

## Regional Ocean Governance Strategy (ROGS): A Participatory and Multi-Stakeholder Process

### 1<sup>st</sup> Technical Dialogue among Key Stakeholders and the ROGS Task Force on:

### “Prevention of, Preparedness for, and Response to Spillage of Oil and Hazardous and Noxious Substances (HNS)”

## Technical Dialogue Report

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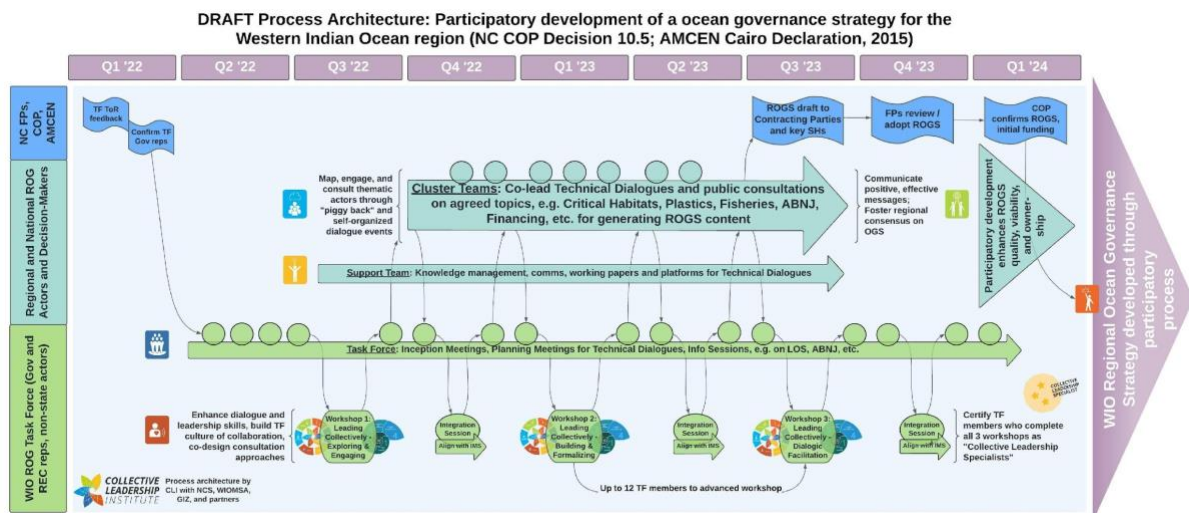
## Background

Inspired by, and contributing to the African Ministerial Conference on the Environment ([AMCEN](#)) Cairo Declaration of 2015, Contracting Parties to the Nairobi Convention adopted a Decision at their [10<sup>th</sup> Conference of Parties](#) (COP) in November 2021 to **develop a [Regional Ocean Governance Strategy \(ROGS\)](#)** for the Western Indian Ocean (WIO) through

participatory processes. Contracting Parties are Comoros, French Territories, Kenya, Madagascar, Mauritius, Mozambique, South Africa, Seychelles, Somalia, and Tanzania.

The **Nairobi Convention Secretariat (NCS)** is actively supporting the implementation of this Decision in partnership with the *Deutsche Gesellschaft für Internationale Zusammenarbeit (GIZ)* through the Western Indian Ocean Governance Initiative (**WIOGI**), the Western Indian Ocean Marine Science Association (**WIOMSA**), and the Collective Leadership Institute (**CLI**), which together constitute the ROGS Support Team. Since May 2022, the ROGS Support Team has been working in tandem with a multi-actor ROGS Task Force including members from across the WIO region.

The ROGS Support Team is currently organizing the **co-development of ROGS content through a series of participatory Technical Dialogues among ROGS Task Force members and other key stakeholders**, shown as part of this process architecture:



The 1st of these stakeholder dialogues was held online on 21 November 2022 on the topic: **“Prevention of, Preparedness for, and Response to Spillage of Oil and Hazardous and Noxious Substances”** and contributes ROGS content for submitting the draft strategy to NC Focal Points in advance of the NC COP in early 2024.

## Goals

### Concrete Goals

- **Increase shared understanding** regarding technical dialogue topic
- **Discuss and generate inputs for the ROGS** regarding technical dialogue topic

### Relational Goals

- **Build trust and resonance for dialogue** among key stakeholders and ROGS Task Force

## Process Goals

- **Understand how this Technical Dialogue fits** into the participatory ROGS development process

# Participants and Inputs

Approximately 30 participants engaged in the session from public sector, private sector, academia/research, and development cooperation partners. All 10 WIO countries were represented, in addition to external stakeholders from (See Participant List in Annex.)

In advance of the dialogue, a **Working Paper was prepared and circulated** (See Working Paper in Annex).

NCS opened the dialogue and CLI provided moderation support. **Technical input was provided by Mr. Kieren Kelleher (ROGS Support Team Ocean Governance Advisor) and Mr. Peter Taylor (SAPPHIRE Project Consultant).** (See Input Slides in Annex.)

