

OIL SPILL RESPONSES – THE POLITICAL DIMENSION

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ABSTRACT

There are always lessons to be learnt from every oil spill response. Similarly, critics are always quick to point out how a response was too slow, the inadequacy of equipment / manpower resources and, inevitably, how the response lacks proper coordination. Yet many of these common criticisms can be resolved if artificial 'roadblocks and red tape' are removed so that Responders can go about doing their jobs, providing prompt responses in mitigating damages caused by oil spills. This paper will discuss the challenges of mounting an international oil spill response in the Asia Pacific with specific references to political roadblocks and red tape put up by 'recipient' countries.

Tier 3 Oil Spill Response organizations, namely Oil Spill Response and East Asia Response Limited (OSRL/EARL), regularly practices activations and resource deployments through exercises with different scenarios. These exercises can take the form of tabletop exercises or full scale deployment of equipment, recall of Members' regional and worldwide teams. The larger scale exercises involve trans-boundary movement of people and equipment, including boats and aircrafts.

OSRL/EARL has conducted large scale exercises successfully. Unfortunately, there are also times when red tape prevented the company from responding in the swift and efficient manner that it endeavors. Various reasons given are 'national security' and the need for very 'high level approvals' as the recipient country will be deemed to be calling outside assistance for a national incident.

The paper will discuss some of OSRL/EARL's experiences like:

- *Response organizations refusing to participate in exercises due to 'national security' reasons*
- *National agencies refusing import of equipment due to taxation laws*
- *Protracted approval processes, and sometimes outright refusal, for materials like dispersant*
- *Refusing entry of international aircrafts*
- *Clearance and complicated permit requirements for Responders entering a country to assist in the response*

The challenge to remove these road blocks is an uphill task.

OSRL/EARL has an on-going Advocacy program to engage and cooperate on these issues with Government Agencies and relevant bodies. The Author believes that the removal of 'road blocks' will expedite responses to oil spills.

INTRODUCTION

Implementation of the International Maritime Organization's (IMO) "International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990" has been very successful. IMO has been instrumental in setting up and providing both technical support and funding for various regional arrangements that provide the platform to achieve the objectives laid out by the Convention. The oil industry provides strong support through the International Petroleum Industry Environmental Conservation Association (IPIECA) in efforts like the Global Initiative (GI). The GI project on oil pollution preparedness, response and cooperation covers 21 countries in West and Central Africa (WACAF). Six oil companies fund the project and the IMO is making an equivalent contribution.

The GI-WACAF project supports tangible steps toward improved preparedness in the region.

At the governmental level, organisations like the Northwest Pacific Action Plan (NOWPAP), ASEAN Oil Spill Response Action Plan (OSRAP), South Asia Cooperative Environment program (SACEP), etc meet regularly to review current practices, discuss cooperation and develop mutually beneficial projects and exercises.

Government agencies often organise large scale exercises involving equipment deployment in the field and command system coordination. These exercises are fully supported by Industry and oil companies operating in the country often take turns to host them. One would expect that a major oil spill response or exercise will take place seamlessly given the many platforms for communications, cooperation and interlinks. Unfortunately, the real life experience is very different. All kinds of barriers and roadblocks need to be overcome whenever equipment is moved across boundaries or when people are required to attend trans-boundary exercises.

OBJECTIVE

The key objective of this paper is to discuss the challenges of mounting an international oil spill response in the Asia Pacific with specific references to political roadblocks and red tape put up by 'recipient' countries. The paper will discuss many of the common criticisms that can be resolved if artificial 'roadblocks and red tape' are removed so that responders can go about providing a prompt response in mitigating damages caused by oil spills.

MECHANISMS FOR CO-OPERATION CURRENTLY EXIST

As mentioned previously there are various frameworks in place to facilitate intergovernmental and regional cooperation in the event of an oil spill incident. These have developed over a long period of time but have been encouraged and improved as a consequence of both oil operations in new areas and the advent of the OPRC convention.

NOWPAP was adopted in 1994 by four Member States, namely the People's Republic of China, Japan, the Republic of Korea and the Russian Federation, as a part of the United Nations Environment Program – Regional Seas Programmed. The implementation of NOWPAP is financed mainly by contributions from the Members.

In South East Asia, there is the ASEAN-OSPAR or ASEAN Project on Oil Spill Preparedness and Response in the ASEAN Seas Area. Initiated in 1993, the ASEAN-OSPAR is financially assisted mainly by the Nippon Foundation. Its main objective is to improve the capability of ASEAN countries to deal with large-scale oil and Hazardous & Noxious Substance (HNS) spill incidents in the region, based on the ASEAN Oil Spill Response Action Plan (OSRAP).

