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**MEETING REPORT OF THE NOWPAP/4 MER/RAC EXPERT ADVISORY
GROUP MEETING IN TOKYO, JAPAN 5-9 NOVEMBER 2001**

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**International Maritime
Organization**

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EXPERT ADVISORY GROUP MEETING on
NOWPAP Regional Oil Spill Contingency Plan
and Memorandum of Understanding (MOU)
Tokyo, Japan, 5-9 November 2001

REPORT OF THE MEETING

**EXPERT ADVISORY GROUP MEETING ON NOWPAP REGIONAL OIL SPILL CONTINGENCY
PLAN AND MEMORANDUM OF UNDERSTANDING (MOU)**

(Tokyo, Japan, 5-9 November 2001)

REPORT OF THE MEETING

Background

1. The Northwest Pacific Action Plan (NOWPAP) Forum on Marine Pollution Preparedness and Response (NOWPAP/4) has the following objectives: (i) to exchange information on marine pollution preparedness and response; (ii) to develop a Regional Contingency Plan; and (iii) to develop a related Memorandum of Understanding (MOU). The NOWPAP Forum Members, with support from the United Nations Environment Programme (UNEP) and the International Maritime Organization (IMO) have, through the four Forum Meetings held to-date, as well as the informal meetings and intersessional work, worked towards achieve these objectives.

2. This work has lead to the development of a draft NOWPAP Regional Oil Spill Contingency Plan, hereafter referred to as "the draft Plan", and a related draft MOU which establishes the framework for regional co-operation in marine pollution preparedness and response among the NOWPAP member States. The Fourth Meeting of the NOWPAP Forum (Qingdao, People's Republic of China, 15-18 May 2001) agreed to organize an Expert Advisory Group Meeting, in line with paragraph 8 of the Terms of Reference for the NOWPAP MER/RAC Focal Points Meeting, to finalize the draft Plan and the draft MOU.

3. The Fourth Meeting considered the draft Plan (UNEP/IMO/NOWPAP/WG.15/14) prepared by IMO, taking into account the comments submitted to the meeting as well as the comments made at the NOWPAP Forum's Third Meeting (Sakhalinsk, Russian Federation, 13-15 July 1999), and agreed that a revised draft Plan should be prepared by IMO taking into account the comments made at the NOWPAP Forum's Fourth Meeting and subsequent comments made by the NOWPAP member States. The meeting also agreed that a technical discussion on the revised draft Plan would take place at the Expert Meeting, prior to the draft Plan being submitted to the next NOWPAP MER/RAC Focal Points Meeting for its final adoption.

4. The same meeting also agreed that IMO prepare a draft MOU taking into account the two existing draft MOU's submitted to the NOWPAP Forum's Third Meeting by the Republic of Korea and Japan (UNEP/IMO/NOWPAP/WG.10/inf.7 and UNEP/IMO/NOWPAP/WG.14/8, respectively), as well as the comments made at the NOWPAP Forum's Fourth Meeting, following the discussions on the type of document to be developed. The meeting also agreed that the Expert Advisory Group Meeting would discuss the draft MOU prepared by IMO.

5. The NOWPAP Forum's Fourth Meeting agreed on the following tentative timetable for finalizing the development of the Plan and MOU: 1) technical review of the draft Plan and draft MOU at the Expert Meeting in November 2001; 2) approval at the next NOWPAP MER/RAC Focal Points Meeting in May 2002); and 3) adoption of the Plan and MOU at the next NOWPAP Intergovernmental Meeting in late 2002 (UNEP/IMO/NOWPAP/WG.15/19).

6. The NOWPAP Forum's Fourth Meeting accepted the kind offer by Japan to host the Expert Advisory Group Meeting, which was partially supported by NOWPAP Trust Fund. A budget was assigned to the project for "Convening of an Expert Advisory Group Meeting", which was identified as one of proposed activities for the second phase of NOWPAP/4, by the Fourth Intergovernmental Meeting on NOWPAP held in April 1999 in Beijing, the People's Republic of China.

7. After the meeting, on 9 November 2001, a field trip on marine pollution preparedness and response facilities and equipments was carried out at the Yokosuka Maritime Disaster Prevention Center near Tokyo Bay at the invitation of the Ministry of Land, Infrastructure and Transportation (MLIT), Japan.

8. Technical and legal experts nominated by their National MER/RAC Focal Points from the NOWPAP States: Japan, People's Republic of China, Republic of Korea and Russian Federation (hereinafter referred to as Japan, China, Korea and Russia, respectively) participated in the meeting. The representatives of United Nations Environment Programme (UNEP), the International Maritime Organization (IMO), and Marine Environmental Emergency Preparedness and Response Regional Activity Center (MER/RAC) acted as a secretariat for the meeting. An IMO consultant also attended the meeting. A full list of participants is attached in **ANNEX I** to the present report.

9. This report is the record of the deliberations of the Expert Advisory Group Meeting on NOWPAP Regional Oil Spill Contingency Plan and Memorandum of Understanding (MOU).

Agenda item 1. Opening of the meeting

10. The meeting was opened at 10:00 a.m. in Tokyo on 5 November 2001 by Mr. Chang-Gu Kang, Director of MER/RAC.

11. Mr. Naoki Okabe, Director of Ocean Division, Policy Bureau, Ministry of Land, Infrastructure and Transport (MLIT), on behalf of the Government of Japan, welcomed the participants from UNEP, IMO, MER/RAC and the NOWPAP member States to Tokyo. He stressed that the Meeting is exclusively aimed at discussing the draft Plan and the related draft MOU which are both crucial documents for facilitating cooperative joint operation in case of an oil spill emergency situation in the NOWPAP region. He stated that productive discussions and mutual understandings between member States are necessary for the finalization of these important documents.

12. Mr. Ellik Adler, Regional Seas Coordinator, UNEP, on behalf of Mr. Klaus Topfer, Executive Director of UNEP and Mr. Jorge Illueca, Director of the Division of Environmental Conventions of UNEP, extended a warm welcome to all the participants and expressed his thanks to the Government of Japan for hosting the Expert meeting. He pointed out the great importance that UNEP has given to the implementation of NOWPAP, and emphasized his intention to further facilitate the implementation of NOWPAP, by establishing the Regional Coordinating Unit (RCU) and strengthening the Regional Activity Centers (RACs). He stressed that the Meeting is an important step towards establishing regional cooperative system on marine pollution preparedness and response in this region. He congratulated MER/RAC for the organization of the meeting and noted that MER/RAC is the most advanced RAC of NOWPAP.

13. Mr. Jean-Claude Sainlos, Senior Deputy Director, Marine Environment Division, IMO, on behalf of Mr. William O'Neil, Secretary General of IMO, welcomed the participants to this Expert Meeting and thanked the Government of Japan for its generous hospitality. In his remarks, he said that it was important that international co-operation and mutual assistance be organized in case of major accidents that require resources beyond the national capabilities. He further stated that the Meeting is an important step towards establishing a mechanism for preparedness, response and co-operation in the NOWPAP region. He expressed his hope for a successful and fruitful meeting.

14. Mr. Chris Harris, the IMO consultant, expressed his thanks to IMO, UNEP, MER/RAC and the Government of Japan for giving him the opportunity to contribute to the development of a NOWPAP regional oil spill contingency plan.

15. The representatives of China, Korea and Russia expressed their thanks to the Government of Japan for its kind hospitality and for hosting the meeting, and UNEP, IMO, MER/RAC and Mr. Chris Harris for their kind support, hoping that meeting will be fruitful and successful.

16. Mr. Chang-Gu Kang, Director of MER/RAC, expressed a special thank to the Government of Japan for its kind hospitality and the efficient organization of the meeting. He also thanked IMO, UNEP and Mr. Chris Harris for their significant contribution leading to the success of the meeting. He also expressed his thanks and appreciation to the participating delegations and wished all a successful meeting

.

Agenda item 2. Organization of the meeting

17. Following the proposals by the representatives of Korea and China, the meeting unanimously elected Mr. Toru Shigetomi, Deputy Director of Ocean Division, Policy Bureau, MLIT, Japan, as its Chairperson and Mr. Jung-il Han, a member of Korean delegation, as the Rapporteur.

18. The meeting agreed to apply *mutatis mutandis* the rules of procedure for the Forum in accordance with of the Terms of Reference of the NOWPAP MER/RAC Focal Points Meeting (ANNEX IV of UNEP/IMO/NOWPAP/WG.10/12).

19. The Director of MER/RAC, presented a provisional list of documents, as presented in **ANNEX II**, noting that two additional documents were submitted by Japan at the beginning of the meeting (UNEP/IMO/NOWPAP/WG.16/3/1/REV., UNEP/IMO/NOWPAP/WG.16/5/ANNEX1(a)).

Agenda item 3. Adoption of the agenda

20. The meeting considered the Provisional Agenda (UNEP/IMO/NOWPAP/WG.16/1), presented by the Director of MER/RAC. Japan proposed that the provisional agenda item 6 should be reconsidered so as to enable future discussions and further modifications of the draft Plan and draft MOU to be made. A slight change in the wording of the title of agenda item 6 was made reflecting the above-mentioned opinion, and then the meeting adopted the Agenda (**ANNEX III**).

Agenda item 4. Consideration of the draft NOWPAP Regional Oil Spill Contingency Plan

21. The Director of MER/RAC reported on the progress made on the draft Plan during the intersessional period following the NOWPAP Forum's Fourth Meeting (UNEP/IMO/NOWPAP/WG.16/3).

22. Prior to opening the floor for discussion on the draft Plan, the IMO representative introduced the revised draft of "NOWPAP Regional Oil Spill Contingency Plan" (UNEP/IMO/NOWPAP/WG.16/4), noting that IMO had prepared the revised draft taking into account the comments made at the NOWPAP Forum's Fourth Meeting and subsequent comments made by the member States during the intersessional period.

