

Proposal for a

DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

on port reception facilities for the delivery of waste from ships, repealing Directive 2000/59/EC and amending Directive 2009/16/EC and Directive 2010/65/EU

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

Having regard to the opinion of the European Economic and Social Committee¹⁸,

Having regard to the opinion of the Committee of the Regions¹⁹,

Acting in accordance with the ordinary legislative procedure,

Whereas:

- (1) The Union's maritime policy is aimed at a high level of safety and environmental protection. This can be achieved through compliance with international conventions, codes and resolutions while maintaining the freedom of navigation as provided for by the United Nations Convention on the Law of the Sea (UNCLOS).
- (2) The International Convention on the Prevention of Pollution from Ships ('MARPOL Convention') provides for general prohibitions on discharges from ships at sea, but also regulates the conditions under which certain types of waste can be discharged into the marine environment. The MARPOL Convention requires Member States to ensure the provision of adequate reception facilities in ports.
- (3) The Union has pursued the implementation of the MARPOL Convention through Directive 2000/59/EC of the European Parliament and the Council²⁰, by following a port-based approach. Directive 2000/59/EC aims to reconcile the interests of smooth operation of maritime transport with the protection of the marine environment.
- (4) In the last two decades, the MARPOL Convention and its Annexes have undergone important amendments, which put in place stricter norms and prohibitions for the discharges of waste from ships at sea.
- (5) Annex VI to the MARPOL Convention introduced discharge norms for new waste categories, in particular, the residues from exhaust gas cleaning systems, consisting of

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OJ C , , p. .

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OJ C , , p. .

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

both sludge and bleed-off water. Those waste categories should be included in the scope of the Directive.

- (6) On 15 April 2014, the International Maritime Organisation ('IMO') adopted the Consolidated Guidance for port reception facility providers and users (MEPC.1/Circular 834), including the standard format for waste notification, waste receipt, and reporting alleged inadequacies of port reception facilities.
- (7) In spite of these regulatory developments, discharges of waste at sea still occur. This is due to a combination of factors, namely adequate port reception facilities are not always available in ports, enforcement is often insufficient and there is a lack of incentives to deliver the waste onshore.
- (8) Directive 2000/59/EC has contributed to increasing volumes of waste being delivered to port reception facilities since its entry into force, and as such has been instrumental in reducing waste discharges at sea, as was revealed in the REFIT Evaluation of the Directive.
- (9) The REFIT Evaluation has also demonstrated that Directive 2000/59/EC has not been fully effective due to inconsistencies with the MARPOL framework. In addition, Member States have developed different interpretations of the key concepts in the Directive, such as adequacy of the facilities, advance waste notification and the mandatory delivery of waste to port reception facilities, and exemptions for ships in scheduled traffic. The evaluation called for more harmonisation of those concepts and further alignment with the MARPOL Convention in order to avoid unnecessary administrative burden on both ports and port users.
- (10) The Directive is also instrumental for the application of the main environmental legislation and principles in the context of ports and the management of waste from ships. In particular, Directive 2008/98/EC of the European Parliament and the Council²¹, as well as Directive 2008/56/EC of the European Parliament and the Council²², are relevant instruments in this regard.
- (11) Directive 2008/98/EC lays down the main waste management principles, including the "polluter pays" principle and the waste hierarchy, which calls for the reuse and recycling of waste over other forms of waste recovery and disposal and requires the establishment of systems for the separate collection of waste. These obligations also apply to the management of waste from ships.
- (12) Separate collection of waste from ships, including derelict fishing gear, is necessary to ensure its further recovery in the downstream waste management chain. Garbage is often segregated on board of ships in accordance with international norms and standards and Union legislation should ensure that these efforts of on-board waste segregation are not undermined by a lack of arrangements for separate collection on shore.
- (13) Although the majority of marine litter originates from land-based activities, the shipping industry, including the fishing and recreational sectors, is also an important contributor, with discharges of garbage, including plastic and derelict fishing gear, going directly into the sea.

²¹ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing certain Directives (OJ L 312, 22.11.2008, p.3).

²² Directive 2008/56/EC of the European Parliament and of the Council of 17 June 2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy Framework Directive) (OJ L 164, 25.6.2008, p.19).

