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## **REPORT**

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From:	General Secretariat of the Council
To:	Permanent Representatives Committee (Part 1)/ Council
No. Cion doc.:	ST 5454/18 TRANS 20 MAR 9 ENV 30 CODEC 59 IA 19 + ADD 1
Subject:	Proposal for a Directive of the European Parliament and of the Council on port reception facilities for the delivery of waste from ships, repealing Directive 2000/59/EC and amending Directive 2009/16/EC and Directive 2010/65/EU – General approach

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### **1. INTRODUCTION**

1. On 16 January 2018 the Commission submitted the above-mentioned proposal to the European Parliament and to the Council as part of the so-called Circular Economy Package.
2. The main objective of the proposal is to achieve a higher level of protection of the marine environment;
3. The Commission considers that 17 years after the entry into force of the current Directive a thorough revision is needed. The proposal repeals the current Directive, replacing it with a single new Directive;

4. The Directive addresses the lack of systematic recording of waste delivered in ports and insufficient exchange of information between Member States. The Commission seeks to align the EU legislation, as far as possible, with the international legal framework (MARPOL Convention) and it has also identified that the current Directive is not fully consistent with Union waste legislation and seeks to rectify this, inter alia, through the setting up of waste reception and handling plans;
5. The Directive also establishes an indirect fee system for all ships to incentivise the delivery of waste to port reception facilities;
6. The European Parliament's Committee on Transport and Tourism (TRAN) appointed on 15 March 2018 Ms. Gesine Meissner (ALDE, DE) as the rapporteur. The Environment, Public Health and Food Safety Committee (ENVI) has shared competences on some parts of the proposal. The Fisheries Committee (PECH) will provide an opinion on the proposal. At its meeting on 7 June 2018, the TRAN committee will have its first exchange of views on the proposal.
7. The European Economic and Social Committee and the Committee of Regions have yet to adopt their opinion on the proposal.

## **2. WORK WITHIN THE COUNCIL**

8. On 17 January, the Bulgarian Presidency invited the Commission to present the impact assessment at the Working Party on Shipping. Following this, on 24 January, the Commission gave a general presentation of the proposal to the Working Party.
9. The Working Party on Shipping examined the proposal in its meetings on 1 and 21 February, 1 and 8 March, 12 and 19 April, and 2, 14, 22 and 24 May 2018. The key challenges of the file includes the obligation on ships to deliver waste carried on board prior to leaving each port and the cost of operating port reception facilities for the reception and treatment of waste from ships being covered through the collection of a fee from ships. The Presidency has developed a compromise between provisions contained within the Directive to tackle these points.

### 3. OUTSTANDING ISSUES

10. The Working Party has addressed technical issues to a large extent. Certain basic policy choices, notably on the dynamic the reference to the Marpol Convention, the deletion of certain Annexes and the exemption for arrangements to ensure the delivery of waste and payments of fees with a port in a third country are not fully shared by all Member States. However, the Presidency considers that the current compromise text represents a balanced but also a coherent solution to the issues at stake.

### 4. CONCLUSION

11. The Permanent Representatives Committee is invited to endorse the compromise text presented by the Presidency in the Annex to this document, with a view to reaching a general approach at the TTE Council (Transport) on 7 June 2018.

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Proposal for a  
**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**on port reception facilities for the delivery of waste from ships, repealing Directive**  
**2000/59/EC and amending Directive 2009/16/EC and Directive 2010/65/EU**

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee<sup>1</sup>,

Having regard to the opinion of the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Union's maritime policy is aimed at a high level of safety and environmental protection. This can be achieved through compliance with international conventions, codes and resolutions while maintaining the freedom of navigation as provided for by the United Nations Convention on the Law of the Sea ('UNCLOS').

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<sup>1</sup> OJ C , , p. .

<sup>2</sup> OJ C , , p. .

- (2) The International Convention for the Prevention of Pollution from Ships ('MARPOL Convention') provides for general prohibitions on discharges from ships at sea, but also regulates the conditions under which certain types of waste can be discharged into the marine environment. The MARPOL Convention requires Member States to ensure the provision of adequate reception facilities in ports.
- (3) The Union has pursued the implementation of the MARPOL Convention through Directive 2000/59/EC of the European Parliament and the Council<sup>3</sup>, by following a port-based approach. Directive 2000/59/EC aims to reconcile the interests of smooth operation of maritime transport with the protection of the marine environment.
- (4) In the last two decades, the MARPOL Convention and its Annexes have undergone important amendments, which put in place stricter norms and prohibitions for the discharges of waste from ships at sea.
- (5) Annex VI to the MARPOL Convention introduced discharge norms for new waste categories, in particular, the residues from exhaust gas cleaning systems, consisting of both sludge and bleed-off water. Those waste categories should be included in the scope of this Directive.
- (6) On 15 April 2014, the International Maritime Organisation ('IMO') adopted the Consolidated Guidance for port reception facility providers and users (MEPC.1/Circular 834), including the standard format for waste notification, waste receipt, and reporting alleged inadequacies of port reception facilities.
- (7) In spite of those regulatory developments, discharges of waste at sea still occur. This is due to a combination of factors, namely adequate port reception facilities are not always being available in ports, enforcement often being insufficient and there being a lack of incentives to deliver the waste onshore.

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<sup>3</sup> Directive 2000/59/EC of the European Parliament and the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues (OJ L 332, 28.12.2000, p.81).

- (8) Directive 2000/59/EC has contributed to increasing volumes of waste being delivered to port reception facilities since its entry into force, and as such has been instrumental in reducing waste discharges at sea, as was revealed in the evaluation of that Directive carried out in the framework of the Regulatory Fitness and Performance programme (REFIT Evaluation).
- (9) The REFIT Evaluation has also demonstrated that Directive 2000/59/EC has not been fully effective due to inconsistencies with the MARPOL Convention framework. In addition, Member States have developed different interpretations of the key concepts in that Directive, such as adequacy of the facilities, advance waste notification and the mandatory delivery of waste to port reception facilities, and exemptions for ships in scheduled traffic. The REFIT Evaluation called for more harmonisation of those concepts and further alignment with the MARPOL Convention in order to avoid unnecessary administrative burden on both ports and port users.
- (10) This Directive is also instrumental for the application of the main environmental legislation and principles in the context of ports and the management of waste from ships. In particular, Directive 2008/56/EC of the European Parliament and the Council<sup>4</sup> and Directive 2008/98/EC of the European Parliament and the Council<sup>5</sup>, are relevant instruments in this regard.
- (11) Directive 2008/98/EC lays down the main waste management principles, including the "polluter pays" principle and the waste hierarchy, which calls for the reuse and recycling of waste over other forms of waste recovery and disposal and requires the establishment of systems for the separate collection of waste. In addition, the extended producer responsibility concept is a guiding principle of Union waste law, on the basis of which producers of products are responsible for the environmental impacts of their products throughout the life-cycle of those products. Those obligations also apply to the management of waste from ships.

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<sup>4</sup> Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p.19).

<sup>5</sup> Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p.3).

