The fifth meeting of the Cooperation Group on Places of Refuge ('PoR Group') took place in Brussels on 27 January 2016. The meeting was chaired by Mr Jacob Terling, DG MOVE, D2 – Maritime Safety, supported by Lemonia Tsaroucha of the same unit and EMSA. The following sixteen Member States and one EFTA State representatives attended the meeting: Belgium, Bulgaria, Finland, France, Germany, Greece, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Norway, Portugal, Spain, Sweden and the United Kingdom.

Eleven key stakeholder industry associations were also represented at the meeting: BIMCO, ECSA, ESPO, FEPORT, IACS, ICS, IG P&I, INTERTANKO, ISU, IUMI and WSC.

1. Welcome, Introduction and Approval of the Agenda and Summary minutes of the 4th meeting

The summary minutes from the 4th meeting of the Group, held on 13 November 2015 were approved. The Agenda of the meeting was approved.

The Chairperson summarized the main events since the last meeting, in particular the publication of the agreed final version of the EU Operational Guidelines ('OGs') for Places of Refuge (13 November). The meeting approved the summary minutes of the last meeting.

The Chairperson explained the main points on the agenda. The 'special' arrangement and format of the meeting, due to the EP Conference taking place in the pm, with Industry stakeholders, also present in the morning session, was explained.

2. Governance issues

The Chairperson provided information regarding the adjustments to the Governance body under the VTMIS Directive. The logic of having the PoR provisions in the VTMIS has to do with the use of the information system and services. Therefore all that the PoR Group provides as input related to the use of the system and services from the PoR angle, is dealt with by the High Level Steering Group (e.g. the Hazmat reporting and database). The revision of the HLSG mandate aims to make that clearer, but the operational work of the PoR Group as such will be only marginally influenced; while reporting between groups will be streamlined.
3. The EU Operational Guidelines

As the EU PoR Operational Guidelines had been agreed at the last meeting, the Chairperson explained the final technical adjustments and the successful hyperlinking with the open contact information of relevant competent authorities both in EMSA and in IMO. The OGs had been published on the MOVE webpage at:


It was further explained that if there are any further updates/changes of contact details for the list published by EMSA, those should be sent directly to EMSA.

The Chairperson also informed that some editorials and further text improvements had been received. In this context, NL made a brief text suggestion for the liability chapter concerning the time after the ship in need of assistance is successfully allocated a PoR.

The Chair explained that while the OGs are not meant to be static, and should be adjusted as experience is gained in their use (see below in particular the presentation of SE), they were now 'frozen' in the version as just made publicly available. All input is however duly noted and will be included in TC, subject to discussion in the group, for a future revision.

- Input to IMO – follow-up to MSC95/INF.8 joint-submission

Against the background of the agreement of the group at the 4th meeting to make a joint submission of the finalised OGs to the IMO, in the Maritime Safety Committee's 96th Session, for information, the Chairperson gave a state of play. The approach will be very similar to the INF.8 submission at MSC 95, it will include an update on the process in the EU and present the finalised EU Operational Guidelines. The main purpose is to share the experience and outcome for possible inspiration among IMO Member States, in the interest of contributing to a more uniform approach to handling ships in need of assistance worldwide. It would be left to the IMO to decide if this should trigger any need to discuss the IMO PoR guidelines (Resolution A.949 (23)) in any appropriate IMO Committee (i.e. LEG) or Sub-Committee.

It was further explained that the same process and procedure as for the first joint submission would be followed. The members of the group and industry would be informed when the draft submission would be discussed in the Council Shipping Working party. Also, like with the first one, industry would be invited to co-sponsor.

In this context the various deadlines for submission into MSC were raised and the general view was that it may be better to make an electronic reference to the OGs (web address link) in the submission, rather than attaching the full text with the Appendixes, as the OGs are actually meant to be electronic and has a quick-link function.

The Group and Industry also agreed, upon the suggestion of FI, to investigate the possibility of a lunchtime presentation on the OGs during MSC 96. Industry in this context offered to be involved and to support.