Participants reviewed the Working Paper in advance of the dialogue and then listened to input givers, asked clarifying questions, and **chose to join one of two groups for an interactive dialogue:**

- **Group 1: On Prevention**
- **Group 2: On Preparedness and Response**

# Results: Group 1 on Prevention

**How can regional collaboration on oil spill prevention be enhanced? Please list the main actions required.**

- **Reinforcement of port state and flag state controls over shipping** that either transits the WIO or make port calls
- Enhanced tracking of and reporting by tankers, bunker, nurdle and HNS cargo vessels. WIO region to have a **platform for info sharing** for tracking/monitoring in the maritime domain
- Possible **designation of Particularly Sensitive Sea Areas where additional risk reduction measures could be envisaged (IMO process).** Combine with risk assessments and potential threats associated with just energy transition for instance, new shipping trends etc.
- **Consideration of regional ‘places of refuge’** in the event of emergencies. Have national ports ‘places of refuge’ for data repository that can inform decision making
- Lessons from Wakashio (bunker) and M/V X-Press Pearl (nurdles)

- Ensure WIO countries have **legal policy frameworks that support regional cooperation** with regard to spills
- **Annual simulated trainings to prepare, prevent, mitigate marine pollution in the form of oil spills**
- Empowerment or capacity building of **national competent authorities to enforce or combat any risk of spill**
- **Centralized and uniform information centers** where countries can have access to the data for informed decision making

### How can the above actions be implemented?

#### a) What are the possible institutional arrangements needed for implementation?

- NC
- IOC
- Relevant RECS for WIO - SADC, EAC, IGAD, COMESA
- National Authorities for spills - link national and regional authorities
- MASE, Indian Ocean MOU? - To support in tracking
- Academic institutions - to support with capacity building

#### b) What are the nature, scale, and possible sources for the human and financial resources needed for implementation?

- MASE, Indian Ocean MOU? - To support in tracking
- Insurers
- Academic institutions - to support with capacity building
- International development and financing organizations - GEF, WB - disaster relief/prevention support, Norway Oceans for Development -
- Port Authorities

### Stakeholders?

#### a) Who are the key stakeholders involved in prevention?

- All institutions listed above
- IMO
- Indian Ocean MOU -which groups national shipping authorities
- Technical bodies e.g. ITOF, CEDRE, JICA, FIPOL etc
- Partners/institutions involved in MSPs

#### b) Who is mandated to take a leadership role?

- A regional entity
- Joint initiative with NC, IMO and IOC

# Results: Group 2 on Preparedness and Response

How can regional collaboration on oil spill preparedness/response be enhanced? Please list the main actions required.

- **Better understand** the position and endorsement of **Contracting Parties on their preparedness**. Clarify position of Contracting Parties to proposed virtual collaboration for implementation of a regional mechanism.
- Tanzania has no oil spill response plan. **Survey on equipment at national level needed**.
- South Africa has made progress in finalizing their contingency plan. Centre is operational. **Info should be hosted on online platform**. Emerging risks pose great challenges.
- Mauritius has an Oil Spills plan. Challenge- regional contingency plan exists as a draft. **Needs to be approved for more solid actions** to be taken. Social and economic impact is insufficient? SIDs are very vulnerable - **regional framework needed**.
- Wakashio was eye-opening nationally and globally. Each country needs a national plan. Mauritius would endorse. Regional-national nexus should exist.
- How can collaboration be enhanced? Goes beyond equipment. **GIS, Data management... Knowledge sharing**. Accountability by the Contracting Parties.
- **Ensure readiness among Contracting Parties at a regional level; mechanisms to enable that, such as the NC Clearinghouse Mechanism**. Bottom-up approach.

How can the above actions be implemented?

## a) What are the possible institutional arrangements needed for implementation?

- Mechanisms and institutional arrangements that can be virtual. Institutional arrangement there but not comprehensive?
- Article 9 of the Emergency Protocol states the Secretariat's mandate. NC with support from IMO. Link at regional level in the ROGS. Regional plan should have an inventory. 'Dependencies'. 'Package'. RCOC Knowing who to involve. Facilities with known influence on this subject matter? Start virtual collaboration.

## b) What are the nature, scale, and possible sources for the human and financial resources needed for implementation?

- Personnel at the NC Secretariat to catalyze the process, coordinator to pool resources. Personnel in other projects too.
- Series of exercises to identify where countries are with their plans. Who owns the info, and how do they share it? Does the NC have the capacity to host the info and data? Sharing different types of existing info between countries; this can help with gap identification.
- RCOC in Madagascar and Seychelles. Funding maritime exercises, tools that help coordinate have financial implications. Sustainability beyond donor funding -

- Carry out regional drills so that friendly countries can understand the way each one operates in order to learn from each other and also identify gaps and come up with proper recommendations to improve.

### Stakeholders?

#### a) Who are the key stakeholders involved in preparedness/response?

- NCS under Article 9, RCO, IOC, MASE..., Contracting Parties of the NCS, IMO, OPRC Convention - (Check Peter's slides for more)

#### b) Who is mandated to take a leadership role?

- NCS under Article 9, in cooperation with the IMO, working with Contracting Parties. Article 9 has specific conditions for different sectors/actors.

