TRACECA REGIONAL SEMINAR ON MARPOL
AWARENESS AND IMPLEMENTATION

Moldova – 21 to 23 July 2015

MARPOL - history

- The world’s first oil tankers - the late 19th century (kerosene)
- Second World War - standard oil tanker
  16,400 tonnes deadweight
- 1950s and onwards – tankers grew in size
- The first 100,000-tonne crude oil tanker was delivered in 1959
- Very Large Crude Carrier (VLCC) at 200,000 DWT by mid-1960s

MARPOL - history

- 1921 – Conference in London on Protection of Coastal Area from Pollution by Oil,
- 1926 – International Conference in Washington on Protection of Pollution by Oil, and...
- 1954 – International Convention for the Prevention of Pollution of the Sea by Oil,
  (UK > IMO 1958).

* The OILPOL Convention, recognized that most oil pollution resulted from routine shipboard operations
The OILPOL Convention set criteria for allowable oil discharge:
- Distance limits/prohibited zones
- Reception facilities
- Load on top (1969 amendment)
- Cargo tank limits (1971 amendment)

- 1967 - “Torrey Canyon” (UK) 120,000 tons of crude oil
- 1969 - New Convention planned/MEPC formed
- 1973 - Conference leading to MARPOL Convention (but ratification slow)
- 1976 - “Argo Merchant” (US) 27,000 tons of oil
- 1978 - Conference adopting Protocol to 1973 MARPOL Convention (deferment for Annex II)

- 1978 - “Amoco Cadiz” (France) 220,000 tons crude oil
- 1989 - “Exxon Valdez” (US) 0.25M barrels of crude (double hull)

Unfortunately not the end!
- 1997 - Further Protocol addressing Air Pollution concerns

In short:

MARPOL

THE 1973 CONVENTION:

❖ 20 Articles
❖ Protocol I: Provisions concerning Reports on Incidents involving Harmful Substances
❖ Protocol II: Arbitration
❖ 5 Annexes: Annexes I and II: Mandatory
Annexes III to V: Optional

MARPOL 73 - Articles

1. General obligations under the Convention
   Undertaking to give effect to the provisions (Annex I/II mandatory)

2. Definitions
   Harmful substance (not limited to MARPOL)
   Discharge (excludes London Convention for Wastes)

3. Application
   Controlled by Party to the Convention
   Excludes State vessels

4. Violation
   Application of Sanctions
MARPOL 73 - Articles

5. Certificates and special rules on inspection of ships
   Acceptance/Enforcement action
   Non-party ships -§(4) no more favourable treatment

6. Detection of violations/enforcement of the Convention
   Cooperation of Parties

7. Undue delay to ships
   Compensation for loss or damage suffered

8. Reports on incidents involving harmful substances
   Reporting in accordance with Protocol I/procedural arrangements

9. Other treaties and interpretation
   Avoidance of implementation conflicts

10. Settlement of disputes
    Arbitration in accordance with Protocol II

11. Communication of information
    Regulations/Surveyors/Reception facilities/Reports & Statistics

12. Casualties to ships
    Casualty investigation/report distribution

13. Signature, ratification, acceptance, approval and accession
    Remains open for accession

14. Optional Annexes
    Deferment of acceptance of Annexes III, IV, V, VI

15. Entry in force
    Conditions and timing arrangements
    (including amendments)

16. Amendments
    Procedures for amendments (Organization/Conference)
MARPOL 73 - Articles

17. Promotion of technical co-operation
   Support for training/equipment/control/measures/research

18. Denunciation
   Conditions and timings

19. Deposit and registration
   Notification of new Parties or denunciations/UN registration

20. Languages
   Authentic text: English/French/Russian/Spanish
   Official translations: Arab/German/Italian/Japanese

MARPOL

The 1978 Protocol to the CONVENTION:

- 9 Articles

- Most important issue:
  - To facilitate Annex I implementation
  - Allowed deferment of Annex II of the 1973 Convention

MARPOL

The 1997 Protocol to the CONVENTION:

- Adds Annex VI entitled: Regulations for the Prevention of Air Pollution from Ships
- Article 3 links to the preceding 1973 Convention

