order to put such equipment in use as soon as possible the requesting State will take the necessary measures for immediate customs clearance of all arriving material and if needed authorize their use (e.g. authorization to navigate), as well as for immediate clearing of immigration formalities for personnel needed for operating the equipment. The same arrangements should be implemented when personnel and the equipment are provided by the ship insurers.
6. The requesting State undertakes to return the equipment as soon as the operations are terminated if requested so by the supplier.

APPENDIX III

PRINCIPLES AND GUIDELINES CONCERNING ARRANGEMENTS
AND ADMINISTRATIVE PROCEDURES WHICH COULD BE APPLIED
IN CASE OF MUTUAL ASSISTANCE OPERATION

(Draft - tentative wording)

The provisions on the arrangement and administrative procedures that the requesting Parties should apply and which already appear in the Guidelines for co-operation in combating marine oil pollution in the Mediterranean could be extracted and explained in detail, then duly completed by the provisions on:

- a) the insurance of personnel;
- b) medical treatment;
- c) civil liability damage to goods or persons resulting from or related to the assistance operations;
- d) the daily record of measures taken and of equipment and personnel employed - (including legal evidence for the reimbursement of the cost of assistance);
- e) termination of assistance.

Recall of provisions appearing in the already approved guidelines.

The Requesting Party will:

- make its request in a clear and precise manner (quantity, type etc.) by indicating for which purposes equipment, products and response personnel will be used;
- appoint an authority to receive the equipment, products and/or personnel and to ensure control of operations from the moment equipment, products and personnel arrive in the country and while these are conveyed to and from the scene of operations;
- make arrangements for the rapid entry of equipment, products and personnel prior to their arrival and ensure that customs formalities are facilitated to the maximum extent. Equipment should be admitted on a temporary basis and products should be admitted free of excise and duties;
- supply all that is needed for the correct operation and maintenance of equipment and provide accommodation and food for response teams;
- ensure that, should ships and aircraft be provided, ships are granted all necessary authorizations and aircraft cleared to fly in the national air space. A flight plan or a flight notification will be submitted and accepted as an authorization for aircraft to take off, land ashore or at sea outside regular customs airfields;
- return, once response operations are over, all unused products and ensure that returned equipment is in the best possible working order.

APPENDIX IV

PRINCIPLES AND GUIDELINES CONCERNING ARRANGEMENTS
AND OPERATIONAL PROCEDURES WHICH COULD BE APPLIED
IN CASE OF A JOINT OPERATION

A. COMMAND STRUCTURE FOR JOINT COMBAT OPERATIONS

The organisational structure in joint operations should contain two main co-ordination and command levels, namely Operational Control ashore and Tactical Command on the scene of operations;

The Operational Control should be exercised by the country that has asked for assistance (lead country) which normally is the country within whose zone the operation takes place;

Change of Operational Control and Tactical Command might, when practical and agreed between the Parties concerned, take place when the main body of a combating operation moves from one zone to another;

Liaison officers from participating countries should be integrated in the staff of the Operational Control to secure necessary knowledge of rendered national resources;

The overall Tactical Command is laid upon a designated Supreme On-Scene Commander/Co-ordinator (SOSC) from the lead country;

Strike teams provided by assisting countries should operate under the command of a National On-Scene Commander/Co-ordinator (NOSC);

The NOSC operates under the command/co-ordination of the SOSC.

