

Workshop Report
EMSA Workshop on the handling of cargo residues
Lisbon, 7 December 2007



European Maritime Safety Agency

Workshop Report

**EMSA Workshop on the handling
Cargo Residues**

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Background

In accordance with the objectives and tasks as laid down in its founding Regulation (EC) 1406/2002 (as amended), and on specific request from the European Commission (DG TREN), EMSA organized a Workshop on the handling of cargo residues on 7 December 2007.

The Workshop originated in two different but related developments. Firstly, Directive 2000/59/EC on waste reception facilities in ports regulates the delivery and reception of cargo residues in its Article 10. The normative implications of this Article are quite limited, however. Article 10 of the Directive merely provides that cargo residues should be delivered to port reception facilities in accordance with MARPOL 73/78, and that the fee for this delivery would have to be paid by the user of the reception facility. The Commission is currently in the process of reviewing this Directive and, in doing so, also considers whether there is scope to strengthen the requirements related to cargo residues.

Secondly, the *Probo Koala* incident in August 2006 brought to the light a series of other questions related to cargo residues, including questions of on-board processes affecting the nature of cargo and potential waste streams caused by such activities. The delivery, reception and treatment of cargo residues is subject to a complex legal framework involving different regimes, such as the MARPOL framework and waste legislation, including international and regional rules on the transboundary movement of hazardous wastes. In this context, EMSA had prepared an assessment of the relevant applicable international and regional instruments.

In addition, there seems to be an absence of information on the nature and extent of the practices on board ships and in ports/terminals in relation to the handling of cargo residues. A fuller understanding of the issues involved justified a workshop specifically dedicated to cargo residues, attended by a broad spectrum of industry and Member State participants.

Workshop Report
EMSA Workshop on the handling of cargo residues
Lisbon, 7 December 2007

Workshop Objectives

The objective of the Workshop was to collect more information from a broad range of players on:

- the implementation of the requirements under MARPOL 73/78, Annex I and Annex II, and other relevant international instruments;
- the implementation of Directive 2000/59/EC in relation to cargo residues (Article 10);
- related activities undertaken by the IMO, and the Basel Convention Secretariat in the field of cargo residues and transport of hazardous substances.

The participants in the Workshop represented a broad range of actors involved in the transport, discharge and reception of cargo residues, i.e. from industry, EU Member States, NGOs and international organisations.

Workshop Programme

The Workshop was opened by Mr. Panagiotis Petropoulos Head of EMSA Unit E (Implementation of EU Maritime Legislation) and chaired by Mr. Henrik Ringbom (Sector E-3, protection of the marine environment).

The Workshop covered all the issues on the agenda and was structured in three parts:

- the first part addressed the concerns [since it is not yet clear whether there are real problems] on the handling of cargo residues more generally, as well as the different actions taken at international level;
- the second part focused on the transport of oil by ships and on board industrial processing and blending; and
- the third part focused on the requirements for discharge and reception of cargo residues.

1. **General Part:**

- Ms. Laure Chapuis (European Commission, DG TREN) gave the welcome address, explaining how Directive 2000/59/EC addresses the issue of cargo residues and what are the options that the European Commission is considering to strengthen the regime.
- Ms. Anna Bobo Remijn (EMSA, sector E-3) informed the Workshop of the assessment undertaken by EMSA on the applicable law, the

Workshop Report
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Lisbon, 7 December 2007

results and the main conclusions in terms of regulatory coverage and areas for improvement.

- Dr. Nikos Mikelis from the IMO Secretariat explained the application of MARPOL to cargo residues / hazardous substances. His presentation focused on MARPOL Annex I, and the six different categories of residues mentioned in Annex I needing port reception facilities, and MARPOL Annex II and the two categories of residues needing port reception facilities: mandatory pre-wash containing NLS and dirty ballast, although the latter is rare.
- The Basel Convention Secretariat was represented by Mr. Vincent Jugault who spoke about the different competencies of the BC and MARPOL, the cooperation between the Secretariats of both Conventions, as well as on the discrepancies between the different international regulations. He informed the audience of the main principles and requirements of the Basel Convention and stressed the need for clarifying various concepts: residues vs. waste, "normal operation of a ship".

