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**2023/0171(COD)**

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**NOTE**

From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	10119/23 + ADD 1
Subject:	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties, including criminal penalties, for pollution offences – 4 column document

In view of the Shipping Working Party meeting on 15 January 2024, delegations will find attached a four-column document.

The fourth column reflects the outcome of the technical meeting with the Parliament on 10 January 2024 (rows 36-104), and also contains compromise proposals<sup>1</sup> for examination by delegations. Items marked in **green** are provisionally agreed.

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<sup>1</sup> The changes indicated in the compromise proposals are compared with general approach text.

**Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties,  
including criminal penalties, for pollution offences (Text with EEA relevance)  
2023/0171(COD)**

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
Formula				
1	2023/0171 (COD)		2023/0171 (COD)	<i>A - identical</i>
Proposal Title				
2	Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties, including criminal penalties, for pollution offences (Text with EEA relevance)		Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties, including criminal penalties, for pollution offences (Text with EEA relevance)	<i>A - identical</i>
Formula				
3	THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,		THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,	<i>A - identical</i>
Citation 1				
4	Having regard to the Treaty on the Functioning of the European		Having regard to the Treaty on the Functioning of the European	<i>A - identical</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	Union, and in particular Article 100(2) thereof,		Union, and in particular Article 100(2) thereof,	
Citation 2				
5	Having regard to the proposal from the European Commission,		Having regard to the proposal from the European Commission,	<i>A - identical</i>
Citation 3				
6	After transmission of the draft legislative act to the national parliaments,		After transmission of the draft legislative act to the national parliaments,	<i>A - identical</i>
Citation 4				
7	Having regard to the opinion of the European Economic and Social Committee <sup>1</sup> ,  1. OJ C 77, 31.3.2009, p. 69.		Having regard to the opinion of the European Economic and Social Committee <sup>1</sup> ,  1. OJ C-77, 31.3.2009, p. 69...	Having regard to the opinion of the European Economic and Social Committee <sup>1</sup> ,  1. OJ C/2023/872, 8.12.2023.
Citation 5				
8	Having regard to the opinion of the Committee of the Regions <sup>1</sup> ,  1. OJ C 202, 7.6.2016, p. 177.		Having regard to the opinion of the Committee of the Regions <sup>1</sup> ,  1. OJ C-202, 7.6.2016, p. 177...	<b>After consulting</b> the Committee of the Regions,
Citation 6				
9	Acting in accordance with the ordinary legislative procedure,		Acting in accordance with the ordinary legislative procedure,	<i>A - identical</i>
Formula				
10	Whereas:		Whereas:	<i>A - identical</i>
Recital 1				
11	(1) The Union's maritime policy		(1) The Union's maritime policy	<i>A - identical</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	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.		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.	
Recital 2				
12	(2) The International Convention on the Prevention of Pollution from Ships ('Marpol 73/78') provides for general prohibitions on discharges from ships at sea, but also regulates the conditions under which certain substances can be discharged into the marine environment.		(2) The International Convention on the Prevention of Pollution from Ships ('Marpol 73/78') provides for general prohibitions on discharges from ships at sea, but also regulates the conditions under which certain substances can be discharged into the marine environment. <b>Marpol 73/78 contains exceptions for the discharge of polluting substances subject to its Annexes that shall not be regarded as an infringement when the specified conditions are fulfilled. Those Annexes do not exempt the cases where those liable for the damage acted either with intent to cause damage or recklessly and with knowledge that damage would probably</b>	<b>B</b>

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			result. This Directive refers to infringements and the exceptions that would apply, which are those of Marpol 73/78.	
Recital 3				
13	<p>(3) Since the adoption of Directive 2005/35/EC of the European Parliament and of the Council <sup>1</sup>, Marpol 73/78 and its Annexes have been the subject of important amendments, which have put in place stricter norms and prohibitions for the discharges of substances from ships into the sea. These changes as well as the lessons learned from the implementation of Directive 2005/35/EC should be taken into account.</p> <p><sup>1</sup>. Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements (OJ L 255, 30.9.2005, p. 11).</p>		<p>(3) Since the adoption of Directive 2005/35/EC of the European Parliament and of the Council<sup>1</sup>, Marpol 73/78 and its Annexes have been the subject of important amendments, which have put in place stricter norms and prohibitions for the discharges of substances from ships into the sea. These changes as well as the lessons learned from the implementation of Directive 2005/35/EC should be taken into account.</p> <p><sup>1</sup>. Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties for infringements (OJ L 255, 30.9.2005, p. 11).</p>	<i>A - identical</i>
Recital 3a				
13a		<u><i>(3a) While the overarching objective of this Directive is to transpose important amendments to the International Convention for the Prevention of Pollution</i></u>		C

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		<u>from Ships ('Marpol 73/78') of the International Maritime Organization (IMO), in Union law, an up-to-date and complete text of Marpol 73/78 and its related annexes is not available on the IMO's website. This makes it burdensome for the sector, citizens and administrations to gain proper access to the text of Marpol 73/78 and other similar IMO conventions, and is an obstacle to full transparency and publicity in the IMO's work.</u>		
Recital 3b				
13b		<u>(3b) The European Commission and the Member States should request at IMO level that full texts of all IMO conventions, including Marpol 73/78 and its related annexes, be made public on the IMO's website, accessible to all free of charge, at the latest by JOP: Please insert a date: one year from the date of entry into force of this amending Directive]. The IMO should thereafter regularly update the convention texts when required</u>		C
Recital 3c				
13c		<u>(3c) The power to adopt acts in</u>		C

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		<u>accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission as regards amending this Directive, if necessary and for information purposes, in order to include in an Annex the full text of Marpol 73/78 and those of its annexes referred to in this Directive, and as regards subsequently amending that Annex, whenever required.</u>		
Recital 3d				
13d		<u>(3d) When applying the provisions of this Directive via the corresponding national laws, the Marpol 73/78 and its Annexes referred to in this Directive in force at the date of infringement should be considered.</u>		C
Recital 4				
14	(4) Directive (EU) 2019/883 of the European Parliament and of the Council <sup>1</sup> ensures that waste is delivered to Union ports, where it is collected by adequate port reception facilities. The enforcement of Directive 2019/883/EC is, together with Directive 2005/35/EC, a key instrument in preventing ship-		(4) Directive (EU) 2019/883 of the European Parliament and of the Council <sup>1</sup> ensures that waste is delivered to Union ports, where it is collected by adequate port reception facilities. The enforcement of Directive 2019/883/EC is, together with Directive 2005/35/EC, a key instrument in preventing ship-	A - identical

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	<p>source pollution. In order to ensure an effective, integrated and coherent enforcement system vis-à-vis the provisions of Directive (EU) 2019/883 on waste delivery to port reception facilities, Directive 2005/35/EC should be amended in order to extend its scope to Annexes IV to VI to Marpol 73/78, in view of discouraging ships from discharging illegally polluting substances into the sea, instead of delivering them in port reception facilities in accordance with the provisions of Directive (EU) 2019/883.</p> <p>1. Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ L 151, 7.6.2019, p. 116).</p>		<p>source pollution. In order to ensure an effective, integrated and coherent enforcement system vis-à-vis the provisions of Directive (EU) 2019/883 on waste delivery to port reception facilities, Directive 2005/35/EC should be amended in order to extend its scope to Annexes IV to VI to Marpol 73/78, in view of discouraging ships from discharging illegally polluting substances into the sea, instead of delivering them in port reception facilities in accordance with the provisions of Directive (EU) 2019/883.</p> <p>1. Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ L 151, 7.6.2019, p. 116).</p>	
Recital 5				
15	<p>(5) Directive (EU) 2019/883 does not cover under its scope Annex III of Marpol 73/78 because packaged goods are not categorised as waste, therefore they are usually not delivered in port reception facilities. However, it cannot be ruled out that harmful substances carried</p>		<p>(5) Directive (EU) 2019/883 does not cover under its scope Annex III of Marpol 73/78 because packaged goods are not categorised as waste, therefore they are usually not delivered in port reception facilities. However, it cannot be ruled out that harmful substances carried</p>	<b>B</b>



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	in packaged form could be illegally jettisoned into the sea. In light of the above, the scope of Directive 2005/35/EC should be extended to Annex III to Marpol 73/78. Accordingly, jettisoning of harmful substances should be prohibited under Directive 2005/35/EC, unless it is found by competent authorities that it was necessary for securing the safety of the ship or saving life at sea.		in packaged form could be illegally jettisoned into the sea. In light of the above, the scope of Directive 2005/35/EC should be extended to Annex III to Marpol 73/78. Accordingly, jettisoning of harmful substances should be prohibited under Directive 2005/35/EC, unless it is found by competent authorities that it was necessary for securing the safety of the ship or saving life at sea. <b>In this regard, discharges referred to in this Directive do not include dumping under the London Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972, and its 1996 Protocol.</b>	
Recital 6				
16	(6) Marpol 73/78 includes emissions from ships in the definition of discharges in Article 2 thereof. Annex VI to Marpol 73/78 addresses the prevention of air pollution from ships. Annex VI and the corresponding IMO guidelines on Exhaust Gas Cleaning Systems (EGCS) (Resolution MEPC.340 (77)) allow for the use of EGCS by ships of as an		(6) Marpol 73/78 includes emissions from ships in the definition of discharges in Article 2 thereof. Annex VI to Marpol 73/78 addresses the prevention of air pollution from ships. Annex VI and the corresponding IMO guidelines on Exhaust Gas Cleaning Systems (EGCS) (Resolution MEPC.340 (77)) allow for the use of EGCS by ships of as an	<b>B</b>

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	<p>alternative compliance method to reduce sulphur oxide (SO<sub>x</sub>) emissions. Annex VI regulate the residue and discharge water from EGCS, either by prohibiting their discharge at sea and requiring their delivery to adequate port reception facilities (in the case of EGCS residue from close loops systems) or regulating the conditions for their discharge (in the case of discharge water from open loop systems). Directive (EU) 2016/802 of the European Parliament and of the Council<sup>1</sup> transposes international SO<sub>x</sub> standards in Union law, while Directive (EU) 2019/883 ensures that EGCS residue is delivered in port reception facilities. Since EGCS residue and discharge water may cause pollution to the marine environment, the penalties provided under Directive 2005/35/EC should apply in case of illegal discharges. For those reasons, the scope of Directive 2005/35/EC should be extended to EGCS residue and discharge water, taking into account the guidelines developed by the IMO, without prejudice to the provisions of Directive (EU)</p>		<p>alternative compliance method to reduce sulphur oxide (SO<sub>x</sub>) emissions. Annex VI <del>regulate</del><b>regulates</b> the residue <del>and discharge water from EGCS,</del> either by prohibiting their discharge at sea and requiring their delivery to adequate port reception facilities (in the case of EGCS residue from <del>close loops systems</del> or <del>regulating the conditions for their discharge (in the case of discharge water from open</del><b>enclosed</b> loop systems). Directive (EU) 2016/802 of the European Parliament and of the Council<sup>1</sup> transposes international <del>SO<sub>x</sub></del><b>SO<sub>x</sub></b> standards <del>into</del> Union law, while Directive (EU) 2019/883 ensures that EGCS residue is delivered in port reception facilities. Since EGCS residue <del>and discharge water may</del> cause pollution to the marine environment, the penalties provided under Directive 2005/35/EC should apply in case of illegal discharges. <del>For those reasons, the scope of Directive 2005/35/EC should be extended to EGCS residue and discharge water, taking into account the guidelines developed by the IMO, without prejudice to the provisions of Directive (EU)</del></p>	

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	<p>2016/802 setting out any stricter discharge norms and penalties therefor.</p> <p>1. Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels (codification) (OJ L 132, 21.5.2016, p. 58).</p>		<p><del>2016/802 setting out any stricter discharge norms and penalties therefor.</del></p> <p>1. Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels (codification) (OJ L 132, 21.5.2016, p. 58).</p>	
Recital 6a				
16a			<p><b>(6a) The “discharge waters”, as defined in both MEPC.1/Circ.899 and Resolution MEPC.340(77), could be discharged directly overboard if they are compliant with discharge water quality criteria set out in the guidelines for exhaust gas cleaning systems. However, the discharge waters from EGCS may affect the ecosystem although they are complying with MARPOL Marpol 73/78. In this case, the Member State may impose restrictions or limitations which can be based on the evaluation carried out using the methodology for risk and impact assessments contained in the guidelines developed by the IMO and recommended by MEPC. In that case, the “discharge</b></p>	<b>B</b>

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			waters” may cause pollution to the marine environment, and the administrative penalties provided under Directive 2005/35/EC should apply in case of illegal discharges with due consideration to MEPC.1/Circ.883/Rev.1.	
Recital 6b				
16b		<u>(6b) Beyond the scope of the present directive, marine pollution is broader than the specific ship-source aspects covered by Marpol 73/78 annexes, as defined in Article 3 paragraph 8 of Directive (EU) 2008/56/EC and also covered by other relevant EU legislation. It results in harming biodiversity and living resources in marine ecosystems, as well as in hazards to human health and the impairment of the quality for use of sea water and the sustainable use of marine goods and services, hence hindering other marine activities, such as fishing, tourism and recreation. Underwater noise pollution, produced by shipping, is detrimental to marine species both in the short and long term, particularly to marine mammals, but also to fish,</u>		C

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		<u>crustaceans, and invertebrates, as they use sound to find food, communicate with one another and avoid predators. Reporting by Member States of incidents involving excessive underwater noise should be encouraged. Air pollution, such as black carbon, PM or NOx, can become a public health threat, particularly in coastal areas, as well as the release of plastic microbeads and pellets from containers.</u>		
Recital 7				
17	(7) Directive (EU) 2023/xxxx <sup>1</sup> ensures common definitions of environmental criminal offences and the availability of dissuasive, effective and proportionate criminal sanctions for serious environmental offences. Directive 2005/35/EC was amended by Directive 2009/123/EC of the European Parliament and of the Council <sup>2</sup> , which introduced criminal penalties for certain infringements of Directive 2005/35/EC, which should now fall within the scope of Directive (EU) 2023/xxxx. Accordingly, the provisions of Directive 2005/35/EC which were added		(7) Directive (EU) 2023/xxxx of the European Parliament and of the Council <sup>1</sup> ensures common definitions of environmental criminal offences and the availability of dissuasive, effective and proportionate criminal sanctions for serious environmental offences. Directive 2005/35/EC was amended by Directive 2009/123/EC of the European Parliament and of the Council <sup>2</sup> , which introduced criminal penalties for certain infringements of Directive 2005/35/EC, which should now fall within the scope of Directive (EU) 2023/xxxx. Accordingly,	<b>A</b> <i>Only editorial, otherwise identical.</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>or replaced by Directive 2009/123/EC should be deleted from Directive 2005/35/EC.</p> <p>1. OJ L xxxx. 2. Directive 2009/123/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements (OJ L 280, 27.10.2009, p. 52).</p>		<p>the provisions of Directive 2005/35/EC which were added or replaced by Directive 2009/123/EC should be deleted from Directive 2005/35/EC.</p> <p>1. OJ L xxxx. 2. Directive 2009/123/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2005/35/EC on ship-source pollution and on the introduction of penalties for infringements (OJ L 280, 27.10.2009, p. 52).</p>	
Recital 8				
18	<p>(8) Administrative penalties introduced in transposition of Directive 2005/35/EC should be without prejudice to Directive (EU) 2023/xxxx. Member States should define the scope of administrative and criminal law enforcement with regards to ship-source pollution offences according to their national law. In the application of national law transposing Directive 2005/35/EC, Member States should ensure that the imposition of criminal penalties and of administrative penalties respects the principles of the Charter of Fundamental Rights of the European Union, including the prohibition of ne</p>		<p>(8) Administrative penalties introduced in transposition of Directive 2005/35/EC should be without prejudice to Directive (EU) 2023/xxxx. Member States should define the scope of administrative and criminal law enforcement with regards to ship-source pollution offences according to their national law. <b>This Directive does not prevent Member States from taking more stringent measures in conformity with international law, by providing for administrative or criminal penalties in accordance with their national law.</b> In the application of national law transposing</p>	<b>B</b>