23. Mr. Chris Harris, the IMO consultant, presented a technical overview of the revised draft Plan and the modifications made to the Plan by IMO during the intersessional period, introducing the fundamental principles of the Plan. The meeting took note of the information provided by Mr. Chris Harris. The summary of Mr. Harris' presentation is enclosed in **ANNEX IV**.

24. The meeting was then invited to consider the revised draft Plan (UNEP/IMO/NOWPAP/WG.16/4) on a paragraph by paragraph basis and to comment and amend as it deemed appropriate.

25. The meeting decided to use as working documents the two following documents: i) the Revised Draft NOWPAP Regional Oil Spill Contingency Plan (UNEP/IMO/NOWPAP/WG.16/4) prepared by IMO; and, ii) the Revised Draft NOWPAP Regional Oil Spill Contingency Plan submitted by Japan (UNEP/IMO/NOWPAP/WG.16/3/1/REV.). During the discussion, two additional informal

documents were circulated by Japan, in order to facilitate the presentation of their position.

26. The meeting held a lengthy and thorough discussion, and the result of its work was submitted for further consideration of the meeting under Agenda item 6. It was decided that the Plan should not apply to hazardous and noxious substances (HNS).

27. The meeting discussed in depth various topics such as: i) the term 'coordination' vs. the term 'command', ii) definition of the 'Action Area', iii) the content and scope of information which MER/RAC will collect and make available to the countries, iv) the Japanese proposal to extend the geographical coverage of the Plan to the eastern part of Sakhalin, v) the designation of national authorities, and vi) the possibility of voluntary offers of action in the Action Area of the other countries if agreed by the other country. In the context of the definition of NOWPAP States the meeting touched upon the possibility of more countries of the region joining the Plan.

Agenda item 5. Consideration of the draft Memorandum of Understanding (MOU) for Regional Co-operation in Marine Pollution Preparedness and Response in the Northwest Pacific Region

28. The Director of MER/RAC reported on the progress made on the draft MOU during the intersessional period following the NOWPAP Forum's Fourth Meeting (UNEP/IMO/NOWPAP/WG.16/5).

29. The IMO representative then introduced the draft MOU for Regional Cooperation on Marine Pollution Preparedness and Response in NOWPAP Area (UNEP/IMO/NOWPAP/WG.16/6) as prepared by IMO.

30. Following this, the NOWPAP member States were invited to introduce their views and documents concerning the draft MOU. The Japanese delegation introduced a working document (UNEP/IMO/NOWPAP/WG.16/5/ANNEX 1(a)), which was distributed at the beginning of the meeting.

31. The Japanese delegation reiterated its Government's position on the MOU: that MOU is not a legally binding document and is not intended to impose a legal obligation on any of the states. They requested that this position be reflected in the preamble to the MOU. They explained that they could only discuss the document on the basis that is not legally-binding.

32. The Russian delegation stated that they did not agree with the proposal by Japan to insert in the preamble a paragraph related to the non-legally binding nature of the MOU. They proposed to put the Japanese text in square brackets for further consideration and to continue the work on the MOU.

33. After a lengthy discussion the meeting agreed to proceed with its work and to use as basic documents for its consideration the document prepared by IMO (UNEP/IMO/NOWPAP/WG.16/6) for the preamble and the document prepared by Japan for the operative part of the MOU.

34. The Japanese delegation agreed to hold a discussion on the MOU on the understanding that the MOU is not a legally binding document.

35. The meeting was then invited to consider, paragraph by paragraph the preamble and the operative part of the MOU and to comment and amend as it deemed appropriate.

36. The meeting agreed to amend the title of the draft MOU as follows: "DRAFT MEMORANDUM OF UNDERSTANDING (MOU) ON REGIONAL CO-OPERATION REGARDING PREPAREDNESS AND RESPONSE TO OIL SPILLS IN THE MARINE ENVIRONMENT OF THE NORTHWEST PACIFIC REGION".

37. The meeting made several amendments to the preamble of the MOU document prepared by IMO (UNEP/IMO/NOWPAP/WG.16/6). Japan asked to include a paragraph reflecting its position on the non-legally binding aspect of the MOU and Korea offered a compromise text to reflect the Japanese position.

38. The meeting made several amendments to the text proposed by Japan relating to the operative part of the document. Korea submitted drafting proposals regarding the movement of personnel and equipment, and China proposed the drafts regarding the signing and entering into effect of the MOU, settlement of disputes, the termination of the MOU and the non-legally binding nature of the MOU.

Agenda item 6. Agreement by the Meeting on the Text of the Draft NOWPAP Regional Oil Spill Contingency Plan and the associated Draft Memorandum of Understanding (MOU)

39. The meeting was invited to consider the outcome of the work carried out under agenda item 4. The meeting agreed on the "Text of the Draft NOWPAP Regional Oil Spill Contingency Plan" which is presented in **ANNEX V**, as agreed by the EXPERT ADVISORY GROUP MEETING on NOWPAP Regional Oil Spill Contingency Plan and Memorandum of Understanding (MOU), Tokyo, Japan, 5-9 November 2001.

40. The text which was examined and agreed by the meeting contained some paragraphs or parts of paragraphs in square brackets which were related to:

- i) the definition of NOWPAP State,
- ii) the wording used for designating national authorities. Japan asked to keep this wording in square brackets, pending further consideration, and -
- iii) reimbursement of tax or duties paid to the requesting state. Korea asked to keep this wording in square bracket, pending further internal consultation.

41. The meeting was invited to consider the outcome of the work carried out under agenda item 5 – the MOU. After a lengthy and productive discussion the meeting agreed on the “Text of the Draft Memorandum of Understanding (MOU) on Regional Co-operation Regarding Preparedness and Response to Oil Spills in the Marine Environment of the Northwest Pacific Region” which is presented in **ANNEX VI**, as agreed by the EXPERT ADVISORY GROUP MEETING on NOWPAP Regional Oil Spill Contingency Plan and Memorandum of Understanding (MOU), Tokyo, Japan, 5-9 November 2001.

42. The text which was carefully examined and agreed contained several paragraphs or parts of paragraphs in square brackets which are related to:

- i) the wording to be used to define the parties to this MOU: States, Parties, Authorities or Participants;
- ii) the non-legally binding nature of the MOU and where it should be stated:
- iii) the possibility of the MOU being opened for signatures by other states; - and
- iv) settlement of disputes;

43. The Japanese delegation stated that it is necessary that each State should examine the revised draft of the Plan and MOU after the Meeting for further consideration and modifications before any further consideration.

44. The Russian delegation stated that it did not agree with the proposal made by China and supported by Japan and Korea, to have, in the operative part of the MOU, a sentence related to the non-legally binding nature of the MOU.

Agenda item 7. Identification of the future work necessary for the adoption of the Plan and MOU

45. The director of MER/RAC described the future work that needs to be carried out regarding the Contingency Plan and the MOU: After finalizing and editing the draft documents which were agreed upon by the meeting, these will be sent to UNEP, IMO and Mr. Harris for any corrections. The results will be sent to participants by e-mail for their final editorial corrections only. Having collecting the comments by the participants, MER/RAC will finalize the report of the meeting including the texts of the draft Plan and the draft MOU. The report of the meeting, including the texts of the draft Plan and the draft MOU will be formally sent to the participants, MER/RAC Focal Points, UNEP, IMO and other relevant organizations. Following this, MER/RAC will start to prepare the annexes of the draft Plan and accordingly the member States will be requested to submit precise relevant information to MER/RAC for the annexes. He also reminded the participants of the tentative schedule agreed by the NOWPAP Forum's Fourth Meeting.

46. The delegate of Japan stated that each State should continue its efforts to establish the

framework for the regional cooperation as early as possible, but the time should be flexible, reiterating that sufficient discussion within member States is necessary.

47. The delegation of Korea expressed their concerns that, although Democratic People's Republic of Korea (DPRK) has not yet joined the cooperation system to be established by the MOU and the Plan, it is now necessary for the four countries to launch the cooperation system as soon as possible. The delegation of Korea also pointed out that the cooperation system would be more effective when all the concerned authorities in this Area would join it. In this regard, the Korean delegation suggested that the four countries make sincere efforts to encourage DPRK to join the cooperation system in the near future.

Agenda item 8. Any other business

48. The representative of IMO informed the meeting about the Third Research and Development forum of IMO which will be held in March 2002 in Brest, France and encouraged representatives of the NOWPAP region to participate. He distributed leaflets related to this meeting.

Agenda item 9. Adoption of the report of the meeting

49. A draft report of the meeting was presented by the Rapporteur for consideration and adoption. After careful examination the meeting adopted the report.

