

<b>Title:</b> Post Implementation Review of the Merchant Shipping (Ship-to-Ship Transfers) Regulations 2010 and (Amendment) Regulations 2012 <b>PIR No:</b> DfTPIR0003 <b>Lead department or agency:</b> Department for Transport <b>Other departments or agencies:</b> Maritime and Coastguard Agency <b>Contact for enquiries:</b> Tony Cunningham (020 7944 5160)	<b>Post Implementation Review</b>
	<b>Source of intervention:</b> Domestic
	<b>Type of regulation:</b> Secondary legislation
	<b>Type of review:</b> Statutory - sunset clause
	<b>Date of implementation:</b> 31/03/2012
	<b>Date review due (if applicable):</b> 31/03/2017
<b>Summary: Intervention and Review</b>	<b>RPC Opinion:</b> Awaiting Scrutiny

**1a. What were the policy objectives and the intended effects? (If policy objectives have changed, please explain how).**

The objectives of the Merchant Shipping (Ship-to-Ship Transfers) 2010 Regulations<sup>1</sup> (“2010 Regulations”) were to control the transfer of cargo and bunkers (fuel used for international aviation and maritime transport) which are wholly (or mainly) of oil from ship to ship (STS) and maintain the good safety record for this type of activity. The coming into force of the 2010 Regulations would have ensured that all STS transfers within the UK territorial sea took place within harbour areas where additional resources are available to combat any pollution incidents that might occur. In order for STS transfers to be undertaken within a statutory harbour area under the 2010 Regulations, the harbour authority would have to apply for an oil transfer licence. The 2010 Regulations were deemed too restrictive and so deferred by the Government to allow for amendments to be made to them.

The policy objective of the Merchant Shipping (Ship-to-Ship Transfers) Regulations 2012<sup>2</sup> (“2012 Regulations”) was to ensure STS transfers are conducted safely but in a less restrictive way than allowed for under the 2010 Regulations while minimising the risk to the UK’s seas and coasts by reducing the likelihood of the activity being displaced to less safe international waters. This involved allowing STS transfers within a designated area of the UK territorial sea off the coast of Southwold. In 2011, the Maritime and Coastguard Agency (MCA) produced an Impact Assessment (IA)<sup>3</sup>, which assessed the need for action.

The 2012 Regulations also intended to incorporate into UK legislation Chapter 8 of the International Convention for the Prevention of Pollution from Ships (MARPOL) Annex I (MARPOL Annex I details the discharge requirements for the prevention of pollution by oil and oily materials) which came into force internationally on 1 January 2011 and ensure that it is being adhered to effectively. This was required for all transfer of oil cargo between oil tankers at sea and their STS operations conducted after 1 April 2012. The MARPOL regulations apply to oil tankers of 150 tonne gross tonnage and above engaged in the transfer of oil cargo between oil tankers at sea and their STS operations conducted after 1 April 2012. They require that any oil tanker involved in STS operations to carry an STS operations plan which has been approved by the Flag Administration. Further, any tanker that plans STS operations within the territorial sea or the economic exclusion zone shall notify the MCA not less than 48 hours in advance of the scheduled STS operations.

The intended effects of the 2010 Regulations as amended by the 2012 Regulations were:

- a) that operators should have a wider choice of safe locations for STS operations either within approved harbour areas or within a designated area of the UK territorial sea while not compromising safety;

<sup>1</sup> SI 2010 No. 1228, <http://www.legislation.gov.uk/ukxi/2010/1228/contents/made>

<sup>2</sup> SI 2012 No. 742 <http://www.legislation.gov.uk/ukxi/2012/742/contents/made>

<sup>3</sup> [http://www.legislation.gov.uk/ukia/2011/473/pdfs/ukia\\_20110473\\_en.pdf](http://www.legislation.gov.uk/ukia/2011/473/pdfs/ukia_20110473_en.pdf)

- b) to reduce the risks of STS transfers being undertaken in less safe areas outside of the UK territorial sea by allowing STS transfers to be undertaken within the UK territorial sea at a designated area;
- c) to implement the notification system set out in Chapter 8 of MARPOL Annex I for transfers outside UK territorial waters in UK law;
- d) that small scale bunkering and lightering (the process of transferring cargo between vessels of different sizes) operations should be unaffected by the regulations; and
- e) to implement Article 6 of Council Directive 92/43/EEC of 21 May 1992 on the conservation of natural habitats and of wild fauna where cargo transfers are likely to have a significant effect on a European site (as defined in the Regulations).