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	bis in idem.		Directive 2005/35/EC, Member States should ensure that the imposition of criminal penalties and of administrative penalties respects the principles of the Charter of Fundamental Rights of the European Union, including the prohibition of <i>ne bis in idem</i> , taking due account of the “polluter pays principle”, as and when applicable <del>ne bis in idem</del> .	
Recital 9				
19	(9) The penalties provisioned by Directive 2005/35/EC should be strengthened by ensuring consistent application of administrative penalties throughout the Union. To strengthen the deterrent effect of penalties imposed for ship-source pollution offences, such penalties should take at least the form of fines imposed to the company of the ship, unless the company can prove that the master of the ship or a member or members of the crew, the latter not acting under the responsibility of the master, was responsible for the discharge. In this context, the company of ship means the shipowner or any other organisation or person,	(9) The penalties provisioned by Directive 2005/35/EC should be strengthened by ensuring consistent application of administrative penalties throughout the Union. To strengthen the deterrent effect of penalties imposed for ship-source pollution offences, such penalties should take at least the form of fines imposed to the company of the ship, unless the company can prove that the master of the ship or a member or members of the crew, the latter not acting under the responsibility of the master, was responsible for the discharge. <u><i>This possibility to hold the master or the crew responsible should, however, not prevent</i></u>	(9) The penalties provisioned by Directive 2005/35/EC should be strengthened by ensuring consistent application of administrative penalties throughout the Union. To strengthen the deterrent effect of penalties imposed for ship-source pollution offences, such <b>administrative</b> penalties should take at least the form of fines imposed to the company of the ship, <del>unless where the company can prove that the master of the ship or a member or members of the crew, the latter not acting under the responsibility was</del> <b>found liable. Member States may also impose fines on other natural or legal persons where they are found liable</b> of the	C

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	<p>such as the manager or the bareboat charterer, which has assumed the responsibility for the operation of the ship from the shipowner, in alignment with the International Management Code for the Safe Operation of Ships and for Pollution Prevention ('ISM Code')<sup>1</sup>, implemented in Union law by virtue of Regulation (EC) No 336/2006 of the European Parliament and of the Council<sup>2</sup>. Directive 2005/35/EC should recognise that the management of the ship could be delegated by the registered owner to a different entity, which should then be held in the first place responsible for not implementing its obligations under the ISM Code to ensure the avoidance of damage to the environment or the assignment of shipboard operations to qualified personnel.</p> <p>1. International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the International Maritime Organisation by Assembly Resolution A.741(18) of 4 November 1993, as amended. 2. Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the implementation of the International</p>	<p><u>the payment of the full amount of the penalty. To ensure that any environmental damage caused by illegal discharges under this Directive is effectively sanctioned with penalties, the company should remain responsible as a last resort.</u> In this context, the company of ship means the shipowner or any other organisation or person, such as the manager or the bareboat charterer, which has assumed the responsibility for the operation of the ship from the shipowner, in alignment with the International Management Code for the Safe Operation of Ships and for Pollution Prevention ('ISM Code')<sup>1</sup>, implemented in Union law by virtue of Regulation (EC) No 336/2006 of the European Parliament and of the Council<sup>2</sup>. Directive 2005/35/EC should recognise that the management of the ship could be delegated by the registered owner to a different entity, which should then be held in the first place responsible for not implementing its obligations under the ISM Code to ensure the avoidance of damage to the environment or</p>	<p>master, was responsible for the discharge <b>infringement.</b> In this context, the company of a ship means the shipowner or any other organisation or person, such as the manager or the bareboat charterer, which has assumed the responsibility for the operation of the ship from the shipowner, in alignment with the International Management Code for the Safe Operation of Ships and for Pollution Prevention ('ISM Code')<sup>1</sup>, implemented in Union law by virtue of Regulation (EC) No 336/2006 of the European Parliament and of the Council<sup>2</sup>. Directive 2005/35/EC should recognise that the management of the ship could be delegated by the registered owner to a different entity, which should then be held in the first place responsible for not implementing its obligations under the ISM Code to ensure the avoidance of damage to the environment or the assignment of shipboard operations to qualified personnel. <b>Without prejudice to the applicable Union legislation, the decision on the most effective type of penalty to be applied, criminal</b></p>	



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	Safety Management Code within the Community and repealing Council Regulation (EC) No 3051/95 (Text with EEA relevance) (OJ L 64, 4.3.2006, p.1).	<p>the assignment of shipboard operations to qualified personnel.</p> <p>1. International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the International Maritime Organisation by Assembly Resolution A.741(18) of 4 November 1993, as amended.</p> <p>2. Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the implementation of the International Safety Management Code within the Community and repealing Council Regulation (EC) No 3051/95 (Text with EEA relevance) (OJ L 64, 4.3.2006, p.1).</p>	<p><b>or administrative, remains the prerogative of the Member State. For criminal penalties, the Member State adheres to the obligations set out in Directive (EU) 2023/xxxx, the revised Environmental Crime Directive. Accordingly, this Directive only concerns administrative penalties and does not concern criminal proceedings against natural or legal persons in accordance with national law.</b></p> <p>1. International Management Code for the Safe Operation of Ships and for Pollution Prevention adopted by the International Maritime <del>Organisation</del><b>Organization</b> by Assembly Resolution A.741(18) of 4 November 1993, as amended.</p> <p>2. Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the implementation of the International Safety Management Code within the Community and repealing Council Regulation (EC) No 3051/95 (<del>Text with EEA relevance</del>) (OJ L 64, 4.3.2006, p.1).</p>	
Recital 9a				
19a			<b>(9a) Recognising that compliance for some Member States with the requirement for administrative penalties is not possible due to national</b>	<b>C</b>

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			constitutional law, Member States may apply the provisions on administrative penalties of this Directive in a manner where the fines are initiated by the competent authority and imposed by competent national courts, while ensuring the need for effective, proportionate and dissuasive penalties. When thus referring to administrative penalties of this Directive, those Member States will apply penalties in the meaning of their national legal system.	
Recital 9b				
19b			(9b) Irregularities and information could arise from a port State control inspection carried out under Directive 2009/16/EC when it is mandatory or when it is scheduled. Irregularities could also be detected with respect to the delivery of ship-generated waste, or the notification thereof, as required under Directive (EU) 2019/883 or with respect to non-compliance with the criteria for the use of exhaust gas cleaning systems operated as	B

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			emissions abatement methods set out in Annex II to Directive (EU) 2016/802, as well as information obtained relating to a potential illegal discharge of the ship obtained through the procedures foreseen in Directive 2002/59/EC, including any proof or presumptive evidence on discharges of oil or other infringements of Marpol 73/78 communicated to the Member State or incidents or accidents reported by the master of the ship.	
Recital 10				
20	(10) National administrative and judicial authorities should take into account all relevant circumstances when determining the level of penalties to be imposed to the polluter. Taking into account the diverse nature of polluting substances covered under Directive 2005/35/EC and the importance of consistent application of penalties across the Union in light of the cross-border nature of the regulated behaviour, further approximation and effectiveness of penalty levels should be fostered through the	(10) National administrative and judicial authorities should take into account all relevant circumstances, <u>including recidivism</u> , when determining the level of penalties to be imposed to the polluter. Taking into account the diverse nature of polluting substances covered under Directive 2005/35/EC and the importance of consistent application of penalties across the Union in light of the cross-border nature of the regulated behaviour, further approximation and effectiveness of penalty levels should be	(10) National administrative and judicial authorities should take into account all relevant circumstances when determining the level of penalties to be imposed to the polluter. Taking into account the diverse nature of polluting substances covered under Directive 2005/35/EC and the importance of consistent application of penalties across the Union in light of the cross-border nature of the regulated behaviour, further approximation and effectiveness of penalty levels <del>should</del> <b>could</b> be fostered through the	<b>B</b> <i>B, because “including recidivism” is in line with the content of the article 8d.1.(h), and recidivism is normally taken into account.</i>

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	<p>establishment of concrete criteria for the application of penalties for discharges of different polluting substances. In order to ensure the uniform conditions for the application of penalties, implementing powers should be conferred to the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>1</sup>. The examination procedure should be used for the adoption of these implementing acts.</p> <p><sup>1</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 Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>	<p>fostered through the establishment of concrete criteria for the application of penalties for discharges of different polluting substances. In order to ensure the uniform conditions for the application of penalties, implementing powers should be conferred to the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>1</sup>. The examination procedure should be used for the adoption of these implementing acts.</p> <p><sup>1</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 Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>	<p><del>establishment of concrete exchange on</del> criteria for the application of penalties for discharges of different polluting substances. <del>In order to ensure the uniform conditions for the application of penalties, implementing powers should be conferred to the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>1</sup>. The examination procedure should be used for the adoption of these implementing acts.</del></p> <p><sup>1</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 Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).</p>	
Recital 11				
21	<p>(11) When a Member State suspects that a ship which is voluntarily within its port or at an off-shore terminal committed an illegal discharge, an appropriate inspection should take place to establish the</p>	<p>(11) When a Member State suspects that a ship <del>which is voluntarily</del> within its port or at an off-shore terminal committed an illegal discharge, an appropriate inspection should take place to establish the</p>	<p>(11) When a Member State suspects that a ship which is voluntarily within its port or at an off-shore terminal committed an illegal discharge, an appropriate inspection should take place to establish the</p>	C

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>circumstances. In order to assist Member States with their obligations under Directive 2005/35/EC to inspect such ships, Annex I to Directive 2005/35/EC provides an indicative list of irregularities or information that should be taken into account by competent authorities on a case-by-case basis when determining whether a ship should be considered suspect.</p>	<p>circumstances. In order to assist Member States with their obligations under Directive 2005/35/EC to inspect such ships, Annex I to Directive 2005/35/EC provides an indicative list of irregularities or information that should be taken into account by competent authorities on a case-by-case basis when determining whether a ship should be considered suspect.</p>	<p>circumstances. In order to assist Member States with their obligations under Directive 2005/35/EC to inspect such ships, Annex I to Directive 2005/35/EC provides an indicative list of irregularities or information that should be taken into account by competent authorities on a case-by-case basis when determining whether a ship should be considered suspect.</p>	
Recital 12				
22	<p>(12) The accompanying measures for cooperation and the reporting obligations of Member States have not been sufficient until now to allow a complete analysis whether polluters face effective, dissuasive and proportionate penalties and that adequate data is made available to the Commission to monitor the implementation of Directive 2005/35/EC. In order to ensure the effective and consistent enforcement of Directive 2005/35/EC, exchange of information and experience should be facilitated through enhanced cooperation, while at the same time ensuring that</p>	<p>(12) The accompanying measures for cooperation and the reporting obligations of Member States have not been sufficient until now to allow a complete analysis whether polluters face effective, dissuasive and proportionate penalties and that adequate data is made available to the Commission <u>and EMSA</u> to monitor the implementation of Directive 2005/35/EC. In order to ensure the effective and consistent enforcement of Directive 2005/35/EC, exchange of information, <u>experience and best practices</u> <del>and experience</del> should be facilitated through enhanced cooperation, while at</p>	<p>(12) The accompanying measures for cooperation and the reporting obligations of Member States have not been sufficient until now to allow a complete analysis whether polluters face effective, dissuasive and proportionate penalties and that adequate data is made available to the Commission to monitor the implementation of Directive 2005/35/EC. In order to ensure the effective and consistent enforcement of Directive 2005/35/EC, exchange of information and experience should be facilitated through enhanced cooperation, while at the same time ensuring that</p>	C

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	adequate data are made available to the Commission in order to allow the proper monitoring of the implementation of Directive 2005/35/EC.	the same time ensuring that adequate data are made available to the Commission <u>and EMSA</u> in order to allow the proper monitoring of the implementation of Directive 2005/35/EC.	adequate data are made available to the Commission in order to allow the proper monitoring of the implementation of Directive 2005/35/EC.	
Recital 13c				
23	(13) The existing satellite-based service ‘CleanSeaNet’ which notifies Member States authorities on potential illegal discharges, should be further enhanced to include information on the additional polluting substances under the scope of Directive 2005/35/EC. Information relating to potential or actual discharges reported by Member States in accordance with Directive 2005/35/EC and to other Union maritime safety databases, such as the Union Maritime Information and Exchange System established by Directive 2002/59/EC of the European Parliament and of the Council <sup>1</sup> (‘SafeSeaNet’) and the Inspection Database set up by Directive 2009/16/EC of the European Parliament and of the Council <sup>2</sup> (‘THETIS’) should be integrated and disseminated in a user-friendly electronic format	(13) The existing satellite-based service ‘CleanSeaNet’ which notifies Member States authorities on potential illegal discharges, should be further enhanced to include information on the additional polluting substances under the scope of Directive 2005/35/EC. Information relating to potential or actual discharges reported by Member States in accordance with Directive 2005/35/EC and to other Union maritime safety databases, such as the Union Maritime Information and Exchange System established by Directive 2002/59/EC of the European Parliament and of the Council <sup>1</sup> (‘SafeSeaNet’) and the Inspection Database set up by Directive 2009/16/EC of the European Parliament and of the Council <sup>2</sup> (‘THETIS’) should be integrated and disseminated in a user-friendly electronic format	(13) The existing satellite-based service ‘CleanSeaNet’ which notifies Member States authorities on potential illegal discharges, should be further enhanced to include information on the additional polluting substances under the scope of Directive 2005/35/EC. Information relating to potential or actual discharges reported by Member States in accordance with Directive 2005/35/EC and to other Union maritime safety databases, such as the Union Maritime Information and Exchange System established by Directive 2002/59/EC of the European Parliament and of the Council <sup>1</sup> (‘SafeSeaNet’) and the Inspection Database set up by Directive 2009/16/EC of the European Parliament and of the Council <sup>2</sup> (‘THETIS’) should be integrated and disseminated in a user-friendly electronic format	C

