EMSA
European Maritime Safety Agency

Workshop report

Workshop on the Cost Recovery Systems of the Directive 2000/59/EC on

Port Reception Facilities for Ship-generated Waste,

held in Brussels on 2nd March 2006

Workshop Report: The cost recovery system of the Directive 2000/59/EC on port reception facilities for ship-generated waste

Background

The objective of the Directive is to reduce the discharges of ship-generated waste and cargo residues into the sea, especially illegal discharges, from ships using ports in the European Community, by improving the availability and use of port reception facilities. In addition to ensuring the availability of adequate port reception facilities must meet the needs of the ships normally using the port, without causing undue delays, a specific cost recovery system promoting the use of the facilities for ship-generated waste is required by the Directive.

Under the "polluter pays" principle, all ships calling at a port of a Member State shall contribute significantly to the costs of reception facilities for ship-generated waste, including the treatment and disposal of the waste. This significant contribution is made in the form of an indirect fee which all ships must pay irrespective of their use of the facilities. The indirect fee acts as an incentive for ships to deliver their waste to the port reception facilities.

There are many types of cost recovery systems currently in place in EU ports. EMSA contracted Carl Bro Consulting Group to carry out a study on the availability and use of port reception facilities for ship-generated waste. Based on the findings of the study it is possible to distinguish broadly two types of cost recovery systems that have been created by the Member States ports aiming to fulfil the incentive requirement in the Directive.

In this context EMSA decided to organise the first Agency Workshop on the technical implementation of the Directive's cost recovery system.

Workshop Objectives

The Workshop constituted the first official meeting with the Member States concerning the implementation of the Directive. The workshop had two main objectives: The first was to arrange a forum for the Commission to take note of the Member States' views on the implementation of the Directive as required by the Directive. The second was to share with the Member States the main findings of the Carl Bro study[1] and to give an overview of EMSA's technical report[2] on this issue to the Commission evaluating the variety of cost recovery systems adopted by the Member States.

The workshop was chaired by Mr. Panagiotis Petropoulos Head of Unit D (Implementation of EU Maritime Legislation). Mr. Gilles Bergot from the European Commission (DG TREN) gave a short introductory speech emphasizing that the Commission wanted to ensure that the Member States' views would be properly taken into account before the Commission drafts the report to the European Parliament and to the Council[3]. Based on EMSA's technical report to the Commission and the Member States' written and oral contributions during the workshop, Commission will report to the Parliament and European Council most probably by the end of June 2006.

[1] The executive summary of the Carl Bro study was distributed to the participants in the Workshop.

[2] Annex to the invitation: Working paper based on the EMSA's technical report to the Commission on cost recovery systems

[3] Art. 8(4) of the Directive: "The Commission shall, within three years of the date referred in Article 16(1), submit a report to the European Parliament and to the Council, evaluating the impact of the variety of cost recovery systems adopted in accordance with paragraph 2 on the marine environment and waste flow patterns. This report shall be drawn up in liaison with the competent authorities of Member States and representatives of ports."

The Member States were invited to discuss a range of issues that the Commission will address in its report to the EP and Council, namely

- How to define the "significant contribution" to the costs of port reception services
- Incentives to deliver waste to port reception facilities
- The role and involvement of port authorities in port waste management services
- How to ensure the statistical data on quantities of waste received by ports
- Exemptions

Workshop Conclusions and the follow-up actions

The conclusions and recommendations of the Workshop are provided in Annex 4. As a result the follow actions will be undertaken by EMSA and COM:

1. When evaluating the effectiveness of the different cost recovery systems, EMSA stressed the need to have data on the waste quantities received by ports. The Member States reacted positively to the idea of developing a non binding instrument to ease the reporting of quantities of ship-generated waste received by ports.

2. In relation to the inspection procedures (Article 11 on Enforcement) EMSA and COM indicated that a dedicated questionnaire will be sent to the MS to start gathering precise information concerning enforcement procedures in Member States.

