The EU experience with 10 years of implementation of the Directive on Port Reception Facilities

Regional legislation versus international standards and further challenges ahead

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1. Introduction to EMSA

Following the mandate laid down in EU law, EMSA supports the European Commission and the EU Member States (27) in ensuring a high, uniform and effective level of maritime safety, maritime security as well as prevention of and response to pollution by ships within the Community.
1. Introduction to EMSA – legal mandate

- 12 December 1999 off the coast of Brittany
- Erika I maritime safety legislation package
- Erika II maritime safety legislation package
- Decision to reinforce the EU maritime legislation
- EMSA established in 2002
- Regulation EC 1406/2002
1. Introduction to EMSA – main tasks

EMSA’s Tasks

- Improving maritime safety
- Improving prevention of pollution at sea
- Ensuring maritime security (ship)
- Topping up the response to pollution at sea
1. Introduction to EMSA - location

Lisbon – Portugal
1. Introduction to EMSA – staff

March 2012 – 245 total staff members and around 54M€ annual budget
1. Introduction to EMSA - staff

Staff members by EU nationality
1. Introduction to EMSA – organigram
2. EMSA and marine environmental protection

EMSA supports the European Commission in the development and implementation of European Union strategies, policy development and legislation in the field of sustainable shipping.
2. EMSA and marine environmental protection - support to implementing EU policies

EU Maritime Transport Strategy 2009-2018:
• Ability to provide cost-efficient maritime transport services adapted to the needs of **sustainable economic growth** of the EU
• European Commission, EU Member States and EU maritime industry should work together towards the long term objective of ‘**zero-waste, zero-emission**’ maritime transport

EU 2011 White Paper – Roadmap a Single European Transport Area:
• The environmental record of shipping **can** and **must** be improved by both technology and better fuels and operations.
2. EMSA and marine environmental protection - EU vs. global

EU 2011 White Paper – Roadmap a Single European Transport Area:

“In maritime, there is a need for a global level playing field. The EU should strive – in cooperation with IMO – for the universal application and enforcement of high standards of safety, security, environmental protection and working conditions, and for eliminating piracy.”
2. EMSA and marine environmental protection - tasks

EMSA provides the European Commission (= responsible for policy-making) and Member States with technical and scientific assistance on **sustainable and quality shipping** in order to help them:

- **Develop** and
- **Uniformly apply** EU legislation properly
- **Monitor** its implementation, and
- **Evaluate the effectiveness** of the EU measures in place

‘Zero-waste, zero-emission’ maritime transport can be attained by **strengthening** EU legislation regarding port reception facilities for ship-generated waste and cargo residues (= Directive 2000/59/EC) and by **improving** its implementation arrangements *(EU Maritime Transport Strategy, 2009-2018)*

- End of 90’s, the European Commission noted:
  
  - Lack of implementation of Marpol Annexes in EU Member States in practice
  - EU PRF policy has to correspond to EU’s general environmental policy: high level of environmental protection and precautionary and polluter pays principle
  - Action required at EU level due to trans-boundary implications of pollution of the seas
  - Accidents are not main source of marine pollution: most of it is the result of deliberate discharges


Purpose:
- Rather than regulating discharges at sea, the focus of the Directive is on the waste operations of ships while in EU ports
- Improving the availability and accessibility of PRF and achieving effective implementation and enforcement of waste deliveries

- Transposes Marpol’s requirements into EU community law: addresses ship generated waste (Annexes I, IV, V) and cargo residues
- Provides for additional obligations on ship and land side (limited to SG waste) to ensure effective implementation
- Covers all ships, including fishing vessels and recreational craft (irrespective of Flag), all ports of the Member States (including fishing ports and marinas) = over 3000 seaports & 600,000 ship calls per year

The Directive addresses the issues at three levels:

<table>
<thead>
<tr>
<th>Obligations for Member States</th>
<th>- Provide and manage adequate PRF</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>- Develop and implement waste reception and handling plans in each port</td>
</tr>
<tr>
<td></td>
<td>- Implement cost recovery (fee) systems based on polluter pays and contribution of all ships (recommended 1/3 of costs as incentive to pay)</td>
</tr>
<tr>
<td>General obligations for ships (also exemptions)</td>
<td>- Send pre-arrival notification (Advance Waste Notification)</td>
</tr>
<tr>
<td></td>
<td>- Mandatory delivery of ship generated waste in EU ports</td>
</tr>
<tr>
<td>Enforcement and Monitoring</td>
<td>- Inspections (not Paris MoU) – at least 25%</td>
</tr>
<tr>
<td></td>
<td>- Penalties (effective, proportionate and dissuasive)</td>
</tr>
<tr>
<td></td>
<td>- Information and monitoring system</td>
</tr>
</tbody>
</table>

**Added value of EU legislation: European Court of Justice vs. EU Member States on Directive 2000/59/EC**

<table>
<thead>
<tr>
<th>Case Reference</th>
<th>Country</th>
<th>Date</th>
<th>Case related to</th>
<th>Decision</th>
</tr>
</thead>
<tbody>
<tr>
<td>C-46/09</td>
<td>Estonia</td>
<td>30/01/2009</td>
<td>Incorrect transposition of the provisions of the Directive into national law, causing a failure to fulfil obligations under Article 11</td>
<td>Estonia stated its intention to supplement Estonian legislation to correctly transpose the Directive provisions</td>
</tr>
<tr>
<td>C-480/07</td>
<td>Spain</td>
<td>11/12/2008</td>
<td>Failure to fulfil obligations under Article 5(1) and Article 16(1)</td>
<td>Ordered to pay the costs</td>
</tr>
<tr>
<td>C-368/07</td>
<td>Italy</td>
<td>25/09/2008</td>
<td>Failure to fulfil obligations under Article 5(1) and Article 16(1)</td>
<td>Ordered to pay the costs</td>
</tr>
<tr>
<td>C-81/07</td>
<td>Greece</td>
<td>13/03/2008</td>
<td>Failure to fulfil obligations under Article 5(1) and Article 16(1)</td>
<td>Ordered to pay the costs</td>
</tr>
<tr>
<td>C-68/08</td>
<td>Estonia</td>
<td>19/02/2008</td>
<td>Failure to fulfil obligations under Directive 2000/59/EC</td>
<td>Case removed from register without judgement</td>
</tr>
<tr>
<td>C-26/08</td>
<td>Germany</td>
<td>24/01/2008</td>
<td>Failure to develop and implement waste reception and handling plans for all its ports</td>
<td>Case removed from register without judgement</td>
</tr>
<tr>
<td>C-106/07</td>
<td>France</td>
<td>06/12/2007</td>
<td>Failure to fulfil obligations under Article 5(1) and Article 16(1)</td>
<td>Ordered to pay the costs</td>
</tr>
<tr>
<td>C-523/06</td>
<td>Finland</td>
<td>04/10/2007</td>
<td>Failure to fulfil obligations under Article 5(1) and Article 16(1)</td>
<td>Ordered to pay the costs</td>
</tr>
</tbody>
</table>

EMSA supports the European Commission and the Member States with ensuring an effective and harmonized PRF system in the EU

- **Extensive monitoring/inspections** of the transposition and implementation of the Directive in national legal systems of 22 Member States and 50 ports (2007-2010)
- **Assessment of 160 waste reception and handling plans** (2006)
- **Dedicated workshops** with Member States and industry on different aspects of the Directive (i.e. handling of cargo residues)
- **Outsourcing of special studies** on aspects of the Directive (i.e. ‘green ships’)
- **Developed the in-depth Horizontal Assessment report**
- **Participation in international** (i.e. IMO, ISO) and **regional** (i.e. HELCOM, OSPAR, REMPEC) fora to feed EU policy development and promote the use of PRF in general
4. Evaluation of 10 years PRF Directive implementation - findings