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>to the national authorities involved in the enforcement chain in order to facilitate their timely response. Such information, when relating to an actual or potential discharge of Exhaust Gas Cleaning System residue from a ship, should further be automatically disseminated to the dedicated module of THETIS set up by under Commission Implementing Decision 2015/253 ('THETIS-EU'), in order to assist Member States with enforcement actions undertaken in accordance with the provisions of Directive (EU) 2016/802. In order to ensure the effective monitoring of the Directive's implementation by all Member States, a verification rate of 10% per year of the alerts sent by CleanSeaNet should be ensured by each Member State within the first three years form the transposition of this Directive. Access to this information should be granted to the authorities of other Member States having an interest in it under their roles as port States of the next port of call, coastal States affected by the potential discharge or flag States of the</p>	<p>to the national authorities involved in the enforcement chain in order to facilitate their timely response. Such information, when relating to an actual or potential discharge of Exhaust Gas Cleaning System residue from a ship, should further be automatically disseminated to the dedicated module of THETIS set up by under Commission Implementing Decision 2015/253 ('THETIS-EU'), in order to assist Member States with enforcement actions undertaken in accordance with the provisions of Directive (EU) 2016/802. In order to ensure the effective monitoring of the Directive's implementation by all Member States, a verification rate of <del>10%</del><b>50%</b> per year of the alerts sent by CleanSeaNet should be ensured by each Member State within the first three years form the transposition of this Directive. Access to this information should be granted to the authorities of other Member States having an interest in it under their roles as port States of the next port of call, coastal States affected by the potential</p>	<p>to the national authorities involved in the enforcement chain in order to facilitate their timely response. Such information, when relating to an actual or potential discharge of Exhaust Gas Cleaning System residue from a ship, <del>should further</del><b>could</b> be automatically disseminated, <b>such as through</b> <del>to</del> the dedicated module of THETIS set up by under Commission Implementing Decision 2015/253 ('THETIS-EU'), in order to assist Member States with enforcement actions undertaken in accordance with the provisions of Directive (EU) 2016/802. In order to ensure the effective monitoring of the Directive's implementation by all Member States, a verification rate of <del>10% per year of the</del><b>the</b> <b>Class A</b> alerts sent by CleanSeaNet should be ensured by each Member State within the first three years <del>form</del><b>from</b> the transposition of this Directive. <b>Verification activities could include many actions by several competent authorities, such as comparing the satellite detection with the nationally available auxiliary data and port State control inspections.</b></p>	

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>ship in order to facilitate effective and timely cross-border cooperation, minimise the administrative burden of enforcement activities and ultimately effectively penalise offenders for infringements of Directive 2005/35/EC.</p> <p>1. 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). 2. Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (recast) (OJ L 131, 28.5.2009, p. 57).</p>	<p>discharge or flag States of the ship in order to facilitate effective and timely cross-border cooperation, minimise the administrative burden of enforcement activities and ultimately effectively penalise offenders for infringements of Directive 2005/35/EC.</p> <p>1. 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). 2. Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (recast) (OJ L 131, 28.5.2009, p. 57).</p>	<p>Access to this information should be granted to the authorities of other Member States having an interest in it under their roles as port States of the next port of call, coastal States affected by the potential discharge or flag States of the ship in order to facilitate effective and timely cross-border cooperation, minimise the administrative burden of enforcement activities and ultimately effectively penalise offenders for infringements of Directive 2005/35/EC. <b>The use of new technologies such as drones and decision support techniques, such as artificial intelligence, should also be fostered.</b></p> <p>1. 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). 2. Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (recast) (OJ L 131, 28.5.2009, p. 57).</p>	
Recital 14				
24	(14) The Sub-group on Waste from Ships, which was set up	(14) The Sub-group on Waste from Ships, which was set up	(14) The Sub-group on Waste from Ships, which was set up	C



	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>under the European Sustainable Shipping Forum, and which 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 interinstitutional negotiations of Directive (EU) 2019/883. Since that temporary Sub-group provided valuable guidance and expertise to the Commission, a similar expert group should be created with a mandate of exchanging experience on the application of this Directive in order to assist Member States in building their capacity to detect and verify pollution incidents and ensure the effective enforcement of Directive 2005/35/EC.</p>	<p>under the European Sustainable Shipping Forum, and which 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 interinstitutional negotiations of Directive (EU) 2019/883. Since that temporary Sub-group provided valuable guidance and expertise to the Commission, a similar expert group should be created with a mandate of exchanging experience on the application of this Directive in order to assist Member States in building their capacity to <u>prevent</u>, detect and verify pollution incidents and ensure the effective enforcement of Directive 2005/35/EC.</p>	<p>under the European Sustainable Shipping Forum, and which 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 interinstitutional negotiations of Directive (EU) 2019/883. <del>Since that temporary Sub-group provided valuable guidance and expertise to the Commission, a similar expert group should be created with a mandate of exchanging experience</del>  <b>The Commission should continue to provide for the organisation of exchange of experiences between Member States' national authorities and experts, including those from the private sector, civil society and trade unions, on the application of this Directive in order to assist Member States in building their capacity to detect and verify pollution incidents and ensure the effective across the Union, with a view to establish common practices on the enforcement of Directive 2005/35/EC this Directive.</b></p>	
Recital 15				

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
25	<p>(15) The European Maritime Safety Agency ('EMSA') established by Regulation (EU) xxxx/xxxx<sup>1</sup> should provide the necessary support to the Commission to ensure the implementation of this Directive.</p> <p><sup>1</sup> OJ L xxxx.</p>	<p>(15) The European Maritime Safety Agency ('EMSA') established by Regulation (EU) xxxx/xxxx<sup>1</sup> should provide the necessary support to the Commission <u>and the relevant Member State authorities</u> to ensure the implementation of this Directive.</p> <p><sup>1</sup> OJ L xxxx.</p>	<p>(15) The European Maritime Safety Agency ('EMSA') established by Regulation (EU) xxxx/xxxx<sup>1</sup> should provide the necessary support to the Commission to ensure the implementation of this Directive.<del>deleted</del></p> <p><sup>1</sup> OJ L xxxx.</p>	C
Recital 15a				
25a		<p><u>(15a) In order to be able to tackle the problem of ocean container pollution more effectively at European level, the new reporting obligations to IMO under chapter 5 of the International Convention for the Safety of Life at Sea (SOLAS) should not remain limited to IMO level. Member States should also report on this issue to the European Commission and EMSA on a yearly basis.</u></p>		C
Recital 16				
26	<p>(16) Member States should report to the Commission the information needed to ensure a proper monitoring of the implementation of Directive 2005/35/EC. In order to limit</p>	<p>(16) Member States should report to the Commission <u>and EMSA</u> the information needed to ensure a proper monitoring of the implementation of Directive 2005/35/EC. In order to limit</p>	<p>(16) Member States should report to the Commission the information needed to ensure a proper monitoring of the implementation of Directive 2005/35/EC. In order to limit</p>	C

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>administrative burden and assist the Commission in analysing the data provided by Member States, such information should be reported by Member States through a dedicated electronic reporting tool. To the extent that such information relates to penalties imposed to or involving natural persons, such information shall be anonymised. In order to ensure that information reported in accordance with Directive 2005/35/EC is comparable in type among Member States and collected on the basis of a harmonised electronic format and procedure for reporting, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.</p>	<p>administrative burden and assist the Commission in analysing the data provided by Member States, such information should be reported by Member States through a dedicated electronic reporting tool <u>developed by EMSA</u>. To the extent that such information relates to penalties imposed to or involving natural persons, such information shall be anonymised. In order to ensure that information reported in accordance with Directive 2005/35/EC is comparable in type among Member States and collected on the basis of a harmonised electronic format and procedure for reporting, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011.</p>	<p>administrative <del>burden</del><b>burdens</b> and assist the Commission in analysing the data provided by Member States, such information should be reported by Member States through a dedicated electronic reporting tool. To the extent that such information relates to penalties imposed <del>to on</del> or involving natural persons, such information shall be anonymised. In order to ensure that information reported in accordance with Directive 2005/35/EC is comparable in type among Member States and collected on the basis of a harmonised electronic format and procedure for reporting, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 <b>of the European Parliament and of the Council</b><sup>1</sup>.</p> <p><b>1. 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 Member States of the Commission's exercise of implementing powers (OJ L 55,</b></p>	

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			28.2.2011, p. 13).	
Recital 16a				
26a			<b>(16a) It is acknowledged that there is a limitation in the available technology to detect, verify and collect evidence in respect of discharge of certain polluting substances at source. These constraints should be taken into account in Member States' implementation and enforcement of this Directive.</b>	C
Recital 17				
27	(17) In order to assist Member States with the development of their capacities regarding effective enforcement of Directive 2005/35/EC by the national administrative and judicial authorities, the Commission should provide Member States with guidance and training relating to, inter alia, best methods and practices for detection, verification and evidence collection, as well as guidance on relevant regulatory developments of Marpol 73/78 and on technological developments available, including new digital tools, in order to facilitate effective, cost-efficient and targeted	(17) In order to assist Member States with the development of their capacities regarding effective enforcement of Directive 2005/35/EC by the national administrative and judicial authorities, the Commission <u>and EMSA</u> should provide Member States with guidance and training relating to, inter alia, best methods and practices for detection, verification and evidence collection, as well as guidance on relevant regulatory developments of Marpol 73/78 and on technological developments available, including new digital tools, in order to facilitate effective, cost-	(17) In order to assist Member States with the development of their capacities regarding effective enforcement of Directive 2005/35/EC by the national administrative and judicial authorities, the Commission should provide Member States with guidance and training relating to, inter alia, best methods and practices for detection, verification and evidence collection, as well as guidance on relevant regulatory developments of Marpol 73/78 and on technological developments available, including new digital tools, in order to facilitate effective, cost-efficient and targeted	C

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	enforcement activities.	efficient and targeted enforcement activities.	enforcement activities.	
Recital 18				
28	<p>(18) In order to increase public awareness in ship-source pollution discharges and improve environmental protection, information provided by the Member States on the application of Directive 2005/35/EC should be made publicly available through a Union-wide overview and include the information listed in Annex II of Directive 2005/35/EC. Directive 2003/4/EC of the European Parliament and of the Council<sup>1</sup> aims to guarantee the right of access to environmental information in the Member States in line with the Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus Convention), to which the Union is a party. The Commission should protect the confidentiality of information received by Member States, without prejudice to the provisions of Directive 2003/4/EC.</p>	<p>(18) In order to increase public awareness in ship-source pollution discharges and improve environmental protection, information provided by the Member States on the application of Directive 2005/35/EC should be made publicly available <u>in a disaggregated form, with data for every Member State</u>, through a Union-wide overview and include the information listed in Annex II of Directive 2005/35/EC. Directive 2003/4/EC of the European Parliament and of the Council<sup>1</sup> aims to guarantee the right of access to environmental information in the Member States in line with the Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus Convention), to which the Union is a party. The Commission should protect the confidentiality of information received by Member States, without prejudice to the</p>	<p>(18) In order to increase public awareness <del>in</del> of ship-source pollution discharges and to improve environmental protection, information provided by the Member States on the application of Directive 2005/35/EC should be made publicly available through a Union-wide overview and include the information listed in Annex II of Directive 2005/35/EC. Directive 2003/4/EC of the European Parliament and of the Council<sup>1</sup> aims to guarantee the right of access to environmental information in the Member States in line with the Convention on access to information, public participation in decision-making and access to justice in environmental matters (Aarhus Convention), to which the Union is a party. The Commission should protect the confidentiality of information received by Member States, without prejudice to the provisions of Directive 2003/4/EC.</p>	C

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	1. Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).	provisions of Directive 2003/4/EC.  1. Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).	1. Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).	
Recital 19				
29	(19) Directive (EU) 2019/1937 of the European Parliament and of the Council <sup>1</sup> lays down minimum standards on reporting of breaches of Union law, including of Directive 2005/35/EC and for the protection of persons reporting such breaches. Member States should ensure, in particular, that crew under the scope of Directive (EU) 2019/1937 reporting actual or potential illegal discharges are granted protection. In addition to the existing reporting channels provided at national level as regulated under Directive (EU)2019/1937, the Commission should make available a centralised online external reporting channel for reporting actual or potential illegal discharges and relay such	(19) Directive (EU) 2019/1937 of the European Parliament and of the Council <sup>1</sup> lays down minimum standards on reporting of breaches of Union law, including of Directive 2005/35/EC and for the protection of persons reporting such breaches. Member States should ensure, in particular, that crew under the scope of Directive (EU) 2019/1937 reporting actual or potential illegal discharges are granted protection, <u>adequate support and material assistance, where necessary</u> . In addition to the existing reporting channels provided at national level as regulated under Directive (EU)2019/1937, the Commission should make available a centralised online external reporting channel for	(19) Directive (EU) 2019/1937 of the European Parliament and of the Council <sup>1</sup> lays down minimum standards on reporting of breaches of Union law, including <b>breaches</b> of Directive 2005/35/EC, and for the protection of persons reporting such breaches. Member States should ensure, in particular, that crew under the scope of Directive (EU) 2019/1937 reporting actual or potential illegal discharges are granted protection. In addition to the existing reporting channels provided at national level as regulated under Directive (EU) 2019/1937, the Commission should make available a centralised online external reporting channel for reporting actual or potential illegal discharges and relay such	C

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>reports to the Member State or Member States concerned, which should subsequently handle these reports in accordance with Directive (EU) 2019/1937, including with regards to acknowledgement of receipt, adequate feedback and follow-up. The Commission should ensure the protection of the confidentiality of the identity of reporting persons, including, where necessary, by restricting the exercise of certain data protection rights of persons concerned, such as of individuals included in the report as participating in the potential illegal discharge, in line with Article 25(1) points (c) and (h) and Article 25(2) of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>2</sup>, to the extent and as long as necessary to prevent and address attempts to hinder reporting or to impede, frustrate or slow down follow-up, in particular investigations, or attempts to find out the identity of the reporting persons.</p> <p><small>1. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of</small></p>	<p>reporting actual or potential illegal discharges and relay such reports to the Member State or Member States concerned, which should subsequently handle these reports in accordance with Directive (EU) 2019/1937, including with regards to acknowledgement of receipt, adequate feedback and follow-up. The Commission should ensure the protection of the confidentiality of the identity of reporting persons, including, where necessary, by restricting the exercise of certain data protection rights of persons concerned, such as of individuals included in the report as participating in the potential illegal discharge, in line with Article 25(1) points (c) and (h) and Article 25(2) of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>2</sup>, to the extent and as long as necessary to prevent and address attempts to hinder reporting or to impede, frustrate or slow down follow-up, in particular investigations, or attempts to find out the identity of the reporting persons.</p> <p><small>1. Directive (EU) 2019/1937 of the</small></p>	<p>reports to the Member State or Member States concerned, which should subsequently handle these reports in accordance with Directive (EU) 2019/1937, including with regards to acknowledgement of receipt, adequate feedback and follow-up. <b>This Directive should be without prejudice to Union law on the protection of personal data, in particular Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>2</sup> and Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>3</sup>.</b> The Commission should ensure the protection of the confidentiality of the identity of reporting persons, including, where necessary, by restricting the exercise of certain data protection rights of persons concerned, such as of individuals included in the report as participating in the potential illegal discharge, in line with Article 25(1) points (c) and (h) and Article 25(2) of Regulation (EU) 2018/1725 of the European Parliament and of the Council<sup>2</sup>, to the extent and as long as necessary to prevent and address attempts to hinder</p>	



	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).</p> <p>2. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA relevance) (OJ L 295, 21.11.2018, p. 39).</p>	<p>European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).</p> <p>2. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA relevance) (OJ L 295, 21.11.2018, p. 39).</p>	<p>reporting or to impede, frustrate or slow down follow-up, in particular investigations, or attempts to find out the identity of the reporting persons. <b>Such restrictions should respect the essence of the fundamental rights and freedoms and be necessary and proportionate measures in a democratic society to safeguard important objectives of general public interest of the Union or of a Member State and/or the protection of the data subject or the rights and freedoms of others.</b></p> <p>1. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).</p> <p>2. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA relevance) (OJ L 295, 21.11.2018, p. 39).</p> <p><b>3. Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with</b></p>	



