

## **COUNCIL OF MINISTERS**

### **Decree No. 45/2006**

**From November 30th**

Law No. 20/97 of 1 October, the Environmental Law, establishes the general bases of the environmental protection regime, assigning to the Government the responsibility of ensuring that measures are taken to protect biodiversity, and also decreeing the prohibition of the implementation of infrastructures in certain locations, namely coastal areas, areas threatened by erosion, wetlands, environmental protection areas and other ecologically sensitive areas.

On the other hand, a considerable part of the maritime waters over which the Republic of Mozambique exercises its jurisdictional powers, under domestic and international law, is crossed by vessels of different types, including tankers, which carry out illicit discharges of hydrocarbons and other substances that are harmful to the marine and coastal environment.

This practice poses serious risks to the health of the country's marine and coastal environment, as well as to human health. Hence, there is an urgent need to adopt a legal instrument to prevent, control and combat marine pollution by ships within jurisdictional waters and off the Mozambican coast or by sources of telluric origin.

In these terms, under the provisions of article 33, in conjunction with paragraph 1 of article 9 and articles 12, 13 and 14 of Law no. 20/97, of 1 October, the Council of Ministers decrees:

Article 1. The Regulation for the Prevention of Pollution and Protection of the Marine and Coastal Environment, attached to this decree and forming an integral part thereof, is hereby approved.

Article 2. Decree No. 495/73 of 6 October is hereby repealed.

Article 3. This Regulation shall enter into force sixty days after its publication.

Approved by the Council of Ministers on 10 October 2006.

Publish yourself

The Prime Minister, *Luisa Dias Diogo*.

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# REGULATION FOR THE PREVENTION OF POLLUTION AND PROTECTION OF MARINE AND COASTAL ENVIRONMENT

## TITLE I GENERALITIES

### CHAPTER I GENERAL PROVISIONS

#### Article 1 (Definitions)

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

1. **Inland waters:** the waters located within the baseline from which the breadth of the territorial sea is measured, including waters that are outside the action of the tides, namely rivers, lakes and lagoons without a connection to the sea, with communication only at spring tides, canals and other aquifers.
2. **Sea waters:** the territorial sea, the exclusive economic zone and the inland maritime waters beyond the baselines and subject to the influence of the tides.
3. **Jettison:** the deliberate dumping of waste and other substances by vessels, aircraft, platforms or other structures, including their sinking in waters under national jurisdiction.
4. **Ecologically sensitive areas:** regions of maritime or inland waters, defined by act of public authority, where prevention, control of pollution and maintenance of ecological balance require special measures for the protection of the environment in relation to the passage of ships or other types of activities.
5. **Maritime authority:** the public entity or agent with the power to supervise, oversee or control any maritime activity, in accordance with current legislation.
6. **Port Authority:** the authority responsible for the administration of an organized port, responsible for supervising port operations and ensuring that services are carried out there regularly, efficiently, safely and with respect for the environment.
7. **Environmental authority:** is the central or local body that oversees the environmental area.
8. **Commander:** any person (other than the pilot) responsible for the government and/or operation of the ship or offshore installation.
9. **Community of organisms:** is the set of organisms of different species that inhabit a certain area or region.
10. **Own consumption:** It is the exploitation of natural resources carried out by local communities without profit motives to satisfy their consumption and craft needs, based on their respective customary practices.

11. **Coast:** It is the area of the national territory formed by the terrestrial environment directly influenced by the action of the sea, including the beach, dunes, mangroves and the marine environment located close to the land.
12. **Corals:** They are small animals with polyp-shaped bodies that live in warm seas, in colonies, producing a limestone wall around each individual, forming true underwater cities, of different colors, which attract countless forms of animal and plant life.
13. **Download:** is any dumping, escape, spill, leak, emptying, throwing out or pumping of harmful or dangerous substances, in any quantity, from a vessel, organized port, port facility, pipeline, platform or their support facilities;
14. **Illegal downloads:** these are discharges carried out in violation of current regulations, as well as discharges resulting from damage to the ship or its equipment;
15. **Sanitary discharges:** are the discharges of fecal matter and sanitary water from ships, installations or urban areas;
16. **Maritime public domain:** includes inland waters, the territorial sea, the zone and the strip of land bordering maritime waters up to 100 metres measured from the high tide line;
17. **Lake and river public domain:** includes the bed and navigable lake and river waters, as well as the respective strips of land up to 50 meters measured from the maximum line of such waters.
18. **Ducts:** are facilities associated or not with the platform or port facility, intended for the movement of oils and other harmful or dangerous substances;
19. **Dunes:** they are hills of sand piled up by the wind at the seaside;
20. **Ecosystem:** is the community of organisms (plants, animals and microorganisms) made up of producers, composters and decomposers, functionally related to each other and to the environment and considered as a single entity;
21. **Fragile ecosystems:** are all those that, due to their natural characteristics and geographical location, are susceptible to rapid degradation of their attributes and difficult to restore, namely wetlands, mangroves, dunes, seagrass beds, macroalgae beds and beaches and coral reefs.
22. **Vessel:** is any type of floating construction used or capable of being used as a means of transport on water or underwater, subject to registration under current legislation.
23. **INAMAR:** is the abbreviated name for the National Navy Institute
24. **Incident:** is any discharge of a harmful or dangerous substance resulting from an intentional or accidental act or action that causes a potential risk of damage or harm to the environment or human health;
25. **Support facilities:** are any facilities or equipment supporting the execution of activities on platforms or port facilities for handling bulk cargo, such as pipelines, monobuoys, buoy panels for mooring ships and others;
26. **Clean ballast:** is the ballast water contained in a tank, subjected to cleaning to a level such that, if this ballast were discharged by the ship while stationary in clean, calm waters, on a clear day it would not produce visible traces of oil on the surface of the water

or on the adjacent coastline nor would it produce sludge or emulsion on the surface of the water or on the adjacent coastline;

27. **Waste:** are sanitary discharges and all types of domestic and operational food waste, excluding fresh fish or parts thereof, generated during the normal operation of the ship and likely to be continuously or periodically thrown into the sea, lake or navigable rivers;
28. **Mangroves:** are important components of tropical and subtropical ecosystems dominated by a variety of trees and shrubs with specific adaptations to survive in conditions of submersion in brackish waters, with their main adaptations being viviparia and pneumatophores, tolerant to salinity, strong action of tidal currents, strong winds, high temperatures, muddy and anaerobic soils and successfully colonizing the intertidal zone along sheltered coastlines, lagoons, river banks and estuaries, including river deltas;
29. **territorial sea:** is the adjacent strip of sea, with a width of 12 nautical miles, beyond the Mozambican territory and inland waters, limited by the baseline and the outer limit defined under numbers 2, 3, 4 of Law No. 4/96, of 4 January or by the bilateral maritime borders, as the case may be.
30. **Port reception facilities:** are fixed, floating or mobile structures designed to receive waste generated on ships or cargo residues;
31. **Oily mixture:** is the mixture of water and oil, in any proportion;
32. **Swimmer - lifeguard:** is a professional qualified for surveillance, prevention, assistance and life saving on beaches reserved for bathers, whose skills are duly accredited after attending a specific course, and are hired by the owners of hotels or similar establishments located on the same beaches;
  
33. **Ship:** is a vessel of any type that operates in the aquatic environment, including hydrofoils, air-lift vehicles, including dynamic lift vessels, submersibles and other floating devices and structures;
34. **Oil:** is any form of hydrocarbon (petroleum and its derivatives), including crude oil, fuel oil, sludge, petroleum residues and refined products;
35. **Beach:** is the area covered and periodically uncovered by water, increased by the subsequent strip of sand, gravel and boulders, up to the limit where natural vegetation begins, or, in its absence, where another ecosystem begins;
36. **Beaches reserved for bathers:** is the entire strip of land covered with sand bordering the coast, including areas of sea water, lakes, lagoons and rivers, with a bathing vocation and use, which has been declared as such by the competent entity for this purpose.
37. **Fishing:** is an activity that includes all activities involving the capture or taking of aquatic species, the search for, the attempt to capture or take aquatic species and any operation related to or in preparation for the capture or taking of aquatic species, including in particular the installation or collection of devices to attract or search for them. It includes underwater fishing, the hunting of aquatic mammals and the collection of ornamental or collectible corals and shells.
  
38. **Platform:** is a fixed or mobile installation or structure, located in waters under national jurisdiction, intended for activities directly or indirectly related to

research, prospecting for mineral resources originating from the bed of inland waters, the seabed, the continental shelf or its subsoil.

39. **Pollution from land-based sources:** is the pollution of the maritime area by watercourses from the coast, including introduction through underwater or other types of pipelines, or from artificial structures located under national jurisdiction.
40. **Harbor:** any place or geographical area where improvement work has been carried out or equipment installed that primarily allows the reception of ships, including *vesse* fishing and recreational vessels;
41. **Owner:** any person, including legal entities, registered as the owner of a ship, installation, shipowner or, in the absence of registration, the person or persons to whom such ship actually belongs or who are in possession of the ship or installation;
42. **Coral reefs:** is the shallow-water tropical marine ecosystem formed by rocks, groups of rocks or corals whose external skeletons are grouped together in formations of high value in terms of biodiversity.
43. **Waste generated on ships:** all waste, including sanitary discharges, other than cargo, produced in the service of a ship, as well as waste associated with cargo;
44. **Cargo residues:** are the remains of materials transported as cargo in cargo holds or tanks and of cleaning operations, including loading/unloading surpluses and spills;
45. **Harmful or dangerous substance:** is any substance or object that, when discharged or thrown into the sea, lake or river, may generate risks or cause harm to human health, the aquatic ecosystem or harm the use of water and its surroundings, in particular those listed in Annexes I and II of this Regulation;
46. **Waste tank:** is any container specifically intended for the temporary storage of drainage and washing liquids and other mixtures and waste;
47. **Wetlands:** are areas of marsh, swamp, peatland or water, natural or artificial, permanent or temporary, still or flowing, fresh, brackish or salt, including sea waters whose depth at low tide does not exceed six meters, which support plant or animal life that requires conditions of aquatic saturation of the soil;
48. **Coastal areas:** are the areas between the interior, terrestrial or continental limits of all coastal districts, including the districts bordering Lake Niassa and the Cahora Bassa reservoir, up to 12 nautical miles out to sea.

