

Introduction to MARPOL Annex VI Ratification Processes and Requirements



National Workshop (virtual) on Ratification and Effective Implementation of
MARPOL Annex VI for Algeria
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Dr Zabi Bazari
REMPEC Consultant

Content

- Parties' obligations and rights
- Why to become a Party?
- How to become a Party?
- MARPOL – How to do it
- Capacity needed to act as a Party

Parties' obligations and rights

- **General obligations:** Parties to ensure that:
 - Ensure **compliance of the ship** in their flag to the Convention
 - Ensure **compliance of the ship** visiting their ports.
 - Provision of **port reception facilities**, etc.
- **General rights:**
 - **Not being polluted** by ships from other Parties
 - Can **prosecute** or **penalize**
- **Main responsibilities:**
 - **Flag State responsibilities:** Implement regulations in their flagged ships via **survey and certification**
 - **Port State responsibilities:** Make sure ships of other parties and nations comply with regulations via **Port State inspections**

What about non-Parties?

- **No more favourable treatment:** Port States of Parties obliged to impose the conditions of the Convention on as non-Parties as well.
- Non-Parties, if polluted, they have “**no privilege under the Convention**” to prosecute the ships concerned.

Main justifications for becoming a Party?

- **Environmental** protection of national waters.
- Benefits to the industry (**economic** aspects).
 - Shipping
 - Flag
 - Seafaring
- **Political** objectives in becoming a member of international groups
- Country **brand and image** (e.g. environmentally, being a member of bigger club,)
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Main justifications for not becoming a Party

- Unavailability of **institutional and human capacities** for implementation
 - Flag administration duties
 - Port State Control duties
 - Reception facilities
- Unavailability of relevant **enabling national legislation** and regulations
 - For implementation and enforcement
 - For prosecution
- **Minimal benefits** (political or economical or environmental) for the country
- **Other legislative priorities** for the country.
- **Lack of political will.**

Ratification Process and Related Activities

Overall process of becoming a Party

- (Step 1) Understand the country's need and impacts and decide:
 - Find out justification for becoming a member.
 - Engage all the stakeholders.
 - Build consensus.
 - Make a decision on the subject.
- (Step 2) Prepare the enabling legislation (and regulations):
 - You must be able to give effect to the Convention 3 months after accession.
- (Step 3) Accede to MARPOL (write to IMO that you want to become a Party)
- (Step 4) Give effect to relevant Annexes via start of implementation and enforcement.

Accession to MARPOL Annex VI

- Accession
 - This is official acceptance by a country to become a Party
 - It is simply a declaration to IMO by country executive of joining the Convention.
 - Convention enters into force 3 months after accession date.

Regulatory Impact Assessment

- Before acceding, the government must decide decide:
 - If it is prepared to implement and enforce MARPOL Annex VI?
 - Benefits for the country?
 - Resources and capacity needed?
 - What the stakeholders' views are?
 - Etc.
- Best way to know the benefits/costs/impacts is to carry out a **national impact assessment** for this purpose.

Ratification assessment: Who takes part?