	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
			regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016, p. 1).	
Recital 20				
30	<p>(20) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on [xx xx 2023]<sup>1</sup>.</p> <p><sup>1</sup>. OJ C xxxx.</p>		<p>(20) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 and delivered an opinion on [xx xx 2023]<sup>1</sup>.</p> <p><sup>1</sup>. OJ C xxxx.</p>	<i>A - identical</i>
Recital 21				
31	<p>(21) Discussions are ongoing at the IMO regarding new environmental issues in relation to international shipping, resulting in both water and air pollution. These include the water pollutants of marine litter, such as the loss of containers and plastic pellets, and underwater noise and air pollutants such as black carbon. These discussions may result in new regulations under Marpol 73/78. Moreover, Directive 2008/56/EC of the European parliament and of the Council<sup>1</sup> requires Member States to achieve good environmental</p>		<p>(21) Discussions are ongoing at the IMO regarding new environmental issues in relation to international shipping, resulting in both water and air pollution. <del>These include the water pollutants of marine litter, such as the loss of containers and plastic pellets, and underwater noise and air pollutants such as black carbon.</del> <b>Those</b> discussions may result in new <del>regulations under Marpol 73/78.</del> <b>Moreover,</b> <del>Directive 2008/56/EC of the European parliament and of the Council<sup>1</sup> requires Member States to achieve good environmental</del></p>	<b>C</b>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>status in the marine environment, which includes, amongst others, marine litter and underwater noise from ships as qualitative descriptors. Relatedly, Directive (EU) 2023/xxxx<sup>2</sup> sets limit values for nitrogen dioxide (NO<sub>2</sub>) resulting from nitrogen oxide (NO<sub>x</sub>) emissions. Shipping activities contribute to higher NO<sub>2</sub> levels in coastal and port areas. Against this background, a future review of Directive 2005/35/EC should take into account new developments and the Commission should examine the possibility of modifying the scope of this Directive, if appropriate, in view of any new international standards under Marpol 73/78. A future review should assess the possibility of modifying the scope of Directive 2005/35/EC, if appropriate, to incorporate SO<sub>x</sub> and NO<sub>x</sub> emissions, as regulated in Annex VI to Marpol, based on the experience gained in implementing the Directive (EU) 2016/802 and on the development and maturity of monitoring and detecting SO<sub>x</sub> and NO<sub>x</sub> emissions from ships, with a view to ensure a coherent,</p>		<p><del>status in the marine environment, which includes, amongst others, marine litter and underwater noise from ships as qualitative descriptors. Relatedly, Directive (EU) 2023/xxxx<sup>2</sup> sets limit values for nitrogen dioxide (NO<sub>2</sub>) resulting from nitrogen oxide (NO<sub>x</sub>) emissions. Shipping activities contribute to higher NO<sub>2</sub> levels in coastal and port areas. Against this background, a future review of Directive 2005/35/EC should take into account new developments and the Commission should examine the possibility of modifying the scope of this Directive, if appropriate, in view of any new international standards</del>  <b>provisions</b> under Marpol 73/78. A future review should assess the possibility of modifying the scope of Directive 2005/35/EC, if appropriate, to incorporate SO<sub>x</sub> and NO<sub>x</sub> emissions, as regulated in Annex VI to Marpol, based on the experience gained in implementing the Directive (EU) 2016/802 and on the development and maturity of monitoring and detecting SO<sub>x</sub> and NO<sub>x</sub> emissions from ships;</p>	

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>efficient and effective enforcement regime, as well as the imposition of dissuasive penalties therefor, in line with the Zero Pollution Action Plan and, in particular, Flagship 5 thereof ‘Enforcing zero pollution together’.</p> <p>1. 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) (Text with EEA relevance) (OJ L 164, 25.6.2008, p. 19). 2. OJ L xxxx.</p>		<p>with a view to ensure a coherent, efficient and effective enforcement regime, as well as the imposition of dissuasive penalties therefor, in line with the Zero Pollution Action Plan and, in particular, Flagship 5 thereof ‘Enforcing zero pollution together’.</p> <p>1. 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) (Text with EEA relevance) (OJ L 164, 25.6.2008, p. 19). 2. OJ L xxxx.</p>	
Recital 21a				
31a			<p><b>(21a) Member States without direct access to the sea or ports cannot apply certain provisions of this Directive due to these geographical reasons. In order to avoid imposing a disproportionate administrative burden on these Member States, they should not be obliged to transpose and implement some of the provisions of this Directive.</b></p>	C
Recital 22				
32	(22) Since the objectives of this		(22) Since the objectives of this	A - identical, except minor

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>Directive cannot be sufficiently achieved by the Member States by reason of the cross-border damage which may be caused by illegal discharges covered by this Directive and the availability of effective, dissuasive and proportionate penalties across the Union for such discharges but can rather, by reason of scale and effects of the proposed action, 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 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.</p>		<p>Directive cannot be sufficiently achieved by the Member States by reason of the cross-border damage which may be caused by illegal discharges covered by this Directive and the availability of effective, dissuasive and proportionate penalties across the Union for such discharges but can rather, by reason of <b>the</b> scale and effects of the proposed action, 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 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.</p>	<p><i>linguistic change.</i></p>
Recital 23				
33	<p>(23) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the protection of personal data, the right to an effective remedy and</p>		<p>(23) This Directive respects the fundamental rights and observes the principles recognised in particular by the Charter of Fundamental Rights of the European Union, including the protection of personal data, the right to an effective remedy and</p>	<p><i>A - identical</i></p>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	to a fair trial, the presumption of innocence and right of defence, the principles of legality and proportionality of criminal offences and penalties, and the right not to be tried or punished twice in criminal proceedings for the same offence. This Directive seeks to ensure full respect for those rights and principles and should be implemented accordingly.		to a fair trial, the presumption of innocence and right of defence, the principles of legality and proportionality of criminal offences and penalties, and the right not to be tried or punished twice in criminal proceedings for the same offence. This Directive seeks to ensure full respect for those rights and principles and should be implemented accordingly.	
Recital 24				
34	(24) Therefore, Directive 2005/35/EC should be amended.		(24) <del>Therefore</del> , Directive 2005/35/EC should be amended- <b>accordingly,</b>	<i>A - identical, except minor linguistic change.</i>
Formula				
35	HAVE ADOPTED THIS DIRECTIVE:		HAVE ADOPTED THIS DIRECTIVE:	<i>A - identical</i>
Article 1				
36	Article 1 Amendments to Directive 2005/35/EC		Article 1 Amendments to Directive 2005/35/EC	<b>A - identical</b>
Article 1, first paragraph				
37	Directive 2005/35/EC is amended as follows:		Directive 2005/35/EC is amended as follows:	<b>A - identical</b>
Article 1, first paragraph, point (1)				
38	(1) The title is replaced by the following:		(1) The title is replaced by the following:	<b>A - identical</b>
Article 1, first paragraph, point (1), amending provision, first paragraph				

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
39	‘ Directive of the European Parliament and of the Council on the enforcement of international standards on pollution from ships and on the introduction of penalties for pollution offences;’,		‘ Directive of the European Parliament and of the Council on the enforcement of international standards on pollution from ships and on the introduction of <b>administrative</b> penalties for pollution offences’;	<b>B</b>  <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (2)				
40	(2) Article 1 is replaced by the following:		(2) Article 1 is replaced by the following:	<b>A - identical</b>
Article 1, first paragraph, point (2), amending provision, first paragraph				
41	‘ Article 1		‘ Article 1	<b>A - identical</b>
Article 1, first paragraph, point (2), amending provision, second paragraph				
42	Purpose		Purpose	<b>A - identical</b>
Article 1, first paragraph, point (2), amending provision, numbered paragraph (1)				
43	1. The purpose of this Directive is to incorporate into Union law international standards on pollution from ships and to ensure that persons responsible for illegal discharges of polluting substances are subject to dissuasive, effective and proportionate administrative penalties in order to improve maritime safety and to enhance protection of the marine environment from pollution by	1. The purpose of this Directive is to incorporate into Union law international standards on pollution from ships and to ensure that persons <u>and companies</u> responsible for illegal discharges of polluting substances are subject to dissuasive, effective and proportionate administrative penalties in order to improve maritime safety and to enhance protection of the marine	1. The purpose of this Directive is to incorporate into Union law international standards on pollution from ships and to ensure that <del>persons</del> <b>those liable</b> for illegal discharges of polluting substances are subject to dissuasive, effective and proportionate administrative penalties in order to improve maritime safety and to enhance protection of the marine	<b>C</b>  <b><i>Proposed compromise (cf. row 66):</i></b>  1. The purpose of this Directive is to incorporate into Union law international standards on pollution from ships and to ensure that <del>those</del> <b>any natural or legal person, including companies</b> , liable for illegal discharges of polluting

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	ships.	environment from pollution by ships.	environment from pollution by ships.	substances are subject to dissuasive, effective and proportionate administrative penalties in order to improve maritime safety and to enhance protection of the marine environment from pollution by ships.
Article 1, first paragraph, point (2), amending provision, numbered paragraph (2)				
44	2. This Directive does not prevent Member States from taking more stringent measures in conformity with international law, by providing for administrative or criminal penalties in accordance with their national law.;	2. This Directive does not prevent Member States from taking more stringent measures in conformity with <u>Union and</u> international law, by providing for administrative or criminal penalties in accordance with their national law.;	2. This Directive does not prevent Member States from taking more stringent measures in conformity with international law, by providing for administrative or criminal penalties in accordance with their national law.;	<b>B</b>  <i>PCY suggests to accept EP amendment.</i>
Article 1, first paragraph, point (3)				
45	(3) Article 2 is replaced by the following:		(3) Article 2 is replaced by the following:	<b>A - identical</b>
Article 1, first paragraph, point (3), amending provision, first paragraph				
46	‘ Article 2		‘ Article 2	<b>A – identical</b>
Article 1, first paragraph, point (3), amending provision, second paragraph				
47	Definitions		Definitions	<b>A – identical</b>
Article 1, first paragraph, point (3), amending provision, third paragraph				
48	For the purposes of this Directive, the following definitions shall apply:		For the purposes of this Directive, the following definitions shall apply:	<b>A - identical</b>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
Article 1, first paragraph, point (3), amending provision, third paragraph, point (1)				
49	1. ‘Marpol 73/78’ means the International Convention for the Prevention of Pollution from Ships, 1973 and its 1978 Protocol, in its up-to-date version;		1. ‘Marpol 73/78’ means the International Convention for the Prevention of Pollution from Ships, 1973 and, its 1978 Protocol and 1997 Protocols, in its up-to-date version;	<b>A</b> <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (3), amending provision, third paragraph, point (2)				
50	2. ‘polluting substances’ means substances subject to regulation by Marpol 73/78 Annexes I (oil), II (noxious liquid substances in bulk), III (harmful substances carried by sea in packaged form), IV (sewage from ships), V (garbage from ships) and Exhaust Gas Cleaning System residue;		2. ‘polluting substances’ means substances subject to regulation by Marpol 73/78 Annexes I (oil), II (noxious liquid substances in bulk), III (harmful substances carried by sea in packaged form), IV (sewage from ships), V (garbage from ships) and Exhaust Gas Cleaning System residue;	<b>A - identical</b>
Article 1, first paragraph, point (3), amending provision, third paragraph, point (3)				
51	3. ‘Exhaust Gas Cleaning System residue’ shall mean any material removed from the washwater or the bleed-off water by a treatment system or discharge water that does not meet the discharge criterion, or other residue material removed from the exhaust gas cleaning system discharged overboard as a result of the operation of a compliance method for emissions reductions, as defined in Annex VI Regulation 4 to	3. ‘Exhaust Gas Cleaning System residue’ shall mean any material removed from the washwater or the bleed-off water by a treatment system or discharge water that does not meet the discharge criterion, or other residue material removed from the exhaust gas cleaning system <del>discharged overboard</del> as a result of the operation of a compliance method for emissions reductions, as defined in Annex VI Regulation 4 to	3. ‘Exhaust Gas Cleaning System residue’ shall <del>mean</del> means any material removed from the washwater or the bleed-off water by a treatment system or discharge water that does not meet the discharge criterion, or other residue material removed from the exhaust gas cleaning system <del>discharged overboard</del> as a result of the operation of a compliance method for emissions reductions, as defined in Annex	<b>A</b> <b>A - identical, apart from small linguistic correction in GA.</b>



	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	Marpol 73/78, used as an alternative in terms of emissions reductions to the standards set forth in Regulation 14 of Annex VI to Marpol 73/78, taking into account the guidelines developed by the IMO;	Marpol 73/78, used as an alternative in terms of emissions reductions to the standards set forth in Regulation 14 of Annex VI to Marpol 73/78, taking into account the guidelines developed by the IMO;	VI Regulation 4 to Marpol 73/78, used as an alternative in terms of emissions reductions to the standards set forth in Regulation 14 of Annex VI to Marpol 73/78, taking into account the guidelines developed by the IMO;	
Article 1, first paragraph, point (3), amending provision, third paragraph, point (3)(a)				
52	(a) ‘discharge’ shall mean any release howsoever caused from a ship, as referred to in Article 2 of Marpol 73/78;	(a) <del>‘discharge’ shall mean any release howsoever caused from a ship, as referred to in Article 2 of Marpol 73/78;</del> <u>deleted</u>	<del>(a)</del> (3a) ‘discharge’ shall mean means any release howsoever caused from a ship, as referred to in Article 2 of Marpol 73/78;	A A - identical (52 + 52a), apart from small linguistic correction in GA.
Article 1, first paragraph, point (3), amending provision, third paragraph, point (3)(aa)				
52a		<u>(3a) ‘discharge’ shall mean any release howsoever caused from a ship, as referred to in Article 2 of Marpol 73/78;</u>		A  EP prepared to withdraw amendment and accept Council text.
Article 1, first paragraph, point (3), amending provision, third paragraph, point (4)				
53	4. ‘ship’ means a seagoing vessel, irrespective of its flag, of any type whatsoever operating in the marine environment and shall include hydrofoil boats, air-cushion vehicles, submersibles and floating craft;		4. ‘ship’ means a seagoing vessel, irrespective of its flag, of any type whatsoever operating in the marine environment and shall include hydrofoil boats, air-cushion vehicles, submersibles and floating craft;	A – identical
Article 1, first paragraph, point (3), amending provision, third paragraph, point (5)				
54	5. ‘legal person’ means any legal entity in possession of such		5. ‘legal person’ means any legal entity in possession of such	A – identical

