

Directive 2000/59/EC of the European Parliament and of the  
Council of 27 November 2000 on port reception facilities  
for ship-generated waste and cargo residues (repealed)

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PARLIAMENT AND OF THE COUNCIL

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on port reception facilities for ship-generated waste and cargo residues (repealed)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission<sup>(1)</sup>,

Having regard to the Opinion of the Economic and Social Committee<sup>(2)</sup>,

Having regard to the Opinion of the Committee of the Regions<sup>(3)</sup>,

Acting in accordance with the procedure referred to in Article 251 of the Treaty<sup>(4)</sup>, and in the light of the joint text approved by the Conciliation Committee on 18 July 2000,

Whereas:

- (1) Community policy on the environment aims at a high level of protection. It is based on the precautionary principle and the principles that the polluter should pay and that preventive action should be taken.
- (2) One important field of Community action in maritime transport concerns the reduction of the pollution of the seas. 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 and the freedom of providing services as provided for in Community law.
- (3) The Community is seriously concerned about the pollution of the seas and coastlines of the Member States caused by discharges of waste and cargo residues from ships, and in particular about the implementation of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (Marpol 73/78) which regulates what wastes can be discharged from ships into the marine environment and requires States Parties to ensure the provision of adequate reception facilities in ports. All Member States have ratified Marpol 73/78.
- (4) The protection of the marine environment can be enhanced by reducing discharges into the sea of ship-generated waste and cargo residues. This can be achieved by improving the availability and use of reception facilities and by improving the enforcement regime. In its Resolution of 8 June 1993 on a common policy on safe seas<sup>(5)</sup>, the Council included

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among its priority actions the development of availability and use of reception facilities within the Community.

- (5) Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)<sup>(6)</sup> provides that ships posing an unreasonable threat of harm to the marine environment may not proceed to sea.
- (6) Pollution of the seas by its very nature has transboundary implications. In view of the subsidiarity principle, action at Community level is the most effective way of ensuring common environmental standards for ships and ports throughout the Community.
- (7) In view of the proportionality principle, a Directive is the appropriate legal instrument, as it provides a framework for the Member States' uniform and compulsory application of environmental standards, while leaving each Member State the right to decide which implementation tools best fit its internal system.
- (8) Consistency with existing regional agreements, such as the 1974/1992 Convention on the Protection of the Marine Environment in the Baltic Sea Area, should be ensured.
- (9) In the interest of improving pollution prevention and avoiding distortion of competition, the environmental requirements should apply to all ships, irrespective of the flag they fly, and adequate reception facilities should be made available in all ports of the Community.
- (10) Adequate port reception facilities should meet the needs of users, from the largest merchant ship to the smallest recreational craft, and of the environment, without causing undue delay to the ships using them. The obligation to ensure the availability of adequate port reception facilities leaves the Member States with a high degree of freedom to arrange the reception of waste in the most suitable manner and permits them, *inter alia*, to provide fixed reception installations or to appoint service providers bringing to the ports mobile units for the reception of waste when needed. This obligation also implies the obligation to provide all services and/or other accompanying arrangements necessary for the proper and adequate use of these facilities.
- (11) Adequacy of facilities can be improved by up-to-date waste reception and handling plans established in consultation with the relevant parties.
- (12) The effectiveness of port reception facilities can be improved by requiring ships to notify their need to use reception facilities. Such notification would also provide information for effectively planned waste management. Waste from fishing vessels and from recreational craft authorised to carry no more than 12 passengers may be handled by the port reception facilities without prior notification.
- (13) Discharges of ship-generated waste at sea can be reduced by requiring all ships to deliver their waste to port reception facilities before leaving the port. In order to reconcile the interest of the smooth operation of maritime transport with the protection of the environment, exceptions to this requirement should be possible taking into

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account the sufficiency of the dedicated storage capacity on board, the possibility to deliver at another port without risk of discharge at sea and specific delivery requirements adopted in accordance with international law.

