Brussels,
MOVE D1/ D(2013)

DRAFT REPORT

Directive 2010/65/EU

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

8th eMS expert group meeting

Brussels, Wednesday, 20 March 2013

1. Approval of the agenda

Experts stated that they are not in a position to accept the approval of item 6 (Data Mapping) since it is only an interim report and item 8 (Re-use of data) because no new document was issued for their consideration. The order for discussing the afternoon agenda items was also altered.

The agenda was approved with the agreed changes.

2. Approval of the 7th meeting report

Experts provided additional remarks on items discussed during the 7th eMS meeting particularly as regards item '7. Horizontal open issues identified by the subgroups'. Clarifications were requested by experts as regards the applicability of the Directive and the treatment of exempted vessels. MOVE explained that the Directive is applicable to the ships which are obliged to provide a reporting formality in terms of the legislation identified in parts A, B and C of the Annex to the Directive. The industry representatives emphasised that the implementation of the NSW should not lead to additional costs for them. Therefore, it was important to harmonise the NSW interfaces to avoid situations which emerged following the implementation of the submission of the Entry Summary Declaration (ENS) whereby the carriers had to comply with different national IT systems and requirements. The availability of the NSW was also important and it was necessary to develop electronic fall-back positions to cover instances when the NSW is not operating.   In view of the fact that the Directive is not leading to additional harmonisation of administrative procedures WCS, ECSA and ESPO, while pleased to contribute to the discussions, are not in a position to give their support to the business rules which are being developed by the sub-groups.

The eMS Group agreed to approve the 7th meeting report with small changes. MOVE will distribute the final report by end-March 2013 and will reply to the WCS/ECSA letter, of 11 January 2013 and load the answer on CIRCABC. **(Action Point 1)**

Many of the issues raised by the experts will be included in the discussion on the harmonisation of the business rules. The eMS Group requested MOVE to collect all the exemptions on ships from the legal acts of the Union to be included in the document in respect of the harmonised Business Rules to be presented at the next eMS meeting. **(Action Point 2)**

3. Maritime Declaration of Health (MDH) business rules

EMSA presented the business rules drafted by the Health subgroup for validation by the eMS.

Experts asked whether in their electronic submission they can initially choose which questions, from the MDH, to ask the ship to report and only if it is determined that further information is necessary will the ship be required to send the additional MDH information. EMSA clarified that the business rules already cater for this because it is up to the MS to establish, in terms of their national legislation, if the MDH is required and which information has to be transmitted by the ship.

The group agreed that the business rules may be validated but the horizontal issues – for example the date and time format, system availability, storage of data and re-use of data from other formalities - will have to be discussed during the 9th eMS meeting.

The eMS Group validated the draft business rules with the remark that some horizontal issues are to be considered during the harmonisation process of the Business Rules. MOVE to publish the validated version on CIRCABC. **(Action Point 3)**

4. Border Control business rules

EMSA presented the business rules drafted by the Border Control subgroup for validation.

Clarifications were required from DG HOME on the definitions of cruise ships and cruise itinerary. DG HOME stated that the SBC includes a definition for cruise ships.

Experts highlighted that it is not possible to have the information from yachts on a pre-arrival basis through the NSW. EMSA clarified that this issue was discussed during the border control sub-group and it was agreed that only information required on a pre-arrival basis is required to be submitted through the NSW. If the national legislation allows the MS to receive the information after the yacht enters the port than it need not be submitted through the NSW.

The group also noted that the business rules should reflect the wording of the Directive and hence the word 'transmitted' in the introduction to business rule 7 should be replaced by the word 'available' as in Art 5 of the Directive. DG HOME had to check if this would be acceptable for border control purposes. The introduction to Business rule 3 related to LOCODEs will be amended to align it with the business rules for the other formalities.

The eMS Group validated the draft business rules with small changes and agreed that horizontal issues will be considered during the harmonisation process of the Business Rules. MOVE to publish the validated version on CIRCABC. **(Action Point 4)**

5. Customs subgroup – Status Report

MOVE presented the work carried out by the Customs sub-group and the draft business rules in respect of customs related data.

The group considered that the customs business rules should be approved by the sub-group before been sent for validation to the eMS group. They also noted that the first part states that no business rules will be developed for the ENS but then business rules 1 and 2 include references to the ENS and how it should be transmitted through the NSW. Moreover it is incorrect to say that 'All the messages exchanged between the customs administrations related to the ENS in the ICS are harmonised." because only the safety and security messages are harmonised.

