# At sea response: National Contingency Plan.

**In November 2002 the unfortunate tanker mv. "Prestige" came into distress off the coast of Calicia, North Spain. When the first emergency call was received no authority could foresee the catastrophic oil leakage the cargo of the ship would cause.**
**Can a Coastal State be prepared for maritime incidents such as the "Prestige" and if so, what would be the policy, the strategy and the operational response.**

Introduction
United Nations Convention Law of the Sea (UNCLOS) states in article 192:
"**States have the obligation to protect and preserve the marine environment"**
**-** individually or jointly,
- all activities under their jurisdiction,
- measures to minimise to the fullest possible extent

How should this article be perceived and is there an accepted procedure to follow up on this obligation.
First of all Coastal States authorities should appreciate that the article does not specifically point towards coastal environments but it refers to the marine environment and therefore implies both high seas and coastal areas.
Secondly not only are Coastal States obliged to act within their own jurisdiction but it is recommended to act jointly, which appears reasonable to seek cooperation between neighbouring states. Examples of this cooperation are SWEDENGER plan in which Sweden, Denmark and Germany have agreed to cooperate in case of maritime incidents. A maritime accident may affect the interest of more then one Coastal State, due to prevailing winds and currents.
Finally the coastal states are obliged to take measures to minimise the pollution threat to the fullest possible extent. It is left open for decision what response method is selected, mechanical or dispersion.
To fulfil the obligation is not an easy task and a minimum standard has not been defined, but authorities may find an opportunity to learn from experiences. Like in many articles UNCLOS is very vague and leaves obligations open for multiple interpretation.
At the same time it is clear that it comes to the sovereignty of a coastal state to decide on establishing a national response organisation.

Certainly a national contingency plan (NCP) will be the basis to obey UNCLOS and it could contain the arguments or motivation for a national authority what strategy is chosen. For that reason a contingency plan must consist of several chapters focusing on a specific subject.

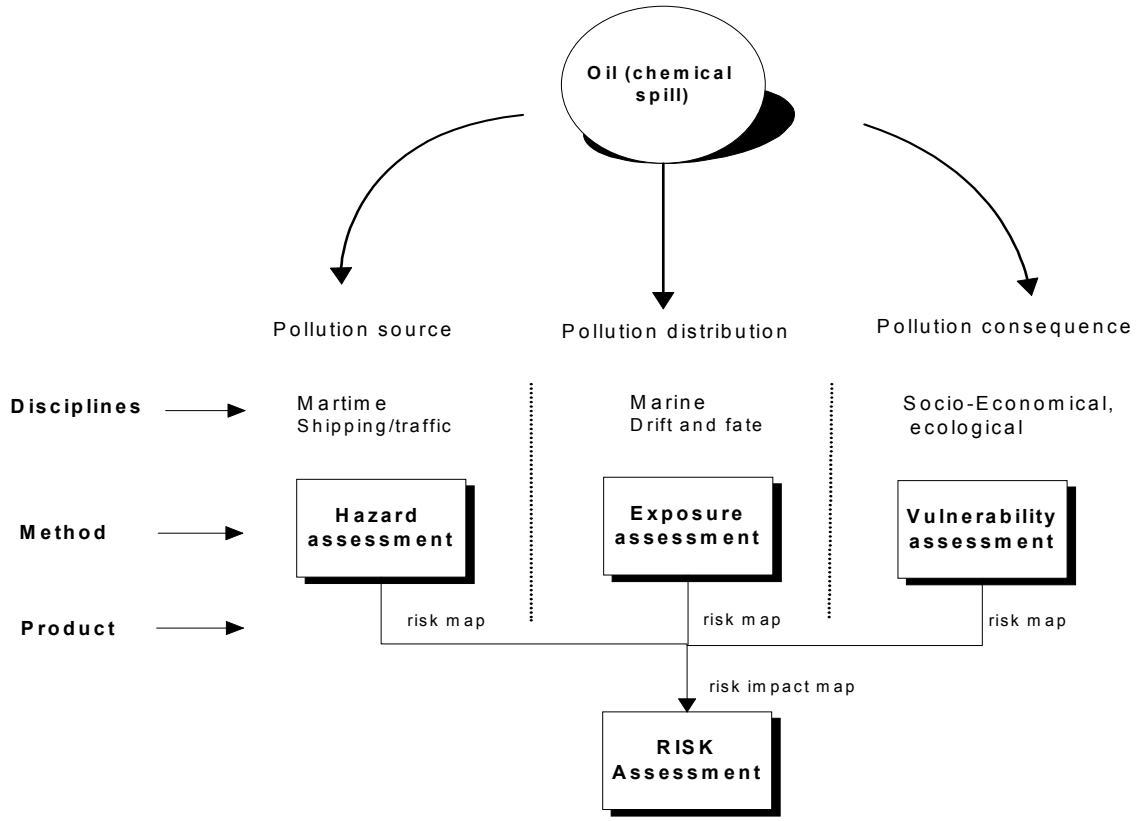
A National Contingency Plan is to provide a description on the preparedness of a Coastal State based on the likelihood of a certain maritime accident.
It informs the reader about what authorities will do in what type of accident.

