



European Sustainable Shipping Forum 7th Plenary Meeting

Brussels, 24 January 2017

Progress Report from the ESSF sub-group on Port Reception Facilities (PRF)

1. Submission from

a) ESSF sub-group on PRF



This document reflects the outcomes of deliberations of the PRF-subgroup of the European Sustainable Shipping Forum of which the European Commission is part. It is not an official document adopted by the European Commission.

The European Sustainable Shipping Forum (ESSF) Sub-group on Port Reception Facilities (PRF) was set up in order to facilitate the work of the European Commission to improve the implementation and operation of Directive 2000/59/EC on port reception facilities for ship-generated waste and cargo residues ("the PRF Directive"). The Subgroup brings together a large and diverse group of stakeholders to discuss a broad range of issues related to the PRF Directive.

Initially the PRF Sub-group was established to advise the European Commission on issues related to the implementation and operation of Directive 2000/59/EC, as well as on the need and scope of a possible revision of the Directive. Its work was to include sharing of expertise and best practices, such as the development and monitoring of the waste reception and handling plans and the implementation and enforcement of the different requirements. In addition, the work of the PRF Sub-group is expected to serve as basis for the future revision of the Directive, and as such to provide direct input to the impact assessment for such a revision.

The main goal of the PRF Directive is to "reduce the discharges of ship-generated wastes and cargo residues into the sea, especially illegal discharges, from ships using ports in the Community, by improving the availability and use of port reception facilities".

The PRF Directive also aims to align EU law with international mandatory instruments (such as the MARPOL Convention), and provides for a number of additional obligations (such as the development of port Waste Reception and Handling Plans (WRHP), the advance waste notification and the mandatory delivery

of ship-generated waste), as well as mechanisms (such as the cost recovery system) to ensure effective implementation and enforcement. The Directive's scope is based on the different categories of ship source pollution covered by Annexes I, IV and V of the MARPOL Convention, which deal with different types of discharges from shipping (garbage, sewage, oily water, etc.). It also covers cargo residues, which includes the remnants of tank cleaning operations, and thus also covers tank washings under the different Annexes of MARPOL.

Since the previous progress report to the ESSF Plenary the PRF Sub-group has met two times, namely on 25 May 2016 (5th meeting) and 4 October 2016 (6th meeting). A seventh meeting is scheduled for 2 February 2017.

2. Sub-group recommendations to the Plenary

The ESSF Plenary is requested to note the progress report of the Sub-group on Port Reception Facilities.

The ESSF Plenary is also requested to approve continuation of the work of the Sub-group on Port Reception Facilities, specifically the following suggested ways forward:

- to further discuss and provide input regarding the work related to the Impact Assessment process and the IASS, including the impacts from the proposed policy measures; and
- the Correspondence Group on CRS to further discuss the possible impact of the application of certain key elements and principles, in order to move towards a more harmonized approach of fee systems in EU ports.

2 Required action(s) to be considered by the ESSF Plenary based on sub-group recommendations:

See above

3 Timing of required action(s) in view of upcoming deadlines and critical requirements:

Except for the timelines mentioned earlier in this progress report, there are no other specific upcoming deadlines related to the work of the Sub-group on Port Reception Facilities.

5. Summary of the issue and possible alternative solution(s)

N/A

6. Background information

3.1 Update on the Impact Assessment process and its related measures

DG MOVE, with the assistance of EMSA, has been assessing and monitoring the PRF Directive since its entry into force. In 2015 a REFIT¹ Evaluation study was undertaken, which assessed the implementation and effectiveness of the Directive in achieving its objectives, i.e. reducing the discharges of ship generated waste and cargo residues into the sea by improving the availability and use of port reception facilities. The REFIT Evaluation indicated that there are a number of implementation issues that require specific attention, in particular: the availability of adequate PRF, the application of the delivery requirement for ship-generated waste, the development and implementation of exemptions for frequent callers, the structure of the cost recovery systems and the proper functioning of the enforcement regime foreseen in the Directive. The outcome of this evaluation provided the basis for further work on the Directive, including an impact assessment for its possible revision.

Following this evaluation exercise initiatives have been launched to address the above mentioned shortcomings, both in the short/medium term (immediate measures) as well as in the longer term (legislative revision).

3.1.1 Measures in the short/medium term:

a) Revision of Advance Waste Notification Form (Annex II of the PRF Directive):

A revision of the advance waste notification format (through a comitology procedure) has been approved by COSS, the European Parliament and Council, in order to:

- align the notification format as far as possible with the revised MARPOL Annex V and IMO Circular 644 (rev); and
- strengthen implementation and enforcement (provision of accurate information on the types and quantities of wastes actually delivered).

