

Question 1

Please provide the text of any legal provisions or guidance that prescribe the information that is to be included in the public notice for an DAS permit application concerning the nature of the material to be dumped:

(a) As in force on 27 April 2014, when the public notice for DAS permit S0015-2 was published;

(b) As currently in force.

(a)

Prior to setting out its substantive response to Question 1, Ireland would highlight what appears to be a factual discrepancy which underpins the question. Q 1(a) refers to DAS permit S0015-2 (Drogheda Port Company). Reference is then made by footnote to the Communicant's reply to Committee's questions, dated 5 September 2016, Annex 2. Ireland would highlight that Annex 2 in fact refers to a copy of the newspaper notice for a different DAS permit (Reg. No. S0013-02) (Port of Cork). The date of publication of the newspaper notice in respect of this application was the 27 January 2014. Subject to this clarification Ireland responds to the Question as follows.

The legal provisions which prescribe the information that is to be included in the public notice for a DAS permit application are contained in sections 5A(1) and 5A(2) of the Dumping at Sea Act, 1996 ('the 1996 Act'). Section 5A(1) and 5A(2) provide:

"5A. — (1) A person who applies for a permit under section 5 shall, within 21 days after so applying, publish a notice of the application in a newspaper circulating in the area adjacent to the site of the proposed dumping (and where dredging is proposed in the maritime area of any substance or material for dumping in the maritime area, publish the notice also in a newspaper circulating in the area adjacent to the site of the proposed dredging) or, if no newspaper is circulating in those areas, then in a newspaper circulating nationally or such other newspaper as, in the opinion of the Agency, is likely to bring the proposal to the attention of persons who may be affected in the areas.

(2) A notice under subsection (1) shall contain a brief sketch map showing the location of the proposed site or sites and the approximate distance therefrom to a specified place on the mainland and brief details of the commencement and duration of the proposed activity, the characteristics, composition and the approximate amounts of any substance or material involved and the method of the proposed dredging or dumping as the case may be, and indicate where any relevant documentation in relation to the proposal may be inspected or a copy thereof may be obtained at a reasonable cost.

Subsection 5A(2) was inserted into the 1996 Act by virtue of the Dumping at Sea (Amendment) Act, 2004. Therefore, subsection 5A(2) was in force on 27 April 2014, at the time the public notice for

DAS permit Reg No: S0015-2 was published and the public notice for DAS permit Reg No: S0013-02 (Port of Cork) which was published on the 27 January 2014.

(b) Sections 5A(1) and 5A(2) DAS 1992 as cited at (a) above are currently in force.

Question 2

Please provide the text of any legal provisions or guidance that prescribe the information that is to be included in the public notice for an DAS permit application concerning the timeframe of the dumping activities. If the relevant provisions or guidance have been revised between the Convention's entry into force for Ireland and the present time, please provide both versions, indicating when the current version entered into effect.

The Environmental Protection Agency (EPA) has published "*Dumping at Sea Permit – Application Guidance Note*" ('the Guidance Note') to assist applicants in the preparation of an application for a dumping at sea permit. The Guidance Note is available and accessible to all members of the public on the EPA website https://www.epa.ie/pubs/forms/lic/das/DaS_GuidanceDocumentV8.pdf.

Section A.4 of the Guidance Note provides guidance in respect of information to be included in the public notice which must be published in a newspaper as part of the application process. Section A.4 which is contained at page 16 of the Guidance Note states:

'Such a notice must contain the following information:

- *a sketch map showing the location of the proposed site or sites and the approximate distance therefrom to a specified place on the mainland, and*
- *brief details of the commencement and duration of the proposed activity, and*
- *characteristics, composition and the approximate amounts of any substance or material involved and the method of the proposed loading as the case may be, and*
- *the location where any relevant documentation in relation to the proposal may be inspected or a copy thereof may be obtained at a reasonable cost.'*

The Guidance Note was published by the EPA on 7 September 2010. It has been updated on a number of occasions since and the current version, dated 20 December 2020, is the operative version. However, the content of Section A.4 of the Guidance Note (as cited above) has remained unchanged.

Question 3

Condition 3.10(ii) of permit S0004-1 required that: "Information relating to the activity shall be automatically recorded during each dumping voyage and shall as a minimum contain details of the following: ... (ii) The source of the substance or material (latitude and longitude coordinates in degrees and decimal minutes). With respect to article 5(1)(a) of the Convention, why do you consider that the information that the operator is required by the conditions of its DAS permit to record on the source of the material dumped at sea is not environmental information which is relevant to the EPA's functions to monitor and enforce DAS permits

It is not Ireland's position that the information required to be recorded pursuant to Condition 3.10(ii) of permit S0004-1 is irrelevant to the enforcement by the EPA of permit S0004-1 or any DAS permit where a similar condition is imposed. As set out in our previous correspondence Ireland disputes both the factual and legal basis of the allegations by the Communicant that there has been non-compliance with the duty to actively disseminate environmental information relating to Dumping at Sea permits. In particular, Ireland reiterates that it disputes that Article 5 of the Convention imposes a duty to "actively disseminate environmental information" in the manner alleged by the Communicant. In particular, the obligations contained within the Convention do not require the active dissemination to the general public of all of the range of enforcement documentation in the possession of the EPA in respect of permit S0004-1.

The information recorded by the operator pursuant to Condition 3.10(ii) of permit S0004-1 was and is considered by the EPA on an ongoing basis as part of its monitoring and enforcement of the permit. The EPA reviewed records of information recorded pursuant to condition 3.10(ii) of permit S0004-1 in the course of a site visit to the operator (Dublin Port) on 27th September 2012. It found the information recorded to be compliant with the requirements of permit S0004-1. Arising from complaints received by the EPA a further review of the information recorded was conducted in 2016. The outcome of that review was that the EPA was satisfied that the information recorded by the permit holder complied with Condition 3.10 of DAS permit S0004-1. Some of the information recorded by the operator pursuant to Condition 3.10(ii) of permit S0004-1 is also included in the Annual Environmental Report which the operator is required to file and which is available to the public. Ireland would again highlight that Condition 2.7 of permit S0004-1 imposes an obligation on the operator to put in place a Public Awareness and Communication Programme to ensure members of the public can obtain information relating to the DAS Permit at reasonable times. The information recorded by the operator pursuant to Condition 3.10(ii) of permit S0004-1 is available to the public through this programme.