
The Open Public Consultation (OPC) on the Impact Assessment for the revision of Directive 2000/59/EC on port reception facilities was launched by the European Commission on 13 July 2016 and remained open until 16 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. The OPC questionnaire was made available via the European Commission Open Public Consultations website and the DG MOVE website. The external contractor (Ecorys NL) commissioned to produce a support study to assist the Commission in the Impact Assessment for the revision of Directive 2000/59/EC on port reception facilities (“PRF Directive”) also promoted the OPC questionnaire to the stakeholder contacts made for the purpose of the study (i.e. interviews, targeted stakeholder categories, etc.).

General information about the respondents

1. The Commission received 79 responses\(^1\). The respondents came from 15 Member States and from 2 non-EU countries (United States and Norway).

2. As this OPC addressed a technical directive, it was expected that the general public would not be a major participating party in the OPC and this appeared to be the case. In fact, from all the respondents, only 5 filled in the survey under their personal capacity. In addition, only 5 of the respondents did not belong to one of the identified

\(^1\) Two (02) additional responses were received after the submission deadline and were taken into account separately, bringing the total number of responses to 81.
key stakeholder groups and only 3 respondents indicated that they knew very little about the current PRF Directive, indicating a high level of expertise among the respondents.

3. One third of the responses were given on behalf of Port Authorities and their associations (26 out of 81 respondents, i.e. 33%) which appear to be the group most interested in the revision of the PRF Directive. The port users also participated (i.e. Shipowners and their associations – 16%), the port reception facilities operators and their associations (13%), the Member States authorities (13%) and a few Non-Governmental Organisations (5%).

Table 1: Classification of stakeholders responding to the public consultation

<table>
<thead>
<tr>
<th>Stakeholder category</th>
<th>Number of responses</th>
<th>% of responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>European &amp; National shipping Associations</td>
<td>4</td>
<td>5%</td>
</tr>
<tr>
<td>Ship-owners/operators</td>
<td>9</td>
<td>11%</td>
</tr>
<tr>
<td>Port associations</td>
<td>3</td>
<td>5%</td>
</tr>
<tr>
<td>Port authorities</td>
<td>23</td>
<td>28%</td>
</tr>
<tr>
<td>PRF operators associations</td>
<td>2</td>
<td>2%</td>
</tr>
<tr>
<td>PRF/ waste operators</td>
<td>8</td>
<td>10%</td>
</tr>
<tr>
<td>Member State (all relevant agencies, including ministries and inspectorates)</td>
<td>11</td>
<td>14%</td>
</tr>
<tr>
<td>National government from non-EU Member State (including acceding and candidate countries)</td>
<td>2</td>
<td>2%</td>
</tr>
<tr>
<td>Environmental and all other NGOs</td>
<td>4</td>
<td>5%</td>
</tr>
<tr>
<td>Other (private sector &amp; industry associations)</td>
<td>10</td>
<td>12%</td>
</tr>
<tr>
<td>Personal Capacity</td>
<td>5</td>
<td>6%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>81</strong></td>
<td><strong>100%</strong></td>
</tr>
</tbody>
</table>

Moreover, as part of the public consultation seven position papers were received from a variety of stakeholders including industry associations and private companies.

**Overview of Responses**

1. **The current functioning of the EU system of port reception facilities was addressed in the second part of the OPC questionnaire.** In general, most of respondents (60 out of 81) believe that port reception facilities are adequate in meeting the needs of ships regularly using them. On the other hand, 14 respondents replied that port reception facilities are inadequate in meeting the needs of ships regularly using them while 7 others had no firm opinion. However, the picture becomes more complicated when it comes to adequacy of the port reception facilities to the prevention and control of pollution of the marine environment per waste type
(i.e. MARPOL Annexes). In this regard, 59 respondents consider that port reception facilities across Europe contribute adequately to the prevention and control of pollution of the marine environment due to MARPOL/Annex I type of ship-generated waste, 39 consider the same for MARPOL/Annex IV waste, 63 for MARPOL/Annex V, 17 for MARPOL/Annex VI and 35 for Cargo Residues. As regards the costs to be incurred for the use of EU port reception facilities the views are rather divided (32 believe the PRF provide good value for money vs 25 who believe PRF are generally too costly to provide or use) while 24 respondents have no firm opinion.

2. With regard to the identification of the problems and the drivers contributing to these problems the following graph summarizes the respondents’ replies about the major contributing factors to the (illegal) discharges of ship-generated waste and cargo residues at sea. It appears that incentives and enforcement are considered as being the most important factors followed by the non-suitable for purpose port reception facilities, exemptions and, finally, inconsistent and outdated definitions in the Directive.

