

ENVIRONMENTAL CODE OF CONDUCT FOR PORT MANAGEMENT IN CENTRAL AMERICA

On 11 May 2007, Guatemala City, Guatemala was the venue of a meeting convened by the Central American Commission for Maritime Transport (COCATRAM) and with the support of the National Ports Commission (CPN) of Guatemala. The port authorities and companies of Central America, in the framework of the twenty-seventh meeting of port enterprises of Central America (REPICA), adopted the Environmental Code of Conduct for Port Management in Central America (COPUCA). The first of its kind in Latin America and the Caribbean, COPUCA was prepared by COCATRAM in its function of the technical secretariat of REPICA, in the framework of the Central American Environmental Agenda for Maritime Transport.

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1. COPUCA: background and design

The Environmental Code of Conduct for Port Management in Central America (COPUCA) follows the principles and guidelines of similar instruments, including the Environmental Code of Practice of the European Sea Ports Organisation (ESPO), the guides of the American Association of Port Authorities (AAPA), the key principles for the development of ports and terminals produced by the United Nations Environment Programme (UNEP)/Global Programme of Action for the Protection of the Marine Environment from Land-based Activities (GPA) and by the International Maritime Organization (IMO) and the United Nations Development Programme (UNDP). In the preparation of the Code of Conduct, an opinion was also sought from the Central American Commission on Environment and Development (CACED). Also taken into account were the provisions of international agreements on the protection of the marine and coastal environment to which the member countries of REPICA are active parties, and of other "soft regulation." The twenty-seventh REPICA meeting should be endorsed by the port and maritime authorities which were unable to be present, with the recommendation that it should be approved.

The starting point for COPUCA was the Central American Environmental Agenda for Maritime Transport, drafted in 2000

by COCATRAM with support from the Regional Environmental Programme for Central America (PROARCA-COSTAS) of CACED. The Agenda is the first joint effort between the transport sector and environmental bodies in Central America. The actions proposed in the agenda include strengthening or creating, as appropriate, environmental protection and safety units for ports, monitoring of points of access to ports and manoeuvring areas, and establishing relations and agreements between neighbouring ports in order to share experiences and information. The agenda proposes to improve port operations by gradually incorporating those environmental aspects inherent to port operations, and gives REPICA a leading role in protecting the marine environment. It was against this background, and in the belief that the port and maritime authorities of Central America have the ability and can develop their capacity to incorporate their own environmental principles into day-to-day port operations, that the Environmental Code of Conduct for Port Management in Central America (COPUCA) was created. COPUCA, which relates to the ecological aspects which need to be borne in mind by port management in order to meet environmental standards, therefore serves as a "Green Document" for the behaviour of port and maritime authorities, to ensure that port operation is environmentally sustainable.

Why COPUCA? There are a number of arguments in favour of the need for COPUCA to exist. These range from the

importance of the ports of Central America for its cultural and economic development to their key role in the subregion's sustainable development. COPUCA recognizes that, if they are badly managed, port operations can produce impacts which affect not only the port activity itself, but also other legitimate uses of the neighbouring coastal area. Since other uses of the coastal area can also affect the port activity, there is a shared environmental responsibility among the various users of the coastline where the ports are located, including the port and maritime authorities and port enterprises. Furthermore, the various actors in the vicinity of ports represent a variety of attitudes and commitments in relation to the environment. There are no specific legal provisions relating to all the environmental issues in port areas, nor is there a single institution covering all the varied environmental impacts produced by ports and marine terminals.

There is a lack of clarity on the environmental responsibilities of the different actors involved in the universe of ports. There are a variety of services and interests in port activities, and the environmental issues relating to them also vary. Furthermore, the preparation of environmental studies of port operations involves complex processes, so there are many environmental factors on the same scale. As a result, the port industry works with a wide range of central and local government authorities, and this calls for an appropriate, specific coordination mechanism which can strike a proper balance among the various interests involved.

Ports operating without proper environmental management are major sources of damage to coastal areas. They constitute a serious threat to resources in their areas of influence, with significant effects upon the coastal population groups which use those resources. Ports should make greater efforts to ensure that their everyday operations are environmentally friendly. Without a framework to include the specific environmental variables inherent to port operation, it is difficult to explain to governments, civil society or other audiences the scope and extent of port activity in relation to the environment.

The design of COPUCA: In applying the environmental principles for port activities derived from relevant international agreements, the purpose is to persuade the port and maritime authorities of Central America to adopt the idea that environmental protection in ports is part of the general port culture. COPUCA recognizes that port and maritime authorities have the capacity and ability to develop their capacity to mainstream environmental issues, and that as a result, port activities will be environmentally safer, more sustainable and more acceptable internationally. COPUCA creates no new environmental tasks for ports, but it forms the framework for ensuring that environmental actions based on national and international rules can substantially improve port activities. It is not a rigid document, but a flexible and open one which can be modified and complemented in line with changes in environmental legislation, port management practices and international trade and with new environmental issues to be dealt with by ports and maritime transport. COPUCA is not concerned with maritime transit, navigational aids or other maritime management matters, or with security

or naval defence, but it recognizes that the application of environmental rules in those areas is essential for environmental work in the ports.