## Results: Plenary Discussion

Following presentations by both groups, IMO stated that it cannot take up the sole leadership role on this topic. A further discussion on synergies ensued, with the following results:

### Where are the synergies or opportunities for mutual support between prevention and preparedness/response?

- WIO Information Management Strategy could support prevention, preparedness, and response with integrated, shared information to inform decision-making
- Need to implement Article 9, including Work Program for a Regional Mechanism; this is low-hanging fruit; the synergies are there; ROGS support welcome
  - NORAD funding
  - UNEP funding
- Learn from West Africa experience; need for catalyst in WIO
- How does draft plan / Article 9 fit into the ROGS?
- ROGS will support what key stakeholders in this domain have identified. Break down Article 9 into "packages" for inclusion in the ROGS, e.g. financing, leadership; could be virtual to begin with, leading to concrete building blocks

## Participant Feedback

Twelve participants completed the circulated Technical Dialogue feedback form, indicating on a scale of 1 (not at all) to 5 (fully) the following level of achievement of goals:

- **4.1 - Increase shared understanding** regarding technical dialogue topic
- **4.0 - Discuss and generate inputs for the ROGS** regarding technical dialogue topic

- **3.7 - Build trust and resonance for dialogue** among key stakeholders and ROGS Task Force
- **4.0 - Understand how this Technical Dialogue fits** into the participatory ROGS development process

**When asked “What did you like most about today’s Technical Dialogue?,” participants responded with:**

- 6x - Active participation from a diversity of relevant stakeholders
- 6x - Good quality dialogue among participants
- 3x - Good quality technical content

**When asked “What would you change for similar future Technical Dialogues?,” participants responded with:**

- 6x - Nothing to change
- 3x - More time and guidance for breakout discussions
- 2x - Ensure participation from all sectors and national level
- 2x - Consider French-English simultaneous translation
- 1x - Hold more dialogues
- 1x - Meet in-person

See Full Clustered Participant Feedback in Annex.

## Next Steps

**This report is posted to the Nairobi Convention Community of Practice to enable a period of public consultation.** If you wish to participate, [please sign up for the Nairobi Convention Community of Practice here](#) and add your comments. Thank you!

**Together with public comments, the content generated during this Technical Dialogue will be integrated into the ROGS** and delivered in draft form to Nairobi Convention Focal Points leading up to the Nairobi Convention COP in early 2024.

**Learn more about the ROGS Task Force** and participatory strategy development process [on the Nairobi Convention website.](#)

# Annex 1: Participant List

	Name	Country	Organization	Stakeholder Group
1	Ravi Naicker	South Africa	South African Maritime Safety Authority (SAMSA)	Public sector
2	Pretty Molefe	South Africa	SAMSA	Public sector
3	Bhawani Prakash Bundhun	Mauritius	Ministry of Environment, Solid Waste Management, and Climate Change (MESWMCC)	Public sector
4	I. A. Shanawaz Purdhun	Mauritius	MESWMCC	Public sector
5	Achille Mathiot	Seychelles	Regional Coordination Operation Centre (RCOC)	Public sector
6	Nelson Delicieux Mihajaritiana	Madagascar	RCOC	Public sector
7	Abdoul-had Ahmed Mouhoussoune	Comoros	RCOC	Public sector
8	Terrence Brutus	Seychelles	RCOC	Public sector
9	Outam Kumar Guness	Mauritius	RCOC	Public sector
10	Jose Ariscado	Mozambique	Ministry of Sea, Land, Waters and Fisheries	Public sector & ROGS Task Force
11	Abdillah Soifoine	Comoros	National Agency of Maritime Affairs	Public sector
12	Kenneth Antat	Seychelles	Environment Department	Public sector
13	Michael Mbaru	Kenya	Kenya Maritime Authority	Public sector
14	Mohamed Ali Muse	Somalia	Intergovernmental Authority on Development (IGAD) in Eastern Africa	Public sector & ROGS Task Force
15	Peter Taylor	United Kingdom	SAPPHIRE Project Consultant	Private sector
16	Erik Kok	Tanzania	African Ports and Corridors	Private sector
17	Anne Reglain	Mauritius	ODC Ltd	Private sector
18	David Willima	South Africa	Institute for Security Studies (ISS)	Academia / research & ROGS Task Force
19	Tshegofatso Johanna Ramachela	South Africa	ISS	Academia / research & ROGS Task Force
20	Dave Muli	Kenya	UN International Maritime Organization (IMO)	United Nations
21	Will Griffiths	United Kingdom	UN IMO	United Nations
22	Devashree Pillai	India	UNEP Geneva	United Nations
23	Marisol Estrella	Switzerland	UNEP	United Nations
24	Abel Kiprono	Kenya	UNEP Nairobi Convention	United Nations
25	Bonface Mutisya	Kenya	Nairobi Convention Secretariat	ROGS Support Team
26	Melisa Wandia Mureithi	Kenya	Nairobi Convention Secretariat	ROGS Support Team



27	Agnes Mukami Muriuki	Kenya	Nairobi Convention Secretariat	ROGS Support Team
28	Kieran Kelleher	Ireland	Ocean Governance Consultant	ROGS Support Team
29	Yvonne Waweru-GIZ	Kenya	GIZ	ROGS Support Team
30	Carol Mutiso	Kenya	GIZ	ROGS Support Team
31	Dominic Stucker	Spain	Collective Leadership Institute	ROGS Support Team
32	Mai ElAshmawy	Egypt	Collective Leadership Institute	ROGS Support Team

## Annex 2: Working Paper

### Regional Ocean Governance Strategy (ROGS) Technical Dialogue Working Paper Prevention of, Preparedness for and Response to Spillage of Oil & Hazardous & Noxious Substances (HNS)

#### *Purpose of the Technical Dialogues*

In response to decisions by the Nairobi Convention (NC) Conference of Party (COP) and the African Ministerial Conference on Environment (AU-AMCEN), the NC Secretariat is supporting a participatory process to develop a Regional Ocean Governance Strategy (ROGS) for the Western Indian Ocean (WIO). During 2022-2023, a series of Technical Dialogues will be held by the ROGS Task Force on some 20 priorities identified by the Task Force. The purpose of each Technical Dialogue is to engage regional stakeholders to develop the content for the ROGS. The specific aim of each Technical Dialogue is to establish consensus on key actions required for each priority and on the means of implementing those actions, including institutional responsibilities and cooperation, leadership, decision-making and financing.