Based on EMSA’s monitoring visits and Horizontal Assessment report:

• PRF are in general available in EU ports
• The volume of waste delivered in EU ports has increased with the implementation of the Directive
• Waste management in ports has improved leading to reduced quantities of waste being discharges at sea
• A large variety of systems and applications have been established in EU Member States, sometimes even in the same country
4. Evaluation of 10 years PRF Directive implementation - findings

Based on EMSA’s monitoring visits and Horizontal Assessment report:

Total waste volume received by 40 large commercial ports in the EU, 2005-2008
4. Evaluation of 10 years PRF Directive implementation – shortcomings

Following the European Commission’s on-going revision (input from EMSA Horizontal Assessment, stakeholder consultation, consultants input)

• **Infrastructure adequacy**: physical reception facilities and related services do not fully satisfy the needs of the users: adequacy?

• **Management**: some key management functions of the system to not fully meet their objectives, leading to inefficient and/or ineffective use of PRF services

• **Enforcement & Monitoring**: the control of delivery requirements and the detection of ships in breach of the legislation is not fully effective

**Result**: planned revision of the Directive
5. Directive 2000/59 and Marpol Annex V

EU Member States shall take necessary measures to achieve or maintain **good environmental status** in the marine environment by 2020 at the latest, and have to finalize **marine environmental targets** for 2020 by July 2012 for each marine region and sub-region


Directive 2000/59:

- directly refers to Marpol Annex V and its definitions
- aims at increasing the involvement of port authorities in ship waste management
- no specific requirements regarding waste management on board
- requires advance notification of garbage amounts to be delivered
- requires a fee-system that covers the costs of the PRF, including treatment and disposal and to which all ships contribute significantly irrespective of their use (incentive to deliver)
- allows fee reduction for ships producing reduced quantities of waste (green ships)
5. Directive 2000/59 and Marpol Annex V - notification

Mandatory advance notification

- Amounts to be delivered
- Amounts to be retained
- Next port of delivery
- Estimation of amounts to be generated until next port
- Specified in (as a minimum) food waste, plastic and other
- As of 2015 electronic exchange between Member States

**Directive 2000/59 – Annex II – mandatory Advance Notification Form**

EMSA 2011 study on PRF: Garbage - Accumulated figures, 40 EU ports, tons
5. Directive 2000/59 and Marpol Annex V - possible improvements

• Further harmonisation of application of ‘no special fee system’ for Annex V (garbage, incl. hazardous waste)
• Enhanced use of the ‘waste delivery receipt’, also for monitoring and enforcement purposes
• Alignment with amended Marpol Annex V and guidelines
• Address weaknesses in the system to report alleged inadequacies
• Integration with EU land side waste legislation and principles (EU Waste Directive 2008/98) to avoid inconsistent segregation
6. The way ahead – need for revision

Key challenges and opportunities

• 10 year implementation experience shows a number of shortcomings and indicates that current system set out by the PRF Directive is not optimum/fully effective

• Expected growth of maritime transport in the EU: 14% between 2010 and 2020 (in tkm)

• Long term political goal: ‘zero-waste’ maritime transport remains to be attained
6. The way ahead – European Commission’s revision process

- **Evaluation**
  - Based on EMSA monitoring reports & MS implementation reports (2007-2011)

- **Impact Assessment of various policy options**

- **Stakeholder consultation**

**Current phase**

**Expected for 2013**

- Adoption of formal proposal(s):
  - (1) soft law (guidelines/recommendations), or
  - (2) legislative reform (change of legal text), or
  - (3) a combination of the two
6. The way ahead – European Commission public consultation

Breakdown of contributions by capacity of respondents

- National public authority: 12%
- Local or regional public authority: 22%
- Private sector company: 18%
- My personal capacity: 19%
- Industry association or NGO: 29%