**1b. How far were these objectives and intended effects expected to have been delivered by the review date? If not fully, please explain expected timescales.**

The objectives and intended effects of the Merchant Shipping (Ship-to-Ship Transfers) Regulations 2010 and (Amendment) Regulations 2012 (the 'STS Regulations') were expected to have been delivered successfully by the review date set for the STS Regulations of 31 March 2017. The UK territorial sea area off the coast of Southwold had already been operating through a voluntary arrangement with the Maritime and Coastguard Agency (MCA) as the only location outside harbour authorities where STS transfers could take place. The STS Regulations were to bring in rules for how harbour authorities could apply for oil transfer licences, to deliver a wider choice of safe locations for STS transfers both within harbour areas and within the UK territorial sea.

The 2012 Regulations were also designed to ensure that several types of transfer operations that the 2010 Regulations had captured, including rescue vessel operations, ferries' bunkering operations and tanker lightering operations were removed from the updated Regulations to allow bunkering operations for ferries, fast rescue boats and cruise ship tenders, to be allowed.

**2. Describe the rationale for the evidence sought and the level of resources used to collect it, i.e. the assessment of proportionality.**

The STS Regulations require that certain ships carrying out cargo transfers provide notice in accordance with the procedures set out in Merchant Shipping Notice 1829. Merchant Shipping Notice 1829 provides that ships applying for permission to transfer oil / oily cargoes provide the Maritime and Coastguard Agency (MCA) with information, in the case of transfers within the UK exclusive economic zone but outside the UK territorial sea, at least 48 hours before they plan to begin transfer operations and in the case of transfers within the area of sea off Southwold at least 72 hours' before they plan to begin transfer operations. As a consequence, most of the evidence that we needed to evaluate the STS Regulations is already held by the MCA.

The STS Regulations requires that harbour authorities applying for an oil transfer licence consider the impact on the environment and so considered these costs. The STS Regulations also applies the international standards set out in Chapter 8 of MARPOL Annex I. The Department has not been made aware of any issues regarding the running of the current regime. The impact assessment<sup>4</sup> for the amending 2012 Regulation assessed the measure as deregulatory (an 'OUT'), with benefits (£5.44m in 2011 prices) significantly outweighing the costs (-£0.08m in 2011 prices) and an annual saving to business of £0.56m (2009 prices). Given the limited overall impact on business, we considered a relatively light-touch desktop review should be sufficient for this Post-Implementation Review (PIR). This is consistent with the advice provided by the Cross Government Evaluation Group in conjunction with the Better Regulation Framework Manual<sup>5</sup> and the Magenta Book<sup>6</sup> on evaluation which recommends that the

<sup>4</sup> [http://www.legislation.gov.uk/ukia/2011/473/pdfs/ukia\\_20110473\\_en.pdf](http://www.legislation.gov.uk/ukia/2011/473/pdfs/ukia_20110473_en.pdf)

<sup>5</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/468831/bis-13-1038-Better-regulation-framework-manual.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/468831/bis-13-1038-Better-regulation-framework-manual.pdf)

<sup>6</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220542/magenta\\_book\\_combined.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220542/magenta_book_combined.pdf)

level of evidence collected should be consistent with the scale of the Regulation. The guide also recommends considering the impacts of a stronger evidence base depending on whether the regulation is contentious, novel or risky and whether there is a lack of available data sources. In the context of this PIR, an informal stakeholder engagement letter and questionnaire was sent to a sample of stakeholders to ensure a quick and efficient gathering of relevant data.

We did seek information regarding spillages within harbour waters, due to opting for a light touch review and given that the Department does not have access to data regarding ship to ship transfers taking place within harbour authority waters. We considered it would be excessive to attempt to collect data about the number of transfers in harbour authority waters as part of this review.

