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**MEDITERRANEAN ACTION PLAN (MAP)  
REGIONAL MARINE POLLUTION EMERGENCY RESPONSE CENTRE FOR THE  
MEDITERRANEAN SEA (REMPEC)**

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Regional Workshop on Cooperation Arrangements in the  
Field of Preparedness for and Response to Oil and Hazardous  
and Noxious Substances (HNS) Spills (MEDEXPOL 2016)

REMPEC/WG.40/3  
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Agenda Item 3

**GENERAL AND SPECIFIC COMMENTS ON THE DRAFT MEDITERRANEAN GUIDE ON  
COOPERATION AND MUTUAL ASSISTANCE IN RESPONDING TO MARINE POLLUTION  
INCIDENTS**

**Note by the Secretariat**

**SUMMARY**

**Executive Summary:** This document compiles the general and specific comments received by the Secretariat on the draft Mediterranean Guide on Cooperation and Mutual Assistance in Responding to Marine Pollution Incidents.

**Action to be taken:** Paragraph 2 below

**Related documents:** REMPEC/WG.40/1/1 and REMPEC/WG.40/2

**Introduction**

1 To ensure a constructive and active participation of all participants and in order to facilitate the review process during the Regional Workshop on Cooperation Arrangements in the Field of Preparedness for and Response to Oil and Hazardous and Noxious Substances (HNS) Spills (MEDEXPOL 2016), the Contracting Parties to the Convention for the Protection of the Marine Environment and the Coastal Region of the Mediterranean (Barcelona Convention) and its Protocols, specialized agencies of the United Nations, other governmental and non-governmental organizations, as well as international professional organizations and associations whose activities are relevant for the work of REMPEC, were invited to review the draft Mediterranean Guide on Cooperation and Mutual Assistance in Responding to Marine Pollution Incidents, hereinafter referred to as "draft Guide" and submit their comments in writing to the Secretariat to enable it to prepare the present document REMPEC/WG.40/3 compiling in Annex the general and specific comments received from the European Commission (EC), the European Maritime Safety Agency (EMSA), the Government of Libya, the International Oil Pollution Compensation Funds (IOPC Funds), and The global oil and gas industry association for environmental and social issues (IPIECA), the International Tanker Owners Pollution Federation (ITOPF), France, and Libya as of 12 December 2016.

2 **The Meeting will be invited** to take note of the information provided, to comment as deemed appropriate and to provide guidance on the way forward to improve the draft Guide during the Meeting.



## ANNEX

### GENEAL AND SPECIFIC COMMENTS ON THE DRAFT MEDITERRANEAN GUIDE ON COOPERATION AND MUTUAL ASSISTANCE IN RESPONDING TO MARINE POLLUTION INCIDENTS

#### I. General Comments

The following section reproduces the general comments received from the European Commission (EC), the European Maritime Safety Agency (EMSA), and the International Oil Pollution Compensation (IOPC) Funds.

#### **General comments from EC/EMSA**

“It is understood that the proposed guide does not cover operational and technical matters, which are addressed in other regional and international manuals and guidelines but aims at providing Mediterranean coastal States with comprehensive and practical information and guidance material for the management of response operations involving several countries in the Mediterranean area.

It is also acknowledged that response operation will involve multiple stakeholders, from the public sector (response authorities, international organizations) as well as from the private sector, starting from the entity at the origin of the spill or the potential spill. Therefore the guide could provide useful information on the usual or expected interactions of these various players.

However, the plan followed by the draft does not serve well this purpose as the information concerning the various stakeholders and the interactions between them is somehow diluted and replicated in the various parts of the document, whereas the practicality of the information contained, which is amongst the objectives of the document, remains at a too generic level.

**It is therefore recommended to review the organization of the document with a view to create a series of fiches on the various stakeholders** which will contain all the relevant information: what are their obligations, how they organize to cover their liabilities, their possible involvement in response operations, what could be expected/requested from them and how. Along the same line, **the various parts related to compensation should be dealt apart** as this is not an actual part of the assistance during response operations

#### **A proposal for a new plan of the guide could be:**

Introduction: aim of the guide

Part I: Legal framework for pollution response and cooperation  
International conventions (with an emphasis on OPRC and the tier system)  
Regional organisation in the Mediterranean sea

Part II: overview of the role of the various stakeholders involved in response operations (series of fiches as described above)

Part III: how to request and provide assistance in the Mediterranean area

Part IV: administrative legal and financial aspects of requesting or providing assistance.

Regarding the European Union, more accurate information is provided in track changes in the draft text. However, the same difficulty as described above on where and to which extent the mechanism should be detailed has been encountered. In this respect the principle of identification fiches will facilitate conveying concise and factual information.

**It is also recommended to insert links** to relevant webpages when available.”

### **General comments from IOPC Funds**

“Overall, we found this document very comprehensive and should be of great benefit to people not familiar with the issue.

We understand that this is a draft but we would **suggest that the final version introduces a formatting more in line with an operational guide.**

For example, **there may be benefits in splitting the document in 2 or 3 parts** with the section on the background in one booklet, the other sections in a second one and possibly the forms available as standalone documents.

We would also **recommend adopting colour codes for operational sections** and ensure that in places where there are **check lists or action points those are designed in a way that they stand out to the reader** (e.g set in coloured tables), in order to facilitate quick reading and rapid access to key information.”

### **General comments from France**

1. “The guide should be more an operational document and describes actions which should be taken at national level: activation of the National Contingency Plan and procedures.
2. Request of Assistance to ERCC/EMSA should be further developed.
3. Lack of definition, need of a glossary, lexicon, etc.
4. Recommendation regarding the need that deployment and use of equipment and products are carried out by competent and properly trained personal.
5. The question of disposal and treatment of collected waste should be addressed.”

## **II. Specific Comments**

The following section replicates the specific comments received from EC, EMSA, IOPC Funds and IPIECA. The proposed additions are underlined, whilst the proposed deletions are strikethrough. To facilitate the review, the Secretariat refers below to the part of the draft Guide where amendments are proposed.