#### *Objective of the Spillage of Oil & HNS Technical Dialogue*

To include in the ROGS the priority actions, identified by stakeholders, which are required to establish effective regional cooperation on:

- i) the prevention of and
- ii) preparedness for and response to spillage of oil and other hazardous and noxious substances in the WIO.

The ROGS is mandated to, as far as possible, use existing regional institutions, financing and delivery mechanisms.

#### *Context*

Cooperation between WIO countries is the basis for regional ocean governance. This cooperation is mainly structured through regional institutions. The Nairobi Convention, through its Protocol Concerning Co-operation in Combating Marine Pollution in cases of Emergency in the Eastern African Region (the 'Emergency Protocol', in force),<sup>[1]</sup> obliges Parties to take both **preventative and remedial** actions and states that:

Article 3.1. "*The Contracting Parties shall, within their capabilities, co-operate in taking all necessary measures, both preventative and remedial, for the protection of the marine and coastal environment of the Eastern African region from marine pollution incidents.*"<sup>[2]</sup>

Article 3.2. commits the Parties to preparation of "*contingency plans*" and "*development of the capability to respond to pollution incidents*".

At the global level, the International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (OPRC Convention) has a pivotal role. In addition to requiring countries to establish effective national mechanisms (Article 6.1), Article 6.2. requires countries to cooperate on oil spill preparedness and response.

*“each Party, within its capabilities either individually or through bilateral or multilateral co-operation and, as appropriate, in co-operation with the oil and shipping industries, port authorities and other relevant entities, shall establish: ...”*

In Article 7, the OPRC provides additional guidance on cooperation; and Article 10 advocates bilateral or multilateral agreements as a means of securing such cooperation. Annex 1 provides guidance on fair and equitable allocation of costs between Parties, including giving *“due consideration to the needs of the developing countries.”* The financial guidance is required in the event that one country assists another and seeks compensation for either solicited, or unsolicited emergency assistance. The issue of compensation for damage from oil spills is addressed under two other conventions to which most WIO countries are party.<sup>[3]</sup>

The various conventions generally have a relatively specific mandate. Their secretariats (often assured by the International Maritime Organization (IMO)) generally have limited financial and human capacity and largely rely on the efforts of individual countries to adhere to their obligations. Regional cooperation is often based on consensus regional programmes which may be supported by country contributions which leverage finance or resources from international partners.

**Prevention** is largely addressed through application of global conventions on shipping, notably through the application of the International Maritime Organization’s (IMO) International Convention for the Prevention of Pollution from Ships (MARPOL) and its associated protocols and conventions (notable the OPRC) that address spillage of oil and Hazardous & Noxious Substances (HNS).<sup>[4]</sup> The effectiveness of these instruments depends on: the application of the MARPOL norms and guidelines; regional (WIO) and international port and flag state controls of compliance by shipping with IMO rules; and the due diligence of the shipping companies and vessel operators.

While the OPRC applies to both ships and offshore installations, such as oil drilling rigs and oil extraction platforms. However, the OPRC provisions focus largely on preparedness for spillage, while guidance on platform preventative risk assessment and proactive maintenance may be less rigorous, partly because the activities of such installations or vessels are generally addressed under national legislation.<sup>[5]</sup> In addition to the general commitment on prevention in Article 3.1, the Nairobi Convention’s ‘Emergency Protocol’, Article 4 and Article 9(e) require exchange of and dissemination of information on prevention.

**Preparedness and Response.** As noted above, at the WIO regional level, preparedness and response is largely addressed through the Nairobi Convention’s ‘Emergency Protocol’, which has provided a basis for initiatives to build regional cooperation on oil spills and to secure external support for the actions required. The Protocol facilitates regional preparedness and many of its provisions are ‘triggered’ in the event of a spill incident.

A regional oil spill contingency plan (which follows IMO guidance) is currently in draft form. The original version of the plan was drafted under the WIO Marine Highway project in 2009/11 and updated through a regional workshop in 2020. The plan sets out the operational measures and procedures for emergency cooperation and coordination between countries in cases of significant marine pollution.

## Why?

There are several areas where regional cooperation could potentially improve prevention and reduce risks of spillage or from spillages.

### Gaps in prevention

- i) reinforcement of port state and flag state controls over shipping that either transits the WIO, or makes port calls. The Indian Ocean Memorandum of Understanding on Port State

Control (1999) (IP-MOU) already facilitates cooperation on control of sub-standard shipping in the countries of the Indian Ocean rim<sup>[6]</sup>

- ii) designation of highly sensitive marine areas where additional risk reduction measures could be envisaged
- iii) consideration of ‘places of refuge’ in the event of emergencies, as damaged vessels will not be wanted in ports
- iv) enhanced tracking of shipping – linked to (i) above. There appears to be an increase in flag-hopping by tankers to avoid sanctions (e.g. on Iran, Russia), so that some tankers may be actively avoiding tracking. The EU-financed, IOC-supported MASE project provides some tracking capability.