- (12) Separate collection of waste from ships, including derelict fishing gear, is necessary to ensure its further recovery in the downstream waste management chain. Garbage is often segregated on board of ships in accordance with international norms and standards and Union legislation should ensure that these efforts of on-board waste segregation are not undermined by a lack of arrangements for separate collection on shore.
- (12a) Directive 20xx/.../EU of the European Parliament and the Council of [...] amending Directive 2008/98/EC on waste<sup>6</sup> (Waste Framework Directive) calls on Member States to halt the generation of marine litter as a contribution towards the United Nations Sustainable Development Goal to prevent and significantly reduce marine pollution of all kinds.
- (13) Although the majority of marine litter originates from land-based activities, the shipping industry, including the fishing and recreational sectors, is also an important contributor, with discharges of garbage, including plastic and derelict fishing gear, going directly into the sea.
- (14) The Commission Communication of 2 December 2015 entitled "Closing the loop - An EU action plan for the Circular Economy" ~~Strategy~~<sup>7</sup> acknowledged the specific role that Directive 2000/59/EC has to play in this respect, by ensuring the availability of adequate facilities for the reception of garbage, and providing for both the right level of incentives and the enforcement of the delivery of waste to the on-shore facilities.
- (15) A port reception facility is considered to be adequate if it is able to meet the needs of the ships normally using the port without causing undue delay[, as also specified in MEPC.1/Circular 834]. Adequacy relates both to the operational conditions of the facility in view of the user needs, as well as to the environmental management of the facilities in accordance with Union waste legislation. **It may, in some cases, be difficult to assess if a port reception facility located outside of the Union meets this standard.**

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<sup>6</sup> OJ C , , p. .

<sup>7</sup> Commission Communication COM/2015/0614, 'Closing the loop- an EU action plan for the Circular Economy', section 5.1.

- (16) Regulation (EC) No 1069/2009 of the European Parliament and of the Council<sup>8</sup> requires international catering waste to be incinerated or disposed of by burial in an authorised landfill, including waste from ships calling at Union ports which has potentially been in contact with animal by-products on board. In order for this requirement not to limit the promotion of further reuse and recycling of waste from ships, efforts should be made to better segregate the waste on board so that potential contamination of waste, such as packaging waste, can be avoided.
- (17) To ensure the adequacy of port reception facilities, the development and re-assessment of the waste reception and handling plan is essential, based on consultation of all relevant port users. For practical and organisational reasons, neighbouring ports in the same region may want to develop a joint plan, covering the availability of port reception facilities in each of the ports covered by the plan while providing a common administrative framework.
- (18) To address the problem of marine litter effectively, it is fundamental to provide the right level of incentives for the delivery of waste to port reception facilities, in particular garbage. This can be achieved through a cost recovery system, which requires the application of an indirect fee, which is due irrespective of the delivery of waste and which should give a right of delivery of the waste without any additional direct charges. **However, in case a ship delivers an exceptional amount of Annex V waste, especially operational waste, which exceeds the maximum dedicated storage capacity as mentioned in the advance notification form for waste delivery, an additional direct fee may be charged in order to ensure that the costs related to receiving this exceptional amount of waste do not cause a disproportionate burden on a port's cost recovery system. This may also be the case where declared dedicated storage capacity is excessive or unreasonable.** The fishing and recreational sector, given their contribution to the occurrence of marine litter, should also be included in this system.

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<sup>8</sup> Regulation (EC) No 1069/2009 of the European Parliament and the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) 1774/2002 (Animal by-products Regulation) (OJ L 300, 14.11.2009, p.1).



- (18a) In certain Member States, schemes have been set up to provide alternative financing of the costs of collecting and managing fishing gear waste or passively fished waste ashore. Those schemes, which may be based on agreements between the ports and fishing communities in the Member States, could be supported by extended producer responsibility schemes, which should complement the cost recovery systems set up in accordance with this Directive. As such, those cost recovery systems, which are based on the application of a 100% indirect fee for garbage waste from ships, should not create a disincentive for fishing port communities to participate in existing delivery schemes for passively fished waste.
- (19) The ‘Green Ship’ concept should be further developed in relation to waste management, so that an effective reward system can be implemented for those vessels that reduce their waste on board. Reduction of waste is primarily achieved through effective on board waste segregation in line with the IMO guidelines for MARPOL Annex V and standards developed by the International Standardization Organization.
- (20) Cargo residues remain the property of the cargo owner after unloading the cargo to the terminal, and often have an economic value. For this reason, the cargo residues should not be included in the cost recovery systems and the application of the indirect fee; the fee for the delivery of cargo residues should be paid by the user of the reception facility, as specified in the contractual arrangements between the parties involved or in other local arrangements. Cargo residues shall also include the remnants of oily or noxious liquid cargo after cleaning operations, to which the discharge norms of MARPOL Annexes I and II apply, and which under certain conditions, as set out in those Annexes, do not need to be delivered in port to avoid unnecessary operational costs for ships and congestion in ports.

- (21) Regulation (EU) 2017/352 of the European Parliament and of the Council<sup>9</sup>, includes the provision of port reception facilities as a service in its scope. It provides rules on the transparency of the charging structures applied for the use of port services, consultation of port users and handling of complaint procedures. This Directive goes beyond the framework provided by that Regulation by providing more detailed requirements for the operation and design of the cost recovery systems for port reception facilities for waste from ships and the transparency of the cost structure.
- (22) In addition to providing incentives for delivery, effective enforcement of the delivery obligation is paramount and should follow a risk-based approach in line with Directive 2009/16/EC of the European Parliament and of the Council<sup>10</sup>, which is no longer consistent with the 25 % target for inspections in Directive 2000/59/EC for vessels falling under its scope.
- (23) One of the main obstacles for the effective enforcement of the mandatory delivery obligation has been the different interpretation and implementation by Member States of the exception based on sufficient on-board storage capacity. To avoid the application of this exception undermining the main objective of the Directive, it should be specified further, in particular in regard to the next port of call, and sufficient storage capacity should be determined in a harmonised way in Union ports, based on common methodology and criteria. **In cases where it is difficult to establish whether adequate port reception facilities in ports outside the Union are available, it is essential that the competent authority carefully considers the application of the exception.**

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<sup>9</sup> Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports (OJ L 57, 3.3.2017, p.1).

<sup>10</sup> Directive 2009/16/EC of the European Parliament and the Council of 23 April 2009 on port State control (OJ L 131, 28.5.2009, p.57).

(24) Monitoring and enforcement should be facilitated through a system based on electronic reporting and exchange of information. To this end, the existing information and monitoring system set up under Directive 2000/59/EC should be further developed, and continue to be operated on basis of existing electronic data systems, in particular the Union Maritime Information and Exchange system (SafeSeaNet) and the Inspection Database (THETIS). The system should also include the information on port reception facilities available in the different ports.

**(24a) Directive 2010/65/EU simplifies and harmonises administrative procedures applied to maritime transport by making the electronic transmission of information more general and streamlining reporting formalities. The Valletta Declaration, adopted by the Council on 8 June 2017, invited the European Commission to propose appropriate follow-up to the revision of this directive. A public consultation on the reporting formalities for ships was carried out by the Commission from 25 October 2017 to 18 January 2018. In order to provide for an efficient development of information systems, the implementation of the new electronic reporting requirements for ship wastes should not be modified by the implementation of the proposal for a Regulation establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU which has been recently adopted by the Commission.**

(25) The MARPOL Convention requires the contracting parties to maintain up-to-date information on their port reception facilities and to communicate this information to the IMO. To this end IMO has established a Port Reception Facilities Database within its Global Integrated Ship Information System ('GISIS'). By reporting this information into the Information, Monitoring and Enforcement System set up by the Directive, and the subsequent transmission of this information via the system to GISIS, Member States would no longer have to report this information separately to the IMO.

