PAME II-2013 Agenda Item 4.5(b)
AMSA Recommendation II(D)
AOR Final Report Recommendation 13
Specially Designated Arctic Marine Areas
MARPOL Provision for Adequate Port Reception Facilities
Using the Concept of Regional Arrangements

REFERENCES AND RELATED DOCUMENTS

PAME (I) 12/4.6/b/USA/*Specially Designated Arctic Marine Areas and Port Waste Reception Facilities*.
PAME (II) 12/4.5/a/USA, Norway, Finland, Canada, Russia, Denmark & Sweden/*IMO Measures for Area-Based Protection.*
PAME (II) 12/4.5/c/USA/*Port Waste Reception Facilities.*
Resolution MEPC.42(30) *Adoption of Amendments to MARPOL (Designation of Antarctic area as a Special Area under Annexes I and V)*
Resolution MEPC.83(44) *Guidelines for Ensuring the Adequacy of Port Waste Reception Facilities*
Resolution MEPC.216(63) *Regional arrangements for port reception facilities under MARPOL Annexes I, II, IV, and V, 2 Mar 2012.*
Resolution MEPC.217(63) *Regional arrangements for port reception facilities under MARPOL Annex VI, 2 Mar 2012.*
Resolution MEPC.221(63) *2012 Guidelines For The Development Of A Regional Reception Facilities Plan, 2 Mar 2012.*
PAME (I) 13/4.5/c/ USA/*Adequate Port Reception Facilities and IMO and ISO Standards*
PAME I-2013 final RoDs

BACKGROUND

AMSA Recommendation II(D) states:

> *"the Arctic states should, taking into account the special characteristics of the Arctic marine environment, explore the need for internationally designated areas for the purpose of environmental protection in the regions of the Arctic Ocean."*

AOR Final Report Recommendation 13 states:

> *"Arctic states should advance conservation of Arctic marine ecosystems by considering management measures in ecologically significant areas of the Arctic Ocean that Arctic states might pursue at the IMO, building on the results of the AMSA Recommendation II(D) Report on Specially Designated Arctic Marine Areas."*

An AMSA II(D) project report is currently being prepared that will address issues related to the need for protection of the Arctic marine environment due to increased international shipping activities and the risk of accidents, spills and discharges. While the AMSA II(D) project report will provide PAME member governments with recommendations on measures that they might pursue, individually or collectively, at the IMO to bolster environmental protection for areas within the high seas portion of the Arctic Ocean, PAME member governments and have already examined in some depth a variety of measures available under existing IMO instruments that might be implemented in areas of the Arctic Ocean.

At PAME-I 2013 (Rovaniemi, Finland), the matter of possibly applying the concept of regional arrangements for port reception facilities (PRF) in the Arctic region was raised by Russia. As a result of the ensuing plenary discussion, PAME adopted a Record of Decision (ROD) inviting Russia and the United States to submit a paper to PAME II-2013 on the possibility of the concept of regional arrangements for port reception facilities in the Arctic.

EXISTING PRFs IN THE ARCTIC REGION AND MEETING THE CHALLENGE OF INCREASED ARCTIC SHIPPING

One of the Arctic Marine Shipping Assessment (AMSA) report recommendations states that "the Arctic states should recognize that improvements in Arctic marine infrastructure are needed to enhance safety and environmental protection in support of sustainable development. Examples of infrastructure where critical improvements are needed include . . . port services, including reception facilities for ship-generated waste[] . . . ."[1] In fact, considerable progress has been made by all Arctic States in reporting and maintaining adequate reception facilities at Arctic and near-Arctic ports and terminals.

As noted in previous papers submitted to PAME, at the present time most Arctic States would have the capability to provide adequate port reception facilities in the Arctic. This is likely due to the relatively few ports in the Arctic, low levels of shipping activity and the short sailing season. While port reception facility needs for current ship activity levels are being met, future demand for such facilities will likely grow as ship traffic in the Arctic increases, unless advance planning for and development of infrastructure identified as necessary occurs.

Projected increases in Arctic shipping are based on anticipated increases in hydrocarbon and mineral extraction, fishing, adventure travel (small and large cruising vessels), and merchant vessels taking advantage of shorter routes between Asia and Europe. Arctic States may have to find innovative and lower-cost solutions to managing ships' waste at ports and terminals to be able to continue to meet the needs of ships in the coming decades.

PLANNING FOR MANAGEMENT OF SHIPS' WASTE AND PRFs ON A REGIONAL BASIS AND THE CONCEPT OF REGIONAL ARRANGEMENTS FOR PRFs

[1] *Arctic Marine Shipping Assessment 2009 Report,* Arctic Council, April 2009, Recommendation III(A) [Addressing the Infrastructure Deficit], at p. 7.