Contingency planning should follow the tiered response concept. Most oil spills are small and can be dealt with locally (Tier 1). Should the incident prove beyond the local capability or affect a larger area, an enhanced but compatible response will be required (Tier 2). The foundation of this tiered response is the local plan for a specific facility such as a port or oil terminal or for the length of coastline at risk from a spill. These local plans may form part of a

larger district or national plan (Tier 3). National plans may in turn be integrated into regional response arrangements covering two or more countries.
In general, contingency plans should follow a similar layout irrespective of whether they are local, national or regional in scope though their length and content will vary with the size of the area covered and degree of risk. Similarity in layout will enable the plans to be easily understood, will assist compatibility and ensure a smooth transition from one level to the next.

Contingency plans are best divided into two distinct parts. The first should be a descriptive policy document outlining the overall strategy of the plan, while the second should form the operational plan concerned with procedures to be followed when a spill occurs. The strategy segment of the plan should define the policy, responsibilities and rationale for the operational plan which is essentially an action checklist with pointers to information sources. A plan should be reasonably complete in itself and should not entail reference to a number of other publications, which causes delay. A loose-leaf format facilitates regular updating and there should be provision for listing and dating amendments.

The graph hereunder gives an indication on the steps to built a risk assessment leading to a Contingency plan.




Maritime risks

A starting point is a **risk analysis** and **impact assessment** study, resulting in a document indicating the likelihood of a collision of ships or another type of maritime accident. Ship traffic schemes, number of ship movements, transported volumes of bulk and bunker oils and or HNS will give the parameters for the risk analysis. However this would not be the most

important part, as it is more relevant to learn and understand the impact of the outflow of a substance in a specific area.
Sensitivity information, not only looking at ecological but also economic vulnerability, would provide this data. Possible impact to spawning areas; wind energy parks; seafood production basins should be considered.
Results of the study, if possible considering the seasonal influence, are then the basis for preparedness.
Additionally data on prevailing winds and currents are required for the prediction of the impact and also seasonal data should be considered with regard possible differences in affecting wildlife e.g. migratory birds.

Accepted level of risk.
The analysis describes the likelihood that an outflow of a hazardous substance could pose a threat to the environment is a certain area.
It is a matter of opinion whether one should consider both accidental and illicit spills or just accidental spills.
Next step would be to define the level of **an acceptable (calculated) risk**.
It will define the required response capacity as well as the method.
In the Netherlands the Parliament decided in 1990 that the response organisation should be capable and ready to recover 15,000 tons of oil of the expected 30,000 outflow as a result of a collision under the assumption that 50% would evaporate and disperse naturally. The chance of an accidental outflow was calculated to be once every 47 years. In Parliament it was discussed the whether the capacity of recovery should be twice as much, but bearing in mind the assistance available under BONN AGREEMENT and the costs involved, the capacity was set as proposed.

Oil behaviour and fate.
Included in the National Contingency Plan should be a chapter on oil. What is oil, what happens to oil when it is spilt into the marine environment. How does oil behave under sea conditions.
Density and viscosity, pour point and flash point are factors that influence, or rather define the method of response.
Responders and response managers must have “tasted” oil and understand the physical and chemical behaviour of the product that comes in several hundreds varieties.
Therefore in order to pick the effective measure it is important to learn about the fate of oil.

In this period of time within the EU cooperation, through the Management Committee on Marine Pollution or at the regional level the BONN AGREEMENT an enormous amount of information is available. There is almost no need to be surprised.

National strategy.
Now that we know the chance of an accident involving an oil spill or HNS outflow, have considered the impact of such an event with regard to national interest and understand the behaviour of the substances, all is ready do define the national strategy by selecting the (preferred) method of response in certain conditions.
One could for instance decide to apply mechanical recovery as the preferred option in a specific area, whereas in another area dispersant might be used. The decision may depend on the impact assessment or the chance of an accident. Maintaining a dedicated mechanical recovery ship is costly.

“Best” response option is an applicable response method with an optimal balance between reduction of the environmental effects and the response cost.

When the strategy and the method have been defined, the preparedness is the next step including building the response organisation.

Preparedness.
Recognizing the potential risks of maritime incidents and the possible environmental impact and considering the acceptable level, decided upon by competent authorities, a response organisation can be established.
A major task for the organisation is to built a command structure in relation to types of accidents, best achieved through scenario’s that clearly identify the level of involvement of expertise.
Flows of information and communication must be produced; legal council and procedures described; exchange of information with the press prepared; standard reporting and log sheet made available; an education and training programme scheduled.

