Regulation (EU) 2020/697 of the European Parliament and of the Council of 25 May 2020 amending Regulation (EU) 2017/352, so as to allow the managing body of a port or the competent authority to provide flexibility in respect of the levying of port infrastructure charges in the context of the COVID-19 outbreak (Text with EEA relevance)

REGULATION (EU) 2020/697 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 25 May 2020

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(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,

After consulting the European Economic and Social Committee,

After consulting the Committee of the Regions,

Acting in accordance with the ordinary legislative procedure[(1)],

Whereas:

(1) The COVID-19 outbreak is having a serious negative impact on the maritime transport sector. The serious consequences for maritime transport services and for the use of port infrastructure have been pervasive since the beginning of March 2020 and are likely to continue throughout 2020. A waiver, suspension, reduction or deferral of the payment of port infrastructure charges could contribute to the financial sustainability of ship operators in these exceptional circumstances.

(2) Regulation (EU) 2017/352 of the European Parliament and of the Council[(2)] requires Member States to ensure that port infrastructure charges are levied. Regulation (EU) 2017/352 does not provide for any exception to the obligation to levy charges.

(3) In view of the severity of the consequences of the COVID-19 outbreak, it is appropriate to allow the managing body of a port or the competent authority to decide to waive, to suspend, to reduce or to defer the payment of port infrastructure charges due for the period from 1 March 2020 to 31 October 2020. Nevertheless, this Regulation should not interfere with the port organisation of Member States. Therefore, Member States should be able to retain the power to regulate the adoption of such decisions

Changes to legislation: *There are currently no known outstanding effects for the Regulation (EU) 2020/697 of the European Parliament and of the Council. (See end of Document for details)*

by the managing body of a port or the competent authority. Such waiver, suspension, reduction or deferral of the payment of port infrastructure charges should be granted in a transparent, objective and non-discriminatory way.

(4) In view of the urgency, it is also appropriate to allow the managing body of a port or the competent authority to derogate from the obligation, provided for in Regulation (EU) 2017/352, to inform the users of port infrastructure of any changes in the nature or level of the port infrastructure charges at least two months before those changes come into effect.

(5) Since the objective of this Regulation, namely to amend Regulation (EU) 2017/352 to respond to the urgent situation created by the COVID-19 outbreak, cannot be sufficiently achieved by the Member States but can rather, by reason of the scale or effects of the action, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). In accordance with the principle of proportionality as set out in that Article, this Regulation does not go beyond what is necessary to achieve that objective.

(6) In view of the urgency entailed by the exceptional circumstances caused by the COVID-19 outbreak justifying the proposed measures, and more particularly in order to adopt the necessary measures quickly so as to contribute to the financial sustainability of ship operators, it was considered to be appropriate to provide for an exception to the eight-week period referred to in Article 4 of Protocol No 1 on the role of national Parliaments in the European Union, annexed to the TEU, to the Treaty on the Functioning of the European Union and to the Treaty establishing the European Atomic Energy Community.

(7) The unforeseeable and sudden outbreak of COVID-19 and the legislative procedures required for the adoption of relevant measures meant that it was impossible to adopt such measures in time. For that reason, the provisions of this Regulation should also apply to port infrastructure charges due for a period before its entry into force. Given the nature of those provisions, such an approach does not result in a violation of the legitimate expectations of the persons concerned.

(8) Regulation (EU) 2017/352 should therefore be amended accordingly.

(9) This Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union*,

HAVE ADOPTED THIS REGULATION:

Article 1

In Article 21 of Regulation (EU) 2017/352, the following paragraph is added:

3. Notwithstanding Article 13(1), (3) and (4), the managing body of the port or the competent authority may decide to waive, to suspend, to reduce or to defer the payment of port infrastructure charges due for the period from 1 March 2020 to 31 October 2020. Member States may decide that such decisions shall respect the requirements set to that end in national law. The