Compliance Control in International Conventions on the Protection of the Marine Environment against Oil Pollution

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The general principles and rules of international law on the protection of the marine environment against oil pollution are set out in Part XII of the United Nations Convention on the Law of the Sea, 1982. Article 194 of the Convention states that States have the obligation, “individually or jointly, as appropriate”, to take all measures necessary to prevent, reduce and control pollution of the marine environment from any source…” Paragraph 3 of the same article explains that the measures required relate to all sources of marine pollution, and these are identified as: pollution from land-based sources, pollution from vessels, pollution from installations and devices used in the exploration or exploitation of the natural resources of the sea-bed and subsoil; and pollution from other devices and installations operating in the marine environment.

Oil pollution of the marine environment can arise from any of the sources of pollution referred to in the Convention. However, the majority of the specific regulations and procedures elaborated on the subject in the Convention (in Article 211 and Articles 217 through 234) deal with vessel-source pollution, or what the Convention refers to as “pollution from vessels”. In respect of this particular source of pollution, the Convention provides that “States, acting through the competent international organization or general diplomatic conference, shall establish international rules and standards to prevent, reduce and control pollution of the marine environment from vessels and promote the adoption of …routing systems designed to minimize the threat of accidents which might cause pollution of the marine environment…”1

As envisaged by the Convention, States have developed a large number of international conventions and other treaty instruments dealing with various aspects of marine pollution by oil. These instruments have been developed largely under the auspices of the International Maritime Organization (IMO)2. As is to be expected, the majority of the agreements deal specifi-

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1 Art. 211, para. 1 of the Convention.

2 Although IMO is not referred to by name in any of the articles of Part XII of the Convention, it is now generally agreed that it is the organization referred to when the Convention speaks of “the competent international organization” in re-
cally with pollution from oil resulting from the operation of ships and other sea-borne craft, including installations and devices engaged in the exploration for and exploitation of oil and gas from the seabed.

The main treaty instruments dealing with marine pollution by oil are, in chronological order, the following:

The 1969 Convention on Intervention in Cases of Oil Pollution Damage (1969 Intervention Convention); 3


The 1973 Convention on the Prevention of Marine Pollution as modified by the Protocol of 1978 (MARPOL 1973/78);

The 1977 Convention on Civil Liability for Oil Pollution Damage Resulting from Exploration and Exploitation of Seabed Mineral Resources4;

The International Convention on Salvage, 1989 (1989 Salvage Convention)5;

The 1990 Convention on Oil Pollution Preparedness, Response and Co-operation (1990 Convention on Oil Pollution Preparedness); and

3 The 1969 Intervention Convention empowers a coastal state to take measures on the high seas that are “necessary to prevent, mitigate or eliminate grave and imminent danger to its coastline or related interests from pollution or the threat of pollution of the sea by oil, following upon a maritime casualty or acts related to such a casualty, which may reasonably be expected to result in major harmful consequences” (Art. 1, para. 1). The only issue of compliance that is likely to arise in relation to this Convention is when there is a dispute whether measures taken by a state against a ship are in accordance with the provisions of the Convention. For such disputes the Convention provides for conciliation or arbitration in accordance with procedures set out in an Annex to the Convention, unless the parties to the dispute decide otherwise (Annex to the Convention).

4 The 1977 Convention was not adopted under the auspices of IMO. However, it adopts the main scheme of the 1969 Civil Liability Convention. The 1977 Convention has not yet entered into force.

5 The 1989 Salvage Convention is concerned mainly with safeguarding the ship and its cargoes. However, it contains provisions that are designed to encourage reasonable and necessary measures by persons engaged in salvage operations to prevent or minimize damage to the environment from oil or other polluting substances on board the ship that is the subject of the salvage operations.