



Brussels,
MOVE D1/PN D(2013)

DRAFT REPORT

Directive 2010/65/EU

On reporting formalities for ships arriving in and/or departing from ports

7th eMS expert group meeting

Brussels, Wednesday, 12 December 2012

Participants: see Annex

The meeting was chaired by Magda Kopczynska, Head of Unit "Maritime Transport and logistics" in DG MOVE, and supported by Lazaros Aichmalotidis, Head of Unit "Vessel Traffic and Reporting Services" in EMSA.

1. Approval of the agenda

The agenda was approved with minor changes.

2. Approval of the 6th meeting report

Experts expressed concern that the draft report was sent late, not allowing enough time to comment. The Commission noted and will ensure that the next report is sent with minimum of 15 days to allow the experts to provide their comments.

The eMS group **agreed** to approve the 6th meeting report by correspondence and provide any further comments by end of December 2012. (**Action Point 1**)

3. Update on the Project Plan – Roadmap

The Commission presented the updated roadmap for the Reporting Formalities Directive implementation for discussion and summarised the tasks completed at the end of 2012 and the on-going actions. The table with the final document approved of each phase will be made available at CIRCABC.

Experts had concerns that Phase 1 is now being moved into the beginning of next year which will leave a very tight timeline for 2015 deadline.

The eMS Group **agreed** to further review the roadmap at the eMS meeting before the summer holidays (tentative date July 2013) to make any adjustments needed in view of the work progress during the 1st semester of 2013. **(Action Point 2)**

4. General Maritime business rules

EMSA presented the business rules drafted by the General Maritime subgroup for validation.

The World Shipping Council raised the point that ‘traders’ are not represented in the subgroups and expressed concern about the direction of the presented business rules as regards the inclusion of additional elements. It was clarified that the Reporting Formalities Directive will not impose additional reporting requirements for ships not already under such obligation according to legislation applicable in Member States

EMSA explained the methodology followed by the subgroup which was to compare the information required in Part A with the information required by the national legislation in each Member State. The redundant elements of FAL forms 1 and 7 were identified and removed from the data set of information to be implemented in the NSW. The additional FAL elements are not mandatory in every state and shall be reported only if required by the legislation applicable in the Member State.

The group had several comments to make on the draft business rules that were discussed at the meeting. In general, the group considered that the draft was almost ready for approval. However, there are still open issues that cannot be closed.

The draft business rules will be updated in line with the meeting discussions and also following the presentation of the horizontal open issues. The updated draft will be sent to the eMS group by end of December 2012. The eMS group **agreed** to provide comments on the revised draft by 15 January 2013 and to validate the business rules via written procedure by end of January 2013. **(Action Point 3)**

5. Maritime Declaration of Health (MDH) business rules

EMSA presented the progress report of the Health subgroup. A meeting of this subgroup took place on 27th November organised by DG SANCO and the draft business rules will be finalised by correspondence.

Regarding the possible exchange of the MDH between Member States, the subgroup concluded that there is no requirement or identified need to exchange the MDH between Member States, using SSN. The MDH information is mainly relevant to the Health authority in the port of call.

The eMS group **agreed** to provide comments on the draft business rules by end of January 2013 to be incorporated in the final draft. The aim is to approve the business rules at the next eMS meeting in March 2013. **(Action Point 4)**

6. Subgroup status

6.1 Customs subgroup

The Commission reported the results of the meeting of 6th November organised by DG TAXUD. There is currently a policy debate focusing on the Blue Belt initiative to propose a package with legislative and non-legislative initiatives to reduce the customs administrative burden for intra-EU cargo. There is a possibility of exploring SSN

technology to give assurance to customs that the goods remain with EU status. There is a need to discuss how the Single Window could support this initiative.

The link between Blue Belt and the implementation of the Reporting Formalities was questioned. At the moment there is a political link as the ministers have stated that there is a need to establish an intra EU market for maritime transport. The implementation of the NSW is an opportunity to provide the required information to customs to satisfy their requirements. Otherwise we will set a functionality and there will not be an IT solution/vehicle for this.