### **3. Describe the principal data collection approaches that have been used to gathering evidence for this PIR.**

#### **What forms of monitoring data were collected?**

Data was gathered from the MCA regarding the number and types of vessels undertaking STS transfers in UK territorial waters and whether any incidents have occurred, which have threatened the environment. We consulted with the five harbour authorities that are currently licenced to authorise STS transfers in their waters (under the 2010 Regulations), for similar data concerning transfers in their harbour waters. We also consulted with wider industry and stakeholders local to Southwold, the area where STS transfers take place off the coast.

#### **What evaluation approaches were used?**

The approach used evaluated the impact of the STS Regulations. We considered if the policy:

- has achieved its original objectives;
- has objectives which are still valid;
- has had any unintended impacts;
- is still required and remains the best option for achieving those objectives; and
- can be improved to reduce the burden on business and its overall costs

#### **How have stakeholder views been collected?**

To ensure the regulations adequately protect the environment and meet the needs of the shipping industry, we worked with the MCA through normal contacts with industry and non-governmental organisations. The main stakeholders included the UK Chamber of Shipping, the two UK port associations and the five licenced harbour authorities. We also consulted the Marine Management Organisation (MMO) and local authorities that have an interest. These are the main organisations involved in STS transfers within the UK and we would expect them to have the most expertise and / or local knowledge of these operations.

As the intention of this review was to adopt a light-touch approach, it was decided not to extend the stakeholder engagement exercise any further. Consideration was given as to whether to seek the views of other harbour authorities but it did not seem appropriate to include all those harbours that do not operate STS transfers. We did receive a request from one organisation we had not originally included and were happy to include their comments in the findings but no other stakeholders were identified which required including.

The stakeholder engagement letter and questionnaire was sent to 17 key stakeholders. The letter explained the background to the Regulations, a summary of the costs and benefits (and a link to the 2011 Impact Assessment) and provided available data on STS transfers. The questionnaire asked for comment on whether the current regime was effective or could be improved. A copy of the stakeholder engagement letter can be found at **Annex A**, and further details on the stakeholder engagement exercise can be found at **Annex B**.

Out of the 17 stakeholders contacted, eight responded. This included a good cross section of respondents including harbour authorities, local interest groups and STS operators, giving us a broad enough spectrum of opinion to base our findings on.

#### **4. To what extent has the regulation achieved its policy objectives? Have there been any unintended effects?**

Based on the data kept by the MCA and through an assessment of the responses to the stakeholder engagement exercise, we consider that the objectives and intended effects of the STS Regulations have been successfully achieved. The stakeholder responses were genuinely positive, for whilst two respondents stated that Harbour Authorities areas are the safest location the overall feeling was that safety had improved as a result of the STS Regulations. Four respondents did not know if there had been an overall improvement in safety and one felt safety had remained the same but the remaining three all felt safety standards had improved as a result of the STS Regulations. None of the respondents were aware of any pollution or safety incidents linked to STS transfers occurring off the coast of Southwold, although one respondent felt that adding an additional site at Lyme Bay as an option would be beneficial as they felt that during some weather conditions STS Transfers would potentially be safer there.

On the whole the comments were that the current set up was effective and successful and that there is no significant evidence that such a change would be necessary or beneficial, especially since the number of STS transfers taking place in the UK territorial waters off the coast of Southwold has decreased significantly since the STS Regulations came into force. None of the respondents were aware of any elements of Chapter 8 of MARPOL Annex I which have not been incorporated into domestic legislation and there have been no reports that this is not being adhered to effectively, or evidence to indicate any issues with regard to the requirements to give notice or to produce an approved STS Transfer plan and there is also no sign that small scale bunkering and lightering operations have been negatively affected.

The level of STS transfers taking place in the designated area off the coast of Southwold has dropped significantly since 2012 (from 201 in 2012 to 39 in 2014). See Table 1.

