

# Steps and Challenges in the Implementation of the OPRC Convention and the OPRC-HNS Protocol

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## Introduction

The International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC Convention) was developed by the International Maritime Organization (IMO) and adopted in 1990 to define appropriate levels of planning and preparation for marine oil pollution. To broaden the scope of the OPRC Convention, the Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances (OPRC-HNS Protocol) was adopted in 2000.

Implementing the commitments on behalf of States acceding to these agreements can appear daunting, particularly in developing countries. This paper discusses six steps necessary to ratify and implement the OPRC Convention and the OPRC-HNS Protocol and some of the challenges in the process.

## Main Results

### *The OPRC Convention and OPRC-HNS Protocol*

Experience has shown that the most effective response to major oil spills stems from coordinated and cooperative preparedness involving a wide range of organizations. This typically includes national and local government, the private sector, as represented by the oil, ports and shipping industries, and international organizations. Recognizing the importance and challenges of coordination and planning, the IMO developed the OPRC Convention. Parties to the OPRC Convention are required to establish measures for dealing with oil pollution incidents, either nationally or in co-operation with other countries. Provision is made for the reimbursement of assistance provided. The Convention also sets out requirements relating to spill reporting and oil pollution emergency planning by those entities with oil spill risks. At the time of the OPRC Convention's development, it was recognized that it would be beneficial to expand its scope at a future date to apply to pollution incidents of hazardous substances other than oil. This came to fruition with the OPRC-HNS Protocol.

The ratification and implementation by IMO Member States of the OPRC Convention and OPRC-HNS Protocol provide a range of direct and indirect benefits. These include measures that lead to marine environmental protection through cost-effective and efficient oil and HNS pollution preparedness. Feedback to the IMO, however, indicated that some Member States, notably small island States and developing countries, were encountering challenges with the Convention and Protocol implementation process. A guide is now under development within IMO to promote understanding of the overall process. Furthermore, it assists in identifying existing publications and how support can be accessed and utilized.

### *Steps for Implementation*

A series of six steps are recommended for effective and robust implementation of the Convention and the Protocol. The draft guide addresses each step, providing an explanation of key features. It also highlights the challenges that are commonly encountered and provides advice on how typical challenges may be addressed. The six steps are:

1. Establish the legislative basis and necessary funding to implement the Convention and the Protocol that includes the IMO ship-source marine pollution compensation Conventions.
2. Create a national organizational structure that embraces appropriate government agencies and private sector participants.
3. Define the roles and responsibilities of each agency or entity involved in the National Plan.

4. Populate the National Plan, develop the response capacity, and assess the level of preparedness.
5. Foster regional and international relationships and agreements for mutual support and cooperation.
6. Develop and maintain a regular training and exercising program at local, national and regional levels.

Suggested ways forward within each of these six topics are described in the following.

**1. Recommended steps for establishing a sound legislative basis for implementing the OPRC Convention and OPRC-HNS Protocol entail:**

- establish the government authority for spill preparedness and response and task with developing draft laws and regulations to address the six conditions for implementation;
- identify legal counsel to work with the drafting authority;
- define in law concepts of polluter pays principle and requirements for contingency planning;
- establish requirements for notification and reporting of spill incidents or imminent threat of release; and
- establish regulatory language for funding mechanisms, enforcement, and sustained response capacity.

**2. Steps for undertaking spill response preparedness and planning coordination within a country include:**

- identify government and industry entities with established responsibilities within emergency spill response;
- formalize participating and contributing members of a national pollution preparedness and response forum (through legislation or intragovernmental agreements); and
- consider contributions or membership to the national forum from other private interests, non-governmental organisations (NGOs), and stakeholders.

**3. Steps for undertaking clear definition of roles and responsibilities in context of spill emergency preparedness include:**

- define the specific government entity (agency/staff) assigned as the competent national authority for spill response preparedness;
- if, and as needed, identify the operational response lead agency(ies) for spills within the marine environment and, if other, to shorelines;
- establish clear spill emergency response management organization such as the incident management system or one adopted for national emergencies; and
- identify agency leads assigned to key functions within the spill emergency management structure.

**4. Steps for developing capacity in country include:**

- identify key topics and areas for needed for capacity building within membership of the national pollution preparedness and response forum;
- develop a step-wise approach to deliver training and obtain experience and expertise;
- enlist international, national, and/or industry assistance and expertise to conduct training workshops (e.g., IMO, regional initiatives such as the Global Initiative, Regional Seas);
- consider national funding mechanisms with contributions from international partnerships and initiatives; and
- ensure personnel that are developing capacity remain engaged in the national spill preparedness effort or forum.

**5. Steps for undertaking the review and assessment of the status of national preparedness include:**

- identify qualified personnel to conduct assessment (in country and/or supplemented with international expertise);
- compile and review information available (plans, regulations);

- conduct interviews with key response authorities;
  - inspect and assess spill response equipment and logistical support assets;
  - complete review and identify gaps using international guides (e.g., the ARPEL Manual and RETOS tool); and
  - prioritize steps to address gaps and identify personnel/groups responsible, resources needed, and timelines.
- 6. Recommended steps for development of a national contingency plan include:**
- select a table of contents for a combined oil and HNS contingency plan or for separate plans, and list appendices to plan(s) (see examples in ARPEL, IMO, and neighbouring/regional countries);
  - identify the threats related to HNS and oil at the national level (locations, products and volumes handled) as well as records of spills;
  - conduct at a minimum a qualitative risk assessment, including prevention and minimization measures, to identify potential impacts and priority areas through use of technically sound trajectory modelling for key spill scenarios;
  - establish an inventory of response resources (nationally, regionally and internationally; or Tier 1, 2 and 3), including equipment, manpower, and technical expertise appropriate to the spill hazards and ranges of environmental operating conditions;
  - prepare a draft plan using information gathered from risk assessment and assessment of preparedness through National Planning Committee efforts;
  - utilize flow-diagrams for required notifications, callout procedures, and decision diagrams; and
  - minimize text to the extent realistic and provide linkages to external supporting documents and tools.
- 7. Recommended steps for developing national participation in regional and international preparedness programs include:**
- enact outreach and liaison with neighbouring countries and counterparts on spill emergency preparedness and planning;
  - nominate participating expertise (likely the Competent National Authority) to participate in bi-lateral and regional preparedness initiatives (i.e., Regional Seas); and
  - develop procedures and protocols, including spill notification and reporting, to obtain and provide mutual assistance for spill emergency response and for managing International Offers of Assistance.
- 8. Steps for establishing and maintaining effective spill emergencies training and exercise programs include:**
- undertake national training and exercise program for capacity building;
  - establish criteria for minimum training requirements applicable to initial oil spill and HNS responders and incident management team personnel;
  - enlist international, regional, and industry expertise for delivering model OPRC and complementary training courses;
  - define minimum requirements for spill response exercises to entail notifications, table-tops, and deployments relevant to each tier; and
  - establish mechanisms to verify training and exercises meet compliance.

## Conclusions

The OPRC Convention and the OPRC-HNS Protocol provide significant benefits through the establishment of an effective preparedness and response framework within a country, supported through co-operative networks at the regional and international levels. The barriers to implementation of suitable frameworks can be overcome with a co-ordinated approach within a national administration and integrating relevant interested parties. There are well-established approaches and support mechanisms that can facilitate implementation. The guidance currently under development

within IMO aims to clearly summarise the steps towards implementation and provide direction to existing information sources. It is hoped that the guide will be finalized during 2019.