## **Article 2 (Object)**

The purpose of this Regulation is to prevent and limit pollution resulting from illegal discharges by ships, platforms or land-based sources off the Mozambican coast, as well as to establish legal bases for the protection and conservation of areas that constitute the public maritime, lake and river domain, beaches and fragile ecosystems.

**Article 3**  
**(Scope of application)**

1. The provisions of this Regulation apply to all natural or legal persons, national or foreign, who carry out activities likely to cause negative impacts on the environment, in areas that constitute public domain, maritime, lake and river areas, including all fragile ecosystems located along the coast and inland waters.
2. The discharge of harmful or dangerous substances by ships, in ports, port facilities, emission facilities along the coast, platforms or by other land-based sources, in particular, also falls within the scope of the provisions of this Regulation:
  - (a) in inland waters, including ports and wetlands;
  - b) in the territorial sea of the Mozambican State;
  - c) in the Mozambique Channel, when used for international navigation subject to the transit passage regime established in Part III, Section 2, of the Convention on the Law of the Sea, ratified by Resolution No. 21/96 of 26 November, to the extent that the Mozambican State exercises jurisdiction over the channel;
  - (d) in the exclusive economic zone established in accordance with international law; and
  - e) on the high seas.
3. The provisions of this Regulation also apply to all national and foreign vessels when they are navigating in the jurisdictional waters of the Republic of Mozambique as well as in installations located off the Mozambican coast, with regard to any discharge or release occurring under its terms.
4. For the purposes of this Regulation, harmful or dangerous substances are classified in accordance with the categories established in the regulations in force on the management of hazardous waste, taking into account the risk produced when discharged into water.

**Article 4**  
**(Exception)**

The provisions of this Regulation do not apply to warships, fishing research vessels, naval auxiliary units and ships owned or operated by a State and used at the time in question solely for non-commercial public service purposes, and the special regime established by international standards or in the bilateral agreement concluded for their use in national territory shall apply to them.

**TITLE II**  
**SHIPS AND PLATFORMS**

## **CHAPTER I POLLUTION PREVENTION AND CONTROL SYSTEMS**

### **Article 5 (Waste collection and treatment methods)**

1. Every port, port facility, platform, emitting facilities along the coast, as well as their support facilities, must have facilities or means suitable for the collection and treatment of different types of waste and for combating pollution.
2. The definition of the characteristics of the facilities and resources intended for the reception and treatment of waste and the fight against pollution will be carried out through an environmental impact study which must establish at least:
  - a) The dimensions of the facilities;
  - b) The appropriate location of the facilities;
  - c) The capacity of the facilities for receiving and treating different types of waste, quality standards and locations for discharging their effluents;
  - d) The parameters and methodology of operational control;
  - e) The quantity and type of equipment, materials and means of transport intended to respond to emergency situations resulting from pollution;
  - f) The number and qualifications of the personnel to be employed;
  - g) The implementation schedule and start of operation of the facilities.
3. The technical study referred to in the previous number must take into account the size, type of cargo handled or moved and other characteristics of the port, port facility or platform, issuing facilities along the coast and their support facilities.

### **Article 6 (Procedures manual)**

Entities operating ports and port facilities and owners or operators of emitting facilities along the coast or platforms must draw up an internal procedure manual for managing pollution risks as well as for managing the various types of waste generated or resulting from the handling and storage of oils and harmful or dangerous substances, which must be approved by the entity responsible for the environmental area.

### **Article 7 (Contingency plans)**

1. Ports, port facilities, emitting facilities along the coast and platforms, as well as their support facilities, must have individual contingency plans to combat pollution by oil and harmful or dangerous substances, to be updated every five years, which must be submitted to the Ministry for the Coordination of Environmental Action for approval by INAMAR.

2. The Ministry for the Coordination of Environmental Action shall carry out environmental audits in coordination with INAMAR, with the aim of evaluating the environmental management and control systems in these units.

**Article 8**  
**(Deposit of waste generated on ships)**

1. The master of a ship calling at a port under national jurisdiction must deposit all waste generated on his ship in a port reception facility before leaving the port.
2. Notwithstanding paragraph 1 of this Article, a ship may proceed to the next port of call without depositing the waste generated therein if it is concluded, on the basis of the information provided in accordance with Article 9 and Annex II of this Regulation, that there is sufficient storage capacity for all the waste generated on the ship which has accumulated and will accumulate during the projected voyage of the ship to the port of delivery.
3. If there are sufficient grounds to believe that the intended port of delivery does not have adequate facilities or if that port is unknown and, therefore, there is a risk that the waste will be discharged into national waters, the port authority shall take all necessary measures to prevent marine pollution, if necessary by requiring the ship to deliver its waste before leaving the port.
4. Paragraph 2 of this Article shall apply without prejudice to the imposition on vessels of more stringent delivery conditions in accordance with international standards.

**Article 9**  
**(Provision of data)**

With the exception of fishing vessels and pleasure craft authorised to carry a maximum of twelve passengers, the captain of the vessel must, upon arrival at a port under national jurisdiction, complete truthfully and accurately a form which will be made available at the port, in which he will provide data on the type and quantity of waste generated by his vessel and which he will submit to the port authority for the purposes of the provisions of Article 8 of this Regulation.

**Article 10**  
**(Tax on waste generated on ships)**

1. The use of port facilities for receiving waste generated on ships, including the costs of treating and disposing of such waste, shall be subject to a fee being charged to ships, to be set by the maritime authority.
2. Cost recovery systems for the use of port reception facilities shall not constitute an incentive to discharge waste into the sea. To this end, the following principles shall apply to vessels other than fishing vessels and recreational craft authorised to carry a maximum of twelve passengers:



- (a) Ships calling at a port under national jurisdiction shall make a significant contribution to the costs referred to in paragraph 1 of this Article, irrespective of the actual use of existing resources. The arrangements to be made for this purpose may include incorporating the charge into port dues or creating a separate charge on waste. Charges may vary according to the category, type and size of the ship;
- b) The part of the costs that may not be covered by the fee referred to in the previous paragraph must be calculated based on the types and quantities of waste generated on the ship and actually delivered to the port.
- (c) The rates may be reduced if the environmental management, design, equipment and operation of a ship are such that the ship's master can demonstrate that the ship produces quantities of waste that are reduced compared with the quantities normally generated by ships of the same type.

## **CHAPTER II**

### **TRANSPORTATION OF OILS, HYDROCARBONS AND SUBSTANCES HARMFUL OR DANGEROUS**

#### **Article 11 (Registration books)**

1. Platforms and vessels with more than 50 gross tons that transport oil, or use it for its movement or operation, must carry on board an oil record book, approved in accordance with international standards, which may be requested by the maritime authority, the Ministry for the Coordination of Environmental Action and the regulatory body of the oil industry, in which notes will be made regarding all movements of oil, ballast and oily mixtures, including deliveries made to waste reception and treatment facilities.
2. Every ship carrying harmful or dangerous substances in bulk must have on board a cargo record book, in accordance with international standards, which may be requested by the maritime authority, the Ministry for the Coordination of Environmental Action and the regulatory body of the oil industry, in which notes will be made relating to the following operations:
  - a) Loading;
  - b) Unloading;
  - c) Transfers of cargo, waste or mixture to waste tanks;
  - d) Cleaning of cargo tanks;
  - e) Transfers from waste tanks;
  - f) Ballasting of cargo tanks;
  - g) Transfers of dirty ballast water to the aquatic environment;
  - h) Discharges into water in general.

**Article 12**  
**(Location on the Ship)**

Any ship that transports harmful or dangerous substances in a fractional form, as established in international standards, must have and keep on board documents that specify them and provide their location on the ship, and the person responsible for the same must keep a copy of the documents until the substances are unloaded.

**Article 13**  
**(Packaging of harmful substances)**

1. Packaging of harmful or dangerous substances must contain the respective identification and warning regarding the risks they pose, using the symbols provided for in current national and international standards.
2. Packages containing harmful or dangerous substances must be properly stowed and tied, in addition to being positioned in accordance with the compatibility criteria with other cargo on board, observing the safety requirements of the ship and its crew, in order to avoid accidents.

**Article 14**  
**(Certificates and warranty)**

1. In order to navigate or remain in waters under national jurisdiction, it is mandatory for all ships carrying more than 2000 tons of hydrocarbons as cargo to hold a certificate proving insurance, in accordance with Article VII of the International Convention on Civil Liability for Damage Resulting from Oil Pollution (CLC/69/92).
2. In the case of oil tankers with a gross tonnage equal to or greater than 150 tons or any other ship with a gross tonnage equal to or greater than 400 tons used on voyages to ports or terminals at sea under national jurisdiction, possession of an international certificate for the prevention of oil pollution is mandatory, in accordance with Regulations 4 and 5 of MARPOL 1973-1978.

**CHAPTER III**

**DISCHARGES OF OIL, HARMFUL OR DANGEROUS SUBSTANCES**

**Article 15**  
**(Prohibition of discharge of harmful or dangerous substances)**

The discharge into waters under national jurisdiction of harmful or hazardous substances that, according to international standards and current regulations on waste management, represent a high risk to both human health and aquatic ecosystems, including those provisionally classified as such, in addition to water, is prohibited.

ballast, tank washing residues or other mixtures containing such substances.

**Article 16**  
**(Water discharges from washed tank)**

Water subsequently added to the washed tank in an amount exceeding five percent of its total volume may only be discharged if the following conditions are met cumulatively:

- a) When the situation in which the launch occurs falls within the cases permitted by international standards;
- b) When the ship is not within the limits of an ecologically sensitive area, duly identified;
- c) Provided that the procedures for discharge are duly approved by the maritime authority, after consultation with the competent environmental body.

