Regulation (EU) 2019/1239 of the European Parliament and of the Council of 20 June 2019 establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU

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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[(1)],

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[(2)],

Whereas:

(1) Directive 2010/65/EU of the European Parliament and of the Council[(3)] requires Member States to accept the fulfilment of the reporting obligations of ships arriving in and departing from Union ports in electronic format and to ensure their transmission via a single window in order to facilitate and expedite 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 burden for shipping companies, the information procedures for fulfilment of reporting obligations imposed on shipping companies by Union legal acts, by international legal acts and by national law of Member States should be further simplified and harmonised and should be technology-neutral, promoting future-proof reporting solutions.

(3) Both the European Parliament and the Council have frequently called for more interoperability and for more comprehensive, user-friendly communication and information flows, in order to improve the functioning of the internal market and to meet the needs of citizens and businesses.

(4) The main aim of this Regulation is to lay down harmonised rules for the provision of the information that is required for port calls, in particular by ensuring that the same data sets can be reported to each maritime National Single Window in the same way. This Regulation also aims to facilitate the transmission of information between declarants,

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2019/1239 of the European Parliament and of the Council. (See end of Document for details)*

relevant authorities and the providers of port services in the port of call, and other Member States. The application of this Regulation should not alter the time frames for, or the substance of, reporting obligations, and should not affect the subsequent storage and processing of information at Union level or at national level.

(5) The existing maritime National Single Window in each Member State should be maintained as the basis for a technologically neutral and interoperable European Maritime Single Window environment ('EMSWe'). The maritime National Single 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 and providers of port services.

(6) In order to enhance the efficiency of the maritime National Single Windows and to prepare for future developments, it should be possible to maintain present or establish new arrangements in Member States to use the maritime National Single Window for the reporting of similar information for other transport modes.

(7) The front-end interfaces of those 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 use in every maritime National Single Window of common interface software for system-to-system exchanges of information, developed at Union level. The Member States should bear the responsibility for integrating and managing the interface module and for updating the software regularly and in a timely manner when new versions are provided by the Commission. The Commission should develop this module and provide updates when needed, since the development of digital technologies is moving fast and any technological solution could rapidly become outdated in the light of new developments.

(8) Other reporting channels provided by Member States and service providers, such as Port Community Systems, could be maintained as optional entry points for reporting and should be able to act as data service providers.

(9) In order not to impose a disproportionate administrative burden on landlocked Member States which do not have maritime ports, such Member States should be exempted from the obligation to develop, establish, operate and make available a maritime National Single Window. This means that, for as long as they make use of this exemption, such Member States should not be required to fulfil obligations that are linked to the development, establishment, operation and making available of a maritime National Single Window.

(10) An easy-to-use graphical user interface with common functionalities should be part of the maritime National Single Windows for manual reporting by declarants. Member States should offer the graphical user interface for manual entry of data by declarants also by way of uploading harmonised digital spreadsheets. In addition to ensuring common functionalities, the Commission and Member States should coordinate efforts with the aim of ensuring that the user experience of those graphical user interfaces is as similar as possible.

(11) Emerging new digital technologies present ever-growing opportunities to increase the efficiency of the maritime transport sector and to reduce administrative burdens. In order for the benefits of such new technologies to accrue as early as possible, the Commission should be empowered to amend the technical specifications, standards and procedures of the harmonised reporting environment by means of implementing acts. This should leave flexibility for market players to develop new digital technologies and new technologies should also be taken into account when this Regulation is reviewed.

(12) Adequate support and information on the processes and technical requirements related to the use of maritime National Single Window should be provided to declarants via easily accessible and user-friendly national websites with common 'look and feel' standards.

(13) The Convention on Facilitation of International Maritime Traffic ('the FAL Convention')[4] provides that public authorities must in all cases require only essential reporting information and keep the number of items to a minimum. However, local conditions may require specific information to ensure safety of navigation.

(14) 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. When establishing the EMSWe data set, the Commission should take into account relevant work carried out at international level. 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.