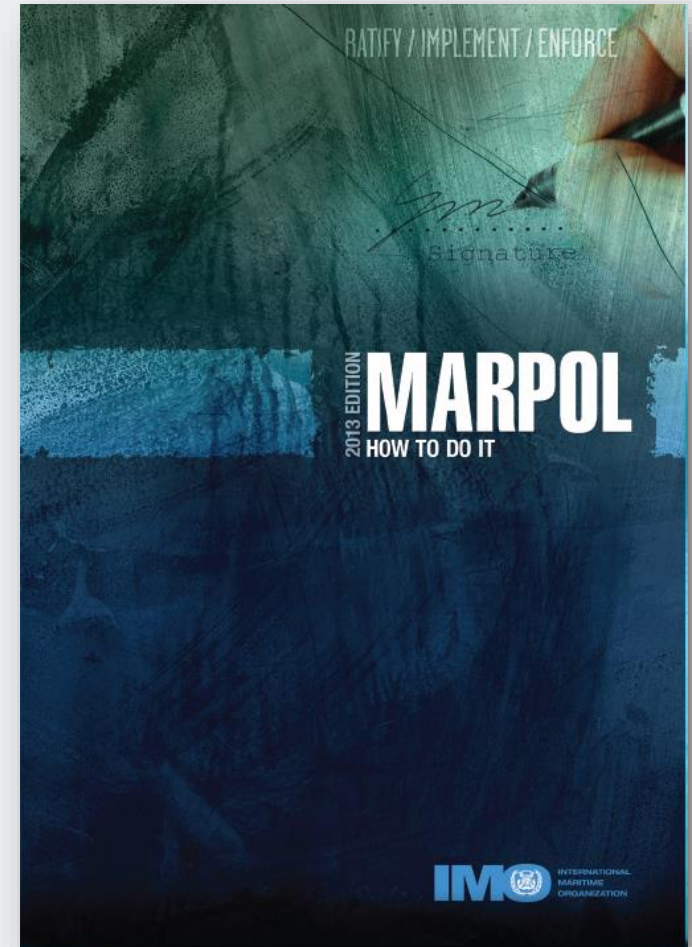
- Accession to MARPOL and its implementation require the participation of some or all of the following:
 - Government of the State (political body having power to conclude international agreements)
 - Administration – Legal
 - Administration – Maritime
 - Ship-owners
 - Port authorities
 - Etc.
- Consensus building between stakeholders is a good way forward.

Integrating MARPOL into national law - Legislation

- Before Accession, national legislation for implementation needs to be ready. Questions:
 - Does **existing legislation** supports the implementation and enforcement?
 - Is there a need for new legislation / regulations?
 - Incorporation into national law differs from a country to another; depending on their legal system.
 - Are there any existing **compliance and enforcement mechanisms**? Do they need updating?

MARPOL - How to do it

- Manual on the Practical Implications of Ratifying, Implementing and Enforcing MARPOL.
- Overview on what is covered by the articles, protocols and Annexes of the Convention.
- Overview on rights and obligations of all stakeholders (flag State, port State, coastal State, shipowner and to some extent shipbuilder).
- In addition to this, a publication (Toolkit) under GloMEEP project is also available that describes the process.



Capacity Building for Implementation and Enforcement

Institutional framework: Capacity for Flag State implementation

- There should be capacity for carrying out Flag State survey and certification
- This will entail:
 - Procedures
 - Dedicated personnel
 - Means of monitoring and reporting
 - Conducting actual surveys
 - Ship-board trials
 - Equipment testing surveys
 - Etc.
- Most of the work can be delegated to ROs in this regard (Class Societies).

Institutional framework: Capacity for PSC enforcement

- There should be capacity for carrying out PSC
 - Procedures
 - Dedicated personnel
 - Means of monitoring
 - Penalties and detentions
 - Reporting
 - Testing capability (for fuel oil for example)
 - Etc.

- Capacity building for the above is important prior to accession.

Self Assessment: True or False?

1. By being a non-Party, I can still impose the requirements of the Convention on foreign ships?
2. By being a non-party, my flag ships are exempt from PSC in other countries?
3. Accession means joining a Convention that already exists?
4. From date of accession, the new Party must give effect to the Convention after a period of maximum 6 months?
5. Development of national legislation is best to be done after the accession?
6. Inclusion of the Convention under national law could take different forms and processes in different countries?
7. An “impact assessment” on the subject is not generally needed as the benefits and responsibilities are clear to all?

REMPEC, an IMO / UNEP Centre assisting the Mediterranean coastal States in ratifying, transposing, implementing and enforcing international maritime conventions related to the protection of the marine environment



Thank you

Regional Marine Pollution Emergency Response Centre for the Mediterranean Sea (REMPEC)
Maritime House, Lascaris Wharf, Valletta, VLT 1921, Malta
T: +356 21 337 296/7/8 | F:+356 21 339 951
rempec@rempec.org

www.rempec.org