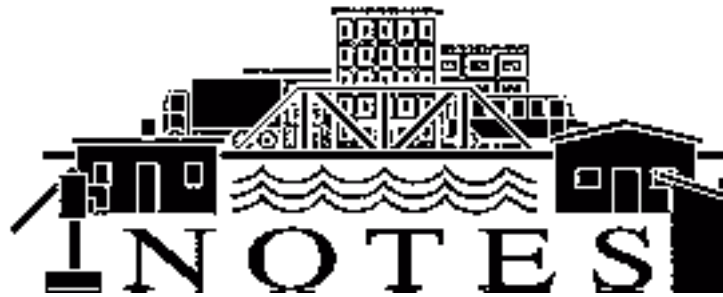


# INFRASTRUCTURE



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## STRENGTHENING MARINE POLLUTION CONTROL THE INTERNATIONAL MOVE TOWARDS STATUTORY REQUIREMENTS

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*Over the past 25 years many conventions have come into existence aimed at containing adverse environmental impacts caused by vessel operations. Their effectiveness has been limited due to widespread lack of compliance. Growing international concern about environmentally sustainable development has now induced the maritime community to recast the provisions for pollution control and make them mandatory and internationally enforceable.*

This note has two objectives: (1) to describe the nature and scope of new and mandatory international legislation that will govern vessel operations and response arrangements for maritime accidents; and (2) to provide the reader with guidance about where to look for more detailed information when dealing with marine pollution control and accident response matters.

### GENERAL

Despite numerous international conventions aimed at improving safety of vessel operations and containing transport-related marine pollution, the record has deteriorated. Ship casualties have been on the rise, and the incidence of vessel generated oil spills has not abated. In light of the apparent ineffectiveness of the international conventions, the United States was the first nation to adopt stringent laws and regulations-the Oil Pollution Act of 1990 (OPA) and the Comprehensive Environmental Response, Compensation, and Liability Act of 1994 (CERCLA). These acts provide for severe penalties for vessel operators that have become a source of marine pollution. To ensure that sufficient funds are

available to undo environmental damage caused by oil spills, tankers operating in the North American market have to carry Certificates of Financial Responsibility (COFRS) acceptable to the U.S. authorities. Spearheaded by the European Union's maritime nations, regional Port State Control organizations were created to overcome the inherent weaknesses of the existing international conventions. But their initiatives were not conducive to creating a universally binding and effective control system.

## **THE NEW INTERNATIONAL LAW**

Under growing international pressure from environmentalist and other special interest groups, the International Maritime Organization (IMO) has taken steps to arrange for control regimes to enforce new statutes worldwide. The new regime entails two principal elements:

- the International Safety Management Code (ISM), for the safe operation of ships and for pollution prevention, and
- the International Treaty on Oil Pollution Preparedness, Response, and Co-operation (OPRC).

Under the ISM Code all passenger ships, oil tankers, chemical carriers, gas tankers, bulk carriers, and high speed cargo craft of 500 gross registered tons (gt) and above will have to be certified by July 1, 1998. For other cargo ships and mobile offshore drilling units of 500 gt and above, enforcement will take effect on July 1, 2002. A major attraction of the ISM Code is the provision, for the first time, of a universal standard of safety and environment protection that is subject to formal audits. Only qualified auditors can issue certificates in accordance with internationally agreed criteria. The Code will make all ship operators, whether at sea or on shore, directly accountable for their business conduct. The Code will affect the future way ship managers approach shipboard and shoreside organizational procedures and management practices, and impose onerous responsibilities with regard to the organization of an approved Safety Management System.

A safety and environmental protection policy must be formulated, and specific procedures in writing have to be available on board each ship. Violation and accident reporting procedures have to be established, international auditing and management review arrangements must be developed. Full identification details of the person responsible for ship operations must be communicated to the Flag State. The principal areas in which the ISM Code sets out to achieve better control standards are defined as follows:

- operation ships and transporting cargo safely and efficiently;
- conserving and protecting the environment;
- avoiding injuries to personnel and loss of life;
- complying with statutory and classifications rules and requirements;
- applying recognized industry standards, as and when appropriate;
- continuous development of skills and systems related to safe operation and pollution prevention;
- and
- preparation of effective emergency response plans.