### Gaps in preparedness and response

There is broad regional agreement at the technical level on actions as set out in the draft plan. Given the scale of the WIO and the time required to transport spill response assets (e.g. tugs or specialised vessels), understandably each coastal states a needs an appropriate response capability. There is ongoing dialogue on how ‘regional’ responses and assets can most effectively be coordinated and financed. Given the national interests, it is likely that a polycentric or networked form of regional cooperation will emerge from these discussions. Ideally, the agreed regional architecture will be endorsed by the NC COP, and by the RECs and other key stakeholders (e.g., IO-MOU, PMASEA). The possible ‘gaps’ in the regional arrangements may lie (i) in the ‘governance’; and (ii) with regard to resourcing of activities. Both of these areas can potentially be addressed through the ROGS. In addition, there may be a gap in the regional arrangements for addressing spillages or accidents from offshore platforms.<sup>[7]</sup>

### How?

#### Prevention

The Technical Dialogue will hold ‘exploratory discussions’ on potential areas for enhanced regional cooperation on prevention, as follows:

- i) reinforcement of port state and flag state controls over shipping that either transits the WIO, or makes port calls and enhanced tracking of and reporting by tankers and other bulk carriers (e.g. of nurdles)(Lead: IO-MOU, MASE).[8]
- ii) designation of highly sensitive marine areas where additional risk reduction measures could be envisaged, such as, designated shipping lanes (e.g. Mozambique Channel), information for fishing vessels on sea-lane traffic (Lead: IMO)
- iii) consideration of regional ‘places of refuge’ in the event of emergencies. This may involve consideration of currents, sensitive ecosystems (Lead: NC/ WIOMSA)

#### Preparedness & Response

A Technical Dialogue may enable the regional preparedness and response architecture and plan to be anchored in the ROGS, which may be a conduit for securing high-level policy endorsement and commitments at regional and international levels. The following issues can potentially be addressed by the Technical Dialogue:

- i) a means to formalise the regional architecture and formally designate the agreed plan as a common regional enterprise. This requires a clear ‘approval’ pathway, ideally engaging maritime, environment and finance authorities of coastal states, regional and international authorities and other key stakeholders (see below): (Lead: NC/IMO)
- ii) identify regional activities which can be ‘packaged’ to access international financing or co-financing, including from the private sector (tanker organisations, insurance providers)
- iii) make specific provisions to bring all countries ‘up to speed’ in relation to the ratification of key conventions and capacity for national application and execution of the regional plan
- iv) extension of the existing arrangement on oil pollution from shipping to deal with oil spills from offshore platforms.

## Who?

Several groups of stakeholders can be identified as set out below. The TD focuses on: (i) seeking consensus on those activities which could be included in the ROGS; and (ii) developing an outline of how these activities can be implemented, including indicating which institutions could take leadership for various regional activities. It is recognised that not all the stakeholders indicated below would necessarily be engaged in the ROGS process on oil & HNS pollution. The following table is provided as a basis for discussion with regard to expanded engagement in contributing to the ROGS position on oil and HNS pollution.

National public	Ministries of environment and marine transport, national oil spill / emergency response centres (via existing NC working groups on oil spills).
International	International Maritime Organisation (IMO)
Regional organisations	IO-MOU, PMASEA, NC AU and RECs (through ROGS Task Force) Engaged through CRIMARIO (I & II) <sup>[9]</sup> project, now completed: IOC, EAC, IGAD and COMESA
Main regional implementing agencies	IO-MOU, IMO regional office, Port administrations
Regional Initiatives	MASE: RMIFC and RCOC; IOC, IORIS (Indian Ocean Regional Information Sharing and Incident Management Network) Operation Clean Sweep (global – not regional) <sup>[10]</sup>
Private sector, P&I Clubs, shipping associations	Oil and gas industry, ships agents, shipping lines and association - BIMCO <sup>[11]</sup> , INTERTANKO <sup>[12]</sup> , ITOPF <sup>[13]</sup> , Protection and Indemnity Clubs (approx. 13)
Finance	EU (past and ongoing/ current support to regional initiatives), insurance companies (e.g. Lloyds), major shipping companies/ tanker owners.

## The focus of the Technical Dialogue

The Technical Dialogue will focus on the same questions in relation to governance in the two areas of: **A. Prevention** and **B. Preparedness and Response**. If necessary, technical issues may be examined in further Technical Dialogues. The Dialogue is expected to focus primarily on oil pollution with HNS as a secondary (but no less important) issue.<sup>[14]</sup> The questions are:

*How can regional cooperation on A. Prevention and B. Preparedness and Response be enhanced?*

*What are the main actions required?*

*Who. How can these actions be implemented: what are the possible institutional arrangements and what is the nature, scale and possible sources of human and financial support required?*

A further follow-up question depends on the answers to the previous questions:

*Where are the synergies between prevention and preparedness?*

*Are the same institutions involved or are different processes and stakeholders involved?*

*What are the ongoing roles of the Nairobi Convention, the RECs, other initiatives?*

*\* This Working Paper was prepared for discussion purposes by Kieran Kelleher and Peter Taylor and should not be interpreted as representing the official views of the Nairobi Convention or other stakeholders.*

## Links

Regional Ocean Governance Strategy. <https://www.nairobiconvention.org/regional-ocean-governance-strategy/>

Nairobi Convention Community of Practice (under development) will be a public consultation interface for the ROGS. <https://nairobiconvention.org/community/>

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[1] [http://nairobiconvention.org/CHM%20Documents/Protocols/Nairobi\\_Convention\\_Text\\_1985-35-43.pdf](http://nairobiconvention.org/CHM%20Documents/Protocols/Nairobi_Convention_Text_1985-35-43.pdf).

