

INTERNATIONAL MARITIME ORGANIZATION



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ASSEMBLY
24th session
Agenda item 11

A 24/Res.983
2 February 2006
Original: ENGLISH

Resolution A.983(24)

**Adopted on 1 December 2005
(Agenda item 11)**

**GUIDELINES FOR FACILITATION OF RESPONSE
TO A POLLUTION INCIDENT¹**

THE ASSEMBLY,

RECALLING Article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to guidelines concerning the prevention and control of marine pollution from ships,

RECALLING ALSO resolution A.625(15) concerning the arrangements for the entry and clearance of marine pollution response resources during emergency situations,

RECALLING FURTHER resolution A.869(20) concerning the facilitation of response to an oil pollution incident,

BEING AWARE that:

- (a) the International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC Convention), 1990, in particular Article 7; and
- (b) the Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances (OPRC-HNS Protocol), 2000, in particular Article 5,

stipulate, *inter alia*, that each Party to the OPRC Convention and each Party to the OPRC-HNS Protocol shall take the necessary legal or administrative measures to facilitate: the arrival and utilization in and departure from its territory of ships, aircraft and other modes of transport engaged in responding to a pollution incident or transporting personnel, cargoes, materials and

¹ For the purposes of this resolution, “pollution incident” is an incident where the pollution is caused by either oil or hazardous and noxious substances.

equipment required to deal with such an incident; and the expeditious movement into, through, and out of its territory of such personnel, cargoes, materials and equipment,

BEING AWARE ALSO that the Annex to the OPRC Convention and the Annex to the OPRC-HNS Protocol make provision for the reimbursement of costs of assistance,

RECOGNIZING that experience in responding to a major pollution incident requiring resources outside a country has clearly demonstrated the critical importance of administrative procedures to facilitate rapid provision of assistance and deployment of human resources and equipment,

HAVING CONSIDERED the decisions and recommendations made by the Marine Environment Protection Committee at its fifty-second session:

1. ADOPTS the Guidelines for Facilitation of Response to a Pollution Incident set out in the annex to the present resolution;
2. URGES Parties to the OPRC Convention and Parties to the OPRC-HNS Protocol to implement the Guidelines;
3. URGES ALSO all Member Governments to implement the Guidelines;
4. REQUESTS the Marine Environment Protection Committee to keep the Guidelines under review taking into account experience gained in their use;
5. REVOKES resolution A.869(20).

ANNEX

GUIDELINES FOR FACILITATION OF RESPONSE TO A POLLUTION INCIDENT²

1 If a State needs assistance in the event of either an oil pollution incident or a pollution incident by hazardous and noxious substances ("pollution incident"), it may ask for assistance from other States, indicating the scope and type of assistance required. A State to which a request for assistance is directed should promptly decide and inform the requesting State whether it is in a position to render the assistance required and indicate the scope and terms of the assistance that might be rendered.

2 The States concerned should co-operate to facilitate the prompt provision of assistance agreed to under paragraph 1 of these Guidelines, including, where appropriate, action to minimize the human health, safety and environmental consequences of a pollution incident, and to provide general assistance. Where States do not have bilateral or multilateral agreements which cover their arrangements for providing mutual assistance, the assistance should be rendered in accordance with the following provisions, unless the States agree otherwise.

3 The requesting State is responsible for overall supervision, control and co-ordination of the response to the pollution incident and of the assistance supplied. Personnel sent by the assisting State are normally in charge of the immediate operational supervision of its personnel and equipment. The personnel involved in the assisting operation should act in accordance with the relevant laws of the requesting State, which should endeavour to inform the assisting State of the relevant laws. The appropriate authorities of the requesting State shall co-operate with the authority designated by the assisting State.

4 The requesting State should, to the extent of its capabilities, provide local facilities and services for the proper and effective administration of the assistance, including decontamination activities, and should ensure the protection and return of personnel, equipment and materials brought into its territory by, or on behalf of, the assisting State for such a purpose.

5 The requesting State should use its best efforts to afford the assisting State and persons acting on its behalf the privileges, immunities or facilities necessary for the expeditious performance of their assistance function. The requesting State should not be required to apply this provision to its own nationals or permanent residents or to afford them the privileges and immunities referred to above.

6 A State should, at the request of the requesting or assisting State, endeavour to facilitate the transit through its territory of duly notified personnel, equipment and property involved in the assistance, to and from the requesting State.

7 The requesting State should facilitate the entry into, stay in and departure from its national territory of duly notified personnel and of equipment and property involved in the assistance.

² For the purpose of these Guidelines, "pollution incident" is an incident where the pollution is caused by either oil or hazardous and noxious substances.

8 With regard to actions resulting directly from the assistance provided, the requesting State should reimburse the assisting State for any loss of or damage to equipment or other property belonging to the assisting State. The requesting State should also reimburse the assisting State for expenses involved in such assistance, arising from the death of or injury to persons or the loss of or damage to property, incurred by personnel acting on behalf of the assisting State. This would not prevent the requesting State from seeking reimbursement as part of its claim under the appropriate compensation convention.

9 The States concerned should co-operate closely in order to facilitate the settlement of legal proceedings and claims which could result from assistance operations.

10 The affected or requesting State may at any time, after appropriate consultations and by notification, request the termination of assistance received or provided under the Guidelines. Once such a request has been made, the States concerned should consult one another with a view to making arrangements for the proper termination of the assistance.

11 As the assistance should not be delayed for administrative or other reasons, the necessary legislation should be adopted during the preparedness phase, i.e. before the incident which would require assistance. This is particularly relevant to paragraphs 4 to 8 above.

12 Similar facilitation should be implemented by States concerned when personnel or equipment are provided on behalf of a shipowner, a cargo owner or other relevant entities.

13 In some pollution incidents, a shipowner, cargo owner or other private entity may be best placed to call upon dedicated equipment, materials and trained operators to assist with the clean-up response. In order to benefit from the availability of such resources and to ensure their rapid deployment, the State requesting or being offered assistance should facilitate the entry, clearance and subsequent return of the persons, materials and equipment provided. Public authorities should, in so far as it is possible, waive customs and excise duties and other taxes on any equipment and materials provided on a temporary basis for the purpose of assisting in the response to a pollution incident.