- (25a) In MEPC.1/Circular 834 the IMO provides for the reporting of alleged inadequacies of Port Reception Facilities. Under this procedure, a ship may report such inadequacies to the administration of the flag State, which in turn shall notify the IMO and the port State of the occurrence. The port State should examine the report and respond appropriately, informing the IMO and the reporting flag State. Reporting of this information on alleged inadequacies directly into the Information, Monitoring and Enforcement System provided for in this Directive, would allow for the subsequent transmission of this information into GISIS, relieving Member States as flag and port States from their reporting duty to IMO.
- (26) There is a need for further harmonisation of the regime of exemptions for ships in scheduled traffic with frequent and regular port calls, in particular clarification of the terms used and the conditions governing those exemptions. The REFIT Evaluation and the Impact Assessment have revealed that the lack of harmonisation of the conditions and application of exemptions has resulted in an unnecessary administrative burden for ships and ports.
- (26a) Due to the nature of its traffic patterns, which are characterised by frequent port calls, short sea shipping faces significant costs within the current regime for the delivery of waste to port reception facilities, having to pay a fee at each and every port call. At the same time, the traffic is not sufficiently scheduled and regular to qualify for an exemption from payment and delivery of waste on those grounds. To limit the financial burden on the sector, it should be possible to charge differentiated fees to vessels based on the type of traffic in which they are engaged.
- (27) The Subgroup on Port Reception Facilities, which had been set up under the European Sustainable Shipping Forum, and brought together a wide range of experts in the field of ship-source pollution and the management of waste from ships, was adjourned in December 2017 in view of the start of the interinstitutional negotiations. Since the subgroup provided valuable guidance and expertise to the Commission, it would be desirable to create a similar expert group with a mandate of exchanging experience on the implementation of this Directive.

- (28) The powers conferred on the Commission to implement Directive 2000/59/EC should be updated in accordance with the Treaty on the Functioning of the European Union (TFEU).
- (29) In order to provide for a methodology for the application of the exception based on sufficient storage capacity, and for the further development of the information, monitoring and enforcement system set up under this Directive, implementing powers should be conferred on the Commission. Implementing acts should be adopted in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council<sup>11</sup>.
- (30) In order to take account of developments at international level, and to promote environmentally sound waste management practices on board, the power to adopt acts in accordance with article 290 TFEU should be delegated to the Commission in respect of amending this Directive to update the references to international instruments and the Annexes and to change references to international instruments, in order to prevent, if necessary, changes to those international instruments from applying for the purposes of this Directive, and to develop common criteria for recognising 'green ships' for the purpose of granting a reduced waste fee to those ships. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making<sup>12</sup>. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>11</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>12</sup> OJ L 123, 12.5.2016, p. 1.

- (31) Since the objective of this Directive, namely the protection of the marine environment from discharges of waste at sea cannot be sufficiently achieved by the Member States but can rather, by reason of the scale of the action, can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (32) The Union is characterised by regional differences at port level, as also demonstrated in the Territorial Impact Assessment.. Ports differ based on geographic location, size, administrative set-up and ownership, and are characterised by the type of ships normally visiting. In addition, waste management systems reflect the differences at municipal level and downstream waste management infrastructure.
- (32a) In order not to impose a disproportionate administrative burden on landlocked Member States which neither have ports nor ships flying their flag that fall within the scope of this Directive, such Member States should be allowed to derogate from the provisions of this Directive. However, those landlocked Member States which have ships flying their flag should only be allowed to derogate from those provisions applicable to ports. This means that as long as those conditions are fulfilled, they are not obliged to transpose this Directive, or certain provisions thereof.
- (33) Directive 2000/59/EC should therefore be repealed,

HAVE ADOPTED THIS DIRECTIVE:

## SECTION 1: GENERAL PROVISIONS

### *Article 1*

#### **Subject matter**

This Directive aims to protect the marine environment against the negative effects from discharges of waste from ships using ports located in the Union, while ensuring the smooth operation of maritime traffic, by improving the availability of adequate port reception facilities and the delivery of waste to those facilities.

### *Article 2*

#### **Definitions**

For the purpose of this Directive, the following definitions apply:

- (a) ‘ship’ means a seagoing vessel of any type operating in the marine environment, and shall include fishing vessels, recreational craft, hydrofoil boats, air-cushion vehicles, submersibles and floating craft;
- (b) ‘MARPOL Convention’ means the International Convention for the Prevention of Pollution from Ships, in its up-to-date version;
- (c) ‘waste from ships’ means all waste, including cargo residues, which is generated during the service of a ship or during loading, unloading and cleaning operations, and falls under the scope of Annexes I, II, IV, V and VI to MARPOL Convention and passively fished waste;
- (ca) ‘passively fished waste’ means waste collected in nets during fishing operations;
- (d) ‘cargo residues’ means the remnants of any cargo material on board which remain on the deck or in holds or tanks following loading and unloading, including loading and unloading excess or spillage, whether in wet or dry condition or entrained in wash-water, excluding cargo dust remaining on the deck after sweeping or dust of the external surfaces of the ship;

- (e) ‘port reception facilities’ means any facility which is fixed, floating or mobile and capable of providing the service of receiving the waste from ships;
- (f) ‘fishing vessel’ means any ship equipped or used commercially for catching fish or other living resources from the sea;
- (g) ‘recreational craft’ means a ship of any type, with a hull length of 2.5 metres or more, regardless of the means of propulsion, intended for sports or leisure purposes, and not engaged in trade;
- (h) [...]
- (i) ‘domestic voyage’ means a voyage in sea areas from a port of a Member State to the same or another port within that Member State;
- (j) ‘port’ means a place or a geographical area made up of such improvement works and equipment principally designed to permit the reception of ships, including the anchorage area within the jurisdiction of the port;
- (k) [...]
- (l) ‘sufficient storage capacity’ means enough capacity to store the waste on board from the moment of departure until the next port of call, including the waste that is likely to be generated during the voyage;
- (m) ‘scheduled traffic’ means traffic based on a published or planned list of times of departures and arrivals between identified ports or recurrent crossings that constitute a recognised schedule, ~~which is set in advance and remains in place for at least 4 months~~<sup>13</sup>;
- (n) ‘regular port calls’ means repeated journeys of the same ship forming a constant pattern between identified ports or a series of voyages from and to the same port without intermediate calls;

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<sup>13</sup> SE: propose a time limit of at least 3 months.



- (o) ‘frequent port calls’ means visits by a ship to the same port taking place at least once a fortnight;
- (p) ‘GISIS’ means the Global Integrated Ship Information System set up by the International Maritime Organisation;
- (q) ‘indirect fee’ means a fee paid for the provision of port reception facilities services, irrespective of the actual delivery of waste from ships.

‘Waste from ships’, as defined in points (c), **(ca)** and (d) shall be considered to be waste within the meaning of Article 3(1) of Directive 2008/98/EC.

