

PAJ OIL SPILL SYMPOSIUM 2006

The role of the IMO in developing national and regional systems for preparation and response

by

Jean-Claude Sainlos
Director, Marine Environment Division
International Maritime Organization

Mr. Kazuo Suzuki, Chairman of the Transportation Committee of PAJ;

Mr. Keichi Hakozaki, Director, Petroleum Refining and Reserve Division

Ladies and gentlemen,

Good morning!

Let me begin by thanking the Petroleum Association of Japan, the Organizer of the 2006 Oil Spill Symposium, for its kind hospitality and for inviting me here to speak about the work of the International Maritime Organization regarding the protection of the marine environment from shipping activities. I would also like to convey to you the best wishes of Mr. Efthimios Mitropoulos, Secretary-General of IMO.

The theme of the Symposium is “changing strategies in regional oil spill responses”.

The International Maritime Organization is the UN system’s regulatory agency for the maritime sector and its global mandate is to promote safer shipping and cleaner oceans. It follows that mandate by adopting international conventions and regulations, which are then implemented and enforced by governments in the exercise of flag, port and coastal State jurisdiction.

Shipping is the most efficient and economical mode of transport, especially for bulk cargo, and it moves over 90% of international trade. Over the next 20 years, shipping is expected to triple. Shipping, therefore, is an important and inseparable component in the pursuit of economic development.

Alongside the growth of shipping, marine pollution from ships is also a growing concern. Most of the pollution of the world’s oceans comes from land-based sources and tanker accidents contribute a comparatively small percentage of the total amount of oil entering the sea in a year, but the consequences of a major accident can be disastrous to the immediate area. An accident

involving an oil tanker in narrow and confined channels could affect the marine and coastal ecosystem and also interrupt the flow of trade, thereby having a devastating impact on the economy of the area, especially in the case of a small island developing State. The accidents involving the **Torrey Canyon** (1969), the **Amoco Cadiz** (1978), the **Exxon Valdez** (1989), the **Erika** (1999) and, more recently, the **Prestige** (2002) are prime examples. Constant efforts are therefore needed to prevent such pollution and to prepare to respond to it should it occur.

According to Lloyd's Register World Casualty Statistics, the loss of ships continues to decline and major studies on oil spills from ships show a similar decline. IMO's contributions to these obvious improvements has been central to our efforts in promoting safe shipping and the protection of the marine environment. It is through vigorous promotional activities, including technical co-operation projects, that most of the 40 international conventions and protocols adopted by IMO are in force. The most important ones have more than 120 States Parties, representing over 93% of the total tonnage of the world's merchant fleet. In addition, more than 800 codes, guidelines and recommendations have been produced through IMO.

IMO, in particular through its Marine Environment Protection Committee, is engaged in a constant effort to establish and refine the international regulatory regime that is designed to prevent maritime casualties from happening in the first place, and to mitigate the negative effects of those that do occur. There is no doubt that **Erika** and **Prestige** placed certain aspects of that regime under an intense spotlight and, as a result, IMO had to act swiftly and decisively to make the adjustments that its members felt were necessary.

But it is important to recognise also that the comprehensive array of existing and planned IMO measures which have been adopted by IMO over the years, including amendments formulated in direct response to these two incidents, has nevertheless created a climate in which the overall incidence of shipping casualties, of lives lost at sea and of maritime pollution from ships, continues to fall.

Those IMO measures and responses in which the influence of the major accidents can be most clearly seen fall broadly into four categories. First, there are those preventive measures which relate directly to the design, construction, equipment and operation of the ships themselves. Then there are those that address the need to protect specific sensitive sea areas. A third group

deals with matters of response and compensation and a fourth with the implementation of these and indeed all IMO measures.

Prevention of pollution from ships

Those which have attracted most attention are the first group, and in particular the moves to accelerate the timetable for the phasing out of single-hull tankers like **Erika** and **Prestige**. The concept of a phase-out for single-hull tankers was already long established. In 1992, MARPOL was amended to make it mandatory for tankers of 5,000 dwt and more delivered on or after 6 July 1993 to be fitted with double hulls, or an alternative design approved by IMO.

The requirement for new tankers to have double hulls was then extended to existing ships under a programme that began in 1995. A regulation in MARPOL required all tankers to be converted or taken out of service when they reached a certain age. This measure was being phased in over a number of years because of shipyard capacity and to limit disruption to world trade and industry.

Following the **Erika** incident, in December 1999, IMO Member States discussed proposals for accelerating the phase-out of single-hull tankers. As a result, in April 2001, IMO adopted a revised phase-out schedule for single-hull tankers, which entered into force on 1 September 2003. The new, revised, MARPOL regulation set out a much stricter timetable for the phasing-out of single-hull tankers.