- (14) The Commission's Circular Economy Strategy²³ has set a reduction target for marine litter of 30 % by 2020 and acknowledged the specific role that the Directive 2000/59/EC has to play in this respect, by ensuring the availability of adequate facilities for the reception of garbage, and providing for both the right level of incentives and the enforcement of the delivery of waste to the on-shore facilities.
- (15) A port reception facility is considered to be adequate if it is able to meet the needs of the ships normally using the port without causing undue delay. Adequacy relates both to the operational conditions of the facility in view of the user needs, as well as to the environmental management of the facilities in accordance with Union waste legislation.
- (16) Regulation (EC) 1069/2009 of the European Parliament and of the Council²⁴ requires international catering waste to be incinerated or disposed of by burial in an authorised landfill, including waste from ships calling at Union ports which has potentially been in contact with animal by-products on board. In order for this requirement not to limit the promotion of further reuse and recycling of waste from ships, efforts should be made to better segregate the waste on board so that potential contamination of waste, such as packaging waste, can be avoided.
- (17) To ensure adequacy of port reception facilities, the development and re-assessment of the waste reception and handling plan is essential, based on consultation of all relevant port users. For practical and organisational reasons, neighbouring ports in the same region may want to develop a joint plan, covering the availability of port reception facilities in each of the ports covered by the plan while providing a common administrative framework.
- (18) To address the problem of marine litter effectively, it is fundamental to provide the right level of incentives for the delivery of waste to port reception facilities, in particular garbage. This can be achieved through a cost recovery system, which requires the application of an indirect fee, which is due irrespective of the delivery of waste and which should give a right of delivery of the waste without any additional direct charges. The fishing and recreational sector, given their contribution to the occurrence of marine litter, should also be included in this system.
- (19) The 'Green Ship' concept should be further developed in relation to waste management, so that an effective reward system can be implemented for those vessels that reduce their waste on board.
- (20) Cargo residues remain the property of the cargo owner after unloading the cargo to the terminal, and often have an economic value. For this reason, the cargo residues should not be included in the cost recovery systems and the application of the indirect fee; the fee for the delivery of cargo residues should be paid by the user of the reception facility, as specified in the contractual arrangements between the parties involved or in other local arrangements.

²³ Commission Communication COM/2015/0614, 'Closing the loop- an EU action plan for the Circular Economy', section 5.1.

²⁴ Regulation (EC) 1069/2009 of the European Parliament and the Council of 21 October 2009 laying down health rules as regards animal by-products and derived products not intended for human consumption and repealing Regulation (EC) 1774/2002 (OJ L 300, 14.11.2009, p.1).

- (21) Regulation (EU) 2017/352 of the European Parliament and the Council²⁵, includes the provision of port reception facilities as a service in the scope of the Regulation. It provides rules on the transparency of the charging structures applied for the use of port services, consultation of port users and handling of complaint procedures. The Directive goes beyond the framework provided by the Regulation (EU) 2017/352 by providing more detailed requirements for the operation and design of the cost recovery systems for port reception facilities for waste from ships and the transparency of the cost structure.
- (22) In addition to providing incentives for delivery, effective enforcement of the delivery obligation is paramount and should follow a risk-based approach in line with Directive 2009/16/EC²⁶, which is no longer consistent with the 25 % target for inspections in Directive 2000/59/EC for vessels falling under its scope.
- (23) One of the main obstacles for the effective enforcement of the mandatory delivery obligation has been the different interpretation and implementation by Member States of the exception based on sufficient on-board storage capacity. To avoid that the application of this exception undermines the main objective of the Directive, it should be specified further, in particular in regard to the next port of call, and sufficient storage capacity should be determined in a harmonised way in Union ports, based on common methodology and criteria.
- (24) Monitoring and enforcement should be facilitated through a system based on electronic reporting and exchange of information. To this end, the existing information and monitoring system set up under Directive 2000/59/EC should be further developed, and continue to be operated on basis of existing electronic data systems, in particular the Union Maritime Information and Exchange system (SafeSeaNet) and the Inspection Database (THETIS). The system should also include the information on port reception facilities available in the different ports.
- (25) The MARPOL Convention requires the contracting parties to maintain up-to-date information on their port reception facilities and communicate this information to the IMO. To this end IMO has established a Port Reception Facilities Database within its Global Integrated Ship Information System ('GISIS'). By reporting this information into the Information, Monitoring and Enforcement System set up by the Directive, and the subsequent transmission of this information via the system to GISIS, Member States would no longer have to report this information separately to the IMO.
- (26) There is a need for further harmonisation of the regime of exemptions for ships in scheduled traffic with frequent and regular port calls, in particular clarification of the terms used and the conditions governing those exemptions. The REFIT Evaluation and the Impact Assessment have revealed that the lack of harmonisation of the conditions and application of exemptions has resulted in an unnecessary administrative burden for ships and ports.
- (27) The Subgroup on Port Reception Facilities, which had been set up under the European Sustainable Shipping Forum, and which brings together a wide range of experts in the field of ship-source pollution and the management of waste from ships, has provided valuable guidance and expertise to the Commission. It would be desirable to maintain

²⁵ Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports (OJ L 57, 3.3.2017, p.1).