- Joint Declaration

All participants received the final layout of the joint declaration (attached) and the Commission thanked everyone for the constructive input leading to an acceptable text, and the industry for their willingness to display their respective logos, together with those of the Union and EMSA.

The chair announced that a roll -up of the joint declaration had been produced and would be used for the event hosted by the European Parliament.
• Feedback from dissemination

As already indicated at the last meeting, the BONN Agreement Secretariat has been in contact for using the OGs in their context (confirmed by the BONN Agreement Chairman at the meeting).

Some MS (MT, SE) also reported on their planned activities to include the OGs in training and/or exercises, including seminars with local industry stakeholders. Industry representatives also indicated their plans to disseminate the OGs by making them available among their members.

4. Best Practices Exchange

The Chairperson recalled that part of the remit of the group (Article 20.3 of the VTMIS Directive) involves exchanges of experiences between Authorities dealing with incidents and PoR requests.

There were three MS making presentations regarding successful handling of ships in need of assistance seeking a place of refuge.

The SE presentation was particularly interesting as the handling of the incident had tested the Operational Guidelines and confirmed their user-friendliness in a real case, leading SE to incorporate them into their national plan.

The DE case of the general cargo ship ‘Purple Beach’ importantly included how they had sought, and received, important technical information from the classification society involved.

The BE representative (Governor of West Flanders) gave a state of play in operational terms of the FLINTERSTAR accident in October last year outside the BE coast –highlighting the good cooperation in the response.

In this context the observer in the group from IACS made the following positive statement:

"Taking into account the European Commission's initiative on Places of Refuge, IACS has agreed at its last Council meeting in December to develop an IACS Recommendation on ‘rapid technical assistance’ so that Governments have a clear baseline as to the level of service provided by IACS members offering such a capability to ships needing a place of refuge. The action is expected to be completed during the second quarter of this year. IACS will be pleased to update this group on progress on the matter.

Please note that the outcome will not be integrated into societies' class rules; emergency response services are being offered by class societies as a voluntary service to clients and stakeholders potentially involved in operations regarding ships in distress. For most ship types there is no statutory requirement to use such a service."

5. Presentation of Study on compensation and liability commissioned by ESPO

The remainder of the morning until the lunch break was dedicated to presenting a study¹ on liability and compensation by the Erasmus University Rotterdam, which was commissioned by ESPO. The study entitled 'Financial risks for ports of refuge' attempted to identify possible gaps in the Commission's Report to the European Parliament and the Council of November 2012 (COM(2012) 715final) concerning the existing legal framework for liability and

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¹ Circulated to the group on 19 January 2016.
compensation for damages suffered by ports when accommodating a ship in need of assistance.

In general, following a comprehensive presentation, the study was found to be lacking in facts/supporting data, too hypothetical (relying solely on worst-case scenario assumptions) and not including relevant hard evidence which might help identify possible gaps in the liability system, or any real business case for addressing any such gaps. Furthermore, the study did not include anything related to the insurance of ports or terminal operators themselves (while Terminal operators informed the group that indeed they have business continuity insurance in most cases). Some thought the report to be ‘one-sided’ and taking a stance that ports should not bear any ‘risk’ whatsoever.

ESPO stated that they are fully committed to the EU Operational Guidelines and the principles therein. The study commissioned to the Erasmus University was meant to investigate any question-marks in terms of coverage as to the consequences of a port accommodating a ship in need of assistance and to try and clarify any such remaining question marks.

The Insurance sector stakeholders in the group (IG P&I and IUMI) informed about a letter sent to ESPO (December 2014) inviting for a dialogue on these issues and providing relevant clarifications as necessary. That invitation was still open and had not yet been acted upon.

COM added that the proposals made in the Study regarding possible amendments to the existing legal framework would need to take into account the negotiating history of existing EU legislation, in particular of Directive 2009/20/EC on the insurance of shipowners for maritime claims, whereby these proposals were raised and rejected by the co-legislator (European Council). Any reiteration of the relevant discussion at EU level would require hard evidence based on facts to justify the need for an amendment, taking into account also the new EU Better Regulation Guidelines.

