

Summary Report on the implementation of OSPAR RAP ML Action 30

Action 30 of the Regional Action Plan on Marine Litter (RAP ML) aims to ensure the regional coordination on the implementation of EU Directive 2000/59/EC in relation to MARPOL Annex V ship-generated waste. Due to the establishment of the European Sustainable Shipping Forum (ESSF) sub-group on Port Reception Facilities (PRF), which already provided an official platform for the coordination and exchange of expertise between all EU stakeholders, including preparation of the work related to the revision of the PRF Directive 2000/59/EC, it was agreed by the Intersessional Correspondence Group on Marine Litter (ICG-ML) that the coordination within the OSPAR-region as required by Action 30 could better be done within the ESSF PRF sub-group (to avoid duplication of work).

Following an ex-post evaluation (2015) and Impact Assessment (2017) organized by the European Commission, the *Directive 2000/59/EC on port reception facilities for ship-generated waste and cargo residues* was revised in 2018, resulting in the adoption of a new *Directive (EU) 2019/XX on port reception facilities for the delivery of waste from ships*. This new PRF Directive repeals Directive 2000/59/EC. The new Directive (EU) 2019/833 will enter into force 20 days after its publication in the EU Official Journal, and EU Member States are to implement the requirements of the Directive in their national law within two years after its entry into force. Therefore the Action 30 can be considered as being finalized.

During the revision process of Directive 2000/59/EC, OSPAR organized a meeting for OSPAR Contracting Parties, including both OSPAR/EIHA HODs and their transport colleagues directly responsible for the negotiations on the revision of the Directive in the Council of Ministers, and other stakeholders. The meeting was hosted by the Belgian Ministry of Environment in Brussels on 7 March 2018, and tried to identify whether there was a common understanding within OSPAR countries on the options for the revision of the PRF Directive.

On 27th September 2019 an OSPAR delegation was invited by the Rapporteur of the Transport Committee of the European Parliament in order to highlight the overlap between the proposed PRF Directive and the existing OSPAR commitments in the RAP. The aim of this briefing was to highlight these overlaps and to provide background information on the relevance of sea-based sources of marine litter, based on OSPAR's monitoring and assessments, in order to support the on-going debate on the proposed Directive within the European Parliament.

One of the key issues addressed by several OSPAR Contracting Parties was that the new PRF Directive should require a cost recovery system providing a sufficient incentive to ships not to discharge garbage at sea. In the new Directive (EU) 2019/833 a 100% indirect fee is to be applied for garbage (MARPOL Annex V, other than cargo residues), in order to ensure a right of delivery without any additional charges based on the volume of waste delivered¹.

Furthermore the new Directive also fully incorporates all requirements related to the establishment of cost recovery systems and the delivery of waste from fishing vessels and

¹ except where the volume of waste delivered exceeds the maximum dedicated storage capacity mentioned in the advance waste notification form

recreational craft, including passively fished waste. Ports are required to ensure the provision of adequate PRF for passively fished waste, and fishing vessels have a right to deliver their passively fished waste. In order to avoid that the costs of collection and treatment of the passively fished waste is to be borne exclusively by port users, Member States shall cover, where appropriate, those costs from the revenues generated by alternative financing systems (e.g. funding).

The new PRF Directive also includes the possibility to subsidize the delivery of residues from tank washings containing high-viscosity persistent floating substances, and apply a scheme of financial incentives. As from 1 January 2021 amendments to MARPOL Annex II will be in force, meaning that in the OSPAR-region ships which have offloaded high-viscosity persistent floating substances have to wash the tanks and deliver the wash water to a port reception facility.

Other key elements of the new Directive (EU) 2019/833 include:

- “Waste from ships” means all waste, including cargo residues, falling within the scope of MARPOL Annex I, II, IV, V and VI, as well as passively fished waste;
- An obligation for EU Member States to ensure the availability of PRF adequate to meet the needs of ships normally visiting the port, without causing undue delay. In order to facilitate the management of waste from ships in an environmentally sound manner (incl. reuse and recycling), Member States are to ensure separate collection (MARPOL categories);
- Ports have to develop and implement a Waste Reception and Handling Plan (WRHP), following consultation with all relevant parties, in particular the port users. These plans shall be evaluated and approved by the competent authority in the Member State, and can be valid for a period of five years;
- The master of a ship has to complete a waste notification form and forward it electronically in due time (at least 24 hours prior to arrival), informing the port of call about the ship's intentions regarding the delivery of ship-generated waste and cargo residues;
- Upon delivery the PRF-operator or the port authority is to issue a waste delivery receipt, the information of which needs to be electronically reported by the master of the ship;
- In principle the Directive requires the mandatory delivery for all waste carried on board to a PRF. However, there is a possibility for the vessel not to deliver waste if it has sufficient dedicated waste storage capacity till the next port of delivery;
- The establishment of an enforcement scheme, by which EU Member States ensure that any ship may be subject to inspection. Each EU Member State is to carry out inspections of ships calling in its ports corresponding to at least 15% of the total number of individual ships calling in its ports annually. A risk-based approach is to be applied for inspections, based on information from the advance waste notification and waste receipt which are electronically reported and exchanged; and
- In order to simplify and harmonize administrative procedures applied to maritime transport and facilitate better monitoring and inspections related to the delivery of waste from ships, the electronic transmission of data (advance waste notification, waste delivery receipt, exemption certificate and information from the WRHP) is required.

Way forward:

Although the European Commission is to establish a new expert group on PRF for the exchange of experiences between the Member States' national authorities, experts and stakeholders, it might still be useful to organize a similar exchange of information within the OSPAR region.

Especially since passively fished waste is included in the new Directive, this will have an impact on the organization of the Fishing for Litter-schemes in ports in the OSPAR-countries. Also regarding the monitoring methodologies and the format of reporting of passively fished waste (as mentioned in Art. 8.7 of the new PRF Directive) output from the ICG-ML can provide added value.

Other issues where future information exchange can be useful include those actions of the RAP ML that regard the prevention of and sanctions on illegal waste disposal from ships at sea.