Agenda item 10. Closure of the meeting

50. The meeting was closed by the Chairperson at 11:00 on 9 November 2001.

Annex I

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Annex II

LIST OF DOCUMENTS

WORKING DOCUMENTS

UNEP/IMO/ NOWPAP/WG.16/1	Provisional Agenda
UNEP/IMO/ NOWPAP/WG.16/2	Annotated Provisional Agenda
UNEP/IMO/NOWPAP/WG.16/2/INF1	List of Documents
UNEP/IMO/ NOWPAP/WG.16/2/1	Time Schedule
UNEP/IMO/ NOWPAP/WG.16/3	Report on the NOWPAP Regional Oil Spill Contingency Plan
UNEP/IMO/ NOWPAP/WG.16/3/1	The Revised Draft NOWPAP Oil Spill Contingency Plan (submitted by Japan)
UNEP/IMO/ NOWPAP/WG.16/3/1/REV.	The Revised Draft NOWPAP Oil Spill Contingency Plan (submitted by Japan)
UNEP/IMO/ NOWPAP/WG.16/4	The Revised Draft NOWPAP Oil Spill Contingency Plan (submitted by IMO)
UNEP/IMO/ NOWPAP/WG.16/5	Report on the Regional Memorandum of Understanding (MOU)
UNEP/IMO/ NOWPAP/WG.16/5/ANNEX1(a)	Draft Regional Memorandum of Understanding (MOU) (submitted by Japan)
UNEP/IMO/ NOWPAP/WG.16/6	The Revised Draft Regional Memorandum of Understanding (MOU)

Reference Documents

UNEP/IMO/NOWPAP/WG.16/REF1	Japanese National Contingency Plan for Oil Pollution Preparedness and Response
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UNEP/IMO/NOWPAP/WG.16/REF2	The National Contingency Plan for Marine Oil Pollution Preparedness and Response of the People's Republic of China
UNEP/IMO/NOWPAP/WG.16/REF3	The National Contingency Plan for Marine Oil Pollution Preparedness and Response of the Republic of Korea
UNEP/IMO/NOWPAP/WG.16/REF4	The National Contingency Plan for Marine Oil Pollution Preparedness and Response of the Russian Federation
UNEP/IMO/ NOWPAP/WG.15/19	Report of the Fourth Forum Meeting on NOWPAP Marine Pollution Preparedness and Response (May, 2001, Qingdao, People's Republic of China)
UNEP/IMO/ NOWPAP/WG.10/Inf7	Draft Memorandum of Understanding for Pollution Preparedness, Response and Cooperation submitted by Republic of Korea at the Second Forum Meeting
UNEP/IMO/NOWPAP/WG.14/8	Draft Arrangement on Oil Pollution Preparedness, Response and Co-operation in the Northwest Pacific Region submitted by Japan at the Third Form Meeting

Annex III

AGENDA

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3. Adoption of the agenda
4. Consideration of the draft NOWPAP Regional Oil Spill Contingency Plan
5. Consideration of the draft Memorandum of Understanding (MOU) for Regional Co-operation in Marine Pollution Preparedness and Response in the Northwest Pacific Region
6. Agreement by the Meeting on the Text of the Draft of the NOWPAP Regional Oil Spill Contingency Plan and the associated Memorandum of Understanding (MOU)
7. Identification of the future work necessary for the adoption of the Plan and MOU
8. Any other business
9. Adoption of the report of the meeting
10. Closure of the meeting

Annex V

DRAFT
NOWPAP REGIONAL OIL SPILL CONTINGENCY PLAN

***The NOWPAP Regional Oil Spill Contingency Plan for the Northwest Pacific
Region
adopted by:***

- . ***Japan***
- . ***People's Republic of China***
- . ***Republic of Korea***
- . ***Russian Federation***

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 - 2.3 Exchange of information
 - 2.4 Meetings of competent National Authorities responsible for the implementation of the Plan
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1. INTRODUCTION

1.1 Background

1.1.1 The United Nations Environment Programmes (UNEP's) Regional Seas Programme was initiated in 1974 as a global Programme implemented through regional components. It has been repeatedly endorsed by the UNEP Governing Council as a regional approach to the management of marine and coastal resources and control of marine pollution. The Regional Seas Programme at present comprises 14 regions and there are over 140 coastal States and Territories participating in the programme. It is an action-oriented programme having concern not only for the consequences but also for the causes of environmental problems through the integrated management of coastal and marine areas.

1.1.2 In 1989, on the initiative of the States bordering the semi-enclosed areas of the North-West Pacific, UNEP approved the preparation of new action plans for seas not covered by the Regional Seas Programme, including among others the North-West Pacific. Following a series of meetings of experts and national focal points in the region the "Action Plan for the Protection, Management and Development of the Marine and Coastal Environment of the Northwest Pacific Region (NOWPAP)" and three Resolutions were adopted at the First Intergovernmental Meeting (Seoul, 14 September 1994), which was attended by Japan, People's Republic of China, Republic of Korea and Russian Federation.

1.1.3 One of the resolutions adopted at the First Intergovernmental Meeting identified five areas of priority for implementation of the Action Plan, one of which was NOWPAP/4: "Development of Effective Measures for Regional Co-operation in Marine Pollution Preparedness and Response". It was recognised that, at the international level, the International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC 1990) had been adopted in November 1990 within the framework of the International Maritime Organisation (IMO) and subsequently entered into force in 1995. In the North-West Pacific region OPRC 1990 has subsequently been ratified and accepted by Japan, the Peoples' Republic of China and the Republic of Korea.

1.1.4 UNEP and IMO had initiated activities to address the needs for the NOWPAP States for regional co-operation in marine pollution preparedness and response. These activities include the UNEP/IMO expert mission to the region in April 1994; and the UNEP/IMO Government-designated OPRC Experts Meeting on Sub-regional Co-operation to Enhance National Capabilities in Marine Pollution Emergency Preparedness and Response (Bangkok, November 1995). In this Experts Meeting, it was recommended that a Forum be created under the NOWPAP framework for the purpose of exchanging information on marine pollution

preparedness and response. Following these activities, the Informal Meeting of Experts on Marine Pollution Prevention in the North-West Pacific (Niigata, Japan, July 1996 defined the goals and objectives of the Forum as follows:

- (i) Exchange of information on marine pollution preparedness and response;
- (ii) Development of a regional contingency plan including a regional environmental sensitivity map; and
- (iii) Development of a Memorandum of Understanding (MOU) among the NOWPAP States which defines general items relating to marine pollution preparedness and response, including immigration formalities and custom clearance.

1.1.5 Based on the priorities set by the First NOWPAP Intergovernmental Meeting, a detailed programme document was prepared, and approved by the Second Intergovernmental Meeting on NOWPAP in November 1996 in Tokyo. Under the NOWPAP/4 component, four meetings were proposed to be held to fulfill the goals and objectives of the Forum. It was also agreed that the NOWPAP member States would host Forum meetings at least twice a year on a rotational basis.

1.1.6 At the first meeting of the NOWPAP/4 Forum it was noted that IMO supported Regional Co-operation in Marine Pollution Preparedness and Response and would assist in the preparation of the regional oil spill contingency plan. *The Plan was developed at the [...] meeting of the NOWPAP/4 Forum and at the meeting of experts in [Japan], November 2001. It was finally adopted in the [...] intergovernmental meeting of NOWPAP in [...].*

1.2 Purpose and Objectives

1.2.1 The purpose of the Plan is to provide a framework under which NOWPAP States may co-operate at the operational level in responding to oil spill incidents.

1.2.2 The overall objective of the Plan is to provide an operational mechanism for mutual assistance through which NOWPAP States will co-operate in order to co-ordinate and integrate their response to marine oil spill incidents which affect or seem likely to affect the Action Area of one or more of the NOWPAP States and which exceeds the response capability of a national government and the resources available to it.

1.2.3 The specific objectives of the Plan are as follows:

- a) to determine the means of co-operation for the implementation of the Plan between the NOWPAP States;
- b) to specify the type of assistance which might be provided and the conditions under which it will be provided;
- c) to identify the operational responsibilities and to provide for the transfer of responsibility from one State to another;
- d) to establish the principles of coordination and liaison, and to define the corresponding structures; and
- e) to specify the considerations necessary for co-operative action to deal with an incident.

1.2.4 In order to achieve these objectives, the following actions are intended to be taken through the implementation of the Plan:

- a) developing appropriate preparedness measures and effective systems for detecting and reporting pollution incidents affecting or likely to affect the Action Area of the NOWPAP States;
- b) promoting and implementing regional co-operation in oil pollution contingency planning, prevention, control and clean-up operations;
- c) establishing a declared response capability in each State to minimise the hazard posed by oil spills;
- d) developing and implementing a programme of training courses and practical exercises available for personnel of the NOWPAP States involved in oil pollution prevention and combating; and
- e) developing procedures to increase regional co-operation.

1.3 Scope and geographical coverage

1.3.1 This Plan is intended to provide for co-operation between [the NOWPAP States/ Japan, the People's Republic of China, the Republic of Korea and the Russian Federation].

1.3.2 It applies, without prejudice to the sovereign right of any State, to the waters lying between 33° N and [approximately] 52° N latitude and [about] 121°E and 143° E longitude [There is a proposal from Japan to extend the geographical scope of that Plan to *include* the eastern part of the Sakhalin i.e. between 33° N and [approximately] 55° N latitude and [about] 121°E and 145° E longitude]

1.3.3 The Plan applies when one or more of the NOWPAP States is affected or likely to be affected and when the magnitude of the spill is such that the incident requires assistance from one or more NOWPAP States.

Tiered response

1.3.4 The Plan is intended to provide a procedure to enhance the ability of the NOWPAP States to respond to Tier 3 spills which may be beyond their individual capabilities. Under OPRC 1990 all NOWPAP States should require ports, oil handling facilities and offshore oil operations to have the capability to respond to small spills at ports etc which can be dealt with by local resources (a Tier 1 spill). NOWPAP States should also ensure that there are facilities for dealing with larger spills which, although localised, may require resources to be brought in from national stockpiles or from other sources within the State (Tier 2 spills). The NOWPAP States' ability to respond to oil spills might be set out in the information system of MER/RAC.

1.4 Risks of oil spills in the NOWPAP region

1.4.1 Major oil spills which are likely to require this plan to be brought into operation arise from accidents to ships, to offshore oil production and exploration operations and to oil handling facilities. The shipping accidents most likely to cause big spills are collisions and groundings. These risks are likely to be greatest where traffic is dense and there are navigational dangers, particularly approaching major oil ports. Information on the main shipping routes in the region and the amount of tanker and non-tanker traffic using them, areas of offshore oil operations, major ports and oil ports and the areas of greatest navigational danger will be maintained by MER/RAC and be provided to the NOWPAP States on a regular basis.

1.5 Sensitivity to oil spills

1.5.1 In order to decide on the most effective response to a spill, and the priorities for the response effort, it is essential for those dealing with the spill to have reliable and up-to-date information on the sensitivity of the coastline to oil. This detailed information will be maintained by MER/RAC and be provided to the NOWPAP States on a regular basis.

1.5.2 The following highlights the main sensitivities to oil spill: mariculture, fish farms, fisheries, wildlife, birds, amenities, tourism, industry, saltmarshes, reedbeds etc.