Breakdown of contributions by stakeholder groups

- Port: 31%
- Ship: 31%
- Environment: 8%
- Government: 15%
- PRF: 15%
6. The way ahead – European Commission public consultation

Problems experienced with port reception facilities in the EU

<table>
<thead>
<tr>
<th>Inadequacy</th>
<th>PRF</th>
<th>Government</th>
<th>Environment</th>
<th>Ship</th>
<th>Port</th>
<th>Sample average</th>
</tr>
</thead>
<tbody>
<tr>
<td>There are problems of segregating different types of waste</td>
<td>0%</td>
<td>33%</td>
<td>100%</td>
<td>72%</td>
<td>17%</td>
<td>41%</td>
</tr>
<tr>
<td>Facilities needed are not provided</td>
<td>11%</td>
<td>44%</td>
<td>40%</td>
<td>61%</td>
<td>6%</td>
<td>32%</td>
</tr>
<tr>
<td>Facilities are unreasonably costly to use</td>
<td>0%</td>
<td>22%</td>
<td>60%</td>
<td>44%</td>
<td>11%</td>
<td>25%</td>
</tr>
<tr>
<td>Communications with the ports are unnecessarily difficult</td>
<td>33%</td>
<td>0%</td>
<td>40%</td>
<td>28%</td>
<td>0%</td>
<td>17%</td>
</tr>
<tr>
<td>Capacities / discharge rates of facilities are insufficient</td>
<td>0%</td>
<td>11%</td>
<td>40%</td>
<td>33%</td>
<td>0%</td>
<td>15%</td>
</tr>
<tr>
<td>There are long waits before facilities can be used</td>
<td>0%</td>
<td>0%</td>
<td>60%</td>
<td>6%</td>
<td>0%</td>
<td>7%</td>
</tr>
<tr>
<td>Other</td>
<td>56%</td>
<td>33%</td>
<td>0%</td>
<td>11%</td>
<td>17%</td>
<td>22%</td>
</tr>
</tbody>
</table>
7. Conclusions

- The implementation of Directive 2000/59/EC has contributed to increase the availability and use of PRF

- Directive 2000/59/EC is an important instrument for attaining the political objective of ‘zero-waste’ maritime transport

- A revision of the Directive is intended to address the main shortcomings in the effectiveness of the Directive by tackling the root-causes and ‘drivers’

- The revision builds upon the extensive experience of implementing the Directive, stakeholder consultation and policy option assessment

- A revision proposal from the European Commission should further strengthen the PRF system in the EU
Port Waste Reception Facilities Overview

As shipping accounts for about 20% of global discharges of wastes and residues at sea, the protection of the marine environment can be enhanced significantly by reducing discharges of all kind of ship-generated waste and cargo residues into the sea.

The development of adequate port reception facilities (PRF) for ship-generated waste and cargo residues, together with the establishment of systems which provide incentives for ships to use these facilities, are major elements in the process to reduce ships' discharges into the sea.

International Maritime Organization

The IMO has since many years addressed the delivery of ship-generated waste and cargo residues, mainly by aiming at improving the availability and adequacy of port reception facilities. Relevant requirements thereto have been adopted in the International Convention for the Prevention of Pollution from Ships (MARPOL).

In general, MARPOL contains regulations and requirements defining which wastes can be discharged into the marine environment.

MARPOL also imposes an obligation on the State Parties to provide facilities for the reception of ship-generated residues and garbage (that cannot be discharged into the sea). These reception facilities must be adequate to meet the needs of ships using the port, without causing undue delay for ships.

The relevant MARPOL regulations on port reception facilities are:


The 42nd session of the Marine Environment Protection Committee (MEPC) in November 1998 agreed that to achieve "adequate" reception facilities the port should have ceased to the operational need of users and provide...
THANK YOU FOR YOUR ATTENTION

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