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**REPORT FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT AND
THE COUNCIL**

**REFIT Evaluation of Directive 2000/59/EC on port reception facilities for ship-
generated waste and cargo residues**

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1. INTRODUCTION

1.1 Directive 2000/59/EC and its role in addressing ship-source pollution

Operational discharges of waste from ships form a significant threat to the marine environment. To reverse this trend, the EU adopted Directive 2000/59/EC¹ on port reception facilities for ship-generated waste and cargo residues (“the PRF Directive”). The PRF Directive aims “to reduce the discharges of ship-generated waste and cargo residues into the sea, especially illegal discharges from ships using ports in the EU, by improving the availability and use of port reception facilities” (Article 1).

The PRF Directive is instrumental in achieving the objective of zero waste maritime traffic, as defined in the Commission Communication on the EU maritime transport policy until 2018². It also contributes to the proper implementation of the EU waste hierarchy, by applying the principles of EU waste law in the context of the reception and handling of the waste from ships, as well as to the reduction of marine litter from sea-based sources. As such the PRF Directive supports the objectives and targets as defined in the Circular Economy Package³ and in the 7th Environment Action Programme⁴.

The PRF Directive is based on the requirements contained in the International Convention for the Prevention of Pollution from Ships (the MARPOL Convention). MARPOL requires the Contracting Parties⁵ to provide for port reception facilities for waste from ships that is not allowed to be discharged into the sea. Those facilities must be adequate to meet the needs of ships using the port, without causing undue delay.

Further to the MARPOL obligations in relation to port reception facilities, the PRF Directive provides a number of additional requirements for port users and operators, in particular:

- Development of waste reception and handling plans in ports;
- Advance Notification of waste by ships before entry into port;
- Mandatory delivery of ship-generated waste;
- Payment of fees by ships for the reception of their ship-generated waste;
- Exemptions for ships engaged in scheduled traffic with frequent and regular port calls;
- Inspections to verify that ships comply with the delivery requirements;
- Development of an information and monitoring system.

These key elements seek to ensure that EU ports provide for adequate port reception facilities, as established by the waste reception and handling (WRH) plans, and to ensure that all ships

¹ OJ L 332, 28.12.2000, p.81.

² COM(2009)8 “Strategic goals and recommendations for the EU’s maritime transport policy until 2018”: <http://eur-lex.europa.eu/procedure/EN/197854>.

³ COM(2015) “Closing the loop - An EU action plan for the Circular Economy”: <http://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52015DC0614>; section 5.1 refers to the planned revision of Directive 2000/59/EC and how this should address the issue of marine litter from ships.

⁴ Decision No 1386/2013/EU of 20 November 2013; the EU also made international commitments for the reduction of marine litter, ref: Rio+20 conference and implementation of Sustainable Development Goals.

⁵ i.e. Contracting Parties to the MARPOL Convention: 152 states, representing 99.2% of the world’s tonnage.

deliver their ship-generated waste and cargo residues in the reception facilities in the ports, through mandatory delivery and an appropriate cost recovery system. The reporting of information on (intended) waste delivery from the ship to the ports is a key element for ensuring effective planning of waste reception and monitoring of mandatory delivery. For this, the PRF Directive requires the use of a notification form, identifying the ship-generated waste and cargo residues to be delivered and/or remaining on board based on the exception of sufficient storage capacity. To further safeguard the smooth operation of maritime transport and avoid undue burden on ships that are engaged in scheduled traffic with regular port calls, these ships may be exempted from some of the obligations of the Directive under specified conditions. The PRF Directive also provides for a monitoring and enforcement system, largely based on inspections. The establishment of an information and monitoring system should in the first place contribute to the identification of ships, which have not delivered their ship-generated waste and cargo residues.

1.2 Assessment and monitoring

The Commission has assessed the implementation and effectiveness of the PRF Directive over time. In a first phase, implementation reports were received from all Member States⁶. Subsequently, several workshops and discussions were organised with stakeholders and the European Maritime Safety Agency (EMSA)⁷ prepared a horizontal assessment report following a cycle of visits to Member States to verify the implementation of the Directive⁸.

In 2014, the Commission decided to undertake a REFIT Evaluation of the PRF Directive and to that end launched an evaluation study, which was completed in May 2015⁹. The objective of the REFIT evaluation was to assess the implementation and effectiveness of the PRF Directive. The evaluation addressed questions on the relevance, effectiveness, efficiency, European added value and coherence of the PRF Directive.