2. Transport of oil by ships and onboard blending / industrial processes on board ships:

- Mr. Tim Wilkins from INTERTANKO provided the Workshop with an overview of blending/mixing and processing operations, as well as other cargo operations, and explained why these are being performed on board of ships. He concluded that blending activities are common for MARPOL Annex I product cargoes, but that the term covers a wide variety of operations. He also explained the relationship between the shipowner and the charterer in this context and noted that owners may be reluctant to undertake some blending activities on board and that 'industrial processes' aimed at fundamental alterations of the nature of the oil products was better left to refineries. Furthermore, he noted that slops from blending activities and slops from tank cleaning may be difficult to deliver, as facilities are often reluctant to receive contaminated slops.

3. Delivery / Reception of cargo residues:

- Delivery:
- Captain Anuj Gupta from ExxonMobil represented OCIMF, the Oil Companies International Marine Forum. He explained the regime of MARPOL Annex I as regards the delivery of oily cargo residues, elaborating on the process followed on ships to minimize slops and noting in particular that the slop disposal ashore to port reception facilities or private service providers is far from ideal, as mixed / contaminated slops are sometimes refused by terminals.

Workshop Report
EMSA Workshop on the handling of cargo residues
Lisbon, 7 December 2007

- Mrs. Janet Strode from IPTA (International Parcel Tankers Association) presented the regime under MARPOL Annex II covering Noxious Liquid Substances (NLS), explaining the different categories covered by Annex II and corresponding requirements for stripping and discharge (with mandatory discharge for residues from mandatory pre-wash). She concluded that the regime of Annex II functioned relatively well.
- Reception:
- Mr. Ron Van Gelder from the Port of Rotterdam Authority ("PRA") presented the facts and figures on waste notifications and deliveries received by the port in 2006 and the prognosis for such deliveries in 2007, broken down in cargo residues types Annex I and Annex II MARPOL, expecting major increases in delivery of Annex II substances in 2008 where no difference was indicated between the mandatory pre-wash and the commercial wash. He also explained the way the PRA conducts inspections on behalf of Port State Control. He noted in particular that the information exchange between authorities and the notification form (quality and uniformity) presents a challenge for ports, as well as the administrative burden.
- Mr. Geert D'Haese represented EUROSHORE, the International Association of Port Reception Facilities, which has as one of its main objectives the promotion of the use of port reception facilities. He gave a presentation on current practices in collection of cargo residues by the Port of Antwerp (Marpobel), addressing the notification of cargo residues and their collection, as well as the registration of such collection and the evolution of quantities. He emphasized the lack of workable information that is notified. He also explained the way samples are being taken and analysed prior to discharge, and the waste register being applied by the Port of Antwerp for keeping updated records.

Workshop Conclusions

1. General

It was noted that the terminology used in the different applicable legal instruments was a source of confusion. The term 'cargo residues', for example, is used in MARPOL Annexes II, but is not linked to waste, contrary to Directive 2000/59/EC on port reception facilities. There was a preference for maintaining international (MARPOL) terminology and definitions, which are better known to ship and terminal operators, also in the context of Directive 2000/59/EC.

The workshop participants seemed to agree that to the extent there are legal or practical problems involved in the delivery, reception and handling

Workshop Report
EMSA Workshop on the handling of cargo residues
Lisbon, 7 December 2007

of cargo residues, they are not of a general scope, but limited to certain key areas. The regime related to noxious liquid substances (MARPOL Annex II) was not considered to give rise to particular problems in practice, due to the specifics of that trade, including the high level of specialisation of ships and the close relationship between the receivers of such cargoes and the cargo interests including charterer of the ship. Among the oil products (MARPOL Annex I) the transport of crude oil was similarly considered to be fairly straightforward in the sense that it does not normally give rise to problems of handling, delivery or treatment.

2. Transport of oil by ships and onboard blending / industrial production processes on board ships

The discussion on this issue was hampered by a lack of facts and figures on the nature and extent of blending and other practices on board ships. While it was noted that certain types of blending operations at sea had become increasingly common, uncertainty persisted as to the practice of making more radical alterations of the characteristics of oil cargo by means of 'industrial processing' or on-board chemical processes. It was noted that this issue had been brought up within the IMO, and that a document presented by the Netherlands to the MEPC (IMO Doc. MEPC 56/22/2) invited member states and NGO's to submit any relevant data for a further inventory on this matter.