3. With regards to exemptions to "scheduled traffic" two main issues were identified by the Member States to be solved at Community level:
   - There is a need to define common EU criteria for "scheduled traffic with regular and frequent port calls"
   - There is a need to designate focal points in each Member State administration to facilitate cooperation when for example, seeking evidence of exempted ship's waste management procedures according to a contract and their effectiveness

EMSA indicated that the next workshop dealing with the technical implementation of the Directive 2000/59/EC will be held in Lisbon either in late September or in October 2006. The agenda of the workshop will most likely consist of:

- Presenting the main elements of the Commission's report to EP and Council on the implementation of the Directive
- Enforcement – questionnaire to Member States on inspection regime
- Exemptions (criteria of scheduled traffic, ensuring co-operation among Member States authorities)
- Presenting the main findings of the EMSA evaluation of waste management plans

WORKSHOP REPORTANNEX 4.
WORKSHOP ON THE COST RECOVERY SYSTEMS OF THE DIRECTIVE 2000/59/EC ON PORT RECEPTION FACILITIES FOR SHIP-GENERATED WASTE
BRUSSELS 2ND MARCH 2006, WORKSHOP CONCLUSIONS

Contribution of the Directive to the protection of the marine environment

Member States agreed on the contribution of Directive 2000/59/EC in reducing the discharges of ship-generated waste and cargo residues into the sea, especially illegal discharges, from ships using ports in the Community. Regarding how to measure the success of the fee system, the indicators are the waste quantities received by port reception facilities (PRF) and also the decreased detections of illegal oil spills by aerial and satellite surveillance. Other indicators, such as oily birds, can be considered as supplementary indicator.

Denmark questioned the approach of having as the only criteria the waste quantities received by port reception facilities. For instance the recent implementation of the Directive has resulted in a situation that the waste is more evenly distributed regionally among ports (for example following the regional implementation of the indirect fee, waste is now delivered more evenly to all ports in that region).

The lack of reliable statistics is also a common concern among the Member States. Most of them are facing problems when gathering information to report to the Commission. Due to this lack of reliable and comparable data, the Member States reacted positively to the idea of developing a non binding instrument to ease the reporting on the quantities of ship-generated waste received by ports.

Several delegations expressed the need to ensure a harmonized implementation of Directive's cost recovery system. It has been noted that there is a distortion of competition when different cost recovery systems are applied in EU ports making it cheaper to discharge in certain ports. Sweden, Finland, Denmark and the Netherlands also emphasized the need to harmonise the fee system at the EU level. However, France underlined the need to keep certain flexibility. This view was shared by two UK and Malta.

"Significant contribution" to the costs of port reception facilities:

It was confirmed by the Member States that the Commission statement on "significant contribution" is commonly used as a yardstick by ports when defining the indirect fee part of the waste fee.

The difficulty to estimate this significant contribution in the total waste fee was raised by Germany. This delegation referred to its previous "free of charge" practice and when compared to its current system with indirect fee it was confirmed that the quantities received by the port reception facilities have now increased. When discussing the meaning of "cost of port reception facilities", several Member States explained they do not have detailed information about the costs of port reception facilities.

The IMO interpretation of the costs of port reception facilities was distributed during the discussion. Some Member States explained that this interpretation has been used as a baseline, but one Member State has added additional elements.

Belgium informed about their national system in which an external auditor is controlling the use of the financial revenues arising from cost recovery system. The revenues should be invested back to the port reception facilities related purposes.

Incentives to deliver onshore:

As mentioned in the working paper, EMSA identified two main incentive based cost recovery systems. Besides the incentive in the form of an indirect fee, the quality and the availability of the service provided by the port are important in addition to the active role of the port authority.