The nature of COPUCA: The Code of Conduct is voluntary but not optional, since some of the environmental actions it identifies for implementation in the daily work of ports are derived from international law; in that regard, therefore, it has a mandatory aspect and is interpreted as a set of guidelines for good environmental management of the subregion's ports. COPUCA does not replace national environmental rules relating to the protection of the marine and coastal environment in the vicinity of ports; on the contrary, it seeks to contribute to the understanding of those rules and facilitate their application. It creates a framework within which port authorities and REPICA can, without prejudice to the role of environmental authorities and in consultation with them, consider in a more appropriate and objective way the environmental issues inherent to their work.

2. Goals and principles of COPUCA

COPUCA guides the conduct of port activities in relation with the environmental issues which are identified in the Central American Environmental Agenda for Maritime Transport and in respect of which there must be clear policies; these must be known and applied by all those involved in the work of the ports. COPUCA is also intended to be a framework for integrating port policies with national environmental policies and maritime policies, and it provides a means of consensus-building for the formulation of marine environmental policies in the subregion, in relation with port operations. Given the above facts, the goals of COPUCA are:

- To promote a voluntary framework for consultation, dialogue and collaboration between port management, port enterprises and local authorities on environmental interests and issues of mutual concern, including the application of shared principles of environmental policy for the port industry of Central America, including the "polluter pays" principle.
- ◆ To assist and increase cooperation between port and maritime authorities and REPICA, as appropriate, to reconcile port technology with environmental needs and requirements and efficiencies in operation costs, and to include environmental considerations in the planning and operation of port activities.
- ◆ To serve as a framework to promote collective environmental responsibility among all port users and to encourage continuing environmental improvements in ports and in the environmental management systems applied therein.
- ◆ To contribute to continuous, sustained progress towards ports which are environmentally healthy, sustainable, technically safe and competitive.

Principles: COPUCA was born of the belief that port and maritime authorities and REPICA have the capacity and ability to develop and improve, as appropriate, their capacity to incorporate the environmental variable into port management without prejudicing the efficiency of port operations, ensuring that those operations are

environmentally safer, economically viable and effective and technically feasible.

COPUCA includes five basic policy rules which must be observed in applying environmental measures in the ports of Central America. The principle of internationality states that many activities being conducted in a port are of an international nature, and certain environmental impacts produced by the port activity may affect ecosystems and resources shared by two or more countries. The principle of sustainable mobility indicates that transportation must be able to play its economic role without harming the environment. The principle of shared but differentiated responsibilities is based on the fact that ports are located on stretches of coastline where other activities are also conducted, that there may be mutual environmental impacts and that there is therefore a shared but differentiated responsibility for protecting the marine and coastal environment. There is also the "precautionary principle", which became internationally known at the 1992 United Nations Conference on Environment and Development (the "Rio Conference") and the flexibility principle, which states that ports are dynamic, changing entities which must adapt to the new realities of trade and transport and new environmental conditions.

3. For whom is COPUCA intended?

COPUCA mainly targets port and maritime authorities and equivalent bodies as appropriate, as well as Central American port enterprises. It must be observed by all port users, which means that it is to be applied in the context of port activities regardless of the various forms of port management existing in the subregion. COPUCA is not applicable to naval bases, to onshore or offshore military structures or to port terminals which, being the property of a member State of COCATRAM, are temporarily providing services of a non-commercial nature to a government. COPUCA makes no mention of offences against environmental rules or of environmental damage caused by natural disasters, vandalism, drug trafficking or other illegal activities.

The area of application of COPUCA is referred to as the "port area," defined as the sea and land areas and their interface occupied by the port and limited by the relevant national legislation. This includes oil and petrochemicals terminals and those for the transport of liquefied petroleum gas, with the corresponding pipelines and those for oil and gas, storage facilities and tanks, including coastal refineries. It applies to moorings and storage areas and warehouses for dangerous materials, and moorings and special areas for the loading and unloading of explosives; and to coastal fuelling areas, port facilities for oil and chemicals, port areas with high marine traffic density, and to berths, shipyards, dry-docks and repair and maintenance areas and marinas. It also applies to all cargo operations, passenger and tourism terminals, fishing piers and land access points to the port, roads, railways and installations within those areas, such as free trade zones, including coastal refineries.