### *Article 3*

#### **Scope**

1. This Directive shall apply to:
  - (a) all ships, irrespective of their flag, calling at, or operating within, a port of a Member State, with the exception of ships engaged in port related services as defined in Regulation (EU) 2017/352, any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on a government non-commercial basis;
  - (b) all ports of the Member States normally visited by ships falling under the scope of point (a). For the purpose of this Directive, and to avoid undue delay to ships, Member States may decide to exclude the anchorage area from their ports ~~from the~~ **for the purposes of** the application of Articles 6, 7 and 8.
2. Member States shall take measures to ensure that, where reasonably possible, ships which do not fall within the scope of this Directive deliver their waste in a manner consistent with this Directive.

3. Member States which have neither ports nor ships flying their flag falling within the scope of this Directive may derogate from the provisions of this Directive except for the obligation set out in the third subparagraph of this paragraph.

Member States which do not have ports fallings within the scope of this Directive may derogate from the provisions of this Directive which are addressed solely to ports.

Those Member States which intend to avail themselves of the derogations set out in this Article shall communicate to the Commission at the latest on [date of transposition of this amending Directive] if the conditions are met and shall inform the Commission annually thereafter of any subsequent change. Until such Member States have transposed and implemented this Directive they may not have any ports falling within the scope of this Directive or allow ships or craft that fall within the scope of this Directive to fly their flag.

**SECTION 2:**  
**PROVISION OF ADEQUATE PORT RECEPTION FACILITIES**

*Article 4*

***Port reception facilities***

1. Member States shall ensure the availability of port reception facilities adequate to meet the need of the ships normally using the port without causing undue delay to ships.
2. Member States shall ensure that:
  - (a) the port reception facilities have the capacity to receive the types and quantities of waste from ships normally using that port, taking into account the operational needs of the users of the port, the size and geographical location of the port, the type of ships calling at that port, and the exemptions provided for under Article 9;
  - (b) the formalities and practical arrangements relating to the use of the facilities are simple and expeditious to avoid undue delays to ships;
  - (ba) the fees charged for delivery do not create a disincentive for ships to use the port reception facilities;

(c) the port reception facilities allow for the management of the waste from ships in an environmentally sound manner in accordance with the requirements of Directive 2008/98/EC and other relevant Union legislation on waste. To this end, the Member States shall ensure separate collection of waste from ships in ports as required in Union waste legislation, in particular Directive 2008/98/EC, Directive 2012/19/EU of the European Parliament and of the Council<sup>14</sup> and Directive 2006/66/EC of the European Parliament and the Council<sup>15</sup>. In order to facilitate this process, port reception facilities may collect the separate waste fractions in accordance with waste categories defined in the Marpol Convention, taking into account its guidelines. This point shall apply without prejudice to the more stringent requirements imposed by Regulation (EC) 1069/2009 for the management of catering waste from international transport.

3. Member States, in their capacity as flag States, shall use the IMO forms and procedures to notify the IMO as well as the authorities of the port State of alleged inadequacies of port reception facilities.

[...]

Member States, in their capacity as port States, shall investigate all reported cases of alleged inadequacies and use the IMO forms and procedures to notify the IMO and the reporting flag State of the outcome of the investigation.

5. Member States shall ensure that any party involved in the delivery or reception of waste from ships can claim compensation for damage caused by undue delay.

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<sup>14</sup> Directive 2012/19/EU of the European Parliament and of the Council of 4 July 2012 on waste electrical and electronic equipment (WEEE) (OJ L 197, 24.7.2012, p. 38).

<sup>15</sup> Directive 2006/66/EC of the European Parliament and of the Council of 6 September 2006 on batteries and accumulators and waste batteries and accumulators and repealing Directive 91/157/EEC (Text with EEA relevance) (OJ L 266, 26.9.2006, p. 1).

Article 5

**Waste reception and handling plans**

1. Member States shall ensure that an appropriate waste reception and handling plan shall be in place and implemented for each port following ongoing consultations with the relevant parties in particular with port users or their representatives, **and** where appropriate local competent authorities, port reception **facilities** operators, and organisations implementing extended producer **responsibility** obligations. Those consultations should be held both during the initial drafting of the plans and after their adoption, in particular when significant changes have taken place, with regards to the requirements in Articles 4, 6, and 7. ~~The detailed requirements for the development of such plans are set out in Annex 1.~~

**1a<sup>16</sup>. In order to ensure uniform conditions for the implementation of waste reception and handling plans under paragraph 1 of this Article, the Commission shall adopt implementing acts to define the detailed elements to be contained in such plans which shall cover all types of waste from ships normally visiting the port and shall be based on the size of the port and the types of ships calling at that port. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 20(2). The first such implementing act shall be adopted by [OJ: add the date of entry into force + 12 months].**

2. Member States shall ensure that the following information from the waste reception and handling plans on the availability of adequate reception facilities in their ports shall be clearly communicated to the ship operators and made publicly available and easily accessible:
  - (a) location of port reception facilities applicable to each berth;
  - (b) list of waste from ships normally managed by the port;
  - (c) list of contact points, the port reception facility operators and the services offered;
  - (d) description of the procedures for delivery of the waste;

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<sup>16</sup> Commission: reservation.

- (e) description of the cost recovery systems, including the indirect fees and the basis on which they have been calculated and the waste management schemes and funds where applicable; and
- (f) [...]

This information shall also be made available electronically and kept up-to-date in the part of the information, monitoring and enforcement system referred to in Article 14 of this Directive, in accordance with Directive 2002/59/EC of the European Parliament and of the Council<sup>17</sup>.

- 3. The waste reception and handling plans referred to in paragraph 1 may, where required for reasons of efficiency, be developed in conjunction by two or more neighbouring ports in the same region, with the appropriate involvement of each port, provided that the need for and availability of, port reception facilities are specified for each port.
- 4. Member States shall evaluate and approve the waste reception and handling plan and ensure its re-approval at least every five years<sup>18</sup> after it has been approved or re-approved, and after significant changes in the operation of the port have taken place. These changes shall include, but not be limited to, structural changes in traffic to the port, development of new infrastructure, changes in the demand and provision of port reception facilities, and new on-board treatment techniques.

Member States shall monitor the port's implementation of the waste reception and handling plan. Where during this five year period no significant changes have taken place, the re-approval may consist of a validation of the existing plans.

- 5. [...]

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<sup>17</sup> Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (OJ L 208, 5.8.2002, p.10).

<sup>18</sup> MT: propose 3 years.

**SECTION 3**  
**DELIVERY OF WASTE FROM SHIPS**

*Article 6*

***Advance waste notification***

1. The operator, agent or master of a ship falling within the scope of Directive 2002/59/EC bound for a port located in the Union shall complete truly and accurately the form set out in Annex 2 to this Directive and notify that information to the authority or body designated for this purpose by the Member State in which that port is located:
  - (a) at least 24 hours prior to arrival, if the port of call is known; or
  - (b) as soon as the port of call is known, if this information is available less than 24 hours prior to arrival; or
  - (c) at the latest upon departure from the previous port, if the duration of the voyage is less than 24 hours.
2. The information referred to in paragraph 1 of this Article shall be reported electronically in the part of the information, monitoring and enforcement system, referred to in Article 14 of this Directive, in accordance with Directive 2002/59/EC and Directive 2010/65/EU of the European Parliament and of the Council<sup>19</sup>.
3. The information referred to in paragraph 1 shall be available on board, preferably in electronic form, at least until the next port of call and shall be made available upon request to the relevant Member States' authorities.
4. Member States shall ensure that the information that is notified pursuant to this Article is examined and shared with the relevant enforcement authorities without delay.