²⁶ Directive 2009/16/EC of the European Parliament and the Council of 23 April 2009 on port state control (OJ L 131, 28.5.2009, p.57).

this group as a separate expert group to exchange experience on the implementation of the Directive.

- (28) The powers conferred on the Commission to implement Directive 2000/59/EC should be updated in accordance with the Treaty on the Functioning of the European union (TFEU).
- (29) In order to provide for a methodology for the application of the exception based on sufficient storage capacity, and for the further development of the information, monitoring and enforcement system set up under this Directive, implementing powers should be conferred on the Commission. Implementing acts should be adopted in accordance with Regulation (EU) No 182/2011 of the European Parliament and the Council.
- (30) In order to take account of developments at international level, and to promote environmentally sound waste management practices on board, the power to adopt acts in accordance with article 290 TFEU should be delegated to the Commission in respect of amending this Directive to update the references to international instruments and the Annexes and to change references to international instruments, in order to prevent, if necessary, changes to those international instruments from applying for the purposes of this Directive, and to develop common criteria for recognising 'green ships' for the purpose of granting a reduced waste fee to those ships. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.
- (31) Since the Directive's objective of protection of the marine environment from discharges of waste at sea cannot be sufficiently achieved by Member States unilaterally but rather, by reason of the scale of action, can be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality, as set out in that article, this Directive does not go beyond what is necessary in order to achieve those objectives.
- (32) The Union is characterised by regional differences at port level, as also demonstrated in the Territorial Impact Assessment.. Ports differ based on geographic location, size, administrative set-up and ownership, and are characterised by the type of ships normally visiting. In addition, waste management systems reflect the differences at municipal level and downstream waste management infrastructure.
- (33) Directive 2000/59/EC should therefore be repealed.

HAVE ADOPTED THIS DIRECTIVE:

SECTION 1: GENERAL PROVISIONS

Article 1 **Subject matter**

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

Article 2 **Definitions**

For the purpose of this Directive:

- (a) ‘ship’ means a seagoing vessel of any type operating in the marine environment, including fishing vessels and recreational craft not engaged in trade, hydrofoil boats, air-cushion vehicles, submersibles and floating craft;
- (b) ‘MARPOL Convention’ means the International Convention for the Prevention of Pollution from Ships, in its up-to-date version;
- (c) ‘waste from ships’ means all waste, including cargo residues, which is generated during the service of a ship or during loading, unloading and cleaning operations, or waste that is collected in nets during fishing operations, and falls under the scope of Annexes I, II, IV, V and VI to MARPOL;
- (d) ‘cargo residues’ means the remnants of any cargo material on board which remain on the deck or in holds following loading and unloading, including loading and unloading excess or spillage, whether in wet or dry condition or entrained in wash-water, excluding cargo dust remaining on the deck after sweeping or dust of the external surfaces of the ship;
- (e) ‘port reception facilities’ means any facility, which is fixed, floating or mobile and capable of receiving the waste from ships;
- (f) ‘fishing vessel’ means any ship equipped or used commercially for catching fish or other living resources from the sea;
- (g) ‘recreational craft’ means a ship of any type, with a hull length of 2.5 metres and beyond, regardless of the means of propulsion, intended for sports or leisure purposes, and not engaged in trade;
- (h) ‘domestic vessel’ means a ship flying the flag of a Member State solely engaged in domestic voyages in that Member State;
- (i) ‘domestic voyage’ means a voyage in sea areas from a port of a Member State to the same or another port within that Member State;
- (j) ‘port’ means a place or a geographical area made up of such improvement works and equipment as to permit the reception of ships, including the anchorage area within the jurisdiction of the port;
- (k) ‘catering waste’ means all waste food, including used cooking oil originating in restaurants, catering facilities and kitchens’;
- (l) ‘sufficient storage capacity’ means enough capacity to store the waste on board from the moment of departure until the next port of call, including the waste that is likely to be generated during the voyage;
- (m) ‘scheduled traffic’ means traffic based on a published or planned list of times of departures and arrivals between identified ports or recurrent crossings that constitute a recognised schedule;
- (n) ‘regular port calls’ means repeated journeys of the same ship forming a constant pattern between identified ports or a series of voyages from and to the same port without intermediate calls;
- (o) ‘frequent port calls’ means visits by a ship to the same port taking place at least once a fortnight;

(p) ‘GISIS’ means the Global Integrated Ship Information System set up by the International Maritime Organisation.