### **FOREWORD – Introduction**

#### **• Table of Contents**

#### **Specific comments from IOPC Funds**

“There are some inconsistencies in Part 1 section 2.1 and 2.2 where some list of organisations are expended (NGOs) while others are not (IGOs). **Our suggestion would be to collapse the NGOs list.**”

### **Part I BACKGROUND**

#### **1. Legal Framework**

#### **• 1.1. International Conventions**

#### **Specific comments from IPIECA**

“The section concludes with the statement that «The above mentioned IMO Conventions impose requirements on the ships and it is for the flag States and the port States to ensure that the ships comply with such requirements. **When it comes to offshore units and sea port and oil and chemical handling facilities it is for the State in the areas of**

**jurisdiction of which they operate to establish rules and regulations. (Ref 1.3) There are no global liability and compensation regimes for pollution from offshore unit».**

*Whilst the final sentence of this statement is correct in its direct reference to liability and compensation regimes, the sentence in bold is ambiguous. It could infer that no IMO Conventions impose requirements on offshore units.”*

- **1.1.2.2. OPRC Convention, OPRC/HNS Protocol**

**Specific comments from IPIECA**

*“Correctly identifies that the OPRC Convention imposes specific obligations on operators of offshore units, including the development of OPEPs and reporting requirements.”*

- **1.1.2.5. Wreck Removal Convention**

**Specific comments from ITOFF**

*“Maybe include a section on the LLMC Convention here although this is also dealt with in 1.1.2.7.”*

- **1.1.2.6 The 1992 Civil Liability Convention (1992 CLC)**

**Specific comments from IOPC Funds**

“The 1992 Civil Liability Convention (1992 CLC) governs the liability of ship owners for oil pollution damage and creates a system of compulsory liability insurance <5>. A ship owner can normally limit his liability on the principle of strict (i.e. “no fault”) liability to an amount which is linked to the tonnage of his ship. The 1992 CLC applies to oil pollution damage resulting from spills of persistent oil from tankers. Spills of cargo or bunker oil from sea-going vessels constructed or adapted to carry oil in bulk as cargo, whether the tanker is laden or unladen, are covered by the 1992 CLC. The 1992 CLC covers pollution damage suffered in the territory, territorial sea or EEZ or equivalent area of a State Party to the Convention.

<5> The 1969 International Convention on Civil Liability for Oil Pollution Damage (1969 CLC) currently remains in force in the region for Libya. The 1969 CLC provides for less compensation and coverage than under the 1992 CLC.

The flag State of the tanker and the nationality of the ship owner are irrelevant for determining the scope of application. “Pollution damage” is defined as loss or damage caused by contamination. ~~For environmental damage (other than loss of profit from impairment of the environment) compensation is restricted, however, to costs actually incurred or to be incurred for reasonable measures to reinstate the contaminated environment.~~ The notion of pollution damage includes measures, wherever taken, to prevent or minimise pollution damage in the territory, territorial sea or EEZ (“preventive measures”). Expenses incurred for preventive measures are recoverable even when no spill of oil occurs, provided that there was a grave and imminent threat of pollution damage. For environmental damage (other than loss of profit from impairment of the environment) compensation is restricted, to costs actually incurred or to be incurred for reasonable measures to reinstate the contaminated environment.

The scope of compensation covers reasonable costs associated with: preventive measures (clean-up), property damage, economic loss and environmental damage (reinstatement~~restoration~~).

Claims under the 1992 CLC can be made only against the registered owner of the tanker concerned or directly against his insurer. The insurer will normally be one of the Protection and Indemnity Associations (P&I Clubs) which insure the third party liabilities of the ship owner. If the damage exceeds the owner's liability under the 1992 CLC, or the owner is financially incapable and his insurance is insufficient, or he is exempted from liability under the specific exemptions listed in the 1992 CLC, the 1992 Fund (see below par 1.1.2.8) will pay the share of compensation that is not paid

under the 1992 CLC. ~~To obtain compensation under the Fund Convention, claimants should submit their claims directly to the 1992 Fund.~~

**Specific comments from ITOPF**

*“For the sake of clarity, I would put all the liability and compensation conventions in a separate section (1.1.3)”.*

The 1992 Civil Liability Convention (CLC) governs the liability of ~~ship owners~~ Tanker owners for oil pollution persistent oil damage and creates a system of compulsory liability insurance (...).

*“Although there is probably no need to have a section on the old regime (CLC69), it might be worth mentioning it in this paragraph”.*

*“Supplementary Fund could also be mentioned here”.*

- **1.1.2.7.8 The 2001 Bunker Convention**

- **1.1.2.8.7 The 1992 Fund Convention and Supplementary Fund Protocol (IOPC Fund)**

**Specific comments from IOPC Funds**

The 1992 Fund Convention provides a supplement to the 1992 CLC when compensation is not available from the ship owner or the money available under the 1992 CLC is inadequate to pay claims resulting from spills of persistent oil from tankers. This second tier of compensation provides up to 203 million of special drawing rights (<6>SDR) (including the amounts payable under the 1992 CLC) and is paid from a fund (the 1992 Fund) financed by receivers of oil in countries that have signed the 1992 Fund Convention. A Supplementary Fund is available providing a third tier of compensation up to 750 million SDR (approximately US\$1.1billion), including the amounts payable under the 1992 CLC and Fund Conventions, in countries that have signed the Supplementary Fund Protocol. The International Oil Pollution Compensation Funds, comprising the 1992 Fund and Supplementary Fund (together the IOPC Funds) are administered by a Secretariat based in London.

<6> SDR refers to Special Drawing Rights as defined by the International Monetary Fund.”

**Specific comments from ITOPF**

*“A diagram showing the different levels of compensation could be very useful.”*

- **1.1.2.9. The Hazardous and Noxious Substances Convention (HNS Convention) (not yet in force)**

**Specific comments from IOPC Funds**

The International Convention on Liability and Compensation for Damage, in connection with the Carriage of Hazardous and Noxious Substances by Sea (The HNS Convention 1996, amended by the HNS Protocol in 2010), is modelled on the two tier compensation regime of the Civil Liability and Fund Conventions. The ship owner or insurer is strictly liable to pay claims under the first tier up to a limit of liability determined by the size of the vessel, with compensation paid by the vessel’s insurer, usually a P&I Club. The second tier, providing compensation up to a maximum of 250 million SDR, is paid from a fund (the HNS Fund) established by receivers of HNS in countries that have ~~joined~~ signed the Convention. The Convention covers both pollution damage and damage caused by other risks (e.g. fire and explosion), including loss of life.

The ship owner is entitled to limit liability under this Convention in respect of any one incident to ~~44.5~~ 10 million SDR for an incident caused by bulk HNS, and 11.5 million SDR for an incident caused by packaged HNS, for a ship not exceeding 2,000 tons. For larger ships, an aggregate calculated on the basis of the tonnage of the ship is added to that amount, and provides compensation up to 100 million SDR for bulk goods, and 115 million SDR for packaged goods.