The Mission of SACEP is to promote regional co-operation in South Asia in the field of environment, both natural and human in the context of sustainable development and on issues of economic and social development which also impinge on the environment and vice versa; to support conservation and management of natural resources of the region and to work closely with all national, regional, and international institutions, governmental and non governmental, as well as experts and groups engaged in such co-operation and conservation efforts.

The oil industry provides strong support through IPIECA in efforts such as the Global Initiative (GI). The GI project in West and Central Africa (WACAF) on oil pollution preparedness, response and cooperation covers 21 countries. Six oil companies fund the project and the IMO is making an equivalent contribution.

There are also various national exercises organised by government oil spill response lead agencies and sponsored by the oil industry, contributing either equipment resources and / or funding. One example is the annual Joint Oil Spill Exercise (JOSE) in Singapore hosted by the Maritime Port Authority (MPA) of Singapore. Another event will be the SONS (Spills of National Significance) exercise organised by US Coast Guard and supported by the oil industry.

One will expect that with so many platforms and arrangements, it will be almost a seamless process when equipment and resources are required to be mobilised in and out of countries for oil spill exercises and responses. However, our experience on moving equipment and resources into countries in Asia Pacific is different.

EXPERIENCES IN ASIA PACIFIC

It is important for the oil spill response community to hold regular practice activations and resource deployments for response readiness.

Unfortunately, there are also times during these exercises when red tape response in a swift and efficient manner that we endeavour. Various reasons given are 'national security' and the need for very 'high level approvals' as the recipient country will be deemed to be calling for outside assistance for a national incident. Common difficulties are:

- Refusal of organizations to participate in exercises due to 'national security' reasons
- Equipment subject to taxation laws
- Protracted approval processes
- Complicated clearance and permits for aircraft

CASE STUDY NO. 1

In 2003 the 'Tasman Spirit' went aground while manoeuvring into the port of Karachi to discharge her cargo of Iranian Light Crude oil whilst under pilotage. 27,000 tons of her cargo was split and the vessel broke up due to adverse weather conditions. OSRL/EARL was mobilised and the author flew with the Hercules C-130 that was transporting the Airborne Dispersant Delivery System from Singapore to the site. The process of applying for over flight clearance from countries along the flight path was full of anxiety. The civil aviation authorities did not understand the urgent request for the clearances. Their rationale was that 'it is an emergency in Pakistan but not in my country'!



THE 'TASMAN SPIRIT'

The inward clearances for the aircraft, equipment and people were very efficient when the aircraft landed in Karachi. The Responders in the team were given immediate visas on arrival and were ready for immediate action ('thank you for coming to help us!'). The challenge came later, after we were demobilized and preparing to leave. The civil aviation, the Navy, whose airstrip we were directed to use during the daily aerial spraying and immigration gave OSRL/EARL an invoice, for the various services provided, which had to be settled before the team can leave the country!

When the law suits started OSRL/EARL was named as 'pro-forma' defendants. The lawyer's advice is that the team that responded to the incident avoids visiting Pakistan until the case is resolved. This is four years after the team had done their job!

CASE STUDY NO. 2

One of the super major oil companies recently organised an oil spill response exercise involving their worldwide response team in an ASEAN country. The exercise took six months to organize. Parallel application for a permit to conduct an over flight during the exercise, simulating an aerial dispersant spraying operation, took four months. OSRL/EARL can only hope that the approval timings are not representative for a real incident. The last surprise came on the eve of the exercise! All the equipment brought to the site for the exercise from aboard was sealed by the local customs. The exercise Incident Command Manager was advised that the equipment cannot be deployed due to discrepancies in the documentation. The penalty for breaking one of the seals was one million US dollars. The exercise went on without the equipment deployment. One wonders how the 'documentation discrepancy' was discovered on the eve of the exercise or was there perhaps another explanation for the local customs officer's actions.



CUSTOMS SEALS ON EQUIPMENT

CASE STUDY NO. 3

There is always a general reluctance to call in additional resources during an incident. This attitude seems to apply equally from the Operator at the Terminal to insurance companies and national agencies. In a recent case where two cargo vessels had gone aground, one of them only 400 meters from a sandy beach, the risk of the vessels' fuel oil spilling and impacting the beach was ignored even though the chance of the vessel breaking up was very real given the prevailing adverse weather conditions. Salvors were engaged to placate the local government and population. Two containers of salvors equipment were kept at the site. But nothing could be done due to the weather as conditions were simply too harsh. The vessels were left to the elements for about a month before OSRL/EARL was engaged to carry out a pre-impact assessment of the sites to give advice on what needed to be done to mitigate a possible oil spill of the vessels' bunker fuel oil. The insurance company had requested that one team be sent to site urgently. This action was initiated by the insurance company after 'violent' protest by the local population and government officials. They had perceived that 'nothing was being done'. Several recommendations were made; these include pre-positioning of oil spill equipment and cleaning up of natural collection sites to reduce contaminated waste if a spill occurs. However none of these recommendations were carried out. The lesson learnt from this incident is that the insurance company's interest to mobilise OSRL/EARL was triggered after the local authorities applied pressure for something to be done ('the experts are here!'). The fact that the team arrived at the site the very next day helped ease the anxiety of the officials.