This report will present the study's main findings in relation to those questions, followed by the Commission views, as well as the recommended next steps.

2. THE MAIN FINDINGS FROM THE EVALUATION

The findings of the evaluation that are presented below have in some cases been made on the basis of assumptions that the impacts, as well as the benefits and costs can be fully attributed to the PRF Directive. In other instances data limitations have necessitated the application of comparable indicators for waste discharged at sea, or extrapolation of waste delivery volumes to EU level, which has had an impact on the robustness of the data presented and the conclusions which are drawn on this basis.

2.1 Has the Directive been relevant in view of its objectives?

⁶ Status reports on the implementation of Directive 2000/59/EC, which were submitted by Member States in 2006.

⁷ Workshop reports can be found at: <http://www.emsa.europa.eu/implementation-tasks/environment/port-waste-reception-facilities.html>

⁸ Horizontal Assessment Report – Port Reception Facilities Directive (Directive 2000/59/EC), EMSA, 2010, <http://ec.europa.eu/transport/modes/maritime/consultations/doc/prf/emsa-report.pdf>

⁹ Ex-post evaluation of Directive 2000/59/EC on port reception facilities for ship-generated waste and cargo residues, final report (Panteia/PwC, May 2015), available at: <http://ec.europa.eu/transport/modes/maritime/studies/doc/2015-ex-post-evaluation-of-dir-2000-59-ec.pdf>

The maritime transport sector contributes substantially to the presence of oily waste, sewage and garbage in the marine environment. It is estimated that operational discharges of ships make up 45% of the estimated total sum of oil flowing into the marine environment annually¹⁰. Sewage produced on board is particularly relevant as a waste type for passenger transport, with estimates ranging from 40-50 litres of sewage per passenger per day¹¹. On average 20% of marine litter (garbage) in the marine environment is of ship-based origin, with substantial differences between the different sea basins¹². Through the requirement of adequate port reception facilities, as well as the mandatory delivery of waste to those facilities, the PRF Directive aims to minimise the risk that ships discharge at sea. The combination of the mandatory delivery of waste and the provision of adequate port reception facilities on the one hand and incentives to influence delivery behaviour of port users on the other hand has proven relevant in view of the Directive's environmental objectives.

- *The obligation to provide for adequate port reception facilities coupled with the provision of mandatory discharge of waste to port reception facilities are relevant and necessary for achieving the overall objectives of the Directive, in that they correspond to generating fewer discharges of ship-generated waste and cargo residues at sea.*

2.2 Has the Directive been effective in reaching its objectives?

The availability of adequate port reception facilities and their operation and planning have generally improved with the introduction of regularly updated waste reception and handling plans. Based on the stakeholder surveys and previous EMSA reports¹³, it has been concluded that the capacity of ports in the EU to receive and handle the different waste types covered by the Directive has improved since the entry into force of the Directive. Ports in the EU are nowadays generally able to receive and handle the different waste types, with some exceptions as regards oily cargo residues and some specific types of hazardous waste. No detailed assessment has, however, been made of the extent to which the pre-existing situation has been improved as a result of the Directive. Despite the general improvements of port reception facilities, some issues remain problematic in the context of adequacy, in particular as regards the delivery of garbage (separation of solid waste on board versus no separate collection on land), capacity issues with regard to sewage and the reception of waste that falls under MARPOL Annex VI (residues from exhaust gas cleaning systems). Furthermore, the Directive has not been able to ensure the full engagement of all relevant stakeholders through appropriate consultation of those plans. Port users are often not sufficiently involved in the development, implementation and revision of the plans, so that their needs are not fully taken into consideration.

The PRF Directive has contributed to higher volumes of garbage (MARPOL Annex V) delivered to EU ports. The data indicate that in 2013 vessels are delivering more than double the amount of garbage delivered in 2004. Volumes of sewage delivery (MARPOL Annex IV)

¹⁰ GESAMP 2007, Report No. 75: Estimates of oil entering the marine environment from sea-based activities.

¹¹ Butt, N. 2007, "the impact of cruise ship-generated waste on home ports and ports of call: Marine policy 31.