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<sup>19</sup> Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC (OJ L 283, 29.10.2010, p. 1).

*Article 7*

***Delivery of waste from ships***

1. The master of a ship calling at a Union port shall, before leaving the port, deliver all its waste carried on board to a port reception facility in accordance with the relevant discharge norms laid down in the MARPOL Convention.
- 2<sup>20</sup>. Upon delivery, the port reception facility operator or the authority of the port where the waste was delivered shall truly and accurately complete the form set out in Annex 3 and issue and provide, without undue delay, the waste receipt to the ship.

The requirement set out in the first subparagraph shall not apply in **small** ports with unmanned facilities or ~~in **that are** remotely located ~~small ports~~~~, provided that the Member State where such ports are located has notified these ports electronically in the part of the information, monitoring and enforcement system referred to in Article 14 of this Directive.

3. The operator, agent or master of a ship, falling within the scope of Directive 2002/59/EC, shall before departure, or as soon as this has been received, electronically report the information from the waste receipt in the part of the information, monitoring and enforcement system referred to in Article 14 of this Directive, in accordance with Directive 2002/59/EC and Directive 2010/65/EU.

The information from the waste receipt referred to in this paragraph shall be available on board with the appropriate Oil Record Book, Cargo Record Book, Garbage Record Book or the Garbage Management Plan, and shall be made available upon request to the Member States' authorities.

4. [...]
5. Without prejudice to paragraph 1, a ship may proceed to the next port of call without delivering the waste, if:

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<sup>20</sup> FR: propose limiting the obligation to issue a receipt to ships over 45 metres.



- (a) the information provided in accordance with Annexes 2 and 3 shows that there is sufficient dedicated storage capacity for all waste that has been accumulated and will be accumulated during the intended voyage of the ship until the next port of call; ~~or~~
  - (aa) the information available on board ships falling outside the scope of Directive 2002/59/EC shows that there is sufficient dedicated storage capacity for all waste that has been accumulated and will be accumulated during the intended voyage of the ship until the next port of call; or
  - (b) the ship only calls at anchorage for less than 24 hours or under adverse weather conditions, where such an area has not been excluded from the scope of the port in accordance with Article 3.
6. In order to ensure uniform conditions for the implementation of the exception based on sufficient dedicated storage capacity, implementing powers shall be conferred on the Commission to define the methods to be used for the calculation of the sufficient dedicated storage capacity on board. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 20(2).
7. If it cannot be established based on the available information, including information electronically available in the information, monitoring and enforcement system referred to in Article 14 or in GISIS, that adequate facilities are available in the next port of call, or this port is unknown, the Member State shall require the ship to deliver, before departure, all waste that cannot be adequately received and handled at the next port of call.
8. Paragraph 5 shall apply without prejudice to more stringent requirements for ships adopted in accordance with international law.

Article 8<sup>21</sup>

*Cost recovery systems*

1. Member States shall ensure that the costs of operating port reception facilities for the reception and treatment of waste from ships, other than cargo residues, are covered through the collection of a fee from ships. Member States may permit cost recovery to be supplemented by alternative financing systems, such as revenues from waste management schemes and funds, where applicable. ~~The costs and net revenues shall include the elements listed in Annex 4.~~

**1a<sup>22</sup>. In order to ensure uniform conditions for the implementation of cost recovery systems under paragraph 1 of this Article, the Commission shall adopt implementing acts to lay down the categories of costs and net revenues related to the operation and administration of port reception facilities on the basis of an evaluation of all of the following elements:**

- (a) direct operational costs that arise from the actual delivery of waste from ships;**
- (b) indirect administrative costs that arise from the management of the system in the port; and**
- (c) net proceeds from alternative financing systems, including waste management schemes and national or regional funding available.**

**Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 20(2). The first such implementing act shall be adopted by [OJ: add the date of entry into force + 12 months].**

2. The cost recovery systems shall provide no incentive for ships to discharge their waste at sea. To this end, the Member States shall apply the following principles in the design and operation of the cost recovery systems in ports:

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<sup>21</sup> DE, EL: general scrutiny reservation.

<sup>22</sup> Commission: reservation.

- (a) ships shall pay an indirect fee, irrespective of delivery of waste to a port reception facility;
  - (b) the indirect fee shall cover the indirect administrative costs, as well as a significant part of the direct operational costs, ~~as determined in Annex 4~~. The significant part of the direct operational costs shall represent at least 30 % of the total direct costs for actual delivery of the waste during the previous year;
  - (c) in order to provide for a maximum incentive for the delivery of waste as defined in Annex V to the MARPOL Convention other than cargo residues, no direct fee shall be charged for this waste, in order to ensure a right of delivery without any additional charges based on volume of waste delivered, except when this volume of waste delivered exceeds the maximum dedicated storage capacity as mentioned in the form set out in Annex 2 to this Directive<sup>23</sup>. Passively fished waste shall be covered by this regime, including the right of delivery;
  - (ca) **in** order to avoid that the costs of collection and treatment of passively fished waste are borne exclusively by port users, Member States may decide to cover these costs from the revenues generated by alternative financing **systems, including waste management schemes and national or regional funding available**~~listed in Annex 4~~;
  - (d) **the** indirect fee shall not include the waste from exhaust gas cleaning systems, the costs of which shall be covered on the basis of the types and quantities of waste delivered.
3. The part of the costs which is not covered by the fee referred to in subparagraph (b), if any, shall be covered on the basis of the types and quantities of waste actually delivered by the ship.
4. [...]
- 4a. The fees may be differentiated on the following basis:
- (a) the category, type and size of the ship;

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<sup>23</sup> Commission: reservation.

- ~~(b) the type of trade the ship is engaged in, in particular when a ship is engaged in short sea shipping trade;~~
- (c) the provision of services to ships outside normal operating hours in the port; **or**
- ~~(d) the hazardous nature of the waste; ~~or~~~~
- ~~(e) the ship's design equipment and operation which demonstrate that the ship produces reduced quantities of waste, and manages its waste in a sustainable and environmentally sound manner.~~

**4b. The fees may be reduced on the following basis:**

- (a) the type of trade the ship is engaged in, in particular when a ship is engaged in short sea shipping trade; or**
- (b) the ship's design equipment and operation which demonstrate that the ship produces reduced quantities of waste, and manages its waste in a sustainable and environmentally sound manner.**

~~4c~~. The Commission shall adopt implementing acts, by [*OJ: add the date of entry into force + 12 months*], to define the criteria for determining that a ship meets the requirements stated in point **(b)** of paragraph **4b** in relation to the ship's on-board waste management. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 20(2).

5. [...]

6. In order to ensure that the fees are fair, transparent, non-discriminatory, and that they reflect the costs of the facilities and services made available, and, where appropriate, used, the amount of the fees and the basis on which they have been calculated shall be made available to the port users.

