

2014 INTERNATIONAL OIL SPILL CONFERENCE

**International Offers of Assistance Guidelines – Developing an IMO Tool to
"Internationalize" Oil Spill Readiness and Response**

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ABSTRACT 299970:

During the Macondo 252 incident in 2010, it became apparent that the lack of clear guidance to effectively manage the flood of response assistance offered and required from other nations and organizations. To help address these concerns, the U.S. Coast Guard hosted an international ad hoc workgroup after the 2011 International Oil Spill Conference to discuss challenges and issues associated with sharing equipment, technology and expertise among nations and organizations to support a national response authority faced with a significant oil spill exceeding the domestic response capacity. Ideas and recommendations were captured and the need for the development of a comprehensive set of guidelines for International Offers of Assistance (IOA) was formed. The U.S. Coast Guard recognized the importance of establishing these guidelines with a broad, global perspective and proposed the concept to the International Maritime Organization's Marine Environment Protection Committee (MEPC). In July 2011, MEPC approved the proposal submitted by the United States, and added this item to the work program of the Technical Working Group of the IMO Protocol on Preparedness, Response and Co-operation to pollution Incidents by Hazardous and Noxious Substances (OPRC-HNS TG). The OPRC-HNS TG began this work during its 13th session in March 2012, and continues to conduct the bulk of guideline development during intersessional periods via an International Correspondence Group, comprised of a range of national response authorities, spill contractors and industry representatives from around the world. These international guidelines will be available for use by nations as a tool to assist in managing a multitude of requests for and offers of assistance from other countries, regional coordinating bodies, or other entities. This paper summarizes work already completed and still in progress on the development of the IMO International Offers of Assistance Guidelines for oil spills. The ultimate goal for these Guidelines, once completed within the OPRC-HNS TG and approved by MEPC, will be adoption and utilization by IMO Member States, particularly those that are party to OPRC

Convention and to the OPRC-HNS Protocol which require States to establish procedures for international cooperation during pollution incidents.

INTRODUCTION:

The Macondo 252 well blowout in the Gulf of Mexico (April 2010) was a complex and lengthy response that far exceeded the response resources available within the United States. The response highlighted some significant gaps in the overall management of international offers of assistance from other nations and entities. These gaps included:

- How best to request and search for only those specific resources needed and who best to contact?
- How to collate and process the many generous, unsolicited offers and choose only those which met operational needs?
- How to manage the logistics of obtaining the resource once an offer was accepted – how to transfer the equipment, how to fund or compensate the offer, how to manage the customs and coastal trading laws, what if any were the conditions of return?

Background of IMO IOA Guidelines Development

In May 2011, the U.S. Coast Guard hosted an International Ad Hoc Equipment Seminar for about 40 participants from a range of national response authorities, industry, and response contractor organizations from around the world, immediately following the International Oil Spill Conference in Portland, Oregon. Invited speakers discussed a host of challenges and gaps in facilitating smooth and effective management of International Offers of Assistance (IOA), which included such issues as existing international treaties, regional agreements and mandated requirements for equipment stockpiles to maintain minimum equipment levels to meet contingency plan requirements. The discussions highlighted the need for comprehensive Guidelines for IOA.

The U.S. Coast Guard proposed the concept to the IMO's Marine Environment Protection Committee (MEPC) in July 2011, where it was accepted and assigned to its OPRC-HNS Technical Group¹. The OPRC-HNS TG began work on the development of these Guidelines at its 13th session (TG13) in March 2012.

The primary remit of the OPRC-HNS TG, which brings together marine pollution response experts from IMO Member States and Observing Organizations worldwide, is to provide tools and guidance to help Member States to implement the provisions of the OPRC Convention and OPRC-HNS Protocol.