‘Waste from ships’, as defined in points (c) and (d) shall be considered to be waste within the meaning of Article 3(1) of Directive 2008/98/EC²⁷.

Article 3
Scope

This Directive shall apply to:

- (a) all ships, irrespective of their flag, calling at, or operating within, a port of a Member State, with the exception of any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on a government non-commercial basis;
- (b) all ports of the Member States normally visited by ships falling under the scope of point (a).

Member States shall take measures to ensure that, where possible, ships, which do not fall within the scope of this Directive, deliver their waste in a manner consistent with this Directive.

SECTION 2: PROVISION OF ADEQUATE PORT RECEPTION FACILITIES

Article 4
Port reception facilities

1. Member States shall ensure the availability of port reception facilities adequate to meet the need of the ships normally using the port without causing undue delay to ships.
2. Member States shall ensure that:
 - (a) The port reception facilities have the capacity to receive the types and quantities of waste from ships normally using that port, taking into account the operational needs of the users of the port, the size and geographical location of the port, the type of ships calling at that port, and the exemptions provided for under Article 9;
 - (b) The formalities relating to the use of the facilities are simple and expeditious to avoid undue delays to ships, and the fees charged for delivery do not create a disincentive for ships to use the port reception facilities;
 - (c) The port reception facilities allow for the management of the ship’s waste in an environmentally appropriate way in accordance with the requirements of Directive 2008/98/EC and other relevant Union legislation on waste. To this end, the Member States shall provide for separate collection of waste from ships in ports as required in Union waste legislation, in particular Directive 2008/98/EC, Directive 2012/19/EU and Directive 2006/66/EC. Point (c) shall

²⁷ Directive 2008/98/EC of the European Parliament and the Council of 19 November 2008 on waste and repealing certain directives, OJ L 312, 22.11.2008, p. 3-30.

apply without prejudice to the more stringent requirements imposed by Regulation (EC) 1069/2009 for the management of catering waste from international transport.

3. Member States shall use the forms and procedures laid down by IMO, for reporting to the authorities of the port state alleged inadequacies of port reception facilities.

Any information received through this reporting procedure shall also be transmitted electronically to the part of the information, monitoring and enforcement system referred to in article 14 of this Directive.

4. Member States shall investigate all reported cases of alleged inadequacies and ensure that any party involved in the delivery or reception of waste from ships can claim compensation for damage caused by undue delay.

Article 5
Waste reception and handling plans

1. An appropriate waste reception and handling plan shall be in place and implemented for each port following ongoing consultations with the relevant parties, in particular with port users or their representatives. Those consultations should be held both during the initial drafting of the plans and after their adoption, in particular when significant changes have taken place, with regards to the requirements in Articles 4, 6, and 7. The detailed requirements for the development of such plans are set out in Annex 1.

2. Member States shall ensure that the following information from the waste reception and handling plans on the availability of adequate reception facilities in their ports and the associated costs shall be clearly communicated to the ship operators and made publicly available either via the website of the ports or in printed form:

- (a) location of port reception facilities applicable to each berth;
- (b) list of waste from ships normally managed by the port;
- (c) list of contact points, the operators and the services offered;
- (d) description of the procedures for delivery of the waste;
- (e) description of the cost recovery systems; and
- (f) description of the procedures for reporting alleged inadequacies of port reception facilities.

This information shall also be electronically reported in the part of the information, monitoring and enforcement system referred to in Article 14 of this Directive, in accordance with Directive 2002/59/EC.