1.6 Definitions, acronyms and abbreviations

1.6.1 For the purpose of this Plan:

Action Area of a NOWPAP State means the coasts, internal waters, territorial seas, and EEZ of that NOWPAP State. Each State prepares and responds to oil pollution incidents in its Action Area. The definition of Action Area does not imply agreement for any other purpose.

Assistance decision authority means the designated authority which is entitled to act on behalf of the State to request assistance or to decide to render the assistance requested.

Competent national authority(ies) means the designated competent authority or authorities having responsibility for oil spill preparedness and response.

Joint Emergency Response Centre (JERC) means an office, manned 24 hours a day and equipped with appropriate communications equipment, which has been set up for the purpose of the Plan by the Lead State when the Plan is activated, which will serve as the operations room for the LOSC.

Joint Response Operations (JROs) means counter pollution operations involving two or more of the NOWPAP States, including strike teams, equipment and other resources (aircraft, vessels) rendered as assistance by other NOWPAP States as well as national resources of the Lead State.

Lead On-Scene Coordinator (LOSC) means the designated officer of the Lead State, having the overall operational coordination of all Joint Response Operations undertaken within the framework of the Plan.

Lead State means the NOWPAP State in whose Action Area a maritime casualty has occurred and which has activated the Plan and asked for assistance within the framework of the Plan, or the

NOWPAP State to whom the lead role has been transferred. The Lead State designates the Lead On-Scene Coordinator (LOSC) who exercises the Operational Coordination of the Joint Response Operations.

Liaison Officer means an officer from the NOWPAP State participating in the Joint Response Operations, who is integrated in the staff of the LOSC, with a view to providing necessary information on national resources rendered as assistance to the Lead State and facilitating communications with his/her respective NOSC.

Maritime casualty means a collision of ships, stranding or incident of navigation, or other occurrence on board a ship or external to it resulting in material damage or imminent threat of material damage to a ship or cargo.

National On-Scene Coordinator (NOSC) means an officer, [designated by the Competent National Authority,] having operational control of all national pollution response resources which might, if so requested, participate in Joint Response Operations.

NOWPAP POLREP means the form of POLREP agreed by NOWPAP States (Annex 4)

NOWPAP Area means the area defined under “Geographical Coverage” above.

NOWPAP States refers to [the member States of the Northwest Pacific Action Plan / Japan, the People’s Republic of China, the Republic of Korea and the Russian Federation].

Oil means petroleum in any form including crude oil, fuel oil, sludge, oil refuse and refined products.

Operational Control means direct control over personnel, means and units taking part in the response operations, including giving directions and supplying information necessary for the execution of response operations. It is exercised by **National On-Scene Coordinators (NOSC)** for the assisting States and LOSC for the requesting State.

Operational Coordination means overall co-ordination of JROs. It is exercised by [the Competent National Authority(ies) of] the Lead State, through the **Lead On-Scene Coordinator (LOSC)**.

Operations at sea means any measures, including intervention at the source of pollution, spill surveillance, containment of the pollutant, recovery of the pollutant, application of treatment agents from vessels and aircraft, or any other action taken at open sea (off shore) in order to respond to a

pollution incident, restrict the spreading and facilitate the removal of the pollutant and mitigate the consequences of the incident.

Operations on the shoreline (shoreline clean-up operations) means any action taken on shoreline or at sea immediately adjacent to it, in order to recover, remove or destroy the pollutant and reduce its damage or effects.

The **Plan** means the NOWPAP Regional Oil Spill Contingency Plan.

Pollution incident means an occurrence such as an accident to a ship or an offshore oil installation, or series of occurrences having the same origin, which results or may result in a discharge of oil and which poses or may pose a threat to the marine environment, or to the coastline or related interests.

POLREP means a **Pollution Report** which is used to communicate information about a pollution incident.

Public Relations Officer means an officer in charge of informing the public on the course of events and advising the LOSC on public reaction.

Regional Activity Centre means the Marine Environmental Emergency Preparedness and Response Regional Activity Centre (MERR/RAC) established within the framework of the Action Plan for the Protection, Management and Development of the Marine and Coastal Environment of the Northwest Pacific Region (NOWPAP).

Strike team means a group of personnel taking part as an independent unit in response operations. It may include personnel on board vessels, aircraft or other self-contained units or personnel assisting in shoreline clean-up operations.

Tactical Command means directing and supervising the execution of specific tasks by teams or units on the scene of operations. It is exercised by the leaders of such teams or commanders of units.

The following are the main Abbreviations used in this document:

IMO	International Maritime Organisation
IOPC FUND	International Oil Pollution Compensation Fund
JERC	Joint Emergency Response Centre
JROs	Joint Response Operations
LOSC	Lead On-Scene Coordinator
MER/RAC	Marine Environmental Emergency Preparedness and Response Regional Activity Centre
NCP	National Contingency Plan
NOSC	National On-Scene Coordinator
NOWPAP	Northwest Pacific Action Plan
OPRC	International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990
POLREP	Pollution Report
UNEP	United Nations Environment Programme
EEZ	Exclusive Economic Zone

2 POLICY AND RESPONSIBILITY

2.1 Basis for the Plan

2.1.1 The essence of the oil spill response planning framework for the North-west Pacific Region is that each NOWPAP State should have its own National Contingency Plan (NCP) and resources to respond to marine oil spills in its waters, while this Regional Plan will provide for the NOWPAP State or States whose waters are threatened by a particular spill to call for assistance from the other NOWPAP States if its own resources are inadequate or inappropriate and to organize for a joint response operation.

2.1.2 Response to a pollution incident within the Action Area of a NOWPAP State should be conducted in accordance with the provisions of the NCP of that State, under the overall Operational Coordination of the Lead State exercised through the Lead On-Scene Coordinator (LOSC). Operations within the Action Area of a NOWPAP State should be in accordance with the laws and regulations of that State: all references to compliance with the NCP of a NOWPAP State should be taken to imply compliance with that State's laws and regulations.

2.2 Designation of National Authorities and points of contact

2.2.1 Each NOWPAP State should designate the following:

- a) competent national authority or authorities, with responsibility for oil pollution preparedness and response;
- b) national operational contact point or points, which shall be responsible for the receipt and transmission of oil pollution reports;
- c) Assistance Decision Authority or Authorities entitled to act on behalf of the State to request assistance or to decide to render the assistance requested.

2.3 Exchange of information

2.3.1 NOWPAP States should exchange with each other, directly or through the MER/RAC, information which is relevant to the purpose of this Plan.

2.3.2 NOWPAP States should inform each other, directly or through the MER/RAC, about information which might be relevant in conducting JROs:

- a) the designated competent national authorities, national operational contact points and Assistance Decision Authority listed above (ANNEX 1);
- b) likely sources of oil spills and vulnerable resources;
- c) inventories of pollution response equipment and products, as well as other means (such as, for example, vessels and aircraft) available in each State for use in JROs;
- d) directories of experts, trained personnel and strike teams designated by each NOWPAP State to take part in JROs;
- e) rules concerning the use of dispersants;
- f) logistic support available within the State;
- g) NCPs of the NOWPAP States (ANNEX 3); and
- h) maps showing the main environmentally sensitive areas in the region.

2.3.3 This information will be maintained by MER/RAC and will be provided to the Member States on a regular basis. NOWPAP States should inform the Regional Activity Centre (MER/RAC; see 2.5) as soon as possible about any changes to this information.

2.4 Meetings of competent National Authorities responsible for the implementation of the Plan

2.4.1 The competent National Authorities of NOWPAP States should meet regularly, and as a minimum once a year, in order to discuss questions related to the implementation of the Plan, response to actual incidents, organisation of training courses and exercises and other relevant matters. These meetings may be held in conjunction with the MER/RAC Focal Point Meetings.

2.4.2 Secretarial services ('Secretariat') will be provided by the Regional Activity Centre (MER/RAC).

2.5 Revisions to the Plan

2.5.1 All changes to the Plan concerning the policy and relations between the NOWPAP States should be made by the unanimous decision of all NOWPAP States.

2.5.2 If a unanimous decision concerning revision and amendment of the Plan cannot be reached, the NOWPAP States agree to observe the original provisions of the Plan.

2.5.3 Changes of detailed national information in the Annexes should be notified to the MER/RAC, who will be responsible for keeping the Plan up-to-date.

2.5.4 The MER/RAC will notify the MER/RAC Focal Points of the changes to the Plan.

2.6 Joint training and exercises

2.6.1 The NOWPAP States should conduct joint training courses and joint exercises as appropriate. Joint training and exercises need not involve all NOWPAP States, depending on the sea area chosen.

2.6.2 NOWPAP States should host such training courses and exercises, as appropriate. The host State should organize the training course or exercise and provide necessary logistic support; however, the expenses of the participants and any equipment deployed in joint trainings and exercises should be borne by their respective NOWPAP States, unless otherwise agreed. Joint training and exercise programmes for the purpose of testing this Plan [should/may] be discussed at the regular meetings of the competent national authorities.

2.7 Regional Activity Centre

2.7.1 The Regional Activity Centre, MER/RAC, is the entity responsible for the administration and co-ordination of the Plan in cooperation with NOWPAP States. Its terms of reference are at Annex 8.

2.7.2 The MER/RAC will not have an operational role in a response to an oil spill, but it will be a potential source of information to the Lead State during an incident.

2.7.3 As the body responsible for the administration of the plan, the MER/RAC will keep the plan up-to-date by receiving and distributing changes submitted by NOWPAP States.(see2.5)

3 RESPONSE ELEMENTS AND PLANNING

3.1 Lead role

3.1.1 The lead role in the implementation of the Plan will normally be assumed by the NOWPAP States whose Action Area has been affected or is likely to be affected by pollution from a maritime casualty or other incident.

3.1.2 It is for the State taking the lead role (Lead State) to decide whether to activate the Plan and to ask for assistance within the framework of the Plan.