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	status under applicable national law, other than States themselves or public bodies in the exercise of State authority or public international organisations;		status under applicable national law, other than States themselves or public bodies in the exercise of State authority or public international organisations;	
Article 1, first paragraph, point (3), amending provision, third paragraph, point (6)				
55	6. ‘company’ means the shipowner or any other organisation or person, such as the manager or the bareboat charterer, which has assumed the responsibility for the operation of the ship from the shipowner.;		6. ‘company’ means the shipowner or any other organisation or person, such as the manager or the bareboat charterer, which has assumed the responsibility for the operation of the ship from the shipowner.’;	<i>A – identical</i>
Article 1, first paragraph, point (4)				
56	(4) Article 4 is replaced by the following:		(4) Article 4 is replaced by the following:	<i>A – identical</i>
Article 1, first paragraph, point (4), amending provision, first paragraph				
57	‘ Article 4		‘ Article 4	<i>A – identical</i>
Article 1, first paragraph, point (4), amending provision, second paragraph				
58	Infringements		Infringements <b>and exceptions</b>	<i>C EP prepared to accept Council text.</i>
Article 1, first paragraph, point (4), amending provision, numbered paragraph (1)				
59	1. Member States shall ensure that discharges of polluting substances into any of the areas set out in Article 3(1) are regarded as infringements, unless:		1. Member States shall ensure that discharges of polluting substances into any of the areas set out in Article 3(1) are regarded as infringements, unless:	<i>C EP prepared to accept Council text.</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
Article 1, first paragraph, point (4), amending provision, numbered paragraph (1), point (a)				
60	(a) for polluting substances subject to regulation by Annex I to Marpol 73/78, it satisfies the conditions set out in Annex I Regulations 15, 34, 4.1 or 4.3 to Marpol 73/78;		(a) for polluting substances subject to regulation by Annex I to Marpol 73/78, <del>it satisfies</del> <b>they satisfy</b> the conditions set out in Annex I Regulations 15, 34, 4.1, <b>4.2</b> or 4.3 to Marpol 73/78 <b>and section 1.1.1 of part II-A of the International Code for Ships Operating in Polar Waters ('Polar Code')</b> ;	<b>C</b> <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (4), amending provision, numbered paragraph (1), point (b)				
61	(b) for polluting substances subject to regulation by Annex II to Marpol 73/78, it satisfies the conditions set out in Annex II Regulations 13, 3.1.1 or 3.1.3 to Marpol 73/78;		(b) for polluting substances subject to regulation by Annex II to Marpol 73/78, <del>it satisfies</del> <b>they satisfy</b> the conditions set out in Annex II Regulations 13, 3.1.1, <b>3.1.2</b> or 3.1.3 to Marpol 73/78 <b>and section 2.1 of part II-A of the Polar Code</b> ;	<b>C</b> <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (4), amending provision, numbered paragraph (1), point (c)				
62	(c) for polluting substances subject to regulation by Annex III to Marpol 73/78, it satisfies the conditions set out in Annex III Regulation 8.1 to Marpol 73/78;		(c) for polluting substances subject to regulation by Annex III to Marpol 73/78, <del>it satisfies</del> <b>they satisfy</b> the conditions set out in Annex III Regulation 8.1 to Marpol 73/78;	<b>C</b> <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (4), amending provision, numbered paragraph (1), point (d)				
63	(d) for polluting substances subject to regulation by Annex IV to Marpol 73/78, it satisfies the conditions set out in Annex		(d) for polluting substances subject to regulation by Annex IV to Marpol 73/78, <del>it satisfies</del> <b>they satisfy</b> the	<b>C</b> <i>EP prepared to accept Council text.</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	IV Regulations 3, 11.1 and 11.3 to Marpol 73/78;		conditions set out in Annex IV Regulations 3, 11.1 and 11.3 to Marpol 73/78 <b>and section 4.2 of part II-A of the Polar Code;</b>	
Article 1, first paragraph, point (4), amending provision, numbered paragraph (1), point (e)				
64	(e) for polluting substances subject to regulation by Annex V to Marpol 73/78, it satisfies the conditions set out in Annex V Regulations 4.1, 4.2, 5, 6.1, 6.2, 7 to Marpol 73/78 and section 5.2 of part II-A of the International Code for Ships Operating in Polar Waters (Polar Code); and		(e) for polluting substances subject to regulation by Annex V to Marpol 73/78, <del>it satisfies</del> <b>they satisfy</b> the conditions set out in Annex V Regulations 4.1, 4.2, 5, 6.1, 6.2, 7 to Marpol 73/78 and section 5.2 of part II-A of the <del>International Code for Ships Operating in Polar Waters (Polar Code);</del>	<b>C</b> <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (4), amending provision, numbered paragraph (1), point (f)				
65	(f) for Exhaust Gas Cleaning System residue, it satisfies the conditions set out in Annex VI Regulations 14.1, 14.4, 14.6 and 3.1.1 to Marpol 73/78.	(f) for Exhaust Gas Cleaning System residue, it satisfies the conditions set out in Annex VI Regulations <del>4,</del> 14.1, 14.4, 14.6 and 3.1.1 to Marpol 73/78, <u>taking into account the guidelines developed by the IMO.</u>	(f) for Exhaust Gas Cleaning System residue, <del>it satisfies</del> <b>they satisfy</b> the conditions set out in Annex VI Regulations <del>4,</del> 14.1, 14.4, 14.6 <del>and, 3.1.1 and 3.1.2</del> to Marpol 73/78, <b>taking into account the Guidelines developed by the IMO, including Resolution MEPC.340(77) in its up-to-date version.</b>	<b>C</b> <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (4), amending provision, numbered paragraph (2)				
66	2. Each Member State shall take the necessary measures to ensure that any natural or legal person	2. Each Member State shall take <del>the</del> <u>all</u> necessary measures to ensure that any natural or legal	2. Each Member State shall take the necessary measures to ensure that any <del>natural or legal</del>	<b>C</b> <i>Proposed compromise (cf. row 43):</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	having committed an infringement within the meaning of paragraph 1 is held liable therefor.;	person having committed an infringement within the meaning of paragraph 1 is held liable <del>therefor</del> <u>therefore</u> ;	<del>person</del> <b>company, or those that may be held liable</b> of having committed an infringement within the meaning of paragraph 1, <del>are</del> is held liable therefor.;	2. Each Member State shall take <del>the all</del> necessary measures to ensure that any <b>natural or legal person, including companies</b> <del>company, or those that may be held liable</del> of having committed an infringement within the meaning of paragraph 1, are held liable <del>therefor</del> .
Article 1, first paragraph, point (5)				
67	(5) Article 5 is replaced by the following:		(5) Article 5 is <del>replaced by the following</del> <b>deleted</b> ;	<b>C</b> <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (5), amending provision, first paragraph				
68	Article 5		<del>Article 5</del> <b>deleted</b>	<b>C</b> <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (5), amending provision, second paragraph				
69	Exceptions		<del>Exceptions</del> <b>deleted</b>	<b>C</b> <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (5), amending provision, numbered paragraph (1)				
70	1. A discharge of polluting substances subject to regulation by Annexes I, II and VI to Marpol 73/78 into the areas set out in Article 3(1) points (c), (d) and (e) shall not be regarded as an infringement for the company, the master or the	1. A discharge of polluting substances subject to regulation by Annexes I, II and VI to Marpol 73/78 into the areas set out in Article 3(1) points <b>(b)</b> , (c), (d) and (e) shall not be regarded as an infringement for the company, the master or the	1. <del>A discharge of polluting substances subject to regulation by Annexes I, II and VI to Marpol 73/78 into the areas set out in Article 3(1) points (c), (d) and (e) shall not be regarded as an infringement for the company, the master or the</del>	<b>C</b> <i>EP prepared to accept Council text.</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	crew, if both of the following conditions are fulfilled:	crew, if both of the following conditions are fulfilled:	crew, if both of the following conditions are fulfilled: <del>deleted</del>	
Article 1, first paragraph, point (5), amending provision, numbered paragraph (1), point (a)				
71	(a) the discharge results from damage to a ship or its equipment;	(a) the discharge results from damage to a ship <del>or its equipment</del> ;	(a) <del>the discharge results from damage to a ship or its equipment</del> ; <del>deleted</del>	C EP insists on its amendment combined with text in row 72. PCY insisted on keeping the COM proposal, as this provision originates from MARPOL. No agreement.
Article 1, first paragraph, point (5), amending provision, numbered paragraph (1), point (b)				
72	(b) all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimizing the discharge.		(b) <del>all reasonable precautions have been taken after the occurrence of the damage or discovery of the discharge for the purpose of preventing or minimizing the discharge</del> ; <del>deleted</del>	C
Article 1, first paragraph, point (5), amending provision, numbered paragraph (1), point (ba)				
72a		<u>(ba) the discharge was immediately reported to the authorities after its occurrence</u>		C EP prepared to withdraw its amendment.
Article 1, first paragraph, point (5), amending provision, numbered paragraph (1), point (bb)				
72b		<u>(bb) The company, the master, or the crew shall provide documentary evidence or logs detailing the precautions taken to prevent or minimise the discharge upon request by relevant authorities.</u>		C EP prepared to withdraw its amendment.

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
Article 1, first paragraph, point (5), amending provision, numbered paragraph (2)				
73	2. Paragraph 1 shall not apply where the company, the master or the crew responsible for the damage acted either with intent to cause damage or recklessly and with knowledge that damage would probably result.;		2. Paragraph 1 shall not apply where the company, the master or the crew responsible for the damage acted either with intent to cause damage or recklessly and with knowledge that damage would probably result.; <del>deleted</del>	C <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (6)				
74	(6) Article 5a is deleted;		(6) Article 5a is deleted;	A - identical
Article 1, first paragraph, point (7)				
75	(7) Article 5b is deleted;		(7) Article 5b is deleted;	A - identical
Article 1, first paragraph, point (7a)				
75a			(7a) In Article 6, paragraph 1 is replaced by the following:	B
Article 1, first paragraph, point (7b)				
75b			‘1. If irregularities or information give rise to a suspicion that a ship which is voluntarily within a port or at an off-shore terminal of a Member State has been engaged in or is engaging in a discharge of polluting substances into any of the areas referred to in Article 3(1), that Member State shall ensure that an appropriate inspection or other appropriate action, taking into	B <i>Council added: “or other appropriate action” to the text of the current Directive. EP prepared to agree, if Council explains “other appropriate action” in a recital.</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
			account the relevant guidelines adopted by the International Maritime Organization (IMO), is undertaken in accordance with its national law.	
Article 1, first paragraph, point (7c)				
75c		<u>(7a) In Article 6, paragraph 2 is replaced by the following:</u>		<b>B</b>
Article 1, first paragraph, point (7d)				
75d		<u>2. In so far as the inspection referred to in paragraph 1 reveals facts that could indicate an infringement within the meaning of Article 4, the Member State shall apply the provisions of this Directive taking into account Articles 8 and 9. The competent authorities of that Member State and of the flag State shall be informed.'</u>		<b>B</b>  <i>EP added: "the Member State shall apply the provisions of this Directive taking into account Articles 8 and 9" to the text of the current Directive.</i> <i>Proposed compromise:</i> 2. In so far as the inspection referred to in paragraph 1 reveals facts that could indicate an infringement within the meaning of Article 4, the Member State shall apply the provisions of this Directive taking into account Articles 8 and 9. The competent authorities of that Member State and of the flag State shall be informed.
Article 1, first paragraph, point (8)				
76	(8) In Article 6, the following paragraph 3 is added:		(8) In Article 6, the following paragraph 3-is added:	<i>A - identical, except for formal correction.</i>



	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
Article 1, first paragraph, point (8), amending provision, numbered paragraph (3)				
77	‘ 3. An indicative list of irregularities or information within the meaning of paragraph 1 is provided in Annex I to this Directive.’;		‘ 3. An indicative list of irregularities or information <b>that may lead to an inspection</b> within the meaning of paragraph 1 is provided in Annex I to this Directive.’;	<b>B</b>  <b><i>Proposed compromise:</i></b>  3. An indicative list of irregularities or information <del>that may lead to an inspection within the meaning to be taken into account in the application of</del> paragraph 1 is provided in Annex I to this Directive.’;
Article 1, first paragraph, point (9)				
78	(9) Article 8 is replaced by the following:		(9) Article 8 is replaced by the following:	<b>A - identical</b>
Article 1, first paragraph, point (9), amending provision, first paragraph				
79	‘ Article 8		‘ Article 8	<b>A - identical</b>
Article 1, first paragraph, point (9), amending provision, second paragraph				
80	Penalties		<b>Administrative</b> penalties	<b>B</b> (see row 39) <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (9), amending provision, numbered paragraph (1)				
81	1. Without prejudice to the obligations of Member States under Directive (EU) 2023/xxxx <sup>1</sup> Member States shall lay down a system of administrative penalties for the		1. Without prejudice to the obligations of Member States under Directive (EU) 2023/xxxx <sup>1</sup> , Member States shall, <b>as provided for by Article 1 and in accordance</b>	<b>C</b>  <b><i>Proposed compromise:</i></b>  1. Without prejudice to the obligations of Member States

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>breach of national provisions implementing Articles 4 and Article 5(2) of this Directive and shall ensure that they are applied. The administrative penalties provided for shall be dissuasive, effective and proportionate.</p> <p>1. OJ L xxxx.</p>		<p><b>with their national law</b>, lay down a system of administrative penalties for the breach of national provisions implementing Articles 4 and <del>Article 5(2)</del> <b>Article 4</b> of this Directive and shall ensure that they are applied. The administrative penalties provided for shall be dissuasive, effective and proportionate.</p> <p>1. OJ L xxxx.</p>	<p>under Directive (EU) 2023/xxxx<sup>1</sup>, Member States shall, as provided for by Article 1 <del>and in accordance with their national law</del>, lay down <b>in their national law</b> a system of administrative penalties for the breach of national provisions implementing Article 4 of this Directive and shall ensure that they are applied. The administrative penalties provided for shall be dissuasive, effective and proportionate.</p> <p>1. OJ L xxxx.</p>
Article 1, first paragraph, point (9), amending provision, numbered paragraph (2)				
82	<p>2. Member States shall ensure that penalties introduced in transposition of this Directive include fines which are imposed to the company at the time of the infringement, unless the company can prove that the master or, if not acting under the responsibility of the master, the crew was responsible for the infringement.</p>		<p>2. Member States shall ensure that <b>administrative</b> penalties introduced in transposition of this Directive include fines which are imposed <del>to</del><b>on</b> the company at the time of the infringement, <del>unless where the company can prove that the master or, if not acting under the responsibility of the master, the crew was responsible for</del> <b>as found liable. Member States may also impose fines on other natural or legal persons when they are found liable of the</b> infringement.</p>	<p><b>C</b></p> <p><i>EP insists on its position.</i></p>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
Article 1, first paragraph, point (9), amending provision, numbered paragraph (3)				
83	3. In the case that it is proven that the master or, if not acting under the responsibility of the master, the crew was responsible for the commission of the relevant infringement, Member States shall ensure that penalties are imposed to such persons in accordance with the provisions of this Directive.;	‘ 3. In the case that it is proven that the master or, if not acting under the responsibility of the master, the crew was responsible for the commission of the relevant infringement, Member States shall ensure that penalties are imposed to such persons in accordance with the provisions of this Directive. <u>In the event, however, that the master or crew responsible for the commission of the relevant infringement can no longer be found or cannot afford to pay the full amount of the penalty, the company shall remain responsible as a last resort, for the payment of the full amount or of the remainder of the penalty;</u> ’	<del>3. In the case that it is proven that the master or, if not acting under the responsibility of the master, the crew was responsible for the commission of the relevant infringement, Member States shall ensure that penalties are imposed to such persons in accordance with the provisions of this Directive.;</del> <del>deleted</del>	C  <i>EP insists on its amendment. PCY insisted that EP should at least propose a redrafting of its addition, because there is legal uncertainty on the possibility of this type of “secondary” penalty, without guilt. EP will propose a redrafting.</i>
Article 1, first paragraph, point (9), amending provision, numbered paragraph (3a)				
83a			<b>4. Where the legal system of the Member State does not provide for administrative penalties, this Article may be applied in such a manner that the penalties, including the fines set out in paragraph 2 are initiated by the competent</b>	C  <i>EP in principle positive, but will verify the drafting.</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
			authority and imposed by competent national courts, while ensuring that those legal remedies are effective and have an equivalent effect to the administrative fines imposed by competent authorities. In any event, the penalties imposed in accordance with this paragraph shall be effective, proportionate and dissuasive and applied in accordance with the provisions of this Directive. Those Member States shall notify to the Commission the provisions of their laws which they adopt pursuant to this paragraph by [DATE] and, without delay, any subsequent amendment law or amendment affecting them.’;	
Article 1, first paragraph, point (10)				
84	(10) Article 8a is deleted;		(10) Article 8a is deleted;	<i>A - identical</i>
Article 1, first paragraph, point (11)				
85	(11) Article 8b is deleted;		(11) Article 8b is deleted;	<i>A - identical</i>
Article 1, first paragraph, point (12)				
86	(12) Article 8c is deleted;		(12) Article 8c is deleted;	<i>A - identical</i>
Article 1, first paragraph, point (13)				
87	(13) The following Article 8d is inserted:		(13) The following Article 8d is inserted:	<i>A - identical, except for formal correction.</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
Article 1, first paragraph, point (13), amending provision, first paragraph				
88	Article 8d		Article 8d	A - identical
Article 1, first paragraph, point (13), amending provision, second paragraph				
89	Effective application of penalties		Effective application of penalties	A - identical
Article 1, first paragraph, point (13), amending provision, numbered paragraph (1)				
90	1. Member States shall ensure that, when determining and applying the type and level of administrative penalty to a natural or legal person found by competent authorities to be responsible for an infringement within the meaning of Articles 4 and 5(2), the competent authorities take into account all relevant circumstances of the infringement, including:	1. <u>In order to ensure that penalties are dissuasive, effective and proportionate,</u> Member States shall ensure that, when determining and applying the type and level of administrative penalty to a natural or legal person found by competent authorities to be responsible for an infringement within the meaning of Articles 4 and 5(2), the competent authorities take into account all relevant circumstances of the infringement, including:	1. Member States shall ensure that, when determining and applying the type and level of administrative penalty to a natural or legal person found by competent authorities to be responsible, in accordance with Article 8, for an infringement within the meaning of Articles 4 and 5(2) Article 4, the competent authorities may take into account all relevant circumstances of the infringement, including but not limited to:	C <b>Proposed compromise:</b> 1. <b>In order to ensure that penalties are dissuasive, effective and proportionate,</b> Member States shall ensure that, when determining and applying the type and level of administrative penalty to a natural or legal person found by competent authorities to be liable, in accordance with Article 8, for an infringement within the meaning of Article 4, the competent authorities may are able to take into account all relevant circumstances of the infringement, including but not limited to:
Article 1, first paragraph, point (13), amending provision, numbered paragraph (1), point (a)				
91	(a) the nature, gravity and the duration of the discharge;		(a) the nature, gravity and the duration of the discharge;	A - identical
Article 1, first paragraph, point (13), amending provision, numbered paragraph (1), point (b)				
92	(b) the degree of culpability of		(b) the degree of culpability of	C