3. A number of contributing factors to the aforementioned problems have been identified and scored by the respondents accordingly:

(3a) With regard to the PRF not being always suitable for purpose or available the following drivers were scored:
The increased use of exhaust gas cleaning systems requires adequate reception of the sludge generated. However, the mandatory discharge requirement of the Directive is currently not applicable to the waste generated by scrubbers.

Waste Reception and Handling (WRH) plans developed by ports and approved by the relevant competent authorities do not always take the waste hierarchy into account, as required by the Waste Framework Directive. This can lead to inefficiencies at the sea-port interface, such as waste segregated on board which is then not collected separately on land.

Port users are not always properly consulted on a continuous basis in the development and implementation of WRH plans.
(3b) With regard to the problem of “(cost) incentives not being sufficient for users to deliver waste and cargo residues in port reception facilities” the following drivers were scored:

- The lack of alignment in the implementation of cost recovery systems between ports (the obligations/principles laid down in article 8 of the Directive)

![Graph showing driver importance](image)

- Fees cannot be considered fair, non-discriminatory and do not reflect the actual costs of PRF, or the relationship between fees and costs is not clear (lack of transparency)

![Graph showing driver importance](image)

(3c) With regard to the problem of “insufficient and ineffective enforcement of the mandatory delivery of ship generated waste” the following drivers were scored:

- Unclear definition of “sufficient storage capacity”

![Graph showing driver importance](image)
- The inconsistency between the Directive’s mandatory discharge requirement (for “all” ship generated waste) and the MARPOL discharge norms

- The insufficient use and inspection of waste notification forms by the relevant authorities causes that this data is not used for selecting ships for inspection

- Legal uncertainties regarding the inspection framework lead to less PRF inspections being conducted than required
- Insufficient reporting on quantities and types of waste delivered to EU ports, as well as insufficient exchange of information, given that a Common Monitoring and Information System is not yet fully developed.

(3d) With regard to the problem of inconsistent and outdated definitions in the Directive, the following drivers were scored:

- Differences between definitions used in the Directive and those contained in the MARPOL Convention, as also reflected in the different forms employed. In particular what is included in the definition of "ship-generated waste" in the Directive, as well as the definition of cargo residues.

- Insufficient exchange of information between competent authorities on waste volumes delivered, as well as results from inspections. Insufficient information made available to port users on the availability of adequate PRF.
(3e) With regard to the problem of inconsistent application of exemptions for ships in scheduled traffic the following drivers were scored:

- The parameters and conditions for granting exemptions are not well defined and are interpreted differently across Member States

4. **In the third part of the OPC the role of the EU was evaluated.** Almost all the respondents consider the PRF Directive to be, in general, useful in terms of decreasing the (illegal) discharges of ship generated waste and cargo residues at sea, compared to what could be achieved by Member States at national and/or regional level. On the issue of the extent to which the issues addressed by the PRF Directive continue to require action at EU level, 50 respondents consider that EU action is still mostly and fully required, 27 consider that it is only partially required, while 3 consider that it is not required.

5. The picture is quite fragmented when it comes to what is the most appropriate level to take action to address the identified problems. The views of the respondents significantly vary as presented in the following graphs (identified problem and preferred level of action):

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2 There was one respondent with no opinion on this issue.
Port Reception Facilities are not always suitable for purpose and/or available to receive and handle the waste and cargo residues delivered by ships.

Insufficient (cost) incentives for ships to deliver the waste to Port Reception Facilities.

Ineffective and insufficient enforcement of the mandatory waste delivery requirements.

Insufficient means for the electronic reporting and exchange of information on waste deliveries and adequacy of PRF.
6. The final part of the OPC examined the various policy measures for a possible revision of the PRF Directive. Alternative policy measures were scored against how they address each driver:
(6a) Possible measures to address the driver of inadequate port reception facilities:

- **Broaden the scope of the Directive by including MARPOL Annex VI waste** (residues from exhaust gas cleaning systems or “scrubbers”)

- **Introduce an explicit reference to the waste hierarchy presented in the Waste Framework Directive, and require separate collection of waste which has previously been segregated on board, as a way to align to sea port interface.**

- **Strengthen the requirements for systematic and regular consultation of stakeholders in the development and updating of waste reception and handling (WRH) plans**
- Provide for exception to the delivery obligation in case of exceptional circumstances where PRF are temporarily unavailable

- Addressing consultation requirements in the PRF Interpretative Guidelines, supplemented by an exchange of good practices of port user involvement

- Extend the electronic Monitoring and Information System by including information on adequate PRF from the Waste Reception and Handling Plans to be made available to port users

(6b) Possible measures to address the driver of incentives being insufficient for ships to deliver waste to port reception facilities:
Introduce the use of a shared methodology, either at EU level or at regional (sea basin level), to calculate the fee charged to port users, by providing a more specific definition of 'indirect contribution'.

