Council of the European Union
General Secretariat

Interinstitutional files:
2023/0171 (COD)

Brussels, 10 November 2023

WK 14720/2023 INIT

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WORKING DOCUMENT

From:	General Secretariat of the Council
To:	Working Party on Shipping
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 - Comments by Latvia

Delegations will find attached comments by **Latvia** on the above proposal.

10.11.2023

Comments by Latvia on on the Proposal for amendments of the Directive 2005/35/EC

Proposal by EC	**LV Proposal**	**LV Position**
Article 8		
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. 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.	Member States shall ensure that penalties introduced in transposition of this Directive include fines which are imposed to the company, or the master or, if not acting under the responsibility of the master, the crew responsible for the infringement. Member States shall ensure that penalties are imposed to such persons in accordance with the provisions of this Directive.	LV in general supports approach that penalties could be imposed both for a private person and a company, but do not support paragraphs in proposed version. Latvia does not support text "**at the time of the infringement"** as such wording could lead to misinterpretation that the fine should be imposed at the time of the infringement. Latvia does not support that **the company should be one to prove that the master or the crew was responsible for the infringement**. This approach would lead to delay of the process of the imposing penalties and possibly could end without result. Therefore, LV proposees to combine paragraphs 2 and 3 of the Art.8.
Article 10 **Exchange of information and experience**		
Paragraph 1		
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/EC37 (SafeSeaNet), in order to attain the following objectives:		
(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 competent authorities verify at least 10% of the alerts sent by CleanSeaNet every year. **Verify means on-site observations, follow-up actions in ports or the reasons for not following up such an alert.**	CleanSeaNet alerts sent to the Member States are divided in two categories - A -the detected spill has high detection confidence level and B -the detected spill has low detection confidence level. In the given text it could be understood that MS should verify 10 % of **all** CSN alerts, but it is not clear what is meant by "verify". It is not reasonable and is financial intensive to verify on site **all** CleanSeaNet alerts. When CleanSeaNet category B alert is received by MS and the possible spill is small, detected at night and far from the ports, it would take too much both human and financial resources to go on patrol vessel or airplane to verify it on site. From the point of view of Latvia, it is not cost-effective approach. Therefore, LV proposes specify that "Verify means on-site observations, follow-up actions in ports or the reasons for not following up such an alert."