

**THE DEVELOPMENT OF TRANS-BOUNDARY SPILL RESPONSE  
COOPERATION ACROSS WEST, CENTRAL AND SOUTHERN AFRICA**

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**Abstract**

The picture today is one of intense oil and gas activity across West, Central and Southern Africa. This is illustrated by the significant increases in crude oil exports over the past fifteen years. This high level of activity has also coincided with, and contributed to, a large increase in the level of shipping in the region.

Such level of oil exploration, production, and transportation, means that there exists a threat of oil spills occurring. In response to this risk, the Global Initiative for West, Central, and Southern Africa (GI WACAF) was launched in 2006, with the objective of raising standards of oil spill preparedness and response capability across the region.

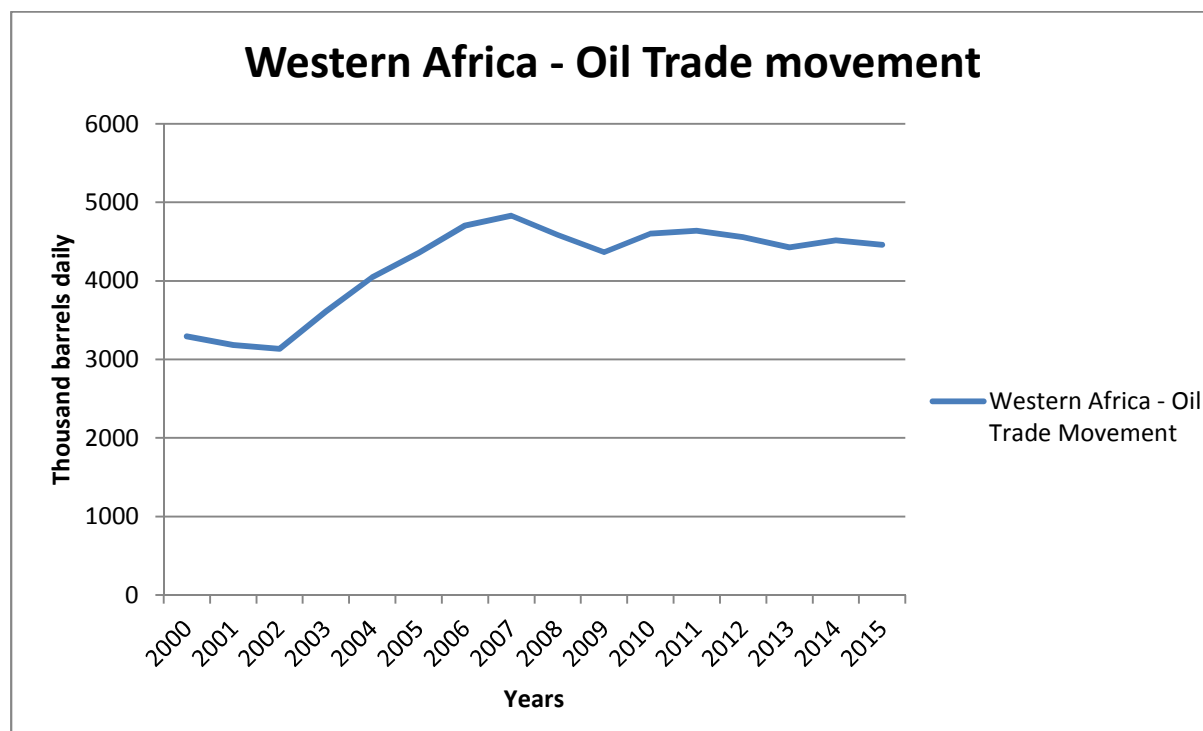
This paper will describe how the GI WACAF Project cooperates with local stakeholders in order to develop trans-boundary cooperation, and will detail what are the challenges lying ahead in order to make cross-border cooperation fully operational.

The analysis of the trans-boundary exercises organised under the umbrella of the GI WACAF Project between Cameroon and Nigeria (2015) on the one hand, and between Gabon and Congo (2015) on the other hand, emphasises the needs in terms of international cooperation, improved communications, integration of response capabilities at the national and regional levels, and the development of effective incident management structures.