3. The waste reception and handling plans referred to in paragraph 1 may, where required for reasons of efficiency, be developed in conjunction by two or more neighbouring ports in the same region, with the appropriate involvement of each port, provided that the need for and availability of, reception facilities are specified for each port.
4. Member States shall evaluate and approve the waste reception and handling plan, monitor its implementation and ensure its re-approval at least every three years after it has been approved or re-approved, and after significant changes in the operation of the port have taken place. These changes shall include, but not be limited to,

structural changes in traffic to the port, development of new infrastructure, changes in the demand and provision of port reception facilities, and new on-board treatment techniques.

SECTION 3

DELIVERY OF WASTE FROM SHIPS

Article 6

Advance waste notification

1. The operator, agent or master of a ship falling within the scope of Directive 2002/59/EC of the European Parliament and of the Council²⁸, other than a fishing vessel or a recreational craft of less than 45 metres, bound for a port located in the EU shall complete accurately the form in Annex 2 and notify that information to the authority or body designated for this purpose by the Member State in which that port is located:
 - (a) at least 24 hours prior to arrival, if the port of call is known;
 - (b) as soon as the port of call is known, if this information is available less than 24 hours prior to arrival;
 - (c) at the latest upon departure from the previous port, if the duration of the voyage is less than 24 hours.
2. The information referred to in paragraph 1 shall be reported electronically in the part of the information, monitoring and enforcement system, referred to in Article 14 of this Directive, in accordance with Directive 2010/65/EU and Directive 2002/59/EC.
3. The information referred to in paragraph 1 shall be kept on board at least until the next port of call and shall be made available upon request to the relevant Member States' authorities.
4. Member States shall ensure that the information that is notified pursuant to this Article is appropriately examined and shared with the relevant enforcement authorities without delay.

Article 7

Delivery of waste from ships

1. The master of a ship calling at a Union port shall, before leaving the port, deliver all the waste carried on board of the ship to a port reception facility in accordance with the relevant discharge norms laid down in the MARPOL Convention.
2. Upon delivery, the waste operator or the authority of the port where the waste was delivered shall accurately complete the form in Annex 3 and issue the receipt to the ship.

This requirement shall not apply in small unmanned ports or in remotely located ports, provided that the Member State where such a port is located has reported this

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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).

information electronically in the part of the information, monitoring and enforcement system referred to in Article 14 of this Directive.

3. The operator, agent or master of a ship, falling within the scope of Directive 2002/59/EC, shall before departure, electronically report the information from the waste receipt in the part of the information, monitoring and enforcement system referred to in Article 14 of this Directive, in accordance with Directive 2010/65/EU and Directive 2002/59/EC.
4. The information referred to in paragraph 2 shall be kept on board for at least two years and shall be made available upon request to the Member States' authorities.
5. Without prejudice to paragraph 1, a ship may proceed to the next port of call without delivering the waste, if:
 - (a) the ship only calls at anchorage for less than 24 hours or under adverse weather conditions;
 - (b) the information provided in accordance with Annexes 2 and 3 shows that there is sufficient dedicated storage capacity for all waste that has been accumulated and will be accumulated during the intended voyage of the ship until the next port of call.
6. In order to ensure uniform conditions for the implementation of the exception based on sufficient dedicated storage capacity, implementing powers shall be conferred on the Commission to define the methods to be used for the calculation of the sufficient dedicated storage capacity on board. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 20(2).
7. If the next port of call is located outside the Union, or there are good reasons to believe that adequate facilities are not available in the next port of call, or this port is unknown, the Member State shall require the ship to deliver all its waste before departure.
8. Paragraph 2 shall apply without prejudice to more stringent requirements for ships adopted in accordance with international law.

Article 8 **Cost recovery systems**

1. Member States shall ensure that the costs of operating port reception facilities for the reception and treatment of waste from ships, other than cargo residues, shall be covered through the collection of a fee from ships. Those costs include the elements listed in Annex 4.
2. The cost recovery systems shall provide no incentive for ships to discharge their waste at sea. To this end, the Member States shall apply the following principles in the design and operation of the cost recovery systems in ports:
 - (a) part of the fee to be paid by ships shall be an indirect fee, to be paid irrespective of delivery of waste to a port reception facility;
 - (b) the indirect fee shall cover the indirect administrative costs, as well as a significant part of the direct operational costs, as determined in Annex 4. The significant part of the direct operational costs shall represent at least 30 % of the total yearly direct costs for actual delivery of the waste;

- (c) in order to provide for a maximum incentive for the delivery of waste as defined in Annex V to the MARPOL Convention, including the waste that has been collected in nets during fishing operations, the indirect fee to be charged shall cover all the costs of port reception facilities for this waste, in order to ensure a right of delivery without any additional direct charges;
- (d) The indirect fee shall not cover the waste from exhaust gas cleaning systems, the costs of which shall be covered on the basis of the types and quantities of waste delivered.