**Article 17**  
**(Prohibition of discharges of other types of waste)**

The discharge into waters under national jurisdiction of substances considered non-hazardous under the terms of the regulations in force on waste management, other than ballast water, tank washing residues and other mixtures containing them, is prohibited, unless the following conditions are met cumulatively:

- a) Provided that the situation in which the launch occurs falls within the cases permitted by international standards;
- b) When the ship is not within the limits of an ecologically sensitive area;
- c) Whenever the discharge procedures are duly approved by the Ministry for the Coordination of Environmental Action.

**Article 18**  
**(Prohibition of discharge of oil, oily mixtures and waste into water)**

1. The discharge of oils, oily mixtures and waste in waters under national jurisdiction is prohibited, except in situations permitted by international standards and if the ship, platform or similar is not within the limits of an ecologically sensitive area and the procedures for discharge are duly approved by the Ministry for the Coordination of Environmental Action.
2. The discharge of any type of waste, including synthetic cables, synthetic fishing nets and plastic bags, in national jurisdictional waters, outside of port facilities, shall not be permitted.

**Article 19**  
**(Exceptions)**

1. The discharge of oils, oily mixtures, harmful or dangerous substances or waste of any category in waters under national jurisdiction may be exceptionally tolerated in duly proven cases of force majeure, for the safeguarding of human lives, research or the safety of ships or installations, in accordance with this Regulation.
2. The causes of force majeure referred to in the previous number will only be considered when the polluting agents demonstrate that they have adopted all measures within their reach to prevent the occurrence, reduce or eliminate its consequences.
3. The causes of force majeure referred to in the previous paragraph do not exempt polluting agents from repairing the damage caused to the environment and from compensating economic activities and public or private property for losses resulting from such discharge.
4. For research purposes, the following requirements must be met, as a minimum:
  - a) The discharge is authorized by the competent environmental agency, after analysis and approval of the research program;
  - b) At least one representative of the environmental agency that authorized the discharge must be present at the place and time of the discharge;
  - c) The person responsible for the discharge must make available, at the place and time in which it occurs, specialized personnel, equipment and materials of proven efficiency in containing and eliminating the expected effects.

**Article 20**  
**(Well drilling)**

The discharge of solid waste from oil well drilling operations will be subject to specific regulation by the Ministry for the Coordination of Environmental Action, in coordination with INAMAR and the Ministry of Mineral Resources.

**Article 21**  
**(Obligation to report an incident)**

1. Any incident occurring in organized ports, port facilities, pipelines, ships, platforms and their support facilities, which may cause pollution of waters under national jurisdiction, must be immediately reported to INAMAR, the Ministry for the Coordination of Environmental Action and the regulatory body of the oil industry, if it involves hydrocarbons, regardless of the measures that have been taken to control them.
2. In any of the cases covered by this article, the commander must provide the following references in the communication:
  - a) The location or position of the vessel or installation;
  - b) The nature of the damage or loss;
  - c) The place where the damage or accident occurred or was discovered;
  - d) The name of the ship or installation, its port of registry and official number;

- e) The position of the installation, the ship and its route, as well as its destination;
- f) The quantity and type of hydrocarbons spilled or substances thrown into the sea;
- g) The cargo transported by the ship;
- h) Other details or information that may be of interest to the maritime and environmental authorities in the case.

**Article 22**  
**(Commander's responsibility for lack of communication)**

1. If the captain of the ship or installation fails to comply with the provisions of the previous article, he shall be held liable under the terms of this Regulation without prejudice to other legislation applicable to him.
2. The respective owner shall be jointly liable for emissions attributable to the captain of a ship or installation, if the captain is not the owner or shipowner.

**Article 23**  
**(Right of replacement)**

The entity operating the organized port or port facility, the owner or operator of a platform or ship and the concessionaire or company authorized to carry out activities related to the oil industry, responsible for the discharge of polluting material in waters under national jurisdiction, are obliged to reimburse the competent bodies for the expenses incurred by them to control or minimize the pollution caused, regardless of prior authorization and payment of a fine.

**Article 24**  
**(Seizure)**

1. In the case of discharge by a vessel not holding the certificate required under the terms of No. 1 of article 14, the vessel will be detained and will only be released after a deposit has been made as a guarantee for the payment of expenses arising from the pollution.
2. The hiring, by a public or private body or company, of a vessel to transport oil or a substance in the categories defined in this regulation may only be carried out after certification that the transport company is duly qualified to operate in accordance with the standards issued by the maritime authority.

**Article 25**  
**(Possible measures in case of suspicion or probability of danger)**

In cases where there is reason or cause to suspect that a particular ship sailing in Mozambican jurisdictional waters poses a danger to the country's marine and coastal environment, it will be questioned and ordered to proceed to a specific port, follow a specific route, unload, or any measure will be taken against it or its cargo.

that is reasonable and/or practicable to prevent pollution, as set out in this Regulation.

## **CHAPTER IV POWERS OF THE MARITIME AUTHORITY TO AVOID POLLUTION**

### **Article 26 (Measures to be taken by the maritime authority)**

1. When any oil or substance harmful to the environment is being discharged or is about to be discharged into the maritime environment or if the maritime authority detects signs of discharge or imminent discharge from a ship, it shall, with a view to preventing or containing pollution or preventing the occurrence or continuation of the discharge of the oil, require the master and/or owner of that ship to strictly comply with the following:
  - (a) Tranship to another available vessel or unload to a specific part of the same vessel or to a depot in the port, within a specified period;
  - b) Move the vessel under its control to a specified place;
  - c) Do not move the ship from a specific location until a different order is given depending on the particular conditions of the ship and the location where it is located;
  - d) Do not carry out any unloading or transshipment of the hydrocarbon or part thereof until otherwise ordered by the maritime authority;
  - e) Carry out operations to sink or destroy the ship or its cargo or part thereof, as decided by the Government;
  - f) Take a specific route, in cases where the vessel is sailing in the territorial sea or in the contiguous zone;
  - g) Seek to obtain the services of one or more suitable vessels to support the maritime authority in any necessary steps;
  - h) Take other steps in relation to the ship or its cargo to prevent the discharge of the hydrocarbon or the continuation of such discharge.
2. The maritime authority may require the commander of an installation to:
  - a) Suspend the operation of the facility under its governance;
  - b) That it acts in accordance with the terms prescribed in paragraphs g) and h) of the previous number, with the necessary adaptations.

### **Article 27 (Inspection on board ship or installation)**

1. Any authorised officer of the maritime authority may go on board a ship or installation located anywhere in an ecologically sensitive area in order to verify the validity of the certificates and oil record books and other books or documents relevant to the prevention and control of pollution covered by this Regulation.

2. If the officer of the maritime authority has reason to suspect that any provision of the Regulation is being violated by that ship or installation, he may commence a material inspection on board that ship or installation, examining the condition of the hulls, cargo spaces, engine room, equipment as well as the cargo on board the ship or installation.
3. When inspecting a ship or installation in ecologically sensitive areas, the maritime authority officer may take samples of oil or substances mixed with oil on board the ship or installation and may test any equipment on board if he considers that this would be useful in preventing discharges from the ship or installation.
4. Any anomalies found during or at the end of the inspection shall be immediately reported by the maritime authority official to his superior with decision-making powers or shall himself take the necessary measures if he is competent to act on behalf of the maritime authority.

#### **Article 28**

##### **(Transmission of measurements to the rescuer)**

If any person carries out a salvage operation in connection with a ship or installation, he or she shall be made aware of any requirement or determination of the maritime authority, in relation to the ship or its cargo, and from that moment the salvor shall be bound by such requirements or determinations, under penalty of being jointly and severally liable for damages with the captain, owner of the ship or installation.

#### **Article 29**

##### **(Strictly necessary measures)**

The measures to be taken by the maritime authority must be those strictly necessary to prevent damage resulting from the forms of pollution subject to prevention and control by this Regulation.

#### **Article 30**

##### **(Complaints and appeal)**

1. The captain or owner of the ship or installation who is required to comply with certain instructions or measures issued by the maritime authority may, when he considers them to be unfair or unreasonable, lodge a complaint with the same authority or appeal against them to the Ministry of Transport and Communications.
2. Complaints made or appeals lodged with the Minister of Transport and Communications must be dealt with within forty-eight hours after the complaint is lodged or the appeal is lodged, after consultation with the Ministries for the Coordination of Environmental Action and Mineral Resources.

**Article 31**  
**(Powers of Government)**

1. The Minister of Transport and Communications, after consulting the Ministry for the Coordination of Environmental Action, may determine more stringent measures if he considers that those taken by the maritime authority are not sufficient to guarantee environmental protection.
2. It may also suspend the implementation of any of the measures determined by the maritime authority, if it considers that the requirement imposed is unreasonable or impracticable.
3. There is no administrative appeal against decisions made by the Minister of Transport and Communications.

**Article 32**  
**(Right to refund)**

1. If the captain or owner of a ship or installation has incurred expenses that are concluded, through expert assessment, to have been unnecessary or superfluous, due to compliance with the requirements or determinations made by the maritime authority or by the Minister of Transport and Communications, they shall be entitled to reimbursement of the amount spent unnecessarily.
2. The reimbursement referred to in the previous article will only take place in cases where the captain or owner of the ship or offshore installation has filed a complaint or appeal, and such complaint or appeal is accepted by the maritime authority or the Minister of Transport and Communications.

**CHAPTER V**  
**INCIDENT INVESTIGATION, SANCTIONS AND COMPENSATION**  
**LOSSES**

**Article 33**  
**(Offenders)**

For the purposes of Title II of this Regulation, the following shall be jointly and severally liable for infringements, to the extent of their action or omission:

- a) The owner of the ship or installation, whether a natural or legal person, or his/her legal representative;
- b) The shipowner, operator of the ship or installation, in cases where it is not armed or operated by the owner, the captain or crew member of the ship;
- c) The concessionaire or the company authorized to carry out activities relevant to the oil industry;
- d) The natural or legal person, under public or private law, that legally represents the port, the port facility, the platform and its support facilities, the shipyard, the marina, the nautical club or similar facility; and
- e) The owner of the cargo.