It should be noted that the notification form couldn't be completely aligned with MARPOL, as this can only be done when the Directive is revised.

b) Progress on the Common Monitoring and Information System

Updates have been given to the Sub-Group regarding the developments in the SafeSeaNet (SSN) Waste Expert Group for the implementation of the waste message, following the revision of the Annex II (see above).

Following that revision of the notification form the SSN Waste Expert Group was given the remit to revise and develop new business rules for reporting into SSN and make necessary changes to the reporting system to facilitate monitoring and enforcement of the PRF Directive (including the necessary links with the THETIS-EU system in support of PRF inspections). It is

¹ EU Regulatory Fitness and Performance Program

expected that the Business and Technical Rules will be implemented at the national and central level in 2017.

c) Interpretative guidelines:

In order to clarify some of the key aspects of the Directive, the Commission has developed *Guidelines for the interpretation of Directive 2000/59/EC on port reception facilities for ship generated waste and cargo residues*. These Interpretative Guidelines were published on 1st April 2016 in the Official Journal (2016/C 115/05), and explain the Commission's views on how certain provisions should be implemented. The guidelines cover:

- the adequacy of PRF (Art. 4);
- Waste Reception and Handling Plans (WRHP, Art. 5), including the mandatory elements, the scope (ports that need to have a WRHP), the consultations with relevant parties, the evaluation, approval and monitoring of WRH Plans, and the reporting of inadequacies;
- the delivery of ship-generated waste (article 7), indicating the main principles of mandatory delivery, the principle of mandatory delivery of all waste, the issue of “sufficient dedicated storage capacity” and “intended port of delivery”, and monitoring and enforcement; and
- exemptions (Art. 9), providing guidance on the conditions for exemptions such as the requirement for ships to be involved in scheduled traffic with frequent and regular port calls, the sufficient evidence of arrangement to ensure the delivery of ship-generated waste, the exemption procedure, and monitoring and enforcement.

d) EMSA initiatives:

Also EMSA has undertaken substantial work to support the revision process of the Directive. Some of this work includes:

- the development of *Technical Recommendations on the Implementation of the PRF Directive*. These Technical Recommendations build further upon the Commission's Interpretative Guidelines and provide specific technical guidance related to:
 - the development, approval, monitoring and implication of WRH Plans;
 - the implementation of Article 7 on the delivery of ship-generated waste, such as options to calculate the sufficient dedicated storage capacity, actions related to enforcement and the processing, assessment and exchange of information provided by the Advance Waste Notification Form; and

- the granting of exemptions (Art. 9), including a general exemption methodology, criteria for exceptional circumstances, exchange of information, and enforcement.

The EMSA Technical Recommendations were developed after consultation of all stakeholders. They have been finalized in November 2016, and were published on the EMSA website.

- the development of *Guidance for Ship Inspections under the PRF Directive*: the goal of this document is to facilitate ship inspections executed under the PRF Directive, in order to provide a harmonized approach to the enforcement of the PRF Directive. These Guidelines have been developed after consultation of all stakeholders, and after finalization in November 2016 they have been published on the EMSA website;
- the PRF module that has been added to the THETIS-EU data system, in order to support enforcement of the PRF Directive. The system went live on 14th April 2016. To aid the use of this tool EMSA had developed a list of non-conformities with the PRF Directive, which has been sent to the Member States so they can add their national legislation and use the system to the best of its availability.

3.1.2 Measures in the longer term: the Impact Assessment process:

In the context of the Impact Assessment (IA) process an Impact Assessment Support Study (IASS) was launched in May 2016, which builds further on the Inception Impact Assessment that was developed earlier. An Inter-service Steering Group, consisting of all the interested DG's in the Commission and EMSA, is supporting the Impact Assessment process.

As part of the consultation strategy an open public consultation was launched on the 13th July and closed on the 16th October 2016. Following this public consultation, further targeted surveys and individual interviews with different stakeholders have been undertaken.

During the ESSF PRF meeting of 4th October 2016 the consultants presented some of their interim findings and possible implications for the IA:

- the methodology of the IASS has been outlined;
- the data on waste deliveries has been presented that was collected from the ports in the EU that already responded. The consultants also indicated how this information will be used in the IASS;
- a preliminary identification of the overall problems encountered during the implementation of the Directive in EU ports, the underlying problem drivers and root causes;

- the 20 policy measures that have been identified in order to address these problems, which will developed into policy options. These policy options will subsequently be assessed for their impacts; and
- the future timeline of the IASS.

