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**NOTE**

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From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	11419/18 MAR 100 CODEC 1326 IA 250
No. Cion doc.:	9051/18 MAR 65 CODEC 788 IA 135 + ADD 1
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU - Presidency compromise proposal

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In view of the Shipping Working Party meeting on 26 October 2018, delegations will find attached a new Presidency compromise proposal.

Compared to the Commission proposal, changes are marked in **bold** (new text) and ~~striketrough~~ (deleted text). **Bold underlined** is new text which has been added to provisions that were moved.

General scrutiny and language reservation: all delegations.

Parliamentary scrutiny reservation: UK.

**Proposal for a  
REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL  
establishing a European Maritime Single Window environment and repealing  
Directive 2010/65/EU**

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the European Commission,

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

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

After consulting the Committee of the Regions<sup>2</sup>,

Acting in accordance with the ordinary legislative procedure,

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

<sup>2</sup> [...]

Whereas:

- (1) Directive 2010/65/EU of the European Parliament and the Council<sup>3</sup> requires Member States to accept the fulfilment of reporting obligations for ships arriving in and departing from Union ports in electronic format and to ensure their transmission via a single window in order to facilitate maritime transport.
- (2) Maritime transport is the backbone of trade and communications within and beyond the single market. For the facilitation of maritime transport, and in order to further reduce the administrative burdens for shipping companies, the information procedures for fulfilment of reporting obligations imposed on shipping companies by legal acts of the Union and by national law of Member States should be further simplified and harmonised.
- (3) This Regulation is aimed at facilitating the transmission of information. The application of this Regulation should not alter the substance of reporting obligations, and should not affect subsequent storage and processing of information at Union level or at national level.
- (4) The existing **maritime** National Single ~~Windows~~ **Window** in each Member State should be maintained as the basis for the European Maritime Single Window environment ('EMSWe'). The **maritime** National Single ~~Windows~~ **Window** should constitute a comprehensive reporting entry point for maritime transport operators, performing the functionalities of data collection from the declarants and data distribution to all relevant competent authorities.

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<sup>3</sup> Directive 2010/65/EU of the European Parliament and the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC (OJ L 283, 29.10.2010, p. 1).

- (5) The front-end interfaces of these **maritime** National Single Windows, on the side of the declarants, should be harmonised at Union level, in order to facilitate reporting and further reduce administrative burden. This harmonisation should be achieved by the application in every **maritime** National Single Window of a common interface software for system-to-system exchange of information developed at Union level. The Member States should bear the responsibility for integrating and managing this interface module and for updating the software regularly and timely when new versions are provided by the Commission. The Commission should develop the module and provide updates when needed.
- (5a) In order not to impose a disproportionate administrative burden on landlocked Member States which do not have seaports, such Member States should be exempted from the obligation to develop, establish, operate and make available a National Single Window. This means that, as long as they make use of this exemption, such Member States are not obliged to fulfil other obligations that are linked to the development, establishment, operation and making available of a National Single Window, including respect for the once-only principle, the obligation to ensure confidentiality of commercial and other information sensitive information exchanged in accordance with this Regulation, the designation of a national authority responsible for the user management of declarants and data service providers, the provision of information to the ship, the Common Location Database, the Hazmat Database and the Common Ship Sanitation Database, the duty to request the addition of new reporting requirements, and the option to establish other reporting channels.**
- (6) Emerging new digital technologies present ever-growing opportunities to increase the efficiency of the maritime transfer sector and to reduce administrative burden. In order for the benefits of such new technologies to accrue as early as possible, the Commission should be empowered to amend, by means of implementing acts, the technical specifications, standards and procedures of the harmonised reporting environment. New technologies should also be taken into account when this Regulation is reviewed.

- (7) Adequate support and information on the processes and technical requirements related to the use of **maritime** National Single Windows should be provided to declarants via easily accessible and user-friendly national websites with common ‘look and feel’ standards.
- (8) The Convention on Facilitation of International Maritime Traffic (‘the FAL Convention’)<sup>4</sup> provides that the public authorities should in all cases require only essential reporting information and keep the number of items to a minimum.
- (9) In order to enable the functioning of the EMSWe, it is necessary to establish a comprehensive EMSWe data set which should cover all information elements that might be requested by national authorities or port operators for administrative or operational purposes, when a ship makes a port call. Since the scope of reporting obligations varies from one Member State to another, a **maritime** National Single Window in a given Member State should be designed to accept the EMSWe data set without any modification, and disregard any information not relevant for that Member State.
- (10) The relevant reporting obligations contained in the Union and international legal acts should be listed in the Annex to this Regulation. These reporting obligations should provide the basis for establishment of the comprehensive EMSWe data set. The Annex should also refer to the relevant categories of reporting obligations at the national level, and the Member States should be able to request the Commission to amend the EMSWe data set on the basis of reporting obligations contained in their national legislation. The Union legal act which amends the EMSWe data set on the basis of a reporting obligation contained in the national legislation should include explicit reference to that national legislation.

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<sup>4</sup> International Maritime Organisation (IMO) Convention on Facilitation of International Maritime Traffic (the ‘FAL Convention’), adopted on 9 April 1965 and amended on 8 April 2016, Standard 1.1.