¹² website DG ENV, EC: http://ec.europa.eu/environment/marine/good-environmental-status/decsriotor-10/index_en.htm

¹³ EMSA(2010) Horizontal Assessment Report – Port Reception Facilities (Directive 2000/59/EC); EMSA (2012), Study on the delivery of ship-generated waste and cargo residues (Ramboll).

to port reception facilities have been relatively stable, and overall a negative trend was found for oily waste (MARPOL Annex I) delivered to ports, with a steep decline from 2008 until 2010, after which the amount of oily waste delivered remained generally at the same level. At the same time the estimated discharges of oily waste at sea have gone down considerably, based on trends in the monitoring and detection of potential oil spills, which went down from an average of 10.77 spill detections per 1000km² in 2008 to an average of 3.89 spill detections in 2013. This trend is also influenced by technological developments in ship engines and fuels which are reducing the amount of oily waste on board ships. The increased volumes of garbage delivered to ports indicate a positive effect of the PRF Directive as to its objective to reduce discharges at sea. An external factor that is influencing the trend on sewage deliveries, is the increased capacity of cruise ships to treat sewage on board.

The variations in waste delivery are partly influenced by the cost recovery systems put in place by ports. These systems vary substantially between ports and regions in the way as regards the minimum indirect contribution in order to provide the required incentive not to discharge at sea. It has been demonstrated that considerably less waste is delivered to ports that apply the 100% direct fee system, by which waste fees are fully charged on the basis of the volumes delivered. Deliveries of oily waste under these systems in the period under review (2004-2013) only constitute half of the volumes delivered under the other cost recovery systems, whereas volumes of garbage delivered under the direct cost systems do not even constitute one third of the garbage volumes delivered under the other systems in place in EU ports. The large variety of cost recovery systems found across the various Member States, in particular the way in which the fee for waste disposal is being calculated, leads to less transparency for port users and gives rise to the perception that fees for port reception facilities are too high.

At the same time, there are substantial differences between ports and regions with respect to the interpretation and application of the mandatory delivery of ship-generated waste, as well as the application of the exemptions for ships that are involved in scheduled traffic. Whereas in some ports the waste delivery requirement is implemented strictly, in others the competent authorities do not require the delivery of all ship generated waste as foreseen by the Directive, and tend to make an exception for the delivery of sewage, which can be discharged at sea under the operational requirements of MARPOL. Differences in the implementation of the exemption regimes, in particular in applying the criteria for granting an exemption, have an impact on the effectiveness of the waste management operations and may cause undue delay to ships. The data also show that there is insufficient guarantee that delivery arrangements are in place, as required by the Directive in case of exemptions, which results in a reduction of waste deliveries to ports. Data support that these differences have created limitations to the overall effectiveness of the Directive in terms of a reduction of waste deliveries, but are not detailed enough to provide the extent to which this has happened.

➤ *The PRF Directive has only been partially effective to achieve the intended goals.*

2.3 Has the Directive achieved its objectives in an efficient way?

Although the benefits of the PRF Directive are apparent, i.e. all waste that is not discharged at sea can be considered a direct benefit to society, quantification of the benefit is a challenge. The Evaluation compared the benefits of “garbage not discharged at sea”, which were based on an estimation of clean-up costs¹⁴, to the annual costs related to the implementation of the PRF Directive¹⁵, which were primarily associated with the requirement of the waste notification and the development of the waste reception and handling plans. The comparison has shown that the benefits largely outweigh the costs of implementation. The difference between benefits and costs, estimated at 71 million EURO annually, is primarily based on the avoidance of garbage discharges at sea and would be significantly larger if benefits from avoiding oily waste and sewage discharges were also included in the estimation. It should also be noted that these are very general estimates, as further described in the study report.¹⁶

However, it was found that ports and inspection authorities make insufficient use of the information reported through the advance waste notification and that the information is not systematically exchanged between the competent authorities of Member States to provide the basis of efficient monitoring and enforcement. This raises legitimate questions on the proportionality of this measure. At the same time, the reporting of the waste notification through the National Single Window set up under the Directive 2010/65/EC of the European Parliament and of the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States (the Reporting Formalities Directive), became mandatory in June 2015. The National Single Window is expected to reduce time spent by ships and port authorities on advance notifications thus reducing the administrative burden. In addition, it is expected to improve the exchange of information between competent authorities. The development and evaluation of the waste reception and handling plans is considered an issue for a large number of smaller ports¹⁷, which often lack the resources to draft detailed plans covering all the aspects as required in the Directive. Assessments have shown that less than half of the plans from smaller ports included an assessment on the need for port reception facilities and descriptions of the type and quantities of waste accepted. This raises important questions about the feasibility for smaller ports to comply with the requirements of the Directive, also justifying further consideration of the impact on the position of smaller ports in view of the overall objectives of the Directive.