In order to thoroughly discuss the policy issues raised by the IASS, the participants of the PRF Sub-Group were asked to break into smaller groups to debate the following key elements:

- ensuring the availability of adequate facilities;
- providing cost incentives for the delivery of ship-generated waste and cargo residues;
- removing barriers to effective and efficient enforcement;
- harmonizing and updating definitions and forms; and
- clarifying rules on exemptions.

Each of these smaller groups was joined by one of the consultants as rapporteur, in order to fully get the input from the stakeholders.

The IASS is to be finalized by February 2017. An IA Report will then be drafted, based on the outcome of the IASS. The report will also have to be presented to the Commission's Regulatory Scrutiny Board, to be subsequently adopted by the College of Commissioners.

EMSA has also commissioned a Study on the Management of Ship-Generated Waste On-Board Ships in support of the IA process. This study was set up in order:

- to provide a detailed review of the waste practices and management of ship-generated waste on-board ships;
- to provide average quantities of waste generated by ships; and
- to review of the present technologies and methods being used to reduce ship-generated waste

The study undertakes comprehensive on-board waste audits for different types of ships in order to identify waste practices being used, and an audit of notification forms from at least 30 ships landing ship-generated waste (to compare the amounts reported and that landed). The study is to develop indicative waste flow diagrams for each of the different types of ship-generated waste (showing its source, movement and fate), and provide a comprehensive review of the present technologies and methods being used to reduce ship-generated waste produced by ships.

3.2 Overview of other work done by the group

This section provides an overview of the different topics that have been discussed within the PRF Sub-group.

2.2.1 Presentation of stakeholders views:

Several stakeholders' associations had the opportunity to provide their views to the Sub-group regarding several aspects related to the revision of the PRF Directive. Detailed presentations have been given by ECSA, ESPO, Seas At Risk and Euroshore on issues such as adequacy of PRF, harmonization of fee systems, the use of existing standards, exemptions schemes, the delivery of waste from fishing vessels and the link with marine litter, enforcement, and the application of prevention and circular economy principles to ship-generated waste.

2.2.2 Link with EU legislation on international catering waste:

During the 5th meeting of the PRF Sub-group DG SANTE gave a presentation on the application of "*Regulation (EC) 1069/2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) No 1774/2002 (Animal by-products Regulation)*". It was explained that any catering waste that originates from a means of transport operating internationally shall be treated as Category 1 material and therefore has to be disposed of by incineration or burial in an authorised landfill.

It was discussed that there is a need to consider all catering waste from international shipping as Category 1 material, as it will be difficult to be certain where the food originated from or how it has been stored. Even if a ship only undertakes voyages in the EU during a certain period it can still be producing catering waste on board from international voyages using food it has stored for a longer period. Following this discussion it was concluded that more awareness and a common understanding would be helpful from a competitiveness standpoint and achieve a level playing field in ports. Therefore DG SANTE proposed to assess the possibility to develop specific guidelines for ships and ports.

2.2.3 Management of waste from Exhaust Gas Cleaning Systems:

During the 5th and 6th meeting of the PRF Sub-group an update was provided on the work of the ESSF Exhaust Gas Cleaning Systems (EGCS) Sub-group, focussing on scrubber operations and its associated wastes. Further to previous updates given to the PRF Sub-group by EMSA, more responses had been received from scrubber manufacturers and a final consolidated report has been written and circulated on CIRCABC.

DG MOVE highlighted some of the major issues raised in the report, including an overview of the different types of scrubbers (indicating that wet scrubbers seem to be more popular than closed loop systems, and that hybrid scrubbers are to be considered as a distinct category), the fact that ships operating open loop scrubbers do not generate sludge that needs to be delivered to PRF, as it can be

deluded in the wash waters from these systems. It is also expected that with the global cap on sulphur in fuel (being agreed at IMO during the MEPC 70 meeting) it can be expected more scrubber installations might be installed on board.

2.2.4 Waste from fishing vessels:

During the 6th meeting of the PRF Sub-group there was a specific focus on the issue of waste from fishing vessels. An expert panel has been invited representing key stakeholders, being DG MARE, the OSPAR Commission, an international fishermen's association (Europêche/Visned), a fishing port (Shannon Foynes Port Company), and an international association of coastal municipalities (KIMO). Each panellist was asked to outline their position on the present problems concerning the management of waste on-board fishing vessels and how to reduce marine litter that originates from fishing. Several aspects were addressed, such as:

- the provision of adequate PRF;
- types and amounts of fishing waste;
- fee systems;
- the issue of discarded fishing gear and the link with marine litter;
- the possibility to introduce the Fishing For Litter scheme;
- enforcement.

