



ESPO views on the revision of Directive 2000/59/EC

on Port Reception Facilities for ship-generated waste and cargo residues

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1. Introduction

Directive 2000/59/EC aims to reduce the discharges of ship-generated waste and cargo residues into the sea by improving the availability and use of dedicated reception facilities in the European ports. The directive entered into force in the Members States in 2002 and had indeed a positive contribution towards decreasing waste discharges from vessels at sea. The Commission is now in the process of revising the directive and a proposal is expected in 2017. In this position paper the European Sea Ports Organisation (ESPO) sets out a number of remarks in relation to the ongoing review process.

ESPO promotes pro-active behaviour of port authorities in the field of environment. Waste management and ship generated waste are top priority items for the European ports as identified in consecutive ESPO surveys over the last 20 years¹. In line with this, the ESPO Green Guide² includes a chapter providing guidance on port waste management.

ESPO has been closely involved in the original drafting process of Directive 2000/59 and, together with other stakeholder organisations such as IAPH, ECSA and EuroShore, organised a series of workshops (in 2001, 2008, 2010 and 2014) dedicated to finding optimal, and where possible, uniform solutions on the provision of adequate port reception facilities. Furthermore, ESPO co-chairs the subgroup on Port Reception Facilities under the umbrella of the European Sustainable Shipping Forum (ESSF).

2. In a nutshell

The main messages of ESPO in the light of the revision of the directive are:

- **The spirit and objectives of the directive** are still valid but better definitions, clarifications and guidance are needed.
- The discussion over the “**adequacy**” of existing port reception facilities needs to be concrete and evidence based. Most **challenges lie upstream in the waste treatment chain** and the ports are part of the solution and not of the problem.
- **Properly consulted and clearly communicated waste reception and handling plans** are key.
- Imposing **one single fee system over Europe is not an option** but ESPO supports the clarification of the principles guiding the implementation of the fee systems.
- **ESPO pleads for strengthening the information and monitoring system.**

¹ http://www.espo.be/media/news/ESPO_EcoPorts%20Port%20Environmental%20Review%202016.pdf

² <http://www.espo.be/publications/espo-green-guide-towards-excellence-in-port-enviro>



- The **inclusion of new types of waste** in the different provisions of the directive should be **carefully considered in consultation with the industry.**

3. Objectives and principles are still relevant and valid, targeted improvement are needed

ESPO supports the objectives and broad principles of the current text of the Directive that remain appropriate and valid. ESPO acknowledges however that there is scope for targeted revision in order to align the Directive with the international developments at IMO level and the new MARPOL annexes (setting classifications of waste types) and in order to provide further clarification on specific definitions and principles.

- **ESPO is not therefore favouring a major revision of the text of the directive but rather targeted improvements.**

4. “Adequacy” of port reception facilities: the challenges lie upstream the waste chain

One of the key provisions of the PRF directive is the obligation towards the Member States to ensure the availability of adequate port reception facilities to meet the needs of the ships normally visiting their ports (article 4). Member States shall also establish procedures for the reporting of any inadequacies by the users. An overview of the reported inadequacies should also be communicated to the Commission by the Member States.

A. Ship-owners make often **general statements over the inadequacy** of some of the port reception facilities. Such general statements tend to ignore the good practices that exist in the majority of European ports. In addition, they do not assist in concretely identifying the existing problems. European Port Authorities believe that problems with inadequate facilities need to be identified and illustrated on the basis of concrete examples and evidence. Such evidence can be provided through the established mechanisms for reporting inadequacies and the relevant complaints forms that are provided in the ports and through the summaries of these complaints that the Member States are obliged to periodically report to the European Commission. These mechanisms are not always used apparently by the port users. This feedback would help the ports to assess the current performance of the facilities and to make follow up enquiries to the waste collectors targeting the improvement of the facilities.

- **ESPO therefore encourages the port users to provide their feedback on the adequacy of port reception facilities by using the available forms.**

B. Another common debate on adequate port reception facilities relates to the **reception of segregated waste** from the vessels. It is true that in a number of ports/countries, waste that has been segregated on board of ships is not collected separately. Two concrete examples of such problems have been identified by ESPO.



- First, in some Member States, national legislation prescribes that waste from international shipping has to be jointly collected and treated (e.g. such waste needs to go for deep burial). It is clear that in such a situation the port authority has no other option than to comply with the national legislation.
- Secondly, the interpretation of some pieces of European legislation can also add to the segregation challenge. The Regulations (EC) 1069/2009 and 142/2011 governing animal by-products imply that food packaging material needs to be incinerated. Ship generated plastic includes such packaging material. As all plastic is jointly collected on board of vessels, some Member States consider that the ship generated plastic cannot then be recycled but needs to be incinerated in line with the regulations.