- *Even though the costs associated with the implementation of the Directive are generally outweighed by the benefits generated, the costs are not always proportionate to what is being gained from complying with the Directive.*

2.4 Does the Directive generate EU added value?

Incorporating the international (MARPOL) requirements into EU law allows for harmonising their implementation in Member States, as well as effective compliance control within the EU. Furthermore, the Directive provides a number of additional obligations, in particular the mandatory delivery of waste in ports. As such, the PRF Directive is designed to offer clear

¹⁴ Estimated clean-up costs amounted to 297.0 million EURO.

¹⁵ Estimated implementation costs amounted to approximately 226.0 million EURO.

¹⁶ See: <http://ec.europa.eu/transport/modes/maritime/studies/doc/2015-ex-post-evaluation-of-dir-2000-59-ec.pdf>, p.p. 70 ++

¹⁷ According to EMSA studies in 55% of the Member States waste reduction handling plans have not been developed or implemented in particular in fishing and recreational ports, and in a smaller number in small commercial ports.

EU added value beyond MARPOL in creating common provisions for ports and their Member States in response to the MARPOL requirements. These provisions have the objectives not only of banning illegal discharges at sea, but also of reducing the overall operational discharges. This is done through the implementation and enforcement of the common provisions of the PRF Directive, as well as through the regular exchange of good practices. In practice, however, Member States have interpreted key elements of the PRF Directive in different ways, in particular the principle of mandatory delivery, the requirements on cost recovery systems and the provisions on inspections. Due to these divergent practices in implementation and enforcement, the PRF Directive does not realise its full potential added value at EU level. This shortfall is significant, given that the differences in implementation result in different levels of waste delivered to ports. As a consequence, the objective of the Directive is not attained to the same level in all Member States, thereby also undermining the added value of the Directive compared to the international obligations.

- *Although the PRF Directive offers EU added value, this has not been fully achieved as intended.*

2.5 Is the Directive coherent with other pieces of relevant EU legislation?

The PRF Directive complements Directive 2005/35/EC of the European Parliament and of the Council on ship-source pollution and on the introduction of penalties, including criminal penalties, for pollution offences, which bans illegal discharges of MARPOL Annex I and II and requires that those responsible are subject to appropriate penalties. Furthermore, the PRF Directive is generally coherent with the objectives set by EU environmental legislation, in particular the Directive 2008/56/EC of the European Parliament and of the Council establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) and the Directive 2008/98/EC of the European Parliament and of the Council on waste and repealing certain Directives (the Waste Framework Directive). The Directive is instrumental in achieving progress on the indicators monitored in the Marine Strategy Framework Directive, including the reduction of marine litter from sea-based sources. In spite of this, a number of incoherencies exist in relation to more specific provisions of EU waste legislation. In view of international developments towards more environmentally sustainable practices on-board ships, the different approaches employed on land under EU waste legislation have caused inefficiencies in the collection and handling of the waste in port reception facilities. In addition, there are a number of other discrepancies between the PRF Directive and land-based waste legislation, notably in the area of competences at national and local/municipal level and definitions of the different waste types, which have a negative influence on the collection and handling of waste by port reception facilities on the one side and the delivery of waste by port users on the other side. .

A more specific issue has been identified in relation to the Council Directive 1999/32/EC as regards the sulphur content of marine fuels, as amended by Directive 2012/33/EU, which necessitates adequate reception facilities for the waste from ships using exhaust gas cleaning systems. The PRF Directive does not include this specific waste type (MARPOL Annex VI) in the scope of ship-generated waste and therefore cannot perform this supportive function.

This is considered an important omission as the Member States are under pressure to deliver on their MARPOL obligations and fully implement Directive 2012/33/EU.

Finally the coherence with the Reporting Formalities Directive was examined, taking into account the mandatory reporting of the waste notification into SafeSeaNet through the National Single Window, which has been operational since June 2015. However, the existing inconsistencies in waste definitions between the PRF Directive and MARPOL have resulted in the development of complicated reporting forms and procedures to comply with the different requirements at international and EU level. These could be simplified to a large extent, if the inconsistencies were removed.