The presentations by the panellists were followed by extensive discussion, which was also being used as input for the IASS.

2.2.5 Cost recovery systems:

At the 5th and 6th meeting of the PRF Sub-group Mrs. Mirja Ikonen from TRAFI (Finland) and Chair of the ESSF Sub-group's Correspondence Group (CG) on Cost Recovery Systems (CRS) reported of the findings of this CG, and presented the interim reports. All draft reports of the CG had been circulated by email and on CIRCABC. Initially the CG had been working on the following issues:

- the identification and definition of direct and indirect costs associated with PRF;
- options on how to define and apply the significant contribution concept to CRS;
- how to calculate the significant contribution and compare it to the 30% threshold recommended by the Commission;
- including the right to deliver in CRS;
- how to apply criteria for "green ships";
- how to ensure the quality of PRF in a port;

- how to harmonise transparency and provide information on the fees charged by a waste contractor;
- whether profit elements should be included in fees;
- how to deal with small dangerous wastes in ports: and
- how to integrate fishing vessels and recreational craft into the full requirements of the PRF Directive.

Recommendations to the Commission or conclusions could be provided for most of these issues, however there were some issues still to be clarified. These mainly focused on transparency, were there is a link to the discussions over the Technical Recommendations and how to define and apply the significant contribution concept to CRS.

Following an additional consultation round within the CRS CG, eight final recommendations could be agreed by the Sub-Group and were provided to DG Move. These included recommendations on:

- defining cost elements of PRF;
- defining the significant contribution;
- providing a method to calculate a minimum 30% significant contribution;
- the right to deliver;
- transparency;
- the application of criteria for “green ships”;
- adding the type of trade as a new differentiation criteria for fees; and
- auditable PRF service levels.

Also the HELCOM definition of the no-special fee cost recovery system had been taken into account in the discussions of the Correspondence Group. Work has been undertaken to harmonise the principles in Article 8 of the PRF Directive in all the different cost recovery systems. It should be noted that the issue of one cost recovery system for all Member States has been discussed extensively in the Sub-Group, and a no-special fee for garbage will be included as a policy option in the IASS to assess the impact of this option for both the shipping and fishing industries. This analysis will also bring the discussions on cost recovery systems held in the CG into the IASS.

In the meantime, the Sub-group as a whole has been consulted on the expected impacts of the proposed measures for streamlining the CRS principles.

2.2.6. Other issues

- Dr. Antonis Michail of ESPO had informed DG MOVE that he could no longer act as Co-Chair of the Sub-group as he was leaving ESPO. Dr. Michail was thanked for his contribution to the work of the Sub-Group. It was noted that ESPO would continue as Co-Chair and would inform DG MOVE of their nomination to replace the present Co-Chair. In the meantime Mr. Sotiris Raptis, Senior Advisor Environment and Safety of ESPO, has been proposed as new Co-Chair for the group.
- Euroshore presented a study on "An analysis of an alternative financing model based on producer responsibility for ship generated waste". This study provides an alternative cost recovery system for oily wastes based on the extended producer responsibility principle, where a producer's responsibility for a product is extended to the post-consumer stage of a product's life cycle: the user pays for the disposal of oily waste when it buys its bunkers, the money is stored in a central holding system, oily waste is landed free of charge and the waste contractors claim the money back from the central holding system. Although the study was welcomed as an interesting exercise, several stakeholders raised some points of concern, such as the difficulty to apply this approach in a global setting without adding significant costs or disadvantaging ports and the waste industry in ports where bunkering does not occur, and the possibility that this especially might affect the major bunkering ports.
- A presentation was given by the German Transport Ministry on the outcome of the HELCOM PRF Workshop on the discharge limitations for sewage in the Baltic special area, held in Kiel (30 June - 1 July 2016). Following the introduction of the first special area for sewage under MARPOL Annex IV, it was decided to convene a meeting with stakeholders and the Baltic States to facilitate implementation of the new regulations and develop continuous communication between all those involved. During the meeting each stakeholder listed their concerns and measures were suggested to overcome these issues. This included the need to develop guidance for both ships and ports to facilitate application of the new discharge ban for sewage in the Baltic Sea Region and the development of criteria on the quality of sewage to be landed.