- (11) Whenever the information from the **maritime** National Single Windows is distributed to the competent authorities, the transmission must comply with the common data requirements, formats and codes for the reporting obligations and formalities provided for in the Union legislation listed in the Annex and must be made through the IT systems established therein, such as the electronic data-processing techniques referred to in Article 6(1) of Regulation (EU) No 952/2013 **of the European Parliament and of the Council**<sup>5</sup>.
- (12) The implementation of this Regulation should take into account the SafeSeaNet systems established at national and Union level, which should continue to facilitate the exchange and distribution of information received through the **maritime** National Single Window between the Member States in accordance with Directive 2002/59 **of the European Parliament and of the Council**<sup>6</sup>.
- (13) Ports are not the final destination of goods. The efficiency of the ship port calls have an impact on the entire logistics chain related to the transport of goods and passengers to and from the ports. In order to ensure interoperability, multimodality, and smooth integration of maritime transport with the overall logistics chain and in order to facilitate other transport modes, the **maritime** National Single Windows should allow for the possibility to exchange relevant information, such as arrival and departure times, with similar frameworks developed for other transport modes.
- (14) In order to improve the efficiency of maritime transport and to limit the duplication of information which must be provided for operational purposes when a ship makes a port call, the information provided by the declarant to a **maritime** National Single Windows should be also shared with certain other entities, such as port or terminal operators.

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<sup>5</sup> **Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1)**

<sup>6</sup> **Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (OJ L 208, 5.8.2002, p. 10).**

- (15) Regulation (EU) No 952/2013 provides that goods which are brought into the customs territory of the Union shall be covered by an entry summary declaration that must be submitted to the customs authorities electronically. Given the importance of the entry summary declaration information for the management of security and financial risks, a specific electronic system is currently being developed for the submission and management of the entry summary declarations in the Union customs territory. It will not, therefore, be possible to lodge an entry summary declaration through the **maritime** National Single Windows. However, considering that some of the data elements submitted with the entry summary declaration are also required for the fulfilment of other customs and maritime reporting formalities when a ship calls in a port of the Union, the European Maritime Single Window environment for maritime transport should be able to process the data elements of the entry summary declaration. The possibility that the **maritime** National Single Windows could retrieve relevant information already submitted through the entry summary declaration should also be envisaged.
- (16) In order to enable the reuse of the information provided through the **maritime** National Single Windows and facilitate the submission of information by the declarant, it is necessary to provide for common databases. A EMSWe ship database should include a reference list of ship particulars and their reporting exemptions, as reported to the respective **maritime** National Single Windows. To facilitate the submission of information by a declarant a Common Location Database (CLD) should hold a reference list is of location codes which include United Nations Code for Trade and Transport Locations (UN/LOCODE), SafeSeaNet-specific codes as well as port facility codes as registered in the Global Integrated Shipping Information System (GISIS) of the International Maritime Organization. Furthermore, a Common Hazmat Database should incorporate a list of dangerous and polluting goods that have to be notified to the **maritime** National Single Windows in accordance with Directive 2002/59/EC, as amended, and IMO FAL Form 7, taking into consideration the relevant data elements from the IMO Conventions and Codes.

- (17) Processing of personal data within the framework of this Regulation by competent authorities should comply with Regulation (EU) 2016/679 of the European Parliament and of the Council<sup>7</sup>. Processing of personal data by the Commission within the framework of this Regulation, should comply with the provisions of Regulation [new Regulation replacing Regulation 45/2001 on processing of personal data by the Community institutions].
- (18) The EMSWe and the **maritime** National Single Windows should not provide any other grounds for any processing of personal data than what is required for their functioning and should not be used to grant any new access rights to personal data.
- (19) The power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in order to supplement this Regulation by establishing the EMSWe data set and by determining definitions, categories and data specifications for the data elements. The same power should be delegated to the Commission in order to amend the Annex to incorporate reporting obligations existing at the national level as well to take into account any new reporting obligations adopted in the Union legal acts. The Commission should ensure that the common data requirements, formats and codes established in the Union and international legal acts listed in the Annex are respected. It is also of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016. In particular, to ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

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<sup>7</sup> **Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with 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).**



- (20) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>8</sup>.
- (21) In particular, implementing powers should be conferred on the Commission to adopt and, subsequently, to amend the EMSWe data set, as well as to adopt the functional and technical specifications, quality control mechanisms and procedures for deploying, maintaining and employing the harmonised interface module and the related harmonised elements of the National Single Windows. Implementing powers should be conferred on the Commission to adopt the technical specifications, standards and procedures for common services of the EMSWe.
- (22) This Regulation should build on Regulation (EU) No 910/2014 of the European Parliament and of the Council<sup>9</sup> which lays down conditions under which Member States recognise certain means of electronic identification means for natural and legal persons falling under a notified electronic identification scheme of another Member State. Regulation (EU) No 910/2014 provides the conditions for users to be able to use their electronic identification and authentication means in order to access online public services in cross-border situations.
- (23) The Commission should carry out an evaluation of this Regulation. Information should be collected in order to inform that evaluation and allow the assessment of the performance of the legislation against the objectives it pursues.

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<sup>8</sup> Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

<sup>9</sup> Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014, p. 73–114).

(24) Directive 2010/65/EU should therefore be repealed, with effect from the date of the application of this Regulation.

(25) The European Data Protection Supervisor was consulted in accordance with Article 28(2) of Regulation (EC) No 45/2001 of the European Parliament and of the Council<sup>10</sup>.

HAVE ADOPTED THIS REGULATION:

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<sup>10</sup> Regulation (EC) No 45/2001 of the European Parliament and of the Council of 18 December 2000 on the protection of individuals with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data (OJ L 8, 12.1.2001, p. 1).

# Chapter I

## General provisions

### Article 1

#### Subject matter and scope

This Regulation establishes a framework for a harmonised and interoperable European Maritime Single Window environment ('EMSWe'), ~~based on National Single Windows~~, in order to facilitate electronic transmission of information in relation to reporting obligations for ships arriving and staying in and departing from a Union port.