3. The part of the costs which is not covered by the fee referred to in subparagraph (b), if any, shall be covered on the basis of the types and quantities of waste actually delivered by the ship.
4. The fees may be differentiated with respect to, *inter alia*, the category, type and size of the ship and the type of traffic the ship is engaged in, as well as with respect to services provided outside normal operating hours in the port.
5. The fees shall be reduced if the ship's design, equipment and operation are such that it can be demonstrated that the ship produces reduced quantities of waste, and manages its waste in a sustainable and environmentally sound manner. The Commission shall be empowered by means of delegated acts in accordance with Article 19, to define the criteria for determining that a ship meets the requirements stated in this paragraph in relation to the ship's on-board waste management.
6. In order to ensure that the fees are fair, transparent, non-discriminatory, and that they reflect the costs of the facilities and services made available, and, where appropriate, used, the amount of the fees and the basis on which they have been calculated shall be made available to the port users.

Article 9
Exemptions

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

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

SECTION 4: ENFORCEMENT

Article 10 **Inspections**

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

Article 11 **Port State Control Inspections**

Inspections shall be carried out in accordance with Directive 2009/16/EC for the ships falling in the scope of that Directive, so that any such inspection includes a verification that the ship complies with the requirements of Articles 6, 7, and 9.

Article 12 **Inspections outside Port State Control**

1. As regards inspections of ships falling outside the scope of Directive 2009/16/EC, Member States shall ensure that inspections are carried out of at least 20 % of the total number of the individual vessels for each category listed below:
 - (a) domestic ships flying their flag of 100 gross tonnage and above calling in the relevant Member State annually;
 - (b) fishing vessels of 100 gross tonnage and above calling in the relevant Member State annually;
 - (c) recreational craft of 100 gross tonnage and above calling in the relevant member State annually.
2. The results of the inspections referred to in paragraph 1 shall be recorded in the part of the information, monitoring and enforcement system referred to in Article 15 of this Directive.
3. Member States shall establish procedures for inspections for fishing vessels below 100 gross tonnage as well as for recreational craft below 100 gross tonnage, to ensure compliance with the applicable requirements of this Directive.
4. If the relevant authority of the Member State is not satisfied with the results of the inspection, it shall, without prejudice to the application of the penalties referred to in Article 16, ensure that the ship does not leave port until it has delivered its waste to a port reception facility in accordance with Article 7.

Article 13 **Information, Monitoring and Enforcement System**

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

Article 14
Reporting and exchange of information

1. The reporting and exchange of information shall be based on the Union Maritime Information and Exchange System (SafeSeaNet), referred to in Article 22a(3) and Annex III of Directive 2002/59/EC.
2. Member States shall ensure that the following data is reported electronically and within reasonable time in accordance with Directive 2010/65/EC:
 - (a) information on the actual time of arrival and time of departure of every ship, falling in the scope of Directive 2002/59/EC, calling at an EU port, together with an identifier of the port concerned;
 - (b) the information from the waste notification as contained in Annex 2;
 - (c) the information from the waste receipt as contained in Annex 3;
 - (d) the information from the exemption certificate as contained in Annex 5.
3. Member States shall ensure, to the extent possible, that fishing vessels and recreational craft over 100 gross tonnage, calling at an Union port, shall also report, the information on the actual time of arrival and departure.
4. The information reported for the purposes of Articles 4 and 5(2) shall be subsequently transmitted by the Commission to the IMO Port Reception Facilities Database within GISIS.

Article 15
Recording of inspections

1. The Commission shall develop, maintain and update an inspection database to which all Member States shall be connected and which shall contain all the information required for the implementation of the inspection system provided for by this Directive. This database will be based on the inspection database referred to in Article 24 of Directive 2009/16/EC and shall have similar functionalities to that database.
2. Member States shall ensure that the information related to inspections under this Directive, including information regarding non-compliances and prohibition of departure orders granted, is transferred without delay to the inspection database, as soon as the inspection report has been completed, or the prohibition of departure order has been lifted, or an exemption has been granted.
3. Member States shall ensure that the information transferred to the inspection database is validated within 72 hours.
4. The Commission shall ensure that the inspection database makes it possible to retrieve any relevant data reported by the Member States for the purpose of monitoring the implementation of the Directive.
5. Member States shall at all times have access to the information recorded.