This paper will show that significant steps have been taken to develop National Oil Spill Contingency Plans across the GI WACAF region and that advances in this area have meant countries are now looking beyond their borders and seeking to integrate national contingency plans with their closest neighbours. Information will be presented concerning the 2015 exercises, the key lessons learned and potential developments of trans-boundary cooperation in the future.

### **Background**

Natural resources of the West, Central and Southern Africa Region (hereinafter referred to as the Region) have long been attracting international attention, for instance with interests in Nigerian oil dating back to 1914 (Brown, 2010). As per anywhere else around the world, where there is exploration, exploitation and transport of oil, there is a risk for oil spill; the Region is not immune to such events and history has no shortage of precedents in this matter. Such risk resonates more true considering that the oil trade movement for the Region has greatly increased since 2000, before plateauing at a high level for the past few years as shown in Figure 1 below. Such level makes it the 5<sup>th</sup> share of the total world oil trade movement (2016 BP statistical Review, 2016). The likeliness of potential hazards may be increased by the fact that the region is predicted, in spite of difficult economic circumstances, to be the region of the continent where the most large-scale investments will be made (KPMG Africa Limited, 2015). Levels of production can thus be expected to be maintained - if not increased- especially with the advance in technology, allowing Ultra Deep Water and Pre Salt exploration (Rhodes and Chancerel, 2014 International Oil Spill Conference).



**Figure 1 Western Africa – Evolution of the oil trade movement (source: BP Statistical analysis 2000 to 2016)**

Environmental pollution, including oil spills, present specific challenges when occurring in developing countries, such as those of the Region. This is particularly due to heterogeneous level of preparedness at national levels and the relative scarcity of resources and capacity available to respond to such disasters. In cases where expertise and equipment are not available, a State is likely to rely on international cooperation. Whilst there exist examples of successful response despite no pre-existing cooperation arrangements, such as the case of Aragon oil spill incident in the Madeiran archipelago in 1989, one cannot expect to enjoy such unlikely favourable set of circumstances. From customs to equipment availability, as well insurance schemes and regulation, there are countless potential barriers likely to hinder the cooperation process. In addition, it should be remembered that negative impacts can arise after the spill has occurred, specifically in the returning of the equipment to the country of origin (Nichols and Moller, 1991).

In this regard, it has been long accepted that cooperation had to be considered in marine oil pollution preparedness and response - this is not a new notion by any means. As a result, the general framework for cooperation has a long history and has been defined at several levels, including regional and international.

The United Nations Convention on the Law of the Sea (UNCLOS), which opened for signature on 10 December 1982 and entered into force on 16 November 1994 (UN General Assembly, 1982), sets the founding principles for international cooperation, notably in its PART XII - PROTECTION AND PRESERVATION OF THE MARINE ENVIRONMENT in article 194 of SECTION 1. GENERAL PROVISIONS. The said article covers measures to prevent, reduce and control pollution of the marine environment, and calls States to

“take, individually or jointly as appropriate, all measures consistent with this Convention that are necessary to prevent, reduce and control pollution of the marine environment from any source, using for this purpose the best practicable means at their disposal and in accordance with their capabilities, and they shall endeavour to harmonize their policies in this connection.”

SECTION 2. GLOBAL AND REGIONAL COOPERATION, covers general principles of cooperation at various levels, with Article 197 dealing with the formulation and elaboration of international rules, standards and recommended practices and procedures, Article 198 defining the incident notification process to other States likely to be affected and to relevant international organisations, as well as Article 199 focusing on Contingency plans against pollution between States and with the competent international organizations (Attard *et al*, 2016).

UNCLOS is often referred to as an "umbrella Convention" and the general nature of its provisions entails that its implementation relies on other international arrangements (Attard *et al*, 2016).