MOVE agreed to give time to the subgroup to submit comments by the 5th April and once the meeting report and the business rules are approved by the sub-group the latter will be submitted to the eMS for validation. If no agreement is possible by correspondence an additional meeting of the sub-group may be organised. The target should be to have the business rules approved by the eMS through the written procedure by the end of April. Whether this is possible will depend on the comments that will be received from the MSs. MOVE said that if necessary more meetings can be held in May and the business rules are validated during the next eMS meeting in June 2013.

Experts asked if the business rules will be sent for approval of the Electronic Customs Group (ECG). MOVE clarified that they can be sent for information to the ECG but the final approval has to be given by the eMS. This is the same procedure adopted in the case of other business rules which included other user communities – security, waste, health and border. It is important that the eMS members consulted their counterparts in the other authorities to avoid different positions by experts from the same Member States at the different meetings.

WCS re-iterated that it is important that the solution which is found for the transmission of the ENS through the NSW does not require any new development costs for the industry and that existing transmission processes and procedures be maintained. They confirmed that that there is no need for FAL 1 and FAL 2 because the manifest includes all the information required by the authorities. What is required is a harmonised eManifest developed so that it can be included in the implementation of the Directive. It is also important that harmonisation is achieved in other areas such as the use of the UN/LOCODES. They are pleased to see this in the business rules but would also like the same uniform use of UN/LOCODES for the ENS. The exact time of arrival is not a required data element in the ENS. Nor should it be in the other reporting formalities as such a requirement would result in an inordinate – and unnecessary - amount of amendments.

As regards the ENS, MOVE stated that there is a legal requirement to include the ENS in the NSW and there is a separate legal requirement for submitting the ENS through the ICS. Once a harmonised solution was not found the Member States have to develop their solutions. The group agreed that the Member States may adopt different solutions for complying with the Directive as regards the transmission of the ENS information via the NSW. For example, the NSW can either be a centralised system which integrates with the to be developed NSW and the ICS or Member States may have different systems which are interoperable to facilitate information sharing. However, Member States cannot opt not to implement the Directive legal provisions. So the information which is in the ENS must be available for re-use in the NSW. WSC added that the shipping industry would not object to ICS systems being 'housed' within a Member State's NSW as long as that left unchanged the form of ENS messages and the way that they are transmitted today.

The group also noted that according to the FAL Convention Standard 2.3.3, public authorities shall accept in place of FAL 2 a copy of the cargo manifest and therefore there is nothing wrong in accepting the manifest in the NSW in lieu of FAL 2 The industry representatives emphasised that there are many reasons why it is preferable use the cargo manifest rather than FAL 2 and it should be a harmonised cargo manifest which is applicable in every member state.

MOVE informed the group that the eManifest will not be dealt with by the customs sub-group but will be handled by a separate task force established between the eMS and the ECG. MOVE stated that the eManifest task force will be set-up soon after the roadmap is agreed with DG TAXUD.

MOVE concluded by saying that it is important that the business rules are validated either before or during the June meeting of the eMS. The ECG will be informed of the business rules but the final approval has to be made by the eMS. The eMS Group agreed to provide comments on the draft business rules by 5 April 2013. The business rules will then be revised by the Customs subgroup before being submitted to the eMS for validation. **(Action Point 2)**

5.1 Information on the Blue Belt Initiative

MOVE gave an overview of steps taken until now. in order to develop the measures announced for maritime transport in the Single Market Act II, three scenarios are currently under consideration - RSS enhancements, Blue Vessels and Blue Belt with vessels calling also in third country ports whereby a harmonised electronic cargo eManifest could be used to prove the status of the goods.

The outcome of recent discussions was that:

a) It is useful to maintain the RSS scheme but improvements (e.g. shortening deadlines and inclusion of all MS from the outset) are to be considered, even though impact in practice will be limited.

b) There is little support for the Blue Vessels scenario because according to industry, the business case would be minimal.

c) The business case for the third scenario is substantial because many vessels call at both EU ports and third country ports on the same voyages. The eManifest could also be used in the framework of the reporting formalities directive (instead of the FAL 2 cargo declaration). There is also a possibility to extend the eManifest to cover all modes of transport and other (customs) requirements.

Industry is of the opinion that the use of an eManifest for goods on board vessels calling also at third country ports is a vital task for the implementation of the Single Mark Act II and the Directive. Industry stated that the first step should be to start the discussions on a 'maritime' eManifest and the extended version can be developed at a later stage because otherwise the whole work may be delayed if all aspects are considered at once. If the objective is to give EU manufacturers the fullest range of potential maritime services for moving goods within the EU's single market, it would be self-defeating to exclude vessels that also call outside the EU because they make up the vast majority of those potential services.