*Article 9*  
***Exemptions***

1. Member States may exempt a ship calling at their ports from the obligations in Articles 6, 7(1) and 8, where there is sufficient evidence that the following conditions are met:
  - (a) the ship is engaged in scheduled traffic with frequent and regular port calls;
  - (b) there is an arrangement to ensure the delivery of the waste and payment of the fees in a port along the ship's route; and
  - (c) the arrangement under point (b) is evidenced by a signed contract with a port or waste contractor, waste delivery receipts and confirmation that the arrangement has been notified to all ports on the ship's route and accepted by the port where the delivery and payment takes place. ~~The arrangement for delivery and payment of the fee shall be made in a port located in the Union in order to constitute sufficient evidence in accordance with this paragraph~~<sup>242526</sup>.
2. If the exemption is granted, the Member State where the port is located shall issue an exemption certificate, based on the format set out in Annex 5, confirming that the ship meets the necessary conditions and requirements for the application of the exemption and stating the duration of the exemption.
3. Member States shall report the information from the exemption certificate electronically in the part of the monitoring and information system referred to in Article 14 of this Directive, in accordance with the provisions of Directive 2002/59/EC.

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<sup>24</sup> NL: propose adding a point (d) "notwithstanding the granted exemption in the port of departure, a ship shall not proceed to the next port of call if there is not sufficient dedicated storage capacity for all waste that has been accumulated and will be accumulated during the intended voyage of the ship until the next port of call."

<sup>25</sup> Commission: reservation.

<sup>26</sup> ES, FI: reservation.

4. Member States shall ensure effective monitoring and enforcement of the arrangements for the delivery and payment in place for the exempted ships visiting their ports.

## **SECTION 4: ENFORCEMENT**

### *Article 10* **Inspections**

Member States shall ensure that any ship may be subject to an inspection in order to verify that it complies with the requirements of this Directive.

### *Article 11* **Port State Control Inspections**

[...]

### *Article 12* **Inspections outside Port State Control**

[...]

### *Article 12a* **Inspection commitments**

1. Member States shall carry out inspections of ships calling in their ports corresponding to at least 10 % of the total number of individual ships calling in the Member State annually. The total number of individual ships calling in a Member State shall be calculated as the average number of individual ships over the three previous years, as reported through the Information, Monitoring and Enforcement System referred to in Article 13.
2. [...]

3. Member States shall comply with the number of inspections specified in paragraphs 1 of this Article by selecting ships on the basis of a Union risk based targeting mechanism. In order to ensure harmonisation of inspections and provide for uniform conditions for selection of ships for inspection, implementing powers shall be conferred on the Commission to define the principles and elements of a Union risk based targeting mechanism, in accordance with the examination procedure referred to in Article 19(2).

In selecting ships for inspection, Member States shall pay particular attention to:

- (a) ships which have not complied with the notification requirements in Articles 6 and 7;
  - (b) ships for which the examination of the information reported in accordance with Articles 6, 7 and 9 has revealed other grounds to believe that the ship does not comply with this Directive.
4. [...]
  5. Member States shall establish procedures for inspections for ships falling outside the scope of Directive 2002/59/EC to ensure, **as far as practicable**, compliance with this Directive.
  6. If the relevant authority of the Member State is not satisfied with the results of the inspection, it shall, without prejudice to the application of the penalties referred to in Article 16, ensure that the ship does not leave port until it has delivered its waste to a port reception facility in accordance with Article 7.

*Article 13*

***Information, Monitoring and Enforcement System***

The implementation and enforcement of this Directive shall be facilitated by the electronic reporting and exchange of information between Member States in accordance with Articles 14 and 15.

*Article 14*

***Reporting and exchange of information***

1. The reporting and exchange of information shall be based on the Union Maritime Information and Exchange System (SafeSeaNet), referred to in Article 22a(3) and Annex III of Directive 2002/59/EC.
2. Member States shall ensure that the following data is reported electronically and within reasonable time in accordance with Directive 2010/65/EU<sup>27</sup>:
  - (a) information on the actual time of arrival and time of departure of every ship, falling in the scope of Directive 2002/59/EC, calling at an EU port, together with an identifier of the port concerned;
  - (b) the information from the waste notification as contained in Annex 2;
  - (c) the information from the waste receipt as contained in Annex 3;
  - (d) the information from the exemption certificate as contained in Annex 5.
3. [...]
4. Member States shall ensure that the information listed in Article 5(2) is made electronically available to SafeSeaNet.

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<sup>27</sup> FR: reservation regarding the revision of Directive 2010/65 pending the analysis of the proposed text of revision (Articles 14 and 15).



*Article 15*

***Recording of inspections***

1. The Commission shall develop, maintain and update an inspection database to which all Member States shall be connected and which shall contain all the information required for the implementation of the inspection system provided for by this Directive. This database will be based on the inspection database referred to in Article 24 of Directive 2009/16/EC and shall have similar functionalities to that database.
2. Member States shall ensure that the information related to inspections under this Directive, including information regarding non-compliances and prohibition of departure orders granted, is transferred without delay to the inspection database, as soon as the inspection report has been completed, or the prohibition of departure order has been lifted, or an exemption has been granted.
3. [...]
4. The Commission shall ensure that the inspection database makes it possible to retrieve any relevant data reported by the Member States for the purpose of monitoring the implementation of this Directive. The Commission shall also ensure that the inspection database provides information for the Union risk based targeting mechanism.
5. Member States shall at all times have access to the information recorded.

*Article 16*

***Penalties***

Member States shall lay down the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

**SECTION 5:**  
**FINAL PROVISIONS**

*Article 17*

***Exchange of experience***

The Commission shall provide for the organisation of exchanges of experience between the Member States' national authorities and experts, including those from the private sector, on the application of this Directive in Union ports.

*Article 18*

***Amendment procedure***

1. The Commission is empowered to adopt delegated acts in accordance with Article 19 in order to amend the Annexes to this Directive and the references to IMO instruments to the extent necessary to bring them into line with Union law or in order to take account of developments at international level, in particular at IMO.
2. The Commission may also amend, by means of delegated acts, ~~the Annexes~~ **2, 3 and 5**<sup>28</sup> to this Directive when it is necessary to improve the implementation and monitoring arrangements established by this Directive, in particular those provided in Articles 6, 7 and 9, in order to ensure effective notification and delivery of waste, and the proper application of exemptions.
- 3<sup>29</sup>. In exceptional circumstances, where duly justified by an appropriate analysis by the Commission and in order to avoid a serious and unacceptable threat to maritime safety, to health, to shipboard living or working conditions or to the marine environment, or to avoid incompatibility with Union maritime legislation, the Commission is empowered to adopt delegated acts in accordance with Article 19, amending this Directive in order not to apply, for the purpose of this Directive, an amendment to the MARPOL Convention.

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<sup>28</sup> Commission: reservation regarding the deletion of Annexes 1 and 4.

<sup>29</sup> BE, DE, IT, MT, NL: reservation.

4. The delegated acts provided for in this Article shall be adopted at least three months before the expiration of the period established internationally for the tacit acceptance of the amendment concerned or the envisaged date for the entry into force of said amendment.

In the period preceding the entry into force of such delegated act, Member States shall refrain from any initiative intended to integrate the amendment in national legislation or to apply the amendment to the international instrument concerned.