It is under this umbrella Convention that the International Maritime Organization (IMO) adopts Conventions covering, *inter alia*, prevention of marine pollution by ships, preparedness and response to incidents involving oil and hazardous and noxious substances (IMO, 2016). One of them is the International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC Convention), adopted on 30 November 1990 and which entered into force on 13 May 1995. Today this convention is still regarded as the reference for defining cooperation and mutual assistance. The latter are directly covered in ARTICLE 7 International co-operation in pollution response, ARTICLE 9 Technical co-operation, and ARTICLE 10 Promotion of bilateral and multilateral co-operation in preparedness and response.

With twenty-two Countries being parties to UNCLOS and seventeen of them currently party to the OPRC Convention, the Region is bound to apply the international provisions pertaining to, *inter alia*, cooperation and mutual aid.

At the regional level, and in line with the international framework described above, great focus is being paid to cooperation as well. In this regard, the United Nations Environment Programme (UNEP)'s Regional Seas Programmes (RSP) offers closer cooperation possibilities between regional stakeholders, keeping a regional focus in transposing international instrument, standards and regulations (UNEP, 2016).

Taking into account regional specificities, a RSP has been developed in the Region whose efforts materialized through the adoption of three instruments in 1981: the Abidjan

Convention for Co-operation in the protection and Development of the Marine and Coastal Environment of the West and Central African Region (the Abidjan Convention), the Action Plan for the protection and Development of the Marine Environment and Coastal Areas of the West and Central African Region and the Protocol Concerning Co-operation in Combating Pollution in Cases of Emergency. All three entered into force in 1984. The Abidjan Convention, together with its dedicated Protocol, sets the regional context and calls for increased preparedness and cooperation, especially in its Article 12: CO-OPERATION IN COMBATING POLLUTION IN CASES OF EMERGENCY (Abidjan Convention, 2016).

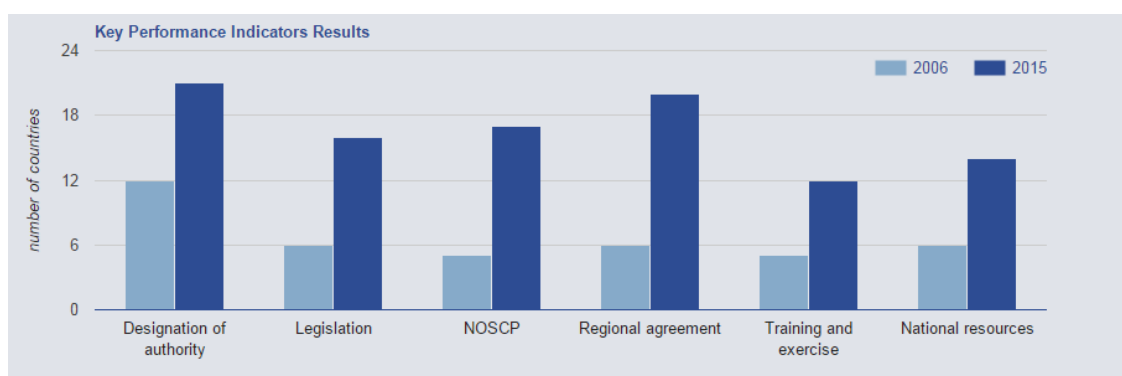
In spite of the major achievement of defining a collaborative framework, there exist many challenges in the region which have slowed successful implementation of Article 12. These challenges include political instability, limited financial resources, linguistic and environmental considerations (UNEP, 2016). As of today, there is room for improvement in the region, given that eleven countries of the Region, 9 of which are parties to the Abidjan Convention, have a trans-boundary agreement in place (GI WACAF website, 2016).

This notwithstanding, it should be acknowledged that the 11<sup>th</sup> Conference of Parties to the Abidjan Convention (COP 11), held 17-21 March 2014, in Cape Town South Africa, decided that a Regional Coordination Centre for Marine Pollution Emergency would be established in Nigeria (Abidjan Convention, 2014). Whilst this initiative has still to bear fruit, this is a promising effort, and one that may mirror successful initiatives in other regions. For example, the Caribbean and the Mediterranean Sea are supported by the Regional Marine Pollution Emergency, Information and Training Centre – Caribe (REMPEITC) and the Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC), respectively.