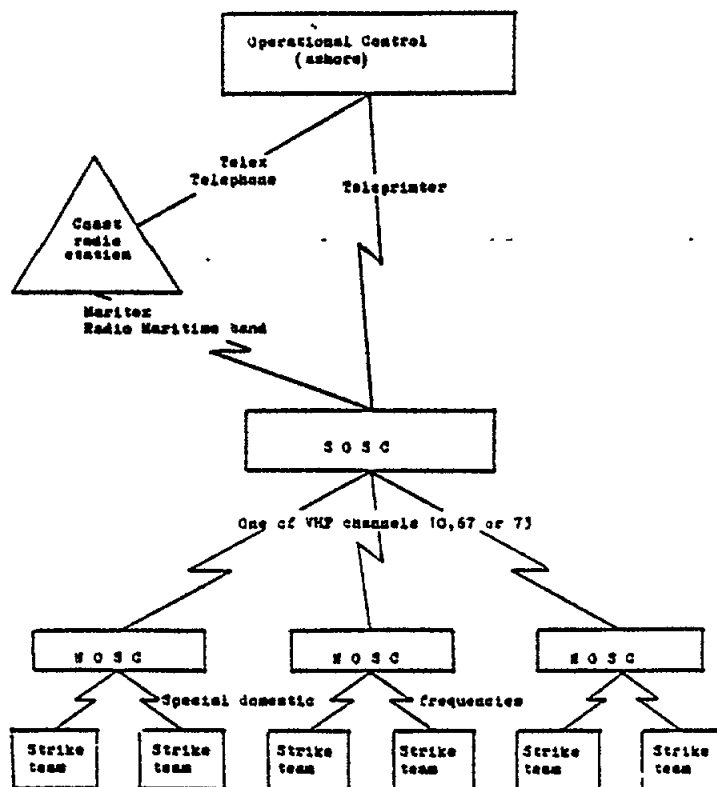
B. ARRANGEMENTS CONCERNING RADIO COMMUNICATIONS IN JOINT OPERATIONS

In order to avoid disturbance and jamming in a joint operation, there is a strong need for different radio communication frequencies on the one hand between the Operational Control ashore and the Supreme On-Scene Commander/Co-ordinator (SOSC) and, on the other hand, between the SOSC and participating National On-Scene Commanders/Co-ordinators (NOSC) as well as between the different noscs and their respective team units.

In accordance with the provisional scheme of radio communications for joint combating operations presented below, the following procedures should be followed:

- concerning the communications between the Operational Control ashore and the SOSC (which is the concern of the lead country of the operation), consideration should be given to the possibility of using wireless teleprinter or telex (Maritex),
- communication between the SOSC and the NOSCs should be performed on one or, if needed, more of the international VHF channels 10, 67 and 73; 1/.
- the vessels from which the SOSC operates should have at least two VHF stations on board with a stand-by function on channel 16;
- communications between a NOSC and the strike team units should be performed on special domestic (internal) frequencies;
- the working language, between OSCs from different countries, should be the most appropriate one;
- the broad aspects of the radio communication problems in joint oil combatting operations at sea should be presented to the telecommunications authority in each country for information and internal consideration.

PROVISIONAL SCHEME OF RADIO COMMUNICATIONS FOR JOINT COMBATING OPERATIONS



1/ The participants in the Seminar requested the Centre to verify frequencies appearing in this Appendix, before the Meeting of the Scientific and Technical Committee, in May 1991.

APPENDIX V

**CHECK-LIST OF PROCEDURES TO BE FOLLOWED
AND PERSONS TO BE CONTACTED IN CASE OF EMERGENCY**

(Draft - tentative wording)

As soon as national authorities competent for response operations have been informed of an accident, they will have to undertake certain actions and to establish certain contacts.

The list below aims at summarizing the chronological order the principal actions which could be or should be taken during a pollution accident. It gives an indication concerning entities and organizations which should be contacted in relation to these actions:

1. ASSESSMENT OF THE SITUATION IMMEDIATELY FOLLOWING THE NOTIFICATION

a) Action/Collecting information concerning the accident:

- place, time, nature and cause;
- identification of vessel, owner or operator and their representatives (answer of civil liability);
- intentions of the master;
- intentions of the salvor
- identification of the cargo;
- intentions of the owner or his representatives

b) Contacts with:

- master of the ship;
- salvor/salvage company;
- shipowner or his representatives (answer and its advisors-ITOPF);
- loading port;
- port of destination;
- classification society;

2. ALERT AND NOTIFICATION

a) starting national alerting procedure in accordance with the contingency plan;

b) notification of other Parties, following established procedures (use of standard alert message);

- REMPEC
- other States, Parties to the Protocol

The list of focal points prepared and regularly updated by the Regional Centre should be used when these contacts are made.

c) contact and co-operation related to questions concerning liability and compensation

- IOPCF (if there is oil pollution and if the State is a Party to the Fund Convention);
- TOVALOP/CRISTAL (if these voluntary agreements apply);
- other insurers.

3. OPERATIONAL ACTIONS

a) preventive measures:

- rescue and salvage operations;
- persons to contact: owner or his representative (master) and possibly the cargo owner.

b) Response measures

- activation of the contingency plan and setting up the national response organization (if these exist - when such organization does not exist REMPEC may help in setting it up);
- assessment of the situation and using a country's own resources or making use of external expertise:
 - . advice or technical expertise of REMPEC may be called upon;
 - . if there is pollution by oil, ITOPF can provide advice and technical expertise.
- making decision on measures to be taken including the request for assistance:
 - . research of data using Regional Information System or directly contacting REMPEC, concerning: experts and expertise, companies which may provide services, stocks of equipment available through international assistance, catalogue of equipment, guide for pollution combating...
 - . selection of response measures: tactics, necessary equipment and products, calling for international assistance (definition of requirements);
 - . advice and technical expertise of REMPEC or other experts may be requested;
 - . Request for assistance (State to State): REMPEC prepares and keeps up to date a list of national authorities competent for dealing with requests for assistance - REMPEC will endeavour to facilitate and co-ordinate provision of assistance.