• **1.3 National legal framework**

**Specific comments from ITOPF**

*“The revision of the IMO Manual Section II on contingency planning, carried out last year did make a reference to the RETOS tool developed by ARPEL, which provides a matrix against which countries (and operators) can measure their level of preparedness. This may also be mentioned in this document?”.*

**2. International Institutional Framework**

• **2.1.1.2. International Maritime Organization (IMO)**

**Specific comments from IPIECA**

*“There is scope here to reiterate that the IMO’s OPRC Convention places obligations on planning and reporting in relation to oil pollution from both offshore units and oil handling facilities.”*

• **2.1.2.1 IOPC Funds**

**Specific comments from IOPC Funds**

The IOPC Funds are financed by contributions paid by entities that receive certain types of persistent mineral oil by sea transport. These contributions are based on the amount of oil received in the relevant calendar year, and cover ~~expected~~ claims, together with the costs of administering the Funds.

The 1992 Fund and the Supplementary Fund share a joint Secretariat, based in London. The Director is the chief administrative officer and is responsible for the overall management of the Funds. In order to fulfil the requirements of the 1992 Fund Convention and of the Supplementary Fund Protocol the governing bodies of the IOPC Funds meet ~~two or three~~ normally twice times per year. The governing bodies are required, amongst other things, to give instructions concerning the administration of the Funds to the Director and to supervise the proper execution of the Conventions and of their own decisions.

• **2.1.2.2.3 European Institutions Union**

**Specific comments from EC/EMSA**

2.1.3 ~~European Institutions Union~~

2.1.2.2. Emergency Response Coordination Centre (ERCC) of the European Commission

Emergency Response Coordination Centre (ERCC) is based in the European Commission, Directorate-General for European Civil Protection and Humanitarian Aid Operations (ECHO). It is the main operational tool of the Union Civil Protection Mechanism.

In the event of major emergencies and upon request from the affected country, the ERCC facilitates co-operation in assistance interventions inside and outside the EU. It provides a one-stop-shop of civil protection and marine pollution response capacities and expertise made available by the Participating States to the Mechanism (28 EU Member States, the former Yugoslav Republic of Macedonia, Montenegro, Iceland, Norway, Serbia and Turkey) and the European Maritime Safety Agency (EMSA). The ERCC matches offers of assistance with the needs of the disaster-stricken country and acts as a coordination hub between the Participating States, the affected country and the dispatched team of field experts.

The ERCC can deal simultaneously with several emergencies in different time zones, around-the-clock (24/7).

~~European Commission humanitarian aid and civil protection~~

~~The Emergency Response Coordination Centre (ERCC), operating within the European Commission's Humanitarian Aid and Civil Protection department (ECHO), was set up to support a coordinated and quicker response to disasters both inside and outside Europe using resources from the countries participating in the European Union (EU) Civil Protection Mechanism. The ERCC replaces and upgrades the functions of the previous Monitoring and Information Centre (MIC).~~

~~With a capacity to deal with several simultaneous emergencies in different time zones, around the clock, the ERCC is a coordination hub facilitating a coherent European response during emergencies helping to cut unnecessary and expensive duplication of efforts.~~

The European Maritime Safety Agency (EMSA) is ~~one~~ an of the EU agencies body. The Agency provides technical assistance and support to the European Commission and EU Member States. It has also been given operational tasks in the field of oil pollution response, vessel monitoring and in long range identification and tracking of vessels.

~~The activities of the Agency were initially~~ are focused on responding to ship-source marine pollution, firstly oil pollution and then pollution by hazardous and noxious substances. ~~As of 1 March 2013, with the entry into force of Regulation (EU) No 100/2013, EMSA also has a mandate to respond to marine pollution caused by oil and gas installations. and to provide assistance to third countries sharing a regional sea basin with the EU.~~

The activities of the Agency in the field of marine pollution preparedness and response are focused on providing operational assistance and information to EU Member States, and ~~EFTA/EEA countries, EU candidate countries and non-EU third countries~~ countries sharing a regional sea basin with the EU.

. The main service pillars are:

- The Network of Stand-by Oil Spill Response Vessels distributed along the European coastline equipped with different types of oil-combating equipment arrangements including dispersants spraying systems;

- The Equipment Assistance Service that offers dedicated stockpiles of pollution response equipment;

- Clean Sea Net which is : the satellite based oil spill and vessel detection and monitoring service;

- The MAR-ICE (Marine-Intervention in Chemical Emergencies) Information Service that provides expert information and advice in case of chemical spills at sea;

- The MAR-CIS database of substance-specific marine chemical information sheets;

- ~~Cooperation and coordination with the EU Commission, EU Member States, EFTA/EEA Coastal Countries, Candidate Countries, Acceding Countries, Regional Agreements (e.g. IMO/UNEP-REMPEC) and other relevant international organisations such as IMO;~~

~~The provision of information through publications and workshops.~~

~~To mobilise an EMSA resource the~~ The activities of the Agency were initially focused on responding to ship-source marine pollution, firstly oil pollution and then pollution by hazardous and noxious substances. ~~As of 1 March 2013, with the entry into force of Regulation (EU) No 100/2013, EMSA also has a mandate to respond to marine pollution caused by oil and gas installations. General request for assistance~~ Emergency requests should be sent to the ERCC of the European Commission preferably through the Common Emergency Communication and Information System (CECIS) which is a secure web-based application to facilitate emergency communication among its users. Alternatively the request can be sent to the ERCC by email or fax.

More information on EMSA's pollution response including available resources in the Mediterranean Sea services can be found on the website: [emsa.europa.eu](http://emsa.europa.eu).



~~CECIS is a secure web-based application to facilitate emergency communication among its users. It also contains a database of Member States and EMSA operational response capabilities.~~

- **2.2.2 IPIECA and IOGP**

***Specific comments from IPIECA***

~~The global oil and gas industry association for environmental and social issues (IPIECA) is the global oil and gas industry association for environmental and social issues. IPIECA was formed in 1974 following the launch of UNEP.~~

While prevention is always the ultimate goal, IPIECA gives ~~equally~~ high priority to developing the capability to respond to spills.

IPIECA works together with the International Association of Oil & Gas Producers (IOGP) ~~for~~ in developing guidance material, ~~procedures and standard~~ for preparedness and response to potential pollution from offshore platform installations pollution incident.

Could make specific reference to the JIP outputs and specifically the risk assessment and response planning report (<http://www.oilspillresponseproject.org/wp-content/uploads/2016/02/JIP-6-Oil-spill-risk-assessment.pdf>).

- **2.2.4 International Salvage Union (ISU)**

***Specific comments from IOPC Funds***

The majority of professional salvors are members of the International Salvage Union (ISU). This organisation represents some 52 companies based in 30 different countries around the world. The salvage companies have tugs and other salvage equipment at a number of different ports and areas throughout the world and some of the companies have salvage tugs stationed at various strategic locations. Some salvage tugs are ~~being~~ maintained at salvage stations in certain coastal States as a result of arrangements made between their owners and other commercial interests or the authorities in those States.