ESPO recognizes these problems but stresses that decisions regarding the reception of segregated waste in ports do not solely depend on the will of the port authorities. Such decisions are strictly related to the treatment of the given waste streams further in the chain in line with the applied national and/or European waste legislation. In that respect:

- **ESPO invites all industry stakeholders to identify all the specific challenges in relation to the reception of segregated waste in the different ports and Member States and to then jointly work towards addressing the concrete causes of these challenges.**
- Furthermore, **ESPO calls the Commission to clarify in particular the interpretation of Regulations (EC) 1069/2009 and 142/2011** on what the treatment of plastic that is generated on board of ships is concerned.

C. Another example that shows that the challenges over the adequacy of port reception facilities have their routes upstream the waste treatment chain relates to the **ship generated oily waste**. Such waste is collected in ports, treated and then used as recycled oil by certain industries. Environmental legislation imposes restrictions in the use of this recycled oil and thus limits its potential uses. These restrictions, in combination with the current low oil prices pose significant challenges to the operators of the port reception facilities in finding markets to sell their recycled oil. This clearly undermines the aims of circular economy and poses challenges to the sustainability of the facilities for the collection of oily waste at ports.

- **ESPO calls the Commission to investigate the current restrictions in the use of recycled oil in line with the principles of circular economy.**

D. Another item of debate between ports and cruise and ferry lines in particular is the adequacy of reception **facilities for sewage**. For providing this service, ports need to use the existing sewage facilities of their surrounded municipalities. In some cases, municipalities demand certain content specifications for accepting the ship sewage in the municipal facilities. Due to the common practices on board of the vessels such specifications cannot always be met and it is very challenging for the ports to transfer such requirements to the vessels.

- **ESPO calls therefore for close collaboration between ports, municipalities and cruise and ferry lines to ensure adequate reception facilities for sewage.**



E. Information over existing port reception facilities and the adequacy of available services is included in the waste reception and handling plans and/or in key summaries of those in the ports' websites. It is true however, that the port users rely at large to their agents for the provision of accurate information on port reception facilities. The users' perception then on the adequacy of facilities is influenced by the **ships agents** who **have a crucial role in providing accurate information**.

- **ESPO believes that providing accurate information to the port users over the adequacy of port reception facilities is of paramount importance.**

5. Waste reception and handling plans: ESPO supports the provisions of the directive

Ports are obliged to produce waste reception and handling plans (article 5). Those need to describe and justify the available facilities, services and applicable cost recovery systems. The plans need to be evaluated and approved by the Member States on whether they fulfill the requirements that are set in Annex I of the directive.

ESPO considers the waste reception handling plans to be key for the successful implementation of the directive. It is crucial that the plans are developed and implemented in **open and transparent consultation** with the port users and all relevant parties as the directive prescribes. In order to provide valuable information to the shipping industry in time about location, capacities, opening hours, general fee structures and all other relevant information about the port reception facilities in a certain port:

- **ESPO encourages its members to make publicly available via their websites key information regarding their waste management plans.**

6. Fee systems: A single fee system is neither realistic nor justified, focus should be on concretely defined principles

The directive (article 8) prescribes that the costs of port reception facilities are covered by the users on the basis of a fee, or so called cost recovery system. The cost recovery system should provide no incentives for ships to discharge their waste at sea. As such it should have a "significant" indirect component that should be paid by all ships irrespective of whether they use or not the facilities. The directive makes a reference that this indirect component should be covering "no less than one third" of the PRF costs. The directive also states that fees may be reduced to reward ships that generate reduced quantities of waste on board. Furthermore, the fees need to be fair, transparent and non-discriminatory and should be clearly communicated to the users.

Because of the diversity of ports and the local realities (waste treatment industry, waste policy) in the different Member States, different cost recovery systems have been implemented around Europe. ESPO believes that the resulting **variety** of cost recovery systems **is justified** and in line with the



principle of proportionality that guides the implementation of the directive. The **critical factor for the assessment** of any cost recovery system should be **the compliance with the set principles** and the accomplishment of the objective to get increased volumes of waste landed ashore. Through various studies during the last years, it has been made clear that several of the applied cost recovery systems comply with the provisions of the directive and serve its objectives.

- **ESPO stresses therefore that imposing one single fee system throughout Europe in the revision of the directive is neither realistic nor justified.**

ESPO however, fully supports the **further clarification of the principles** guiding article 8 of the directive. Clarity, better definitions and guidance would lead to a further harmonization of the cost recovery systems around Europe. In that respect, ESPO actively participates in the respective work in the ESSF subgroup towards clarifying the principles of article 8 and making concrete recommendations to the Commission for the revision of the directive. In addition, ESPO also supports the initiatives that target the regional harmonisation of cost recovery systems such as between the Dutch and Flemish ports and between the ports in the Baltic Sea.

Regarding the calculation of the “significant contribution” in particular, maintaining only a reference to the “no less than one third” principle, without harmonised guidelines and/or requirements for the respective calculation and implementation, can be a factor of unfair competition among ports. For that reason, ESPO believes that, if it is to include reference to the “no less than one third” or any updated figure, these would need to be concretely specified.

