

**ROPME**

# SEA KAPS



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## WORKSHOP ON DEVELOPMENT OF REGIONAL GUIDELINES FOR POLLUTION DAMAGE ASSESSMENT AND REGIONAL MANUAL FOR COMPENSATION CLAIMS



**BAHRAIN, 14-17 NOVEMBER 1999**

## INTRODUCTION

**I**n accordance with Decision CM10/20 of the Tenth Meeting of ROPME Council, a Workshop on Development of Regional Guidelines for Pollution Damage Assessment and Regional Manual for Compensation Claims was convened in Bahrain during 14-17 November 1999. The main objectives of the Workshop were to review different existing international systems and discuss possible methods to approach Damage Assessment and Compensation Claims appropriate for the Region.



**T**he Meeting was attended by the designated Member State representatives, IOPC Fund representative, NOAA Legal Representative, MEMAC Consultants as well as the Executive Secretary of ROPME, H. E. Dr. Abdul Rahman Al-Awadi, and Professional Staff of MEMAC.

## OPENING OF THE MEETING

**T**he Meeting was opened by H.E. Dr. Abdul Rahman Al-Awadi who welcomed the participants, the IOPC Fund and NOAA representatives and Experts. He informed the Meeting that the Draft of Development of Regional Guidelines for Pollution Damage Assessment had been executed by MEMAC in collaboration with World Maritime University and had been distributed to all Member States for review and comments. He explained that the aim of the Workshop is to familiarise



Member State representatives with this Project and review the experiences of other regions in this respect. He also emphasized the importance of laying out a Regional Compensation Manual.

**P**rof. Theodore Sampson, MEMAC Consultant, presented the result of the survey questionnaire which had been circulated earlier to the Member States.

**B**ased on the results of the questionnaire and MEMAC Symposium/Workshop in Sharjah 25 - 29 April 1998, a summary of recommended actions was also introduced to cover the Legislative Considerations, Institutional Considerations and Damage Assessment Particulars.

**M**r. Joe Nichols, Head of Claims of the IOPC Fund introduced the old Conventions (1969 Civil Liability Convention and 1971 Fund Convention) and the new Conventions (1992 Civil Liability Convention and 1992 Fund Convention). He emphasized the importance of Member States ratifying the 1992 CLC and 1992 Fund Convention and denouncing the 1969 CLC and 1971 Fund Convention. Also he emphasized the importance of active participation by Member States at the Funds Assembly and Executive Committees in order to present their views on Compensation issues and Fund Policy. Then the Claims Manual was circulated to all participants.

**M**r. Yousif Zainal, MEMAC Legal Adviser, presented the existing status of the primary legislation on the Civil Liability and Compensation in the Member States. He illustrated a wide range of penalties stipulated in these legislations against polluters. Further the lack of a unified penalty approach has been



identified. It has been noted that for damage assessment for compensation the laws of most Member States do not address these issues.

**M**s. Linda Burlington, Legal Counsel of NOAA Natural Resources, presented the Federal United States Natural Resource Damage Assessment Methods and Experience.

**M**r. Gary Mauseth, Marine Biologist, has already performed many Damage Assessments internationally. He identified technical aspects of assessing injuries to natural resources, conducting re-instatement/restoration of injured resources and evaluating the adequacy of such re-instatement/restoration within various regulatory frameworks. Basic issues that must be addressed prior to proceeding with the development of re-instatement/restoration guidelines were identified.

**T**he meeting discussed in detail the Draft and Development of Regional Guidelines for Pollution Damage Assessment and the Regional Manual for Compensation Claims.

**A**s a result of examining the existing legislative and institutional status within the Member States, and a review of the provisions of relevant International Conventions and drawing on the experiences of other Regions and agencies, it has been determined that the following areas need to be considered:





### Legislative Considerations

1. Without prejudice to other penalties, pollution penalties should be incorporated into the primary legislation of each Member State or revised as needed. The amount of penalty may be established by each State, but should equal or exceed an agreed-upon Region-wide minimum.
2. Priority should be given to obtaining the maximum benefit possible for the Region, available from all Member States being signatory to relevant international conventions. Of primary importance are the International Convention on Civil Liability for Oil Pollution Damage (1992) and the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (1992).
3. MEMAC should seek observer status with the 1992 Fund Assembly and Executive Committee and attend meetings to be able to present concerns of Member States.
4. Consideration should be given to becoming signatory to the HNS (Hazardous and Noxious Substances) Convention and addressing other sources of marine pollution not addressed by the CLC 1992 and Fund Convention 1992. This should be subsequently addressed by MEMAC (Pipelines, platforms, chemicals, non persistent oil, etc.)
5. Member States are to ensure that primary legislation is in place for enforcement of the International Conventions to which the Member State is





signatory, and to ensure that pollution penalty provisions would not be considered compensatory in nature and thereby conflict with awards being sought from the CLC 1992 and Fund convention 1992.

6. Member States are to ensure that oil pollution damage assessment and compensation provisions are incorporated in the national legislation.

7. Member States are to ensure that primary legislation establishes the specific responsibilities of appropriate government entities for implementation of oil pollution damage assessment, compensation and penalty procedures.

8. Member States are to ensure that primary legislation establishes a requirement for assessment of the extent of environmental damage that arises from pollution incidents, and that compensation received for environmental restoration or re-instatement actions are applied to such restoration/re-instatement efforts.

The Workshop discussed the need for model legislation to address obtaining legal authority for a uniform regional approach to the environmental penalties and damage assessment and compensation.

### **CLOSURE OF THE MEETING**

On behalf of H. E. Dr. Abdul Rahman Al-Awadi, Executive Secretary of ROPME, Captain A.M. Al-Janahi, MEMAC Director, thanked the Representatives of the Member States, Regional and International Organizations and the Consultants for their spirit of co-operation and valuable input which highly contributed to the successful conclusion of the Meeting.

## LIST OF PARTICIPANTS

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