- **2.2 Non-governmental institutions**

- **2.2.1 ITOPF**

***Specific comments from ITOPF***

The International Tanker Owners Pollution Federation Limited (ITOPF) was established in 1968 in the wake of the TORREY CANYON oil spill. Its original function was the administration of an oil spill compensation scheme set out by tanker owners in a voluntary agreement. During the 1970s, ITOPF developed its technical services function and established a team of well qualified scientists able to offer around the clock technical support to tanker owners, their P&I insurers and other groups.

ITOPF has been providing its 5 key services including spill response, claims analysis & damage assessment, contingency planning, training and information of emergency response to tanker owners since the 1970s. However, the growing awareness of oil pollution from container ships, general cargo ships and other non-tank vessels, plus the development of the Bunkers Convention, led to a change in ITOPF structure ~~From~~ and 1999, owners of ships other than tankers were eligible to become Associates of ITOPF and access its technical services. ~~1999 this service was formally extended to the owners of other types of ship as well. The growing awareness of oil pollution from container ships, general cargo ships and other non-tank vessels, plus the development of the Bunkers Convention, led to a change.~~

More recently, the pollution potential of substances other than oil, primarily chemicals, and the development of corresponding international conventions, e.g. the HNS Convention, has led to an increased interest of the maritime community in these areas and over the years, ITOPF provided advice on spills of other substances, including vegetable oils, cereals, coal and containerised cargoes.

~~From February 1999, owners of ships other than tankers were eligible to become Associates of ITOPF and also have access to its technical services.~~

~~During the last 45 years ITOPF has attended over 750 incidents in 100 countries, including landmark cases such as AMOCO CADIZ, EXXON VALDEZ, BRAER, SEA EMPRESS, ERIKA, PRESTIGE and HEBEI SPIRIT. ITOPF is based in London and has a team of about 35, 15 of whom are available to respond to spills. ITOPF may also offer its services at the request of governments and intergovernmental organisations such as the International Oil Pollution Compensation Funds (IOPC Funds). More recently, the pollution potential of substances other than oil, primarily chemicals, and the development of corresponding international conventions, e.g. the HNS Convention, has led to an increase in demand for expertise in these areas.~~

### **3. Current Situation**

#### **• 3.2.2. Role of IMO**

##### **Specific comments from IPIECA**

*“Perhaps worthwhile mentioning that, in supporting REMPEC, IMO may be asked to take on a specific facilitation role under Article 12(1)(d)(ii) of the OPRC Convention: “to facilitate the provision of technical assistance and advice, upon the request of States faced with major oil pollution incidents.” This is mentioned in later text but could be here too.”*

#### **• 3.2.5 Role of ERCC, CECIS**

##### **Specific comments from EC/EMSA**

*“EU is a contracting Party to the Barcelona Convention and its Protocols. As the other Parties the EU shall use its best endeavour to render assistance to Parties when so requested. ERCC is the contact point for all official communication and requests for response capacities managed by EMSA may be contacted for technical questions.*

*ERCC is also the contact point for activating the Union Civil Protection Mechanism (UCPM). In this case, the request for assistance will (would) be extended to all Participating States to the UCPM (28 EU Member States, the Former Yugoslav Republic of Macedonia, Montenegro, Iceland, Norway, Serbia and Turkey).”*

#### **• 3.2.6. Role of UN financing support mechanisms**

##### **Specific comments from IPIECA**

*“It is presumed the bracket refers to the example of the Lebanese oil spill in 2006; this could be clarified.”*

#### **• 3.3.1 The Liability Insurer**

##### **Specific comments from IOPC Funds**

The third-party liabilities of the ship owner, and often of charterers, will generally be covered by mutual insurance associations called P&I Club of ship owner members. A P&I Club covers only the ship owner's legal liabilities in the sense of damage or compensation which the owner is legally obliged to pay to others. Ship owners are entitled to limit their liability under various international conventions (such as the 1992 CLC or Bunkers Convention 2001) or national law. The insurance cover is often, in practice, restricted to the limitation amount applicable to the ship.

- Small Tanker Oil Pollution Indemnification Agreement (STOPIA) 2006. The Agreement establishes STOPIA 2006, the object of which is to provide a mechanism for Ship owners to pay an increased contribution to the funding of the international system of compensation for oil pollution from ships, as established by the 1992 Civil Liability Convention (1992 CLC 92), the 1992 Fund Convention and the 2003 Supplementary Fund Protocol.

- Tanker Oil Pollution Indemnification Agreement (TOPIA) 2006. The Agreement provides a mechanism for ship owners to pay an increased contribution to the funding of the international system of compensation for oil pollution from ships, as established by the 1992 Civil Liability Convention (1992 CLC 92), the 1992 Fund Convention and the 2003 Supplementary Fund Protocol.

**Specific comments from IPIECA**

*“Not sure why there is reference to Charterers in the first line. Not aware that vessel Charterers carry any legal liability for pollution incidents; this resides solely with the ship owner.”*

**Specific comments from ITOPF**

*(CLC 92/ HNS 96-protocol 2010) - “LLMC convention should be mentioned here.”*

*In addition, two voluntary agreements (STOPIA and TOPIA 2006) were set up to indemnify the 1992 Fund and Supplementary Fund, respectively, for compensation paid above the shipowner’s limit of liability under the 1992 CLC, up to certain amounts.*

*“STOPIA and TOPIA are 2 voluntary agreements set out to indemnify the FUND so this may not be useful in these guidelines (confusing for neophytes).”*

*“Clear distinction should be made between STOPIA and TOPIA... <http://www.iopcfunds.org/about-us/legal-framework/stopia-2006-and-topia-2006/>”.*

• **3.3.2 ITOPF**

“A pollution that qualifies or is susceptible to qualify under the FUND Convention”

• **3.5 Existing Guidelines**

• **3.5.1 IMO Guidelines:**

**Specific comments from ITOPF**

“Also, the IMO manual on oil pollution and its different section... Section II on contingency planning was recently updated.”

• **3.3.3. Tier 2 and Tier 3 Oil Spill Response Companies**

**Specific comments from IPIECA**

“Might be useful to mention that oil spill response companies can include both industry-owned non-profit cooperatives and commercial service providers/vendors.”

• **3.3.5 International salvage union**

**Specific comments from IOPC Funds**

Some salvage tugs are being maintained at salvage stations in certain coastal States as a result of arrangements made between their owners and other commercial interests or the authorities in those States. Some companies have the ability to mobilise equipment, either from their own resources or from elsewhere, together with expert personnel at very short notice.

