

**Correspondence Group on the Cost Recovery Systems for PRF - ESSF PRF Sub-Group:
Harmonising the Principles of Cost Recovery Systems according to article 8 of the
Directive 2000/59/EC**

**INTERIM REPORT ON RECOMMENDATIONS OF THE CORRESPONDENCE
GROUP ON THE PRINCIPLES OF COST RECOVERY SYSTEMS**

Introduction

During the Third ESSF Sub-Group Meeting on Port Reception Facilities, a correspondence group was set up to clarify and define the principles set out in Article 8 of the PRF Directive and to develop common interpretation in order to promote a more harmonised approach that hopefully will streamline the principles on which Cost recovery systems in EU ports are based. Four rounds of Consultation were held as follows

Round	Dates
1 st	14 th December 2015 to 15 th January 2016
2 nd	2 nd – 15 th February 2016
3 rd	22 nd March to 21 April 2016
4 th	28 th June – 22 nd July
5 th	Will be launched in Autumn 2016 - on impacts of the Recommendations

Following on from these discussions, the Correspondence Group has come up with eight Recommendations.

**1. COSTS OF PORT RECEPTION FACILITIES
RECOMMENDATION 1:**

The Correspondence Group recommends that the following definitions for indirect and direct costs would be included in the revised PRF Directive and Guidelines supporting the Directive would include an indicative, non-exhaustive list of direct and indirect cost elements for CRS to promote harmonisation between the CRS.

TABLE:

<i>Direct Costs (PRF operated by Port or waste contractor)</i>	<i>Indirect (Cost recovery System administered by port)</i>
Defined as costs that arise from the actual delivery (collection, treatment and disposal) of ship-generated waste including infrastructural costs (investments)	Defined as administrative costs of the port arising from the management of notification, the development of the WRH Plan and the cost recovery system
<ul style="list-style-type: none"> • The provision of PRF – infrastructural costs including the provision of containers, 	<ul style="list-style-type: none"> • The ongoing costs to update, the WRH Plan (including salary costs, possible

<p>tanks, processing tools, barges, trucks, waste reception, treatment installations etc. Site leasing for the PRF or the equipment being used to facilitate the PRF. These costs could be large and recovery of investment costs is likely to be spread out over numerous years.</p> <ul style="list-style-type: none"> • The operation of the PRF – removal of waste from the PRF or the ship, transport of waste from the PRF to the final treatment, recycling or disposal centre, maintenance and cleaning of the PRF, staff costs including overtime, electricity, segregation of the waste, analysis of the waste, insurance • Costs for the final reuse, recycling or disposal of the waste • Administrative costs such as invoicing, providing receipts by the port or PRF as appropriate. 	<p>consultancy costs). WRH Plan consultation costs, including meetings.</p> <ul style="list-style-type: none"> • Costs for approval of the WRH Plan and any audits of the WRH Plan and its operation • PRF Tariff Regulation: reviewing, updating • Management of the notification and cost recovery systems (reduced fees), including the provision of IT systems (port), salary costs, statistical analysis • Tender costs for provision of PRF, or the waste/environmental licences/permissions needed for the provision of PRF • Provision of information to ships agents and shipping (flyers, website, signs/posters in the port). • Costs for other devolved administrative elements for the PRF Directive such as reporting or exemptions • Exemption & reduced fees procedures
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**2. SIGNIFICANT CONTRIBUTION
RECOMMENDATION 2:**

In the third round of consultations the Correspondence Group recommended that in order to define ‘contribute significantly to the costs of PRF’ the indirect and direct cost elements should be defined (Recommendation 1). The majority (seven out of nine) of the respondents also agreed that focusing on the direct operational costs when considering how to “contribute significantly to the costs of PRF” is the best option to harmonise cost recovery systems (CRS). After significant consideration of various options of how this should be defined the Correspondence Group agreed that the Option B should be recommended to the Commission.

Concern was raised by the two respondents (IE, PL) that this option goes against Article 8, which states that “Member States shall ensure that the costs of port reception facilities for ship-generated waste, including the treatment and disposal of the waste, shall be covered through the collection of a fee from ship” – as it does not include the indirect administrative costs.