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	the responsible person;		<del>the responsible person;</del> <i>deleted</i>	<i>EP insists on its position.</i>
Article 1, first paragraph, point (13), amending provision, numbered paragraph (1), point (c)				
93	(c) the damage caused from the discharge to the environment or human health;		(c) the damage caused from the discharge to the environment or human health;	<b><i>Proposed compromise (combination with row 98a):</i></b>  (c) the damage caused from the discharge to the environment or human health, <b>including its impact on fishing, tourism and coastal communities;</b>
Article 1, first paragraph, point (13), amending provision, numbered paragraph (1), point (d)				
94	(d) the financial strength of the responsible person, taking into account, as appropriate, the annual world-wide turnover of the responsible legal person;		(d) the financial <del>strength</del> <b>capacity</b> of the <del>responsible person, taking into account, as appropriate, the annual world-wide turnover of the responsible</del> <b>legally</b> liable person;	<b>C</b>  <i>EP insists on its position.</i>
Article 1, first paragraph, point (13), amending provision, numbered paragraph (1), point (e)				
95	(e) the economic benefits generated or expected to be generated for the responsible person from the infringement;		(e) the economic benefits generated or expected to be generated for the <del>responsible</del> <b>liable</b> person from the infringement;	<b>B</b>  <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (13), amending provision, numbered paragraph (1), point (f)				
96	(f) measures taken by the responsible person to prevent the discharge or mitigate its impacts;		(f) measures taken by the <del>responsible</del> <b>liable</b> person to prevent the discharge or mitigate its impacts;	<b>B</b>  <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (13), amending provision, numbered paragraph (1), point (g)				

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
97	(g) the level of cooperation of the responsible person with the competent authority, including any action aiming to circumvent or obstruct an appropriate inspection or other investigation by a competent authority; and		(g) the level of cooperation of the <del>responsible</del> <b>liable</b> person with the competent authority, including any action aiming to circumvent or obstruct an appropriate inspection or other investigation by a competent authority; and	<b>B</b>  <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (13), amending provision, numbered paragraph (1), point (h)				
98	(h) any previous infringement by the responsible person.		(h) any previous <b>ship-source pollution</b> infringement by the <del>responsible</del> <b>liable</b> person.	<b>B</b>  <i>EP prepared to accept Council text.</i>
Article 1, first paragraph, point (13), amending provision, numbered paragraph (1), point (ha)				
98a		<u><i>(ha) The extent of the damage caused by the discharge to marine life, including fish populations, and its subsequent impact on fishing activities and coastal communities.</i></u>		<b>B</b>  <i>EP prepared to withdraw its amendment, if compromise in row 93 is agreed.</i>
Article 1, first paragraph, point (13), amending provision, numbered paragraph (1a)				
98b		<u><i>1a. Member States shall not set or apply any “maximum administrative penalties” or “minimum administrative penalties” for infringements under this Directive that would be too low to ensure the deterrent nature, proportionality and effectiveness of these penalties.</i></u>		<b>C</b>  <i>EP insists on its amendment, but open was open for redrafting.</i>  <b>Presidency proposed compromise (not yet discussed with EP):</b> <b>1a. Member States shall not set or apply administrative</b>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
				penalties for infringements under this Directive that would be too low so as to ensure the dissuasive nature, proportionality and effectiveness of those penalties.
Article 1, first paragraph, point (13), amending provision, numbered paragraph (2)				
99	2. In order to ensure the uniform application of this Article, the Commission may, by means of implementing acts, lay down detailed rules on the criteria to be considered by Member States when applying penalties in respect of each type of polluting substance pursuant to this Directive. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13.;		2. In order to ensure the uniform application of this Article, the Commission may, by means of implementing acts, lay down detailed rules on the criteria to be considered by Member States when applying penalties in respect of each type of polluting substance pursuant to this Directive. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 13.; <del>deleted</del>	C  <i>EP insists on its position.</i>
Article 1, first paragraph, point (14)				
100	(14) Article 10 is replaced by the following:		(14) Article 10 is replaced by the following:	<b>A - identical</b>
Article 1, first paragraph, point (14), amending provision, first paragraph				
101	Article 10		Article 10	<b>A – identical</b>
Article 1, first paragraph, point (14), amending provision, second paragraph				



	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
102	Exchange of information and experience		Exchange of information and experience	<b>A - identical</b>
Article 1, first paragraph, point (14), amending provision, numbered paragraph (1)				
103	<p>1. For the purposes of this Directive, the Member States and the Commission shall cooperate in the exchange of information, building on the Union Maritime Information and Exchange System set out in Article 22a(3) of and Annex III to Directive 2002/59/EC<sup>1</sup> (SafeSeaNet), in order to attain the following objectives:</p> <p>1. 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).</p>	<p>1. For the purposes of this Directive, the Member States <del>and</del>, the Commission <u>and/or EMSA</u> shall cooperate in the exchange of information, building on the Union Maritime Information and Exchange System set out in Article 22a(3) of and Annex III to Directive 2002/59/EC<sup>1</sup> (SafeSeaNet), in order to attain the following objectives:</p> <p>1. 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).</p>	<p>1. For the purposes of this Directive, the Member States and the Commission shall cooperate in the exchange of information, building on the Union Maritime Information and Exchange System set out in Article 22a(3) of and Annex III to Directive 2002/59/EC<sup>1</sup> (SafeSeaNet), in order to attain the following objectives:</p> <p>1. 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).</p>	<p><b>C</b></p> <p><b><i>Proposed compromise:</i></b></p> <p>1. For the purposes of this Directive, the Member States and the Commission, <b>with the assistance of EMSA</b>, shall cooperate in the exchange of information, building on the Union Maritime Information and Exchange System set out in Article 22a(3) of and Annex III to Directive 2002/59/EC<sup>1</sup> (SafeSeaNet), in order to attain the following objectives:</p> <p>1. 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).</p>
Article 1, first paragraph, point (14), amending provision, numbered paragraph (1), point (a)				
104	(a) enhance the information required for the effective implementation of this Directive, in particular as provided by the European satellite-based pollution		(a) enhance the information required for the effective implementation of this Directive, in particular as provided by the European satellite-based pollution	<p><b>B</b></p> <p><i>“relevant reporting mechanisms” to be explained in a recital.</i></p>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	detection service set up by this Directive (CleanSeaNet), with a view to develop reliable methods of tracing polluting substances in the sea;		detection service set up by this Directive (CleanSeaNet) <b>and other relevant reporting mechanisms</b> , with a view to develop reliable methods of tracing polluting substances in the sea;	
Article 1, first paragraph, point (14), amending provision, numbered paragraph (1), point (b)				
105	<p>(b) develop and implement an appropriate control and monitoring system, integrating information provided under paragraph (a) with information made available in SafeSeaNet and other Union information databases and tools, including disseminating information on actual or potential discharges of Exhaust Gas Cleaning System residue to the dedicated module of THETIS set up by under Commission Implementing Decision 2015/253<sup>1</sup> (THETIS-EU), in order to facilitate the early identification and monitoring of ships discharging polluting substances, with a view to optimise enforcement actions undertaken by national authorities;</p> <p><small>1. Commission Implementing Decision (EU) 2015/253 of 16 February 2015</small></p>		<p>(b) develop and implement an appropriate control and monitoring system, integrating information provided under paragraph (a) with information made available <del>in SafeSeaNet and other Union information databases and tools, including disseminating information on</del> actual or potential discharges of Exhaust Gas Cleaning System <del>residue by the Commission to the dedicated module of THETIS set up by under Commission Implementing Decision 2015/253<sup>1</sup> (THETIS-EU),</del> <b>Member States in SafeSeaNet and other Union information databases and tools</b> in order to facilitate the early identification and monitoring of ships discharging polluting substances, with a view to optimise enforcement actions undertaken by national</p>	<b>B</b>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	laying down the rules concerning the sampling and reporting under Council Directive 1999/32/EC as regards the sulphur content of marine fuels (OJ L 41, 17.2.2015, p. 55).		authorities;  <del>1. Commission Implementing Decision (EU) 2015/253 of 16 February 2015 laying down the rules concerning the sampling and reporting under Council Directive 1999/32/EC as regards the sulphur content of marine fuels (OJ L 41, 17.2.2015, p. 55).</del>	
Article 1, first paragraph, point (14), amending provision, numbered paragraph (1), point (c)				
106	(c) make optimum use of the information provided in accordance with paragraph (a) and (b) as well as reported by Member States pursuant to Article 10a, with a view to facilitate access to and exchange of such information between competent authorities and with authorities of other Member States and the Commission; and		(c) make optimum use of the information provided in accordance with paragraph (a) and (b) as well as reported by Member States pursuant to Article 10a, with a view to facilitate access to and exchange of such information between competent authorities and with authorities of other Member States and the Commission; and	<b>A - identical</b>
Article 1, first paragraph, point (14), amending provision, numbered paragraph (1), point (d)				
107	(d) within three years from the date of transposition of this Directive, ensure that competent authorities verify at least 10% of the alerts sent by CleanSeaNet every year.	(d) within three years from the date of transposition of this Directive, ensure that <del>competent authorities verify at least 10%</del> <u>every Member State thoroughly analyses 100%</u> of the alerts <del>sent by</del> <u>received from</u> CleanSeaNet every year <u>and that it carries out on the spot verifications of at least 50% of those alerts. A Member State can remain below this 50% on</u>	(d) within three years from the date of transposition of this Directive, ensure that competent authorities verify <del>at least 10%</del> <u>a certain percentage</u> of the <b>Class A</b> alerts sent by CleanSeaNet every year <b>according to Member States' capabilities, where verify means any follow-up actions by competent authorities of an alert sent by CleanSeaNet to</b>	<b>C</b>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
		<u>the spot verification threshold, if it is able to demonstrate to the Commission, in the course of the reporting provided for in Article 10a, that the thorough analysis of the imagery received from CleanSeaNet clearly revealed a false alarm, caused by, inter alia, algae or light reflexion, making a verification on the spot redundant. Responsible authorities shall conduct verifications on the spot as quickly as possible, to prevent an illegal discharge from dispersing and therefore becoming undetectable by the time of arrival on the spot.</u>	determine whether the alert in question present an illegal discharge. Such percentage shall be communicated in advance to the Commission.	
Article 1, first paragraph, point (14), amending provision, numbered paragraph (1), point (da)				
107a		<u>(da) Ensure that relevant information, particularly concerning areas where ship-source pollution incidents occurred, is disseminated to fishing communities in a timely and comprehensible manner by national or local authorities.</u>		B
Article 1, first paragraph, point (14), amending provision, numbered paragraph (2)				
108	2. The Commission shall provide for the organisation of exchange of experiences between Member States' national authorities and experts,	2. The Commission, <u>where relevant via EMSA</u> , shall provide for the organisation of exchange of experiences between Member States'	<del>2. The Commission shall provide for the organisation of exchange of experiences between Member States' national authorities and experts,</del>	B

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	including those from the private sector, civil society and trade unions, on the application of this Directive across the Union, with a view to establish common practices and guidelines on the enforcement of this Directive.;	national authorities and experts, including those from the private sector, civil society and trade unions, on the application of this Directive across the Union, with a view to establish common practices and guidelines on the enforcement of this Directive.;	<del>including those from the private sector, civil society and trade unions, on the application of this Directive across the Union, with a view to establish common practices and guidelines on the enforcement of this Directive.;</del> <i>deleted</i>	
Article 1, first paragraph, point (15)				
109	(15) The following Articles 10a, 10b, 10c and 10d are inserted:		(15) The following Articles <del>10a, 10b, 10c and 10d</del> are inserted:	<i>A - identical, except for formal correction.</i>
Article 1, first paragraph, point (15), amending provision, first paragraph				
110	Article 10a		Article 10a	<i>A - identical</i>
Article 1, first paragraph, point (15), amending provision, second paragraph				
111	Reporting		Reporting	<i>A - identical</i>
Article 1, first paragraph, point (15), amending provision, numbered paragraph (1)				
112	1. The Commission shall establish an electronic reporting tool, for the purposes of collection and exchange of information between the Member States and the Commission on the implementation of the enforcement system provided by this Directive.	1. The Commission, <u>via EMSA</u> , shall establish an electronic reporting tool, for the purposes of collection and exchange of information between the Member States and the Commission on the implementation of the enforcement system provided by this Directive.	1. The Commission shall establish an electronic reporting tool, for the purposes of collection and exchange of information between the Member States and the Commission on the implementation of the enforcement system provided by this Directive.	<b>B</b>
Article 1, first paragraph, point (15), amending provision, numbered paragraph (2)				