#### **4. The Risks of Pollutions and the various types of Situations**

##### **• 4.1. Sources of pollution**

###### **Specific comments from IPIECA**

*“There is the same ambiguity as mentioned for section 1.1. The opening paragraph states that the issue of pollution from ships is addressed by IMO conventions whilst the second paragraph states “Offshore activities, sea ports, oil and chemical handling facilities are mainly regulated under national laws and regulations... It is within this national legal framework, which shall require operators to have contingency plan...”. This doesn’t mention that the OPRC Convention obliges ships, offshore units, ports and oil handling facilities to have OPEPs (i.e. contingency plans). Further, it is the case that national legislation creates the national framework for all activities, including ships i.e. international treaties (such as IMO Conventions) are implemented through national legislation.*

*There is a further ambiguity in the statement that “...Therefore it is for the competent national authorities to impose to the operators to have prepositioned combating equipment”. This seems to mix the compensation conventions and OPRC. Prepositioning of equipment derives from Article 6(2)(a) of OPRC and applies to all risks – ships, ports and offshore units. To my knowledge, the compensation conventions make no reference to preparedness measures. Maybe these are subtle points but they should be clear.”*

##### **• 4.4. Size of pollution**

###### **Specific comments from IPIECA**

*“No reference is made to industry’s current good practice with respect to tiered preparedness and response. The section would benefit from a statement along the lines of... “the oil industry has evolved its approach to the three tiers, whereby contingency planners represent specific groups of response capabilities required to mitigate risk and identify the sources from which these capabilities will be provided. The evolved model uses a segmented circle to represent a broad range of response capabilities. It also gives a higher profile to the importance of an incident management system in delivering an effective response.” There could also be reference to how this evolved model incorporates issues of equipment, personnel and logistics that are subsequently raised in section 4.5.”*

##### **• 4.7. Number of countries affected**

###### **Specific comments from IPIECA**

*“Section could benefit from reference to OPRC Convention and IMO Resolution A.983(24) concerning Guidelines for facilitation of response to a pollution incident.”*

#### **5. Parties which will be Involved**

##### **• 5.2. The ship interest**

###### **Specific comments from France**

*Will be presented by the French delegation*

##### **• 5.2.1. The ship owner**

###### **Specific comments from IOPC Funds**

There may be diverse ownership interests in a ship. The main ones which a coastal State ~~is~~ are likely to encounter in a marine pollution emergency are: the ship owner, time / voyage / bareboat charterer, and manager or operator. In some cases a ship may be owned by more than one entity in equal or unequal shares. In such cases, there is usually an agreement between the different owners that one of them will take operational decisions on behalf of all of them, and joint ownership only becomes of particular interest when recovery of damages is sought. [...]

The first concern of the ship owner in a marine pollution emergency will be to see that the ship and all the life thereon are preserved together with ~~and that~~ as much as possible of the cargo. He is therefore more likely to be concerned ~~to~~ with protecting ~~both~~ his proprietary interest in the ship rather than responding to ~~by~~ the effect upon the sea or coast of polluting substances which may have escaped or which may ~~be threatening to~~ escape. Because he ~~(may / will)~~ be liable to pay compensation for the pollution caused, the ship owner can be expected, either through the master or directly from his office, to liaise with all others who are directly concerned with the position of the ship in the emergency.

#### • **5.2.4. Insurance: P & I Club, ITOPF**

##### ***Specific comments from IOPC Funds***

The costs of action to deal with pollution or the threat of pollution may be recoverable on the basis of the legal third party liabilities of the owner of the ship, from where the pollution emanates/threatens to emanate. Such liabilities will be insured. ~~A major part of all ships has entered~~ The majority of all ships are entered with one or more of the P&I Clubs. The P&I Club covers ~~only~~ ship owner's third-party legal liabilities in the sense of damage or compensation which the owner is legally obliged to pay to others. Ship-owners are normally entitled to limit their liability under international conventions or national law. In practice the insurance cover is mostly restricted to the limitation amount applicable to the ship. The main job of the ~~liability underwriter~~ insurer in a marine pollution emergency is to handle all claims against their members and to pay the valid ones. The first thing the P&I Club might do, is put up financial security to ensure the release of the ship, in case the ship has been arrested. This is commonly done either by the claimant accepting a letter of guarantee or bond with a local bank.

The P&I Club will usually get independent technical assistance from ITOPF to advise on the type and extent of the ~~occurred~~ pollution damage, what effect it is likely to have under different scenarios, what needs to be done to abate or prevent the effects and the most efficient way of doing so. This advice will be available to the coastal State should it ask for it. The P&I Club will also be involved in the decision concerning a possible lightening of the ship to another vessel because of the liabilities the lightening ship may occur as well as in a possible wreck removal, the latter being one of the risks P&I Clubs insure. ~~So far the liability underwriter~~ The insurer is for the coastal State, one of the most important entities, on the ship owning interest's side, to enter into discussions ~~with~~, in a marine pollution emergency caused by oil or ~~even~~ other harmful substances.

## **PART II RELATIONSHIPS, COOPERATION AND MUTUAL ASSISTANCE IN CASE OF EMERGENCY AND POLLUTION INCIDENT**

### **1. Relationships with Parties Involved**

#### ***Specific comments from France***

- Raised the question of request and selection of private companies (response providers) according to European regulation. -

#### • **1.6. Relationships with compensation mechanism organisations (IOPC Funds)**

##### ***Specific comments from IOPC Funds***

~~The IOPC Funds are closely and actively involved in claims assessments, and, pursuant to an agreement with the International Group of P&I Clubs, claims are handled jointly by the IOPC Funds~~

and the Club involved. The result is that normally claimants need present their claims only once. Very often the technical assistance of ITOPE or other technical experts will be called upon.

Claimants should submit their claims as soon as possible after the damage has occurred. For incidents involving the IOPC Funds, an incident-specific claims form will be made available on Claims form can be found in the IOPC Funds' website.

...

~~Claimants will lose their right to compensation from the ship-owner and his insurer under the 1992 Civil Liability Convention unless they bring court action against them within three years from the date when the damage occurred. Similarly, claimants will ultimately lose their right to compensation under the 1992 Fund Convention unless they bring court action against the 1992 Fund within three years of the date on which the damage occurred the same timeframe, or make formal notification to the 1992 Fund of a court action against the ship-owner or his insurer within the three-year period. Similarly, claimants will lose their right to compensation from the ship-owner and his insurer under the 1992 Civil Liability Convention unless they bring court action against them within three years from the date when the damage occurred.~~

...