**Article 34**  
**(Investigation of violations)**

1. In cases where there is clear reason to suspect a violation of the provisions of Title II of this Regulation or other applicable regulations, the maritime authority may order the ship to stop or berth or suspend the activity of the facility for investigation.
2. During the investigations, the maritime authority may take samples from the ship or installation of toxic or dangerous substances, including cargo, ballast, fuel and the contents of the ship's bottom, waste collection tanks or hydrocarbon residues.

**Article 35**  
**(Restrictions on investigations)**

The maritime authority may not detain the ship or suspend the activity of the facility for a period longer than that which has been defined as necessary for carrying out the investigations, which may consist of examining the documents and carrying out a material inspection of the ship itself, if this proves appropriate under the terms of Article 29 of this Regulation.

**Article 36**  
**(Proposal of legal action or injunction)**

1. Once the investigations have been completed or sufficient elements have been gathered to take some measure or take legal action, the competent authority shall forward the report of the infringement and the detailed report on the incidents causing the environmental damage to the Public Prosecutor's Office, which shall propose such measure or action within 48 hours.
2. If the term of the period in the previous number ends on a Saturday, Sunday, public holiday or day equivalent to a public holiday, this period will be extended until the first working day following this one.
3. The authorities responsible for issuing a report of infringement are maritime authorities, environmental and municipal bodies and the oil industry regulatory body, within the scope of their respective powers.
4. Any person who observes the occurrence of an event that may be characterised as a possible offence as referred to in this regulation may report it to the authorities referred to in paragraph 3 of this article, so that the appropriate investigation can be carried out.
5. Once the infringement has been confirmed, the competent authority will draw up a report detailing the legal framework for the infringement committed, and a copy will be given to the person charged.

**Article 37**  
**(Financial sanctions and graduation criteria)**

Violations of Title II of this Regulation are subject to the following financial penalties, which will be graded according to intent, fault or negligence and the severity of the damage caused, without prejudice to the provisions of environmental legislation and other applicable legislation.

**Article 38**  
**(Sanctions framework)**

1. Violation of the provisions of this Title II will be sanctioned in the following terms:
  - a) Fine of Mtn 50,000.00 to Mtn 500,000.00 for intentional discharges;
  - b) Fine of Mtn 25,000.00 to Mtn 250,000.00 for discharges made through fault or negligence;
  - c) Fine of Mtn 10,000.00 to Mtn 50,000.00 for accidental discharges, probability or threat of incidents not reported or not properly reported.
2. Violation of the provisions relating to the prevention of the discharge of toxic or hazardous waste shall be punished with a fine of Mtn 1,000,000.00 to Mtn 10,000,000.00 if a more severe penalty does not apply under the scope of special criminal legislation.
3. Violation of the provisions relating to the prevention and control of pollution by dumping or disposal of waste shall be punished with:
  - a) Fine of 20,000.00Mtn to 75,000.00Mtn in the case of discharge carried out intentionally;
  - b) Fine of 10,000.00Mtn to 45,000.00Mtn in the case of discharge or release made through fault or negligence;
  - c) Fine of Mtn 5,000.00 to Mtn 15,000.00 in cases where the infraction consisted of failure to comply with the duty to communicate.
4. The fine amounts established above will be updated by joint order of the Ministers of Finance and Transport and Communications and after consultation with the Minister for the Coordination of Environmental Action.

**Article 39**  
**(Subsidiary sanctions)**

1. The sanctions provided for in the previous article may be subsidiarily applied to the following penalties:
  - a) seizure of the vessel;
  - b) destruction or rendering the product unusable;
  - c) embargo of activity;
  - d) partial or total suspension of activities; and
  - e) restrictive of rights.
2. In the case of seizure of toxic, dangerous or harmful substances or products to human health or the environment, the measures to be adopted for their final disposal or destruction shall be determined by the competent body that carried out the seizure and shall be at the expense of the offender.

3. Vessels used to commit offences, seized by the competent authority, will only be released upon payment of the fine, presentation of a defence or objection, and the goods may be entrusted to a trustee until the damage is repaired, seizure terms and terms of destruction or uselessness, as decided by the competent authority.
4. The transfer to third parties of vessels or facilities referred to in this article is prohibited, unless such transfer is authorized by a competent authority.
5. The competent authority shall forward a copy of the terms set out in this article to the Public Prosecutor's Office for information.
6. The sanction indicated in paragraph c) of paragraph 1 of this article shall apply when the activity is carried out in violation of the legal or regulatory provisions in force in the Republic of Mozambique.
7. The restrictive sanctions applicable to natural or legal persons are:
  - a) Suspension of registration, license, permit or authorization;
  - b) Cancellation of registration, license, permit or authorization;
  - c) Loss or restriction of tax incentives and benefits;
  - d) Loss or suspension of participation in financing lines in official credit institutions; and
  - e) Prohibition on contracting with the Public Administration, for a period of up to three years.

#### **Article 40 (Compensation for losses)**

1. Without prejudice to the provisions on penalties set out in Articles 38 and 39 of this Regulation, the owner of the ship or installation resulting in the pollution shall be liable:
  - a) For compensation for damage caused to the marine environment, lakes and rivers, including their beds, banks and riparian areas;
  - b) For the costs and all expenses incurred for the removal, retention or reduction of pollution;
  - c) For compensation for damages resulting from pollution suffered by third parties;
  - d) For reimbursement of expenses incurred by the competent bodies for the control or minimization of the pollution caused.
2. No compensation shall be due by the owner in cases where the pollution:
  - (a) Result from acts of war, hostilities, insurrection or an exceptional, unavoidable and irresistible natural phenomenon;
  - b) Caused exclusively by a person other than the owner, the master, any member of the ship's crew or personnel employed at the facility;
  - c) It results entirely from negligence or unlawful act committed by a public official, the maritime authority or the entity responsible for the maintenance of lighthouses, buoys and other navigation aids other than those of the ship itself.

3. In cases where the event results from a collision between ships, liability for compensation shall lie with the owner of the ship that caused the collision or, if more than one ship is at fault, their respective owners, in proportion to their respective faults.

**Article 41**  
**(Competence to apply sanctions and to set compensation)**

The Maritime Court shall be responsible, except as provided for in Article 32, for applying the sanctions provided for in Article 38 and for setting the amount of compensation referred to in Article 39 of this Regulation.

**Article 42**  
**(Procedures for applying sanctions)**

1. Sanctions will be applied through the administrative procedure specific to each competent authority, which begins with the report of the infringement, ensuring the adversarial system and full defense, without prejudice to the application by the competent health authority of the provisions of specific legislation.
2. For the purposes of applying a fine, it is mandatory for the competent environmental body to prepare a technical environmental report on the incident, identifying the extent of the damage involved and the damage resulting from the infringement.
3. The costs incurred by the competent environmental body in contracting third-party services, where applicable, for the preparation of the respective technical report, shall be reimbursed by the body that requested the report, upon its delivery, and this report must include a breakdown of the expenses incurred in contracting these services.
4. The issuing authority may request the issuance of an environmental technical report directly from the competent environmental body or from entities officially accredited to issue said report.
5. In determining the penalties referred to in the previous articles, the severity of the offence committed, the degree of culpability of the offender and the severity of the consequences for the environment shall be taken into account.

**TITLE III**  
**PREVENTION OF MARINE AND COASTAL POLLUTION BY SOURCES**  
**LAND BASED**

**CHAPTER I**  
**PROHIBITED OR CONDITIONED ACTIVITIES**

**Article 43**  
**(Prevention and control)**

1. The Ministry for the Coordination of Environmental Affairs shall take appropriate measures to prevent and control the discharge or spillage into the sea of harmful substances and

hazardous waste, rubbish or waste water or sewage, directly or indirectly, from coastal establishments or outfalls or emanating from any other land source located in the national territory, without observing the conditions imposed by Decree No. 30/2003, of 1 July (Regulation of public water distribution and waste water drainage systems) and by Decree No. 18/2004, of 2 June (regulation on environmental quality standards and effluent emissions).

2. The Ministry for the Coordination of Environmental Action is also responsible for taking appropriate measures to eliminate pollution of the waters mentioned in the previous number by dangerous substances included in the families and groups of substances listed in Annex IV, as well as to reduce pollution of said waters by dangerous substances included in the families and groups of substances listed in Annex V, in accordance with this regulation and the regulations in force on waste management.

#### **Article 44 (Sources of Pollution)**

Pollution from land-based sources includes, among others, the following:

- a) Polluting discharges from land-based sources along the Mozambican coast;
- b) Discharges through rivers, canals and other watercourses, including groundwater.
- c) In general, any other terrestrial source located in the national territory through water, the atmosphere or directly from the coast.

#### **Article 45 (Limit values for hazardous substances listed in Annex IV)**

The Ministry for the Coordination of Environmental Action will set, for the various hazardous substances included in the families and groups of substances listed in Annex IV, not covered by the provisions of Decree No. 30/2003, of 1 July (Regulation of public water distribution and wastewater drainage systems) and by Decree No. 18/2004, of 2 June (Regulation on environmental quality and effluent emission standards), the limit values that the emission standards must not exceed.

#### **Article 46 (Zero emission)**

1. A zero-emission regime shall apply to discharges of the substances listed in Annex IV, not covered by the provisions of Decree No. 30/2003 of 1 July (Regulation of public water distribution and wastewater drainage systems) and Decree No. 18/2004 of 2 June (Regulation on environmental quality standards and effluent emissions), into groundwater.

2. The provisions of this Regulation relating to substances belonging to the families and groups of substances listed in Annex II shall apply to groundwater.  
V.
3. Numbers 1 and 2 do not apply to domestic effluents or to injections carried out in deep, salty and unusable layers.

#### **Article 47**

##### **(Of the authorizations)**

1. The competent environmental bodies are responsible for authorizing the discharge into water of substances listed in Annexes IV and V.
2. The said authorisation shall set emission standards for discharges of these substances into the waters referred to in Article 2 of this Regulation, for discharges into sewers.
3. As regards current discharges of these substances into the waters referred to in Article 2 of this Regulation, the Ministry for the Coordination of Environmental Action shall set a deadline, in a separate authorisation, which shall be respected by the dischargers.
4. Authorization is granted for a limited period and may be renewed, taking into account any changes to the limit values.