Article 16
Penalties

Member States shall lay down of the rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all the measures necessary to

ensure that they are implemented. The penalties provided for shall be effective, proportionate and dissuasive.

SECTION 5: FINAL PROVISIONS

Article 17 **Exchange of experience**

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

Article 18 **Amendment procedure**

1. The Commission shall be empowered to adopt delegated acts in accordance with Article 19 in order to amend the Annexes to this Directive and the references to IMO instruments to the extent necessary to bring them into line with Union law or in order to take account of developments at international level, in particular at IMO.
2. The Annexes may also be amended when it is necessary to improve the implementation and monitoring arrangements established by this Directive, in particular those provided in Articles 6, 7 and 9, in order to ensure effective notification and delivery of waste, and the proper application of exemptions.
3. In exceptional circumstances, where duly justified by an appropriate analysis by the Commission and in order to avoid a serious and unacceptable threat to maritime safety, to health, to shipboard living or working conditions or to the marine environment, or to avoid incompatibility with Union maritime legislation, the Commission is empowered to adopt delegated acts in accordance with Article 19, amending this Directive in order not to apply, for the purpose of this Directive, an amendment to the MARPOL Convention.
4. Those delegated acts shall be adopted at least three months before the expiration of the period established internationally for the tacit acceptance of the amendment concerned or the envisaged date for the entry into force of said amendment. In the period preceding the entry into force of such delegated act, Member States shall refrain from any initiative intended to integrate the amendment in national legislation or to apply the amendment to the international instrument concerned. .

Article 19 **Exercise of delegation**

1. The power to adopt delegated acts referred to in Article 8(5), Article 18(1), Article 18(2) and Article 18(3) shall be conferred on the Commission for a period of five years from [the date of entry into force]. The Commission shall draw up a report in respect of the delegation of power not later than nine months before the end of the five year period. The delegation of power shall be tacitly extended for periods of an identical duration, unless the European Parliament or the Council opposes such extension not later than three months before the end of each period.
2. The delegation may be revoked at any time by the European Parliament or by the Council. A decision to revoke shall put an end to the delegation of the power

specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

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

Article 20
Committee

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

Article 21
Amendments to Directive 2009/16/EC

Directive 2009/16/EC is amended as follows:

- (1) Article 13 is amended as follows:
 - (a) In paragraph (1) the following point (d) is added:
 - (d) 'verifies that the ship complies with Article 6, Article 7 and Article 9, where applicable, of Directive 201X/XX/EU on port reception facilities for the delivery of waste from ships.'
 - (b) In paragraph (3) first subparagraph the following provision is added at the end of the paragraph:

'..or of Directive 201X/XX/EU'.
 - (c) The following paragraph is added:
 - (4) 'If after the inspection referred to in point 1(d) or referred to in paragraph 3, the inspector is not satisfied that the ship has been in compliance with Directive 201X/XX/EU, the ship shall not be allowed to leave the port, without prejudice to the application of the penalties referred to in Article 16 of Directive 201X/XX/EU, until the ship has delivered its waste to a port reception facility.'
- (2) In Annex I.II.2B, the following indent is added at the end of the list of unexpected factors:
 - 'Ships which have been reported as not complying with the obligation to deliver their waste in accordance with Article 7 of Directive 201X/XX/EU or for which the information reported in accordance with Article 6 of Directive

201X/XX/EU has revealed evidence of non-compliance with Directive 201X/XX/EU'.

(3) In Annex IV, the following points are added:

- (51) A copy of the advance waste notification documents kept on board in accordance with Article 6(3) of Directive 201X/XX/EU
- (52) The standard waste receipt forms issued in accordance with Article 7 of Directive 201X/XX/EU.
- (53) The exemption certificate issued in accordance with Article 9 of Directive 201X/XX/EU.

Article 22
Amendment to Directive 2010/65/EU

Directive 2010/65/EU is amended as follows:

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

'4. Notification of waste from ships, including residues

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

Article 23
Repeal

Directive 2000/59/EC is repealed.

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

Article 24
Review

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

Article 25
Transposition

1. Member States shall adopt and publish, by 31st of December 2020 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 26
Entry into force

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

Article 27
Addressees

This Directive is addressed to the Member States.

Done at Strasbourg,

For the European Parliament
The President

For the Council
The President