

**The Oil Spill Emergency Cooperation
in the Outfall of the Pearl River and
the Enforcement of OPRC1990 Convention in China**

Abstract: In this paper the characteristics of the Pearl River and the content of the Emergency Cooperation Plan in the waters are illustrated. It analyzes the importance of signing such a regional arrangement, the existing problems about fulfilling the ECP, and emphasizes that the plan should be detailed further, pay more attention to anti-oil pollution exercise and allied personnel training, each party should do more research on the high technology relating combating oil spill incidents. It also assess the enforcement of OPRC90 convention in China.

Key Words: oil spill, emergency cooperation, enforcement, OPRC90 convention, assessment.

Preface

The delta of the Pearl River is one of the most important economic areas in China. It includes; Guangdong province, Hong Kong and Macao. There are many vessels carrying dangerous goods, particularly oil sailing in the area, and at this marine crossroads, accidents have been happening frequently. China joined the OPRC1990 convention on March 30, 1998, which became effective to China three months later. The paper tries to introduce the status of oil spill emergency cooperation in the outfall of the Pearl River and the assessment of the enforcement of OPRC90 convention in China.

Part One: the Characteristics of the Outfall of the Pearl River

The delta of the Pearl River is the first area that implements the reform and opening-up policy. It has established the framework of socialism market economy regime. This area is regarded as the most efficient and integrated market economy area in China. Since this area abuts Hong Kong and Macao, it took advantages of the regional condition and built the extroverted economy system. It has become the most important window of external trade in China. Now, with the impetus of this zone, the general economic power of Guangdong province is the number one in China, exceeding Singapore, Hong Kong and Taiwan successively. On the basis of the prosperous economy and developed

communication system, the delta of Pearl River is going to be a transportation centre of passengers and cargoes among Asia and the Pacific.

There are three different law regimes existing in the area. Guangdong MSA and Shenzhen MSA carry out the law of People's Republic of China (PRC), Hong Kong MSA implements the law of Hong Kong Special Administration Area and Macao obeys the law of Macao Special Administration Area. However, the four MSAs are dominated by the PRC. Although Shenzhen is located in Guangdong province, Shenzhen MSA is parallel with Guangdong MSA in administrative status. Shenzhen MSA officiates administrative jurisdiction among the Shenzhen water areas. Guangdong MSA dominates all the water areas in Guangdong province except Shenzhen water areas. Meanwhile, the two MSAs are both ruled by the China MSA directly and carry out the law of PRC.

With the policy of "one country, two systems", Hong Kong and Macao both have the right of autonomy, including the independent right of legislation, administration, jurisdiction and final judgment. Hong Kong and Macao implement their Special Administration Area law regime respectively. The central government shouldn't interfere their management under the frame of Special Administration Area Fundamental Law.

Thinking much of the importance of environmental protection, the Chinese government has spent a lot of money to improve the abilities of marine oil spill preparedness and response.

There are two reasons which make the regional government pay much attention to the marine environmental protection. Firstly, the location of the Outfall of the Pearl River is very sensitive. There are flourishing ship economy and plentiful sensitive resources among this water area. In case a pollution accident occurs, some important international seaport, such as Shenzhen, Hong Kong and Macao, will be effected seriously. It is likely to damage the international credit standing of China. Secondly, the cities among the outfall of Pearl River are developed relatively in China. The finance of regional government is so abundant that it is able to protect the marine environment effectively.

Part Two: the Content of the Emergency Cooperation Plan (ECP) in the Outfall of the Pearl River

The ECP is constituted according to the oil spill emergency plans of the party members. The main purpose of the ECP is to set down the regional plan of oil spill preparedness, response and cooperation, which will be the gist of measurement and action for the four parties when a serious oil spill incident occurs.

The ECP is written according to the OPRC1990. All of the essential contents of the convention relating to implementation of regional cooperation are included basically in the plan. There are nine aspects of contents in ECP. It includes; the main purpose and general principle, the precinct, sensitive areas

and protective measurements, the structure of the organization and system of implement, the communication lists and frames of the administrators of the four parties, the list of oil spill preparedness materials, the procedures of how to start and finish a cooperative reaction, the assessment of expenditure and the duty of assisting a claim, the request of holding a news conference, the parties should communicate timely, do research and development together, perform allied exercises and train personnel, etc.

A secretariat is established to coordinate the works effectively, which is set up in Guangdong MSA. The institution is able to dispatch the personnel and material resources. The four parties should have regular meetings, once a year at least. On September 25, 2008, the Pearl River Delta Area Maritime Safety Forum 2008 was held at the behest of China's Ministry of Transport which had approved the Guangdong Maritime Safety Administration to coordinate with Hong Kong, Macau and Shenzhen maritime authorities to hold the event themed "Prevention, Response and Cooperation of Maritime Oil Spill". The programme included keynote speeches from honorable guests, signing of the ECP by the heads of Guangdong, Hong Kong, Macau and Shenzhen maritime authorities and a seminar to discuss safety management and emergency response for petroleum oil and chemical carrying vessels. On June 5, 2000, an allied exercise of Oil Spill Response was performed in the Outfall of the Pearl River. There were more than 1000 persons and 50 vessels and boats and 2 helicopters participating in the exercise, which had been the largest one in China.