A key issue for determining the applicability of the Basel Convention to waste generated through on-board operations was the understanding of the term 'normal operation of a ship' in the exception clause in Article 1(4) of the Convention. There was no suggestion that waste generated through chemical processes to alter the composition of the cargo underway would fall under this exception clause. On the other hand, it was accepted that different ship types, and even different ships, may have different parameters of 'normality' in this respect. A proposal to address the question of what is to be considered 'normal' operation of a ship through the ship's and operator's ISM Code documentation, as approved by the flag State Administration received considerable support. It was also pointed out that what is common is not necessarily 'normal' within the meaning of the Basel Convention.

3. Delivery and Reception of cargo residues

Different views were expressed on the extent to which the delivery and reception of cargo residues, falling under the scope of Annex I, poses problems in practice. Several Member State representatives indicated that they have not experienced particular problems in this area, but added that the matter is usually taken care of by oil terminals or other private operators which are not directly under their control. On the other hand, shipowner representatives referred to difficulties in delivering their slops, in particular where it could not be used by refineries. The representative of OCIMF also confirmed that terminals generally do not wish to receive

Workshop Report
EMSA Workshop on the handling of cargo residues
Lisbon, 7 December 2007

slops which cannot be used in the production process. Neither the delivery of slops nor its reception is subject to any legal obligations under MARPOL Annex I or, hence, under Directive 2000/59.

The workshop did not rule out the usefulness of strengthening the legal obligations for the delivery and reception of cargo residues. It was noted that not all cases need to be covered by such provisions, such as for example 'load on top'. Shipowner representatives also cautioned against the financial consequences if delivery obligations were to be abused by ports/terminals to impose unreasonable fees. A proposal for introducing an obligation for ports/terminals to receive slops, when requested, was also briefly discussed.

It seems that any legislative advances in the field of cargo residues have to represent a balance between the obligations of ships and those of the shore side. It also seems that a certain commitment on both sides is necessary if the situation is to be avoided, whereby ships travel with (contaminated) slops without having a possibility to deliver it in an environmentally sound manner in any port.

Workshop Report
EMSA Workshop on the handling of cargo residues
Lisbon, 7 December 2007

Agenda

Workshop on Cargo residues

7 December 2007

EMSA

Avenida Dom Joao II
Lote 1.06.2.5
1998-001 Lisbon, 9th floor

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|-----------------------|--|
| <i>9h00 – 9h30:</i> | <i>Registration and welcome coffee</i> |
| 9h30 - 9h40: | Welcome by EMSA (Chairman of the Workshop – Panagiotis Petropoulos – HoU, EMSA Unit E – <i>co-chair</i> : Henrik Ringbom, EMSA-Unit E.3) |
| 9h40 – 10h00: | Welcome address by the European Commission (DG TREN - Laure Chapuis) |
| 10h00 – 10h20: | Introduction by EMSA: assessment of international legal instruments covering cargo residues (EMSA-Anna Bobo Remijn) |
| 10h20 - 10h30: | Questions & Answers |
| <i>10h30 – 11h00:</i> | <i>Coffee</i> |
| 11h00 – 12h00: | <u>Developments / actions at international level:</u> |
| - 11h00-11h20: | IMO Secretariat (Nikos Mikelis): the application of MARPOL to cargo residues / hazardous substances |
| - 11h20-11h40: | Basel Convention Secretariat (Vincent Jugault) |
| - 11h40-12h00: | Questions and Answers |
| 12h00 – 12h20: | <u>Transport of oil by ships and onboard blending / industrial processes on board ships</u> (Intertanko – Tim Wilkins) |
| 12:20 – 12h30: | Discussion |
| <i>12h30 – 14h00:</i> | <i>Lunch</i> |
| 14h00 – 14h45: | <u>Delivery of cargo residues:</u> |
| - 14h00-14h15: | Annex I oily cargo residues (OCIMF - Anuj Gupta) |

Workshop Report
EMSA Workshop on the handling of cargo residues
Lisbon, 7 December 2007

- 14h15-14h30: Annex II chemical cargo residues (IPTA -Janet Strode)
- 14h30-14h45: Questions and Answers
- 14h45 – 16h00: Reception of cargo residues:
- 14h45-15h00: Ports (Port of Rotterdam- Ron Van Gelder);
- 15h00-15h15: Waste Operators; (Euroshore/Marpobel - Geert D'Haese)
- 15h15-16h00: Practices in Member States: *Tour de Table*
- 16h00–16h30: Coffee*
- 16h30-17h00: Discussion
- 17h00-17h30: Conclusions (EMSA)