Require higher levels of transparency on the cost elements included in the fee charged to port users for the use of port reception facilities through publication in the waste reception and handling (WRH) plans.

Create incentives for measures that reduce the volume of waste produced on-board. For this the current requirements for green ships have to be further improved by setting minimum criteria for a more uniform definition of the "Green Ship" concept.
- Create incentives for the delivery of all waste from fishing vessels to port reception facilities (including waste from fishing operations) by either providing a specific reduction of the fee for passively fished waste or including fishing vessels in the indirect payment scheme as well as the waste notification requirement.

- Create incentives for the delivery of all waste from small recreational crafts by including these vessels in the indirect payment scheme as well as the notification requirement.

- Create an economic incentive for the delivery of ship generated waste to a port reception facility (in addition to the incentive not to discharge at sea).

- Define the minimum percentage for the indirect contribution by ship owners to the costs of port reception facilities in the Directive.
Define the principles and calculation methodology of the cost recovery systems, as well as the green ships concept in PRF Guidelines

(6c) Possible measures to address the driver of insufficient and ineffective enforcement:

- Align the mandatory delivery requirement with the discharge provisions in MARPOL, so that only the waste that cannot be discharged under MARPOL shall be delivered to PRF

- Replace the 25% minimum inspection requirement with a risk based approach for PRF inspections in line with the new inspection regime under the Port State Control Directive

- Improve the electronic reporting and exchange of information on waste deliveries and inspection results, to allow for a targeting mechanism to be developed
➢ Require waste operators to issue a waste receipt after each delivery, in line with the IMO Circular 645/rev, in order to improve the reporting of accurate information on types and quantities of waste being delivered in ports.

➢ Seek further consistency between the PRF Directive and Directive 2005/35/EC (ship-source pollution and penalties from infringements) on the introduction of penalties including criminal sanctions, by aligning in terms of scope and measures.

➢ Addressing the use of requirements in the PRF Interpretative Guidelines, supplemented by an exchange of good practices of port user involvement.

➢ Extend the existing Common Information and Monitoring System in order to include all the relevant information which enables an effective monitoring and enforcement of the mandatory delivery of ship generated waste.
(6d) Possible measures to address the driver of unnecessary administrative burden and costs for authorities, ports and port users:

- **Align the definitions used in the Directive with those contained in MARPOL, in particular as regards those for “cargo residues” and “ship generated waste”**

- **Align/update the notification form (Annex II of the PRF Directive) to reflect the IMO standard and its definitions and categories**

- **Promote the electronic reporting and exchange of information on waste deliveries to enable more effective monitoring and enforcement**
Possible measures to address the driver of inconsistent application of exemptions for ships in scheduled traffic with frequent and regular port calls:

- **Develop common criteria to be applied for the approval of exemption requests**

- **Mandatory reporting and exchange of information on exemptions through the Common Information and Monitoring System**

- **Introduce an option to exempt vessels that operate exclusively within one port (tug vessels, pilot vessels, etc.)**

- **Addressing requirements in the PRF Interpretative Guidelines, supplemented by an exchange of good practices of port user involvement**

Other stakeholder consultation activities
The results of the OPC provide an indication of the views collected by the most interested stakeholders. However, they need to be read together with the results of other stakeholder consultation activities in the context of the Impact Assessment for the revision of Directive 2000/59/EC on port reception facilities i.e. the targeted (impact) surveys\(^3\), the interviews with key stakeholders\(^4\), the selected case studies\(^5\), the territorial Impact Assessment through an expert workshop\(^6\) and the work of the “PRF subgroup of the European sustainable Shipping Forum (ESSF)”. The results of these other stakeholder consultation activities will be summarised in a synopsis report and published at a later stage.

**Disclaimer**

*The contributions received in the response to the OPC and summarised above cannot be regarded as the official position of the Commission and its services on the Directive or any aspects thereof; and, thus, they do not bind the Commission in any way.*

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\(^3\) The targeted surveys were directed towards all stakeholder categories (including fisheries and marina organisations in a separate survey), focusing on the expected impacts (economic, environmental, social) of the proposed policy measures. The scope of the surveys was narrower and more in-depth than the OPC.

\(^4\) Interviews have been conducted with a series of stakeholders representing the various sectors involved to obtain their views on the possible measures and their expected impacts.

\(^5\) Five case studies have facilitated a verification of the findings of data and MARWAS runs and a more detailed assessment of impacts of the policy measures.

\(^6\) Directorate General of Regional and Urban Policy (DG REGIO).