### **Evolution of the GI WACAF Project**

The Global Initiative for West, Central and Southern Africa (GI WACAF Project), launched in 2006, is an international cooperation between the International Maritime Organization (IMO) and IPIECA, the global oil and gas industry association for environmental and social issues. The objective of the GI WACAF project is to strengthen the oil spill response capabilities of twenty-two countries in West and Central Africa (GI WACAF website, 2016).

Since its inception in 2006, the GI WACAF project has focused its work on strengthening the six key performance indicators (KPI) which are core elements of the OPRC Convention, in order to establish a national legal framework in participating countries. As a result, tangible results have been achieved as shown by the below Figure 2 below:



**Figure 2 Strengthening of the GI WACAF Performance indicators (Source: GI WACAF website, 2016).**

Whilst the need for improvement in this area remains clear, one cannot deny the significant steps taken in terms of preparedness, whether regarding the development of contingency plans or adoption of legislation and designation of authorities in charge of dealing with oil spill related issues, *inter alia*. Whilst the rate of oil spill response development has varied between individual countries (Rhodes, 2015), the advances achieved

have meant that some countries are now looking beyond their borders and seeking to integrate national contingency plans with their closest neighbours. In this regard, the GI WACAF Project's programme of work has become more diverse in its activities and responsive to the needs of each of the twenty-two countries in the region (Rhodes, 2015).

In addition to the initial KPIs, the Project Secretariat developed supplementary indicators to get a more precise picture of the level of oil spill preparedness and response in the region, taking into account the various advances made by the different countries. Greater focus is now placed on cooperation, which is now assessed with both an initial KPI through the signature of regional agreements, as well as with a supplementary KPI in the form of trans-boundary cooperation (GI WACAF Conference Report, 2015).

The GI WACAF work programme has evolved through time to adapt to the changes in the Region. It originally focused primarily on the core elements of response and preparedness at the national level through a foundational approach. Whilst these foundational elements were still being strengthened, the programme of work started focusing more on regional and sub regional activities, supporting exercises to test capability, and increasingly varied in specific technical work tailored to support ongoing in-country developments (Rhodes and Chancerel, 2014). Such evolution is shaped by high level recommendations formulated by the GI WACAF Regional Conference on a biennial basis. The last 2015 Regional Conference stressed the importance of developing trans-boundary response capabilities by organising trans-boundary exercises between neighbouring countries sharing similar oil spill risks (GI WACAF Annual Review, 2015). Subsequently, such exercises emerged in the programme of work. As an illustration, Figure 3 and Figure 4 present the diversification of the GI WACAF Programme and the locations of the first trans-boundary exercises organised following the said recommendation, respectively.