### Article 2

#### Definitions

For the purposes of this Regulation, the following definitions apply:

- (1) 'European Maritime Single Window environment' ('EMSWe') means the legal and technical framework for electronic transmission of information in relation to reporting obligations and procedures for the port calls in the Union, which consists of a network of **maritime** National Single Windows **with harmonised reporting interfaces** and includes **data exchange via SafeSeaNet and other relevant systems** ~~the harmonised interface~~ as well as common services for user and access management, ship identification, locations codes and information on dangerous and polluting goods;
- (1a) **'Maritime National Single Window'** means a nationally established and operated technical platform for exchanging and forwarding electronically information to fulfill reporting obligations and which includes a harmonised reporting interface module and graphical user interface for the communication with the declarants as well as links with the relevant authorities' systems and databases on national and at Union level<sup>11</sup>;

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<sup>11</sup> *Former definition (6d).*

- (1b) ‘harmonised reporting interface module’ means a middleware component ~~installed in the~~ **maritime National Single Window** through which information can be exchanged between the information system used by the declarant and the affected maritime **National Single Window** ~~for the purpose of exchanging reporting information;~~<sup>12</sup>
- (2) ‘reporting obligation’ means the information required by the Union and international legal acts listed, as well as national legislation referred to, in the Annex, which has to be provided for administrative and operational purposes in connection **with a port call** ~~with the arrival, stay of a ship in and departure from a port in a Member State~~ (‘port call’);
- (2a) ‘port call’ means the arrival, stay of a ship in and departure from a port in a Member State;
- (3) ‘data element’ means the smallest unit of information which has a unique definition and precise technical characteristics such as format, length and character type;
- (3a) ‘European Maritime Single Window environment data set’ means the complete list of data elements for port calls as set out in the Union and international legal acts as well as the national legislation referred to in the Annex.
- (4) [...]
- (5) ‘declarant’ means any natural or legal person subject to the reporting obligations according to the relevant Union or national legislation, or any **duly authorised** natural or legal person acting on its behalf within the limits of that same legislation;
- (6) ‘data service provider’ means a natural or legal person which provides information and communication technology services to a declarant in relation to the reporting obligations;

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<sup>12</sup> *Moved from (6e).*

- (6a) ‘electronic transmission of information’ means the process of transmitting information that has been encoded digitally, using a revisable structured format which can be used directly for **data** storage and processing by computers;
- (6b) ‘national legislation’ means any national, regional or local public act;
- (6c) ‘ship’ means any vessel or craft subject to a particular reporting obligation deriving from legislation listed in the Annex;
- ~~(6d) ‘National Single Window’ means a nationally established and operated technical platform for exchanging and forwarding electronically reporting obligations and which includes a harmonised reporting interface module and graphical user interface for the communication with the declarants as well as links with the relevant authorities’ systems and databases on national and at Union level;~~
- ~~(6e) ‘harmonised reporting interface module’ installed in the National Single Window providing machine-to-machine communication between the information system used by declarants and the affected National Single Window for the purpose of exchanging reporting information;~~
- (6f) ‘port services provider’ means any natural or legal person providing one or more categories of the port services established in Article 1(2) of Regulation (EU) 2017/352 of the European Parliament and of the Council<sup>13</sup>.

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<sup>13</sup> Regulation (EU) 2017/352 of the European Parliament and of the Council of 15 February 2017 establishing a framework for the provision of port services and common rules on the financial transparency of ports (OJ L 57, 3.3.2017, p. 1).

## Chapter II

### EMSWe data set

#### Article 3

##### Establishment of the EMSWe data set

1. The Commission shall lay down a complete list of data elements (the EMSWe data set) on the basis of the reporting obligations set out in the Union and international legal acts listed, and the national legislation referred to, in the Annex.
2. **A Member State may request the Commission to introduce data elements in the EMSWe data set, on the basis of the reporting obligations contained in the national legislation. By six months from the entry into force of this Regulation at the latest, the Member States shall notify the Commission of the provisions of national legislation and corresponding reporting obligations, containing the data elements to be included in the EMSWe data set. They shall precisely identify those data elements<sup>14</sup>. The Commission shall assess the necessity of inserting or modifying a data element in the EMSWe data set on the basis of those notifications.** The Commission shall be empowered to adopt delegated acts in accordance with the procedure referred to in Article 18 in order to amend or supplement the Annex to this Regulation for the purposes of introducing, deleting or adapting a reference to a Union, international or national legal act, and establish and amend the EMSWe data set. The delegated act which inserts or modifies a data element in the EMSWe data set, on the basis of a reporting obligation contained in the national legislation, shall include explicit reference to that national legislation.

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<sup>14</sup> *Former paragraph 3.*

3. **The Commission shall be empowered to adopt [within two years after entry into force of this Regulation]delegated acts in accordance with the procedure referred to in Article 18 in order to amend ~~or supplement~~ the Annex to this Regulation for the purposes of introducing, deleting or adapting a reference to a Union, international or national legal act, and establish and amend the EMSWe data set.**

**A Member State may request the Commission to introduce data elements in the EMSWe data set, on the basis of the reporting obligations contained in the national legislation. The Commission shall take into account the principles of the FAL Convention to assess whether data elements shall be included in the EMSWe data set.**

~~The delegated act which inserts or modifies a data element in the EMSWe data set, on the basis of a reporting obligation contained in the national legislation, shall include explicit reference to that national legislation<sup>15</sup>. A Member State may request the Commission to introduce data elements in the EMSWe data set, on the basis of the reporting obligations contained in the national legislation. By six months from the entry into force of this Regulation at the latest, the Member States shall notify the Commission of the provisions of national legislation and corresponding reporting obligations, containing the data elements to be included in the EMSWe data set. They shall precisely identify those data elements. The Commission shall assess the necessity of inserting or modifying a data element in the EMSWe data set on the basis of those notifications.~~

4. [...]