(15) In exceptional circumstances, a Member State should be able to request additional data elements from declarants. Such exceptional circumstances may arise, for example, when there is an urgent need to protect internal order and security or to address a serious threat against human or animal health or against the environment. The notion of exceptional circumstances should be interpreted strictly.

(16) The relevant reporting obligations contained in the Union and international legal acts should be listed in the Annex to this Regulation. Those reporting obligations should provide the basis for the establishment of the comprehensive EMSWe data set. The Annex should also refer to the relevant categories of reporting obligations at 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 and requirements. Union legal acts which amend the EMSWe data set on the basis of a reporting obligation contained in the national legislation and requirements should include explicit reference to that national legislation and requirements.

(17) Whenever the information from the maritime National Single Window is distributed to the competent authorities, the transmission should comply with the common data requirements, formats and codes for the reporting obligations and formalities provided for in the Union legal acts listed in the Annex and should 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[(5)].

(18) 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/EC of the European Parliament and of the Council[(6)].

(19) 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 the 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 of exchanging relevant information, such as arrival and departure times, with similar frameworks developed for other transport modes.

(20) In order to improve the efficiency of maritime transport and to limit the duplication of the information which must be provided for operational purposes when a ship makes a port call, the information provided by declarants to a maritime National Single Window should be also shared with certain other entities, such as port or terminal operators, when authorised by the declarant, and taking into account the need to respect confidentiality, commercial sensitivities and legal constraints. This Regulation aims to improve the handling of data following the once-only principle when fulfilling the reporting obligations.

(21) Regulation (EU) No 952/2013 provides that goods which are brought into the customs territory of the Union must 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 entry summary declarations in the Union customs territory. It will not, therefore, be possible to submit entry summary declarations through the harmonised reporting interface module. However, considering that some of the data elements submitted in the entry summary declaration are also required for the fulfilment of other customs and maritime reporting obligations when a ship calls in a port of the Union, the EMSWe should be able to process the data elements of the entry summary declaration. The possibility that the maritime National Single Window could retrieve relevant information that has already been submitted through the entry summary declaration should also be envisaged.

(22) In order to fully harmonise reporting requirements, customs, maritime and other relevant authorities should cooperate at both national and Union level. National coordinators with specific responsibilities should enhance the effectiveness of this cooperation and the smooth functioning of the maritime National Single Windows.

(23) In order to enable the reuse of the information provided through the maritime National Single Windows and facilitate the submission of information by declarants, it is

necessary to provide for common databases. An EMSWe ship database should be established which includes a reference list of ship particulars and their reporting exemptions, as reported to the respective maritime National Single Window. To facilitate the submission of information by declarants, a Common Location Database should be established which holds a reference list of location codes, including the United Nations Code for Trade and Transport Locations (UN/LOCODE), the SafeSeaNet-specific codes, and the port facility codes as registered in the Global Integrated Shipping Information System (GISIS) of the International Maritime Organization (IMO). Furthermore, a Common Hazmat Database should be established which incorporates a list of dangerous and polluting goods that are to be notified to the maritime National Single Window in accordance with Directive 2002/59/EC and IMO FAL 7, taking into consideration the relevant data elements from the IMO Conventions and Codes.

(24) The 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[(7)]. The processing of personal data by the Commission within the framework of this Regulation should comply with Regulation (EU) 2018/1725 of the European Parliament and of the Council[(8)].

(25) 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.

(26) 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 respect of supplementing this Regulation by establishing and amending the EMSWe data set and by determining definitions, categories and data specifications for the data elements, and in respect of amending the Annex to incorporate reporting obligations existing at national level as well as to take into account any new reporting obligations adopted by 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 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 of 13 April 2016 on Better Law-Making[(9)]. 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.

(27) When preparing delegated acts, the Commission should ensure that Member States' experts and the business community are consulted in a transparent manner, and well in advance.

(28) In order to ensure uniform conditions for the implementation of this Regulation, implementing powers should be conferred on the Commission. Those powers should be