



## **Workshop Report**

**Places of Refuge:  
Cooperation, Liability and  
Compensation,  
Lisbon, 21 September 2007**

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## Workshop on Places of Refuge: Cooperation, Liability and Compensation

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### Background

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#### (1) Cooperation

Following the operational evaluation carried out by the European Commission with technical support from EMSA, the question of regional and sub-regional cooperation between neighbouring Member States with shared sea areas was raised.

The issues raised by the Member States concerned the effect that one neighbouring state's actions within the context of places of refuge would have on another. This follows a number of well-publicised incidents (the "Prestige"; the "Castor" and the "Vicky") to name but a few.

In some case, strong bilateral ties and procedures have been set in place. In other areas, it was noted, and in many cases desirable, to enhance cooperation. The cooperation envisaged not only includes operational coordination in terms of information and equipment sharing during an incident, but also with regards preparation and planning. This latter point reverts to the preparation of the national plans for places of refuge to take into account those of neighbouring states. This step was considered useful as if a major incident occurs, the most appropriate place of refuge available may be beyond a specific nation's territorial waters, bearing in mind that any subsequent damage or pollution is unlikely to be limited to one particular shoreline.

These issues and areas where Member States have, or are beginning to make concerted efforts to exchange information do have certain operational and legal constraints.

The workshop aimed to explore these and present examples where close ties have been established between two or more EU Member States.

#### (2) Liability and compensation

There are no specific provisions on liability for the damage in places of refuge, so the relevant claims are to be treated as any other maritime claims and be governed by the provisions of international maritime law relating to civil liability in general. These are mostly international conventions: LLMC 1976/ 1996, CLC/IOPCF, HNS, Bunker Oil and Wreck Removal. However, not all of them are in force. For those claims that are not regulated by the international conventions

(because either they are out of their scope or the relevant convention is not yet in force), the national laws apply but the claims will be still limited by the provisions of the LLMC in force in the State Party.

For the claims relating to preventive and remedial measures in case of pollution or threat of pollution, it is also important to note the applicability of the EU Environmental Liability Directive.

The workshop aimed to present the international and European law instruments applicable to compensation for the place of refuge related damage and to encourage the Member States to ratify those that they have not ratified yet in order to take advantage of the mechanisms provided.

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### Workshop Objectives

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The workshop had the following objectives:

- To present the areas where further cooperation with regards to cross-border cooperation within certain sea areas by EU Member States at the regional or sub-regional level were possible;
- To use concrete examples of cooperation between neighbouring states, using a recent case study where established cooperation for the English channel involving a number of concerned Member States, as an example of what can be done operationally and legally so that other Member States can use these as a basis for closer ties and formal relationships;
- To present other initiatives on planning, equipment, information exchange and operational coordination that were being discussed;
- To encourage, based on the principle of subsidiarity, closer ties on a regional and sub-regional basis, between neighbouring Member States;
- To present the international and European law instruments applicable to compensation for the place of refuge related damage;
- To encourage the Member States to ratify pending international conventions in order to assure better coverage for the place of refuge related damage.

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## Workshop Programme

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(1) The part of the workshop dedicated to cooperation between Member States consisted of a number of presentations which revolved around case study (the “MSC Napoli”); the legal and operational framework in place that were used to respond to the incident; the perspective from both parties involved; the presentation of existing regional agreements and future steps that are being taken elsewhere, such as the initial steps that are being taken towards establishing a Baltic plan were also presented.

(2) The liability part consisted of two presentations:

(a) Presentation of the international conventions, both those in force and those in the pipeline, in the area of civil liability that are potentially applicable to compensation of damage arising in connection with a place of refuge situation, and

(b) Presentation by the representative of the International Group of the P&I Clubs on the rules of shipowner’s liability and the coverage afforded by his insurer.

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## Workshop Conclusions

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1. Regional consultation when updating national plans including the possible pooling of resources (tools for decision-making, equipment, common training, inventories) would help transparency and possibly reduce costs, avoid overlaps and establish anticipated reactions;

2. The example of the “MSC Napoli” further reinforced the importance of accurate information relating to the cargo of a vessel being available immediately. The Commission reminded the delegations that a proper implementation of Safe Sea Net would be the most effective means to obtain this, and that information received early could mitigate possible dangers to crew, public health and the environment during the decision-making process.

3. Neighbouring countries are encouraged to establish any kind of formal agreements, which provide for cooperation and joint action;

4. Regional plans according to sea areas could be drawn up at a later stage;

5. International law provides for a variety of instruments related to liability and compensation that can be applied also to the places of refuge related damage. However, only some of those instruments are in force or they are not ratified by all the EU Member States, or – like in the case of LLMC – many Member States are parties to the older version providing lower compensation limits.

6. It is in the interest of the coastal states in particular to accede to all those conventions in order to ensure better coverage in case of a place of refuge related incident.

Attachments:

- (1) Agenda of the workshop
- (2) List of participants

Presentations from the workshop are available at:

<http://www.emsa.europa.eu/end187d010.html>