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<sup>15</sup> *Former paragraph 2.*

## Article 4

### Requests for other information

1. Where a Member State intends to ~~introduce or~~ amend a reporting obligation, under its national legislation, which would involve the provision of information other than that included in the EMSWe data set, that Member State shall immediately notify the Commission. In this notification, the Member State shall precisely identify the information not covered by the EMSWe data set and indicate the intended time period of application of the reporting obligation in question.
  - 1a. A Member State shall not introduce new **permanent** reporting requirements unless this has been ~~accepted to~~ **approved** by the Commission through the formal procedure in Article 3 and the corresponding information has been incorporated in the harmonised reporting interface module.
2. The Commission shall assess the necessity of amending the EMSWe data set in accordance with Article 3(2). **Amendments of the EMSWe data set shall only be introduced once a year, unless in duly justified cases.**



## Chapter III

### Provision of information

#### Article 5

#### National Single Window

1. Each Member State shall establish a National Single Window where, in accordance with this Regulation and without prejudice to Article 6, all information necessary for the fulfilment of reporting obligations shall be provided once, by means of and in compliance with the EMSWe data set, **and using the harmonised reporting interfaces as set out in Article 5a** for the purpose of this information being made available to the relevant authorities of the Member States to the extent required to perform their respective functions.

Member States shall be responsible for the ~~development, availability and~~ operation of their National Single Window.

- 1a. Member States which do not have seaports are exempted from the obligation to develop, establish, operate and make available a National Single Window which is set out in the first paragraph.**

- ~~2. The Commission shall develop and update a harmonised reporting interface module for the National Single Windows. This module shall include the possibility to exchange information between the information system used by the declarant and the National Single Window. The interface specifications of this module shall also allow the possibility of including data elements relevant for other modes of transport.~~

3. The Member States shall ensure:
  - (a) the compatibility of the National Single Window with the harmonised reporting interfaces ~~module~~;

- (b) the timely integration of the harmonised reporting interfaces ~~module~~ and any subsequent updates in accordance with the implementation dates set in the implementing act referred to in ~~paragraph (11)~~ **Article 5b**;
- ~~(ba) the provision of a graphical user interface for the exchange of data between the National Single Window and the declarants;~~
- (c) a connection with the relevant systems of competent authorities, to enable the transfer of data to be reported to those authorities, through the National Single Window and to these systems, in accordance with the Union and national legislation, and in compliance with the technical specifications of these systems;
- (d) the provision of a an online-support website for their National Single Window.

4. ~~The graphical user interface of the National Single Window Windows shall also allow declarants to provide information by way of digital spreadsheets, harmonised at Union level, and shall include the function of extracting reporting data elements from those spreadsheets. The specifications of those spreadsheets shall also allow the possibility of including data elements relevant for other modes of transport. [...]~~

5. Member States shall ensure that the required information reaches the authorities in charge of the application of the legislation in question, and is limited to the needs of each of those authorities. In doing so, Member States shall ensure compliance with the legal requirements related to the transmission of information, provided for in the Union legal acts listed in the Annex and, where applicable, use the electronic data-processing techniques referred to in Article 6(1) of Regulation (EU) No 952/2013<sup>16</sup>. They shall also ensure interoperability with the information systems used by those authorities.

6. The **maritime** National Single Window shall provide for technical possibility for declarants to make available relevant information, separately, to destination port services providers.

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<sup>16</sup> *Moved from paragraph 5 of former Article 5.*

7. Where a Member State does not require all of the elements of the EMSWe data set for the fulfilment of reporting obligations, the **maritime** National Single Window shall accept submissions that are limited to the data elements required by that Member State. It shall also accept submissions by the declarant including additional data elements of the EMSWe data set; however, it does not need to process and store this information.
8. A Member State shall store the information submitted to its **maritime** National Single Window **only** for the period of time necessary to ensure fulfilment of the requirements set out in this Regulation and, ~~where to provide~~ compliance with the Union, international and national legal acts listed in the Annex. ~~can only be ensured through storage in the National Single Window, for the period of time necessary for compliance with those acts.~~ They shall immediately delete it afterwards.
- ~~9. The National Single Window shall make publicly available arrival and departure times of ships, estimated and actual, in the electronic format harmonised at the Union level. This shall not apply to ships carrying sensitive cargo where publishing this information could pose a threat to security.~~
10. The **maritime** National Single Windows shall have **a** uniform internet address ~~and support webpages, harmonised at the Union level.~~
- 10a. The Commission shall adopt [within two years after entry into force of this Regulation], by means of an implementing act, uniform format for internet addresses and harmonised structure of the support website, referred to in paragraph 3d and 10.<sup>17</sup>**
- ~~11. The Commission shall adopt, by means of implementing acts:~~
- ~~(a) the functional and technical specifications, quality control mechanisms and procedures for deploying, maintaining and employing the harmonised reporting interface module referred to in paragraph 2;~~

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<sup>17</sup> *Moved from paragraph 6 of Article 5.*

- ~~(d) the harmonised digital spreadsheet referred to in paragraph 4;~~
- ~~(e) harmonised technical specifications for making available arrival and departure times referred to in paragraph 9;~~
- ~~(f) uniform format for internet addresses and harmonised structure of the support website, referred to in paragraph 10.~~