Experts also stated that the extended version of the manifest should not include the ENS (though it should reuse ENS data), and that it could also be used for the summary declaration for temporary storage.

The conclusions were that:

a) The legal proposal has to be completed by June 2013

b) The Roadmap is being drafted by MOVE and TAXUD

c) Work on the eManifest will be carried out in parallel

6. Data Mapping and Functionalities subgroup

EMSA gave a presentation highlighting the main aspect of the sub-group's interim report.

Experts requested a clarification whether the ENS will be included in the data mapping exercise. EMSA explained that the ENS data is already established and is being handled through the customs ICS system. The group was not in a position to agree on the data elements or the data definition because more work is still required by the sub-group. They added that it is important to revise the data elements in more detail and to give the source from where the data definition originated. They also noted that the ISO 28005 standard is not yet implemented in the Member States and therefore it is important to look at other standards also, in particular EDI. An expert also remarked that in their opinion Step 6 Data Structure of the presented methodology has to be concluded before Step 5 Technical Definition because there will be the risk that the end result will be complex data structures.

On a question by experts on the consideration of the work of a group of Member States (working together in the AnNa-consortium) on the data elements, MOVE stated that these experts may present their findings to the next meeting of the sub-group.

The group noted that, as required by the Directive, the digital format of the messages to be used within the SafeSeaNet system shall be established in accordance with the provisions of Directive 2002/59/EC and therefore the SSN Group will be involved in this task. The eMS group will be informed of developments in this regard.

The eMS Group agreed to provide comments on the interim report by 5 April 2013, to be further reviewed at the next subgroup meeting (17 April). **(Action Point 6)**

The eMS also agreed that the clarifications requested by the sub-group as regards to some of the data elements are obtained from the Commission, the other sub-groups or the validated business rules as appropriate. **(Action Point 7)**

7. Reporting obligation resulting from Article 15 of the RFD

The consultant engaged by MOVE to draft the report gave a presentation highlighting the members of the consortium, their tasks, the objectives of the report (as mentioned in Article 15 of the Directive) and the methodology that will be used to compile the report. The Member States will be consulted in order to obtain their feedback on the implementation of the Directive, the link to inland shipping, and possible further simplification measures as identified in the Directive. The focal points for such consultation will the Member State representatives on the eMS group but it is important that they co-ordinate the Member State response by involving also the other user communities and authorities.

The contractor will distribute a questionnaire to the experts to obtain their feedback on the implementation of the Directive and further simplification as mentioned in Article 15 of the RFD. **(Action Point 8)**

8. Re-Use of Data at EU Level

This agenda item was left to the end of the meeting. However, there was no time left to discuss this subject but MOVE will send the document to the eMS group. MOVE stated that the document will be sent to the eMS and uploaded on the CIRCABC for consideration and comments. The eMS group is invited to provide comments in order to try to achieve approval by written procedure. **(Action Point 9)**

9. IMP demonstrator

MOVE gave a presentation to explain the background to the Integrated Maritime Policy (IMP) project, while EMSA presented the scope and work methodology of the Demonstrator project.

The group experts made several comments as regards to the scope and added value of the demonstrator project for the Member States. The main comments by experts were that:

- EMSA is developing a project which is not requested by the Directive or the eMS group

- Many options have been considered in developing the demonstrator: a centralised system has been chosen for the NSW solution, cargo data is not included, the interface with port community systems will not be tested and only a web-based system will be tested for the interface with the authorities.

- There may be overlap between the proposed project and other already developed projects as eFreight.

MOVE explained that the project was agreed by the MS but in other fora within the Integrated Maritime Policy framework. Moreover, it will assist those MS who have not progressed much in the development of the NSW.

EMSA explained that the discussions on the cargo manifest are still to start and once the results are known the data elements may be included at a later stage. EMSA explained that eFreight had a much wider scope while the demonstrator will concentrate on the RFD requirements. The results of the demonstrator will support the work that has to be carried out by the group in developing the technical and functional specifications. EMSA is also consulting Member States to see how they developed their national electronic systems or will be developing to comply with the Directive obligations.

WSC stated that for a number of reasons it would not be possible at present to ask their members to participate in the pilot. Very important information on message formats and message implementing guidelines are missing. They would wish to see the project includes the eManifest data and, interfaces with port community systems. They observed that the project envisages XML messages while the majority of their membership continues to mainly use UN/EDIFACT. Moreover, the industry frequently receives invitations to participate in projects which they are not able to join due to severe resource constraints, especially at a time when they must develop systems to accommodate a world-wide proliferation of advance information risk assessment regimes..