#### **Article 48**

##### **(Emission standards)**

1. The emission standards established by the authorizations granted under the Regulation shall establish:
  - a) The maximum concentration of a substance admissible in discharges;
  - b) The maximum quantity of a substance admissible in discharges during one or more specified periods.
2. For each authorisation, the competent environmental authority may, if necessary, set stricter emission standards than those resulting from the application of the limit values set by the Ministry for the Coordination of Environmental Action under this Regulation, in particular taking into account the toxicity, persistence and bio-accumulation of the substance in question in the environment into which the discharge is carried out.
3. Authorization shall be denied if the discharger declares and demonstrates that it is not possible for him to comply with the imposed emission standards or if the competent environmental body in question verifies this impossibility.
4. If the emission standards are not respected, the competent environmental body concerned shall take the necessary measures to ensure that the conditions of the authorisation are complied with and, if necessary, to ensure that the discharge is prohibited.

**Article 49**  
**(Standards and criteria)**

1. The Ministry for the Coordination of Environmental Action, after consulting INAMAR, is responsible for approving the standards or criteria relating to the control of pollution from land-based sources, namely:
  - (a) the width, depth and position of the pipes used for coastal emissaries, taking into account, in particular, the methods used for the prior treatment of effluents;
  - b) Specific requirements relating to effluents that require separate treatment;
  - (c) the quality of seawater used for specific purposes, necessary for the protection of human health, biological resources and ecosystems;
  - d) The control and progressive replacement of products, installations, industrial processes and others that cause significant pollution of the marine environment;
  - (e) specific requirements concerning the quantities rejected, concentration in effluents and methods of discharge of the substances listed in Annexes IV and V.
2. The standards or criteria referred to in this article shall be adopted taking into account, for their progressive application, the capacity for adaptation and conversion of existing facilities, the economic capacity of the parties and their need for development.

**Article 50**  
**(Action Program)**

With a view to reducing pollution of the waters referred to in Article 43 of this Regulation, by substances listed in Annex V, the Ministry for the Coordination of Environmental Action, after consulting INAMAR, shall establish action programmes that include:

- a) Water quality objectives, established in accordance with international standards, where they exist;
- (b) specific provisions concerning the composition and use of substances and products, taking into account the latest economically viable technical progress;
- c) The programs will set deadlines for their own implementation.

**Article 51**  
**(Waste water and toxic substances)**

1. It is prohibited to release or dump along the coast, especially in fragile ecosystems, in territorial waters, as well as in ports, docks, riverbeds and arms, navigable or non-navigable, lakes, lagoons, beaches, banks and other areas under maritime administration, any waste water of a toxic or harmful nature, as well as any other substances or waste, especially of a non-biodegradable nature, which may in any way pollute the waters, beaches or banks, without observing the legal provisions to that effect.

2. National and foreign vessels are also prohibited from discharging persistent oils or mixtures containing them, as well as any toxic or harmful substances for the marine, coastal, lake and river environment, without observing the legal provisions to that effect.

**Article 52  
(Waste disposal)**

1. The disposal of waste or used materials outside of waste containment receptacles is prohibited along the coast and other areas covered by this Regulation, particularly in fragile ecosystems.
2. The practice of open defecation in the areas covered by this Regulation is expressly prohibited.
3. In the absence of suitable waste containers, beach users will be required to collect all waste they produce and transport it, properly packaged, to the nearest container.
4. The installation of scrap metal, rubbish dumps and nitrate dumps, sanitary landfills, construction materials and toxic or dangerous products along the coast, especially in fragile ecosystems, is also prohibited.

**CHAPTER II  
BEACH MANAGEMENT**

**Article 53  
(Beaches reserved for bathers)**

1. The Minister of Tourism, after consulting the Ministry for the Coordination of Environmental Action, Fisheries, INAMAR, the Municipal Councils in the areas under its jurisdiction, local communities, the private sector and society in general, is responsible for identifying and proclaiming beaches reserved for bathers, through ministerial diploma, in compliance with the following criteria:
  - a) Existence of minimum infrastructure on site;
  - b) Water quality;
  - c) Safety of bathers and other users;
  - d) Existence of access roads;
  - e) Tourist potential;
  - f) Value of cultural heritage;
  - g) Landscape beauty;
  - h) The presence of bathers must not harm the existence of fragile ecosystems.
2. Beaches reserved for bathers must be duly identified by placing signage to that effect in a visible location, the colour and characters of which must be defined by the Minister of Tourism through a ministerial decree, within ninety days of the entry into force of this regulation.



3. All beaches referred to in this article must have a safety, prevention, assistance and rescue system, coordinated by a team of lifeguards with duly proven professional competence, whose hiring will be the responsibility of the owners of the tourist units in the area.
4. It is also up to the Minister of Tourism, after consulting the maritime authority, to approve, by means of a ministerial decree, the regulations for the use of beaches reserved for bathers, which will also define the qualifiers and functions of the lifeguard, within a period of six months after the entry into force of this Regulation.

**Article 54**  
**(Driving motorized land vehicles)**

1. The circulation of motorized land vehicles, namely cars, motorcycles and others of a similar nature, outside the access routes established and defined for this purpose by the Maritime Administrations or, in the case of areas under the jurisdiction of municipalities, by the Municipal Councils, is not permitted in the areas covered by this Regulation.
2. The following vehicles are exempt from the regime established in the previous paragraphs:
  - a) Vehicles used for transporting motorized or non-motorized vessels or other floating means to and from the sea, via launching ramps or other authorized routes;
  - a) Vehicles involved in inspection, prevention, assistance and rescue operations;
  - b) Vehicles used by individuals with motor disabilities;
  - c) Vehicles intended for the production and production of films, advertising, television programs and photography sessions;
  - d) Vehicles used for scientific research purposes.
3. In order to carry out the activities referred to in the previous number, it is mandatory to obtain an authorization from the competent entity and this will only be issued when there are no serious risks of pollution, degradation or other damage to the environment.
4. In the case of vehicles used for the construction or maintenance of infrastructures authorized under special licenses, these will only be used for the time strictly necessary to carry out the work, with respect for the local environment, after the necessary authorization has been issued by the competent authority.

**Article 55**  
**(Motorized water sports)**

1. The practice of water sports involving motorised means, namely skiing, motor-boating and other similar activities, is not permitted in the areas covered by this Regulation, outside of the places expressly demarcated for this purpose by the Maritime Administrations or, in the case of areas under the jurisdiction of municipalities, by the Municipal Councils.

2. The practice of the activities referred to in the previous number is expressly prohibited on beaches reserved for bathers, within 100 meters from the low tide line.
3. In order to carry out the activities referred to in paragraph 1, it is mandatory to obtain an authorization from the competent entity, which will only be issued when there is no serious risk of pollution and other serious damage to the environment and risks to the life and health of beach users.

**Article 56**  
**(Other sports and cultural activities)**

1. The practice of sporting events, whether competitive or not, and cultural events, such as shows, celebrations, soirees, among others, which are intended to be held in the areas covered by this Regulation, must take place in the areas expressly demarcated for this purpose by the Maritime Administrations, or, in the case of areas under the jurisdiction of municipalities, by the Municipal Councils.
2. In partial protection zones and fragile ecosystems, the practice of sporting activities that cause pollution or deteriorate natural values, involving motor vehicles, namely motocross, karting, rally and others of a similar nature, is expressly prohibited.
3. In order to hold competitive sporting events and any cultural event in these areas, it is mandatory to obtain authorization from the competent entity.

**Article 57**  
**(Vessels)**

1. In addition to other limitations provided for by law, the docking, launching, circulation and permanence of motorized and non-motorized vessels and other recreational and sports watercraft on beaches reserved for bathers is expressly prohibited, outside the defined channels and areas demarcated by the Maritime Administrations or other competent entity.
2. In addition to other licenses provided for by law, the docking, launching, circulation and permanence of vessels on beaches reserved for bathers is subject to obtaining prior authorization from the competent entity.
3. Vessels used in inspection and prevention, assistance and salvage activities are exempt from the regime established in the previous numbers.

**Article 58**  
**(Domestic animals)**

1. Activities involving riding and keeping horses and other large domestic animals on beaches reserved for bathers are prohibited.

2. Small and medium-sized domestic animals, such as dogs, are allowed to walk and stay in areas reserved for bathers, provided that they do not disturb or pose a danger to users. Their owners or possessors must take all necessary precautions, in particular with regard to dogs, using leashes and keeping their vaccination status up to date.
3. Animals used in inspection, prevention, assistance and rescue operations are excluded from the regime established in paragraph 1.
4. Outside of beaches reserved for bathers, it is always mandatory to obtain authorization from the competent entity for the presence and walking of the animals referred to in paragraph 1, when this concerns any of the other areas covered by this Regulation, which must be carried out in places demarcated by the Maritime Administrations, or, in the case of areas under the jurisdiction of municipalities, by the respective Municipal Councils.

### **CHAPTER III PROHIBITIONS**

#### **Article 59**

##### **(Fishing)**

1. On beaches reserved for bathers, the following activities are prohibited up to a distance of 100 metres towards the sea, counting from the low tide line and measured from a point equidistant from both shores of the respective beach reserved for bathers.
  - a) Artisanal fishing;
  - b) Sport and recreational fishing;
  - c) Capture of ornamental fish;
  - d) The collection of ornamental or collectible corals and shells for economic purposes.
2. The provisions of the previous paragraph are exempt if the activity is carried out for scientific research purposes and in the cases provided for in paragraphs a) and c) if they are carried out by local communities.

#### **Article 60**

##### **(Shells and ornamental fish)**

1. The collection of ornamental or collectible shells, as well as the capture of ornamental fish for economic purposes, outside the locations, seasonal periods, species and quantities established by law for this purpose, is prohibited.
2. The Ministers of Fisheries, for the Coordination of Environmental Action and Tourism shall establish, within six months from the date of publication of this diploma, by ministerial diploma, the terms and conditions under which the activities established in the previous number shall be carried out.