Extended name of MARPOL would now be MARPOL 73/78/97. MEPC subsequently decided, however, that in future, the Convention should simply be referred to as:

"MARPOL"
Annexes to MARPOL

Annex I: Regulations for the Prevention of Pollution by Oil

43 Regulations
- List of oils
- Form of IOPP Certificate of Supplements
- Form of Oil Record Book
- Unified interpretations

Annex II: Regulations for the Control of Pollution by Noxious Liquid Substances in Bulk

18 Regulations – 7 Appendices

Annex III: Regulations for the Prevention of Pollution by Harmful Substances Carried at Sea in Packaged Form

8 Regulations
- Criteria for “Harmful Substances”

Annex IV: Regulations for the Prevention of Pollution by Sewage from Ships

14 Regulations
- Form of International Sewage Pollution Prevention Certificate

Annex V: Regulations for the Control of Pollution by Garbage from Ships

10 Regulations
- Form of Garbage Record Book
Annexes to MARPOL

**Annex VI:** Regulations for the Prevention of Air Pollution from Ships

**23 Regulations**
+ detailed Appendices
+ Technical Codes / Guidelines

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Recent amendments to MARPOL

Regional arrangements for port reception facilities under MARPOL Annexes I, II, IV and V [MEPC.216(63)] (1/8/13)

Forms A+B of Supplements to the IOPP Certificate – removal of incinerator capacity [MEPC.235(65)] (1/8/12)

Condition assessment scheme, Annex I – update of references reflecting adoption of the 2011 ESP Code [MEPC.236(65)] (1/10/14)

RO Code mandatory - Annex I and II [MEPC.238(65)] (1/1/15)

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Pending amendments to MARPOL

Annexes I, II, III, IV and V – Mandatory use of the III Code [MEPC.246(66)] (1/1/16)

Annex I – Mandatory requirements for a stability instrument [MEPC.248(66)] (1/1/16)

Annex I - Carriage of heavy grade oil as ballast on ships operating in the Antarctic area [MEPC.256(67)] (1/3/16)

Annex III – Criteria for harmful substances in packaged form (exclusion of radioactive materials) [MEPC.257(67)] (1/3/16)

Annexes I, II, IV and V – Mandatory use of the Polar Code [MEPC.265(68)] (1/1/17)

Annex I – Update of Reg.12 – Tanks for oil residues (sludge) [MEPC.266(68)] (1/1/17)
### MARPOL: Status of Ratification

<table>
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<th>Annex</th>
<th>Year</th>
<th>No. of Contracting States</th>
<th>% of Gross Tonnage, World Fleet</th>
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<td>July 1992</td>
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<td>VI</td>
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### MARPOL: Application

The Convention applies to:

- Ships entitled to fly the flag of a Party to MARPOL
- Ships not entitled to fly the flag of a Party but which operate under the authority of a Party (foreign ships in a port or territorial waters of a Party)

### MARPOL: Subjects and regulations

**MARPOL covers two main subjects:**
- special construction and equipment rules for the prevention of accidental pollution by ships;
- circumstances in which discharges into the sea (and air) are authorised.

**The main regulations of MARPOL address:**
- general rights and obligations,
- violations,
- rules on inspection of ships,
- reporting of incidents,
- communication of information,
- amendment procedure.
When a country becomes a Party to the MARPOL Convention:

It will enjoy rights under the Convention, but it also has to **fulfil its obligations**!

Most countries are both flag States and port States as well as coastal States.

Therefore, countries should consider their rights and obligations in their different roles.

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**Flag State Responsibilities**

**Actions to be considered (1)**

1. Accede MARPOL
2. Give effect to Annexes I and II and the Optional Annexes – principal obligation
3. Prohibit violations
4. Consider provision of sanctions
5. Consider proceedings
6. Information to Parties concerned
7. Information to IMO
8. Inspection of own ships
9. Monitoring of compliance
10. Avoid undue delay to ships
11. Report on incidents
12. Provide IMO with documents
13. Investigate casualties involving pollution and report findings
14. Ensure provision of adequate reception facilities

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Flag State Responsibilities

Administrative duties to be considered (2)

