European Sustainable Shipping Forum
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Progress Report from the ESSF sub-group on Port Reception Facilities (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.

1. Introduction

1.1. Mandate and work programme

The European Sustainable Shipping Forum (ESSF) Sub-group on Port Reception Facilities (PRF) was set up in December 2014, in order to support the work of the European Commission in improving the implementation and operation of Directive 2000/59/EC on port reception facilities for ship-generated waste and cargo residues ("the PRF Directive") and to advise on the need and scope of a possible revision of the Directive. The Subgroup brings together a large and diverse group of stakeholders to discuss a broad range of issues related to the PRF Directive.

The Subgroup has had 7 meetings so far. During the first meetings of the Group (2015) the discussions focused on implementation issues, and the Sub-group served as an important platform for sharing of expertise and best practices with relation to the main obligations in the Directive, such as the provision of adequate PRF, development and monitoring of the waste reception and handling plans, the operation of the cost recovery systems in ports and the implementation and enforcement of the waste delivery obligation. As such, the Subgroup has delivered important feedback on the draft Guidelines for the Directive (both the Commission's interpretive Guidelines and EMSA's Technical Recommendations) as well as the ex-post Evaluation the Commission conducted during 2015. In the period thereafter (2016-2017), the focus of the work of the Sub-group shifted more to the future revision of the Directive. As such, the Group has provided important input to the Impact Assessment process, which provides the basis of the future legislative proposal for a new Directive.

1.2 Progress

Since the last progress report to the ESSF Plenary (January 2017), the PRF Sub-group has met on the 2 February 2017 (7th meeting). An eighth meeting is scheduled for December 2017 in order to present the Commission proposal and the Impact Assessment.
2. Update on the Impact Assessment process and its related measures

2.1. PRF Directive

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 aims to align EU law with international mandatory instruments (MARPOL Convention) through a port-based approach, and provides for a number of additional obligations and mechanisms (such as the Waste Reception and Handling Plans, the advance waste notification, and the inspection regime) to ensure effective implementation and enforcement. The Directive's scope is based on the different categories of waste from ships 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 applies to cargo residues, which includes the remnants of tank cleaning operations, thus also covering tank washings included under the different Annexes of MARPOL.

2.2. Monitoring and Evaluation

DG MOVE, with the assistance of EMSA, has been assessing and monitoring the PRF Directive since its entry into force. In 2015, a REFIT 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 conclusions of the Evaluation have been summarized by the Commission in its Evaluation Report, which was adopted on the 31st of March 2016 (COM(2016)168final). The REFIT Evaluation indicated that there are a number of issues, which have negatively impacted the Directive's effectiveness, in particular in the following areas: 1. the availability of adequate PRF, 2. the application of the delivery requirement for ship-generated waste, 3. the application of exemptions for ships in scheduled traffic with frequent and regular port calls, 4. the provision of financial incentives for delivery, and 5. the functioning of the enforcement regime foreseen in the Directive. In addition, the Evaluation has pointed out that important changes in the international framework (MARPOL) have not been reflected in the Directive, and that these inconsistencies provide for inefficiencies in the system. The outcome of this evaluation has provided the basis for further work on the Directive, including the impact assessment for its revision.

Following the ex-post evaluation, 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).

In the short/medium term certain measures have been adopted i.e. the revision of the Advance Waste Notification Form (Annex II of the PRF Directive, Commission Directive 2015/2087), publication of the Commission’s interpretative guidelines (Commission Notice 2016/C 115/05, the publication of EMSA’s Technical Recommendations on the Implementation of the PRF Directive and EMSA’s Guidance for Ship Inspections under the PRF Directive as well as the development of the PRF module that has been added to the inspection database THETIS-EU). Moreover, progress has been made with regard to the Common Monitoring and Information System.