¹ Technical Working Group of the International Convention on Oil Pollution Preparedness, Response and Co-operation 1990 (OPRC 90) and the Protocol on Preparedness, Response and Co-operation to Pollution Incidents by Hazardous and Noxious Substances, 2000 (OPRC-HNS Protocol)

Implementation of the OPRC Convention

The OPRC Convention was the first attempt to “internationalize” preparedness, response and cooperation efforts for marine oil spills, and reflects the reality that a single nation is unlikely to be able to have sufficient resources to respond effectively to a large complex oil spill response on its own (Edwards, 1993). While regional agreements between neighboring nations have been in place for some time, they tend to be limited to the resources and capabilities of the signatories only, and rely primarily on the government-owned resources of the member states (Holt 1993). The OPRC Convention addresses these issues by encouraging development of national response systems and promoting international cooperation and mutual assistance (Edwards, 1995). As with any Convention, however, the responsibility for its implementation lies with the nation state. The MEPC of the IMO led several iterative efforts to promote the implementation of the international cooperation requirement of the OPRC Convention, culminating in Resolution A.983 (24), *Guidelines for Facilitation of Response to a Pollution Incident*, adopted in 2005, which outlines the responsibilities and roles of each party to the OPRC Convention. The information in these 2005 Guidelines is focused primarily on Government-to-Government relationships, including government-owned resources, with less focus on the role of private entities, such as the Spiller, response contractors as well as private equipment providers. These earlier guidelines do, however, provide the basis and framework upon which these more comprehensive and detailed IOA Guidelines are founded.

International Offers of Assistance Correspondence Group

Taking into account its remit, and the task set by the MEPC, the OPRC-HNS TG created an intersessional Correspondence Group to develop these guidelines in the context of implementing the OPRC Convention as well as capturing the issues identified during Macondo 252 incident and gathered from the International Ad Hoc Equipment Seminar. This work needed to build upon the previous work done by the IMO, and incorporate a host of topical concerns and issues that affect the IMO member states. In subsequent OPRC-HNS TG sessions since TG13, the correspondence group has shared its work with the larger group and solicited input during plenary and splinter sessions.

Guidelines Overview

The guidelines are designed to fit within a nation's governmental system and response regime. It would be beneficial, however, for private entities such as response contractors, cooperatives and equipment manufacturers to be familiar with these guidelines when offering to assist a nation with spill response needs.

The IOA Guidelines aim is to provide guidance for nations during two anticipated conditions:

1. Nations seeking assistance from other nations or organizations following a major oil spill, in framing requests, and evaluating and responding to offers; and
2. Nations or organizations that may wish to offer assistance.

The IOA Guidelines address different categories of communication and management of offers of assistance, including recommendations for the development of a comprehensive IOA management system which would include:

1. The establishment of coordination mechanisms within the levels of the requesting nation's agencies, on regional/local levels and national (headquarters) levels;

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2. Communications between response agencies and Ministries of Foreign Affairs (or similar agencies within the affected nation);
3. Offer evaluation procedures;
4. Offer receipt and processing procedures; and
5. Transaction details for an accepted offer, such as terms and conditions of its use, compensation, transportation specifics, insurance requirements, port of entry and customs issues, etc.

The guidelines are currently being developed as two separate, complementary annexes: Annex I Coordination and Management of Requests and Offers, and Annex II Equipment Considerations, which will ultimately be combined into one final document. This separation of the Guidelines into two major focus areas has enabled their development in parallel by gathering subject matter experts and stakeholders from agencies, industry and response organizations and allowing them to contribute in their areas of expertise.

Annex I – Coordination and Management of Requests and Offers

The focus of this annex is to outline a range of key considerations and requirements that need to be addressed in a comprehensive manner in the context of establishing a comprehensive IOA system during a large response. This annex groups international offers of assistance into five general categories or mechanisms:

1. Government to Government;
2. Government to Private;
3. Government to Regional Coordinating Body;
4. Private to Private; and
5. Private to Government.

Implementation procedures for any agreement to offer or accept assistance must address the appropriate process for each of the categories and identify a coordinating function for the logistics chain to deploy the accepted resources into the affected area. Issues such as customs clearances, legal impediments to the use of internationally-owned equipment, and funding and reimbursement considerations must also be addressed.

IOA Coordination System

These IOA Guidelines describe the concept of establishing a comprehensive “IOA System” should spill response requirements exceed existing regional and bi/multilateral agreements. At some point, the Affected Nation will make a determination to initiate the IOA System and then utilize these guidelines, and likely employ one or more of the five categories of IOA interactions described above (see fig. 1).