Since the cooperation in the outfall of the Pearl River is actualized in China which is a single sovereignty, it is easier than the international cooperation to carry out and harmonize. However, Hong Kong and Macao are special administrations, the assistance personnel and materials should abide the law of border. In order to make sure the assistance personnel and materials pass through the border as soon as possible, the ECP requires every party keeps a good relationship with relative administrations and simplifies the customs procedures.

Although the plan is effective, there are some shortcomings that need to be improved. Firstly, the plan should be more detailed, especially relating to the means and procedures to assist reimbursement. We are searching for an efficient way to deal with the oil pollution damage and rescue compensation. We shall give due consideration to the three existing different legal regimes. In order to make the schemes of a responding action more clear and exercisable, the plan can be detailed further to make sure each party's rights, obligations, and responsibilities relating a cooperating action. Secondly, the plan should pay more attention to anti-oil pollution exercise and allied personnel training. Allied exercise can test the response and efficiency of each party and enable personnel of related organizations to have key functions in dealing with oil spills, individual and team knowledge, skills and capabilities examined. It will provide good opportunities for each party to be familiar with whole waters and

realize the real cooperation. Meanwhile, a cooperative mechanism of allied personnel training should be established as soon as possible. Thirdly, each party should do more research on the high technology relating combating oil spill incidents. Parties should strengthen the cooperation in the promotion and exchange of results of research and development programs. A Vessel Traffic Service internet should be established among parties to provide sufficient information service relating to the preparedness and response of marine oil spill incidents.

To summarize, it is only by increasing the cooperation between the different groups that we can improve the safety of shipping within our jurisdictions.

Part Three: the Assessment of the Enforcement of OPRC1990 Convention

As a Party of OPRC90 convention, China made efforts on legislation, building the preparedness and response system and international co-operation etc. At present, the ship-port-region-nation marine oil pollution emergency plans system has been established in China. A relatively integrated responding system to ship oil spill has been generally formed

1. In respect of legislation.

The Marine Environment Protection Law of the People's Republic of China and the Regulations of the People's Republic of China on the Prevention of Vessel-induced Sea Pollution both require to build response system for ship oil spill. The latter basically establishes our response system of oil pollution, by clearly regulates some liabilities, including providing oil pollution emergency plan, preparing facilities and equipments and reporting the accidents.

2. In respect of construction of preparedness ability.

According to the First Priority Project Plan of 21st Century Agenda in China, in 1996 the Ministry of Communications spent more than 50 million Yuan on building the Model Project of Prevention of Marine Oil Spill of Vessel in Northern sea area in Yantai. This project was supposed to track the information of the spilling oil of ship in the area, and to form the control and cleanup ability in middling scale. It can help us accumulate experiences on

pollution prevention and damage compensation. The project indicates that we have made progress rapidly on oil spill emergency preparedness.

3. In respect of the establishment of response system.

The Ministry of Communications and the National Environment Protection Bureau jointly issued the China Marine Vessel Oil Spill Emergency Plan. This is one of the most important jobs we have done to fulfill the OPRC90 convention. Meanwhile, The Ministry of Communications published the Port Emergency Planning Guidance. Since the system of four-level emergency plans of oil spill has been established, all the ships with Chinese nationality have a strictly inspected emergency plan on oil pollution. Generally speaking, we carry out the OPRC90 convention effectively on the aspect of providing the emergency plan.

4. In respect of the international cooperation.

In order to promote the regional cooperation on oil spill, Japan, Russia, South Korea and China subscribed the Environment Protection Action Plan in Northwest Pacific Ocean. According to the plan, the relevant emergency plan and memorandum are signed by the state parties. As the department in charge of marine prevention of vessel-induced pollution, the Marine Safety Administration of the People's Republic of China takes charge the implementing of the plan. In November 1998, in order to protect the environment of the Yellow Sea, the Cooperation Agreement of oil pollution prevention and reaction in Yellow Sea by China and South Korea was drafted, and then ratified by the central government.

The Oil Spill Response Technology Center of Yantai cooperates with the famous Singapore East-Asia Ltd. EARL to hold professional emergency knowledge training programs. This kind of training can remarkably improve capabilities of our personnel on emergency response.

Conclusion

In general, the subscription of the ECP as well as its effective enforcement

are remarkable achievements of the cooperation of Guangdong, Shenzhen, Hong Kong and Macao MSA. The plan follows the principle of coincident action when an oil spill incident occurs. It provides a framework for the four parties to make full use of the personnel and materials available in the whole region. In the future, each party shall make the procedures of preparedness, response and cooperation more detailed. We should explore more feasible means of regular allied exercise and personnel training with the premise of three different law regimes in a nation.

At the same time, in order to carry out the OPRC90 convention completely and build the brilliant image of China, there are a lot of works for us to do. Most importantly, we should develop the research of the pollution risk assessment and the preparedness ability evaluation seriously. So we can survey the real outcomes of our preparedness, response and co-operation system from the aspect of its essential validity .Meanwhile, we can promote our ability of carrying out the OPRC90 convention continuously.