Two existing quality assurance norms are built into the Code: (i) the International Standards Organization (ISO) 9000 norm series-Model for Quality Assurance in Production and Installation and (ii) IMO Resolution A.680 (17)-Guidelines on Management for the Safe Operation of Ships and for Pollution Prevention. This move appears logical as ISO 9002, specially devised for the service sector, has gradually become a common quality certification instrument in the international ocean transport industry. Furthermore, criteria for certification agencies and their procedures under the ISO rules are already in place on a worldwide scale.

The OPRC Treaty was adopted in November 1990 by conference convened by the IMO. To enter into force the Treaty had to be accepted by 15 states, which was achieved when Mexico's instrument of accession was deposited with IMO's Secretary General on May 13 1994. The provisions under the Treaty will become effective in May 1995. The Treaty recognizes that in the event of a pollution incident prompt and effective action is essential. The absence of oil pollution emergency arrangements on ships and offshore installations, and at ports and oil-handling facilities, together with national and regional contingency plans has been a key reason for the disastrous outcome of pollution incidents. At the core of the Treaty are provisions to develop and maintain effective capabilities to deal with oil pollution emergencies. The main features of the Treaty include:

- **International Co-operation and Mutual Assistance.** All countries agree to co-operate and render assistance to third parties, in particular to developing nations.
  - **Pollution reporting.** All countries agree to ensure that ships, offshore units, aircraft, seaports, and handling facilities report oil pollution incidents to the nearest coastal state or competent authority, and advise neighboring states at risk.
  - **Oil Pollution Emergency Plans.** Such plans become mandatory for oil tankers of 150 gt and above and other ships of 400 gt and above; any fixed or floating offshore installation or structures engaged in gas or oil exploration, exploitation, production activities or loading and unloading of oil; any seaport and oil-handling facility that present a risk of an oil pollution accident.
  - **National and Regional Preparedness.** The Treaty imposes an obligation on all countries to establish a national system for responding promptly and effectively to oil pollution accidents. As a minimum, this includes the creation of a national contingency plan, designated national authorities and operational focal points responsible of oil pollution preparedness and response. Each country, either individually or through co-operation with other countries and, as appropriate, with the oil and ocean transport industries, port authorities, and other relevant entities will have to establish:
    - minimum levels of prepositioned oil spill response equipment, proportionate to the risk involved and programs for its use;
1. programs of exercise for oil pollution response organizations and training of relevant personnel;
  2. detailed plans and communication capabilities for responding to oil pollution incidents; and
  3. mechanisms or arrangements for coordinating response to oil pollution incidence with the capabilities to quickly mobilize the necessary resources.

## **ASSISTING COUNTRIES TO ADAPT TO THE NEW POLLUTION CONTROL REGIME**

In many developing countries such capabilities do not exist. Therefore much assistance will be needed to bring these countries to a point where they can comply with the new mandatory international requirements. The IMO through its Marine Environment Protection Committee (MEPC) will support these efforts through arranging regular international symposia on subjects such as technological advances in oil pollution response techniques and equipment, and through exchange of results of research and development programs in oil pollution preparedness and response. For the World Bank it will be important to keep abreast of these developments and to assist its borrowing member countries in taking measures which are required to comply with the mandates under the ISM Code and the OPRC Treaty. This will compliment the existing Bank policy not to finance projects that contravene any international environmental agreement to which the member country concerned is a part of (for example, IMO-MARPOL Convention). Such assistance might involve:

- the preparation of oil pollution emergency plans;
- establishment of appropriate institutions and procedures for oil pollution preparedness and response;
- training of cadres and personnel who are assigned to duties and functions related to combating marine pollution; and
- financial support to enable the purchase of state-of-the-art pollution control equipment and construction of ancillary facilities.

### ***TO LEARN MORE***

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### **3. International Quality Assurance Norms related to Maritime Transport:**

ISO 9000: Quality management and quality assurance standards-Generic Guidelines

ISO 9002: Quality management and quality assurance standards-Guidelines for Services

ISO 10000 series: Guidelines for quality auditing systems (ISO standards can be ordered from: American Standards Institute; Attention: Customer Service; 11 West 42nd Street: New York, N.Y. 10036; tel: 212-642-4900)

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## **5. Oil Pollution Emergency Plans and Response Arrangements:**

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## **6. Guidelines:**

1994. *Comprehensive Manual on Port Reception Facilities*. London: International Maritime Organization.

1991. *Guidelines for Environmental Planning and Management in Ports and Coastal Area Development*. Tokyo: The International Association of Ports and Harbours.

1992. *Environmental Guidelines for Restructure Projects-Ports and Harbours*. Tokyo: Japan International Cooperation Agency.

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