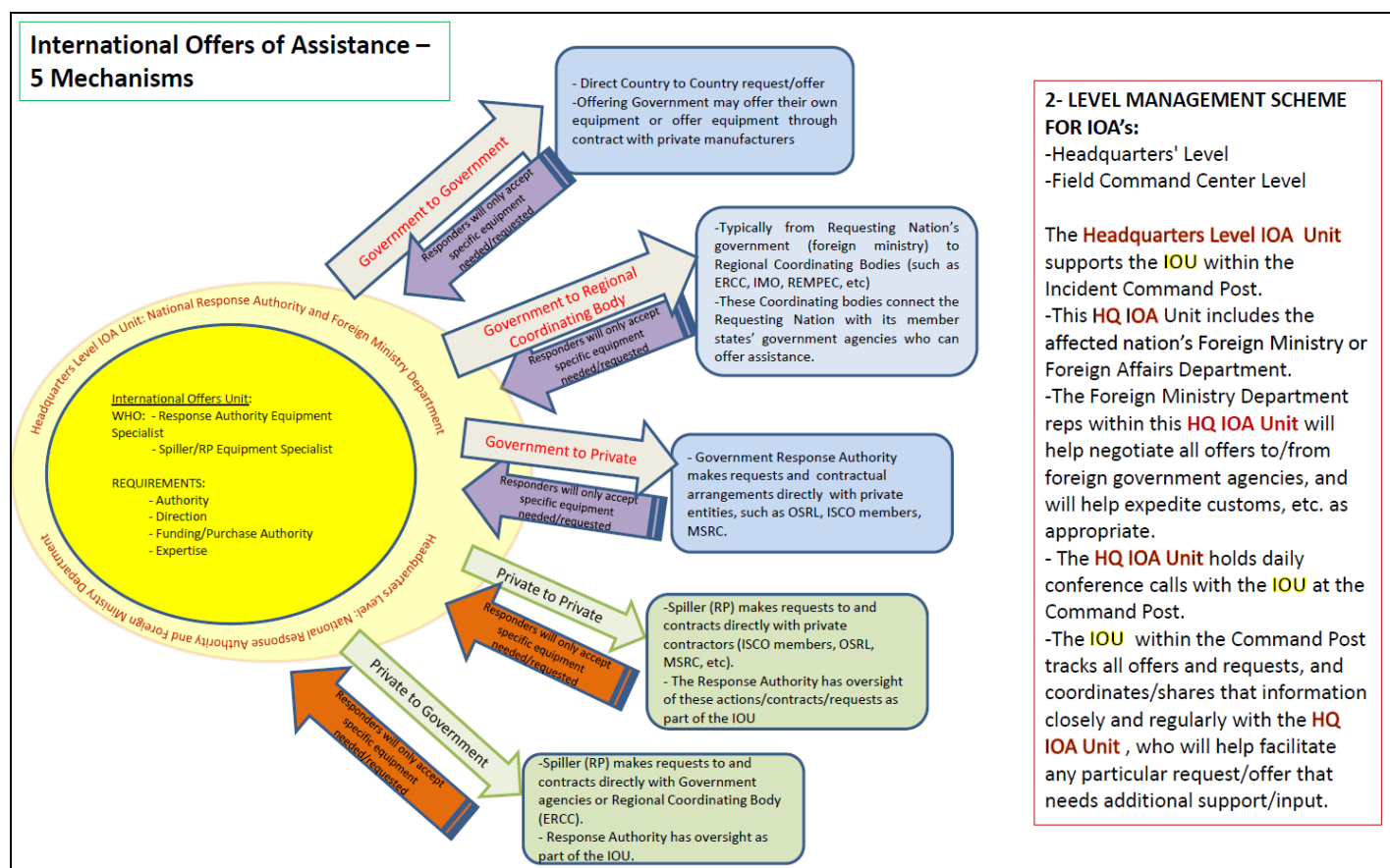


Figure 1. Five Mechanisms of a Comprehensive International Offers of Assistance System

Once an incident-specific IOA program or system is initiated, it is recommended that a two level **IOA Management Team** be established to manage the requests, the offers, the status of each as well as the detailed negotiations required to enable the mobilization of resources from the offering nation to the affected nation, for subsequent deployment to the field of operations:

1. **Headquarters, Ministry or Department Level:** This “HQ IOA Unit” would likely be comprised of Headquarters, Ministry or Department level representation from the Response Authority, the Foreign Ministry (or Department of State in the U.S.), and possibly other Ministry or Department level agencies as appropriate within the affected nation.
2. **Field Command Center Level:** It is recommended that “International Offers Unit” be housed at the field Command Center, and include representatives from the Response Authority (ideally staff with technical expertise and oil spill experience); and representatives from the Spiller who have relevant technical expertise.

