**2023 Joint NSN[[1]](#footnote-1)-OTSOPA[[2]](#footnote-2) Seminar on**

**Maritime Environmental Crimes**

The Seminar on Maritime Environmental Crimes was held on 29-30 November 2023 in Brussels, Belgium. The meeting was chaired by Ewald Brandt from Germany and was attended by more than 55 participants from Belgium, Denmark, the European Union (European Commission and EMSA[[3]](#footnote-3)), Finland, France, Germany, Ireland, the Netherlands, Norway, Spain, Sweden and the United Kingdom and Interpol. The organisations participating in the Seminar is at Annex 1.

The Seminar focused on maritime environmental violations for non-compliance of all MARPOL Annexes that result in investigations and prosecutions. As part of the programme the following issues were covered: international and European legislation and EMSA’s support in the enforcement chain; enforcement cases for MARPOL Annexes including the evidence used; use of the legal term significant pollution /major damage in court decisions; cross-border enforcement cases addressing the coordination between coastal and port states, sharing of information and the complexity of handing over cases; and the effects of publicity of investigations and convictions for maritime pollution offences as a preventive measure putting pressure on shipping companies, industries and other actors involved. The programme of the Seminar is included in Annex 2.

The participants held interesting discussions and agreed on the following recommendations for consideration at regional level by NSN and the Bonn Agreement; and at national level.

Recommendations

1. **Significant pollution and major damage**
   1. To acknowledge the different approaches of states to **significant pollution** and **major damage** and consider defining common criteria.
      1. To consider if the “**visibility**” of an illegal discharge is valid to categorise it as a significant pollution for MARPOL Annex I cases. To further consider if those significant pollutions where oil is demonstrated to be the pollutant are causing major damage taking into account the cumulative effect of illegal discharges.
      2. To acknowledge that **environmental assessment to prove major damage** is very complicated and the following indicators should be taken into account: size of the discharge, oil type and weather conditions, distance to valuable habitats and protected areas, and acute, cumulative and long-term toxic and smothering effects in the environment and to human health. To have information on the status of the marine environment so that it can be used to prove major damage.
2. **Enforcement cases. Evidence used**
   1. To acknowledge the use of the following “**effective” evidence and presumption** for illegal spills:
      * Connection between the slick and the ship
      * Pollutant
      * Trail shaped detection with no scattered spots
   2. To promote the use of **satellite images** as an important piece of evidence.
3. **Regulations**
   1. To recommend restricting the discharges of **scrubbers** in territorial waters to avoid the pollution from air emissions entering the water.
   2. To consider supporting in future IMO meetings the proposal from the Netherlands to reduce pollution from **persistent floaters** under MARPOL Annex II including review of washing procedure of tanks and mandatory witnessing the tank washing procedure for Y substances and visual tank inspection.
4. **Level of fines**
   1. To add to the pollution fine the any **economic benefits generated or** expected to be generated by the infringement eg PRF fees, time spent in port.
   2. To collaborate with DG MOVE in the development of any **EU guidance** to determine the appropriate criteria for setting the level of penalties.
5. **European framework**
   1. To keep NSN updated on the **Environmental Crime Directive** in relation to ship recycling and ship source pollution.
   2. To continue the collaboration with DG MOVE on the implementation of the **Ship Source Pollution Directive,** including the reporting of the enforcement cases.
   3. To discuss the need of European legislation on **NOx emissions** from shipping.
   4. To promote internally the **EU tools and databases** available for Member States.
6. **Cross-border cases**
   1. To contact the national Interpol contact point to participate in any future **30 days at sea or other relevant missions** organised by Interpol.
   2. To consider the manuals and reports published by **Interpol**:

<https://www.interpol.int/Crimes/Environmental-crime/Pollution-crime>

* 1. To consider if proceedings for a cross-border case should be managed by only one country following a request from the other affected states.

1. **General issues**
   1. To hold joint **NSN-OTSOPA seminars** in the future where inspectors, investigators, prosecutors and technical experts can get together and conclude on recommendations which can be implemented at national and regional level.
   2. To keep the **NSN database** as a valuable tool to share cases and to keep a record; even if it is not representative some conclusions can be extracted. In the future, to consider how the NSN database can be linked to any reporting under relevant EU Directives and to the Bonn Agreement data system.
2. **Publicity of investigations and convictions**
   1. To consider including **press releases** as a new category in the NSN Cases of Interest Database.

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| Countries | Organisations participating |
| Belgium | Prosecutor's Office |
|  | Royal Belgian Institute of Natural Sciences |
|  | Federal Public Service Health |
|  | Marine Environment Unit |
| Denmark | Danish Environmental Protection Agency |
|  | Defence Command Denmark |
| EU | DG ENV |
|  | DG MOVE |
|  | EMSA |
| Finland | Finnish Environment Institute Syke |
|  | Legal Division – Coast Guard Functions |
|  | Finnish Border Guard |
| France | General directorate of maritime affairs, fishery and aquaculture |
| Germany | Federal Maritime and Hydrographic Agency |
|  | Public Prosecutor's Office Hamburg |
| Ireland | Irish Coastguard |
| Netherlands | Netherlands Maritime Police |
|  | Openbaar Ministerie (Dutch Public Prosecutor) |
|  | Port of Rotterdam Authority |
|  | Rijkswaterstaat - Ministry of infrastructure and water management |
| Norway | Norwegian Coastal Administration |
|  | Økokrim (The National Authority for Investigation and Prosecution of Economical and Environmental Crime in Norway) |
|  | The Norwegian Maritime Authority |
| Spain | Directorate General for the Merchant Marine |
| Sweden | Swedish Public Prosecution Authority |
| United Kingdom | Maritime & Coastguard Agency |
|  | OPRED (Offshore Petroleum Regulator for Environment and Decommissioning) |
|  |  |
| Others |  |
| INTERPOL | Environmental Security Programme |
| OSPAR Commission | Chair of NSN |
|  | Secretariat |
| Bonn Agreement | Chair of OTSOPA |
|  | Secretariat |