~~The IOPC Funds are closely and actively involved in claims assessments, and, pursuant to an agreement with the International Group of P&I Clubs, claims are handled jointly by the IOPC Funds and the Club involved. The result is that normally claimants need present their claims only once. Very often the technical assistance of ITOPE will be called upon."~~

- **1.7 Relationships with insurers of offshore unit and sea port and oil and HNS handling facilities**

#### **Specific comments from IOPC Funds**

In the case of a pollution incident originated from an offshore unit or a handling facility, the liability regime applicable is the one the country will impose ~~to~~ on the operators of offshore units and of handling facilities according to the national law. Governments shall require the operators of offshore units and of handling facilities ies to have insurance or financial guarantyee for covering their liability in case of pollution.

- **2. Different Several types of national response systems when it comes to who is in charge of response operations**

- **3. Different types of national response systems when it comes to who is in charge of response operations**

#### **Specific comments from IPIECA**

*"Second paragraph, page 39. In addition to "Standards should be set for oil recovery or containment capacity, recovered oil storage capacity, and response timelines", could also mention the need for regulations relating to (a) dispersant product approval and use authorization and (b) in-situ burning."*

- **3.1. For marine pollution arising from ship**

#### **Specific comments from IPIECA**

*"It is also an obligation under OPRC Convention's Article 3(1)(a) for ships to have a SOPEP.*

*There is ambiguity in this text:*

*"However there are no obligations as it may be the case under national law for offshore unit and handling facility to have prepositioned equipment and arrangements for mobilising additional equipment. Therefore that may lead a country with a well-developed response system to be fully in charge of a response operation". OPRC Article 6(2) does place an obligation (regardless of the source of the pollution) on the country to ensure "within its*

*capabilities either individually or through bilateral or multilateral co-operation and, as appropriate, in co-operation with the oil and shipping industries, port authorities and other relevant entities, a minimum level of pre-positioned oil spill combating equipment, commensurate with the risk involved, and programmes for its use and a mechanism or arrangement to co-ordinate the response to an oil pollution incident with, if appropriate, the capabilities to mobilize the necessary resources.” It is up to the country to develop appropriate mechanisms to meet this obligation.”*

#### **Specific comments from IOPC Funds**

It is an obligation for a ship under the MARPOL Convention to have a shipboard marine pollution emergency plan. However, there are no obligations ~~as it may be the case under national law for offshore unit and handling facility~~ upon a ship owner to have pre-positioned equipment and arrangements for mobilising additional equipment. Therefore, that may lead a country with a well-developed response system to be fully in charge of a response operation.

...

Therefore coastal States will expect the ship owner to co-operate in agreeing to any measures the coastal State wishes to put in place which would have the effect of minimising risks and combating the pollution, thus reducing the ship-owner's ultimate potential liability. In any event, whatever response and clean-up assistance the ship owner is able to muster, the ship owner should normally have available the resources, the technical advice and services of the ~~liability underwriter (usually a P&I Club/IOPF) insurer~~. In practice, the ~~liability underwriter~~ insurer is usually very closely involved.

#### **Specific comments from France**

*“Question raised regarding the text mentioning conflicting legal obligation between ship owner and coastal State.”*

### **• 3.3. In case of large and major pollution**

#### **Specific comments from IOPC Funds**

An incident affecting a number of countries may involve significant government resources of various countries, and care should be taken to ensure that duplication of effort, resources and expenses, are avoided, in order to maximise the opportunity for compensation, when subsequently the claims are submitted for payment to the ship owner/insurer and/or the 1992 Fund. International response contractors may also be mobilised to further supplement the onsite tactical team.

## **PART III. MANAGEMENT OF REGIONAL AND INTERNATIONAL ASSISTANCE**

### **4.Resources mobilised by the responsible party at its own expenses**

#### **• 4.2 At its own initiative and with the agreement of the affected country, mobilization of resources by the responsible party at its own expense**

#### **Specific comments from IPIECA**

*“Suggest including in-situ burning in the sentence:*

*“The National Contingency Plan should identify which response method and techniques should be used and in what circumstances, including elimination of the source of pollution, containment and recovery of floating oil at sea, use of dispersants, in-situ burning, protection of sensitive areas, and shore clean-up.”*

### **• 5. Joint response operations carried out by neighbouring countries**

**Specific comments from IPIECA**

*“Note that the definition of Joint Response Operations differs from other regional agreements. It states that: “Joint response operations means all pollution response operations in which personnel, equipment, products and/or other means, of at least two neighbouring countries directly affected or under threat of being affected are involved.”*

*In other regions, Joint Response Operations simply means when one or more assisting States is involved in operations in a receiving State, without the need for at least two neighbouring countries being directly affected or under threat of being affected.”*

**Specific comments from IOPC Funds**

This refers to when a marine incident of such magnitude, which causes or is likely to cause pollution, and which can possibly affect one or more Parties, and of such magnitude that calling for assistance from the other Parties threatened Parties to be affected for assistance, is justified. The incident might be a spill, which occurs in the area of responsibility of one Party and threatens the area of responsibility of another Party.

- **6.1 Role and responsibility of the Assisting Country for dispatching resources**

**Specific comments from France**

*“Question regarding the role and the responsibility of dispatching resources.”*

- **7.4 The liaison between the assisting Party and the Requesting Country during the response operations shall be maintained, according to circumstances:**

**Specific comments from ITOFF**

- Record of the resources used.

- **8. Termination of assistance**

- **8.2 Termination by the affected country**

**Specific comments from ITOFF**

*“Maybe add something about the cleaning/ repairing of oil spill equipment...”*

**PART IV. ADMINISTRATIVE, LEGAL AND FINANCIAL ASPECTS**

- **1. Administrative and legal aspects**

- **1.1 Customs**

**Specific comments from France**

- Will be introduced by French delegation -



- **1.2 Immigration issues**

***Specific comments from France***

- *Will be introduced by French delegation -*

- **2. Financial aspects**

***Specific comments from IOPC Funds***

In order to make commitments with foreign sources for equipment, response resources and technical specialists, the management structure for cooperation and international assistance should request spending authorisation and funds to draw upon, at either the National or the Field Level. In a number of cases, there are greater efficiencies for the spending authority and funds, to be designated at the Field level. Additionally, it is important to clarify in advance, the funding authorities and sources to be used ~~are important to clarify~~ during the international assistance process, as an unauthorised commitment of any kind to a foreign source, without spending authority, ~~ultimately~~ could ultimately impede ~~needed~~ the resources required to assist in the spill response. For these reasons, the National and Field level should clarify and understand their financial roles based on applicable regulations before beginning the international assistance process. The management structures must have a financial section, with a financial officer at the field level.