Denmark described their fee system which is based on the concept of "waste accumulated since the last port of call". Quantities exceeding the defined reasonable amounts will be charged additionally. In this system it is assumed that a ship will discharge at every port (mandatory delivery) – therefore the burden of each port in receiving waste would be shared and the waste amount more evenly distributed. This, however, is not usually the case except possibly for garbage. According to the Directive, ships are free to decide when and where to discharge provided that the ship has sufficient storage capacity.

The mandatory delivery requirement in the Helsinki Convention was discussed. Some reservations on its real effectiveness - as not all HELCOM Contracting Parties have implemented the system – were raised. Malta and UK emphasized that there is no need to impose such a system at the European scale. Malta underlined that such a system may prevent ship-owners investing in on-board technology to reduce ship generated waste production while UK stressed that there is no need for mandatory delivery because a mandatory fee (indirect fee) offers a ship an incentive to discharge.

Role and involvement of Port Authorities in the management of the port reception facilities system:

When evaluating the different cost recovery systems in EU ports, one of the most interesting findings is the importance of the port authority's role in managing the waste services for ships.

Article 12.b of the Directive stipulates that Member States shall designate appropriate authorities or bodies to perform functions under this Directive. In most cases, the port authority has been designated to implement the Directive any related national regulations at port level.

The majority of Member States underlined the good relationship they have with their ports and their existing involvement in waste management. UK explained they provided clear guidance and guidelines to set up cost recovery systems. Greece uses a similar system to provide guidance to ports. It has been noted that the client relationship (port-ship) may constitute a barrier to the collaboration between ports and the competent authority in charge of waste management.

The Belgian Environment Authority has been organising for 2 years regular discussions and meetings with the port sector to discuss ship generated waste management. The Netherlands uses a particular national forum of ports to address the issue.

Alongside the discussion on the involvement of ports, Portugal expressed interest regarding inspection procedures (Article 13 on Enforcement). EMSA and DG TREN explained that a dedicated questionnaire would be sent to the MS to start gathering precise information about enforcement procedures in MS.

Exemptions:

Cyprus raised the issue whether it is possible to grant exemptions to vessels with scheduled, regular and frequent port calls when the vessel has concluded the waste management agreement outside EU in a port along its regular route.

The Commission stated, and was generally supported by the Member States, that it is the responsibility of the authority granting the exemption to verify that that the waste management company is authorized by the port state. In addition there is a need to verify that the ship is acting in accordance with the contract and delivering its waste regularly.

UK indicated its practise and procedure for requesting evidence that the contract is really active and working. It also indicated the exemption granted is communicated to other Member States' ports along ship's regular route.

Denmark stated that there would be a need to designate focal points in each Member State's administration to facilitate cooperation and, for instance, receive assistance when seeking evidence of waste management contracts and their effectiveness.

Finland notified that the HELCOM criteria on scheduled traffic have been implemented in their national legislation for one year and in practise the criteria are too strict (the ship must visit the port for which the exemption applies at least once a week). The original proposal of once in a two week period is now being considered. Finland emphasized the need to have common EU level criteria on scheduled traffic.

The status of coastal shipping in relation to exemptions was raised. These ships may have frequent port calls (up to 50 port calls per month) but they do not fulfil the exemption requirements.

Some Member States supported the idea of tackling this issue within the exemption clause (art. 9) while some other Member States felt that is preferable to deal with this issue within the fees for ship-generated waste framework (art 8). The basic structure in the Directive allows ports to take into consideration various factors when charging the waste fee. One example that was mentioned by Belgium is the "environmental charging" criteria that the Belgian ports use for ships using MDO/MGO.

Other issues:

The issue of transit vessels outside port which are usually changing their crew or bunkering was raised by Greece. This delegation also underlined some differences of definition between the definitions of "port facility" under Directive 2004/725 and "port" as defined in Directive 2000/59. This difference of definition may need further discussion nevertheless it was a general feeling of many Member States that the waste fee can be charged if the waste reception facilities are provided, and the ship can actually discharge its waste.