3.1.3 The Lead State should designate the Lead On-Scene Co-ordinator (LOSC), who exercises the operational co-ordination over the joint operation.

3.1.4 When a pollution incident which has occurred in the Action Area of one of the NOWPAP States poses its greatest threat to the interests of another NOWPAP State, the NOWPAP States may agree, [through consultation between their Competent National Authorities], that the threatened NOWPAP State will assume the lead role.

3.1.5 The Lead State should not operate in the Action Area of another NOWPAP State without the express agreement of that State, nor should it authorize any response which is contrary to that State's NCP without its agreement.

3.1.6 The lead role should be transferred from one NOWPAP State to another only by agreement between States concerned. This might be when the major part of the pollutant has moved from the Action Area of the NOWPAP State initially affected and who has activated the Plan, to the Action Area of another State, or when the main response activities have moved to another State. Following the transfer, the requests for assistance made by the former Lead State will be either confirmed or cancelled by the new Lead State

3.1.7 If more than one NOWPAP State is affected by the pollution, co-ordination of the response actions between the States should be made [by consultation between their Competent National Authorities].

3.1.8 The Lead State should be responsible for:

- a) initiating the response to the spill;

- b) activating the Plan and informing the other NOWPAP States [through their contact points of that], and of the identity of the LOSC;
- c) surveillance of the pollution and reporting its result to other NOWPAP States.
- d) assessment of the situation and informing the other NOWPAP States of the assessment;
- e) spill movement forecasting and informing the other NOWPAP States of the forecast; and
- f) exercising Operational Coordination during JROs

3.2 National On-Scene Coordinator (NOSC); Lead On-Scene Coordinator (LOSC)

3.2.1 At the activation of the Plan and commencement of the Joint Response Operations, the Lead State should appoint the Lead On-scene Coordinator (LOSC). The LOSC should exercise operational co-ordination of JROs in order to combat the pollution and to mitigate its consequences.

3.2.2 When the Plan is activated, assisting NOWPAP States should each nominate a National On-Scene Coordinator (NOSC) who will exercise operational control over the response activities of that State, including control of personnel (strike teams), equipment and self-contained units (vessels, aircraft).

3.2.3 The NOSCs of the assisting States should operate under the overall Operational coordination of the LOSC, but should nevertheless retain operational control (see 3.5.2) over personnel, equipment and self-contained units of their respective States, including giving directions for the execution of response operations by them.

3.2.4 In order to relieve the LOSC of a part of his/her duties concerning operational control of national resources, the Lead State may, at the time of the activation of the Plan, designate another officer who will have direct operational control of the national resources taking part in the JROs and who will act as the NOSC of the Lead State.

3.2.5 In exercising his/her functions, the LOSC should be assisted by a support team (see 3.4).

3.3 Joint Emergency Response Centre

3.3.1 In case of the activation of the Plan, the Lead State will set up the Joint Emergency Response Centre (JERC). The JERC should serve as the base of the LOSC and as the main communications centre for all communications related to the implementation of the Plan. The Centre, manned 24 hours a day, should be equipped with appropriate communications systems and have the necessary facilities to be used for the operational coordination of JROs.

3.3.2 When the Plan is activated, States called upon to assist the Lead State should designate a national operational contact point which can be contacted 24 hrs a day.

3.4 Support teams

3.4.1 It is recommended that each NOWPAP State should arrange to set up a national support team, composed of the representatives of various relevant organizations.

3.4.2 For the purpose of this Plan the role of the support teams should be advisory as well as to provide operational support. If the Plan is activated the LOSC may seek the advice of the support team of the Lead State. Support from the support teams of assisting States, or members of them, should be made available to the LOSC on request.

3.4.3 Their functions include:

- a) providing advice to LOSC concerning, in particular, methods and techniques for combating oil pollution, safety of navigation and salvage, marine biology and fisheries, (radio) communications, public information and compensation for oil pollution damage;
- b) supporting and co-ordinating the activities of public organizations, services and industry which might take part in JROs, concerning in particular the provision of personnel, equipment and other resources, logistic support, immigration and customs formalities;
- c) monitoring incoming reports and assessing the situation; and
- d) co-ordinating all reporting on the status of the pollution incident to their respective LOSC/NOSC.

3.4.4 After the termination of response operations, the support team should, together with their respective NOSC:

a) review post-incident reports from the NOSC/LOSC on the handling of the pollution incident for the purpose of analysing and introducing recommendations and improvements needed in the Plan and in their respective NCPs; and

b) forward to their respective State relevant reports and recommendations, including NOSC/LOSC post-incident reports, support team debriefing reports and recommendations concerning amendments to the Plan or its Annexes.

3.5 Coordination Structure

3.5.1 The Coordination Structure for JROs is shown in Diagram 1.

3.5.2 The Plan distinguishes between:

a) **Operational Coordination**, which is overall co-ordination and control of JROs. It consists of exercising coordination of the response strategy, according to the relevant NCP, and defining the tasks of various units. Following the activation of the Plan, operational coordination of JROs is exercised by the LOSC;

b) **Operational Control**, which is control over units taking part in the response operations, including giving directions to specific units for the execution of response operations, in accordance with the strategy and the tasks defined by the LOSC. Operational Control over national resources of the assisting States is exercised by the NOSCs of the respective assisting States. Operational Control over the resources of the Lead State may be exercised by the LOSC or by the Lead State's NOSC. (see 3.2.3)

c) **Tactical Command** which consists of directing and supervising the execution of specific tasks by units on the scene. Tactical Command is exercised by the Commander of each unit.

3.5.3 Liaison between the Lead State and the assisting State should be maintained, according to the circumstances and to the type and importance of the assistance rendered, in one of the following ways:

a) by direct contacts between the LOSC and NOSCs of the assisting States (e.g. by telex, telefax, e-mail, telephone or radio);

b) by a Liaison Officer from the assisting State who is integrated in the staff of the LOSC. His/her duties should be to provide necessary information on resources rendered as

assistance and to facilitate communication with his/her NOSC, Strike Teams and self-contained units taking part in the operations;

c) by a senior officer of the assisting State at the spill site, participating in JROs.

3.6 Communications arrangements

3.6.1 Communications for the implementation of the Plan should be established by the NOWPAP States in accordance with 5.1 below and Annex 3.

3.6.2 English language should be used in all important communications related to the implementation of the Plan, including all those in writing (see 3.6.3).

3.6.3 Important spoken communications should be confirmed by written documents [e.g. fax telex or e-mail]. This is to include the activation of the plan, requests for assistance, offers of assistance, estimated costs of assistance, acceptance of requests, instructions by the command for the movement and deployment of assisting units, tasks assigned to units and termination of operations. The lines of communication to be used are shown in diagram 2.

3.7 Response Planning

3.7.1 Response to a pollution incident within the Action Area of a NOWPAP State should be conducted in accordance with the provisions of the NCP of that NOWPAP State, under the overall Operational coordination of the Lead State exercised through the LOSC.

3.8 Response Strategy

3.8.1 Deciding upon the response strategy in a particular pollution incident and the planning of specific operations is the responsibility of the Lead State in accordance with its NCP. In taking such decisions the Lead State should refer to the following outline:

- a) assessment of the severity of the incident;
- b) activation of the NCP and notification of other NOWPAP States;
- c) selection of appropriate response methods; and
- d) evaluation of available and required response resources;
- e) activation of the Plan and request for assistance;

f) implementation of selected response methods, making use of national resources and resources from assisting States;

g) re-assessment of the situation and making necessary modifications in response actions;

h) termination of response operations;

i) de-activation of the Plan; and

j) returning to the State of origin personnel, equipment and other means rendered as assistance by the other NOWPAP States.

4 RESPONSE OPERATIONS

4.1 Response Phases

4.1.1 For the purpose of the Plan, co-operation in pollution response operations has been divided into four distinct phases:

Phase I - Notification

Phase II - Evaluation and activation of the Plan

Phase III - Joint response operations at sea

Phase IV - Joint response operations on shoreline

4.1.2 Phases may take place concurrently.

Phase I - Notification

4.1.3 Notification and verification of information concerning pollution incidents should be done, at the national level, in accordance with the provisions of the NCP of each State.

4.1.4 Regardless of the need for the activation of the Plan, a NOWPAP State becoming aware of a major¹ pollution incident should, after verifying it, immediately inform the other NOWPAP States through their National Operational Contact Points. When there has been an incident which may cause pollution but has not yet done so neighbouring NOWPAP States should be informed if the pollution would threaten their Action Areas if it occurred.

4.1.5 Initial notification and subsequent reports should be in the form of a NOWPAP POLREP (Annex 4). The initial report should give as much information as possible to alert the NOWPAP States, but it should not be delayed while detailed information is sought. Detailed information can be added in subsequent reports.

4.1.6 The first NOWPAP State to become aware of a pollution incident is likely to be the State in whose Action Area it has occurred, but that is not necessarily so: a State becoming aware of an incident out its Action Area should inform the State in whose area the incident has occurred as well as other NOWPAP States likely to be affected. The State in whose Action Area the incident has occurred should confirm that it is taking the lead unless otherwise agreed.

4.1.7 It is the responsibility of the National Operational Contact Points to make further notifications within the State according to the NCP.

¹ [“major” means a spill which requires counter-pollution resources to be mobilised]

Phase II - Evaluation and activation of the Plan

4.1.8 The NOWPAP State affected or likely to be affected by the spill should assess the pollution, determine the type and level of response required and decide whether or not to activate its NCP and the Plan.

4.1.9 The Lead State should not activate the Plan without first activating its NCP or commencing response operations.

4.1.10 As soon as the Plan has been activated the Lead State should:

- a) appoint LOSC and inform the other NOWPAP States, [through their designated National Operational Contact Points,] that the Plan has been activated, and who has been appointed LOSC;
- b) designate the JERC;
- c) through the LOSC formulate the strategy to deal with the incident and evaluate the need for assistance from other NOWPAP States;
- d) request, on the basis of LOSC requirements and advice, assistance from other NOWPAP States through their assistance decision authorities; and
- e) the LOSC should initiate the response as appropriate.