[2] Protocol, Article 3.1.

[3] The 1992 Civil Liability Convention, the 1992 Fund Convention and the Supplementary Fund Protocol (both in force) were developed under the auspices of the International Maritime Organization (IMO). The maximum amount payable for any one incident is 750 million SDR. All NC parties, except Somalia are party to these Conventions. Only France is party to the Supplementary Fund Protocol.

[4] See: <https://www.imo.org/en/OurWork/Environment/Pages/OilPollution-Default.aspx>; <https://www.imo.org/en/OurWork/Environment/Pages/Pollution-Response.aspx>. The key conventions include: International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC) (1990) ([https://www.imo.org/en/About/Conventions/Pages/International-Convention-on-Oil-Pollution-Preparedness,-Response-and-Co-operation-\(OPRC\).aspx](https://www.imo.org/en/About/Conventions/Pages/International-Convention-on-Oil-Pollution-Preparedness,-Response-and-Co-operation-(OPRC).aspx)); and the Protocol on Preparedness, Response and Co-operation to pollution Incidents by Hazardous and Noxious Substances, 2000 (OPRC-HNS Protocol) ().

[5] The 1969 Civil Liability Convention for Oil Pollution Damage (CLC) and the 1992 Civil Liability and Fund Conventions do not apply to fixed offshore installations or to oil tankers that were converted into production platforms. They do apply where there is transfer of oil from the platform to a ship. The Convention on the Prevention of Marine Pollution by Dumping of Waste and Other Matters (London Convention), 1972 and the 1996 London Protocol is applicable to platforms and other man-made structures (e.g. to discharge of contaminated drilling materials). The 2001 Bunkers Convention (ratified by 6 of the 10 NC Parties) provides compensation for fuel oil spills from non-tanker ships.

[6] <https://www.iomou.org/>; <https://www.balticexchange.com/en/data-services/routes.html>

[7] There are currently no offshore oil extraction platforms currently operational in the WIO.

[8] Maritime Security regional programme (MASE). [https://www.eas.europa.eu/node/8407\\_en](https://www.eas.europa.eu/node/8407_en); <https://www.commissionoceanindien.org/wp-content/uploads/2019/09/MASE-Magazine-complete-Eng-Digital.pdf>. It is recognised that many large tankers do not make WIO port calls.

[9] Critical Maritime Routes in the Indian Ocean. <https://expertisefrance.fr/documents/20182/576174/IORIS+-+The+Indian+Ocean+Regional+Information+Sharing+%26+Incident+Management+Network/9a2afd88-e753-46ba-8671-a3e8f6691cf5>.

[10] <https://www.opcleansweep.org/> (nurdles).

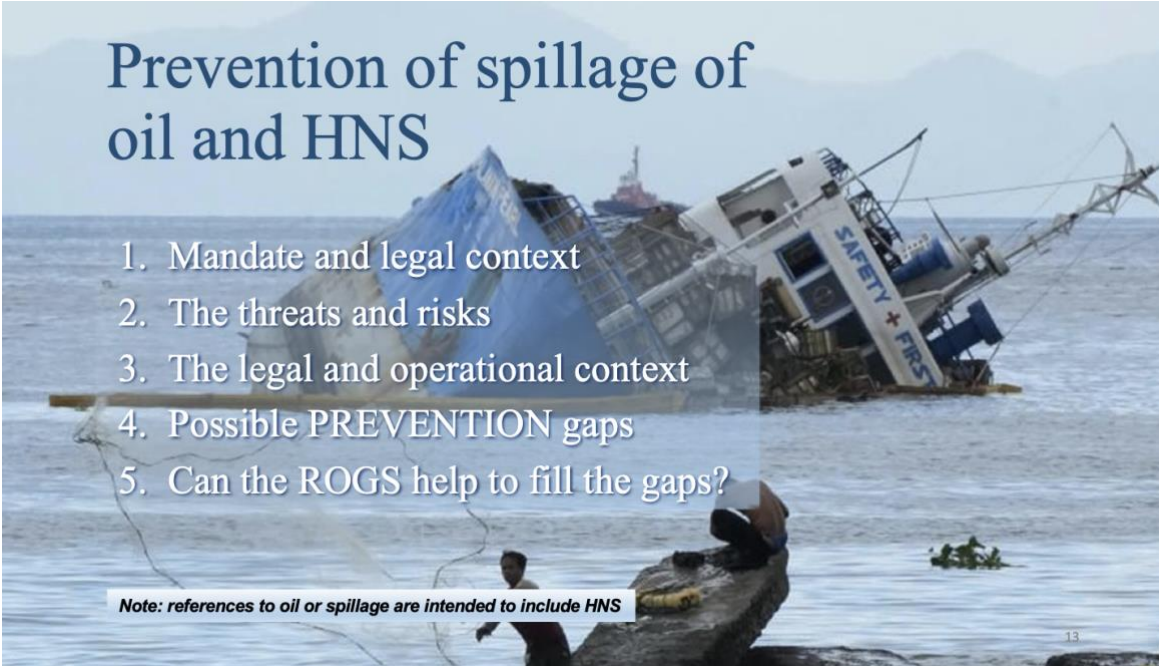
[11] <https://www.bimco.org/>; [https://www.bimco.org/contracts-and-clauses/bimco-clauses/current/international\\_group\\_of\\_pi\\_clubs\\_financial\\_security\\_in\\_respect\\_of\\_pollution\\_clause](https://www.bimco.org/contracts-and-clauses/bimco-clauses/current/international_group_of_pi_clubs_financial_security_in_respect_of_pollution_clause).