Then, in December 2003, following the **Prestige** incident, MARPOL was once again revised, accelerating the phase-out schedule still further. These latest amendments will enter into force in just a few days time, on 5 April 2005. At the same time, a new regulation on the prevention of oil pollution from oil tankers when carrying heavy grade oil (HGO) bans the carriage of HGO in single-hull tankers of 5,000 tons dwt and above after 5 April 2005 and in single-hull oil tankers of 600 tons dwt and above but less than 5,000 tons dwt, not later than the anniversary of their delivery date in 2008.

Under the revised regulation 13G of MARPOL Annex I, the final phasing-out date for Category 1 tankers (pre-MARPOL tankers) is brought forward to 2005, from 2007. The final

phasing-out date for category 2 and 3 tankers (MARPOL tankers and smaller tankers) is brought forward to 2010, from 2015.

Hand-in-hand with the phase-out programme for single-hull tankers has been the development of a Condition Assessment Scheme (CAS) for oil tankers. This was adopted in 2001 following the **Erika** sinking and, although it does not specify structural standards in excess of the provisions of other IMO Conventions, Codes and Recommendations, its requirements stipulate more stringent and transparent verification of the reported structural condition of the ship and that documentary and survey procedures have been properly carried out and completed. Compliance with the CAS is assessed during the Enhanced Survey Programme of Inspections, concurrent with intermediate or renewal surveys, and its application has been further extended in response to the **Prestige** incident.

Places of refuge, PSSA

Turning to those matters addressing the protection of sensitive sea areas, the issues surrounding the need for places of refuge for ships in distress was among the items highlighted in response to the **Erika** incident. It led to the adoption, in November 2003, of IMO guidelines on the subject, intended for use when a ship is in need of assistance but the safety of life is not involved. An associated Assembly Resolution recommends that all coastal States should establish a maritime assistance service (MAS) to provide a central point of contact and organization in such cases.

The purpose of these guidelines is to provide a common framework to assist coastal States to determine places of refuge for ships in need of assistance so as to respond effectively to requests for such places of refuge, whilst keeping the balance between the prerogative of a ship in need of assistance to seek a place of refuge and the prerogative of a coastal State to protect its coastline.

The objective of the guidelines on maritime assistance services is to recommend coastal States to establish such services for the following purposes:

- 1 receiving the reports required by the IMO instrument in the event of incidents involving ships;
- 2 monitoring the ship's situation;
- 3 serving as the point of contact between the master and the coastal State; and
- 4 serving as the point of contact between those involved in a marine salvage operation and the coastal State, if the coastal State decides that it should monitor all phases of the operation.

With a view to providing enough protection for those sea areas that are particularly sensitive and which may be affected by shipping activities, IMO has designated eleven Particularly Sensitive Sea Areas, or PSSAs including the Western European Waters for which IMO has endorsed the establishment of a mandatory ship-reporting system as an associated protective measure that entered into force on 1 July 2005.

Pollution Preparedness, response and co-operation

With the adoption in 1990 of the OPRC Convention following the grounding of the **Exxon Valdez**, pollution preparedness and response became a regular agenda item for the Marine Environment Protection Committee. The OPRC Convention was adopted in 1990 and came into force on 13 May 1995. The primary objectives of the Convention are to facilitate international co-operation and mutual assistance in preparing for and responding to a major oil pollution incident and to encourage States to develop and maintain an adequate capacity to deal with an oil pollution emergency.

In March 2000, a Diplomatic Conference adopted a Protocol to the OPRC Convention. The OPRC-HNS Protocol follows the principles of the OPRC Convention and established a mechanism that will provide a framework for international co-operation in incidents involving hazardous and noxious substances.

Although the OPRC Convention and the OPRC-HNS Protocol could be described as “declaratory” rather than “regulatory”, the Convention and its Protocol do in fact create obligations on States that become Parties to take specific actions related, in particular, to the requirements for ships, offshore units and sea ports to have pollution emergency plans and reporting procedures.

Parties are requested to establish a national system for responding promptly and effectively to pollution incidents. Such a system shall have, as a basic minimum, a national contingency plan, designated national authorities and operational focal points responsible for pollution preparedness and response, reporting and handling requests for assistance.

Each party, within its capabilities either individually or through bilateral or multilateral co-operation and in co-operation with the shipping industries and industries dealing with oil or HNS, port authorities and other relevant entities shall establish:

- a minimum level of pre-positioned spill response equipment
- a programme of training and exercises for relevant personnel and organizations
- detailed plans and communication capabilities; and
- a mechanism or arrangement for co-ordinating response.

Since the adoption of the OPRC Convention, IMO has been providing a forum where matters pertaining to the implementation of the OPRC and response to spills of oil and hazardous and noxious substances (HNS) are dealt with.