In 2000, the IMO's Marine Environment Protection Committee adopted *Guidelines for Ensuring the Adequacy of Port Waste Reception Facilities* (Resolution MEPC.83(44)), which recognize that regional planning for port reception facilities may be essential to managing operational wastes from ships while ensuring there is no incentive for ships to discharge wastes into the sea. Additionally, MEPC.83(44) recognizes that regional arrangements for management of ship waste could enhance efforts by all IMO member States in a region to ensure the provision of adequate PRFs. The U.S. put forth in a submittal to MEPC 60[2] that the goals of regional arrangements should be, *inter alia,* to assist countries to:

1. Provide adequate port reception facilities in their regions; and
2. Facilitate bringing special area designations into force

Although there was much discussion at MEPC 60 on the pros and cons of adopting such a proposal, general agreement was reached at MEPC 63 and resulted in the formal adoption of MARPOL amendments allowing regional arrangements for small island developing states when, because of those states' unique circumstances, such arrangements are the only practical means to satisfy MARPOL's requirements. See Resolutions MEPC.216(63), .217(63), and .221(63), which adopted both amendments to the relevant MARPOL Annexes and associated *2012 Guidelines for the Development of a Regional Reception Facilities Plan.*

The *2012 Guidelines*' stated objective is to "provide for the development of a Regional Reception Facilities Plan (RRPF) to assist member states in specific geographic regions of the world in the appropriate and effective implementation" of the regulations in the MARPOL Annexes requiring parties to ensure the provision of PRFs at their ports and terminals.[3]

The two Polar regions were not specifically identified in any of the MEPC resolutions adopting amendments allowing regional arrangements or the *2012 Guidelines* as areas where RRPFs were anticipated, which not surprising is given the focus on the unique circumstances of small island developing states. Nevertheless, the two Polar Regions may present unique circumstances of their own for PRFs, due to their remoteness; technical challenges to mariners posed by their harsh and often unforgiving climates; special requirements for navigation, marine environmental response and search and rescue operations; and their environmental sensitivity. As such, these regions may be good candidates for bilateral and multilateral arrangements for the management of ships' waste for all ships and all ports in each region and/or ports en route to these Polar Regions.

[2] MEPC 60/6/12, *Regional arrangements for port reception facilities,* 29 Jan 2010 Submitted by *USA*

[3] *2012 Guidelines for the Develop*ment *of a Regional Reception Facilities Plan*, para. 1.

REGIONAL ARRANGEMENTS TO MEET PORT RECEPTION FACILITY NEEDS IN THE ARCTIC

The Arctic is populated, albeit sparsely in many areas. As already suggested, Arctic and near-Arctic ports and terminals of the U.S. are currently adequate, as are those of other Arctic states to the best of our knowledge. All Arctic States are parties to most MARPOL Annexes, and exercise -- through flag state jurisdiction and port state control -- effective implementation and enforcement of MARPOL regulations.

For reasons already noted and because population distributions throughout the world place most major shipping centers in the northern hemisphere, shipping traffic and shipping patterns to, from, and while transiting Arctic Ocean areas will likely far outpace increases in routes and traffic in southern waters. Commercial shipping interests will take advantage of shorter routes, longer sailing seasons, and navigational and communications technology advances.

A similar approach to that taken at MEPC 63 with respect to regional arrangements for small island developing states could, to the extent consistent with MARPOL regulations developed at IMO, be applied by Arctic States in Arctic areas to comply with MARPOL requirements for port reception facilities for one or more categories of MARPOL waste. Such an approach might allow the more stringent standards of MARPOL Special Areas in one or more Arctic areas to enter into effect more swiftly while acknowledging the practical capabilities of ports. At the same time, a critical issue addressed in the amendments to allow regional arrangements for PRFs in other contexts was that the needs of ships to discharge MARPOL-regulated wastes to shore-based facilities must be respected. A similar approach would be needed in the Arctic.

CONCLUSIONS

1. The Arctic region provides a rich habitat for diverse indigenous and migratory flora and fauna. The Arctic is a fragile environment with unique and largely undisturbed ecosystems. Arctic States should continue to support the environment chapter of the Polar Code.

2. Taking into account predicted increases in Arctic shipping, especially transit shipping, enhancement of port reception facilities for ship-generated wastes will be necessary to ensure that the waste disposal needs of ships can be met.

3. Working through IMO to allow regional arrangements for the provision of port reception facilities may be one approach to explore in the course of ensuring adequate PRFs in the Arctic region, taking into account the unique obstacles and circumstances of practical difficulty upon which the concept of regional PRFs are based.

4. Arctic States are Parties to MARPOL and most of its Annexes. As such, Arctic States have obligations to implement and enforce provisions for port reception facilities at their ports and to enforce MARPOL provisions for ships flying their flag and for foreign ships where authorized.

RECOMMENDATION

The USA and the Russian Federation recommend that PAME decide to explore drafting a paper outlining a Regional Reception Facilities Plan based on IMO Guidelines that would be applicable to shipping in the Arctic region and in developing bi-lateral and multi-lateral arrangements for the management of ship waste for all ships and all ports in the region. If regulations developed by MARPOL Parties at IMO support a regional approach in this context, such a Regional Reception Facilities Plan could be used to help satisfy the MARPOL requirements for adequate port reception facilities in the Arctic.