4. COMPENSATION/REIMBURSEMENT OF COST INCURRED FOR RESPONSE MEASURES

a) Actions:

- designate a financial comptroller in charge of co-ordinating all financial questions;
- instruct supervisors to draw up daily reports of activities;
- consult legal experts on the way in which claims should be presented.

b) Contacts:

- liability insurers/P & I Clubs;
- IOPC Fund if oil is concerned and if Fund Convention applies;
- TOVALOP/CRISTAL.

APPENDIX VI

**CHECK-LIST OF PRINCIPAL INSTITUTIONAL PROVISIONS AIMED AT FACILITATING
MUTUAL ASSISTANCE IN CASE OF A MAJOR MARINE POLLUTION ACCIDENT
WHICH SHOULD BE INCLUDED IN NATIONAL CONTINGENCY PLANS**

(Draft likely to be completed)

A quick intervention and facilitation of mutual assistance in the case of a major marine pollution accident must be planned and organised. To this end, special institutional arrangements should be adopted and administrative and financial arrangements should be established such as:

- arrangements relating to the nomination of a competent national authority to initiate or have initiated an assessment of the situation and to determine the extent of the required assistance;
- arrangements relating to the nomination of a national authority entitled to act on behalf of the State and to request assistance or to decide to provide the requested assistance as well as to deal with legal and financial questions related to mutual assistance;
- arrangements which would enable the competent national authority which deals with questions related to mutual assistance to be contacted rapidly in case of an urgent request for assistance;
- arrangements concerning the principles and financial modalities applicable, in case of mutual assistance, which take into consideration the schemes in force on the subject of liability and compensation in case of oil pollution damages and which will not be in contradiction with the "polluter pays" principle;
- arrangements specifying the roles and obligations of the requesting Party and on the assisting Party concerning the supplying and the receiving of equipment;
- arrangements specifying the roles and responsibilities of experts;
- arrangements aiming at facilitating the operation of vessels in the territory of other States or the overflying of these territories by aircraft;
- the administrative arrangements aimed at accelerating and facilitating customs and immigration formalities for the equipment and persons on entering and on exit;

APPENDIX VII

ASPECTS TO BE CONSIDERED WHEN RECEIVING
A REQUEST FOR ENTRY IN A SAFE HAVEN

(Draft - tentative wording)

If a State is requested to accept a disabled ship in its territorial waters or in one of its ports, the decision is often hard to take and can in some cases be taken at political level.

Before the State can accept, care must be taken regarding the risks to which people living in the vicinity of the harbour are likely to be exposed to and also regarding what would be least harmful for the environment: keeping the ship offshore with a threat of a massive pollution at a distance from there or, a contrario, accepting a risk for the coastline even if it is small.

Care must be taken to ensure that the risk of blocking the port in case the operation unfolds unfavourably, and all the economic consequences resulting therefrom, is sufficiently slight. In any case, it may be useful to subordinate the acceptance or the renouncement by the ship owner to limit his responsibility for the damages sustained by the port accepting the ship.

Answering the following questions can help in decision making:

1. Prevailing winds in the area.
2. Tides and tidal currents.
3. Minimum and maximum waterdepths in the haven and its approaches. Also state the maximum draught of problem vessels to be admitted.
4. What is the bottom formation (hard, soft, sandy, etc) regarding the possibility to ground a problem vessel in the haven or its approaches.
5. What is the nearest distance to populated and industrial centres?
6. Is the haven safely guarded against heavy winds and rough seas?
7. In the case of a non-sheltered haven, can salvage and lightening operation be safely conducted?
8. Are there any offshore and fishery activities in the approach of the haven which can be endangered by an incoming problem vessel?
9. Is there sufficient space to manoeuvre a problem vessel, even without propulsion?

10. What are the dimensional restrictions of the problem vessel, such as length, width, etc.
11. Is pilotage compulsory and are pilots available?
12. Are tugs available? Please state number, horsepower, etc.
13. Description of mooring facilities in the haven.
14. Are there transfer facilities, such as pumps, hoses, barges, pontoons?
15. Are there reception facilities for harmful and dangerous cargoes?
16. Are there repair facilities, such as dockyards, workshops, cranes, etc?
17. Are there any restrictions? If so which, stating which problem vessels will not be allowed in the safe haven (eg escape of poisonous gases, danger for explosions, etc).
18. Are the haven and its approaches located in sensitive areas, such as areas of high ecological value which might be affected by possible pollution?
19. Is there, on environmental grounds, a better choice of haven close by?
20. Is there a disaster relief plan available in the area?
21. Is there anti-pollution equipment present in the area?
22. Is there a fire brigade?
23. Is there a possibility of containing any pollution within a compact area?
24. Is a bank guarantee imposed on the vessel before admission is granted into the haven?