[12] <https://www.intertanko.com/about-us/mission-statement>

[13] <https://www.itopf.org/>

[14] To date, only three of the parties to the NC have ratified the HNS Protocol.

## Annex 3: Presentation by Kieran Kelleher (ROGS Adviser)



### Prevention of spillage of oil and HNS

1. Mandate and legal context
2. The threats and risks
3. The legal and operational context
4. Possible PREVENTION gaps
5. Can the ROGS help to fill the gaps?

*Note: references to oil or spillage are intended to include HNS*

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## Mandate: Nairobi Convention Protocol

Protocol Concerning Co-operation in Combating Marine Pollution in cases of Emergency in the Eastern African Region (the 'Emergency Protocol' (in force))

- o Article 3.1. "The Contracting Parties shall, within their capabilities, co-operate in taking all necessary measures, **both preventative** and remedial, for the protection of the marine and coastal environment of the Eastern African region from marine pollution incidents."
- o Article 4 and Article 9(e) require exchange and dissemination of information on prevention





## Legal regime.

### Selected international conventions & mechanisms



- SOLAS (safety of ships – construction, equipment, operation)
- MARPOL (pollution from ships – several subject specific annexes and guidelines)
- International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC) (1990) and OPRC-HNS Protocol
- 1992 Civil Liability Convention, the 1992 Fund Convention and the Supplementary Fund Protocol (both in force), 2001 Bunkers Convention (compensation for spillage)\*
- London Convention, 1972 and the 1996 London Protocol on dumping, applicable to platforms and other man-made structures (e.g. to discharge of contaminated drilling materials)
- P&I clubs are associations of ship owners, operators, charterers and which provide insurance for marine accidents
- Port State MOUs – regional agreements between port states on ship inspection

\* The IOPC Funds are not applicable to bulk carriers

## Risk, threats, issues

- Reliance on non-WIO flag port state controls
  - o control of inter-continental shipping traffic (crude oil, bunker, cargo)
  - o Incomplete information on vessels with HNS cargos
- Reliance on due diligence of shipping companies, crew performance
- Regional shipping traffic may use older vessels
- Oil exploration and extraction platforms (collision, fire, terrorism)
- Sensitive marine ecosystems, high dependence on tourism and fisheries
- No /weak legal authority to have a problem vessel change course
- No designated 'places of refuge'

## Is there potential for enhanced regional cooperation on prevention?

- reinforcement of port state and flag state controls over shipping that either transits the WIO , or make port calls
- enhanced tracking of and reporting by tankers, bunker, nurdle and HNS cargo vessels
- possible designation of Particularly Sensitive Sea Areas where additional risk reduction measures could be envisaged (IMO process)
- consideration of regional ‘places of refuge’ in the event of emergencies
- lessons from Wakashio (bunker) and M/V X-Press Pearl (nurdles)

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### Technical Dialogue stakeholder Q&A to address oil/ NHS spill **prevention** in the ROGS

#### 1. Consensus understanding on oil/ HNS spill prevention

- o risks, threats

#### 2. Possible regional actions

- o what and how?

#### 3. Possible regional implementation arrangements

- o institutional responsibility, leadership, decision-making
- o cooperation mechanisms (formal structures, permanent platforms, informal arrangements)
- o resource needs

## Annex 3: Presentation by Peter Taylor (SAPPHIRE Consultant)



**International Convention on Oil  
Pollution Preparedness,  
Response and Co-operation**

OPRC Convention  
INTERNATIONAL CONVENTION ON  
OIL POLLUTION PREPAREDNESS,  
RESPONSE AND CO-OPERATION, 1990

Framework of International Maritime Organization (IMO)  
instruments addressing oil pollution

- Prevention
- **Preparedness**
- **Response**
- Liability and Compensation



**Protocol Concerning Co-  
operation in Combating  
Marine Pollution in cases of  
Emergency in the Eastern  
African Region**

OPRC Convention  
INTERNATIONAL CONVENTION ON  
OIL POLLUTION PREPAREDNESS,  
RESPONSE AND CO-OPERATION, 1990

Nairobi Convention  
Emergency  
Protocol

**Complements the OPRC Convention, covering:**

- **cooperation in case of marine pollution incidents**
- **establishment of contingency plans and procedures conducive to effective response**
- **mutual support between national systems**

OPRC Convention  
INTERNATIONAL CONVENTION ON OIL POLLUTION PREVENTION, RESPONSE AND COORDINATION

Nairobi Convention  
Emergency Protocol

Offshore Pipelines

Ships

Ports and harbours

Offshore Production

Offshore Exploration

Marine terminals

**Framework covers oil pollution incidents from any source**

OPRC Convention  
INTERNATIONAL CONVENTION ON OIL POLLUTION PREVENTION, RESPONSE AND COORDINATION

Nairobi Convention  
Emergency Protocol

INDIAN OCEAN COMMISSION  
Ocean Marine Highway development and Coastal and Marine Contamination Prevention Project

**WIO Marine Highway project drafted the Regional Contingency Plan following IMO guidance**

REGIONAL CONTINGENCY PLAN FOR PREPAREDNESS FOR AND RESPONSE TO MAJOR MARINE POLLUTION INCIDENTS IN THE WESTERN INDIAN OCEAN

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**SAPPHIRE project in 2021/22:**

- Examined options for regional cooperation and coordination
- Virtual collaboration mechanism as way forward?