4.2 Spill Surveillance and Forecasting

4.2.1 Surveillance of spill movement and behaviour should be made by the most effective available means.

4.2.2 The surveillance of the spill and its movement and transmission of relevant reports to the other NOWPAP States, prior to the activation of the Plan, is the responsibility of the Lead State. Following the activation of the Plan the LOSC should take the necessary measures to ensure regular surveillance of the spill and its movement and behaviour, in order to make the best possible assessment of the situation and decide as soon as possible on appropriate response measures. For that purpose LOSC may request assistance from other NOWPAP States.

4.2.3 NOWPAP States should allow, when necessary, the surveillance of spills in their Action Area by aircraft or vessels of the other NOWPAP States within the framework of the Plan and following the specific request of the Lead State. Such operations should be in accordance with the domestic laws of the States - see 6.4 Overflight Procedures and Navigation Procedures.

4.2.4 Reporting procedures on the result of surveillance, which should be followed for the purpose of the Plan by the crews of surveillance aircraft, are set out in the Guideline for reporting of oil spills – aerial surveillance (Annex 5)

Forecasting Oil Movement

4.2.5 The Lead State should, without delay, gather information about wind, tides, currents and use these to make a forecast of the movement of the spilled oil. The process should be progressively refined as data becomes available from surveillance operations, while data on the type of oil can be used to predict how it will behave (effect of weathering: evaporation, dispersion, emulsification, increase in viscosity). These predictions should preferably be done using a suitable computer program, but that is not essential, and should be complemented by regular on-site monitoring of the spill. The predictions should be included in Operational NOWPAP POLREPs.

4.3 Requests for Assistance within the Framework of the Plan

4.3.1 Following the activation of the Plan, the NOWPAP State which has activated the Plan may request assistance from the other NOWPAP States to prevent or minimise pollution. This should be done through assistance decision authorities.

4.3.2 Assistance might be requested, for example, in the form of:

- a) pollution response units such as vessels and aircraft;
- b) trained response personnel and, in particular, strike teams;
- c) specialised pollution combating equipment; and
- d) pollution treatment products.

4.3.3 A request for assistance should be formulated in a clear and precise manner, referring clearly to the Plan and preferably using the standard form in the NOWPAP POLREP (Annex 4) as a reference. It should contain a detailed description of what assistance is required and where, and the purpose for which personnel, equipment, products and other means will be used. It should request information on the cost of the assistance and the means by which personnel and equipment would be transported to the scene.

4.3.4 A NOWPAP State receiving a request for assistance should immediately acknowledge receipt.

4.3.5 A NOWPAP State receiving a request should agree to offer the assistance sought subject to their capabilities and the availability of relevant resources, and should reply saying whether they can offer the assistance or not through the Assistance Decision Authority as quickly as possible.

4.3.6 An assisting State may withdraw some or all of the assisting resources if it considers it necessary to do so. In that case it should give the requesting State as much notice as possible. The requesting State should release the withdrawn resources as quickly as possible.

4.3.7 A requesting State may request withdrawal of some or all of the assisting resources if it considers it necessary to do so. In that case, it should give the assisting State as much notice as possible.

4.4 Joint Response Operations

General

4.4.1 Once it is confirmed that other NOWPAP States will provide assistance the LOSC will tell the respective NOSC where their units are to go, and what the lines of command will be. The LOSC should also advise them of the logistics arrangements which are being made for the assisting units.

Phase III - Joint response operations at sea

4.4.2 Operations at sea means any measures, including intervention at the source of pollution, spill surveillance, containment of the pollutant, recovery of the pollutant, application of treatment agents from vessels and aircraft, or any other action taken on or over the open sea (offshore) in order to respond to a pollution incident, restrict the spreading and facilitate the removal of the pollutant.

4.4.3 Joint Response Operations (JROs) at sea should be conducted in accordance with the procedures described in the NCP of the NOWPAP State whose Action Area is affected (usually the Lead State) using primarily national resources, which should be supplemented, as necessary, by the other NOWPAP States at the request of the Lead State. Units of the assisting NOWPAP States should work under the overall coordination of the LOSC and under direct Operational Control and Tactical Command of their respective NOSC's and unit commanders or team leaders.

Phase IV - Joint response operations on the shoreline

4.4.4 Operations on shoreline (shoreline clean-up operations) means any action taken on shoreline or at sea immediately adjacent to it, in order to recover, remove or destroy the pollutant and reduce the damage it causes by protecting environmentally sensitive areas and other vulnerable resources.

4.4.5 This phase also includes treatment and final disposal of collected pollutant and contaminated beach material.

4.4.6 The principles outlined under Phase III (see 4.4.3) should also apply to Phase IV.

4.4.7 In order to increase the effectiveness of JROs on the shoreline, the JERC may be transferred, at the discretion of the Lead State, to adequate alternative premises closer to the site of operations. In such cases, the Lead State should inform the assisting States.

4.5 Use of Dispersants and other Non-Mechanical Response Methods

Use of Dispersants

4.5.1 Each NOWPAP State should define its policy regarding the use of dispersants in combating oil pollution and describe it in its NCP. For this purpose the NOWPAP States should refer to the IMO publication "Guidelines on oil spill dispersant application, including environmental considerations (IMO, 1995)".

4.5.2 Each NOWPAP State should inform other NOWPAP States about its policy on the use of dispersants through MER/RAC. NOWPAP States should identify dispersants usable in their own States.

4.5.3 In the Action Area of each NOWPAP State dispersants should always be used in accordance with the provisions of the NCP of the NOWPAP State concerned. In the case of JROs, the NOWPAP States should obtain prior authorisation for the use of dispersants from the

State which is responsible for the area where they are to be used. If a NOWPAP State has prohibited the use of dispersants in its Action Area, other States participating in JROs should observe this decision.

4.5.4 The same principles (see 4.5.2 and 4.5.3) should apply also to the use of other response controversial methods, such as in-situ burning or bioremediation, in the Action Areas of the NOWPAP States.

4.6 Request for Assistance from outside the Region

4.6.1 This Plan does not hinder requesting assistance from the State outside the Region or private sectors.

4.7 Termination of Joint Response Operations and Deactivation of the Plan

4.7.1 The Lead State will, on the advice of the LOSC, authorize the LOSC to terminate the JROs when:

a) the Lead State considers that pollution response measures have been finalised or completed to a point where the benefits of further counter pollution measures would not be justified by their cost , or that

b) the response capabilities and resources of the Lead State are sufficient for successfully finalising them,

provided that:

c) the other NOWPAP States involved agree that the pollutant does not further threaten their interests, and none of them wishes to continue the operation as the Lead State.

4.7.2 After the decision has been taken to terminate the JROs, the LOSC should immediately inform the NOSC's of the other NOWPAP States of the decision and the operational actions to deactivate the Plan. The Lead State should also inform the Assistance Decision Authorities of the other States.

4.7.3 Following the deactivation of the Plan, the requesting State should release all personnel, equipment, vessels, aircraft, unused materials etc which took part in the JROs for return to their respective States of origin, unless otherwise agreed - for example the NOWPAP States

concerned may decide that unused treatment products should remain in the State that requested the assistance in accordance with the national legislation of their States.

4.7.4 All equipment used by other NOWPAP States should preferably be returned to its owners clean and, if possible, in working order. It is the responsibility of the NOWPAP State owning the equipment to check it and to compile an inventory of the equipment returned, and its condition. The check should if possible be carried out with, and be agreed between, the requesting and assisting NOWPAP States before the equipment leaves the territory of the requesting State. Any defects or shortfalls found subsequently should be notified immediately to the requesting State for further financial settlement (see 6.2.7d).

4.7.5 The requesting State should take all possible measures to facilitate the departure from its territory and Action Area or airspace of all units rendered as assistance. In particular the requesting State should take possible measures to facilitate the prompt repatriation of the personnel of the assisting States, although the arrangements for their repatriation remain the responsibility of their respective assisting States.

4.7.6 Each assisting State should prepare a report of the part they played in the JROs. The requesting State should prepare a consolidated report of the whole incident (see 5.3 below), including the effectiveness of the personnel, equipment, products and other means received as assistance. These reports should be circulated to the other NOWPAP States.

5 REPORTS AND COMMUNICATIONS

5.1 Communication system

5.1.1 The system of communication between the NOWPAP States is set out in Annex 2.

5.2 Initial warning system

Any polluting incident presenting a potential threat to another NOWPAP State should be reported without delay to that State's appropriate national operational contact points. The initial notification should be followed up as soon as possible with a NOWPAP POLREP.

5.3 Pollution reports (POLREPS)

5.3.1 For the exchange of information concerning pollution incidents, the NOWPAP States should use the NOWPAP version of the international pollution reporting system (POLREP) which is described in Annex 4.

5.3.2 During an incident the LOSC should transmit a NOWPAP POLREP at appropriate intervals, through the National Operational Contact Points, to all the units under the LOSC coordination, and to other NOWPAP States even if they are not directly involved.

5.3.3 It is the responsibility of each NOWPAP State to ensure that the reports are transmitted to all interested parties within their State.

5.3.4 If pollution combating operations continue at the national level after the deactivation of the Plan, the NOWPAP State affected by the incident should continue to inform other NOWPAP States of the situation through the National Operational Contact Points until the final termination of all pollution response operations if those States are affected or threatened by pollution.

5.4 Post-incident reports

5.4.1 Following the termination of pollution response operations the Lead State should prepare the final report, referring to the reporting format in Annex 7.

5.4.2 Based on that report and their own experience of the incident the other NOWPAP States involved should preferably prepare recommendations concerning amendments and improvements of the Plan , and if appropriate, their NCPs (cf. paragraph 2.5) .

