



Friday 26th March 2010

Bulletin 686 - 03/10 - Environmental Pollution in Turkish Ports - Turkey

Environmental Pollution in Turkish Ports - 2010 Tariff Rates for Fines and Criminal Sanctions

Recently, a vessel entered with the Association, called at a Turkish port to discharge a cargo of wood chips. During discharge, a conveyor band was used. To reduce friction on the conveyor band during the discharge operations, fresh water was poured onto the band. The water fell onto the deck and over the side of the ship carrying with it the dirt on the deck and some wood chips. A fine for environmental pollution was immediately imposed.

The fine had to be paid before the vessel was allowed to sail and, had to be paid in cash, no guarantee being acceptable. As neither the Master nor the local agents had sufficient cash to settle the fine, the vessel's departure was delayed until an alternative source of cash could be found.

The correspondent has advised that an appeal against the fine may be lodged at the Administrative Court within 30 days from the date of the incident. However, where the Authorities have photographic or other evidence of the pollution, any such appeal is unlikely to succeed. Should the member succeed, a separate claim must thereafter be filed against the Authorities for the return of the fine. The whole process will take a minimum of a year but is likely to last much longer. Any fine returned will be in Turkish liras without interest.

Under the present law, if the vessel re-offends within three years, a fine at double the rate will be imposed the first time the vessel re-offends. The second and subsequent time(s) that she re-offends, a fine at three times the applicable rate will be imposed.

Where a dangerous substance is discharged into or disposed of at sea, a fine calculated at ten times the applicable rate (depending upon which category the discharged substance falls into) will be imposed.

The pollution fines tariffs in Turkey are updated annually. Below are the rates applicable from 1/1/2010 up to 31/12/2010:-

Petrol and Petroleum products discharged to sea by tankers:

1. Up to 1000 (inclusive) gross tons: Per Ton: 52.89 TL
2. Between 1000 and 5000 (inclusive) gross tons: Per Ton: 13.21 TL
3. Over 5000 gross tons: Per Ton: 1.29 TL

Dirty ballast discharged to sea by tankers:

1. Up to 1000 (inclusive) gross tons: Per Ton: 39.66 TL
2. Between 1000 and 5000 (inclusive) gross tons: Per Ton: 7.92 TL
3. Over 5000 gross tons: Per Ton: 1.29 TL

Petrol/Petroleum products and dirty ballast discharged to sea by vessels or any other sea vehicles:

1. Up to 1000 (inclusive) gross tons: Per Ton: 26.44 TL
2. Between 1000 and 5000 (inclusive) gross tons: Per Ton: 5.28 TL
3. Over 5000 gross tons: Per Ton: 1.29TL

Garbage and sewage discharged to sea by vessels and any other sea vehicles:

1. Up to 1000 (inclusive) gross tons: Per Ton:13.21 TL
2. Between 1000 and 5000 (inclusive) gross tons: Per Ton: 2.62 TL
3. Over 5000 gross tons: Per Ton: 0.52 TL

Below is a translation of the relevant provisions from the **Turkish Criminal Code**, Law No. 5237 which has been in force since the latter half of 2009.

“SECOND SECTION - Offences against the Environment

Intentional pollution of environment

ARTICLE 181

(1) Any person who intentionally drains refuse or wastes to the ground, water or air contrary to the technical procedure defined in the relevant laws and in such a way as to cause environmental pollution, is punished with imprisonment from six months to two years.

(2) Any person who engages in the transfer of refuse or wastes into the country without permission is punished with imprisonment from one year to three years.

(3) The punishment to be imposed according to the above subsections is doubled if the wastes or refuse are observed to have remaining effect in the ground, water or atmosphere.

(4) In case of the commission of offences defined in the first and second subsections by processing of refuse or wastes in such a way as to result in an incurable disease both in human and animals, or a deterioration of fertility and change in the natural characteristics of animals and plants; the offenders are punished with imprisonment of not less than five years and also imposed with a punitive fine of between 20 - 100 liras payable within a thousand days.

(5) Regarding the offences stated in subsections two, three and four of this article; special security precautions shall be taken for the legal persons / corporate bodies.

Pollution of environment by negligence

ARTICLE 182

(1) Any person who drains refuse or wastes to the ground, water or atmosphere by negligence in a such a way as to cause environmental pollution, is imposed a punitive fine. Where the refuse or wastes are observed to have remaining effect in the ground, water or atmosphere, a punishment of imprisonment is imposed from two months to one year.

(2) Any person who is involved in the draining of refuse or wastes to the ground, water or atmosphere by negligence in such a way as to cause incurable disease both in human and animals, a deterioration of fertility and a change of natural characteristics of animals and plants, is punished with imprisonment from one year to five years.

SECTION NINE

Final Provisions

Effectiveness

ARTICLE 344

- (1) In this Code;

a).....

b) First subsection of Article 181 under the heading "Intentional pollution of environment" and first subsection of Article 182 under the heading "Pollution of environment by negligence" comes into force after two years as of the date of publications (i.e. 12 October 2006)

c) Other provisions come into force on 1 June 2005."

The Club would advise Members to be aware of the above provisions. If Members have any questions, they should contact their local agents or the Club correspondent directly.

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