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1 EU Regulatory Fitness and Performance Program
2.3 The Impact Assessment process for the legislative revision of the Directive

As a longer term measure, a legislative revision of the Directive will be necessary to address all the issues. To this end, an Impact Assessment has been undertaken examining the impacts of the different options for the revision. The ESSF PRF Subgroup has been instrumental in providing feedback, thus constituting an important part of the stakeholder consultation underpinning the IA process. A more detailed report on the latest (7th) meeting of the Group is included in paragraph 2.1.3 below.

2.3.1 Impact Assessment support study:

In the context of the Impact Assessment, DG MOVE has undertaken a number of stakeholder consultation activities.

Part of the consultation activities were conducted in the context of the Impact Assessment support study which was launched in May 2016. The final report for the Impact Assessment support study was formally approved by the Commission in June 2017, and has been published on the DG MOVE website: https://ec.europa.eu/transport/modes/maritime/studies/maritime_en

The following consultation activities have been conducted:

b) An Open Public Consultation (OPC), conducted from July to October 2016. The main objective of the OPC was to get a better view of the extent to which the identified problem drivers contribute to the illegal discharge of waste at sea and of whether the proposed policy measures are fit for purpose. A summary report of the OPC was then published on the Commission’s website in May 2017.

c) Targeted (impact) surveys addressed to the ports and port users, conducted in the Autumn of 2016;

d) Interviews with key stakeholders;

e) Case studies conducted in 5 ports in different EU regions;

f) An expert workshop was organised by DG REGIO in collaboration with DG MOVE on 17 March 2017. This workshop applied the TIA tool of the ESPON 2020 Cooperation Program and was attended by 17 participants including experts from different regions in the EU. The results of the workshop formed a separate Annex in the Commission’s IA report.

As noted above the PRF Subgroup also facilitated and formed an important part of the stakeholder consultation activities, and inter-active discussions were held around the main options/measures being examined in the Impact Assessment

The outcome of the above consultation activities has provided valuable feedback for the Commission’s Impact Assessment report.

2.3.2 Seventh meeting of the ESSF PRF Subgroup:

The latest meeting of the PRF subgroup was held in Brussels on 2nd February 2017. The Group debated the following to topics:

- **IA support study:**

During the meeting of the Subgroup the consultant for the IA support study presented:
• an outline of the methodology of the study, the collected input from the stakeholders (Open Public Consultation, targeted surveys of port stakeholders and fisheries, case studies);

• the underlying problem drivers and root causes;

• the objectives of the revision;

• the expected impacts from proposed policy measures;

• the comparison of options; and

• the preliminary conclusions of the IA support study. Among others, it was underlined that the option for a MARPOL alignment seemed an effective one but there were still issues that had to be discussed particularly for sewage, for the inclusion of the fishing vessels and recreational crafts and for NSF against AFS Cost Recovery Systems.

➢ **Policy issues in relation to the planned revision:**

In order to allow for a more in depth discussion, the participants of the PRF Sub-Group were asked to divide among smaller groups to address the following topics in relation to the planned revision:

• MARPOL Annex VI waste; the discussion highlighted the main challenges and arguments for including MARPOL Annex VI waste in the scope of the PRF Directive.

• Harmonisation of CRS principles, including the proposal for a mandatory 100% No Special Fee for garbage and the development of the Green Ship concept; it was acknowledged that it would be difficult to pursue a "one size fits all solution" and it would be preferable to aim for streamlining of the underlying principles of the CRS, building on the recommendations from the Correspondence Group.

• Delivery of Sewage under the PRF Directive; reference was made to all the available feedback (including the findings of a recent simulation exercise in the Baltic) for sharing within the subgroup. In addition, the group discussed the treatment of sewage on board, as well as the different MARPOL discharge norms versus the mandatory delivery obligation under the Directive.

• Position of fishing vessels and small recreational craft; a possible differentiation based on suitable thresholds was discussed. In addition, a refund scheme for fishing nets was debated based on the producer responsibility principle, and the associated administrative burden. The Group also discussed the inclusion of the "passively fished waste" (covered by fishing for litter” projects) in the scope of the PRF Directive and the distribution of cost to respective stakeholders.