A meeting will be organised by DG TAXUD to discuss the way forward to the Blue Belt initiative in The Hague (15-16 January 2013). Member States representatives are invited to participate. DG MOVE will send a copy of the invitation letter to the eMS group. **(Action Point 5)**

6.2 Border Control subgroup

The Commission updated the group on the on-going work with DG HOME. A questionnaire was prepared and the answers revealed that DG HOME is focused on the Schengen Borders Code and not familiar with national practices. A subgroup composed of national experts from border control authorities is necessary to be set-up.

The eMS group **agreed** to set-up a subgroup to draft the business rules related to the border control checks. The Commission will send the invitation letter to the eMS group to nominate experts together with the terms of reference of the subgroup. The first meeting will take place at the end-January. **(Action Point 6)**

EMSA will send the first working documents to initiate the discussions at the beginning of January 2013. The expectation is that business rules will be concluded at the next eMS meeting in March 2013.

6.3 Data Mapping and Functionalities correspondence subgroup

The Commission started by formally proposing to the group to validate the terms of reference to include both the work on the data mapping and the functionalities issues. The eMS group **agreed**. **(Action Point 7)**

The subgroup concluded the work on the mapping of the data elements from each formality of part A and B of the annex of the Directive and identified the unique elements of information to be reported to the single window, followed by the definition of the data elements, in particular, the name and business definition.

At this stage FAL forms 2, 3 and 4, and the Entry Summary Declaration were not considered as discussions are on-going with the Customs authorities.

The sub-group will continue to work on the technical definition of each data element. It is anticipated that this task will be completed in January 2013. Following, the sub-group will initiate the further work on the definition of the functionalities of the NSW. The sub-group will deliver its final report by the next eMS meeting in March 2013.

The Commission noted the interest expressed by trade to take part in the work done by the subgroups and will analyse this possibility. **(Action Point 8)**

The eMS group **agreed** to send comments on the data mapping proposed by end of January 2013. **(Action Point 9)**

The experts requested Commission to assess the possibility of organising meetings to support the work done by this correspondence subgroup. The Commission was not in favour due to the time pressure and administrative constraints, but will analyse this possibility. **(Action Point 10)**

Following, a representative of the ANNA consortium also made a presentation on their results for the data harmonisation with the objective of reducing as much as possible the reporting. This work can provide additional support to the work being done by the Data Mapping subgroup that will be submitted to the eMS group for validation.

7. Horizontal open issues identified by the subgroups

At the previous eMS meeting (Lisbon, 4 October 2012) the group requested a document to be compiled with all the horizontal open issues identified by the subgroups Waste, Security and General Maritime, and to propose a way forward in dealing with each of these open issues. EMSA presented a summary of the open issues, eleven in total, and a proposal for discussion.

This task initiated the Harmonisation process of the Business Rules (end of phase 1) but all the open issues will need to be re-examined in light of the conclusion of the pending business rules on Border Control and Customs.

All the open issues were discussed with the experts and the following conclusions were noted:

To which ships does the Directive 2010/65/EU apply - the ships which are obliged to submit a particular reporting formality are those mentioned by the relative legal act of the Union and by national legislation requiring such notification.

Identification of ships without IMO or MMSI - In the development of the NSW the following order of identification should be used:

- IMO number
- MMSI number, if the ship does not have an IMO number
- call sign, if the ship does not have a MMSI number
- name, if the call sign is not provided in the notification

The exchange of information through SSN of ships which do not have an IMO or MMSI number cannot take place.

Static data on ships – The added value of a ship reference database was agreed, there is no need to request information that are static elements of the ship. The proposal to have a central database will be considered after the RVD project.

Access rights - The Customs and Border sub-groups need to identify and justify which data elements they need to fulfil their obligations.