It is not the intention to exclude indirect administrative costs from the indirect fee. The indirect fee includes both the indirect administrative costs and all or at least part of the direct operational costs but the idea is to link significant contribution to the direct operational costs only to create an active incentive. Therefore the indirect administrative costs are part of the indirect fee, but when calculating the significant contribution part in the indirect fee, the focus should only be on direct operational costs.

This option offers a genuine opportunity to harmonise the CRS (min.30% recommendation of the Commission) since irrespective of the administrative costs, the direct operational costs would be taken as a common basis for calculating/defining the significant contribution in the indirect fee.

RECOMMENDATION (revised to reflect the discussions in the previous round):

It is recommended to the Commission to consider proposing to amend the wording in Article 8.2(a) ‘to contribute significantly to the costs of PRF irrespective of the use of the facilities’ in order to clarify the significant contribution concept.

Based on the discussions in the Group, the contribution to the costs of PRF is considered ‘significant’ if the indirect fee*, covers in addition to administrative costs:

all or part of the direct operational costs** provided that the part covered represents at least [30%] of the total yearly direct costs for actual delivery of ship-generated oily waste (MARPOL Annex I), sewage (MARPOL Annex IV) and garbage (MARPOL Annex V).

*calculated on an annual basis and divided by the number of ships expected, differentiated with respect to the category, type and size of the ship.

**as defined either in waste volumes (with or without limit – NSF-system) or in euro amount discount/reimbursements (AFS-system).

3. CALCULATION METHOD RECOMMENDATION 3:

During the discussion on how to calculate the significant contribution based on the minimum 30% threshold, the Group favored the approach that calculation of significant contribution should be based on yearly costs.

As defined previously, the total PRF costs consist of indirect administrative costs of the port (arising from the management of notification, the development of the WRH Plan and the cost

recovery system) and direct operational costs (arising from the actual delivery (collection, treatment and disposal) of ship-generated waste including infrastructural costs.

To determine the value of the significant contribution, the Correspondence Group is recommending the following, which includes the text change suggested by the Dutch ports (using the term 'total yearly Direct Operational Costs (DOC) that is covered by incentive based indirect fees' instead of 'total yearly incentive based fees covering Direct Operational Costs (DOC) as set out by the port'):

Significant contribution=

$$\frac{\text{total yearly DOC that is covered by incentive based indirect fees} \times 100}{\text{total yearly DOC for all waste landed in the port}}$$

This determines the value of the significant contribution (SC) by comparing the direct cost elements as defined in the CRS in the indirect fee, to the total direct operational costs of landing all waste on a yearly basis. This figure should be minimum 30%.

Please note: In all these cases data on costs need to be gathered and compiled by the port and that if the vessel is exempted from paying the indirect fee and significant contribution based on Article 9 (regular and scheduled traffic with frequent port calls) it falls outside of the scope of the indirect fee system and is not in the calculation equation (exempted from paying the indirect fee – exempted from the SC).

Regarding the question on variable percentage threshold (minimum 30% recommended) by waste types (i.e one % for garbage, another for oil and another for sewage) the Directive's Article 8 or the Commission's Statement is not precise on this issue. It can be said that the significant contribution (minimum 30%) provides incentive to land waste overall and focuses on the overall cost. On the other hand it can be understood that the fee system should incentivize the delivery of all ship-generated waste types as defined in the Directive.

There was no agreement in the Group on this issue but in principle the respondents favored the possibility to use variable percentage thresholds (min.30%) by waste types but at the same time emphasized that the decision should be made at the national/port level to set their own percentages either per waste stream or for all waste streams together.

To calculate the incentive based indirect fee, the data on the total PRF costs is needed.

- Basic principle: Divide all PRF related costs (Indirect Administrative Costs, IAC+ Direct Operational Costs, DOC) by total no. of ship calls

Therefore the basic formula for an indirect fee should be based on the equation:

Indirect Fee =

the total yearly IAC + min. 30% of the total yearly DOC for landing waste as set out by the CRS
Total number of ship calls

where

IAC= Indirect Administrative Costs

DOC= Direct Operational Costs

The fee can be differentiated with respect to the category, type and size of the ship, Art.8.2(a).

4. NEW DIFFERENTIATION CRITERIA

RECOMMENDATION 4:

The Correspondence Group recommends that the Impact Assessment should consider the option to include a differentiation by the type of trade a ship is engaged in Article 8.2 (a).