#### *Article 19*

#### ***Exercise of the delegation***

- 1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
1. The power to adopt delegated acts referred to in Article 18(1), (2) and (3) shall be conferred on the Commission for a period of five years from [*the date of entry into force of this Directive*]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
2. The delegation of power referred to in Article 18(1), (2) and (3) may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.
- 2a. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

3. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
4. A delegated act adopted pursuant to Article 18(1), (2) and (3) shall enter into force only if no objection has been expressed either by the European Parliament or the Council within a period of two months of notification of that act to the European Parliament and the Council or if, before the expiry of that period, the European Parliament and the Council have both informed the Commission that they will not object. That period shall be extended by two months at the initiative of the European Parliament and of the Council.

*Article 20*

***Committee***

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) established by Regulation (EC) No 2099/2002 of the European Parliament and of the Council<sup>30</sup>. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011.
2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

*Article 21*

***Amendments to Directive 2009/16/EC***

[...]

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<sup>30</sup> Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships (OJ L 324, 29.11.2002, p. 1).

*Article 22*

***Amendment to Directive 2010/65/EU***

Directive 2010/65/EU is amended as follows:

in point A of the Annex, point (4) is amended as follows:

'4. Notification of waste from ships, including residues

Articles 6, 7 and 9 of Directive 201X/XX/EU of the European Parliament and the Council'.

*Article 23*

**Repeal**

Directive 2000/59/EC is repealed.

References to the repealed Directive shall be construed as references to this Directive.

*Article 24*

**Review**

The Commission shall evaluate this Directive and submit the results of the evaluation to the European Parliament and the Council no later than seven years after [date of entry into force].

*Article 25*

***Transposition***

1. Member States shall adopt and publish, by [36 months after the entry into force] at the latest, the laws, regulations and administrative measures necessary to comply with this Directive. They shall immediately communicate to the Commission the text of those measures.

When Member States adopt those measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

*Article 26*

**Entry into force**

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

*Article 27*

**Addressees**

This Directive is addressed to the Member States.

Done at ...,

*For the European Parliament*

*The President*

*For the Council*

*The President*

ANNEX 1

~~REQUIREMENTS FOR WASTE RECEPTION AND HANDLING PLANS IN PORTS~~

~~Plans shall cover all types of waste from ships normally visiting the port and shall be developed according to the size of the port and the types of ships calling at that port.~~

~~The following elements shall be included in the plans:~~

- ~~a) — an assessment of the need for port reception facilities, in light of the need of the ships normally visiting the port;~~
- ~~b) — a description of the type and capacity of port reception facilities;~~
- ~~e) — a description of the procedures for the reception and collection of waste from ships;~~
- ~~d) — a description of the cost recovery system;~~
- ~~e) — a description of the procedure for reporting alleged inadequacies of port reception facilities;~~
- ~~f) — a description of the procedure for ongoing consultations with port users, waste contractors, terminal operators and other interested parties; and~~
- ~~g) — an overview of the type and quantities of waste received from ships and handled in the facilities.~~

~~The plans may also include:~~

- ~~a) — a summary of relevant national legislation and the procedure and formalities for the delivery of the waste to port reception facilities;~~
- ~~b) — identification of a point of contact in the port;~~

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<sup>31</sup> Commission: reservation on the deletion of Annexes 1 and 4.

- e) — a description of the pre-treatment equipment and processes for specific waste streams in the port if any;
- e) — a description of methods of recording the actual use of the port reception facilities;
- d) — a description of methods for recording the amounts of the waste delivered by ships;
- e) — a description of how the different waste streams are managed in the port.

The procedures for reception, collection, storage, treatment and disposal should conform in all respects to an environmental management scheme suitable for the progressive reduction of the environmental impact of these activities. Such conformity is presumed if the procedures are in compliance with the Regulation (EC) No 1221/2009 of the European Parliament and the Council of 25 November 2009 on the voluntary participation by organisations in a Community eco-management and audit scheme.



## ANNEX 2

### STANDARD FORMAT OF THE ADVANCE NOTIFICATION FORM FOR WASTE DELIVERY TO PORT RECEPTION FACILITIES

Notification of the Delivery of Waste to: *(enter name of port of destination, as referred to in Article 6 of Directive XXXX/XX/EU)*

This form should be retained on board the vessel along with the appropriate Oil Record Book, Cargo Record Book, or Garbage Record Book as required by the Marpol Convention.

#### 1. SHIP PARTICULARS

1.1 Name of ship:	1.5 Owner or operator:			
1.2 IMO number:	1.6 Distinctive number or letters:			
	1.6a MMSI number:			
1.3 Gross tonnage:	1.7 Flag State:			
1.4 Type of ship:	Oil tanker Other cargo ship	Chemical tanker Passenger ship	Bulk carrier Ro-ro	Container Other (specify)

#### 2. PORT AND VOYAGE PARTICULARS

2.1 Location/Terminal name:	2.6 Last Port where waste was delivered:	
2.2 Arrival Date and Time:	2.7 Date of Last Delivery:	
2.3 Departure Date and Time:	2.8 Next Port of Delivery:	
2.4 Last Port and Country:	2.9 Person submitting this form is (if other than the master):	
2.5 Next Port and Country (if known):		

#### 3. TYPE AND AMOUNT OF WASTE AND STORAGE CAPACITY<sup>32</sup>

Type	Waste to be delivered (m <sup>3</sup> )	Maximum dedicated storage capacity (m <sup>3</sup> )	Amount of waste retained on board (m <sup>3</sup> )	Port at which remaining waste will be delivered	Estimated amount of waste to be generated between notification and next port of call (m <sup>3</sup> )
<b>MARPOL Annex I- Oil</b>					
Oily bilge water					
Oily residues (sludge)					
Oily tank washings					
Dirty ballast water					
Scale and sludge from tank cleaning					
Other (please specify)					

<sup>32</sup> SI: propose a category for "other" waste.

<b>MARPOL Annex II – NLS<sup>33</sup></b>					
Category X substance					
Category Y substance					
Category Z substance					
OS- other substances					
<b>MARPOL Annex IV – Sewage</b>					
<b>MARPOL Annex V – Garbage</b>					
A. Plastics					
B. Food Wastes					
C. Domestic wastes (e.g. paper products, rags, glass, metal, bottles, crockery, etc.)					
D. Cooking Oil					
E. Incinerator ashes					
F. Operational wastes					
G. Animal carcass(es)					
H. Fishing gear					
I. E-waste					
J. Cargo residues <sup>34</sup> (HME)					
K. Cargo residues <sup>35</sup> (non-HME)					
<b>MARPOL Annex VI – Air Pollution related</b>					
Ozone depleting substances and equipment containing such substances <sup>36</sup>					
Exhaust gas cleaning residues					

<sup>33</sup> Indicate the proper shipping name of the NLS involved

<sup>34</sup> May be estimates; indicate the proper shipping name of the dry cargo

<sup>35</sup> May be estimates; indicate the proper shipping name of the dry cargo

<sup>36</sup> Arising from normal maintenance activities on board

<b>Other waste, not covered by MARPOL</b>					
Passively fished waste					

## Notes

1. This information shall be used for port State control and other inspection purposes.
2. This form is to be completed unless the ship is covered by an exemption in accordance with Article 9 of Directive XXXX/XXXX/EU

## ANNEX 3

### STANDARD FORMAT FOR THE WASTE DELIVERY RECEIPT

The designated representative of the reception facility provider shall provide the following form to the master of a ship that has delivered waste in accordance with Article 7 of Directive XXXX/XX/EU.