1. IMO representation
2. Drafting and adoption of national legislation
3. Drafting and adoption of additional regulations, guidelines, etc.
4. Implementation of laws and regulations
5. Education, training, instructions to surveyors
6. Delegation of survey, issuance of certificates

7. Records of ship certification
8. Design approval
9. Survey reports
10. Equipment approval
11. Violation reports
12. Prosecution of offenders

Port State Rights and Obligations

Exercise control over a ship of foreign registry when it enters ports or offshore terminals under its jurisdiction

(MARPOL Article 6: Detection of violations and enforcement of the Convention)
Coastal State Obligations

Coastal states exercise both legislative and enforcement jurisdiction over ships operating within its jurisdiction.

- Provision of laws, rules and regulations on marine environment protection as well as the enforcement thereof
- Installation of aids to navigation and other equipment which ensures safe navigation

Participation

- Ratification and implementation requires the participation of:
  - Government of the State
  - Administration – maritime
  - Administration – legal
  - Shipowners
  - Port Authorities
- Each needs to know its responsibilities and the requirements that will be imposed on ships and ports

Government of the State

Fundamental is the desire to fully ratify, implement and enforce MARPOL.
Reasons could be:

- Marine environmental concerns for the seas under a country’s jurisdiction
- Air quality concerns
- Concern for worldwide environment
- Privilege and benefits
MARPOL: Privileges and benefits

**Privilege:** Not being polluted by other Parties – or if so and pollution occurs within own territorial waters, prosecution

**Benefits:**
- To ship owners of the Parties (world wide acceptance of their ships)
- To the ports of the Parties (means to control pollution)

Administration – Maritime/Legal

- Marine Administration has the greatest task and is required to provide advice to:
  - Legal Branch
  - Government
  - Shipping industry
  - Port authorities
- The Legal Branch will need to consider the means of ratifying, implementing and enforcing MARPOL

Shipowners & Port Authorities

- Shipowners will need to construct and equip their ships and train seafarers to MARPOL requirements
- Ports will need to ensure adequate ship waste reception facilities are available
- Key issue is consultation by the maritime administration with all likely participants.
Developing a Compliance Strategy

- Article 1(1) of MARPOL requires all parties to give effect to the provisions of the Convention and its Annexes...
- State Parties will need to implement mechanisms for:
  - monitoring
  - compliance
  - enforcement
- Compliance means focusing on preventing pollution not just prosecuting violations

Strategies for Ensuring Compliance

- An effective compliance programme will incorporate:
  - Routine inspections, surveys and/or examinations
  - Surveillance activities
  - Pollution incident reporting procedures
  - Adequate investigation of violations
  - System of adequate sanctions of violations
  - Education and public awareness programmes
  - Co-operation and Co-ordination with other State Parties

Public Participation

- Resources spent on education and prevention are essential in reducing overall compliance costs, particularly in those States with limited financial and policing resources
- Public awareness and participation will facilitate:
  - reporting of pollution incidents – need for easy access/contact with responsible agency
  - better environmental behaviour
    - Targeted approach – cruise lines
Co-operation & Co-ordination of Port State Control

- Articles 6 and 8 lay the groundwork for co-operation and interchange of reports and information between State Parties.
- Co-operation is an effective tool in fostering clarity and harmony in implementation and compliance objectives.
- Co-operation may take several forms:
  - Joint investigations, supplying information, gathering evidence for another State party,
  - Memorandum of Understanding on Port State Control

MOU Inspection goals of Convention Ships, 15 – 30%.

Typical MOU Commitments

1. Give effect to the provisions of the Memorandum and Annexes.
2. Maintain an effective system of port State control to ensure that there is a compliance with relevant instruments.
3. Achieve an annual total of inspections corresponding to 25% of the average number of foreign ships which entered ports of the State.
4. Consult, cooperate and exchange information with the other Authorities in order to further the aims of the Memorandum.
5. Establish an appropriate procedure for pilot services and port authorities to inform the competent Authority if there are deficiencies which may prejudice safety or environment.

Success!
The result of a proactive approach and a clear MARPOL implementation plan will lead to maintaining a pristine marine environment.
The lack of a proactive approach and not fully ratifying, implementing and enforcing MARPOL may have the reverse effect!