~~Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 19(2).~~

~~The Commission shall amend, by means of implementing acts, the technical specifications, standards and procedures, in order to take into account the availability of new technologies.~~

#### *Article 5a*

#### *Harmonised Reporting Interfaces*

1. ~~44.~~ The Commission shall **develop and update [within two years after entry into force of this Regulation]**, by means of implementing acts a harmonised reporting interface module for the maritime National Single Windows<sup>18</sup>. ~~The interface specifications of this module shall also allow the possibility of including data elements relevant for other modes of transport.~~

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<sup>18</sup> *Moved from paragraph 2 of former Article 5.*

2. **The graphical user interface shall allow declarants to enter data elements manually or by way of digital spreadsheets and shall include the function of extracting reporting data elements from those spreadsheets. The Commission shall adopt [within two years after entry into force of this Regulation] implementing acts to lay down the functional specifications of ~~the~~ graphical user interface and the templates of the harmonised digital spreadsheets<sup>19</sup>.** ~~shall also allow declarants to provide information by way of digital spreadsheets, harmonised at Union level, and shall include the function of extracting reporting data elements from those spreadsheets.~~
3. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 19(2).
4. The Commission shall ~~amend~~ **adjust**, by means of implementing acts, the technical specifications, standards and procedures, in order to take into account the availability of new technologies.

#### *Article 6*

##### *Other reporting means*

1. Member States may allow declarants to provide the information through other reporting channels provided that those channels are voluntary for the declarants. In this case, Member States shall ensure that those other channels make available the relevant information to the National Single Window.
2. [...]
3. ~~This Regulation shall not prevent exchange of information between customs authorities of the Member States or between customs authorities and economic operators using the electronic data processing techniques referred to in Article 6(1) of Regulation (EU) 952/2013.~~

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<sup>19</sup> *Moved from paragraphs 4 and 11b of Article 5.*

- 3a. Member States may set up alternative means for the provision of information in the event of a temporary failure of any of the electronic systems referred to in Article 5, and in Articles 9 to 12.

## Article 7

### Once-only principle

1. Without prejudice to Article 6(3), the Member States shall ensure that the declarant is requested to provide the information pursuant to this Regulation only once per port call and that the relevant information is made available or reused in accordance with paragraph 2.
2. The ~~Member States~~**Commission** shall ensure that:

~~(a)~~—the ship identification information, ~~and particulars~~ **and exemptions** provided to a National Single Window are recorded in the EMSWe ship database referred to in Article 10 and are **made available** ~~not requested again~~ for any subsequent port calls within the Union;

~~(b)~~—any relevant data elements received in accordance with this Regulation are made available to other National Single Windows via the SafeSeaNet system in accordance with the technical requirements set out in Directive 2002/59/EC;

#### 2a. Member States shall ensure that:

~~(a)~~—**data elements of the EMSWe data set**, provided at departure from a port in the Union are ~~is not requested again~~ **made available** at arrival to the next port in the Union, provided that the ship has not called to a port outside of the Union during the voyage. This point shall not apply to information received pursuant to Regulation (EU) No 952/2013, unless such possibility is provided for in that Regulation;

~~(b)~~—the relevant information of the Entry Summary Declaration referred to in Article 127 of Regulation (EU) No 952/2013 is made available to the National Single Windows for reference and, where appropriate, reused for other reporting obligations listed in the ~~Annex~~.

- 2b. Any relevant data elements of the EMSWe data set received in accordance with this Regulation are made available to other maritime National Single Windows via the SafeSeaNet system in accordance with the technical requirements set out in Directive 2002/59/EC.<sup>20</sup>
- 2c. The Commission shall adopt, by means of implementing acts, the list of relevant information referred to in ~~points (b), (c) and (d)~~ of paragraph 2. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 19(2).<sup>21</sup>
3. [...] <sup>22</sup>
- ~~4. The Commission shall adopt, by means of implementing acts, the list of relevant information referred to in points (b), (c) and (d) of paragraphs 2. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 19(2).~~

#### Article 7a

##### Responsibility for the information communicated

The declarant shall be responsible for ensuring ~~the timely submission of data elements, accuracy and completeness of the information communicated pursuant to this Regulation, as well as its~~ compliance with the **applicable legal and** technical requirements of the **maritime** National Single Windows. The declarant shall remain responsible for updating any information that has changed after the submission to the **maritime** National Single Window, and for the accuracy of data made available by the databases referred to in Articles 10, 11 and 12 of this Regulation.

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<sup>20</sup> *Moved from point (b) of paragraph 2 of Article 7.*

<sup>21</sup> *Moved from paragraph 4 of Article 7.*

<sup>22</sup> *Moved, with changes, to new Article 7a.*

~~Article 8~~  
Confidentiality

~~Member States shall, in accordance with the applicable Union or national legislation, take the necessary measures to ensure the confidentiality of commercial and other sensitive information exchanged in accordance with this Regulation.~~

**Article 8a**  
**Data protection and confidentiality**

- 1. The processing of personal data within the framework of this Regulation by competent authorities shall comply with Regulation (EU) 2016/679<sup>23</sup>.**
- 2. The processing of personal data by the Commission within the framework of this Regulation shall comply with the provisions of Regulation (EU) 2018/XXX [new Regulation replacing Regulation 45/2001 on processing of personal data by the Community institutions]<sup>24</sup>.**
- 3. Member States and the Commission shall, in accordance with the applicable Union or national legislation, take the necessary measures to ensure the confidentiality of commercial and other sensitive information exchanged in accordance with this Regulation<sup>25</sup>.**