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
113	2. Member States shall ensure that the following information relating to the actions undertaken by their competent authorities is reported through the electronic reporting tool referred to in paragraph 1:		2. Member States shall ensure that the following information relating to the actions undertaken by their competent authorities is reported through the electronic reporting tool referred to in paragraph 1, <b>once the administrative and, where applicable, legal proceedings are concluded:</b>	<b>C</b>
Article 1, first paragraph, point (15), amending provision, numbered paragraph (2), point (a)				
114	(a) information relating to the follow-up by competent authorities of an alert sent by CleanSeaNet or the reasons for not following up such an alert, as soon as the follow-up activities are completed;		(a) information relating to the follow-up by competent authorities of an alert sent by CleanSeaNet or the reasons for not following up such an alert, as soon as <b>possible after</b> the follow-up activities are completed;	<b>B</b>
Article 1, first paragraph, point (15), amending provision, numbered paragraph (2), point (b)				
115	(b) information relating to the inspections undertaken in accordance with Article 6, as soon as the inspection is completed;		(b) information relating to the inspections undertaken in accordance with Article 6, as soon as <b>possible after</b> the inspection is completed;	<b>B</b>
Article 1, first paragraph, point (15), amending provision, numbered paragraph (2), point (c)				
116	(c) information relating to the actions undertaken in accordance with Article 7, as soon as such actions are completed;		(c) information relating to the actions undertaken in accordance with Article 7, as soon as <b>possible after</b> such actions are completed; <b>and</b>	<b>B</b>
Article 1, first paragraph, point (15), amending provision, numbered paragraph (2), point (d)				

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
117	(d) information relating to penalties imposed in accordance with this Directive, without undue delay and in any case, by 30 June each year for penalties imposed during the previous calendar year. To the extent that information relating to penalties include personal data, such information shall be anonymised.		(d) information relating to penalties imposed in accordance with this Directive <b>against which no appeal was lodged in time or are otherwise final and enforceable</b> , without undue delay and in any case, by 30 June each year for penalties imposed during the previous calendar year. To the extent that information relating to penalties include personal data, such information shall be anonymised.	C
Article 1, first paragraph, point (15), amending provision, numbered paragraph (2), point (da)				
117a		<u>(da) a yearly overview of container losses reported to IMO under the International Convention for the Safety of Life at Sea (SOLAS), including, for each loss, the route of the vessel, as well as the cause and the location of the loss if they are known.</u>		C
Article 1, first paragraph, point (15), amending provision, numbered paragraph (3)				
118	3. In order to ensure the uniform application of this Article, the Commission may, by means of implementing acts, lay down detailed rules on the procedure for reporting the information mentioned in paragraph 2, including		3. In order to ensure the uniform application of this Article, the Commission may, by means of implementing acts, lay down detailed rules on the procedure for reporting the information mentioned in paragraph 2, including	A - identical

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	specifying the type of information to be reported, in accordance with the examination procedure set out in Article 13.		specifying the type of information to be reported, in accordance with the examination procedure set out in Article 13.	
Article 1, first paragraph, point (15), amending provision, numbered paragraph (4)				
119	4. Member States shall notify the Commission of the entitled authorities that will have access to the reporting tool set out in paragraph 1.		4. Member States shall notify the Commission of the entitled authorities that will have access to the reporting tool set out in paragraph 1.	<i>A - identical</i>
Article 1, first paragraph, point (15), amending provision, seventh paragraph				
120	Article 10b		Article 10b	<i>A - identical</i>
Article 1, first paragraph, point (15), amending provision, eighth paragraph				
121	Training		Training	<i>A - identical</i>
Article 1, first paragraph, point (15), amending provision, ninth paragraph				
122	The Commission shall facilitate the development of capacities of Member States by providing, as appropriate, training to the authorities responsible for the detection, verification and enforcement of infringements under the scope of this Directive.	The Commission <u>and EMSA</u> shall facilitate the development of capacities of Member States by providing, as appropriate, training to the authorities responsible for the detection, verification and enforcement of infringements under the scope of this Directive.	The Commission shall, <b>at the request of a</b> <del>facilitate the development of capacities of Member States by providing, as appropriate,</del> <b>State, facilitate the development of capacities by providing</b> training to the authorities responsible for the detection, verification and enforcement of infringements under the scope of this Directive.	<b>C</b>
Article 1, first paragraph, point (15), amending provision, tenth paragraph				
123	Article 10c		Article 10c	<i>A - identical</i>
Article 1, first paragraph, point (15), amending provision, eleventh paragraph				



	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
124	Publication of information		Publication of information	<i>A - identical</i>
Article 1, first paragraph, point (15), amending provision, numbered paragraph (1)				
125	1. Based on information reported by Member States in accordance with Article 10a, the Commission shall make publicly available a regularly updated Union-wide overview on the implementation and enforcement of this Directive. The overview shall include the information listed in Annex II to this Directive.	1. Based on information reported by Member States in accordance with Article 10a, the Commission shall make publicly available a regularly updated Union-wide overview, <u>including in disaggregated form, with data for every Member State</u> , on the implementation and enforcement of this Directive. The overview shall include the information listed in Annex II to this Directive. <u>Information identifying an individual ship should only be made publicly available if all legal proceedings are finalised and there is no appeal.</u>	1. <b>Without prejudice to the national legislation of the Member States and</b> based on information reported by Member States <b>them</b> in accordance with Article 10a, the Commission shall make publicly available a regularly updated Union-wide overview on the implementation and enforcement of this Directive, <b>upon conclusion of the administrative and legal proceedings when applicable.</b> The overview <del>shall</del> <b>may</b> include the information listed in Annex II to this Directive.	C
Article 1, first paragraph, point (15), amending provision, numbered paragraph (2)				
126	2. Without prejudice to Directive 2003/4/EC <sup>1</sup> , the Commission shall take appropriate measures to protect the confidentiality of information obtained in implementation of this Directive.  1. Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and	2. Without prejudice to Directive 2003/4/EC <sup>1</sup> , the Commission shall take appropriate measures to protect the confidentiality of <u>certain</u> information obtained in implementation of this Directive.  1. Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and	2. Without prejudice to Directive 2003/4/EC <sup>1</sup> , the Commission shall take appropriate measures to protect the confidentiality of information obtained in implementation of this Directive.  1. Directive 2003/4/EC of the European Parliament and of the Council of 28 January 2003 on public access to environmental information and	B

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).	repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).	repealing Council Directive 90/313/EEC (OJ L 41, 14.2.2003, p. 26).	
Article 1, first paragraph, point (15), amending provision, fourteenth paragraph				
127	Article 10d		Article 10d	<i>A - identical</i>
Article 1, first paragraph, point (15), amending provision, fifteenth paragraph				
128	Protection of persons who report potential infringements		Protection of persons who report potential infringements <b>and data</b>	<b>B</b>
Article 1, first paragraph, point (15), amending provision, numbered paragraph (1)				
129	<p>1. The Commission shall develop and maintain a confidential online external reporting channel for receiving reports, within the meaning of Directive (EU) 2019/1937<sup>1</sup> on potential infringements of this Directive and shall relay such reports to the Member State or Member States concerned.</p> <p>1. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).</p>	<p>1. The Commission shall develop, <u>maintain and make easily accessible to the public,</u> <del>and maintain</del> a confidential online external reporting channel for receiving reports, within the meaning of Directive (EU) 2019/1937<sup>1</sup> on potential infringements of this Directive and shall relay such reports to the Member State or Member States concerned.</p> <p>1. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).</p>	<p>1. The Commission shall develop and maintain a confidential online external reporting channel for receiving reports, within the meaning of Directive (EU) 2019/1937<sup>1</sup> on potential infringements of this Directive and shall relay such reports to the Member State or Member States concerned.</p> <p>1. Directive (EU) 2019/1937 of the European Parliament and of the Council of 23 October 2019 on the protection of persons who report breaches of Union law (OJ L 305, 26.11.2019, p. 17).</p>	<b>B</b>
Article 1, first paragraph, point (15), amending provision, numbered paragraph (2)				
130	2. Member States shall ensure that national competent authorities receiving reports of violations of this Directive,	2. Member States shall ensure that national competent authorities receiving reports of violations of this Directive,	2. Member States shall ensure that national competent authorities receiving reports of violations of this Directive,	<b>B</b>  <i>To be checked against language in 2019/1937.</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	submitted through the channel referred to in paragraph 1, provide feedback and follow-up on those reports in accordance with Directive (EU) 2019/1937.	submitted through the channel referred to in paragraph 1, <u>investigate, where appropriate, act upon, and</u> provide <u>prompt</u> feedback and follow-up on those reports in accordance with Directive (EU) 2019/1937.	submitted through the channel referred to in paragraph 1, provide feedback and follow-up on those reports in accordance with Directive (EU) 2019/1937.	
Article 1, first paragraph, point (15), amending provision, numbered paragraph (3)				
131	<p>3. The Commission may restrict the application of Articles 14 to 22, 35, and 36, as well as Article 4 of Regulation (EU) 2018/1725<sup>1</sup> for the data subjects who are part of or mentioned in the report submitted through the channel referred to in paragraph 1 and who are not the data subjects submitting this report. This restriction may apply only for the duration necessary to investigate the report referred to in paragraph 2 by the competent Member State authorities.;</p> <p>1. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA</p>		<p>3. The Commission may, <b>pursuant to point (c) and (h) of Article 25(1) and in line with Article 25(2) of Regulation (EU) 2018/1725</b>, restrict the application of Articles 14 to 22, 35, and 36, as well as Article 4 of Regulation (EU) 2018/1725<sup>1</sup> for the data subjects who are part of or mentioned in the report submitted through the channel referred to in paragraph 1 <b>of this Article</b> and who are not the data subjects submitting this report. This restriction may apply only for the duration necessary to investigate the report referred to in paragraph 2 <b>of this Article</b> by the competent Member State authorities.’;</p> <p>1. Regulation (EU) 2018/1725 of the European Parliament and of the Council of 23 October 2018 on the protection of natural persons with regard to the</p>	<b>B</b>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	relevance) (OJ L 295, 21.11.2018, p. 39).		processing of personal data by the Union institutions, bodies, offices and agencies and on the free movement of such data, and repealing Regulation (EC) No 45/2001 and Decision No 1247/2002/EC (Text with EEA relevance) (OJ L 295, 21.11.2018, p. 39).	
Article 1, first paragraph, point (16)				
132	(16) Article 11 is deleted;		(16) Article 11 is deleted;	<i>A - identical</i>
Article 1, first paragraph, point (17)				
133	(17) Article 12 is deleted;		(17) Article 12 is deleted;	<i>A - identical</i>
Article 1, first paragraph, point (18)				
134	(18) The following Article 12a is inserted:		(18) The following Article <del>12a</del> is inserted:	<i>A - identical, except for formal correction.</i>
Article 1, first paragraph, point (18), amending provision, first paragraph				
135	‘ Article 12a		‘ Article 12a	<i>A - identical</i>
Article 1, first paragraph, point (18), amending provision, second paragraph				
136	Evaluation and review		Evaluation and review	<i>A - identical</i>
Article 1, first paragraph, point (18), amending provision, numbered paragraph (1)				
137	1. By [OP: Please insert a date: five years from the date of transposition of this amending Directive], the Commission shall carry out an evaluation of this Directive. The evaluation shall be based on at least the following:		1. By <b>[OP: Please insert a date: five years from the date of transposition of this amending Directive]</b> <del>[OP: Please insert a date: five years from the date of transposition of this amending Directive]</del> , the Commission shall carry out an evaluation of this Directive. The evaluation shall be based on at least the	<i>A - identical</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
			following:	
Article 1, first paragraph, point (18), amending provision, numbered paragraph (1), point (a)				
138	(a) the experience gathered from the implementation of this Directive; and		(a) the experience gathered from the implementation of this Directive; and	<i>A - identical</i>
Article 1, first paragraph, point (18), amending provision, numbered paragraph (1), point (b)				
139	(b) the information reported by Member States pursuant to Article 10a and the Union wide overview provided in accordance with Article 10c.		(b) the information reported by Member States pursuant to Article 10a and the Union wide overview provided in accordance with Article 10c.	<i>A - identical</i>
Article 1, first paragraph, point (18), amending provision, numbered paragraph (1), point (ba)				
139a		<u><i>(ba) the interaction of this Directive with other relevant international and Union law on marine environment protection and maritime safety;</i></u>		<b>B</b>
Article 1, first paragraph, point (18), amending provision, numbered paragraph (1), point (bb)				
139b		<u><i>(bb) the latest data and scientific findings</i></u>		<b>B</b>
Article 1, first paragraph, point (18), amending provision, numbered paragraph (2)				
140	2. As part of the review, the Commission shall assess the possibility of modifying the scope of this Directive, if appropriate, in view of among other elements the international standards for the prevention of air pollution from ships subject to regulation by Marpol 73/78,	2. As part of the review, the Commission shall assess the possibility of modifying the scope of this Directive, if appropriate, in view of <u><i>developments under international conventions and Union law on</i></u> among other elements the international	2. As part of the review, the Commission shall assess the possibility of modifying the scope of this Directive, if appropriate, in view of <del>among</del> <b>other elements the new or updated</b> international standards for the prevention of <del>air</del> pollution from ships subject to	<b>C</b>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	notably sulphur oxide and nitrogen oxide emissions from ships, as well as in view of other standards regulating discharges from ships which have been made subject to regulation by Marpol 73/78, such as black carbon, marine litter, container loss, loss of plastic pellets and underwater noise.	standards for the prevention of air pollution from ships subject to regulation by Marpol 73/78, notably sulphur oxide and nitrogen oxide emissions from ships, as well as in view of other standards regulating discharges from ships which have been made subject to regulation by Marpol 73/78, such as black carbon, marine litter <u>from sources other than ships</u> , container loss <u>for containers other than those already covered by Annex III to Marpol</u> , loss of plastic pellets and underwater noise. <u>Any modification of the scope shall take into consideration existing international and Union law and avoid overlapping with the provisions of existing Union legal acts and their enforcement mechanisms.</u>	<del>regulation by Marpol 73/78, notably sulphur oxide and nitrogen oxide emissions from ships, as well as in view of other standards regulating discharges from ships which have been made subject to regulation by</del> <b>present and future provisions in Marpol 73/78, such as black carbon, marine litter, container loss, loss of plastic pellets and underwater noise.</b>	
Article 1, first paragraph, point (18a), first subparagraph				
140a		<u>(18a) The following article is inserted:</u>		C
Article 1, first paragraph, point (18a), second subparagraph				
140b		<u>‘Article 12b</u> <u>Exercise of delegation</u>		C
Article 1, first paragraph, point (18a), second subparagraph, point (a)				

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
140c		<u>1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.</u>		C
Article 1, first paragraph, point (18a), second subparagraph, point (b)				
140d		<u>2. The power to adopt delegated acts referred to in Article 12e is conferred on the Commission for a period of five years from [...]. The Commission shall draw up a report in respect of the delegation of power no 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 to such extension no later than three months before the end of each period.</u>		C
Article 1, first paragraph, point (18a), second subparagraph, point (c)				
140e		<u>3. The delegation of powers referred to in Article 12e 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 powers specified in that decision. It</u>		C