To be most effective, this two level IOA management team should stay in close communication and coordination, ideally through daily conference calls, if they are not co-located.

REQUESTS FROM THE AFFECTED (or REQUESTING) NATION:

The requests for equipment, response resources and technical specialists will be generated at the Field Command Center level, from within the “**International Offers Unit**”. Specialists in this International Offers Unit will work closely with the Command Function and Operations Function of the response to help identify resource constraints and limited supplies for specific, needed pieces of equipment and other response resources, for the duration of the response. These teams should establish regular communication, aligned with the Operational Period (recurring planning cycle) to determine any changing needs, and provide updates on the arrival status of offers accepted. In an established response this may typically be a 24-hour recurring daily cycle. Specialists in this IOU should then utilize the standardized set of terminology, outlined in the IOA Lexicon (described in Annex II) to write up the request forms for the specific items needed.

The field IOU specialists should then communicate these resource and equipment needs to the Headquarters level “IOA Unit”, using the recommended forms, and through the regular cycle of conference calls. It is anticipated that each specific request will likely be handled by a different mechanism (Table 1); some requests will be driven or led by the HQ level Unit, and some driven or led by the Field IO Unit, dependent partly upon the scale of the incident.

During the regular calls between the HQ IOA Unit and the Field IOU, these two groups should decide which mechanism will be utilized to obtain the required resource. The movement of the equipment to the field site should be managed by the HQ unit or by the Field level unit, as appropriate. For example, if the technical specialists working in the Field IOU are able to negotiate directly with an equipment manufacturer in a foreign country to obtain the specific piece of equipment required, the Field IOU may manage the majority of this transaction, and should keep the HQ level IOA unit informed of the status together with any need for any higher level assistance with Customs or Immigration, and other regulatory requirements.

Specialists at the Field IOU should recommend items of equipment they would wish the HQ unit to solicit through diplomatic channels from other nations and from Regional Coordinating Bodies. The Field level unit may know the best sources for specialist equipment and may also research possible sources of such resources.

The two level IOA Management team should determine at which level each of the offers and requests should be logged and tracked for status, as well as the need for and status of any follow-up correspondence that may be appropriate.

In most cases, it will be most appropriate for the HQ level IOA unit to manage communications with other foreign national governments and Regional Coordinating Bodies. Once initial correspondence has occurred, and the offer and/or request has been accepted, technical specialists from the offering nation or Regional Center may then work directly with technical specialists at the Field IOU who should also be ensuring that the HQ level IOA are kept fully informed at all stages of the transaction.

OFFERS FROM ASSISTING NATIONS:

Offers may come in, unsolicited, from other nations and Regional Coordinating Bodies, and other organizations, to provide equipment, resources, and technical personnel. It is expected that these offers will be managed by the HQ level IOA Unit, even if they are received directly into the Field Command Center. The HQ level IOA Unit will log each of these offers and track the status of when replies were sent, and the content of the reply. The HQ level IOA will also create a list of offered equipment and resources and share this regularly with the Field IOU, as a need may arise later in the response for some of the equipment and resources offered. Some offers may need to be rejected outright, if the equipment or resources offered are clearly not required, and are not anticipated to be needed later in the response.

It is expected that the HQ level IOA Unit, with direct involvement from the affected nation's Foreign Ministry department, will draft and deliver such correspondence in the appropriately diplomatic manner.