Annex 1

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| **PROGRAMME Rev.2**  Annex 2  **Seminar on Maritime Environmental Crimes**  **NSN[[4]](#footnote-4)-OTSOPA[[5]](#footnote-5)**  29-30 November 2023  Brussels, Belgium  Chaired by Ewald Brandt  Wednesday 29 November 2023 | | |
| 09:00 – 09:30 | Registration and coffee | |
| **Session 1: Setting the stage** | | |
| 09:30 – 09:40 | Welcome | Ewald Brandt (former Chair of NSN) |
| 09:40 - 09:55 | Recommendations of the 2018 Seminars on Violations of MARPOL Annexes II and VI | The Netherlands (Michiel Visser) |
| 09:55 – 10:10 | NSN activities: North Sea Manual on Maritime Pollution Offences and Database | OSPAR Secretariat (Olle Åkesson) |
| 10:10-10:40 | Regulations for emissions from shipping | Belgium (Ward Van Roy) |
| 10:40-11:00 | Proposal of a new Environmental Crime Directive | EU-DG ENV & JUST (Miroslav Angelov) |
| **Session 2: Violation of MARPOL Annexes** | | |
| 11:00 – 11:30 | Coffee break | |
| 11:30 – 11:50 | Legal term of significant pollution/major damage | Spain (Hernán del Frade de Blas) |
| 11:50 – 12:10 | ÖLARVI project “Defining environmental criteria for the assessment of the severity of oil discharges” | Finish Environment Institute SYKE (Kirsten S. Jørgensen) |
| 12:10 – 12:30 | The different court decisions on the Bosphorus Queen case | Finland (Eeva Havas) |
| 12:30 – 12:45 | Discussion | All |
| 12:45 – 14:00 | Lunch (offered by the host) | |
| **Session 2: Violation of MARPOL Annexes** | | |
| 14:00 – 15:30 | Case studies of MARPOL Annexes. Relevant cases for investigations and court hearings. | |
|  | MARPOL Annex I case: Da Dan Xia | Denmark (Eva Olesen) |
|  | MARPOL Annex I case detected by satellite | Spain (Loreto Soto & Berta Blanco) |
|  | MARPOL Annex II Persistent floaters | The Netherlands (Ron Faber) |
|  | MARPOL Annex II case: Guardians | France (Loïc Lelievre) |
|  | Discussion | All |
| 15:30 – 16:00 | Coffee break | |
| 16:00 – 16:30 | Offshore oil and gas case: Foinaven FPSO (Floating Production Storage and Offloading) | United Kingdom (Sarah Mclean/ CJ MacLeod ) |
|  | MARPOL Annex VI case Jolly Palladio case | France (Loïc Lelievre) |
|  | Discussion | All |
| **Session 3: Cross-border enforcement cases** | | |
| 16:30 – 16:50 | Global marine pollution crimes | INTERPOL (Lionel Try) |
| Dealing with cross-border enforcement cases (handover of cases between coastal and port states) | | |
| 16:50 – 17:10 | Case on MARPOL Annex IV violation | Denmark (Liselotte Sloth Brogner) and Germany (Michael Elsner) |
| 17:10 – 17:30 | Discussion | All |
| 17:30 | End of Day 1 |  |

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| Thursday 30 November 2023 | | |
| 09:00-09:15 | Wrap up from Day 1. | Ewald Brandt |
| **Session 4:** **European framework** | | |
| 09:15 – 09:45 | European legislation on maritime pollution offences. Revision of the Ship Source Pollution Directive | EU-DG MOVE (Anna Marczak) |
| 09:45 – 10:15 | EMSA’s support of the enforcement chain | EMSA (Lito Xirotyri) |
| 10:15 – 10:30 | Discussion |  |
| 10:30 – 11:00 | Coffee break |  |
| **Session 5:** **Publicity of investigations & convictions** | | |
| 11:00 – 11:20 | Overview of regulations of press releases for maritime pollution offences (outcome of the NSN questionnaire) | OSPAR Secretariat (Laura de la Torre) |
| 11:20 – 11:40 | German approach. Regulation and case study | Germany (Ewald Brandt) |
| 11:40 – 12:00 | Norwegian approach. Regulation and case study | Norway (Ingrid Staverløkk) |
| 12:00 – 12:20 | Discussions | All |
| 12:20 – 12:30 | Conclusion and recommendations  Closure of the seminar | Ewald Brandt  Steven Vandenborre (Chair of NSN)  Asta Mackeviciute (Chair of OTSOPA) |
| 12:30 – 13:30 | Lunch (offered by the host) |  |
| 13:30 | End of seminar |  |

1. North Sea Network of Investigators and Prosecutors [↑](#footnote-ref-1)
2. Working Group on Operational, Technical and Scientific Questions Concerning Counter-Pollution Activities  [↑](#footnote-ref-2)
3. Euroepan Maritime Safety Agency [↑](#footnote-ref-3)
4. North Sea Network of Investigators and Prosecutors [↑](#footnote-ref-4)
5. Working Group on Operational, Technical and Scientific Questions Concerning Counter-Pollution Activities  [↑](#footnote-ref-5)