3. The Minister of Fisheries shall establish by order, within six months from the date of publication of this diploma, the list of species whose capture or harvesting is permitted.

**Article 61**  
**(Corals)**

1. The collection of corals in national jurisdictional waters is prohibited, as is the carrying out of any activities that damage or may damage existing or future corals or coral reefs and their characteristic biodiversity.
2. The following activities are in particular prohibited:
  - a) Fishing, collection, acquisition, transport, handling, destruction, processing, storage, marketing and export of coral;
  - b) Implementation of any infrastructure, whether terrestrial or marine, that directly or indirectly harms or damages corals or coral reefs;
  - c) The practice of motor-boat sports on corals and coral reefs;
  - d) Crossing over corals or coral reefs at a depth of less than 2.5 m by boat with or without a motor;
  - e) Anchoring of vessels on corals or coral reefs;
  - f) The practice of any fishing activities within a radius of less than 100 m in relation to corals and coral reefs.
3. The collection of corals will only be exceptionally permitted when intended for scientific research, subject to authorization issued by the Ministry of Fisheries.
4. The Ministers of Fisheries, for the Coordination of Environmental Action and Tourism, will establish, within 6 months from the date of publication of this diploma, the coral areas to be protected.

**Article 62**  
**(Native coastal flora)**

1. Forest exploitation is prohibited within the areas covered by this Regulation.
2. The provisions of the previous paragraph shall apply if the forestry exploitation is for scientific research purposes, which must be carried out with the authorization of the Minister of Agriculture.
3. Local communities have the right to exploit native flora species existing in the areas covered by this regulation, provided that this is done under the terms permitted by Decree No. 12/2002 of 6 June (Regulation of the law on forests and wildlife) and provided that such areas are not degraded.

**Article 63**  
**(Introduction of new or exotic species)**

Without prejudice to the provisions of article 82 of Decree no. 12/2002, of 6 June and article 9 of Decree no. 35/2001, of 13 November, the introduction of new or exotic species of non-indigenous animals or plants that may significantly damage or disturb the environment of the areas covered by this regulation is prohibited.

**Article 64**  
**(Sea turtles)**

1. Without prejudice to the provisions of paragraph 2 of article 44 of Decree no. 12/2002, of 6 June, the hunting of sea turtles, of any species, and the capture or destruction of their eggs, are prohibited within national territory.
2. Any activity that may disturb ecosystems and habitats and, in general, the normal development of sea turtles is also prohibited.

**Article 65**  
**(Wetlands)**

Without prejudice to the activities that may be authorized under the terms of Decree No. 35/2001, of 13 November and taking into account the enormous importance that wetlands play in flood management, maintenance of water quality, their exceptional value in terms of biodiversity and the numerous pressures that have been exerted on them, the following activities are expressly prohibited:

- a) Any type of discharge of pollutants into the river or wetlands without the wastewater having been previously treated and without observing the legally established environmental quality standards;
- b) The introduction of new or exotic species;
- c) Carrying out uncontrolled burning;
- d) Forestry exploitation and agricultural activities that imply the loss of quality in more than 15% of the exploited area;
- e) Development of any activity that involves substantial changes to the hydrological regime and its functioning.

**CHAPTER IV**  
**PROTECTION AREAS, INFRASTRUCTURES AND ACCESS ROADS**

**Article 66**  
**(Partial protection zones)**

1. The following constitute partial protection zones under this Regulation:
  - a) The bed of inland waters, the territorial sea and the exclusive economic zone;
  - b) The continental shelf;
  - c) The strip of the seafloor and around islands, bays and estuaries, measured from the line of maximum high tides up to 100 metres inland;

- d) The strip of land up to 100 meters bordering water sources;
  - e) The strip of land around dams and reservoirs up to 250 meters;
  - f) The strip of land bordering navigable river and lake waters up to 50 meters measured from the maximum line of such waters.
2. In the areas referred to above in the previous article and in paragraph 1 of this article, land use and benefit rights cannot be acquired, and special licenses may only be issued for the exercise of specific activities.
  3. Without prejudice to the provisions of paragraph 2 of the following article, the special licenses referred to in the previous paragraph may only be issued, in compliance with the environmental legislation in force, for the construction of basic works and infrastructures, namely, water supply, electricity, telephone lines, sewage drainage, solid waste management services, small constructions in precarious and removable material and others of a similar nature.

**Article 67**  
**(Infrastructure Construction)**

1. The construction of infrastructures in the areas identified in the previous article should only be carried out in compliance with current environmental and landscape quality standards and norms.
2. The construction of infrastructure along the coast must be carried out in such a way as to allow free access to the beach for any citizen and, in particular, for local communities, every 100 metres.
3. In partial protection zones and fragile ecosystems, particularly dunes and mangroves, the construction of basic infrastructures is only permitted, subject to the necessary special licence and in compliance with current environmental legislation, namely for the supply of water, electricity, telephone lines, sewage drainage, solid waste services, small constructions in removable material and others of a similar nature.
4. In addition to the cases referred to in the previous number, the construction, development or expansion of public works of recognized interest for the development of the national economy is also permitted, in compliance with the regulations on environmental impact assessment, namely ports, roads, railways, oil pipelines, gas pipelines and mineral pipelines.

**Article 68**  
**(Access roads to the beaches)**

1. Beaches are public domain assets for the common use of all citizens, and free and open access to them and to the sea is always guaranteed, in any direction and sense, except for areas considered to be of national security or included in areas protected by specific legislation.
2. Without prejudice to the provisions of the regulations on environmental impact assessment, it is up to the Municipal Councils or District Governments, as the case may be, to

construction or opening of access routes to sea, lake and river beaches, within the scope of the respective legally established powers.

3. Such works may be carried out by private individuals, under direct supervision of the entities mentioned in the previous number.
4. Under no circumstances should such routes endanger the dunes and their biodiversity, or increase the phenomenon of erosion, and in the case of footpaths or walkways, these should be built with permanent materials.

## **CHAPTER V AUTHORIZATIONS AND LICENSINGS**

### **Article 69 (Competence)**

1. The Maritime Administrations, under the supervision of the National Navy Institute (INAMAR), are responsible for issuing the authorizations provided for in this regulation.
2. In order to exercise the power referred to in the previous article, the Maritime Administrations must work in close coordination with the Provincial Directorates for Coordination of Environmental Action, with the latter having the power to issue opinions whenever necessary.
3. Competence in the field of infrastructure construction, once the provisions of the regulations on environmental impact assessment have been observed, will be governed by the terms of the Private Works Licensing Regime, approved by Decree No. 2/2004, of 31 March.
4. In partial protection zones, the Provincial Governors, after consulting the Provincial Directorate for the Coordination of Environmental Action and the Maritime Administration, are responsible for issuing special licenses for the practice of specific activities.

### **Article 70 (Request for licensing)**

1. The licensing of the activities provided for in articles 54, 55, 56 and 58 of this diploma depends on the submission of an application completed on a specific form to be defined by the Minister of Transport and Communications, through a ministerial diploma within three months after the entry into force of this Regulation.
2. The application for a license to carry out the activities referred to in the previous number must contain the following elements:
  - a) Full identification of the applicant;
  - b) Complete identification of the vehicle or vessel to be used;
  - c) Indication of the area where the activity is to be carried out;
  - d) Indication of the period for which the authorization is sought;
  - e) Proof of payment of the legally established fee.
3. The fees for carrying out the activities referred to in paragraph 1 will be set by joint ministerial decree of the Ministers of Finance, Tourism, Transport and Communications and for the Coordination of Environmental Action, within three months of the entry into force of this Regulation.

**Article 71**  
**(Term and renewal of license)**

1. The term of the license shall be set according to the duration of the activity for which its use is requested, and shall not, under any circumstances, be issued for a period exceeding one year.
2. The license may be renewed for successive periods of one year, subject to assessment by the competent entity regarding the degree of compliance with current legislation by the applicant and the impacts of the intended activity on the environment.

**Article 72**  
**(Licensing and authorization procedure for other activities)**

The licensing and authorization procedure for other activities provided for in this Regulation is governed by the rules approved by the competent entities.

**Article 73**  
**(Revocation and expiration of authorizations)**

1. Authorisations issued under this Regulation shall be revoked where:
  - a) The holder fails to comply with the obligations or duties to which he is bound;
  - b) Whenever the needs of protecting the environment and the users of the areas that are the object of protection of this diploma justify it;
  - c) Whenever the holder fails to correct, within the period set by the competent entities, any irregularities detected.
2. Authorizations to carry out the activities provided for in this Regulation expire at the end of their respective validity period, unless their renewal has been duly requested.

**CHAPTER VI**  
**OVERSIGHT**

**Article 74**  
**(Competence)**

1. The Ministry for the Coordination of Environmental Action, INAMAR, as well as the Municipal Councils in the areas under their jurisdiction, are responsible for monitoring compliance with the provisions of this Regulation, with a view to monitoring, disciplining and guiding activities for the protection, management and development of the coast, verifying infringements and carrying out the respective report, without prejudice to the specific powers and attributions of other State bodies.



2. When carrying out their duties, inspectors of the above-mentioned entities must present themselves with proper identification.
3. Whenever necessary, they may request assistance from the nearest authority and police reinforcement to ensure the exercise of their functions.

**Article 75**  
**(Other stakeholders in the inspection process)**

1. In addition to the entities referred to in the previous article, the following may intervene in the inspection process: the Defence and Security Forces, public security agents, community authorities, employees of the Ministries of Tourism, Energy, Agriculture, Fisheries, Public Works and Housing, sworn inspectors, tour operators, with particular emphasis on lifeguards hired by them and public employees in general.
2. The aforementioned parties are responsible for reporting all offences of which they become aware to the entities referred to in the previous article, so that they can draw up the respective report, without prejudice to taking measures to ensure the arrest of the alleged offender.

**Article 76**  
**(General duty)**

All citizens and, in particular, Local Natural Resource Management Councils, must collaborate in exercising the necessary surveillance to protect the natural resources of the coast of Mozambique and other areas that constitute the scope of protection of this Regulation, reporting any infringements of which they become aware to the nearest authority.