## Regional stakeholders

### Emergency Protocol (Article 9) refers to:

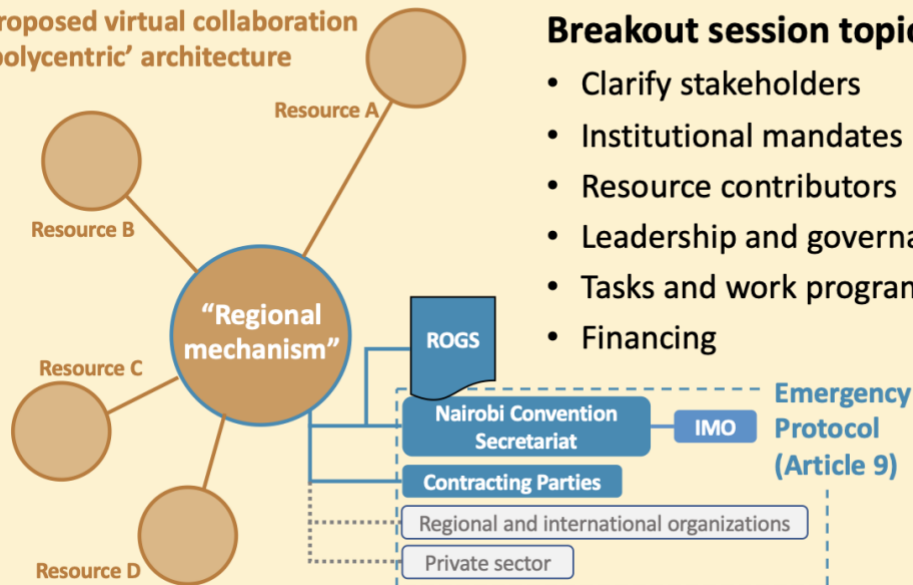
- “Nairobi Convention’s Contracting Parties and Secretariat”
- “IMO”
- “Major oil producers, refiners, clean-up contractors and cooperatives and transporters of oil and HNS”
- “Competent regional and international organizations”....

### Others:

- Indian Ocean Commission and the MASE centres
- UNEP Disaster Risk Reduction Programme
- European Union (e.g. CRIMARIO)
- Norway (Norad’s Oil for Development Programme)
- International oil & gas associations (Ipieca and IOGP)
- Ship insurers (P&I Clubs) and their technical advisers (ITOPF)
- Southern and East African and Islands Regional Group for Safety of Navigation and Marine Environment Protection (SEAIGNEP)

## Current proposal and question arising for breakout

Proposed virtual collaboration  
'polycentric' architecture



**Breakout session topics/questions:**

- Clarify stakeholders
- Institutional mandates
- Resource contributors
- Leadership and governance
- Tasks and work programme
- Financing

## Annex 4: Full Clustered Participant Feedback

Twelve participants completed the circulated Technical Dialogue feedback form, indicating on a scale of 1 (not at all) to 5 (fully) the following level of achievement of goals:

- **4.1 - Increase shared understanding** regarding technical dialogue topic
- **4.0 - Discuss and generate inputs for the ROGS** regarding technical dialogue topic
- **3.7 - Build trust and resonance for dialogue** among key stakeholders and ROGS Task Force
- **4.0 - Understand how this Technical Dialogue fits** into the participatory ROGS development process

When asked “What did you like most about today’s Technical Dialogue?,” participants responded with:

*Active participation from a diversity of relevant stakeholders*

- Good participation from relevant actors
- Range of stakeholders involved
- The engagement by participants
- Fully engaging
- Group members were active
- NCS supporting this project

*Good quality dialogue among participants*

- Interactive groups with key ideas
- The break out sessions provided opportunity to all present
- The discussions in the breakaway sessions were fruitful
- There was an actual discussion for people to contribute
- Group work was engaging and participatory
- Discussion

*Good quality technical content*

- Tech content was excellent
- Technical aspects
- NCS is putting lots of effort into materials

When asked “What would you change for similar future Technical Dialogues?,” participants responded with:

*Nothing to change*

- Nothing to change, keep the dialogue duration
- Nothing
- nil
- Not sure
- Nothing
- Nothing



*More time and guidance for breakout discussions*

- More time for discussion
- More time for break out sessions
- More clear guidance within the discussions to move the conversation on

*Ensure participation from all sectors and national level*

- More participation from various sectors of the industry
- There is need to have more national representatives in the mandated oil and spill activities in the region for them to feel ownership of the activities and also to bring on board their experiences and challenges to ensure the discussion is more interesting and has more input

*Consider French-English translation*

- Consider bi-lingual (simultaneous translation) meeting to engage Francophone countries
- Simultaneous English-French

*Hold more dialogues*

- The dialogue should be held more often

*Meet in-person*

- In person meeting instead of online

\* \* \* \* \*