• Regional WRH Plans; it was noted that there are already some ports working together in the operation of a regional fee system, while it was also stressed that regional cooperation should be based on providing better services for the users and less administrative burden. Further insight was to be gained in the context of the Territorial Impact Assessment conducted by DG REGIO in March.
• Rules on Exemptions; the discussion focused on the pros and cons of a more harmonized system and better exchange of information and monitoring between Member States. Moreover, a number of issues that needed further discussion and elaboration in a Correspondence Group were identified.

➤ **Harmonization of Cost Recovery Systems:**

The report from the Correspondence Group on the harmonisation of Cost Recovery Systems principles was presented to the subgroup.

The GG had undertaken five consultation rounds, which resulted in a list of eight recommendations to be used in the context of the IA support study. In addition, the CG had assessed the impacts of these recommendations. In this regard, reference was made to:

i. the environmental impact i.e. the ship generated waste volumes delivered to PRF (garbage, oily waste, sewage) and discharges into sea;

ii. the economic impact to shipping, ports, and waste operators;

iii. the administrative burden to ports, administrations and shipping;

iv. the social impact to labour and employment conditions in ports, on board ships or on PRF operators.

➤ **Final Report of EMSA’s Study on the Management of Ship-Generated Waste On-board Ships:**

The subgroup was debriefed on the final outcome of EMSA’s Study on the Management of Ship-Generated Waste On-board Ships. The Study provides an overview of the waste practices and management, drivers, technologies and quantities of different categories of ship generated waste.

The contractor presented the waste flow diagrams, drivers and quantity estimates for Ship Generated Waste and Cargo. In addition, the subgroup was debriefed on the following issues:

i. the accuracy of waste notification forms (e.g. generally accurate for MARPOL/Annex I but less accurate for MARPOL/Annex V wastes);

ii. the prevention of waste particularly in relation to the packaging of the supplies;

iii. the mismatches between MARPOL and the waste notification forms or the classification used by waste handlers as well as the practices on board that may lead to reporting and notification errors;

iv. the misuse of ships’ documentation notably the Oil and Garbage Record Books, IOPPC and Garbage Management Plan.

The results from the study were used in the IA support study helping to define the problem definition and estimate the possible waste discharges at sea.

➤ **Establishment of two Correspondence Groups:**

As a follow up of the discussions on the Key Themes, the PRF subgroup decided to establish two CG to further discuss these specific aspects in support of the Impact Assessment:
i. **MARPOL Annex VI waste**, specifically the issue of Ozone Depleting Substances (and whether or not to include these – via MARPOL Annex VI – in the scope of the PRF Directive). Although initial discussions were held, the work of the CG was not pursued, as the issue of the MARPOL Annex VI waste was thought to be covered adequately in the context of the Impact Assessment support study.

ii. **Rules on Exemptions for ships in scheduled traffic**, specifically on issues that remained debatable e.g. on the criteria and principles for granting exemptions, exempting ships operating within one port only, acceptability of third party arrangements, etc. This CG worked intensively and in close cooperation with the Commission providing valuable insight on the issue of exemptions.

### 2.3.3 Commission Impact Assessment Report

An Impact Assessment report was drafted by DG MOVE based on the outcome of the IA support study. The Inter-service Steering Group, consisting of all the interested DG’s in the Commission and EMSA, supported the process and the report was presented to the Commission’s Regulatory Scrutiny Board on the 21st of June 2017.

The Board expressed a positive opinion with some reservations. The Commission has recently finalized the report, addressing the various comments from the Board. The IA report will be officially issued by the Commission together with the legislative proposal.

### 3. Suggested way forward

In view of the start of the official negotiations in Council and European Parliament on the proposal for a new Directive, it is **proposed to close the PRF Subgroup by the end of 2017**. A last meeting will be held in December 2017 in order to present the legislative proposal and the Impact Assessment Report to the Group.

### 4. Request to the Plenary

The ESSF Plenary is requested to approve this progress report of the Subgroup on Port Reception Facilities, and endorse the suggested way forward.