- (14) In view of the ‘polluter pays’ principle, the costs of port reception facilities, including the treatment and disposal of ship-generated waste, should be covered by ships. In the interest of protecting the environment, the fee system should encourage the delivery of ship-generated waste to ports instead of discharge into the sea. This can be facilitated by providing that all ships contribute to the costs for the reception and handling of ship-generated waste so as to reduce the economic incentives to discharge into the sea. In view of the subsidiarity principle, Member States should, in accordance with their national laws and current practices, retain the powers to establish whether and in what proportion the fees related to quantities actually delivered by the ships will be included in the cost recovery systems for using port reception facilities. Charges for using these facilities should be fair, non-discriminatory and transparent.
- (15) Ships producing reduced quantities of ship-generated waste should be treated more favourably in the cost recovery systems. Common criteria would facilitate the identification of such ships.
- (16) In order to avoid undue burden for the parties concerned, ships engaged in scheduled traffic with frequent and regular port calls may be exempted from certain obligations deriving from this Directive where there is sufficient evidence that there are arrangements to ensure the delivery of the waste and the payment of fees.
- (17) Cargo residues should be delivered to port reception facilities in accordance with Marpol 73/78. Marpol 73/78 requires cargo residues to be delivered to port reception facilities to the extent necessary to comply with the tank cleaning requirements. Any fee for such delivery should be paid by the user of the reception facility, the user being normally specified in the contractual arrangements between the parties involved or in other local arrangements.
- (18) It is necessary to undertake targeted inspections in order to verify compliance with this Directive. The number of such inspections, as well as the penalties imposed, should be sufficient to deter non-compliance with this Directive. For reasons of efficiency and cost-effectiveness, such inspections may be undertaken within the framework of Directive 95/21/EC, when applicable.
- (19) Member States should ensure a proper administrative framework for the adequate functioning of the port reception facilities. Under Marpol 73/78, allegations of inadequate port reception facilities should be transmitted to the International Maritime Organisation (IMO). The same information could be simultaneously transmitted to the Commission for information purposes.
- (20) An information system for the identification of polluting or potentially polluting ships would facilitate the enforcement of this Directive and would be helpful in evaluating the implementation thereof. The SIRENAC information system established under the Paris Memorandum of Understanding on Port State Control provides a large amount of the additional information needed for that purpose.

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- (21) It is necessary that a Committee consisting of representatives of the Member States assist the Commission in the effective application of this Directive. Since the measures necessary for implementing this Directive are measures of a general scope within the meaning of Article 2 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(7)</sup>, such measures should be adopted in accordance with the regulatory procedure provided for in Article 5 of that Decision.
- (22) Certain provisions of this Directive may, without broadening its scope, be amended in accordance with that procedure in order to take into account Community or IMO measures which enter into force in the future so as to ensure their harmonised implementation,

HAVE ADOPTED THIS DIRECTIVE:

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- (1) [OJ C 271, 31.8.1998, p. 79](#) and [OJ C 148, 28.5.1999, p. 7](#).
- (2) [OJ C 138, 18.5.1999, p. 12](#).
- (3) [OJ C 198, 14.7.1999, p. 27](#).
- (4) Opinion of the European Parliament of 11 February 1999 ([OJ C 150, 28.5.1999, p. 432](#)), confirmed on 16 September 1999, Council Common Position of 8 November 1999 ([OJ C 10, 13.1.2000, p. 14](#)) and Decision of the European Parliament of 14 March 2000 (not yet published in the Official Journal). Decision of the European Parliament of 6 September 2000 and Decision of the Council of 14 September 2000.
- (5) [OJ C 271, 7.10.1993, p. 1](#).
- (6) [OJ L 157, 7.7.1995, p. 1](#). Directive as last amended by Directive 98/42/EC ([OJ L 184, 27.6.1998, p. 40](#)).
- (7) [OJ L 184, 17.7.1999, p. 23](#).