**Table 1: Record of applications for Ship to Ship transfers submitted to MCA for area off the coast of Southwold (per calendar year):**

Year	Requests (Note 1)	Completed	Cancelled
2006	25	20	5
2007	13	12	1
2008	13	13	0
2009	262	234	28
2010	412	368	44
2011	129	107	22
2012	213	201	12
2013	97	86	11
2014	49	39	10

The reduction appears to be due to a combination of factors, which includes the implementation of the STS Regulations but also due to a change in the economic environment following changes in the oil market. Firstly prices became more stable between 2010 – 2012 and then more recently, with falling prices in the oil market, operators sold their cargos quickly. Prior to this when oil prices were higher, operators would often retain some of their cargo and transfer small amounts offshore. This has led to less demand for STS transfers in the UK territorial sea. We therefore cannot conclude that the reduction in STS transfers is solely due to the STS Regulations as Southwold had already been the only designated

area within the UK territorial sea where these transfers have been allowed to take place since 2007. It is also difficult to know what the impact would have been of not amending the 2010 Regulations (to not allowing any STS transfers in UK territorial seas). The 2011 Impact Assessment stated that operators might not have opted to undertake STS transfers in the waters of harbour authorities as a result of the restriction imposed by the 2010 Regulations. It is possible that operators could have ignored the 2010 Regulations by undertaking more risky STS transfers outside of the UK territorial sea, if they wanted to avoid paying harbour fees.

With regards to spillages, from the MCA data we know that between 2009 and 2016 there were 12 recorded incidents involving ships involved in ship to ship transfers both within harbour authority areas and at Southwold and only three of the incidents resulted in very minor spillages of oil. Of the three, two were in harbours in November 2009 and resulted in less than 10 litres of oil being spilled on both occasions. The third and most recent, in January 2016, occurred just outside of UK territorial waters (off Southwold) and comprised a spill of c.250 litres.

The MCA data and the results of the questionnaire show that since the implementation of the STS Regulations there have been no spillages within UK territorial seas<sup>7</sup>, which indicates a successful regime. The stakeholder engagement exercise also showed that the STS Regulations have not been as restrictive as first thought and three respondents commented that the new processes are effective. One respondent highlighted that the regulations had not been as restrictive as they had first thought and that industry has successfully adapted to the new rules. There was one instance of negative feedback which was excluded from the analysis, because the incidents it described were with regards to alleged cases of ships failing to comply with ship tank cleaning regulations and were not linked to STS transfer activity.

#### **5a. Please provide a brief recap of the original assumptions about the costs and benefits of the regulation and its effects on business (e.g. as set out in the IA).**

For the purposes of the 2011 impact assessment, the costs and benefits of the policy options were monetised to the extent that was possible. Given the limitations of the available evidence base, it was not possible to fully monetise all of the impacts and where it was not possible, a full qualitative description of the cost or benefit was provided. Due to the limitations of the available evidence base, a number of assumptions had to be made. It should be noted that the estimates of the monetised costs and benefits that were presented in the impact assessment were sensitive to the assumptions that were made, and should therefore be interpreted as indicative estimates of the order of magnitude of these costs and benefits.

The main costs were estimated to be to the Maritime and Coastguard Agency (MCA) of dealing with applications for STS transfers, this was estimated at approximately £9,500 per year from 2012. There were also non-monetised costs estimated such as additional compliance costs for operators from changes to the reporting requirements when undertaking STS transfers and preparation of STS operations plans, familiarisation costs for operators, additional costs to the MCA of processing notifications for STS transfers outside the UK territorial sea and there could be environmental costs from any incidents outside the waters of harbour authorities.

The main benefits identified were that operators would be allowed to carry out STS transfers in a designated area in the UK territorial sea outside of the waters of harbour authorities. There was consequently the potential for operators to benefit from a corresponding reduction in the port charges they would incur relative to the situation once the 2010 Regulations come into force. The value of this benefit was estimated to be between £0 - £5.7 million per year, with a best estimate of around £0.6 million per year (2011 prices). There were also other non-monetised benefits identified such as, to operators if the number of STS transfers undertaken within the waters of harbour authorities declined, meaning potential

---

<sup>7</sup> The 2016 spill was outside the zone

environmental benefits from marginally lower GHG emissions if ships require shorter journeys by not having to travel into a harbour authority area to conduct transfers. Another non-monetised benefit was from potentially fewer transfers outside the UK territorial sea, meaning transfers taking place in a more sheltered place with calmer seas. Also new notification arrangements were expected to reduce response times and potential benefits for operators due to relaxing regulations on bunkering operations and lightering. Against this the non-monetised costs identified included the potential increased costs of pollution incidents outside harbour authorities resulting from being further away from equipment that is close to hand in harbours .