Obviously this part would contain the selection of response options in relation to the type of incident or the substances involved.
Response options considered are:

- do nothing (nature will deal with the pollution) and monitoring,
- application of dispersants,
- mechanical recovery at sea,
- recovery at the coastline.

Another issue is to prepare measures with regard ships in distress considering a place of refuge, that could just be a sheltered area or a port. Main question to be addressed is where can we respond to the incident in the best way applying the best technical means and with a little threat to the environment as possible.
Authorities and experts are to examine various options, in the preparation phase, with regard to a ship in distress e.g. what environmental or economic impact could this ship cause.
It appears quite difficult to discuss the subject of sacrificing a specific coastal area in order to protect another vulnerable area.
Well, it is understandable that a (threat of ) pollution is not appreciated in whatever coastal area, but if preventive measures fail, authorities are obliged to act.

Special attention should be paid to wildlife and seafood.
In a sea or coastal area where fish farms or other means of seafood production are located it is important to establish a high level of alertness. Should a pollution threat or affect such an area procedures should be in place to sample the food prior to consumption and to know at what level of contamination (ppb/µg) industry should be alerted and the level at which consumption should be banned.
Obviously attention has to be paid to rescuing contaminated wildlife, such as birds and sea mammals.
If this is not the task of the response organisation, arrangements with national nature conservation organisations would preferably be referred to in the Plan.

European cooperation.
To what extent can a Coastal State be prepared. Referring to the Netherlands situation, the preparedness should be at the level of 15,000 tons. A Prestige like incident would exceed this

capability. In order to extent the preparedness (sub) regional cooperation is required. The Bonn Agreement and similar regional agreements arrange for this.
Examples of the cooperation are the Sea Empress accident off Milford Haven; the Erika incident and of course the Prestige.
The member state requesting assistance was supported almost immediately.

On the (sub) regional level cooperating countries, because of the mutual interest, can agree on a minimum level of preparedness as well as the method of response. Authorities would preferably be prepared with regard places of refuge.
In the hypothetical event of a tanker in distress in the Dutch EEZ, would it be feasible that the United Kingdom authority (Sosrep) or the Norwegian authority because of the cooperation established allows the tanker to berth in a sheltered area.

European member states, through the Management Committee for Marine Pollution, have cooperated and continue to cooperate in the field of satellite and airborne surveillance, prosecution of offenders of the MARPOL convention and response to pollution.

Maritime accidents such as the Erika and Prestige prove that intensified cooperation is essential. Combined efforts, integrated national arrangements are the only option to deal with catastrophic volumes of oil discharged into any marine environment threatening national but also international interest.
National contingency planning is no longer sufficient, international concentration or coordination of response capacity will strengthen the individual and international preparedness.
Based on the risk analysis and impact assessment every member state will have established a certain level of capacity to respond to a pollution, so there will be different levels in the EU area which is acceptable.
However, every member state should be prepared and organised from a communication and information point of view and a command structure should be in place.

The Dutch approach.
As mentioned before the Netherlands is prepared to recover the 15,000 tons. Ships and equipment are there, owned or contracted.
Education and training are a scheduled part within the organisation.
All players have been instructed and now the procedures.
I'm convinced that our approach formed the basis of the relative success of the at sea operation in Spain.
The mv. RIJNDELTA and mv. ARCA recovered a significant part of the total recovered volume. Mechanical recovery at sea, even in extreme sea conditions appeared to be effective.
Although the North Sea Directorate with others evaluated the National Contingency Plan and came up with serious criticism, the method has prove it's quality.

Improvements are possible and feasible.
There is really no excuse not to have a comprehensive National Contingency Plan.
Although an accident may occur for which a Coastal State can not be prepared if one

FAILS TO PLAN, ONE PLANS TO FAIL.

Reading the IMO news magazine in an article about the World Maritime Day 2003 it was reported, and I quote: " The **Torrey Canyon** was instrumental in providing the impetus for

the MARPOL Convention; the **Estonia** prompted a thorough review of the safety of the ro-ro ferries; the **Nakhodka** and the **Prestige** incidents led to increases in the amount of compensation available to the victims of oil spills; the **Prestige and Erika** incidents caused the regulations surrounding single and double-hull tankers to be reviewed, while both those vessels and the Castor incident served to bring the question of places of refuge for stricken vessels into sharp focus."
I would like to add that these incidents and I could add the **Exxon Valdez,** should be instrumental for the improvement of national contingency plans.

It is my sincere wish that the cooperation between European Member States, be it under the Management Committee on Marine Pollution or the European Maritime Safety Agency, that will lead to reliable risk analysis and impact assessment for our regions as well as adequate contingency plans providing the basis for prompt response.

J. Huisman
Head Response Organisation
Rijswijk, 22 October 2003.