- **2.1. Financing response measures and assistance**

***Specific comments from IOPC Funds***

If an affected country is unable to provide "out of pocket" funds for resources from international assistance or other costs, it is recommended that the management structure for cooperation and international assistance and other applicable agencies work with the responsible party to determine the responsible party's ability to cover international assistance costs. The assisting Party may require and accept a guarantee of payment from the Requesting Country. Such guarantee may be obtained from the P&I Club of the ship involved ~~{and or from the IOPC Funds if applicable}~~ or from the insurer of an offshore unit or a handling facility.

- **2.1.2. The responsible party may accept to pay directly the assisting Party requested by the Requesting Country**

***Specific comments from IOPC Funds***

~~"That~~ It may be the case, in particular when the insurer of the ship, ~~the P&I Club,~~ following the advice of their experts, ~~ITOPF,~~ will consider that the response resources requested, and actions planned and taken, are fully justified and reasonable, and will contribute efficiently to reduce the impact of the pollution."

***Specific comments from ITOPF***

That may be the case in particular when the insurer of the ship, the P&I Club, ~~following the advice of their expert,~~ ~~ITOPF,~~ will consider that the response resources requested and actions planned and taken are fully justified and reasonable and will contribute efficiently to reduce the impact of the pollution.

When according to the national preparedness and response system it is expected that the polluter will carry out response operation and provide the majority of response resources the polluter will support the cost of technically reasonable response measures undertaken at the request of the government or undertaken at its own initiative with the agreement of the relevant government authorities.

*"The agreement/authorisation from the authority does not mean that the measures are reasonable or that associated costs will be compensated for by the insurer or the IOPC Funds."*

• **2.2. Reimbursement of costs of response measures and assistance**

***Specific comments from IOPC Funds***

“The Polluter Pays” principle is a concept that is generally well-accepted throughout the world, but should be established in formal legislation or policy. Liability for the costs of a pollution incident will generally be set-out in law in relevant national legislation. In practice, national laws require that whoever caused the pollution shall pay for the response and remediation efforts in accordance with the polluter’s legal liability, under the conditions of the liability regime applicable.

~~As a consequence the polluter insurer shall reimburse all costs of response measures undertaken and assistance provided (by the government of affected country and or by assisting parties) within the limit and under the conditions of the liability regime applicable.~~

In the case of pollution from a ship countries ~~which are party to civil liability conventions and compensation funds conventions shall expect to obtain prompt and adequate reimbursement and compensation (refer to Part I Background)~~ may obtain prompt compensation under the international compensation regime to which they are party (1969 CLC / 1992 CLC, Supplementary Fund, Bunkers Convention).”

***Specific comments from ITOPF***

“Ditto – *It is important that measures taken are discussed with responsible party before they are implemented.*”

• **2.1. Calculation of costs of response measures and assistance**

***Specific comments from IOPC Funds***

“Under the international liability and compensation ~~conventions~~ regime, reimbursement for actions taken during spills from vessels may be available for reasonable response measures. As a consequence, it is recommended that careful consideration be given to the mobilisation of resources to ensure they are reasonable, if compensation is to be sought subsequently through one of ~~these~~ the relevant conventions. The IOPC Funds’ claims manual has further information on admissibility of claims and claims criteria (<http://www.iopcfunds.org/publications/>) (*Annex: III.1*).

Careful documentation of operational activities and their associated costs during a spill response will assist in resolving disputes over cost recovery and in the preparation of claims for compensation. In the event of loss or damage to the equipment, insurance claims ~~may~~ will need to be substantiated by supporting documentation.

It is important to ensure that careful documentation and explanation of operational activities is provided, and to designate and train personnel to carry out the task of keeping a log of spill-related actions and their associated costs.

[...]

Whoever has suffered a loss caused by oil pollution damage may submit a claim for compensation, but the ~~The~~ management structure for cooperation and international assistance will ~~may~~ decide to collate the claims and present them ~~claims~~ together with the necessary documentation to the responsible party, insurers and / or to the IOPC Funds, or other mechanisms liable for compensation.

***Specific comments from ITOPF***

“Agreed: *Maybe this log could be kept in the Sitrep (Annexe 9).*”

**Annex I . Lists, Directories, Inventories and Guidelines**

• **Annex I.1 Directories of Relevant International and Regional Institutions (Governmental, Non-Governmental)**

**Specific comments from IOPC Funds**

“5. International Oil Pollution Compensation Funds (IOPC Funds)  
Address: 4, Albert Embankment, London, SE1 7SR, United Kingdom  
Tel: + 44 (0)20 7592 7100  
Fax: + 44 (0)20 7592 7111  
Email: [info@iopcfunds.org](mailto:info@iopcfunds.org) (for general enquiries)  
[claims@iopcfunds.org](mailto:claims@iopcfunds.org) (for claims-related enquiries)  
Web: <http://www.iopcfunds.org/>”

**Specific comments from EC/EMSA**

“6. European Commission (EC)

Emergency Response Coordination Centre (ERCC)  
Address: 86, Rue de la Loi 1049 Brussels, BELGIUM  
Tel No : +32 2 29 21 112  
Fax.: +32-2 298 66 51  
E-mail : [echo-ercc@ec.europa.eu](mailto:echo-ercc@ec.europa.eu)  
Web: [http://ec.europa.eu/echo/what/civil-protection/emergency-response-coordination-centre-ercc\\_en](http://ec.europa.eu/echo/what/civil-protection/emergency-response-coordination-centre-ercc_en)

European Maritime Safety Agency (EMSA)  
Address: Praça Europa 4, Cais do Sodré1249-206 Lisboa, Portugal  
Mobile: +351 911 089 200  
Tel No: +351 211 209 415  
Fax No: +351 211 209 480  
E-mail: [MaritimeSupportServices@emsa.europa.eu](mailto:MaritimeSupportServices@emsa.europa.eu)  
Web: [www.emsa.europa.eu/](http://www.emsa.europa.eu/) “

• **Annex I.2. Lists of Contracting Parties’ Focal Points**

The following amendments reflect some changes in the list submitted in the draft Guide.