This form shall be retained on board the vessel along with the appropriate Oil Record Book, Cargo Record Book or Garbage Record Book, as required by MARPOL.

#### 1. RECEPTION FACILITY AND PORT PARTICULARS

1.1.	Location /terminal name:
1.2.	Reception facility provider(s)
1.3.	Treatment facility provider(s) – if different from above:
1.4.	Waste Delivery Date and Time from: _____ to: _____

#### 2. SHIP PARTICULARS

2.1. Name of the ship:	2.5. Owner or operator:
2.2. IMO number:	2.6. Distinctive number or letters: MMSI number:
2.3. Gross tonnage:	2.7. Flag State:
2.4. Type of ship: <input type="checkbox"/> Oil tanker <input type="checkbox"/> Chemical tanker <input type="checkbox"/> Bulk carrier <input type="checkbox"/> Container <input type="checkbox"/> Other cargo ship <input type="checkbox"/> Passenger ship <input type="checkbox"/> Ro-ro <input type="checkbox"/> Other (specify)	

#### 3. TYPE AND AMOUNT OF WASTE RECEIVED<sup>37</sup>

MARPOL Annex I – Oil	Quantity (m <sup>3</sup> )	MARPOL Annex V- Garbage	Quantity (m <sup>3</sup> )
Oily bilge water		A. Plastics	
Oily residues (sludge)		B. Food wastes	
Oily tank washings		C. Domestic wastes (e.g. paper products, rags, glass, metal, bottles, crockery, etc.)	
Dirty ballast water		D. Cooking oil	
Scale and sludge from tank cleaning		E. Incinerator ashes	
Other (please specify)		F. Operational wastes	

<sup>37</sup> SI: propose a category for "other" waste.

MARPOL Annex II – NLS	Quantity (m3)/Name <sup>5</sup>	G. Animal carcass(es)	
Category X substance		H. Fishing gear	
Category Y substance		I. E-waste	
		J. Cargo residues <sup>6</sup> (HME)	
		K. Cargo residues <sup>6</sup> (non-HME)	
		<b>MARPOL Annex VI – Air Pollution related</b>	<b>Quantity (m<sup>3</sup>)</b>
Category Z substance		Ozone-depleting substances and equipment containing such substances	
OS – other substance		Exhaust gas-cleaning residues	
MARPOL Annex IV – Sewage	Quantity (m <sup>3</sup> )	<b>Other waste, not covered by MARPOL</b>	<b>Quantity (m<sup>3</sup>)</b>
		Passively fished waste	

**On behalf of the port facility I confirm that the above wastes/residues were delivered.**

**Signature: .....** **Full Name and Company Stamp: .....**

<sup>5</sup> Indicate the proper shipping name of the NLS involved

<sup>6</sup> Indicate the proper shipping name of the dry cargo

## ANNEX 4

### Categories of costs and net revenues related to the operation and administration of PRF

<i>Direct costs</i>	<i>Indirect costs</i>	<i>Net revenues</i>
<p><b>Direct operational costs that arise from the actual delivery of waste from ships, including the cost items listed below:</b></p> <ul style="list-style-type: none"> <li>● Provision of port reception facilities infrastructure, including the containers, tanks, processing tools, barges, trucks, waste reception, treatment installations;</li> <li>● Concessions due for site leasing, if applicable, or for leasing the equipment necessary for the operation of port reception facilities;</li> <li>● The actual operation of the port reception facilities: collection of waste from the ship, transport of waste from the port reception facilities for final treatment, maintenance and cleaning of port reception facilities, costs for staff, including overtime, provision of electricity, waste analysis and insurance;</li> <li>● Preparing for re-use, recycling or disposal of the waste from ships, including separate collection of waste;</li> <li>● Administration: invoicing, issuing of waste receipts to the ship, reporting.</li> </ul>	<p><b>Indirect administrative costs that arise from the management of the system in the port, including the cost items listed below:</b></p> <ul style="list-style-type: none"> <li>● Development and approval of the waste reception and handling plan, including any audits of the plan and its implementation;</li> <li>● Updating the waste reception and handling plan, including labour costs and consultancy costs, where applicable;</li> <li>● Organizing the consultation procedures for the (re)evaluation of the waste reception and handling plan;</li> <li>● Management of the notification and cost recovery systems, including the application of reduced fees for "green ships", the provision of IT systems at port level, statistical analysis and associated labour costs;</li> <li>● Organisation of public procurement procedures for the provision of port reception facilities, as well as the issuing of the necessary authorisations for the provision of port reception facilities in ports;</li> </ul>	<p><b>Net proceeds from waste management schemes and national/regional funding available, including the revenue elements listed below:</b></p> <ul style="list-style-type: none"> <li>● Net financial benefits provided by extended producer responsibility schemes;</li> <li>● Other net revenues from waste management such as recycling schemes;</li> <li>● Funding under the EMFF;</li> <li>● Other funding or subsidies available to ports for waste management and fisheries.</li> </ul>

	<ul style="list-style-type: none"> <li>• <del>Communication of information to port users through the distribution of flyers, putting up signs and posters in the port, or publication of the information on the port's website,) and electronic reporting of the information as required in article 5.</del></li> <li>• <del>Management of waste management schemes: EPR schemes, recycling and application for and implementing of national/regional funds</del></li> <li>• <del>Other administrative costs: monitoring exemptions and electronic reporting of this information as required in article 9.</del></li> </ul>	
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## ANNEX 5

### *Exemption Certificate*

**CERTIFICATE OF EXEMPTION UNDER ARTICLE 9  
IN RELATION TO THE REQUIREMENTS UNDER ARTICLE 6,  
ARTICLE 7 AND ARTICLE 8 OF DIRECTIVE XXXX/XX/EU  
AT THE PORT[S] OF *[INSERT PORT]* IN *[INSERT MEMBER STATE]*<sup>1</sup>**

<b>Name of ship</b>	<b>Distinctive number or letters</b>	<b>Flag State</b>
<i>[insert name of the ship]</i>	<i>[insert IMO number]</i>	<i>[insert name of the Flag State]</i>

is in scheduled traffic with frequent and regular port calls at the following port(s) located in *[insert name of the Member State]* according to a schedule or predetermined route:

[            ]

and calls at these ports at least once a fortnight:

[            ]

and has made an arrangement to ensure the payment of the fee and the delivery of waste to the port, or a third party at the port of:

[            ]

and is thus exempted, in accordance with *[Insert relevant article in national legislation of the country]*, from the requirements on:

- mandatory delivery of waste from ships,
- the advance notification of waste, and
- the payment of the mandatory fee, at the following port(s):

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<sup>1</sup> Delete if not appropriate.



~~from the requirements on mandatory delivery of waste from ships, the advance notification of waste, and the payment of the mandatory fee, at the following port(s):~~

[        ]

This certificate is valid until [*insert date*], unless the grounds for issuing the certificate are changed before that date.

Place and Date

.....

Name

Title

\_\_\_\_\_