- *Despite the fact that the PRF Directive contributes to the same objectives as pursued by other relevant EU legislation based on different legal approaches, the identified inconsistencies affect considerably complicate the practical implementation of the PRF Directive which is therefore only partially coherent with other EU legislation.*

3. THE COMMISSION'S VIEWS

In this chapter the Commission will present its views on the different findings and conclusions from the study, as well as on the quality of the study and the soundness of the evidence collected.

The Commission has identified a number of key problems that will need to be addressed in order to ensure that the Directive can deliver on its main objective: reducing discharges into the sea in order to protect the marine environment. These issues broadly fall in the following three categories:

1. The availability of adequate port reception facilities;
2. The delivery of ship-generated waste to port reception facilities;
3. The administrative burden associated with the functioning of the Directive.

3.1 The availability of adequate port reception facilities

Adequate port reception facilities are a *sine qua non* condition for increasing the delivery of waste onshore and reducing discharges at sea. The Commission recalls that the Directive describes “adequacy” of reception facilities as being “capable of receiving the types and quantities of ship-generated waste and cargo residues from ships normally using a port”. However, there still remain questions around the exact meaning of this concept, as well as problems in terms of the reception and handling of waste. In particular, the following issues are posing a challenge to ensuring adequacy of the facilities:

- The increased use of exhaust gas cleaning systems, also referred to as "scrubbers", to reduce air pollution from ships, as required since 2012 under Council Directive

1999/32/EC as regards the sulphur context of marine fuels¹⁸, necessitates adequate reception of the waste generated by these systems in port reception facilities. However, the mandatory discharge requirements of the Directive is currently not applicable to the waste generated by scrubbers;

- Waste segregated on board in accordance with international norms and standards (mainly ISO standards) is not separately collected on land. This inconsistent application discourages compliance with the international norms for the segregation of waste on board of ships.
- waste reception and handling plans developed by ports and approved by the relevant (local) authorities do not always sufficiently take into account the waste hierarchy as required by the Waste Framework Directive¹⁹, as it is not properly reflected in the PRF Directive, which also leads to inefficiencies between ships and ports. The great differences in the size of ports in the EU may further contribute to this inconsistent application.
- Port users are not always properly consulted *on a continuous basis* in the development and implementation of waste reception and handling plans. Although the Directive expressly requires consultation of the relevant parties at the stage of development of a new plan, it is less clear on consultations at the stage of evaluation and re-approval. The lack of consultation often contributes to perceived inadequacies in port reception facilities.

3.2 The delivery of waste to port reception facilities

The delivery of all ship-generated waste to port reception facilities is one of the cornerstones of the PRF Directive and can be ensured through strict monitoring and enforcement of the mandatory delivery of ship-generated waste, as well as through the use of effective incentives.

There are still substantial differences between the various ports and between Member States in the interpretation and implementation of these elements of the PRF Directive, in particular the scope of the mandatory delivery principle and the inclusion of sewage, the mandatory principles in the cost recovery systems and the provisions on enforcement.

3.2.1 Monitoring and enforcement

The relationship between the Directive's mandatory delivery requirement, which applies to "all" ship generated waste, and the MARPOL discharge norms, in particular when the next port of call is a non-EU port, remains unclear. Furthermore, the exception from the mandatory delivery requirement based on "sufficient storage capacity" has also led to confusion among

¹⁸ Directive 1999/32/EC was amended by [Directive 2012/33/EU](#) of the European Parliament and of the Council of 21 November 2012.

¹⁹ The EU Waste Framework Directive prescribes that waste legislation and policy of the EU Member States shall apply the waste management hierarchy, whereby waste prevention, followed by re-use and recycling are given priority over recovery and disposal.

port users and port authorities. The existing ambiguities have resulted in inconsistent monitoring and enforcement of one of the key elements of the Directive.

PRF inspections should in the first place be based on the information notified through the advance waste notification. Since Member State authorities do not always use the information notified for this purpose or do not share the information with the enforcement bodies, it becomes difficult to select ships for inspection based on the criteria laid down in the Directive.

Although the Directive provides that PRF inspections may be conducted within the framework of the Port State Control Directive²⁰, the inspections under PRF are not Port State Control inspections (i.e. they go beyond checking the international requirements and certificates). The correct application and enforcement of the Directive has to be ensured, applying specific criteria and using checklists based on the PRF Directive. This has created legal uncertainties and is an important cause for the fact that in reality less PRF-compliance inspections are being conducted than required by the PRF Directive. At the same time the minimum 25% inspections referred to in the Directive is no longer in line with the approach for Port State Control inspections, which provides for the effective targeting of vessels based on their risk profile.