MOVE agreed that once EMSA develops the technical specifications these will be shared with the eMS group. EMSA will provide additional information on this issue to the eMS group by end-April 2013. **(Action Point 10)**

10. National Single Window Guidelines

EMSA gave a presentation on the National Single Window Guidelines particularly on the content of its first seven chapters.

Experts stated that not all their comments were included in the latest revision of the NSW Guidelines. For example some highlighted that the 'clearance' functionality should not be included because although Member States may implement this function, it is outside the scope of the directive. Moreover the final clearance for allowing a ship to enter or leave a port does not depend only on the fulfilment of the reporting formalities but also on other factors as weather conditions, traffic density, tides and locks situation, berth or pilot availability and other port operational aspects. MS remarked that this norm is not used at all in the information exchange between ships and ports, or ships and port community systems.

The members of the group made several comments as regards to the content of the Guidelines:

a) Clarification is required as regards the meaning of harmonisation at EU level in paragraph 6.2. The guidelines recognise that the NSW architecture may vary between Member States. The understanding is that the harmonised parts are the interfaces between the industry and the NSW and between the NSW/national SSN and the central SSN. The internal NSW is a black box to be developed by the Member States. MOVE confirmed that this interpretation is correct.

b) Clear definition is required as regards to the meaning of 'single point of access' in the Single Window definition – whether it refers to having only one single point of entry to the NSW or if there can be multiple points of entry to the NSW.

c) The Single Window definition may have to be amended to take into consideration developments since it was agreed. MOVE disagreed with this and stated that the Single Window definition is still valid. MOVE stated that the Single Window definition graph will be included in the main part of the Guidelines document.

d) Clarity was also requested on the meaning of 'government agencies' and 'trusted 3rd parties'. MOVE explained that this is general and could be used to include port community systems as trusted 3rd parties.

e) The first two paragraphs of section 5.2 have to be amended as they are inconsistent.

f) Other roles may be added, for example, port state control and MRCCs.

g) Port authority is not only responsible for commercial parts of the ports but also for dangerous cargoes, vessel traffic management and other areas of responsibility.

h) Ship operators, ship owners and bill of lading issuing carriers need to be included as data providers.

i) In Chapter 7, it must be made clear that the business process options given are just examples and the Member States may develop other options. For example, in section 7.4 the rejection of a message is done automatically but Member States may choose to have it checked through a back office process. MOVE stated that the rejection was not based on the data elements but on whether the message is technically correct.

j) It is necessary to establish whether the NSW will be based on a system-to-system or a web-based system. MOVE stated that both systems should be provided in order to give the opportunity to everyone, even occasional ships, to send the notifications directly or via trusted 3rd parties. The Netherlands remarked that

national legislation establishes that government bodies are not allowed to provide a web-based service but it has to be provided by private entities.

k) The guidelines should include a section on electronic back-up systems to cater for situations when the NSW is down.

l) Section 4.1 is not clear and should be revised because it is the NSW which should mainly provide the information to other systems (e.g. e-Customs) and not the other way round.

WCS/ECSA requested that the eManifest discussions are taken into consideration in this document and that a clearance function is also included. It makes no sense to cover only the submission of notifications because a single window for reporting requires a single efficient clearance process. Ideally the clearance procedure should be linked to an automatic timing clearance whereby if no 'clearance red light' is given by an authority within a specific time limit then the ship is considered cleared to enter or leave a port. It emphasised that the interface between the NSW and the shipping industry should be harmonised for all Member States as this is critical in order to avoid additional costs for the industry. The implementation of the Directive should not lead to the present situation with the transmission of the ENS where the shipping companies have to develop a different connection to each of the Member States systems. The investment carried out in electronic systems by port communities should also be taken into consideration.

The group agreed that in future the experts' comments are included as footnotes to the documents and will be considered by the sub-group.

The eMS Group was requested to provide comments on the draft NSW Guidelines by 5 April 2013, to be further reviewed by the Data Mapping and Functionalities sub-group meeting (17 April 2013). (**Action Point 11**)

11. AOB

11.1 Transposition

MOVE informed the group that only two Member States did not communicate any transposition measures. MOVE will contact them directly.

11.2 RFD Info Paper

MOVE reminded the EMS group of the information paper that will be delivered during the next meeting of the IMO Facilitation Committee which will take place between the 8th and 12th April 2013.

11.3 Next Steps

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

- 2nd Data Mapping and Functionalities sub-group: 17th April, Brussels
- 19th SSN workshop: 22-23 May, Lisbon
- 9th eMS group: 18th June, Brussels
- 10th eMS group: December, Brussels