ESPO agrees in principle with the voluntary application of **reduced fees for vessels** that demonstrate good waste management practices (beyond the required standards) that in turn lead to the generation of reduced quantities of waste (article 8 (2c)). ESPO believes that **existing bottom up standards** and schemes **can be used** as the basis for defining good waste management practices. An overview of current good practices might be helpful for ports and Member States but it is not necessary for the Commission to develop new standards and criteria here.

ESPO agrees that the fees should be fair, transparent, and non-discriminatory, reflecting the costs of the facilities and the available services. ESPO believes that the general fee structure and tariffs together with information regarding the **“right to deliver” certain volumes of waste as included in the indirect fee should be clearly communicated to the port users**. However, transparency on full prices in a commercial world is sensitive and should not be the aim.

7. Exemptions: better definitions and guidance needed

Article 7 of the directive states that all vessels need to deliver all their ship generated waste before leaving the port unless they have “sufficient dedicated storage capacity” on board until the next port of call. Article 9 sets further exemptions for ships that are engaged in scheduled traffic with frequent and regular port calls.



ESPO believes that the setting and application of exemptions can be further harmonised through better definitions and guidance. The term “sufficient dedicated storage capacity” and the terms “scheduled”, “frequent” and “regular” traffic need to be better defined. In addition, issues related to the automatic or not renewal of an exemption, its time validity and the required documentation in order to grant an exemption need to be further addressed and harmonised. ESPO believes that guidelines on such exemptions and exchange of best practice could be a possible way forward. Especially with the idea in mind of promoting short sea shipping, this should be better organised as it leads to economically and also environmentally unwanted practices.

8. Cargo residues: better implementation of the existing MARPOL rules

In relation to the disposal of cargo residues, ESPO believes that a better control and enforcement through port state control and by the Member States competent authorities is most important and will help to avoid unwanted situations. ESPO believes that the creation of a whole new set of legislation in this matter should be avoided and that the focus should be on the better implementation of the existing MARPOL rules.

9. Information and monitoring system: proper implementation of existing article 12 (3)

ESPO agrees that a robust information and monitoring system in line with article 12 (3) of the directive is key. In that respect, ESPO supports the efforts by the Commission and EMSA towards that direction and welcomed the related amendment of Annex II of the directive. It is common ground that more data on the volumes of waste that are actually being delivered in European ports will assist the further evaluation of the directive and the degree to which its objectives are being achieved. ESPO believes that an enhanced information and monitoring system could greatly improve the effective implementation of the Directive and especially the enforcement provisions.

- **ESPO therefore calls the Commission and the Members States to continue working towards the proper implementation of article 12 (3) of the directive.**

10. Inclusion of new types of waste: yes but not necessarily in all the provisions

ESPO supports the alignment of the PRF directive with the international developments at IMO level and the updated MARPOL annexes and definitions. ESPO stresses however that the inclusion of new types of ship generated waste in the scope of the Directive and the provisions of the different articles needs to be carefully considered. This relates in particular to the inclusion of new types of waste in the provisions of article 8 on the fee systems. For example, an inclusion of scrubber generated waste in indirect fee structures would be unfair for vessels that produce reduced amounts of waste by using cleaner fuels such as Liquefied Natural Gas (LNG) or low sulphur fuel in order to comply with the provisions of the Sulphur Directive. Such an inclusion would in practice mean that such vessels would be paying the same indirect fee while producing less waste.



- **ESPO therefore calls for careful consideration and consultation with the industry before proposing the inclusion of new types of waste in specific provisions of the directive.**

11. Conclusions

ESPO believes that the spirit, objectives and main principles of the directive remain relevant, valid and towards the right direction. In that sense ESPO does not feel that major amendments are needed in the text of the directive. ESPO recognizes however the need to primarily:

- Align the scope of the directive and the related definitions for ship generated waste and cargo residues with the international developments in IMO and the updated MARPOL annexes in particular
- Provide better definitions and clarity in key terms such as “sufficient dedicated storage capacity” (article 7), “significant contribution” (article 8), “scheduled traffic for frequent and regular port calls” (article 9)

Further interventions to the text of the directive need to be targeted and justified. Soft law instruments and guidelines can be complementing the revision process.

European port authorities support the objectives of the PRF directive. ESPO welcomes the revision process of the PRF Directive as an opportunity for further improvement of some of its provisions. ESPO is keen to contribute towards this direction both through the work of the dedicated subgroup under the umbrella of the European Sustainable Shipping Forum and through the legislative process to follow.

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Since 1993, ESPO represents the port authorities, port associations and port administrations of the seaports of the EU. The mission of the organisation is to influence public policy in the EU to achieve a safe, efficient and environmentally sustainable European port sector operating as a key element of a transport industry where free and undistorted market conditions prevail as far as practical.

More information on ESPO: www.espo.be