**Article 77**  
**(News report)**

1. Upon discovering or becoming aware of an offence being committed, inspectors shall immediately or as quickly as possible after its commission draw up a report, which must be drawn up in triplicate, and which shall include, among other aspects:
  - a) Identification of the facts constituting the offence and respective evidence, if any;
  - b) The identification of offenders and other perpetrators of the offence;
  - c) The identification of witnesses, if any;
  - d) The legal precepts violated;
  - e) Discrimination of aggravating or mitigating circumstances;
  - f) The description and identification of the seized goods, instruments or objects;
  - g) The name, signature and position of the person making the report.
2. The offender, at the time of issuing the report, will notify the offender of the fact, indicating the rule infringed, its penalty and other consequences, if any, and also indicating that it may be complied with with the

provision of work for the benefit of the community, upon request addressed to the competent entity.

3. The offender must be notified to voluntarily pay the fine, if possible, when the offence is verified, mentioning this fact in the report.
4. A single report may be issued for different offences committed on the same occasion or related to each other, even if the perpetrators are different.
5. The reports of news drawn up under the terms of the previous number will be considered valid, at any stage of the process, until proven otherwise, with regard to the facts witnessed by the authority or inspection agent who ordered them drawn up or raised them.

#### **Article 78 (Seizures)**

The inspection agents mentioned in articles 74 and 75 must seize all means and instruments used to commit the offence.

#### **Article 79 (Voluntary payment of the fine)**

1. The report issued for the infringement of any of the rules contained in this regulation must be sent, within forty-eight hours, to the Ministry for the Coordination of Environmental Action, the Maritime Administrations and the Municipal Council, in accordance with the status of the inspector responsible for the fine, for the purposes of voluntary payment of the fine.
2. Without prejudice to the provisions of Article 84, the deadline for voluntary payment of the fine is 15 days, counted from the moment of notification.

#### **Article 80 Voluntary non-payment of the fine**

If no voluntary payment of the fine has been made within the period set out in this Regulation, the entities referred to in the previous article must send the notices, within ten days, to the judicial authorities, for execution, in accordance with criminal procedural legislation.

#### **Article 81 Record of offences**

1. The administrative authorities referred to in Article 74 must keep an updated record of the penalties they have applied in their respective areas of competence.
2. It is up to such entities to make efforts to create a common database containing an updated record of the offences committed, the penalties

applied, of the offenders involved and all other elements deemed necessary to achieve the purpose of this Regulation.

## **CHAPTER VII**

### **INFRACTIONS AND SANCTIONS**

#### **Article 82**

##### **General rules**

1. The offences provided for in Title III of this Regulation shall be punished with a fine, in accordance with Annex VII to this Regulation, or with alternative sanctions, without prejudice to other sanctions that may apply under the legislation in force.
2. The administrative liability provided for in this Regulation does not prevent offenders from being held criminally and civilly liable.
3. It is the responsibility of the Ministers of Finance, for the Coordination of Environmental Action and Transport and Communications, through a joint ministerial diploma, to update the values of the fines provided for in this law.

#### **Article 83**

##### **(Fracture of fines and alternative sanctions)**

1. If the offender does not have the means or economic conditions to pay the fine, he/she may request, in writing, to the authority that imposed the fine, payment in instalments or, instead, the performance of work for the benefit of the community, namely:
  - a) In the restoration or ecological compensation of damage caused to the environment;
  - b) Carrying out cleaning work on the coast and banks of lakes, lagoons and rivers;
  - c) In carrying out activities to contain coastal, lake and river erosion;
  - d) In assisting prevention and inspection activities;
  - e) And others that may prove to be appropriate to the specific case.
2. It is up to the provincial director for the coordination of environmental action, maritime administrators or president of the municipal council, as applicable, to issue, by means of a ruling, a decision that establishes the type, time and conditions of work in favor of the community, based on criteria of justice and equity.
3. The decision referred to in the previous number must be confirmed by the judicial court of the place where the offence was committed.
4. In the event of illegality or disproportionality of the decision given by the entities referred to in paragraph 2 of this article, the court shall decide on the changes or corrections it deems appropriate.
5. Community work shall be directly supervised by officials designated by the entities referred to in paragraph 2 of this article.

**Article 84**  
**Additional sanctions**

1. The application of the fines provided for in this Regulation results in the following additional penalties:
  - a) Reversion to the State, especially academic and research institutions, of all illegally exploited products;
  - b) Reversion to the State of the instruments used in the commission of the offence, when there is no need to pay the fine or comply with the alternative sanction and/or other legal obligations.
  - c) Seizure and cancellation of authorizations issued in the name of the offender;
  - d) Destruction of works or infrastructures;
  - e) Partial or total suspension of the activities causing the infringement;
  - f) Prohibition of new authorizations for a period of one year.
2. Vehicles or motor vessels returned to the State under the terms of the previous number will necessarily be channelled to reinforce the inspection services of the Provincial Directorate for the Coordination of Environmental Action, Maritime Administration or Municipal Council, as applicable.
3. If the offenders do not have a residence in Mozambique, all means used to commit the offence, namely the vehicles involved, hunting or fishing gear, among others, will be immediately seized until the fine is paid in full.

**Article 85**  
**Destination of fine amounts**

1. The amounts of fines for infringements of this Regulation will be allocated as follows:
  - a) 60% for INAMAR
  - b) 10% for the State budget;
  - c) 30% for the Environment Fund (FUNAB).

**CHAPTER VIII**  
**FINAL PROVISIONS**

**Article 86**  
**Complementary measures**

1. The Ministry for the Coordination of Environmental Action is responsible for adopting the regulatory measures necessary for the implementation of this regulation, except those expressly assigned to other entities.
2. In addition to the ministry referred to in the previous number, the Ministries of Public Works and Housing, Agriculture, Tourism and Fisheries are also responsible for carrying out the following activities:

actions deemed necessary to ensure broad dissemination of the main aspects contained in this Regulation.

3. Owners of tourist establishments located in areas covered by this Regulation or close to them are required to display, in visible locations, in their respective establishments, a copy of Annex VII to this Regulation, relating to the offences and respective sanctions, in addition to incurring the obligation to make every effort to raise awareness of the respective content among their respective customers.
4. In the event of non-compliance with the provisions of the previous number, they will incur a fine as provided for and sanctioned in the annex referred to in the previous number, and the report may be drawn up, in addition to the inspectors of the Ministry of Tourism, by any of the inspectors referred to in articles 74 and 75 of these Regulations.

## ANNEX I

### SUMMARY (FOR REFERENCE PURPOSES) OF THE RULES OF THE MARPOL 73/78 CONVENTION, REFERRED TO IN ARTICLE 2(2), RELATING TO DISCHARGES OF OIL AND HARMFUL LIQUID SUBSTANCES.

#### Part I: Hydrocarbons (MARPOL 73/78 Annex I)

For the purposes of Annex I of MARPOL 73/78, "Oil" means petroleum in any form, including crude oil, fuel oil, sludges, residues and refined products (other than petrochemicals subject to the provisions of Annex II of MARPOL 73/78) and "oil mixture" means a mixture with any hydrocarbon content.

#### Excerpts from the relevant provisions of Annex I of MARPOL 73/78:

##### Rule 9: Control of hydrocarbon discharges

1. Subject to the provisions of Regulations (...) and 11 of this Annex and paragraph 2 of this Regulation, the discharge into the sea of oil or oil mixtures by ships to which this Annex applies shall be prohibited unless all of the following conditions are met:
  - a) In the case of oil tankers, with the exception of that provided for in paragraph
    - (i) The ship is not in a special area;
    - (ii) The ship is more than 50 nautical miles from the nearest land;
    - (iii) The ship follows its route;
    - (iv) The instantaneous rate of discharge of hydrocarbons does not exceed 30 litres per nautical mile;
    - (v) The total quantity of oil discharged into the sea does not exceed, in the case of existing oil tankers, 1/15,000 of the total cargo from which the residues originate and, in the case of new oil tankers, 1/30,000 of the total cargo from which the residues originate; and
    - (vi) The ship has in operation an oil discharge monitoring equipment and a slop tank as prescribed by regulation 15 of this Annex.

(b) In the case of non-oil tankers of 400 gross tonnage or more, as regards the bilge water of machinery spaces, excluding the bilge water of cargo pump rooms, except where their effluents are mixed with residues of the oil cargo:

(i) The ship is not in a special area;

(ii) The ship follows its route;

(iii) The hydrocarbon content of the effluent, without dilution, does not exceed 15 parts per million; and

(iv) The ship has in operation the equipment [oil discharge monitor and oil filtration equipment] prescribed by regulation 16 of this Annex.

2. In the case of ships of less than 400 gross tonnage other than oil tankers and operating outside specified areas, the Administration [of the flag State] shall ensure that they are equipped, as far as is practicable and reasonable, with facilities to enable oil residues to be retained on board and discharged to reception facilities or into the sea in accordance with the requirements of point 1.b).

3. ....

4. The provisions of paragraph 1 shall not apply to the discharge of clean or segregated ballast or untreated oil mixtures which, without dilution, have an oil content not exceeding 15 ppm, provided that such mixtures do not originate from pump room bilges and do not contain residues of oil cargo.

5. No discharge into the sea shall contain chemicals or other substances in quantities or concentrations dangerous to the marine environment, nor shall any chemical or other substance be added for the purpose of concealing non-compliance with the discharge conditions specified in this Regulation.

6. Hydrocarbon residues which cannot be discharged into the sea in accordance with the provisions of points 1, 2 and 4 shall be retained on board or discharged to reception facilities.

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#### **Rule 11: Exceptions**

Rules 9 and (...) of this Annex shall not apply to:

(a) the discharge into the sea of oil or oil mixtures when necessary to ensure the safety of the ship or to save human life at sea; or

b) [Not applicable under this Regulation]<sup>11</sup>

(c) the discharge into the sea of substances containing hydrocarbons approved by the Administration [of the flag State], where such substances are used to combat specific pollution incidents with a view to minimising the damage resulting therefrom. Any such discharge shall be subject to the approval of the government having jurisdiction over the area where the discharge is intended to take place.