FUNDING AND OTHER KEY TERMS AND CONDITIONS OF IOA TRANSACTIONS:

Before an offer or request for a specific response resource can be accepted, and its mobilization to the affected area started, there must be a clear communication between the representative or key members of the requestor and the donor/provider as to applicable terms and conditions of the transaction. These can include clear agreement and understanding of funding or compensation expectations: whether the resource will need to be paid for, or rented, or returned, or replaced. Also, all parties involved must agree upon liability concerns, requirements for insurance, and conditions for the equipment's return (if applicable), whether an equipment item requires specifically-trained or certified operators, and whether those operators included with the equipment, etc. It is recommended that these types of negotiations and discussions take place in most IOA transactions at the HQ IOA Unit level.

PROPOSED TYPES OF MECHANISMS FOR IOA (see Figure 1):

1. GOVERNMENT TO GOVERNMENT:

For interactions and transactions related to IOA between the government agencies of the affected nation's (in particular the 2-level IOA Management team comprised of the HQ Level IOA Unit and the Field IO Unit), and any other foreign government. In some cases, requests made by the Requesting Nation to an Assisting Nation may result in the Assisting Nation recommending contact with a private entity (such as oil spill contractors, equipment vendors and manufactures, as well as any oil company/facility which might have equipment to offer) within their country.

2. GOVERNMENT TO PRIVATE:

For all interactions and transactions related to IOA between the government agencies of the affected nation's (in particular the 2-level IOA Management team comprised of the HQ Level IOA Unit and the Field IO Unit), and any private entity such as oil spill contractors, equipment vendors and manufacturers, as well as any oil company/facility which might have equipment to offer.

3. GOVERNMENT TO REGIONAL COORDINATING BODY:

For all interactions and transactions related to IOA between the government agencies of the affected nation's (in particular the 2-level IOA Management team comprised of the HQ Level IOA Unit and the Field IO Unit), and a Regional Coordinating Body, such as the European Commission's Emergency Response Coordination Centre, or the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea. These Regional Coordinating bodies will help locate the requested equipment and resources from member governments and facilitate communication between the requesting state and those member governments that may be able to provide assets or indicate their availability on the private market. These Regional Coordinating bodies may also facilitate, finance and expedite transportation of equipment and expert teams, in some cases. These Regional Coordinating bodies generally do not interact directly with private entities (spill contractors, equipment manufacturers or other private companies with response equipment) within their member nations, but may under certain circumstances.

4. PRIVATE TO PRIVATE:

This category includes interactions that the Spiller has directly with spill contractors, equipment manufacturers, vendors, and other private entities (such as other oil facilities with response equipment). While these transactions and negotiations may unintentionally circumvent the formal IOA process, it is important that once the IOA system has been established the affected nations' IOA Management Team maintain tracking of each of these transactions, in order to maintain overall situational awareness of the specific types and amounts of resources that will be entering their borders, and the specifics of the transactions.

5. PRIVATE TO GOVERNMENT:

This mechanism includes interactions that the Spiller has directly with foreign government agencies or Regional Coordinating Bodies. There may be cases where an assisting nation or Regional Coordinating Body might be willing or able to negotiate directly with the Spiller to mobilize a specific response resource. As with the other mechanisms, once the IOA process has been stood up, the affected nations' IOA Management Team should closely track these transactions, to maintain overall situational awareness of the resource provisioning and the specifics of each transaction.

Recommended Procedures for Receipt, Processing, Evaluation and Acceptance of Offers

The Guidelines recommend key procedures to establish a process to review and respond to offers of assistance as efficiently as possible, consistent with operational requirements, and allow for the rejection of offers for resources that do not meet operational requirements. These include: (1) Ensuring operational elements of response organizations (i.e. the Response Authority such as Coast Guard or Environmental Agency) are heavily involved throughout the evaluation of offers to confirm that offers of assistance meet current or projected operational needs, and are empowered to accept or decline such offers based on current or projected needs; (2) Facilitating and ensuring any necessary legal reviews of offers of assistance from appropriate Requesting Nation authorities; and (3) Ensuring adequate and comprehensive documentation of offers of assistance from foreign governments and international organizations, including: the

responses to such offers; the financial arrangements agreed such as the costs associated with the deployment of any equipment and/or personnel for the purpose of cost recovery; evidence collection or other post-event actions for which such information may be needed.