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
		<u>shall take effect on 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.</u>		
Article 1, first paragraph, point (18a), second subparagraph, point (d)				
140f		<u>4. 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.</u>		C
Article 1, first paragraph, point (18a), second subparagraph, point (e)				
140g		<u>5. As soon as it adopts a delegated act, the Commission shall notify it simultaneously to the European Parliament and the Council.</u>		C
Article 1, first paragraph, point (18a), second subparagraph, point (f)				
140h		<u>6. A delegated act adopted pursuant to Article 12e shall enter into force only if no objection has been expressed either by the European Parliament or by the Council within a period of two months</u>		C



	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
		<u>of the 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 or the Council.'</u>		
Article 1, first paragraph, point (18b), first subparagraph				
140i		<u>(18b) The following is inserted:</u>		C
Article 1, first paragraph, point (18b), second subparagraph				
140j		<u>'Article 12e</u>		C
Article 1, first paragraph, point (18b), third subparagraph				
140k		<u>Public accessibility of Consolidated IMO Conventions</u>		C
Article 1, first paragraph, point (18b), fourth subparagraph				
140l		<u>If by [OP: Please insert a date: one year from the date of entry into force of this amending Directive] the IMO has not published the full texts of all its conventions, including Marpol 73/78 and its related annexes, on its website, accessible to users free of charge, the Commission shall adopt, within 3 months, a delegated act in accordance with Article 12b</u>		C

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
		<u>amending this Directive, by adding a new Annex with the full text of Marpol 73/78 and those of its annexes referred to in this Directive. The Commission is empowered to adopt delegated acts in accordance with Article 12b to subsequently amend that Annex, whenever required.'</u>		
Article 1, first paragraph, point (19)				
141	(19) Article 13 is replaced by the following:		(19) Article 13 is replaced by the following:	<i>A - identical</i>
Article 1, first paragraph, point (19), amending provision, first paragraph				
142	Article 13		Article 13	<i>A - identical</i>
Article 1, first paragraph, point (19), amending provision, second paragraph				
143	Committee Procedure		Committee procedure	<i>A - identical, except for minor editorial</i>
Article 1, first paragraph, point (19), amending provision, numbered paragraph (1)				
144	1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS), established by Article 3 of Regulation (EC) No 2099/2002 <sup>1</sup> . COSS shall be a committee within the meaning of Regulation (EU) No 182/2011 <sup>2</sup> .  1. Regulation (EC) No 2099/2002 of the		1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS), established by Article 3 of Regulation (EC) No 2099/2002 <sup>1</sup> . COSS shall be a committee within the meaning of Regulation (EU) No 182/2011 <sup>2</sup> .  1. Regulation (EC) No 2099/2002 of the	<i>A - identical, except for minor editorial</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	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). 2. 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 Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).		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). 2. 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 Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).	
Article 1, first paragraph, point (19), amending provision, numbered paragraph (2)				
145	2. Where reference is made to this Article, Article 5 of Regulation (EU) No 182/2011 and Article 5 of Regulation (EC) No 2099/2002 shall apply.;		2. Where reference is made to this Article, Article 5 of Regulation (EU) No 182/2011 and Article 5 of Regulation (EC) No 2099/2002 shall apply.;	<i>A - identical</i>
Article 1, first paragraph, point (20)				
146	(20) Article 14 is deleted;		(20) Article 14 is deleted;	<i>A - identical</i>
Article 1, first paragraph, point (21)				
147	(21) Article 15 is deleted;		(21) Article 15 is deleted;	<i>A - identical</i>
Article 1, first paragraph, point (21a)				
147a			<b>(21a) In Article 16, the following paragraph is added:</b>	<b>C</b>
Article 1, first paragraph, point (21b)				
147b			<b>'2. Member States without direct access to the sea or</b>	<b>C</b>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
			without ports shall not be obliged to transpose and implement the provisions of this Directive in Articles 6 and 7.';	
Article 1, first paragraph, point (22)				
148	(22) The sole Annex is deleted;		(22) The sole Annex is deleted;	<i>A - identical</i>
Article 1, first paragraph, point (23)				
149	(23) The text set out in Annex I to this Directive is added as Annex I;		(23) The text set out in Annex I to this Directive is added as Annex I;	<i>A - identical</i>
Article 1, first paragraph, point (24)				
150	(24) The text set out in Annex II to this Directive is added as Annex II.		(24) The text set out in Annex II to this Directive is added as Annex II.	<i>A - identical</i>
Article 2				
151	Article 2 Transposition		Article 2 Transposition	<i>A - identical</i>
Article 2(1), first subparagraph				
152	1. Member States shall adopt and publish, by [OP: Please insert a date: one year from the date of entry into force of this amending Directive] the laws, regulations and administrative provisions necessary to comply with this Directive.		1. Member States shall adopt and publish, by <b>[OP: Please insert a date: four years [48 months] from the date of entry into force of this amending Directive]</b> <del>[OP: Please insert a date: one year from the date of entry into force of this amending Directive]</del> the laws, regulations and administrative provisions necessary to comply with this	<b>C</b>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
			Directive.	
Article 2(1), second subparagraph				
153	When Member States adopt those provisions, 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.		When Member States adopt those provisions, 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.	<i>A - identical</i>
Article 2(1), second subparagraph a				
153a			<b>1a. By derogation from paragraph 1 of this Article, Member States without direct access to the sea or without ports shall not be obliged to transpose and implement the provisions of Article 1, points (7a) and (8) of this Directive.</b>	<b>C</b>
Article 2(2)				
154	2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive and any subsequent amendment(s) affecting them.		2. Member States shall communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive and any subsequent amendment(s) affecting them.	<i>A - identical</i>
Article 3				
155	Article 3 Application of Directive		Article 3 Application of Directive	<i>A - identical</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	2009/123/EC		2009/123/EC	
Article 3, first paragraph				
156	As regards infringements to be regarded as criminal offences pursuant to Directive 2005/35/EC as amended by Directive 2009/123/EC <sup>1</sup> and the corresponding penalties, Member States not bound by Directive (EU) 2023/xxxx shall remain bound by Directive 2005/35/EC as amended by Directive 2009/123/EC.  <sup>1</sup> OJ L xxxx		As regards infringements to be regarded as criminal offences pursuant to Directive 2005/35/EC as amended by Directive 2009/123/EC <sup>1</sup> and the corresponding penalties, Member States not bound by Directive (EU) 2023/xxxx shall remain bound by Directive 2005/35/EC as amended by Directive 2009/123/EC.  <sup>1</sup> OJ L <del>xxxx</del> <b>280, 27.10.2009, p. 52.</b>	<i>A - identical, except for formal correction.</i>
Article 4				
157	Article 4 Entry into force		Article 4 Entry into force	<i>A - identical</i>
Article 4, first paragraph				
158	This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.		This Directive shall enter into force on the twentieth day following that of its publication in the <b>Official Journal of the European Union</b> <del>Official Journal of the European Union.</del>	<i>A - identical</i>
Article 5				
159	Article 5 Addressees		Article 5 Addressees	<i>A - identical</i>
Article 5, first paragraph				
160	This Directive is addressed to		This Directive is addressed to	<i>A - identical</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	the Member States.		the Member States.	
Formula				
161	Done at Brussels,		Done at Brussels,	<i>A - identical</i>
Formula				
162	For the European Parliament		For the European Parliament	<i>A - identical</i>
Formula				
163	The President		The President	<i>A - identical</i>
Formula				
164	For the Council		For the Council	<i>A - identical</i>
Formula				
165	The President		The President	<i>A - identical</i>
Annex I				
166	Annex [I]		Annex [I]	<i>A - identical</i>
Annex I, first paragraph				
167	Non-exhaustive list of irregularities or information referred to in Article 6		Non-exhaustive list of irregularities or information referred to in Article 6	<i>A - identical</i>
Annex I, second paragraph				
168	(1) Any irregularities with respect to the oil and other relevant record books or with respect to other deficiencies related to potential discharges, discovered during inspections carried out under Directive		(1) Any irregularities with respect to the oil and other relevant record books or with respect to other deficiencies related to potential discharges, discovered during inspections carried out under Directive	<i>A - identical</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>2009/16/EC<sup>1</sup>, carried out either by the Member State concerned or by another Member State or a State signatory to the Memorandum of Understanding on Port State Control (Paris MOU) at the previous ports of call of the ship;</p> <p>1. Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (Recast) (OJ L 131, 28.5.2009, p. 57).</p>		<p>2009/16/EC<sup>1</sup>, carried out either by the Member State concerned or by another Member State or a State signatory to the Memorandum of Understanding on Port State Control (Paris MOU) at the previous ports of call of the ship;</p> <p>1. Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control (Recast) (OJ L 131, 28.5.2009, p. 57).</p>	
Annex I, third paragraph				
169	<p>(2) Any irregularities with respect to the delivery of ship-generated waste, or the notification thereof, as required under Directive (EU) 2019/883<sup>1</sup> which took place either in the Member State concerned or in the Member State of the previous ports of call of the ship;</p> <p>1. Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ L 151, 7.6.2019, p. 116)</p>		<p>(2) Any irregularities with respect to the delivery of ship-generated waste, or the notification thereof, as required under Directive (EU) 2019/883<sup>1</sup> which took place either in the Member State concerned or in the Member State of the previous ports of call of the ship;</p> <p>1. Directive (EU) 2019/883 of the European Parliament and of the Council of 17 April 2019 on port reception facilities for the delivery of waste from ships, amending Directive 2010/65/EU and repealing Directive 2000/59/EC (OJ L 151, 7.6.2019, p. 116)</p>	<i>A - identical</i>
Annex I, fourth paragraph				
170	<p>(3) Any irregularities with respect to non-compliance with the criteria for the use of exhaust</p>		<p>(3) Any irregularities with respect to non-compliance with the criteria for the use of exhaust</p>	<i>A - identical</i>



	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>gas cleaning systems operated as emissions abatement methods set out in Annex II of Directive (EU) 2016/802 of the European Parliament and of the Council<sup>1</sup>, which refers to the 2009 Guidelines for Exhaust Gas Cleaning Systems set out in Resolution MEPC.184(59)) as replaced by the 2021 Guidelines for Exhaust Gas Cleaning Systems set out in resolution MEPC.340(77).</p> <p><sup>1</sup>. Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels (codification) (OJ L 132, 21.5.2016, p. 58).</p>		<p>gas cleaning systems operated as emissions abatement methods set out in Annex II of Directive (EU) 2016/802 of the European Parliament and of the Council<sup>1</sup>, which refers to the 2009 Guidelines for Exhaust Gas Cleaning Systems set out in Resolution MEPC.184(59)) as replaced by the 2021 Guidelines for Exhaust Gas Cleaning Systems set out in resolution MEPC.340(77).</p> <p><sup>1</sup>. Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels (codification) (OJ L 132, 21.5.2016, p. 58).</p>	
Annex I, fifth paragraph				
171	<p>(4) Any information obtained from another Member State relating to a potential illegal discharge of the ship obtained through the procedures foreseen in Directive 2002/59/EC<sup>1</sup>, including any proof or presumptive evidence on deliberate discharges of oil or other infringements of Marpol 73/78 communicated by coastal stations of a Member State to the coastal stations in the Member State concerned in accordance</p>		<p>(4) Any information obtained from another Member State relating to a potential illegal discharge of the ship obtained through the procedures foreseen in Directive 2002/59/EC<sup>1</sup>, including any proof or presumptive evidence on deliberate discharges of oil or other infringements of Marpol 73/78 communicated by coastal stations of a Member State to the coastal stations in the Member State concerned in accordance</p>	<i>A - identical</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	<p>with Article 16 thereof or incidents or accidents reported by the master of the ship to the coastal station of the Member State concerned in accordance with Article 17 thereof; or</p> <p>1. 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).</p>		<p>with Article 16 thereof or incidents or accidents reported by the master of the ship to the coastal station of the Member State concerned in accordance with Article 17 thereof; or</p> <p>1. 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).</p>	
Annex I, sixth paragraph				
172	<p>(5) Any other information by persons involved in the operation of the ship, including pilots, which suggests irregularities relating to potential violation of the obligations under this Directive.</p>		<p>(5) Any other information by persons involved in the operation of the ship, including pilots, which suggests irregularities relating to potential violation of the obligations under this Directive.</p>	<i>A - identical</i>
Annex II				
173	Annex [II]		Annex [II]	<i>A - identical</i>
Annex II, first paragraph				
174	Information to be included in the union-wide overview referred to in article 10C		Information to be included in the Union-wide overview referred to in Article 10c	<i>A - identical</i>
Annex II, second paragraph				
175	(1) For each pollution incident verified and confirmed by a Member State, information in		(1) For each pollution incident verified and confirmed by a Member State, information in	<b>C</b>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	the Union-wide overview published in accordance with Article 10c shall include:		the Union-wide overview published in accordance with Article 10c shall include:	
Annex II, second paragraph, point (a)				
176	a. date of the incident;		a. date of the incident;	<i>A – identical</i>
Annex II, second paragraph, point (b)				
177	b. identification of the ship involved in the incident;		b. identification of the ship involved in the incident;	<i>A – identical</i>
Annex II, second paragraph, point (c)				
178	c. position (latitude and longitude) of the pollution incident;		c. position (latitude and longitude) of the pollution incident;	<i>A - identical</i>
Annex II, second paragraph, point (d)				
179	d. extent of the pollution incident (area and length), if applicable;		d. extent of the pollution incident (area and length), if applicable;	<i>A - identical</i>
Annex II, second paragraph, point (e)				
180	e. type of pollutant;		e. type of pollutant;	<i>A - identical</i>
Annex II, second paragraph, point (f)				
181	f. Member State(s) involved;		f. Member State(s) involved;	<i>A - identical</i>
Annex II, second paragraph, point (g)				
182	g. description of the verification activities of the pollution incident;		g. description of the verification activities of the pollution incident;	<i>A - identical</i>
Annex II, second paragraph, point (h)				
183	h. date and time of verification activities and assets used for		h. date and time of verification activities and assets used for	<i>A - identical</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
	verification activities;		verification activities;	
Annex II, second paragraph, point (i)				
184	i. details of the administrative penalty imposed.		i. details of the administrative penalty imposed.	<i>A - identical</i>
Annex II, third paragraph				
185	(2) For each Member State, aggregated information contained in the Union-wide overview published in accordance with Article 10c shall include:		(2) For each Member State, aggregated information contained in the Union-wide overview published in accordance with Article 10c <del>shall</del> may include:	<b>C</b>
Annex II, third paragraph, point (a)				
186	a. number of CleanSeaNet possible pollution incidents detected by the Member State;		a. number of CleanSeaNet possible pollution incidents detected <del>by the Member State;</del>	<b>B</b> <i>Corrected by COM</i>
Annex II, third paragraph, point (b)				
187	b. number of CleanSeaNet possible pollution incidents verified on-scene by the Member State;		b. number of CleanSeaNet possible pollution incidents verified <del>on-scene</del> by the Member State;	<b>C</b>
Annex II, third paragraph, point (c)				
188	c. number of confirmed pollution incidents after verification (detailed per area: territorial waters, EEZ, high seas);		c. number of confirmed pollution incidents after verification (detailed per area: territorial waters, EEZ, high seas);	<i>A - identical</i>
Annex II, third paragraph, point (d)				
189	d. number of identified offenders;		d. number of identified offenders;	<i>A - identical</i>

	Commission Proposal	EP Mandate	Council Mandate	PCY suggestions/comments
Annex II, third paragraph, point (e)				
190	e. number of cases where a penalty was imposed.		e. number of cases where a penalty was imposed.	<i>A - identical</i>