5. RIGHT TO DELIVER

RECOMMENDATION 5:

The Correspondence Group recommends that the revised PRF Directive includes the right to deliver in all CRS. The Group was of the opinion that the right to deliver is essential as the ship needs to know what they are paying for and what waste service is included in that payment. There is general consensus that the incentive based fee system (significant contribution) includes a right to deliver and some respondents felt that this is already inherent in the Directive. Nevertheless it is recommended that the right to deliver should be enhanced in the Directive as it is not clear to everyone that the inherent nature of this principle is obvious in the present wording. This can be done simply by adding a new section to what should be in a WRH Plan entitled “what rights the ship has after payment of the fee – e.g. in terms of (depending on the CRS) free delivery of waste, the maximum amount it can deliver without incurring extra fees or refunds after delivery to a PRF”.

In addition the right to deliver should be defined as:

“In paying the indirect fee required by the PRF Directive, the ship is entitled to:

- Deliver to the PRF the amount of SGW that is set out in the CRS (defined per waste type with or without a volume limit), without additional costs (NSF-system); or
- Receive a set discount/reimbursement in the CRS (e.g. X euro per m³ delivered) depending on the volume and waste type that is delivered to the PRF (AFS-system).”

The Group discussed the NL proposal whether it would be possible to define the ‘right to deliver’ in terms of significant minimal volume of garbage (MARPOL Annex V) that can be

landed without any additional special/extra fee (the NL proposal). Since several respondents wanted to explore this option further, the Group recommends that this approach should be studied further within the Impact Assessment.

6. AUDITABLE SERVICE LEVELS

RECOMMENDATION 6:

The Correspondence Group recommends that the Commission evaluate the requirement in the Technical Recommendations to provide auditable service levels in the WRH Plan, and whether it needs to be enhanced in the revised PRF Directive or Guidance supporting it.

7. GREEN SHIP CRITERIA

RECOMMENDATION 7:

The Correspondence Group recommends that either in a separate Annex to the Directive or in Guidance supporting the Directive the green ship criteria is defined to increase harmonisation between ports. The Group also recommends that that the Guidance supporting it should identify the possible criteria that ports should be free to use to reward vessels that can prove that they have adopted at least 3 of these criteria, which go beyond the requirements of existing legislation, to reduce their waste. Ships have to provide evidence to the port in applying for reduced fee. These criteria should include:

- onboard waste segregation for recycling, which goes beyond the basic waste categories, which are listed in the IMO Garbage Record Book;
- waste minimization provision on board;
- environmental qualifications (ISO 21070:2011, Green Award (waste section));
- environmental consultation and training contracts (trained personnel optimal procedures);
- minimising waste by use of different fuel that produces less sludge, or use of fuels that are cleaner than legally required;
- membership of a green ship award programme; and
- involvement in an environmental management program (EMP) such as ISO 14001.

8. TRANSPARENCY

RECOMMENDATION 8:

The Correspondence Group recommends that the revised PRF Directive, defines the following concepts:

- Fair and non-discriminatory: the fees should be the same for ships of similar type, and size and be proportionate to the waste a ship produces;
- Transparent: the Fee and the CRS used in a port, including the basis for calculation of the fees, should be published in the WRH Plan, the port tariff list or made otherwise available publicly and directly to users of the PRF; and

- Reflecting the costs: all costs incurred for the disposal of SGW by the port should be paid by the entirety of the ships calling the port. There should not be any subsidies for waste disposal. It should be ensured that the relation between the fees (indirect and any additional direct fee) being charged to the ships and the actual costs of PRF are in balance in the CRS.

NEXT STEPS

These Recommendations will be considered further to assess their impact. In this respect the Commission added the following new task to the Group's ToR in June 2016:

- discussing and assessing the impacts of recommended options to support the Commission in the IA process (environmental impacts (measured in waste volumes delivered to port, avoiding discharges into the sea), economic (including the administrative burden, investments, etc.) - and social costs/impacts)]

Therefore, the next round of consultation needs to consider these issues. To assist this, EMSA has developed a matrix to gather views on the impact and initial comments have been added for the Group's consideration. The final round assessing the possible impacts of the Recommendations will commence in Autumn 2016.