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<sup>23</sup> *Wording taken from recital 17.*

<sup>24</sup> *Wording taken from recital 17.*

<sup>25</sup> *Moved from Article 8.*



## Article 8b

### Customs

- 1. The relevant information of the Entry Summary Declaration referred to in Article 127 of Regulation (EU) No 952/2013 shall be made available to the National Single Windows for reference and, where appropriate, reused for other reporting obligations listed in the Annex.<sup>26</sup>**
- 2. This Regulation shall not prevent exchange of information between customs authorities of the Member States or between customs authorities and economic operators using the electronic data-processing techniques referred to in Article 6(1) of Regulation (EU) 952/2013.<sup>27</sup>**
- 3. The Commission shall adopt, by means of implementing acts, the list of relevant information data elements referred to paragraph 1. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 19(2)<sup>28</sup>.**

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<sup>26</sup> *Moved from point (d) of paragraph 2 of Article 7.*

<sup>27</sup> *Moved from paragraph 3 of Article 6.*

<sup>28</sup> *Moved from point (d) of paragraph 2 of Article 7.*

## Chapter IV

### Common services

#### Article 9

##### EMSWe user and access management system

1. The Commission shall establish a common user and access management system for declarants and data service providers using the **maritime** National Single Window, as well as for authorities accessing the National Single Window, for cases where an authentication is required. The system shall provide for a single user registration with Union level recognition, federated user management and Union level user monitoring.
2. For the purpose of access to the **maritime** National Single Window in different Member States, a declarant or data service provider registered in the EMSWe user and access management system shall be considered registered to the National Single Window in all Member States and shall operate within the limits of the access rights granted by each Member State according to national rules.
3. Each Member State shall designate the national authority responsible for the user management of declarants, and data service providers including for registering new users, modifying and terminating existing accounts of the user authentication instrument **through the system referred to in paragraph 1.**
4. The Commission shall adopt **[within two years after entry into force of this Regulation]**, by means of implementing acts, the technical specifications, standards and procedures for setting up of the **system instrument** referred to in paragraph 1 for collecting, storing and provision of user credentials. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 19(2).

Article 10  
EMSWe Ship Database

1. In accordance with point (a) of Article 7(2), the Commission shall establish a EMSWe ship database containing a list of ship identification information and particulars as well as records on ship reporting exemptions.
2. Member States shall ensure the provision of new ship particulars to the EMSWe ship database and availability of this information for facilitation of ship reporting.
3. The Commission shall adopt **[within two years after entry into force of this Regulation]**, by means of implementing acts, the technical specifications, standards and procedures for setting up of the database referred to in paragraph 1 for collecting, storing, **updating** and provision of the ship particulars and exemptions. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 19(2).

Article 11  
Common Location Database

1. The Commission shall establish a common location database containing a reference list of location codes<sup>29</sup> and port facility codes as registered in the IMO database GISIS.
2. Member States shall make information from location database available at national level through the National Single Windows.
3. The Commission shall adopt **[within two years after entry into force of this Regulation]**, by means of implementing acts, the technical specifications, standards and procedures for setting up of the common location database referred to in paragraph 1 for collecting, storing, **updating** and provision of the location and port facility codes. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 19(2).

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<sup>29</sup> "United Nations Code for Trade and Transport Locations".

Article 12  
Common Hazmat Database

1. The Commission shall establish a common hazmat database containing a list of dangerous and polluting goods which have to be notified in accordance with Directive 2002/59/EC<sup>30</sup> and IMO FAL Form 7, taking into consideration the relevant data elements from the IMO Conventions and Codes.
2. The database shall be linked to the relevant entries in the MAR-CIS database as developed by European Maritime Safety Agency for information on associated hazards and risks of dangerous and polluting goods.
3. The database shall be used both as a reference and a verification tool, at national and Union level, during the reporting process through the National Single Windows.
4. Member States shall make information from the common hazmat database available at national level through National Single Windows.
5. The Commission shall adopt **[within two years after entry into force of this Regulation]**, by means of implementing acts, the technical specifications, standards and procedures for setting up of the common hazmat database referred to in paragraph 1 for collecting, storing and provision of the hazmat reference information. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 19(2).

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<sup>30</sup> OJ L 208, of 5.8.2002, pp. 10-27.

[Article 12a  
Common Ship Sanitation Database

1. The Commission shall establish a common ship sanitation database.
2. In particular the following data with respect to a ship may be received and processed by the database:
  - (a) Maritime Declarations of Health under Article 37 of the International Health Regulations 2005 (IHR); personal data on ill persons on board shall not be processed;
  - (b) data on ship sanitation inspections carried out by the competent health authority;
  - (c) measures ordered by the competent health authority.

In addition, the database is to permit direct communication between the competent health authorities of the Member States.

3. The Member States using the ship sanitation database shall make known to the Commission their national authority in charge of user management, including the registration of new users as well as the modification and closure of accounts.
4. The Commission shall adopt, by means of implementing acts, the technical specifications, standards and procedures for setting up of the database referred to in paragraph 1. Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 19(2).]

## Chapter V

### Coordination of the EMSWe activities

#### Article 13

##### National coordinators

Each Member State shall designate a competent ~~authority~~ **body** to act as a national coordinator for the EMSWe. The national coordinator shall:

- (a) act as a national contact point for users and the Commission for all matters relating to the implementation of this Regulation;
- (b) coordinate the application of this Regulation by the competent national ~~authorities~~ **bodies** within a Member State to ensure ~~and~~ full cooperation of all bodies;
- (c) coordinate the activities aiming at ensuring the connection with the relevant systems of competent ~~authorities~~ **bodies** as referred in Article 5(3)(c);
- (d) [...]