OSRL/EARL has also experienced government agencies declining oil spill response services and invitation to trans-boundary oil spill response exercise due to the political dimension. Polite reasons ranged from national security to inconvenience of getting ministerial approvals. One country recently was impacted by oil from an unknown source. The incident had gone on for a few months with hundreds of kilometers of beach line impacted. There were government to government calls for assistance during the initial stages of the incident. OSRL/EARL had offered the services of a team of Responders carry out a site assessment and provide clean up advice and training. The offer was politely declined. The reason was that the cleaning had been taken care of by the local resources!

'SOFT' HURDLES

There are countries that impose full customs duty to oil spill equipment when they are 'imported' into a country for exercises. This pushes up the cost of holding oil spill response exercise. There are cases where it will cost US\$25K to bring one standard container of equipment into a country for an exercise.

The high cost is brought about when the customs regulations require that full tax be applied on the equipment. Explanations like the equipment is only for an exercise and will be re-exported or taken away do not get heard. This creates a natural resistance

to hold exercises involving the 'import' of equipment of hardware. One can only speculate that these countries are less prepared without the exercises and practices.

One of the common roadblocks is approval requirements for equipment or consumable materials. Most of these are like 'trade barriers'. One country will only approve dispersants manufactured locally. This rule creates a stockpiling challenge. Another country requires all previously approved dispersants to undergo a re-testing every four years. Whilst this requirement is not a blocker itself it takes about six months for the results to be known.

WHY THE MIS-ALIGNMENT?

As discussed in the beginning of this paper there are numerous platforms in place for communications, cooperation and interlinks. The platforms include forums involving Government / Government, Government / Industry, IMO and IPIECA. Why is the real life experience very different given the above efforts? One of the reasons may be that oil spill awareness has not filtered down to the local level in most countries. The platforms and forums are at national levels. The challenge is to remove these road blocks via an on-going advocacy program to engage and cooperate on these issues with government agencies and relevant bodies. The author believes that the removal of 'road blocks' will expedite oil spill responses.

ADVOCACY

OSRL/EARL has been actively engaged in the region through collaboration with governments, inter governmental organizations and the oil and gas industry; and working closely with IMO and with IPIECA on GI projects. The Advocacy activities are mainly opportunity driven and focus on these objectives:

- Higher awareness on oil spill response issues (Government and industry)
- Tier 3 preparedness and response
- Dispersant policy and implementation
- Access for equipment and personnel

These strategic objectives are operationally focused but once successfully implemented would go a long way in enhancing the overall preparedness of the countries. There are many challenges that must be overcome at the local and national level. Focusing on the technical aspects allows issues and challenges to be addressed without causing too much sensitivity among the relevant agencies and stakeholders.

Each country presents a unique challenge hence a customized solution has to be developed. The following are used as reference points for OSRL/EARL's advocacy activities:

- Legislation
- National Oil Spill Contingency Plans
- Forces of implementation
- Equipment
- Training

CONCLUSION

There are forums and platforms available for government / government and industry / government discussions on oil spill preparedness and responses. These discussions are ongoing and have good output in terms of cooperation protocols and mutual help. However the good work seems to be kept within a small domain and other agencies outside did not seem to be kept in the communication loop. As a result people in the field are kept frustrated by bureaucratic practices. The encounters described in this paper are true life experiences. They certainly did not contribute to an efficient response.

The Advocacy program may go some way in helping personnel's handling oil spill response teams and their 'urgent' requests. Hopefully the continuous education can contribute towards a higher level of awareness and result in better efficiency. For the Responder there will always be the political dimension in a response.

BIOGRAPHY

Yew Weng heads the Operations and Business Projects departments and acts as Incident Command Manager during a response. He oversees OSRL/EARL Singapore's oil spill response readiness, staff training and exercises, advocacy activities and projects for members and clients in the areas of equipment assessment, leasing and deployment training. Having attended several spills in Singapore, Pakistan, Guam and other pipeline and production platform spills, Yew Weng plays an active role in Members' major oil spill response and crisis management exercises in the region.