Finally, not all port authorities keep track of the specific amounts of waste delivered to their port over time, as the electronic means for doing this are generally not in place and there is no legal requirement to do so. Ports that collect this information act on the basis of their own data needs, using their own units of measurement, which complicates the monitoring of compliance and progress with the overall objectives and requirements of the PRF Directive. In particular, this data is necessary to be able to monitor compliance with the mandatory discharge requirement of the Directive, as well as to assess the effectiveness of the Directive in terms of amounts and types of waste delivered to PRF.

3.2.2 Use of incentives

The Directive requires that the costs of port reception facilities to be covered through the collection of a fee from ships. In order to ensure that the cost recovery systems provide no incentive for ships to discharge their waste into the sea, all ships have to contribute significantly to the costs of the facilities, irrespective of their actual use of the facility ("the indirect contribution"). At the same time, ports have the possibility to differentiate on basis of the category, type and size of the ship, as well as on the basis of the environmental performance and operation (reduced fees for ships producing reduced quantities of waste).

Although generally there is a need for more alignment on how the different principles and incentives of Article 8 are interpreted and applied, the Commission is of the opinion that the local and regional differences between ports call for a certain flexibility in terms of the type of cost recovery system in place, provided that the requirement of the indirect contribution is respected.

Furthermore, the non-transparent nature of the fees, and the basis of their calculation, is an issue of concern, since this leads to the fees not being perceived as "fair, non-discriminatory

²⁰ Directive 2009/16/EC of the European Parliament and of the Council on port State control (OJ L 131, 28.5.2009, p. 57).

and reflecting actual costs", as required by the Directive (Article 8 (3)). Irrespective of the type of cost recovery system in place, ports need to be transparent in the calculation of the costs charged to port users for waste handling²¹. Often, however, the relationship between fees charged to ships and the costs of PRF is unclear.

3.3 Administrative burden

The costs for stakeholders to comply with the PRF Directive, which are mostly linked to the costs of inspection and the advance waste notification are outweighed by the benefits.. However, there is still potential for reducing the administrative burden faced by the main stakeholders, i.e. port users and port operators/authorities.

3.3.1 Inconsistent and incomplete definitions

There are differences in definitions used in the Directive and those contained in the MARPOL Convention. This is particularly the case for the definition of "ship-generated waste" in the Directive, which only covers certain categories of waste contained in MARPOL (Annex I, IV and V), and the definition of "cargo residues" which apart from the MARPOL Annex V cargo residues also covers the remnants of cargo material after cleaning operations, and thus also tank washings falling under MARPOL Annex I and II.

The current misalignment between the Directive and MARPOL creates confusion among the different actors in implementing the Directive, while at the same time complicates compliance with the MARPOL norms and requirements. For example, the differences in definitions hinder the full alignment with the IMO circular for the waste notification, as there are significant differences in the different categories of waste and cargo residues. This creates an unnecessary administrative burden for port users being confronted with different forms and reporting requirements depending at which port they call.

3.3.2 Different procedures for exemptions

Different procedures are employed to evaluate exemption requests across the EU, which may increase the administrative burden on port users, while limiting the potential for relevant authorities in different Member States to cooperate.

The parameters for granting exemptions under Article 9 of the Directive are not well defined and leave room for different interpretation and application by MS. Different criteria are thus employed to evaluate exemption requests across the EU, which leads to an increased administrative burden on port users, while limiting the potential for relevant authorities in different Member States to coordinate the exemptions granted to vessels. The poor coordination is also due to an insufficient exchange of information between competent authorities in the Member States, which may lead to problems when assessing whether the conditions for granting exemptions are fulfilled. The inconsistent application and the lack of

²¹ As also provided for in the Commission Communication "Ports: an engine for growth" (COM(2013) 295), as well as in the accompanying proposal for a Regulation establishing a framework on market access to port services and financial transparency (COM(2013) 296).

information exchange result in a disproportionate administrative burden on both port users and Member State authorities.

3.4 Quality of the study

The Evaluation study fully addresses and responds to the evaluation questions. Data limitations and resulting limitations in the analysis have been clearly described.