5.4.3 JROs and the Plan should be reviewed during regular meetings of the NOWPAP States.

6 ADMINISTRATION, LOGISTICS AND FUNDING

6.1 Logistics

6.1.1 The Lead State should provide, as far as possible, the logistic support necessary within its territory for conducting JROs.

6.1.2 In particular the Lead States should provide following supports as far as possible:

a) make preparations for accommodation and transportation within the State, of all assisting personnel from the assisting States;

b) when equipment stores and supplies are received from the assisting States, take necessary measures to provide:

?? unloading and handling facilities as appropriate, including cranes, fork-lifts, and vehicles as necessary;

?? safe storage space or parking places, as appropriate, for machinery, equipment, vehicles and stores; and

?? fuel, lubricants, basic repair, maintenance and cleaning facilities.

c) ensure assistance to the crews at airports and in ports and provide security services for ships, aircraft and related equipment, while these are in ports or at airports of the Lead State.

6.1.3 The security of equipment in storage or being transported in its territory should be the responsibility of the Lead State unless it is in the hands of the assisting State which owns it.

6.2 Financial procedures

6.2.1 In requesting and rendering assistance, the NOWPAP States should observe the following recommendations and principles concerning financial matters related to mutual assistance, which are based on the Annex to the OPRC Convention 1990;

6.2.2 The basic principle is that the requesting State should reimburse the assisting State for the cost of its action taken at the express request of the requesting State.

6.2.3 The NOWPAP States should preferably inform each other in advance on the wages of personnel, the rental rates for equipment, vehicles, vessels and aircraft and the cost of treatment products, which might be rendered as assistance. This information should be updated by MER/RAC regularly based on information from each NOWPAP State and be made available for each NOWPAP State. The rates should include any insurance costs for equipment and personnel actually incurred by the assisting State.

6.2.4 The NOWPAP States should endeavour to harmonise their rates and discuss all relevant questions during the regular annual meetings on the Plan (paragraph 2.4).

6.2.5 The assisting State should, immediately following receipt of the request for assistance, submit to the requesting State an estimate of the costs of assistance. The costs relevant to the actions taken by the assisting State at the express request should be fairly calculated according to the relevant law and current practice of the assisting State, unless otherwise agreed.

6.2.6 If assistance is provided the assisting State will submit an invoice for the cost as soon as possible after the termination of operations to the requesting State. The invoice should itemise the costs, which should be clearly related to the tasks performed and if possible should be verified independently.

6.2.7 The following items should be included in the invoice:

- a) wages of personnel engaged in JROs, calculated on the basis of the notified price and the daily work logs approved by the LOSC or another responsible officer of the Lead State;
- b) costs of rental of equipment etc calculated on the basis of the notified price and daily work logs approved by the LOSC or another responsible officer of the Lead State;
- c) cost of treatment products and other consumable materials used during JROs calculated on the basis of the notified price and the daily work logs approved by the LOSC or another responsible officer of the Lead State;
- d) the costs of repair or replacement of damaged or missing equipment, except where those costs are covered by insurance; and
- e) all expenses listed in 6.2.15 below.

6.2.8 Financial records and invoices should be prepared in accordance with the guidelines provided by IOPC Fund in its "Claims Manual" and attached to the Plan as Annex 6.

6.2.9 The requesting State should pay to the assisting State all agreed expenses incurred in rendering such assistance, according to the invoice, except that if an action was taken by a State on its own initiative, that State should bear the costs of its action unless otherwise agreed between the States.

6.2.10 Following the transfer of the lead role, the State which has assumed the lead role should bear all expenses related to the assistance rendered by other States from the time of the transfer. It will be important that financial records show the dates on which costs were incurred. At the time of the transfer the new Lead State should confirm, amend or cancel the request for assistance made by the previous Lead State. See 3.1.6 above.

6.2.11 If the requesting State decides to withdraw the request for whatever reason, it should pay to the assisting State all the expenses incurred up to the moment when the request was withdrawn or the personnel and equipment were returned to their State of origin, as appropriate.

6.2.12 The NOWPAP States should resolve all questions related to financial matters after the termination of joint operations. The law and practice which should apply in case of dispute should be that of the assisting State i.e. the State incurring the costs unless otherwise agreed.

6.2.13 It should be for the Lead State to pursue its own claim for reimbursement of all costs related to pollution response, including the cost of international assistance, submitted to the person liable for the pollution incident, their insurers or an international system for compensation of pollution damages, as appropriate. Payment of those rendering assistance must not depend on the success of claims for compensation from third parties (e.g. the polluter or his insurer). However, the assisting State should cooperate with the requesting State in putting together a compensation claim by providing documentary evidence of the costs it has incurred.

6.2.14 The provisions here should not be interpreted as in any way prejudicing the rights of NOWPAP States to recover from third parties the cost of counter-pollution actions under national and international law.

6.2.15 In case of JROs the requesting State should cover, directly or after submission of an invoice by an assisting State, the expenses related to the stay in the territory of the requesting State of personnel, equipment and means (including vessels and aircraft) of the assisting State.

- a) board and lodging or daily subsistence allowance as appropriate, of response personnel other than the crews of ships and vessels, unless this was provided by the requesting State;
- b) costs of transport of personnel, equipment and products to and from the State where JROs are taking place;
- c) any port dues for vessels and ships rendered as assistance;
- d) any airport dues for aircraft rendered as assistance;
- [e) any tax or duties paid to the requesting State, including those for importing or removing equipment or personnel;]
- f) fuel, as might be necessary, in particular, for vehicles, vessels and aircraft, engaged in JROs including fuel for vessels and aircraft proceeding to the site of JROs under their own power;
- g) medical services provided to injured and ill personnel of the assisting State;
- h) costs related to repatriation of any person who died, was injured or taken ill during JROs;
- i) maintenance and cleaning costs for any piece of equipment, vessel and aircraft engaged in JROs; including maintenance and repair costs incurred after their return;
- j) repair costs for any piece of equipment, vessel and aircraft, damaged in its territory during and due to the JROs, if such repair needs to be made prior to returning it to its State of origin; and
- k) costs of communications related to the JROs incurred by the assisting State in the territory of the requesting State.

6.2.16 The assisting State should bear the following expenses:

- a) mobilisation of personnel, equipment, products or other means of response in its own State;

b) costs of communications related to JROs originating from the territory of the assisting State; and

c) medical services rendered, following their return, to any of their own nationals injured or taken ill during JROs.

6.3 Customs and immigration procedures

6.3.1 In order to facilitate the movement of response personnel and equipment the requesting State should make preparations for the rapid entry of equipment, products and personnel prior to their arrival in its territory.

6.3.2 Each State should endeavour to give, at the national level, consideration to the maximum extent applicable in emergency situations and in particular it is recommended that:

a) provisions should be made for rapid granting of entry visas and work permits for personnel; and

b) customs formalities should be facilitated.

6.3.3 Information on such possible consideration of each State should be provided through MER/RAC. The assisting State must provide the necessary information to the requesting State in order for the prompt acceptance of personnel and equipment.

6.3.4 Before sending assistance to the State who so requests, the assisting State should follow the appropriate procedure, in order to obtain necessary clearance for entry of equipment, products and other means into the State.

6.3.5 When offering assistance in response to a request the assisting State should be prepared to:

:

a) list all personnel with names, date of birth, nationality and passport numbers;

b) list all equipment to be shipped (relevant customs information should be with the equipment on arrival);

c) give the mode of transport with details (name of vessel, flight number, where from and estimated time of departure, where to and estimated time of arrival);

d) request any special unloading, transport or storage facilities required; and

e) request any special supplies or facilities which might be needed to put the equipment into operation.

Termination of assistance

6.3.6 The requesting State should facilitate to the maximum extent the customs clearance of equipment being returned without undue delay.

6.4 Overflight and navigation procedures

6.4.1 If ships and aircraft should be requested, the requesting State should ensure, as far as possible and as promptly as possible, that they are given the necessary authorizations to operate in or over the Action Area of the requesting State. Ships and aircraft must not infringe international maritime or aviation law during a response operation. They should only operate in or over the Action Area of a State at the express request and with the express permission of that State. Nothing in this Plan shall affect the exercise by ships and aircraft of all States of navigational rights and freedoms as provided for in international law and as reflected in relevant international instruments.

Overflight procedures

6.4.2 Within the framework of the Plan and upon the request of the Lead State, aircraft of the other States should enter and operate in the airspace of the Lead State only in the areas specified by the Lead State, for any of the following purposes:

- a) spill surveillance;
- b) transportation of response personnel, equipment and products;
- c) spraying of dispersants or other treatment products; and
- d) other flights related to pollution response operations.

6.4.3 In its request for assistance, the Lead State should precisely define the aim of the mission and the flight plan to be made by assisting States.

6.4.4 Each NOWPAP State should endeavour to give, at the national level, consideration to the maximum extent to rapid granting of permits and clearances for civil aircraft (fixed wing or helicopters) of other States, which might be requested to take part in response operations within its airspace. Similar considerations should be given to the maximum extent for the use of airport facilities by such aircraft of the other NOWPAP States.

6.4.5 Overflight for the above-mentioned purposes, of the national territory or Action Area of one of the States, by military aircraft of the other NOWPAP States, should be decided on the case-by-case basis by the States concerned.

Navigation procedures

6.4.6 Within the framework of the Plan and upon the request of the Lead State, vessels of the other NOWPAP States should enter and operate in the Action Area of the Lead State only in the area specified by the Lead State, for any of the following purposes:

- a) spill surveillance;
- b) salvage operations;
- c) pollution response operations, including containment and recover of spilled products, spraying of dispersants or other treatment products, storage and transportation of recovered pollutant;
- d) transportation of response personnel, equipment and products; and
- e) any other voyage related to pollution response operations.

6.4.7 Each NOWPAP State should endeavour to give, at the national level, consideration to the maximum extent to rapid granting of permits and clearances for the navigation of civil vessels (ships, boats specialised anti-pollution vessels) of other States, which might be requested to take part in response operations within its Action Area. Similar considerations should be made to the maximum extent for the use of port facilities by other NOWPAP States. Each NOWPAP State provides the information needed for arranging navigation in Action Area of the State concerned through MER/RAC.