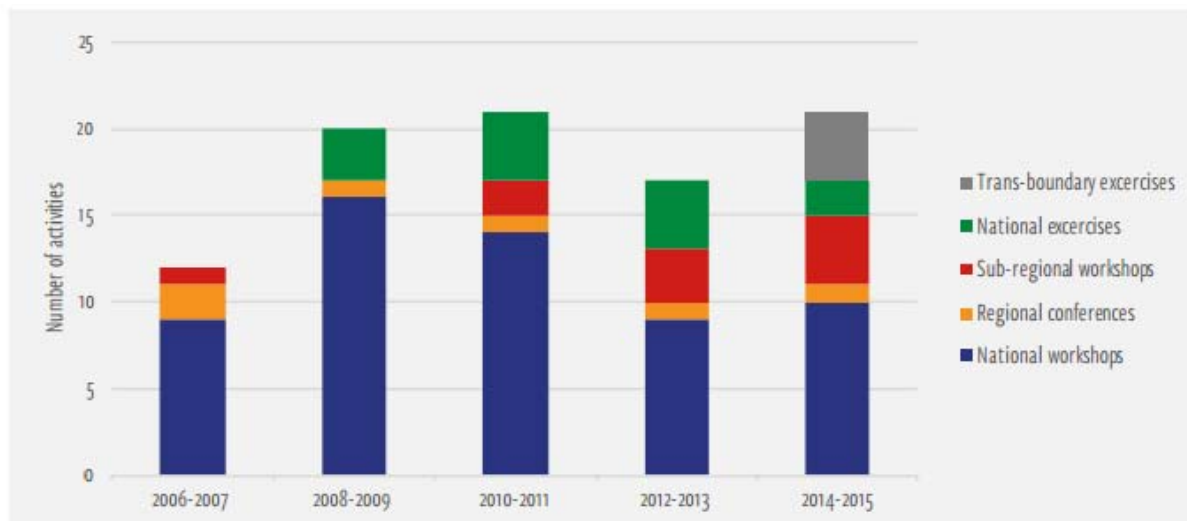


Figure 3 Evolution of the GI WACAF Programme (source: GI WACAF Anniversary Brochure, 2016).



Figure 4 Trans-boundary Exercises in the Region (modified from Rhodes, 2015)

## **Lessons learnt from trans-boundary exercises within the framework of the GI WACAF**

### **Project**

The 2014-2015 biennium saw the organisation of the first two trans-boundary exercises. The first one was held in March 2015. The event was hosted simultaneously by the National Oil Spill Detection and Response Agency in Abuja (Nigeria) as well as the National Hydrocarbons Corporation in Yaoundé (Cameroon). Around 150 participants attended the joint activity coming from various ministries and governmental agencies. The second one was co-organised in September with the Directorate General for Environment and Nature Protection in Gabon and Directorate General for Merchant Navy in the Republic of the Congo. It gathered more than 120 participants. Representatives from the industry and the private sector were also in attendance during both exercises.

The purposes of these exercises were to establish lines of communication between the countries in the case of a trans-boundary oil spill incident, to test and practice communication procedures, to assess the National Oil Spill Contingency Plans of the countries in the case of a trans-boundary oil spill incident and test different mechanisms for requests for assistance and allocation of international resources.

The two activities led to the formulation of the following primary recommendations:

- The importance of updating the communication numbers
- The need for regular drills and training
- Ensuring key documents are disseminated to relevant stakeholders
- The importance of having a functional crisis room
- Ensuring the involvement of the industry to drills
- The importance of having information on national stockpiles

- Contemplating the signature of Memorandum of Understanding (MoU) with neighbouring countries and relevant stakeholders to cover training consideration, staff exchange programme, facility visit...

This new type of activity was well-received in these countries because it helped them identify gaps that could not be identified through national exercises alone. The recommendations emphasised the needs in terms of international cooperation, improved communications, integration of response capabilities at the national and regional levels and the development of effective incident management structures (GI WACAF Conference Report, 2015).

### **Success of the GI WACAF Project**

The success achieved by the GI WACAF Project relies on a unique well-founded and integrated approach, which creates communication and cooperation between several bodies at different levels. Indeed, not only does the Project rely on a network of Governmental Focal Points across the region, but it also relies on in-country industry focal points as well as strong partnership with key organisations and technical players in the region. In fact, one of the key innovative features of the project is the emphasis on the promotion of public/private partnerships for effective oil spill response, seen through the organisation of workshops, training, seminars and exercises in collaboration with all relevant representatives (GI WACAF website, 2016).

This is entirely aligned with the OPRC Convention, which calls for strengthened collaboration between the industry and governments, whether it be in the development of oil spill contingency plans for offshore installations, the oil handling facilities and ports and harbours (Taylor *et al*, 2014), the establishment of national stockpiles as per its Resolution 5,

or the development of a comprehensive training programme in the field of oil pollution preparedness and response as per its Resolution 7 (Moller and Santner, 1997), as well as consultation with regard to salvage services in its Resolution 9.

