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**IMPLEMENTATION OF THE OPRC CONVENTION AND THE OPRC-HNS PROTOCOL
AND RELEVANT CONFERENCE RESOLUTIONS**

**Maritime Emergency Response and Salvage Co-ordination Unit in the
ROPME Sea Area**

**Submitted by the Regional Organization for the Protection of the
Marine Environment (ROPME)/Marine Emergency Mutual Aid Centre (MEMAC)**

SUMMARY

<i>Executive summary:</i>	This document contains information about the establishment of the Maritime Emergency Response and Salvage Co-ordination Unit (MERCU) within the ROPME Sea Area
<i>Strategic direction:</i>	7.1
<i>High-level action:</i>	7.1.1
<i>Planned output:</i>	7.1.1.2
<i>Action to be taken:</i>	Paragraph 17
<i>Related document:</i>	MEPC 64/8/1

Introduction

1 The Maritime Emergency Response and Salvage Co-ordination Unit (MERCU) is considered the key project to enhance the level of preparedness and ensure a rapid response to maritime incidents in the ROPME Sea Area (RSA), based on a comprehensive study and risk assessment.

2 MERCU consists of equipped and manned Maritime Emergency Response Centres (MERCs) that are to be established in five strategic locations within the RSA in Kuwait, Bahrain, Fujairah (the United Arab Emirates), Bandar Abbas (the Islamic Republic of Iran) and the Sultanate of Oman. These centres will be equipped with Pollution Response Vessels (PRVs) for shallow and deep water areas and multi-purpose Emergency Towing Vessels (ETVs) to provide salvage services to ships in distress on a 24/7 basis. It is expected that these measures would significantly reduce the time to render assistance to ships and also to minimize the damage and save lives. These five centres will provide coverage in the most environmentally sensitive "hot spot areas" in the RSA.

Legal background

3 The United Nations Convention on the Law of the Sea (UNCLOS) 1982, sets out the rights and obligations of the flag State (amongst others articles 94, 211, 217), and of the coastal and port States (articles 21, 56, 211, 220, 228, 231) and includes the definition of legal rights and obligations within the territorial seas and the Exclusive Economic Zone (EEZ) (200-mile zone). Part XII "Protection and Preservation of the Marine Environment", article 192, of UNCLOS states that: States have the obligation to protect and preserve the marine environment.

4 This obligation is substantiated, inter alia, in article 194 "Measures to prevent, reduce and control pollution of the marine environment" as follows:

- "1 States shall take, individually or jointly as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source, using for this purpose the best practicable means at their disposal and in accordance with their capabilities, and they shall endeavour to harmonize their policies in this connection.
- .2 The measures taken pursuant to this Part shall deal with all sources of pollution of the marine environment. These measures shall include, inter alia, those designed to minimize to the fullest possible extent:
 - (b) Pollution from vessels, in particular measures for preventing accidents and dealing with emergencies, ensuring the safety of operations at sea, preventing intentional and unintentional discharges, and regulating the design, construction, equipment, operation and manning of vessels."

5 In article 197, UNCLOS explicitly addresses regional cooperation, as follows:

"States shall cooperate on a global basis and, as appropriate, on a regional basis, directly or through competent international organizations, in formulating and elaborating international rules, standards and recommended practices and procedures consistent with this Convention, for the protection and preservation of the marine environment, taking into account characteristic regional features."

6 With regard to the characteristic regional features, the Convention encourages in Part IX "Enclosed or Semi-enclosed Seas", article 122, the cooperation of States surrounding "a gulf, basin or sea [which is] connected to another sea or the ocean by a narrow outlet..." to:

"Cooperate with each other in the exercise of their rights and in the performance of their duties under this Convention. To this end they shall endeavour, directly or through an appropriate regional organization:

- (b) to coordinate the implementation of their rights and duties with respect to the protection and preservation of the marine environment"; and article 220 with the "Enforcement by coastal States" (i.e. coastal State to institute proceedings for pollution prevention, reduction and control within the territorial sea and EEZ).

7 With regard to the geographical obligation to protect and preserve the marine environment, article 211(5) states that:

"Coastal States, for the purpose of enforcement as provided for in section 6, may in respect of their Exclusive Economic Zones adopt laws and regulations for the prevention, reduction and control of pollution from vessels conforming to and giving effect to generally accepted international rules and standards established through the competent international organization (i.e. the IMO)".

8 In connection with the recommended regional approach, as emphasized in article 197, UNCLOS provides a legally sustainable basis for the implementation of the regional MERCU.

Rio Declaration

9 At the global level, the Rio Declaration pioneered two fundamental principles: the precautionary principle and the polluter-pays principle.

10 The precautionary principle is defined as follows:

"In order to protect the environment, the precautionary approach shall be widely applied by States according to their capabilities. Where there are threats of serious or irreversible damage, lack of full scientific certainty shall not be used as a reason for postponing cost-effective measures to prevent environmental degradation."

11 This globally accepted definition is important since it emphasizes that (scientific) uncertainty should not preclude preventative measures, and the reference to the use of cost-effective measures indicates that costs are to be considered. Consequently, and as embedded into the Risk Reduction Package, the development of MERCU has applied these criteria on the basis of the Master Plan's Risk Analysis and Cost-Benefit Assessment.

12 The definition of the polluter-pays principle is as follows:

"National authorities should endeavour to promote the internalization of environmental costs and the use of economic instruments, taking into account the approach that the polluter should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment."

13 Furthermore, chapter 17 of Agenda 21 calls on States to:

- .1 apply preventive, precautionary and anticipatory approaches so as to avoid degradation of the marine environment, as well as to reduce the risk of long-term or irreversible adverse effects upon it;
- .2 Ensure prior assessment of activities that may have significant adverse impacts upon the marine environment;
- .3 Integrate protection of the marine environment into relevant general environmental, social and economic development policies; and
- .4 Develop economic incentives, where appropriate, to apply clean technologies and other means consistent with the internalization of environmental costs, such as the polluter pays principle, so as to avoid degradation of the marine environment.

14 The organization and operation of MERCU are consistent with the intentions and objectives of United Nations environment policies, as expressed in its guiding documents, the Rio Declaration and Agenda 21. MERCU is affected by the diverse elements of the IMO's environment protection and safety regime, including, but not limited to, the:

- .1 SOLAS Convention and Protocols;
- .2 MARPOL Convention and Protocols;
- .3 OPRC Convention, OPRC-HNS Protocol;
- .4 Salvage Convention;
- .5 Intervention Convention and Protocol;
- .6 SAR Convention; and
- .7 CLC and FUND Conventions and Protocols, HNS Convention.

The MERCU system

15 MERCU applies the "polluter-pays" principle to co-finance the achievements of its targets by implementing a levy to the shipping industry, based on a cost-sharing arrangement. Thus, the merchant fleet is co-financing the risk reduction expenditures, taking into account the Member States' financial contributions to Safety and Environmental Protection Infrastructures and Services and the international compensation regime in case of pollution and emergencies. The shares are exclusively devoted to underwrite the costs of safety and environmental protection infrastructure and services in the RSA. The use of these funds is monitored by the RSA Member States via MEMAC.

Implementation date

16 The implementation date and the full system mechanism will be announced once complete.

Action requested of the Committee

17 The Committee is invited to note the information provided.