Recently in 2002 the Marine Environment Protection Committee decided to change the OPRC Working Group into a Technical Group, meeting prior to the Committee as a subsidiary body of the Committee. Over the last 13 years, that Group has developed guidelines, manuals, guidance documents and model courses. All this material is a tremendous help when it comes to building up a national or regional system and training personnel.

The Technical Group offers the opportunity for sharing experiences among a network of partners – Member States, Regional Agreements and industry (the oil industry, chemical industry and shipping industry). It also plays an important role in helping countries, in particular developing countries, in understanding and implementing the OPRC Convention and its Protocol. Currently the Technical Group, according to an agreed timeframe, is following a workplan for the early implementation of the OPRC-HNS Protocol.

The OPRC Convention and the OPRC-HNS Protocol encourage the holding of regular international symposia and research and development fora.

Although the safety standards of ships continue to improve and accident rates are falling, accidents such as those involving ships like the **Nakhodka** in Japan, and the **Baltic Carrier** in the Baltic Sea, as well as the **Erika** and **Prestige**, confirmed the urgent need for further development and dissemination of techniques to enable coastal States to respond rapidly and effectively to spills of high density oils. In 2002 IMO organized the 3rd R&D Forum on High Density Oil Spill Response in Brest, France. In addition to technological development, the Forum also focused on the operational aspects of combating pollution by high-density oil, such as training and the effective use of equipment.

IMO, using the material developed by the OPRC Working Group and the OPRC-OPRC/HNS Technical Group, provides assistance to developing countries through its technical co-operation programme, and in co-operation with the industry, to develop their national capacity. The Organization is also very much involved in the development of regional systems.

For many years IMO has actively co-operated with other organizations, particularly with UNEP, in encouraging and assisting in the development of regional arrangements for combating marine pollution in case of emergency. In several regions the regional arrangement is reinforced by the adoption of regional and sub-regional contingency plans and by the establishment of regional centres. In October 2002, IMO jointly with UNEP organized a forum on regional arrangements for co-operation in combating marine pollution incidents. Another forum is planned for May this year.

Thanks mainly to IMO, an internationally agreed mechanism to provide compensation to the victims of such accidents is well established – indeed, the recently adopted (in May 2003) Supplementary Fund for Compensation for Oil Pollution Damage, which will provide compensation for each future incident in States Party to the supplementary fund in the order of approximately £597 million or in excess of \$1.1 billion, will celebrate its first Assembly at the IMO Headquarters next week following its entry into force on the 3rd March of last year. As an aside, I think we can all understand the need felt by those who suffer the effects of pollution - not to mention those who represent them politically - to do all they can to secure proper compensation and to take action against those on the wrong side of the law – but with this compensation mechanism in place, as well as safety and pollution prevention measures, there can surely be no need to criminalize those unfortunate enough to find themselves involved in incidents which they had no intention to cause.

It is, of course, always important to stress that none of these measures can be truly effective unless they are properly implemented and enforced. In this respect, IMO looks to its Member governments to carry out those things that they have agreed to in the debating forum of IMO. In this context, I should mention in particular the Code for the implementation of mandatory IMO instruments, as well as the voluntary audit scheme for IMO Member States, both of which are designed to help the IMO members fulfil their obligations properly. As an aside, it is also worth mentioning in this context the extensive Port State Control regime, which provides a “second tier “ of enforcement and which has been actively encouraged and assisted by IMO.

Ladies and gentlemen, one final but all-important point: all of the measures taken by IMO have been developed in the context of an international approach to standard-setting for shipping, and this is central to their success. The very specific structure of shipping, in which ships physically move between countries, between different regions of the world and, therefore, between different legal regimes, makes internationally agreed and universally applied standards an absolute pre-requisite. That is why all countries of the world with maritime interests have consented to be bound by international conventions on maritime safety and protection of the marine environment which they themselves develop, adopt and ratify.

It was for that very reason that IMO was founded, in order to provide a global forum for Governments to meet, discuss, exchange views and conclude the adoption of international

technical standards, which, once ratified, they must respect and implement through national legislation. The alternative would be a “patchwork” of different standards and regulations in different parts of the world, which would clearly be unworkable for an international industry in which the principal assets – the ships and their cargoes – must be able to move freely around the world in pursuit of their legitimate business.

Regrettable though it is, every occasion in which a ship becomes involved in a pollution incident or a major casualty must be set against the literally millions of trouble-free, clean and economically efficient ton-miles that shipping achieves every day, and all the consequent benefits that accrue from this activity.

This Symposium provides a tremendous opportunity to governments and industry representatives to exchange views and experiences on current issues and future perspectives. Partnership among governments, industry and international organizations is essential in developing and maintaining effective mechanisms for pollution preparedness and in organizing international co-operation and mutual assistance. I hope that this Symposium will contribute to ensuring that the prevention of and the preparedness to respond to pollution incidents remains a high priority for the decision makers in government as well as in the industry and that the necessary resources are dedicated to this goal.