### **5b. What have been the actual costs and benefits of the regulation and its effects on business?**

We considered it appropriate to only carry out a light touch PIR, and as a consequence we have not carried out a full assessment of the actual costs and benefits of the regulation. Under this a revised IA would only be produced if there was relevant new information that came to light that a significant change was required to the regulations. No such information has been found either through our analysis of evidence provided via the MCA or through our stakeholder engagement exercise and so no full assessment of costs/benefits has been produced to update on the figures in the 2011 version.

The stakeholder engagement exercise did find that in general, the costs and benefits were as expected and in line with those highlighted in section 4. There was some concern regarding businesses large and small, by two respondees over the cost of obtaining the licence by Harbour Authorities but there was also a sense that whilst the costs of performing an environmental impact assessment were quite high, the costs have helped limit the areas where ship to ship transfers can take place. Two respondees also expressed the opinion that as anticipated, the area of UK territorial sea off the coast of Southwold does appear to offer a cheaper alternative than “in port” operations but there was no significant evidence of any other costs being excessively different than expected and the respondees do confirm that the policy objectives outlined in section four have been met effectively.

## **6. Assessment of risks or uncertainties in evidence base / Other issues to note**

### **What are the main limitations to the evidence base for the PIR?**

The 2011 impact assessment indicated that the costs would be modest (and would be outweighed by the benefits). As explained in Section 2 the Department considered that a light touch PIR was the best approach for these STS Regulations; a more extensive evidence gathering exercise would be disproportionate and unlikely to yield any additional useful data on which to base a decision. As a consequence, although there are limitations to the evidence base, we considered the amount was sufficient for a PIR of this nature.

### **Are there any other issues which should be considered when this PIR is reviewed?**

This light touch PIR has been carried out in accordance with the advice provided by the Cross Government Evaluation Group in conjunction with the Better Regulation Framework Manual<sup>8</sup> and the Magenta Book<sup>9</sup> on evaluation which recommends the appropriate level of evidence that should be collected for light touch PIRs.

## **7. Lessons for future Impact Assessments**

The evidence gathered for this PIR has been appropriate as no new evidence has come to light to indicate a significant change is required to the STS Regulations. Continued recording of the STS transfer

<sup>8</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/468831/bis-13-1038-Better-regulation-framework-manual.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/468831/bis-13-1038-Better-regulation-framework-manual.pdf)

<sup>9</sup> [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/220542/magenta\\_book\\_combined.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/220542/magenta_book_combined.pdf)

activity in UK territorial waters will take place by the MCA to ensure this remains the case but based on current evidence it is not expected that a change in approach will be required.

We consider that a similar stakeholder engagement exercise would be appropriate at the time of the next review period. The number of stakeholders contacted (seventeen) seems appropriate and the response rate of around 50% (eight) was a suitable number to gather information from.

**8. What next steps are proposed for the regulation (e.g. remain/renewal, amendment, removal or replacement)?**

Our recommendation is that the Merchant Shipping (Ship-to-Ship Transfers) Regulations 2010 and (Amendment) Regulations 2012 (STS Regulations) are renewed. Through our stakeholder engagement exercise and data held by the MCA we have concluded that the STS Regulations are having the desired effect and the impacts are minimal. We do not, therefore recommend removal of the STS Regulations.

Next steps include preparation of new legislation to renew the existing measure before the existing legislation ceases to have effect on 31 March 2019. When the legislation is renewed, the existing sunset provisions should be amended to reflect the start of a new cycle of review and set a new expiry date of 31 March 2024. Other than amending the sunset clause the rest of the regulation should be renewed as per the original STS Regulations, except for inserting another review clause stating that the next PIR must be completed by 31 March 2022, five years after the deadline date for this review, 31 March 2017.

**Sign-off for Post Implementation Review:**

***I have read the PIR and I am satisfied that it represents a fair and proportionate assessment of the impact of the policy.***

Signed: Mark Abram

Date: 19/07/2016

# Annex A



2/29-34, Great Minster House  
33 Horseferry Road,  
London,  
SW1P 4DR

Tel: +44 (0) 20 7944  
E-mail: [maritimeengagement@dft.gsi.gov.uk](mailto:maritimeengagement@dft.gsi.gov.uk)

13 November 2015

## **Statutory review of the Merchant Shipping (Ship-to-Ship Transfers) Regulation 2010 and (Amendment) Regulations 2012 – Request for Information**

Dear Sir/Madam,

1. I am writing on behalf of the Department for Transport to request your assistance with a series of questions regarding the statutory review of the Merchant Shipping (Ship-to-Ship Transfers) [Regulations 2010](#)<sup>10</sup> and (Amendment) [Regulations 2012](#)<sup>11</sup>. This stakeholder engagement exercise will be open for 6 weeks and we would be grateful for responses to the short questionnaire attached to this letter **by 5 January 2016**.