For the evaluation study a wide range of relevant studies and reports on the functioning of the Directive has been assessed, and the analysis has provided comprehensive insights on the functioning of the Directive. Data extracted from these reports have been correctly presented, and the quality of the data was checked and ascertained. All relevant stakeholders have been consulted through targeted consultations. The conclusions in the study are based on transparent criteria and sound analysis.

Data gaps exist for volumes of waste discharged at sea. Proxy indicators were used to assess garbage discharge and oil spills. These indicators however, cover potential discharges and did not allow assessing the contribution from ships to the generation of marine litter versus the contribution from land-based sources, nor do they give an exact estimation of waste discharge leading to a potential over-estimation. No indicator could be identified for sewage discharge leading to an underestimation of waste discharge. The benefits were calculated on the basis of the costs of clearing beaches from garbage leading to a potential underestimation of costs.

Limitations exist in relation to the data on waste delivery volumes. Even though a sample of ports representative of size and geographical location has been used to assess waste delivery volumes, the ports chosen are not necessarily representative for waste deliveries. This results into lack of robustness of the extrapolated waste delivery volumes at EU level.

The costs of using port reception facilities were often not disclosed. Thus, there are limitations on assessing the largest cost factor, the cost of waste delivery, reception and handling.

Both discharge at sea and waste delivery volumes were used in the cost/benefit assessment which therefore only gives an indication of the cost/benefit relation but not a reliable calculation of occurring costs and benefits.

In relation to administrative burden qualitative data from questionnaires, interviews and reports allowed the identification of factors that lead to administrative burden, however, quantitative data are missing to assess the extent of the burden.

4. FOLLOW UP ACTION

The Commission envisages a two-stage approach for responding to the problems identified: 1. a short/medium term response, mainly through soft law, and 2. a longer-term response, through a full legislative revision of the Directive.

4.1. Short/medium term measures

A number of measures are being considered for the short to medium term. These include a revision of the waste notification contained in Annex II of the Directive, the development of a set of interpretative Guidelines, as well as the further development of an EU wide information and monitoring system.

4.1.1 Revision of Annex II of the Directive (waste notification)

To address the lack of data on the actual delivery of waste to port reception facilities, as well as the obsolete categories contained in the waste notification form, a Commission Directive was adopted to amend Annex II of the PRF Directive²². This measure is based on Article 15 of the Directive, which allows for the Annexes of the Directive to be amended, to bring them in line with IMO measures, as long as the amendment does not broaden the scope of the Directive. The objective of this revision was to bring Annex II in line with the latest changes in Annex V of MARPOL, which introduced a new categorization of garbage, and to incorporate information on types and quantities of waste delivered. However, it should be noted that full alignment with MARPOL is only possible through a legislative revision, as this would involve changing some of the definitions in the Directive.

4.1.2 Development of Interpretative Guidelines

To address the differences in interpretation and implementation of the main provisions of the Directive, the Commission is developing some Guidelines on the interpretation of the PRF Directive. In these Guidelines the Commission will set out its views on how certain concepts and obligations in the Directive should be implemented. In particular, the Guidelines would cover the adequacy of port reception facilities (Article 4); the development and monitoring of the waste reception and handling plans (Article 5); the implementation and enforcement of the mandatory delivery of ship-generated waste (Article 7 and Article 11); as well as the application of exemptions (Article 9)²³..

4.1.3 Development of the Common Information and Monitoring System

To achieve an effective exchange of information between Member State authorities and allow for a proper monitoring and enforcement of the Directive, the Commission has asked EMSA to further develop the system as required by Article 12(3) of the Directive by building as much as possible on existing databases, which are used for this purpose. This concerns a further integration of reporting into the SafeSeaNet system (SSN), as well as the development of a separate module for PRF inspections within THETIS (The Port State Control information system) and linking this module to SSN. The information that will become available through

²² Commission Directive (EU) 2015/2087 of 18 November 2015 amending Annex II to Directive 2000/59/EC, OJ L 302, 19.11.2015, p. 99.

²³ In parallel, EMSA will provide additional technical guidance and best practices developed in Member States on the application of this Directive as part of "Technical Recommendations on Directive 2000/59/EC on port reception for ship generated waste and cargo residues".

the revised waste notification of Annex II (see above) is expected to facilitate the operation of the system and make the monitoring of the Directive more effective.

4.2 Legislative revision of the Directive

Some of the shortcomings identified in the Evaluation of the Directive can only be addressed through a legislative proposal.

To this end the Commission has started the process of conducting an Impact Assessment that will analyse and measure the different options for such a proposal.