#### Article 14

##### Multi-annual Implementation Plan

In order to facilitate the timely implementation of this Regulation, the Commission shall adopt, following appropriate consultations of Member States' experts, a multi-annual implementation plan (MIP) revised on a yearly basis which shall provide:

- (a) a ~~development~~ plan for the development and updating of the harmonised reporting interface module foreseen within the following 18 months;
- (b) indicative deadlines for the Members States for subsequent integration of the harmonised reporting interface module to the National Single Windows;
- (c) testing periods for the Member States and declarants to test their connection with any new versions of the harmonised reporting interface module;

- (d) indicative phasing out deadlines for the older versions of the harmonised reporting interface module for the Member States and declarants.

## Chapter VI

### Final provisions

#### Article 15

##### Costs

The general budget of the European Union shall cover the costs for:

- (a) the development and maintenance of the ICT tools supporting the implementation of this Regulation at Union level;
- (b) the promotion of the EMSWe at Union level ~~and in relevant international organisations.~~

#### Article 16

##### Cooperation with other trade and transport facilitation systems or services

Where trade and transport facilitation systems or services have been created by other Union legal acts, the Commission shall coordinate the activities related to those systems or services with the view to achieving synergies and avoiding duplication.

#### Article 17

##### Review and report

1. Member States shall ~~ensure that procedures are in place to collect data, including statistics, using, inter alia, surveys,~~ on the functioning of the EMSWe, and shall report their findings to the Commission. The report shall include the following indicators:
  - ~~(a) implementation of the harmonised data set;~~
  - (b) use of the harmonised reporting interface module and the graphical user interface;
  - (c) use of other reporting means as referred to in Article 6.;
  - ~~(d) requests for other information as referred to in Article 4.~~



2. Member States shall ~~organise the gathering and production of the data necessary to measure the change in the indicators described in paragraph 1, and shall~~ supply that information to the Commission on an annual basis.

By six years after the entry into force of this Regulation, the Commission shall review the application of this Regulation and submit to the European Parliament and the Council an assessment report on the functioning of the EMSWe on the basis of the data and statistics collected. The assessment report shall include, where necessary, an evaluation of emerging technologies, which could lead to changes to or replacement of the harmonised reporting interface module.

## Article 18

### Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.
2. The power to adopt delegated acts referred to in Article 3 shall be conferred on the Commission for a period of five years from the entry into force of this Regulation. 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.
3. The delegation of power referred to in Article 3 may be revoked at any time by the European Parliament or 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.
4. Before adopting a delegated act, the Commission shall consult national experts nominated by the Member States in accordance with the principles laid down in the Interinstitutional Agreement on Better Law-Making of 13 April 2016.

5. When adopting a delegated act, the Commission shall notify it simultaneously to the European Parliament and to the Council.
6. A delegated act adopted pursuant to Articles 3 shall enter into force only if no objection has been expressed either by the European Parliament or the Council within 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 or of the Council.

#### Article 19

##### Committee procedure

1. The Commission shall be assisted by the Digital Transport and Trade Facilitation Committee. That Committee shall be a committee within the meaning of Regulation (EU) No 182/2011<sup>31</sup>.
2. Where reference is made to this paragraph, Article 4 of Regulation (EU) No 182/2011 shall apply.
3. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

#### Article 20

##### Repeal of Directive 2010/65/EU

Directive 2010/65/EU shall be repealed from the date of application of this Regulation.

References to Directive 2010/65/EU shall be construed as references to this Regulation.

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<sup>31</sup> OJ L 55, 28.2.2011, p. 13.

Article 21

Entry into force

1. This Regulation shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.
2. It shall apply from [OP- insert four years after entry into force of this Regulation].
3. The functionalities referred to in point (d) of Article 7(2) and those related to the customs formalities specified in point 7 of Part A of the Annex shall become effective when the electronic systems referred to in Article 6(1) of Regulation (EU) No 952/2013 which are necessary for the application of those formalities are operational, in accordance with the work programme established by the Commission pursuant to Articles 280 and 281 of Regulation (EU) No 952/2013.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

*For the European Parliament*

*The President*

*For the Council*

*The President*

EMSWe Data set

A. Reporting obligations resulting from legal acts of the Union

This category of reporting obligations includes the information which is to be provided in accordance with the following provisions:

1. Notification for ships arriving in and departing from ports of the Member States

Article 4 of 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 (OJ L 208, 5.8.2002, p.10).

2. Border checks on persons

Article 7 of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p.1).

3. Notification of dangerous or polluting goods carried on board

Article 13 of 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 (OJ L 208, 5.8.2002, p.10).

4. Notification of waste and residues

Article 6 of 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 (OJ L 332, 28.12.2000, p.81).

[New proposal repealing 2000/59/EC:

4. Notification of waste from ships, including residues

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

5. Notification of security information

Article 6 of Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security (OJ L 129, 29.4.2004, p.6).

Until the adoption of a harmonised form at international level, the form set out in the Appendix to this Annex shall be used for identifying the information required under Article 6 of Regulation (EC) No 725/2004. The form can be transmitted electronically.

6. Information on persons on board

Articles 4(2) and 5(2) of Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community (OJ L 188, 2.7.1998, p. 35).