2. In 2012, the Government implemented regulations that restricted ship-to-ship cargo transfers to harbour authority areas and one designated area within the UK territorial sea (Southwold, off the coast of Suffolk). The regulations require 72 hours notice to be given for operations off the coast of Southwold and 48 hours notice for transfers outside the UK territorial sea but within the UK Pollution Control Zone. UK flagged ships involved in ship to ship transfers are also required by the Regulation to carry a ship specific Plan prescribing how to conduct Ship to Ship operations.

3. There is a statutory requirement to review the 2012 amended regulation to assess if it is working, is still required and if any improvements could be made. A report of the review must be published by 31st March 2017 and we are conducting this stakeholder engagement exercise as part of this review. As you are an important stakeholder affected by the regulation, we would be keen to get your views on the regulations.

4. Please see enclosed the following items:  
i) Summary of the regulations,  
ii) Questionnaire.

### **Period of stakeholder engagement**

5. The stakeholder engagement exercise will last for a period of 6 weeks and all comments should be provided in email or writing to:-

Email: [Maritimeengagement@dft.gsi.gov.uk](mailto:Maritimeengagement@dft.gsi.gov.uk)

<sup>10</sup> [http://www.legislation.gov.uk/ukxi/2010/1228/pdfs/ukxi\\_20101228\\_en.pdf](http://www.legislation.gov.uk/ukxi/2010/1228/pdfs/ukxi_20101228_en.pdf)

<sup>11</sup> [http://www.legislation.gov.uk/ukxi/2012/742/pdfs/ukxi\\_20120742\\_en.pdf](http://www.legislation.gov.uk/ukxi/2012/742/pdfs/ukxi_20120742_en.pdf)

Ship to Ship Transfer Review stakeholder engagement exercise  
Maritime, Safety and Environment Branch  
Department for Transport  
2/31 Great Minster House  
33 Horseferry Rd  
London  
SW1P 4DR

7. Information provided will be handled in line with the DfT commitments under the Freedom of Information Act, Environmental Information Regulations and the Data Protection Act – further information on these issues is annexed to this letter.

8. Following completion of this stakeholder engagement exercise the post-implementation review for the Merchant Shipping (Ship-to-Ship Transfers) Regulation 2010 and (Amendment) Regulations 2012 will be finalised. The final version of the review will be published in 2016, as an annex to a Command Paper.

9. If you have any questions or concerns about this process please contact the DfT on 020 7944.

Yours sincerely,

**Policy Advisor, Maritime, Safety and Environment**

## Details of the Merchant Shipping (Ship-to-Ship Transfers) Regulation 2010 and (Amendment) Regulations 2012

### Summary

*The Merchant Shipping (Ship-to-Ship Transfers) (Amendment) [Regulations 2012](#) came into force on 31 March 2012. These regulations restricted ship-to-ship (STS) transfers of a cargo and bunkers wholly or mainly of oil to harbour authority areas and one designated area within the UK territorial sea (Southwold in Suffolk). These regulations were implemented as an amendment to the 2010 regulations which had restricted ship-to-ship transfers solely to harbour authority areas.*

*Additionally, the regulations require any oil tanker involved in STS operations to carry an STS operations plan which has been approved by the Flag Administration. Further, any tanker that plans STS operations within the territorial sea or the economic exclusion zone of a Party to the MARPOL Convention shall notify the Party not less than 48 hours in advance of the scheduled STS operations.*

### Background

On entering office the Coalition Government laid a Statutory Instrument, to defer the entry into force of the 2010 Regulations, which were due to come into force on 1 April 2012, to allow time for a review of the regulations, including representations by affected parties. Given the time taken to conduct the review and complete regulatory scrutiny, entry into force of the 2010 regulations had to be further delayed by a succession of additional Statutory Instruments.

