

Summary: Intervention & Options

Department /Agency: Maritime & Coastguard Agency	Title: Impact Assessment of TRANSPOSITION OF DIRECTIVE 2005/35/EC - SHIP SOURCED AND THE INTRODUCTION OF PENALTIES FOR INFRINGEMENT	
Stage: Consultation	Version: 3	Date: 4 July 2008
Related Publications: Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations 1996. Merchant Shipping (Prevention of Oil Pollution) Regulations 1996.		

Available to view or download at:

<http://www>.

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What is the problem under consideration? Why is government intervention necessary?

Individual shipping accidents, such as that involving the Prestige oil tanker, can cause tens of millions of pounds worth of damage to the environment. At present, there are those associated with the shipping industry whose actions may cause or contribute to polluting incidents but who are not subject to the criminal sanctions in our legislation. There is a concern that if such persons cannot be penalised for actions (or failures to act) which lead to pollution they face a weak incentive for ensuring the safe operation of ships for which they have responsibility.

What are the policy objectives and the intended effects?

The EU and UK policy objective remains to minimise the risk of accidents occurring and to ensure the polluter pays. The new UK legislation will transpose Directive 2005/35/EC on ship-sourced pollution and on the introduction of penalties for infringements ("The Directive").

The effect of the legislation is to amend existing domestic law so that: for EEA ships, and non-EEA ships while in UK territorial waters, criminal offences will cover ship-source pollution which results from serious negligence and extend criminal sanctions to others responsible such as ship owners/charterers.

What policy options have been considered? Please justify any preferred option.

Option 1. Transpose the Directive in line with the UK's interpretation of the UN Convention of the Law of the Sea (UNCLOS).

Under this approach, outside UK territorial waters - the sanctions applicable would be different depending on whether the ship was registered with an EEA state.

No other option has been identified that implements the Directive in a manner consistent with UNCLOS.

There is no "do nothing" option in this context as the UK is obliged to implement the Directive.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? Policy will have to be reviewed at least a year after implementation to follow up on various concerns raised.

Ministerial Sign-off For consultation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

.....Date:

Summary: Analysis & Evidence

Policy Option: 1

Description: Transposition of the Directive in line with the UK's interpretation of UNCLOS

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition)	Yrs	
	£		Future impacts would be specific to case by case pollution incidents of which quantification would be uncertain and inaccurate.
	Average Annual Cost (excluding one-off)		
£		Total Cost (PV)	£
<p>Other key non-monetised costs by 'main affected groups'</p> <p>There will be no additional cost to industry provided that they do not pollute, however, if they should pollute then they become criminally liable.</p>			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups'
	One-off	Yrs	
	£		
	Average Annual Benefit (excluding one-off)		
£		Total Benefit (PV)	£
<p>Other key non-monetised benefits by 'main affected groups'</p> <p>Increasing and extending the sanctions which may apply to ship charterers and ship managers should increase operating standards, thereby reducing the risk of accident and seaborne pollution.</p>			

Key Assumptions/Sensitivities/Risks

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?	Worldwide			
On what date will the policy be implemented?	ASAP			
Which organisation(s) will enforce the policy?	DfT (MCA)			
What is the total annual cost of enforcement for these organisations?	£			
Does enforcement comply with Hampton principles?	Yes			
Will implementation go beyond minimum EU requirements?	No			
What is the value of the proposed offsetting measure per year?	£			
What is the value of changes in greenhouse gas emissions?	£			
Will the proposal have a significant impact on competition?	No			
Annual cost (£-£) per organisation (excluding one-off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase - Decrease)
Increase of	£	Decrease of	£
		Net Impact	£

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Due to the specific and case-by-case nature of future pollution incidents, a quantified impact assessment based on uncertain future incidents would be of limited value and accuracy. Therefore, we present a qualitative analysis.

The intention of the MCA has been to prepare UK legislation which would transpose the Directive into domestic law and, in particular, that the UK legislation should address the transposition of Article 5(2) of the Directive in a manner that is compatible with UNCLOS.

The rationale for the intervention of the Government:-

Article 16 of the Directive stipulates that Member States must bring in to force the laws, regulations and administrative provisions necessary to comply with the Directive.

The existing UK legislation which will be amended is:-

- Merchant Shipping Act 1995, sections 131 (as amended by the Merchant Shipping and Maritime Security Act 1997, section 7) and 132.
- Merchant Shipping (Prevention of Oil Pollution) Regulations 1996, regulations 1, 2, 11 and 36.
- Merchant Shipping (Dangerous or Noxious Liquid Substances in Bulk) Regulations 1996, regulations 2, 3, 5, 14 and 16.

Costs

There will be no additional costs to industry provided that they do not pollute, however, if they should pollute then they become criminally liable.

Benefits

Increasing and extending the sanctions which may apply to ship charterers and ship managers should increase operating standards, thereby reducing the risk of accident and seaborne pollution.

Competition impacts

The Directive gives further effect to EU policy to raise shipping standards and improve safe operation. It applies to EEA states' registered vessels wherever they are in the world, and to non-EEA states' vessels when they are in the waters of EEA states. Many other countries regulate their shipping to achieve the same policy objectives as the EU. However, it is inevitable that the safety regulation playing field will remain somewhat uneven. Some less scrupulous ship charterers and ship operators may exploit these differences. However, other users will be attracted by the higher standards and reputation of EU and EEA shipping. No significant impact on competition is expected.

Enforcement

There is not expected to be any increase in enforcement costs above the current costs incurred.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	No	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No

Annexes