4. Areas of action and responsibility

Areas of key environmental responsibility of the port authorities and enterprises: COPUCA reflects the diversity and complexity of the environmental functions to be complied with and enforced by port authorities, recognizing that responsibility for implementation of environmental policy varies from one COCATRAM member State to another and according to the characteristics of each port. The following are considered key areas of environmental responsibility in port operations:

- ◆ The port authorities' responsibility for ensuring that activities specific to port operations within the port area are environmentally safe and compatible with environmental quality in their vicinity, and do not cause harm to third parties or to their environment.
- ◆ The port authorities' responsibility for ensuring that port operations are technically viable so that environmental costs do not make port operations a costly activity.
- ◆ The port authorities' responsibility in relation to the collective environmental interests of local communities in the vicinity of the port and of port users, including the duty to be well informed of new technological developments which may effect environmental improvements in port operations.
- ◆ The port authorities' duty to comply with national and international environmental standards.

The actions described in COPUCA must not interfere with those that governments must perform in their role as the States having jurisdiction over the ports; on the contrary, they will seek to strengthen them.

Environmental actions in seaports: COPUCA identifies actions which must in principle be applied, individually or jointly as appropriate, by the port authorities and REPICA in order to achieve and comply with environmental objectives. The actions are to be selected for each port individually and applied gradually, taking care not to affect commercial activities in the port and not to distort the administrative arrangements of port management.

The actions identified in COPUCA are categorized as actions for the application of operational policy, such as: integrated pollution control; promotion of the use of the best available technology; definition of environmental goals; measures to bring about the integrated management of the coastal area; minimizing loss of products; application of oil dispersants in clean-up and recovery operations; minimizing unnecessary delays to ships resulting from the application of environmental controls; actions in connection with control of pollution and other types of environmental damage, on which common policies must be agreed, including specific responsibility for pollution control in the port, such as early warning systems for accidental pollution, common proceedings for the entry of supplies, equipment and personnel in cases where international cooperation is required to deal with severe pollution; adoption of common symbols, terms and criteria for the identification of critical areas, vulnerable resources and priorities for protection from marine oil pollution; actions relating to dumping of liquid and solid waste and garbage, including the promotion of a

recycling culture and of environmentally sound disposal and the use of best practices, as well as feasibility studies on in-port reception facilities for shipboard-generated waste; actions to detect clandestine dumping, actions to control oil pollution at sea, including local, subnational and national contingency plans to control such pollution, adoption of common policies and criteria for the identification and selection of appropriate sites for the disposal of recovered tar and emulsified oil, as well as shared procedures for expert appraisals of the ecological damage caused by pollution and for compensation and claims for accidental oil pollution, etc.; actions on atmospheric pollution, involving the design of policies to minimize gaseous emissions, particulate emissions, soot, airborne residues of bulk solids, seepages and leaks; actions to reduce noise pollution, and other categories of actions.

COPUCA also identifies actions in the area of management, planning and prevention. These include environmental impact assessments for port projects, drawing attention to the need to promote and implement a policy to ensure that a prior environmental impact assessment of each port project is conducted at the planning stage and as an integral part of the feasibility study; actions to support integrated management of the coastal area, assessing the need for policy to emphasize the importance of ports in coastal development and the influence of the ports on coastal management plans; actions to control coastal erosion, relating to the actions necessary to prevent such erosion in the vicinity of the port, to ensure the stability and permanence of the port infrastructure; actions to protect the port infrastructure from the impact of severe natural phenomena; actions to control maintenance dredging in the ports (approach channels, manoeuvring areas, etc.), which require port policies that include common criteria for the carrying out of maintenance dredging and for the selection of sites for environmentally safe disposal of dredged materials; it also refers to environmental aspects related to the handling of bulk materials and dangerous substances, and to the preparation of emergency plans for port accidents, including the establishment of internal systems for environmental audits of ports. COPUCA also draws attention to the need for policies relating to capacity-building.

5. The future of COPUCA

COPUCO has a promising future. Acting on the recommendation of the twenty-seventh meeting of port enterprises of Central America (REPICA), COCATRAM will, in the very short term, produce a work plan designed to facilitate the application and development of COPUCO, to be presented at the next REPICA session. To provide a frame of reference to assess the progress of COPUCA and to facilitate its monitoring, COCATRAM will, with the support of the port and maritime authorities of Central America and of REPICA and with assistance from interested international bodies, convene the first international seminar on the environmental management of ports. COPUCA provides a medium for peer dialogue with other port organizations such as the European Seaports Organization (ESPO), the American Association of Port Authorities (AAPA) and the International Association of Ports and Harbors (IAPH). For the management and monitoring of COPUCA, REPICA has agreed to establish an ad hoc group of experts from the port authorities of Central America, to make recommendations on the level of development of COPUCA at REPICA sessions. The environmental ad hoc group will be coordinated by COCATRAM.