Authentication and Traceability:

- Member States will develop mechanisms to ensure the non-repudiation and traceability of actions performed by NSW users;
- Each Member State is responsible to identify the individual person fulfilling the reporting formalities and transmitting the information to the NSW with an individual identification number (“User ID”);

- The NSW gives the possibility to verify the history, location, or application of the information by means of documented recorded identification: user identification, timestamp, action performed;
- By principle, information provided by an other Member State is de facto considered as provided by a certified individual. The user identification is not exchanged between Member States;

Data Storage standard:

- As a minimum, data elements resulting from the reporting formalities to be exchanged between Member States remains the same as in the SSN: **2 months online; and 5 years offline;**
- Data storage for other additional data elements in the NSW – that is data elements which will not be exchanged between the Member States - shall be established by each Member State.

Availability of the system (NSW and central) - NSW should aim at an availability of 99%, with a maximum downtime of 12 hours (same as SSN).

Updates of information after ship's arrival or departure - Updates on previously provided information are to be accepted by the NSW and at SSN central level to allow the correction of mistakes.

The eMS group **agreed** to provide further information regarding the time limit for allowing the updates after the departure of the ship by June 2013. **(Action Point 11)**

Possibility to re-use data - The re-using of data at regional level was recognised as beneficial for the data providers (as it simplifies and reduces the reporting obligations). However, implementing such solution by 2015 brings additional complexity to the system. The group's view is that this should be considered in the long term implementation of the Directive after 2015.

The Commission will further clarify from the legal point of view the Directive's requirements regarding the information to be submitted only once at EU level and shared between Member State authorities. **(Action Point 12)**

Information Exchange Model - The current SSN approach (data stored nationally) will be maintained with the exception of the static data and data that can be re-used.

8. Treatment of Exemptions (Article 9) – General implementation

Following the document presented at the previous meeting, EMSA provided a presentation on the legal requirements for the treatment of exemptions aiming at developing a common understanding among the Member States about its implementation.

The eMS group noted the legal limitations of Article 9.

9. Update on the analysis to the Member States replies – Part B and C

EMSA presented a summary of Member States replies on the use of the FAL forms and specific national information that MSs required in terms of Part B and C of the Annex of the Directive. The conclusions are that Member States have given a different interpretation to Part C of the annex to the Directive.

The shipping industry expressed their difficulty caused by the different reporting requirements in each Member State and that this prevents achieving the Directive's objective which is to harmonise and simplify.

EMSA recognised the importance of harmonising all EU reporting requirements. However the Directive includes the possibility for additional information being required under Part C national legislation. To harmonise Part C is desirable but we need to be realistic to what we can attain by 2015.

Several Member States experts supported this approach and recalled that the Directive's implementation is an on-going process that is not concluded by 2015.

The eMS group **agreed** that although the harmonisation of Part C is desirable, it cannot be done at this stage (deadline for implementation 2015). However, the eMS Group noted that the work towards improving simplification will continue following the initial implementation in 2015, and the harmonisation of Part C is one of the objectives.

10. Phase 2 - Technical specifications deliverables

EMSA presented the proposal to initiate the development of phase 2 and on the structure of the deliverables.

The proposed deliverables of this phase are:

- NSW Guidelines for the interface between NSW and the shipping industry (including the PCS)
- SSN System Interface Reference Guide for the interface between NSW and the SSN system

The detailed structure of the NSW Guidelines was also presented. The eMS group **agreed** to provide comments on the structure of the NSW Guidelines by 15 January 2013. **(Action Point 13)**

The first draft will be presented to the next eMS meeting in March 2013.

The eMS group requested Commission to consider the possibility of organising meetings to support the drafting of the NSW Guidelines. The Commission will analyse this possibility. **(Action Point 14)**

8. AOB

8.1 Transposition

The Commission informed the group on the status of the transposition. Only two Member States did not communicate any transposition measures. The Commission will contact them directly. **(Action Point 15)**

8.2 Conclusions/Follow-up Actions

The meeting's conclusions and follow-up actions are noted in the relevant paragraphs of the report. The provisional dates for the next meetings are:

- Workshop "Scenarios to implement a Blue Belt Maritime environment": 15-16 January 2013, The Hague;
- Border Control subgroup: 23rd January, Brussels

- **Customs subgroup: 14th February, Brussels**
- **Border Control subgroup: 27th February, Brussels**
- **8th eMS group: 20 March, Brussels**