Establishing an Offer Evaluation System

When numerous offers are being processed, the Guidelines recommend establishing an Offer Evaluation Team, which should include the Response Authority agency, including technical experts working in the operational aspects of the response, and representatives from the Foreign Ministry agency together with any Liaison Officers between these agencies. The agency or unit who will have the authority to make the final decision on acceptance/rejection of an offer must be clearly stated at the outset of the IOA program. In some prescribed Incident Management Systems such as the Incident Command System (ICS), there is a dedicated response unit known as the Critical Resources Unit, holding the primary responsibility to monitor and determine those response resources that are in high demand and low availability. Members from this unit would be ideal candidates for the Evaluation Team for IOAs. Determination of the Evaluation process timeline is essential to this process and the frequency by which the evaluation team will review an offer and make an acceptance/decline decision.

Customs, Legal and Financial Issues

The IOA Guidelines discuss a number of key issues that should be incorporated into the acceptance and deployment of accepted offers, and may even influence the acceptance of an offer. These issues include:

- Immigration and Customs Requirements, Duties, Taxes and Tariffs (and the ability to expedite, limit or circumvent them as appropriate);
- Insurance and Liability Requirements and Constraints;
- Applicable Legal and Regulatory Requirements (such as Coastwise Trade and Shipping Laws)
- Compensation.

Annex II – Equipment Considerations and Good Practices, and the IOA Lexicon

This Annex of the IOA Guidelines is focused on Considerations and good practice for selection of appropriate equipment and response resources during a large and complex spill. It recognizes that response equipment needs tend to be unique and specialized and when requests are made as part of the IOA System, all parties understand that equipment accepted will only be those types specifically needed to support the response operations.

The primary function of the Equipment Annex is the establishment of a Common Lexicon of equipment terminology, developed by consensus from an international team of spill response and equipment specialists. The Lexicon is designed to ensure that all members involved in an IOA process are using the same terminology for response equipment and resources. A Lexicon Tool/Spreadsheet was developed, using the Lexicon terms, to aid the Affected Nation and the Offering Nation or entity when creating an offer or request for specific pieces of equipment or response resources. The Common Lexicon is not an attempt to develop a global equipment list, or to drive the data fields that might be required to be used in some sort of global equipment list, should one be developed.

The IOA Lexicon focused on 17 high-level equipment terms including: Aircraft, Vessels (skimming), Vessels (non-skimming), Temporary storage, Boom, *In situ* burn, Pump, Dispersant, Oily water separator, Beach Cleaners, Sorbent Types, Subsea, Remote Sensing/Surveillance, Tracking/Detection, Communication Equipment, Personnel and Specialist Vehicles. The Lexicon terms are further refined into *Task* options, *Equipment sub type* options and *Capacity* options. This allows those who are requesting and providing equipment to narrowly define the equipment needed based on the capability required. These terms are captured in a spreadsheet, or Lexicon tool, which is designed for use when an IOA system has been stood up.

The Annex also includes a listing of major response equipment providers and dedicated Oil Spill Response Vessels, together with a listing of Wildlife equipment providers and their equipment.

CONCLUSIONS:

The IOA Guidelines are a practical tool to help tackle a very real issue of the coordination of international resources requested and / or offered during a spill of national significance. As such they also are a tangible manifestation of the international will for neighborly assistance and cooperation between nations as a core principle of the OPRC Convention.

The IOA Guidelines are still under development under the IMO OPRC-HNS TG and have a target completion date of 2015. These Guidelines will be endorsed by IMO as a vehicle to support implementation of all the requirements of the 1990 OPRC Article 7 and Resolution A.983 (24).

As such, it is recommended that nations who have not done so yet, consider including language or policy on an International Offers of Assistance program or system in their National Contingency Plan, consistent with the IMO IOA Guidelines. Additionally, testing of these Guidelines or components therein, during international exercises would greatly improve their usability and ensure identification of additional areas for expansion or improvement. Other possible areas for expansion include the following:

- Development of an internet-based software program to expedite request/offer process, and tracking/management of offers.
- Compatibility with other nation's or response organization databases.
- Further progression of these efforts in the U.S. to support development of a standard Type and Kind system for oil spill response equipment.

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