The review found that by restricting all STS transfers to within harbour waters, when evidence showed that a limited use of a designated area off the UK territorial sea would not adversely impact safety, the 2010 Regulations could impose disproportionate and unintended restrictions on shipowners. The 2012 amending Regulation designated an area off the coast of Southwold, to avoid additional and unnecessary costs for industry. Moreover, the new amendment also implemented the STS transfer provisions in Chapter 8 of Annex I to MARPOL to which the UK is a Party. These provisions apply to oil tankers of 150 gross tonnes and above engaged in the transfer of oil cargo between oil tankers at sea conducted after 1 April 2012. They require any oil tanker involved in STS operations to carry an STS operations plan which has been approved by the Flag Administration. Further, any tanker that plans STS operations within the territorial sea or the economic exclusion zone of a Party to the MARPOL Convention shall notify the Party not less than 48 hours in advance of the scheduled STS operations.

In 2011, the Maritime and Coastguard Agency produced an [Impact Assessment \(IA\)](#) to assess the need for action. The Assessment concluded that operators could save around £0 to £5.7 million per year in reduced harbour dues (with a best estimate of around £0.6 million per year), if they were allowed to carry out STS transfers in a designated area in the UK territorial sea.

The IA also identified that there were also other potential benefits to operators but was unable to find an accurate monetary value to put to them. These included if the number of STS transfers undertaken within the waters of harbour authorities' declines, there could potentially be environmental benefits if ships required shorter journeys and/or carried out fewer transfers outside the UK territorial sea and from new notification arrangements reducing response times. It also identified that there could potentially be benefits for operators due to relaxing regulations on bunkering operations and lightering.

It further highlighted some potential non-monetised costs for operators resulting from:

- a) changes to the reporting requirements
- b) the need to prepare STS operations plans,
- c) familiarisation costs for operators; and
- d) environmental costs from any incidents outside the waters of harbour authorities.

The objectives of the 2012 amended Regulations were:

- a) that operators should have a wider choice of safe locations for STS operations either within approved harbour areas or within a designated area of the UK territorial sea while not compromising safety;
- b) to reduce the risks of STS transfers being undertaken in less safe areas outside of the UK territorial sea by allowing STS transfers to be undertaken within the UK territorial sea at a designated area;
- c) to implement the notification system set out in Chapter 8 of MARPOL Annex I for transfers outside UK territorial waters in UK law; and
- d) that small scale bunkering and lightering operations should be unaffected by the regulations.

### **Background data on Ship to ship transfers**

The following data has been collected by the MCA on Ship to Ship transfers taking place within the designated area within the UK territorial sea (Southwold in Suffolk)

#### **Southwold Ship to Ship transfer figures (per calendar year):**

Year	Requests (Note 1)	Completed	Cancelled
2006	25	20	5
2007	13	12	1
2008	13	13	0
2009	262	234	28
2010	412	368	44
2011	129	107	22
2012	213	201	12
2013	97	86	11
2014	49	39	10

### Incidents

Between 2009 and 2016 there have been 11 recorded incidents involving ships involved in ship to ship transfers both within harbour authority areas and at Southwold and only two of the incidents resulted in very minor spillages of oil. The last recorded incident was in February 2011.

## Questions

Please try to ensure that supporting evidence is provided with your answer, including, where appropriate, details of costs or benefits.

### Safety of ship-to-ship transfers

Question 1: To what extent do you think that the regulations have improved the safety of ship-to-ship transfers? Please provide the reasons behind your answer.

Question 1a) Due to the regulations have the safety of STS transfers:

- i. Improved
- ii. Declined
- iii. Stayed the same
- iv. Don't know

Question 1b) Please provide the reasons behind your answer

Question 2: Please provide any information or evidence on the costs of obtaining an oil transfer licence, including the costs of preparing an environmental statement.

Question 3: To what extent do you believe that the current licencing and permitting process as laid down in the Merchant Shipping (Ship-to-Ship Transfers) Regulations (2012) achieved its objective of ensuring transfers are conducted safely while ensuring restrictions on such operations are proportionate, both off the coast of Southwold and within licenced harbour authority areas?