The Project thus adopts a pragmatic approach, working with Governments on the primary steps in Preparedness and Response that are the designation of a competent authority and the development of a national contingency plan and response arrangements, *inter alia*. This is necessary and helps pave the way to cooperation (Taylor *et al*, 2014; Nichols and Moller, 1991). It is widely accepted that the industry's role pertains to strengthening several key Preparedness and Response topics including, without being limited to, the provision equipment and other services such as training and exercises (Moller and Santner, 1997). On the latter, the direct participation of industry into Government led exercises has proved beneficial on numerous occasions (Ho Yew Weng, 2008).

### **Challenges in the region**

Whilst progress in the region is tangible, there remain significant challenges which make trans-boundary cooperation difficult.

One of these challenges is the negative perception of multilateral cooperation agreements. The diversity in the state of preparedness of neighbouring countries in the region, as previously mentioned, can result in a divergent range of priorities. With one country being more advanced than its adjacent counterpart(s), the signature of any multilateral agreement may be seen as one-sided and not mutually beneficial. . In addition, such agreements might be regarded as cumbersome and too-legally binding by some players.

Where countries within geographical proximity cannot agree on regional or sub-regional arrangements (for the reasons mentioned above), local ones may allow a more practical and flexible alternative which will same time in mobilizing equipment (Nichols and

Moller, 1991). As a result, such flexible and applicable collaborative agreements between neighbouring countries provide a good intermediate, yet complementary approach between national and global levels (Nichols and Moller, 1991).

Financial difficulty is another limiting factor in the region when it comes to Preparedness and Response aspects. For instance, acquiring the relevant response and preparedness material on an individual (country) basis may be a challenge, as costs related to the investment, the maintenance, and training are substantial (Salt, 2008). Such observation may come exacerbated in the Region given the sparsity of specialised resources whose situation is reflected in Figure 5 below:

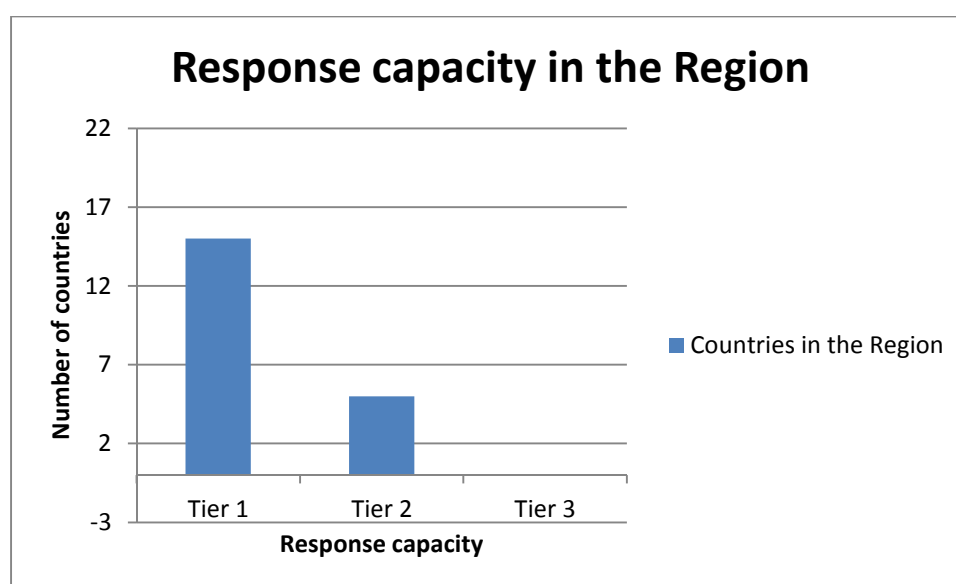


Figure 5 Response capability in the Region (source: GI WACAF Website)

Should an incident requiring a Tier 2 spill occur, the joint efforts of different Tier 1 capabilities may not be sufficient to effectively respond to the incident, subsequently calling for a Tier 3 Response. Such a situation may result in higher financial and logistical costs than needed, as well as an exaggeration of its impact. The latter can be highly detrimental in terms of exposure and, finally reputation (Salt, 2008; Moller and Santner, 1997). As described in

the preceding paragraph, trans-boundary agreements could be signed in this regard, and would offer better flexibility over regional agreements.