**1. Governmental Focal Point**

<b>European Union</b>	Marijana MANCE Policy Officer European Commission Directorate-General for Environment	European Commission B-1049 Brussels/Belgium Avenue de Baulieu 5, office BU 9 04/110 Tel.: +32 2 2982011 E.mail: <a href="mailto:marijana.mance@ec.europa.eu">marijana.mance@ec.europa.eu</a>
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**2. OPRC Focal Points**

<b>Greece</b>	Captain H.C.G. Markoulakis STYLIANOS Director of the Marine Environment Protection Directorate Ministry of Shipping, Maritime Affairs and the Aegean. Akti Vasileiadi	Akti Vasileiadi – Gate E1-E2 (inside port), 18510 Piraeus Tel: +30 213 137 1132 Cell: +30 694 433 1880 Telefax: +30 210 422 0440
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<b>European Union</b>	Mr. DE LA FUENTE GARRIGOSA Alfonso Acting Head of Unit, DG ECHO A.4 - Civil Protection Policy Unit European Commission	86, Rue de la Loi 1049 Brussels, BELGIUM Tel:+ 32 229-65741 E-mail: Alfonso.DELAFUENTE@ec.europa.eu
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### 3. Mutual Assistance Focal Points

<b>Greece</b>	Captain H.C.G. Markoulakis STYLIANOS Director of the Marine Environment Protection Directorate Ministry of Shipping, Maritime Affairs and the Aegean. Akti Vasileiadi	Akti Vasileiadi – Gate E1-E2 (inside port), 18510 Piraeus Tel: +30 213 137 1132 Cell: +30 694 433 1880 Telefax: +30 210 422 0440
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<b>Israel</b>	Captain Michael Solomon Senior Marine Surveyor / MRCC Manager Shipping and Ports Administration, Ministry of Shipping and Transport	15a Pal-Yam st., P.O. Box 811, P.O. Box 806, Haifa 31007 Tel: +972 4 863 2110 Cell: +972 50 62 12 923 Telefax:+972 4 863 35 20
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<b>European Union</b>	Emergency Response Co-ordination Centre (ERCC), DG ECHO - Humanitarian Aid and Civil Protection, European Commission/  European Maritime Safety Agency (EMSA) Maritime Support Services	86, Rue de la Loi 1049 Brussels, BELGIUM/ ERCC: <a href="tel:+3222921112">Phone:+ 32 2 292 1112</a> Fax:+ 32 2 298 6651  EMSA: Praça Europa, 4 Cais do Sodré 1249-206 LISBOA PORTUGAL Phone: + 351 211 209 415 Mobile:+ 351 911 089 200 Fax: + 351 211 209 480
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### 4. 24 hour Focal Points

<b>Israel</b>	MRCC Haifa Shipping and Ports Administration, Ministry of Transport and Road Safety	15 A Pal-Yam Str., P.O. Box 806, Haifa 31007 Tel:+972 4 863 21 45 / 8632072 / 8632073 / 8632074 / 8632075 Iridium: 0088162347554 Inmarsat: 00870772577926 Cell: Telefax:+972 4 863 21 17 Fax to mail: +972 3 6849867
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<b>European Union</b>	Emergency Response Co-ordination Centre (ERCC)/ European Commission/	86, Rue de la Loi 1049 Brussels, BELGIUM/ ERCC: Phone:+32 2 292 1112
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	European Maritime Safety Agency (EMSA) Maritime Support Services	Fax:+32 2 298 6651  EMSA: Praça Europa, 4 Cais do Sodré 1249-206 LISBOA PORTUGAL Phone: + 351 211 209 415 Mobile:+ 351 911 089 200 Fax: + 351 211 209 480
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- **Annex I.4 Mediterranean Principles and Guidelines on Cooperation and Mutual Assistance**

**Specific comments from Libya**

*“Add: When pollution exceed the national capabilities such assistance will be requested through the CENTRE for the parties who do not have any [regional] or sub regional agreement.”*

- **I.4.1. GUIDELINES FOR CO-OPERATION IN COMBATING MARINE OIL POLLUTION IN THE MEDITERRANEAN**

**1.**

**Specific comments from France**

*“Regarding reporting oil pollution of 50 cubic meters and above instead of 100 cubic meters.”*

**2.**

**Specific comments from France**

*“Why the paragraph related to the acquisition of equipment has been deleted.”*

- **I.4.2. PRINCIPLES AND GUIDELINES CONCERNING COOPERATION AND MUTUAL ASSISTANCE**

**Specific comments from Libya**

A. Principles and guidelines concerning the 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

*“8. .... They should also provide for free access of the expert to necessary communication facilities (telephone, telex, telefax, internet, radio when it is available) which he/she may need in his/her work.”*

E. 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

*“Point No.2 should be revised with the national authority before any decision.”*

**Annex II. EMERGENCY PROCEDURES**

- **Annex II.4. Standard Form For Request of Equipment and Products**

### **Specific comments from IOPC Funds**

*“We would like to suggest that you use the Lexicon adopted in the IMO Guidelines on international offers of assistance in its Appendix 5. Indeed, your Annex presents a list of equipment that seems inconsistent in its level of detail depending on the type of equipment concerned. The Lexicon provided in the IMO document is comprehensive and use commonly accepted terminology to describe the equipment.”*

### **Specific comments from IPIECA**

*“Consider replacing with the lexicon and sample requested/offered resource from the IMO Guidelines on International Offers of Assistance publication.”*

## **• Annex II.5. Standard Form for Offer of Assistance**

### **Specific comments from IOPC Funds**

*“The section on terms and financial conditions in Annex II.5 could also be improved. As designed, the form only provide a line for narrative text under each item which is likely to prove problematic if a significant amount of equipment and/or personnel is made available at different rates. We don’t really have a solution to offer at this stage but we wanted to highlight that point based on our experience with inadequate methods of recording financial information in the context of compensation payment.”*

## **ANNEX III. CLAIMS**

## **• ANNEX III.1 - Preparation of Claims**

### **Specific comments from IOPC Funds**

#### **• “1. Reasonableness**

It is important to note that under the international oil spill compensation ~~conventions~~ regime, the amount claimed should be reasonable. ...

#### **• 2. Preparation of Claims from for Oil Pollution damage** - Prevention and clean-up

For many oil spills, significant costs will be incurred in the initial emergency phase of a response as a result of deploying resources to prevent further spills, protect sensitive areas and to recover the oil. Consequently, it is important that an orderly system for logging and filing associated records and expenses incurred is established as quickly as possible after the response commences. Accurate records are vital since reliance on memory for subsequent claims compilation is unrealistic, particularly during a lengthy and fast-moving response.

#### **- Importance of record keeping**

A wide variety of organizations such as salvage companies, government agencies, waste contractors, and wildlife charities may be involved in a response. In addition to utilizing owned resources, each organization may spend large amounts of money to purchase or contract-in goods and services. The resulting trail of expenditure can include hire agreements, contracts, invoices, receipts, and many other individual documents. The reasonable costs of personnel tasked with keeping a record of the measures taken and the costs incurred, may qualify for compensation under the international regime.

#### **• 5. IOPC Funds Publication**

A Claims Information Pack, which includes a Claims Manual, example claim form, and various sector-specific guidelines for presenting claims, has been developed to assist claimants in a Member State following an oil spill incident. A set of publications are available to download from <http://www.iopcfunds.org/publications/>. Hard copies of the information pack, ~~containing all four documents within a lightweight folder,~~ are available on request.”