6.4.8 Navigation for the above-mentioned purposes, in the Action Area of one of the NOWPAP States, by naval vessels of the other NOWPAP States, should be decided on the case-by-case basis by the NOWPAP States concerned.

6.5 Health and safety

6.5.1 The NCPs should refer to the relevant national health and safety regulations and controls for operation workers and should require those in charge of operations at sea and on the shoreline to be familiar with the relevant regulations about health and safety. In each unit one manager should be responsible for ensuring that the proper consideration is given to the health and safety of the workers, and that all personnel are briefed on the risks associated with the equipment they are using, understand the safety precautions and are provided with the appropriate safety equipment and protective clothing.

6.5.2 Assisting States should brief themselves on the relevant regulations about health and safety for the State in which they are working and should observe any regulations which apply to them. It is recommended that the requesting State should draw the assisting State's attention to any important or unusual regulations or safety requirements.

6.6 Medical insurance and medical assistance

6.6.1 Each NOWPAP State should take whatever measures it deems appropriate to insure against death, illness and injury, its own personnel who might participate in JROs.

6.6.2 The Lead State should endeavour to offer the best possible initial medical care and services to any person from another NOWPAP State who was injured or taken ill during his/her participation in JROs.

6.6.3 The Lead State should facilitate repatriation of assisting personnel injured or taken ill during JROs.

6.6.4 The costs of hospitalisation and medical assistance rendered within the Lead State to injured or ill personnel of the assisting State should be borne by the Lead State. The Lead State might decide to claim the reimbursement of all such costs from the State responsible for the pollution incident, its insurer or an international system for compensation of pollution damages as appropriate.

6.7 Documentation of Response Operations and Related Costs

6.7.1 LOSC should take necessary measures to ensure that detailed records of all actions taken in order to respond to a pollution incident, within the framework of the Plan, are accurately kept. For this purpose, LOSC might include a record keeping officer or financial controller in his/her support team.

6.7.2 At least the following records should be regularly kept:

a) description of the situation, decisions taken and response measures implemented;

b) daily work log, giving details of:

?? operations in progress (place, time, purpose);

?? equipment and other means in use (place, time, purpose);

?? personnel employed (number, time); and

?? materials (e.g. fuel, dispersant, sorbents) consumed (quantity, purpose).

c) records of all expenditure incurred in relation to pollution response operations.

6.7.3 Following the termination of the response operations, such records should be made available to the national Authority responsible for the submission of claims for compensation.

7 PUBLIC INFORMATION

7.1 Public Relations Officer (PRO)

7.1.1 At the activation of the Plan, the Lead State should designate a Public Relations Officer (PRO) who should be seconded to the LOSC's support team.

7.1.2 The PRO should be responsible for:

a) maintaining contacts with the press;

b) preparing press releases on behalf of the LOSC ; and

c) following information released by the press and clarifying possible misunderstandings.

7.2 Press Releases

7.2.1 Press releases will preferably be prepared and distributed to the press at least once a day during the entire period between the activation and the deactivation of the Plan.

7.2.2 Press releases should be prepared by the PRO on the basis of accurate facts. They may contain information concerning:

- a) the pollution incident and development of the situation;
- b) injuries of personnel and damages to vessels, equipment, etc.;
- c) technical data on vessels involved, type of characteristics of the pollutants, etc.;
- d) measures taken to combat pollution;
- e) assistance provided by other NOWPAP States;
- f) progress of response measures; and
- g) extent of pollution and its effects.

7.2.5 All press releases should be vetted and approved by the LOSC before distribution to the press. Where practicable, references in them to other NOWPAP States will preferably be agreed with the appropriate liaison officer in the JERC.

7.3 Press conferences

7.3.1 After the activation of the Plan, the Lead State may decide to organise one or more press conferences for briefing the media.

Annex 7

(Develop another Annex for the items to be included in the Post-Incident Report)

- a) description of the pollution incident and development of the situation;
- b) response measures taken;
- c) assistance rendered by the other NOWPAP States (based on reports by the respective NOSCs);
- d) assessment of the complete response operation;
- e) assessment of assistance rendered by the other States;
- f) costs incurred during the response by each NOWPAP State;
- g) an estimate of environmental and economic damage;
- h) description and analysis of problems encountered in responding to the pollution incident; and
- i) recommendations regarding possible improvement of existing arrangements and, in particular, provisions of the Plan.

Annex VI

**DRAFT MEMORANDUM OF UNDERSTANDING (MOU) ON
REGIONAL CO-OPERATION REGARDING PREPAREDNESS AND RESPONSE TO OIL
SPILLS IN THE MARINE ENVIRONMENT
OF THE NORTHWEST PACIFIC REGION**

The Government [authorities]² of Japan, the People's Republic of China, the Republic of Korea and the Russian Federation, hereinafter referred to as the [States]³:

RECOGNISING the serious threat posed to the marine environment by oil pollution incidents involving ships, offshore units, sea ports and oil handling facilities;

MINDFUL THAT, in the event of an oil pollution incident, prompt and effective action is essential in order to minimise the damage which may result from such an incident;

RECOGNISING ALSO the importance of mutual assistance and international co-operation through the exchange of information such as national contingency plans, reports on significant incidents and relevant research and development;

BEARING IN MIND the relevant provisions of the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (OPRC Convention) related to the promotion of bilateral or multilateral agreements for preparedness for and response to pollution incidents;

TAKING ACCOUNT of the "polluter pays" principle as a general principle of international environmental law;

TAKING ACCOUNT ALSO of the importance of international instruments on liability and compensation for oil pollution damage;

TAKING ACCOUNT FURTHER of the Action Plan for the Protection, Management and Development of the Marine and Coastal Environment of the Northwest Pacific Region (NOWPAP) adopted at the First Intergovernmental Meeting (Seoul, 14 September 1994), which agreed, *inter alia*, to maintain and promote regional co-operation in marine pollution preparedness and response;

² Proposed by China, reservation by Japan

³ Proposal by delegations : [States proposed by Japan / Parties or Participants preferred by Korea / Parties preferred by Russia / Authorities or Participants preferred by China]

BEING AWARE of the need to promote regional co-operation and to enhance existing national, and regional capabilities concerning preparedness and response to marine pollution incidents;

RECOGNISING FURTHER that regional oil pollution contingency plans specifying in advance operational procedures and administrative and financial conditions related to co-operation in cases of emergency, are necessary for a prompt and efficient response to marine pollution at regional level;

ACKNOWLEDGING the positive role played by the Marine Environmental Emergency Preparedness and Response Regional Activity Centre (MER/RAC) and the support of the International Maritime Organization (IMO) and of the United Nations Environment Programme (UNEP) in promoting regional co-operation in preparedness for and response to marine pollution incidents in the NOWPAP region;

[NOTING that this Memorandum of Understanding and the NOWPAP Regional Oil Spill Contingency Plan are not legally binding documents and are not intended to impose any legal obligation on any of the States;]⁴

[NOTING that this Memorandum of Understanding and the NOWPAP Regional Oil Spill Contingency Plan do not imply obligations exceeding the national abilities of each NOWPAP State]⁵

HAVE REACHED THE FOLLOWING UNDERSTANDING:

ARTICLE 1

The [States] decide, in accordance with the OPRC Convention and with their national laws, and subject to their capabilities and availability of resources, to use the NOWPAP Regional Oil Spill Contingency Plan (annexed to this MOU, hereinafter referred to as “the Plan”) as a guideline for regional co-operation on major oil pollution emergencies and promote its implementation.

ARTICLE 2

(1) In cases of major oil pollution incidents, the [States] decide to co-operate, in taking individually and jointly, necessary response measures according to the Plan.

⁴ Proposed by Japan, Reservation by Korea and Russia

⁵ Compromise, proposed by Korea, reservation by Russia

- (2) Any [State] requiring assistance to deal with a pollution incident may call for assistance from other [States]. [States] so requested, subject to their capabilities and the availability of relevant resources, should use their best endeavours to render the assistance.
- (3) Nothing in this Memorandum of Understanding should inhibit [States] from calling for assistance from outside the region if they judge it necessary.
- (4) Each [State] should consider how best to facilitate the prompt movement between the [States] of personnel, equipment and other means to respond to oil spills.

ARTICLE 3

- (1) The [States], according to the Plan, should directly or through the MER/RAC exchange information specified in the Plan.
- (2) Each [State] should provide MER/RAC with up-to-date information which is relevant to the purpose of this Plan, and MER/RAC should keep the [States] informed on a regular basis.

ARTICLE 4

- (1) This Memorandum of Understanding will come into effect for a [State] on the date of its signature by that [State].
- (2) [This Memorandum of Understanding will be open for signature by other [States] when they become member State of NOWPAP]⁶.
- (3) This Memorandum of Understanding should be amended at any time upon the request of any [State] by mutual consent.

ARTICLE 5

[Any dispute in the interpretation or application of this Memorandum of Understanding will be resolved by consultations between States, and will not be referred to any national or international tribunal or third party for settlement.]⁷

ARTICLE 6

Any [State] may withdraw from this Memorandum of Understanding by giving [sixty days / six months] written notice to the other [States] or through to the MER/RAC. [The States should consult to determine how the outstanding matters should be dealt with.]⁸

⁶ Proposed by China, supported by Korea

⁷ Proposed by China, reservations by Japan, Korea

⁸ Reservation by Japan

The foregoing represents the understanding reached between the [States] referred to in this Memorandum. [It does not create among themselves any legally binding obligations.]⁹

The Memorandum of Understanding is signed at _____ on _____
by the following representatives of respective Governments.

For the Government of Japan

For the Government of the People's Republic of China

For the Government of the Republic of Korea

For the Government of the Russian Federation

⁹ Reservation by Russia