This notwithstanding, engaging in numerous bi-lateral agreements is not a magic solution: individual countries would find themselves participants in two, three, or more agreements at regional and local levels, which can only be viable should they be compatible at all levels (Moller and Santner, 1997). Careful considerations should be given on a case by case basis.

The multiplicity of players within a specific region may also exist as a major challenge. It is widely acknowledged that fully efficient and effective preparedness actions necessitate the integration of all stakeholders, as set out in the OPRC Convention (Coolbaugh *et al*, 2014). In the Region, actions may be undertaken by notably the UNEP Regional Seas programme, United Nations bodies, European initiatives such as the MARENDA Project, the Large Marine Ecosystem (LME) Projects, three of which take place in the region, other bilateral and multilateral cooperation initiatives, and the countries themselves. As a result, the finality of what needs to be done to ensure an effective response has to take into account everyone's roles and responsibilities (Billé *et al*, 2016).

Finally, the importance of making use of existing cooperation frameworks to avoid duplication is regularly emphasized. UNEP and the United Nations Office for the Coordination of Humanitarian Affairs (OCHA) jointly established the Advisory Group on Environmental Emergencies (AGEE), which in turn launched the Rosersberg Initiative with “the overall objective to strengthen the international system for the response to environmental emergencies.” (Advisory Group on Environmental Emergencies Forum, 2013). Through its thematic areas, the Roserberg Initiative highlighted the value of regional agreements and mechanisms in coordinating regional emergency situations. It also urged to rely on existing

cooperation frameworks which resort to networks of national contact points for managing such situations (Attard *et al*, 2016).

### **Way forward**

In view of the above, the integration of cooperation in the Region could be strengthened using the existing framework: collaborative actions such as those undertaken under the GIWACAF Project could be linked further with the Abidjan Convention. Such a hypothesis is in line with one of the priorities identified in the GI WACAF work programme for 2016-2017 i.e. to improve cooperation between the GI WACAF Project and the Abidjan Convention (GI WACAF Annual Review, 2015). As a precedent, the Contracting Parties of the Abidjan Convention have expressed their wish to collaborate through a Decision taken in 2012 with the Large Marine Ecosystems to develop cooperation, and such an approach could be contemplated with the GI WACAF Project and other initiatives as well.

In line with such a statement, initiatives such as GI WACAF could help Regional Seas Programmes fulfil their regional mandate which may otherwise be left to the responsibility of individual states (Billé *et al*, 2016).

### **Conclusion**

The development of legal framework such as the adoption of the OPRC Convention, together with the increase of knowledge and the exposure to real case incidents have helped shaped the Preparedness and Response community. As underlined in the present paper, cooperation at several levels and between all relevant actors is now widely accepted as being an integral part to a proper response, and it should always be given due consideration.

Cooperation, however, needs planning. Arrangements should be contemplated in peace time for this to happen. There exist several platforms to discuss this question, including

those Government / Government, Government / Industry, IMO and IPIECA, amongst others. Awareness-raising, communication and training efforts should be pursued in the region whilst making use of existing resources whether it be the GI WACAF Project, the Abidjan Convention or any others.

The will of West, Central and Southern African States to strengthen cooperation is profound and should be used as a springboard to pursue the efforts so far undertaken in the Region on international, regional as well as local levels. The opportunity has to be seized as Ministers from African Countries recently adopted the Cairo Declaration on Managing Africa's Natural Capital for Sustainable Development and Poverty, organised in Cairo, Egypt, from 4 to 6 March 2015, which acknowledges, *inter alia*:

“the crucial role of enhanced international cooperation through the provision of adequate, additional, predictable and sustainable means of implementation that include finance, technology transfer and capacity-building, to enhance our national efforts in the implementation of the new framework of disaster risk reduction”. (Cairo Declaration, 2015)



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