Question 4: Are you aware of any pollution or safety incidents linked to ship-to-ship transfers in i) harbour waters, or ii) off the coast of Southwold? If so, what were the details of the incident and what was the volume of pollution?

Question 4a) Are you aware of any pollution or safety incidents linked to ship-to-ship transfers in harbour waters?

- i. Yes
- ii. No
- iii. Don't know

Question 4b) Are you aware of any pollution or safety incidents linked to ship-to-ship transfers off the coast of Southwold?

- i. Yes
- ii. No
- iii. Don't know

Question 4c) If yes, what were the details of the incident and what was the volume of pollution?

Question 5: What mitigation measures do you have in place to prevent an incident occurring during ship-to-ship transfers?

Question 6: How do you believe the costs and risks of undertaking ship-to-ship transfers that take place off Southwold compare to the risks and costs of undertaking ship-to-ship transfers in harbour authority areas? If possible, please provide information/evidence on what the additional costs and risks (if any) would be if ship-to-ship transfers had been restricted solely to inside harbour authority areas.

Question 7: To what extent do you feel that the regulation has ensured the implementation of the notification system set out in Chapter 8 of MARPOL Annex I for transfers outside UK territorial waters in UK law?

Question 8: Do you think that the regulation has been more burdensome to smaller and micro businesses (less than 50 employees) than larger businesses? If yes, please state you reasons for this.

Question 9: Are you aware of any unintended consequences from the Regulation and how likely are unintended consequences in the future?

## **Freedom of Information Act**

Information provided in response to this exercise, including personal information, may be subject to publication or disclosure in accordance with the Freedom of Information Act 2000 (FOIA) or the Environmental Information Regulations 2004.

If you want information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence.

In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If we receive a request for disclosure of the information, we will take full account of your explanation, but we cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Department will process your personal data in accordance with the Data Protection Act (DPA) and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties.

## **Conduct of this information gathering process**

If you have any comments on the conduct of this process please email the stakeholder engagement exercise Coordinator at [maritimeengagement@dft.gsi.gov.uk](mailto:maritimeengagement@dft.gsi.gov.uk) or contact:

Stakeholder engagement coordinator  
Department for Transport  
2/31, Great Minster House  
33 Horseferry Road,  
London,  
SW1P 4DR

## **Annex B**

### **Background to the stakeholder engagement exercise**

In 2012, the Government implemented regulations that restricted ship-to-ship cargo transfers to harbour authority areas and one designated area within the UK territorial sea (Southwold, off the coast of Suffolk). There is a statutory requirement to review the amended 2012 Regulations to assess if they are working, still required and if any improvements could be made. This review is required by 31 March 2017 and as part of that review a stakeholder engagement exercise was open for seven weeks between 13 November 2015 and 5 January 2016, providing industry and interested organisations with an opportunity to feed in their thoughts on the effectiveness of the Regulation. Their input was central in the development of this PIR.

The stakeholder engagement exercise was sent out to 17 interested parties. These ranged from ship to ship operators, industry bodies, local authorities, and ports licenced to offer ship to ship transfers within harbour authorities. In total there were eight responses. There were three replies from Harbour Authorities with oil transfer licences, two replies from organisations with links to the Southwold area and three other industry organisations.

In general, the consultees agreed that the Regulations had either improved the safety of STS transfers or in the case of harbour authorities the standard remained at the already high level they already obtained. There was general agreement that the UK territorial sea area off the coast of Southwold was appropriate, although two respondents thought it inappropriate but only due to potential risk reasons and not due to any specific incident. One of those two respondents did state an example but that did not relate to ship to ship transfers. One respondent proposed extending the access outside harbour authorities. This was felt excessive in the light of the current reduction in activity in UK territorial seas.

There was a concern by some harbour authorities over the cost of harbour authorities obtaining oil transfer licences, these were seen as quite costly. This is due to needing to show compliance with relevant IMO and EU Conventions and Directives as mentioned above in the PIR. Costs for ship to ship transfers in UK territorial seas were considerably lower, due to the process being simpler to perform and less licencing and compliance costs and so the 2012 Regulations can be seen as an opportunity to lower costs.

Overall, the stakeholder engagement exercise gathered a suitable pool of information to ensure that the action taken as a result of the PIR is the appropriate response.