Finally, as a conclusion of the discussion, the Chair noted an agreement of all stakeholders that the ratification of all relevant international conventions is key for the issue of liability and compensation.

6. Concluding remarks

The Chairperson thanked both Member States and Industry for a constructive exchange of views and their support to the whole process of developing and disseminating the OGs.

In this context also reminded MS to start considering the 3rd Table Top Exercise, sometime in 2017, and to inform the Commission of possible willingness to host this.

The next meeting of the PoR Cooperation Group is tentatively planned for the end of 2016 (exact date to be communicated).

/. Conference on Ships in need of assistance ‘A common European Approach: Learning from the MSC Flaminia’ hosted by the European Parliament

The aim of the event was to promote the work of the PoR Group and, in particular, its joint effort with the concerned industry stakeholders, culminating in the common endorsement of the EU OGs. As part of dissemination the conference commended the work carried out under the EU legal framework in place, while also advocating in favour of increased effectiveness
internationally in the response to incidents involving ships in need of assistance, wherever they take place.

Attachments: (1) joint declaration
Joint Declaration on the EU Operational Guidelines on Places of Refuge (‘PoR’)

At the occasion of the Seas, Rivers, Islands and Coastal Areas (SEARICA) Intergroup meeting in the European Parliament on 27 January 2016, under the patronage of MEP Gesine Meissner, Chair of the Intergroup and MEP Michael Cramer, Chair of the TRAN Committee;

In the presence of Mrs Bulc, Commissioner with responsibility for maritime transport;

In a joint effort of the Member States authorities together with the key industry stakeholders involved in PoR, under the auspices of the Cooperation Group on PoR, chaired by the European Commission.

Supported by the European Maritime Safety Agency;

Recognising that all concerned parties, including industry stakeholders, both through their associations and as individual entities, play an important role and form an integral part in supporting and promoting the use of the EU Operational Guidelines and their continuous improvement in the interest of the protection of safety and security at sea and of the marine and coastal environment;

Building on the IMO Guidelines on Places of Refuge for ships in need of assistance (IMO Resolution A.949(23));

Promoting positive attitudes – within Governments, port and local Authorities, and Industry for the purposes of Places of Refuge;

In a spirit of enhanced co-operation and coordination among all parties involved, including Member States' Authorities and concerned Industry;

Acknowledging that the Operational Guidelines as a matter of principle state that: ‘Each State involved in the operation should examine their ability to provide a place of refuge. A place of refuge request cannot be refused for commercial or financial reasons, nor should commercial interests become the main driver for the handling of PoR requests, or the selection of a potential PoR. Unless deemed unsafe, there should be no rejection without inspection.’

The involved parties in the Cooperation Group on PoR have, as part of promoting positive attitudes and committing to an effective operational response, to the extent possible, following incidents involving a ship in need of assistance seeking a place of refuge, agreed to the following key principles:

- Implement and use the PoR Operational Guidelines for the enhancement of international cooperation, within the national PoR plans, in order for these to establish procedures for concerted action.

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3 in accordance with Article 20a(2)(f) of the VTMIS Directive

4 In accordance with Article 23(d) of the VTMIS Directive
• Work towards including the EU Operational Guidelines in regional agreements/plans.

• Promote the PoR Operational Guidelines in the International Maritime Organization (IMO) and other appropriate stakeholder fora.

• Support and promote the use of the Union Maritime Information and Exchange System\(^5\) providing Integrated Maritime Services and its further development.

• Publish the PoR Operational Guidelines, as appropriate, on the respective webpages of all stakeholders involved in this work.

• Continue working in the context of the Cooperation Group on PoR, *inter alia*, on:
  1. The continuous improvement of the EU Operational Guidelines;
  2. Setting up appropriate training, with the support of the European Maritime Safety Agency, on the Operational Guidelines including on information sharing;
  3. Developing and holding practical PoR exercises and training, building on the work by the European Maritime Safety Agency and the table top exercises already held;
  4. Seamless and integrated information flows;
  5. Risk assessment methodologies, complementing in particular situations involving more than one jurisdiction;
  6. Insurance, liability and compensation matters.

\(^5\) Annex III of the VTMIS Directive