7. Customs formalities

(a) Arrival formalities:

- Notification of arrival (Article 133 of Regulation (EU) No 952/2013<sup>1</sup>);
- Presentation of goods to customs (Article 139 of Regulation (EU) No 952/2013);

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<sup>1</sup> Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October laying down the Union Customs Code (OJ L 269, 10.10.2013, p.1).

- Temporary storage declaration of goods (Article 145 of Regulation (EU) No 952/2013);
- Customs status of goods (Articles 153 to 155 of Regulation (EU) No 952/2013);
- Electronic transport documents used for transit (Article 233(4)(e) of Regulation (EU) No 952/2013).

(b) Departure formalities:

- Customs status of goods (Articles 153 to 155 of Regulation (EU) No 952/2013);
- Electronic transport documents used for transit (Article 233(4)(e) of Regulation (EU) No 952/2013);
- Exit notification (Article 269(2) of Regulation (EU) 952/2013);
- Exit summary declaration (Articles 271 and 272 of Regulation (EU) No 952/2013);
- Re-export notification (Articles 274 and 275 of Regulation (EU) No 952/2013);

8. Safe loading and unloading of bulk carriers

Articles 7 and 8 of Directive 2001/96/EC of the European Parliament and of the Council of 4 December 2001 establishing harmonised requirements and procedures for the safe loading and unloading of bulk carriers;

9. Port State Control

Article 9 of Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control.

10. Maritime Transport statistics

Article 5 of the Directive 2009/42/EC of the European Parliament and of the Council on statistical returns in respect of carriage of goods and passengers by sea.

B. FAL forms and obligations resulting from international legal instruments

This category of reporting obligations includes the information which is to be provided in accordance with the FAL Convention and other relevant international legal instruments.

1. FAL form 1: General Declaration
2. FAL form 2: Cargo Declaration
3. FAL form 3: Ship's Stores Declaration
4. FAL form 4: Crew's Effects Declaration
5. FAL form 5: Crew List
6. FAL form 6: Passenger List
7. FAL form 7: Dangerous Goods
8. Maritime Declaration of Health

C. National legal provisions

This category of reporting obligations includes data elements in the following categories:

1. Maritime transport
2. Maritime transport safety
3. Environment
4. Border control

5. Security
6. Customs
7. Health
8. Military
9. Port services
10. Statistics
11. Fiscal information



APPENDIX

SHIP PRE-ARRIVAL SECURITY INFORMATION FORM  
FOR ALL SHIPS PRIOR TO ENTRY INTO THE PORT OF AN EU MEMBER STATE

(1974 International Convention for the Safety of Life at Sea (SOLAS) REGULATION 9 of  
Chapter XI-2 AND ARTICLE 6(3) OF REGULATION (EC) No 725/2004)

Particulars of the ship and contact details			
IMO number		Name of ship	
Port of registry		Flag State	
Type of ship		Call Sign	
Gross Tonnage		Inmarsat call numbers (if available)	
Name of Company and company identification number		CSO name & 24 hour contact details	
Port of arrival		Port facility of arrival (if known)	
Port and port facility information			
Expected date and time of arrival of the ship in port (ETA)			
Primary purpose of call			

Information required by SOLAS Regulation 9.2.1 of Chapter XI-2							
Does the ship have a valid International Ship Security Certificate (ISSC)?	YES	ISSC	NO - why not?			Issued by (name of Administration or RSO)	Expiry date (dd/mm/yyyy)
Does the ship have an approved SSP on board?	YES	NO	Security Level at which the ship is currently operating?	Security Level 1	Security Level 2	Security Level 3	Security Level 3
Location of ship at the time this report is made							
List the last ten calls at port facilities in chronological order (most recent call first):							
No.	Date from (dd/mm/yyyy)	Date to (dd/mm/yyyy)	Port	Country	UN/LOCODE (if available)	Port facility	Security Level
1							SL =
2							SL =
3							SL =
4							SL =
5							SL =
6							SL =
7							SL =
8							SL =
9							SL =
10							SL =

Did the ship take any special or additional security measures, beyond those in the approved SSP?		YES	NO
If the answer is YES, indicate below the special or additional security measures taken by the ship.			
No. (as above)	Special or additional security measures taken by the ship		
1			
2			
3			
4			
5			
6			
7			
8			
9			
10			
List the ship-to-ship activities, in chronological order (most recent first), which were carried out during the last ten calls at port facilities listed above. Expand table below or continue on separate page if necessary – insert total number of ship-to-ship activities:			

Were the ship security procedures specified in the approved SSP maintained during each of these ship-to-ship activities?					YES	NO	
If NO, provide details of the security measures applied in lieu in the final column below.							
No.	Date from (dd/mm/yyyy)	Date to (dd/mm/yyyy)	Location or Longitude and Latitude	Ship-to-ship activity	Security measures applied in lieu		
1							
2							
3							
4							
5							
6							
7							
8							
9							
10							
General description of the cargo aboard the ship							
Is the ship carrying any dangerous substances as cargo covered by any of Classes 1, 2.1, 2.3, 3, 4.1, 5.1, 6.1, 6.2, 7 or 8 of the IMDG Code?				YES	NO	If YES, confirm Dangerous Goods Manifest (or relevant extract) is attached	
Confirm a copy of ship's crew list is attached				YES	Confirm a copy of the ship's passenger list is attached		YES

Other security related information			
Is there any security-related matter you wish to report?	YES	Provide details:	NO
Agent of ship at intended port of arrival			
Name:		Contact details (Tel. no.):	
Identification of person providing the information			
Title or Position (delete as appropriate): Master / SSO / CSO / Ship's agent (as above)	Name:	Signature:	
Date/Time/Place of completion of report			

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