## **Part II: Noxious liquid substances (MARPOL 73/78 Annex II)**

### **Excerpts from the relevant provisions of Annex II of MARPOL 73/78:**

#### **Rule 3: Classification into categories and listing of harmful liquid substances**

1. For the purposes of the rules in this Annex, harmful liquid substances are divided into the following four categories:

the) **Category A**—Harmful liquid substances originating from tank cleaning or deballasting operations which, if discharged into the sea, pose a serious risk to marine resources or human health or seriously harm recreational areas or other legitimate uses of the sea and therefore justify the application of strict anti-pollution measures.

b) **Category B**—Harmful liquid substances originating from tank cleaning or deballasting operations which, if discharged into the sea, pose a risk to marine resources or human health or harm recreational areas or other legitimate uses of the sea and therefore justify the application of special measures against pollution.

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<sup>11</sup>As set out in Article 3(2), the exception provided for in Regulation 11(b) of Annex I to MARPOL 73/78 is not applicable in the context of the Regulation. The said paragraph states: “(b) The discharge into the sea of oil or oil mixtures as a result of damage to the ship or its equipment:

(i) provided that, after the occurrence of the damage or the detection of the discharge, all reasonable precautions have been taken to prevent or minimize such discharge; and

(ii) Unless the owner or master acted intentionally to cause the damage or negligently and knowingly that the damage was likely to occur; or”



w) **Category C**—Noxious liquid substances from tank cleaning or deballasting operations which, if discharged into the sea, pose little risk to marine resources or human health or cause little harm to recreational areas or other legitimate uses of the sea and therefore require special operating conditions.

d) **Category D**—Noxious liquid substances arising from tank cleaning or deballasting operations which, if discharged into the sea, pose a recognisable risk to marine resources or human health or cause very slight harm to recreational areas or other legitimate uses of the sea and therefore require some attention to operating conditions.

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[ Further guidelines for the classification of substances into categories and a list of classified substances are set out in Regulations 3, points 2 to 4, and 4 and the appendices to Annex II of MARPOL 73/78.]

#### **Rule 5: Discharge of harmful liquid substances**

##### **Substances of categories A, B and C outside special zones and substances of category D in all zones**

Subject to the provisions of [...] rule 6 of this Annex,

1. The discharge into the sea of substances provisionally classified as such or of ballast water, tank washing water or other residues or mixtures containing such substances shall be prohibited. If tanks containing such substances or mixtures are washed, the resulting residues shall be discharged to a reception facility until the concentration of the substance in the effluent received at that facility is equal to or less than 0.1% by mass and the tank is empty, with the exception of yellow or white phosphorus, for which the residual concentration shall be 0.01% by mass. Water subsequently introduced into the tank may be discharged into the sea provided that all of the following conditions are met:

(a) The ship follows its route at a speed of at least 7 knots in the case of self-propelled ships, or at least 4 knots in the case of non-self-propelled ships;

b) Discharge is carried out below the waterline, taking into account the location of seawater intakes; and

- c) The discharge is carried out at a distance of not less than 12 nautical miles from the nearest land and in waters of a depth of not less than 25 m.
2. The discharge into the sea of category B substances defined in regulation 3.1.b) of this Annex or of substances provisionally classified as such, or of ballast water, tank washing water or other wastes or mixtures containing such substances, except where all of the following conditions are met:
- (a) The ship follows its route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of non-self-propelled ships;
  - (b) The methods and arrangements for discharge have been approved by the [flag State] Administration. Such methods and arrangements shall be based on standards developed by [IMO] and shall ensure that the concentration and rate of discharge of the effluent are such that the concentration of the substance in the ship's wake does not exceed 1 ppm;
  - (c) The maximum quantity of cargo discharged from each tank and its pipes does not exceed the maximum quantity approved by the methods referred to in paragraph b), which shall in no case exceed the greater of the following quantities: 1 m<sup>3</sup> or 1/3000 of the tank capacity in cubic metres;
  - (d) Discharge is carried out below the waterline, taking into account the location of seawater intakes; and
  - (e) The discharge is carried out at a distance from the nearest land of not less than 12 nautical miles and in waters of a depth of not less than 12 nautical miles and in waters of a depth of not less than 25 m.
3. Discharge into the sea of category C substances defined in regulation 3.1.c) of this Annex or of substances provisionally classified as such, or of ballast water, tank washing water or other residues or mixtures containing such substances, except where all of the following conditions are met:
- (a) The ship follows its route at a speed of at least 7 knots in the case of self-propelled ships or at least 4 knots in the case of non-self-propelled ships.
  - (b) The methods and arrangements for discharge have been approved by the [flag State] Administration. Such methods and arrangements shall be based on standards developed by [IMO] and shall ensure that the concentration and rate of discharge of the effluent are such that the concentration of the substance in the ship's wake does not exceed 10 ppm;

- c) The maximum quantity of cargo discharged from each tank and its pipes does not exceed the maximum quantity approved by the methods referred to in paragraph b), which shall in no case exceed the greater of the following quantities: 3 m<sup>3</sup> or 1/1000 of the tank capacity in cubic metres;
  - d) Discharge is carried out below the waterline, taking into account the location of seawater intakes; and
  - e) The discharge is carried out at a distance of not less than 12 nautical miles from the nearest land and in waters of a depth of not less than 25 m.
4. Discharge into the sea of category D substances as defined in regulation 3.1.d) of this Annex or of substances provisionally classified as such, or of ballast water, tank washing water or other wastes or mixtures containing such substances, except where all of the following conditions are met:
- (a) The ship follows its route at a speed of at least 7 knots in the case of self-propelled ships, or at least 4 knots in the case of non-self-propelled ships;
  - b) The concentration of such mixtures does not exceed one part of the substance to 10 parts of water; and
  - c) The discharge is carried out at a distance of not less than 12 nautical miles from the nearest land.
5. Ventilation methods approved by the [flag State] Administration may be used to remove cargo residues from a tank. Such methods shall be based on standards developed by [IMO]. Any water subsequently introduced into the tank shall be considered as clean water and the provisions of points 1, 2, 3 and 4 shall not apply to it.
6. The discharge into the sea of substances not included in any category or provisionally classified or evaluated in accordance with regulation 4.1 of this Annex or of ballast water, tank washing water or other residues or mixtures containing such substances shall be prohibited.

**Substances of categories A, B and C in special areas [as defined in regulation 1 of Annex II of MARPOL 73/78]**

Subject to the provisions of paragraph 14 of this Regulation and Regulation 6 of this Annex.

7. Discharge into the sea of category A substances defined in regulation 3.1.a) of this Annex, or of substances provisionally classified as such, or of ballast water, tank washing water or other residues or mixtures containing such substances or mixtures. If tanks containing such substances or mixtures are washed, the resulting residues shall be discharged to a reception facility provided by the States bordering the special area in accordance with regulation 7 of this Annex until the concentration of the substance in the effluent received at that facility is equal to or less than 0.05% by mass and the tank is empty, with the exception of yellow or white phosphorus, for which the residual concentration shall be 0.005% by mass. Any water subsequently introduced into the tank may be discharged into the sea provided that all of the following conditions are met:
- (a) The ship follows its route at a speed of at least 7 knots in the case of self-propelled ships, or at least 4 knots in the case of non-self-propelled ships;
  - b) Discharge is carried out below the waterline, taking into account the location of seawater intakes; and
  - c) The discharge is carried out at a distance of not less than 12 nautical miles from the nearest land and in waters of a depth of not less than 25 m.
8. Discharge into the sea of category B substances as defined in regulation 3.1.b) of this Annex or of substances provisionally classified as such or of ballast water, tank washing water or other wastes or mixtures containing such substances, except where all of the following conditions are met:
- (a) The tank has been pre-cleaned in accordance with the method approved by the [Flag State] Administration and based on standards developed by [IMO] and the resulting residues discharged to a reception facility;
  - b) The ship follows its route at a speed of 7 knots in the case of self-propelled ships, or at least 4 knots in the case of non-self-propelled ships;
  - (c) The methods and arrangements for discharge and washing have been approved by the [Flag State] administration. Such methods and arrangements shall be based on standards developed by [IMO] and shall ensure that the concentration and rate of discharge of the effluent are such that the concentration of the substance in the ship's wake does not exceed 1 ppm;
  - d) Discharge is carried out below the waterline, taking into account the location of seawater intakes; and

- e) The discharge is carried out at a distance of not less than 12 nautical miles from the nearest land and in waters of a depth of not less than 25 m.
9. Discharge into the sea of category C substances as defined in regulation 3.1.c) of this Annex or of substances provisionally classified as such, or of ballast water, tank washing water or other residues or mixtures containing such substances, except where all of the following conditions are met:
- (a) The ship follows its route at a speed of 7 knots in the case of self-propelled ships or at least 4 knots in the case of non-self-propelled ships;
- (b) The methods and arrangements for discharge have been approved by the [Flag State] Administration. Such methods and arrangements shall be based on standards developed by [IMO] and shall ensure that the concentration and rate of discharge of the effluent are such that the concentration of the substance in the ship's wake does not exceed 1 ppm;
- c) The maximum quantity of cargo discharged from each tank and its pipes does not exceed the maximum quantity approved by the methods referred to in paragraph b), which shall in no case exceed the greater of the following quantities: 1 m<sup>3</sup> or 1/3000 of the tank capacity in cubic metres;
- d) Discharge is carried out below the waterline, taking into account the location of seawater intakes; and
- e) The discharge is carried out at a distance of not less than 12 nautical miles from the nearest land and in waters of a depth of not less than 25 m.
10. Ventilation methods approved by the [Flag State] Administration may be used to remove cargo residues from a tank. Such methods shall be based on standards developed by [IMO]. Any water subsequently introduced into the tank shall be considered as clean water and the provisions of points 7, 8 and 9 shall not apply to it.
11. The discharge into the sea of substances not included in any category or provisionally classified or evaluated in accordance with regulation 4.1 of this Annex or of ballast water, tank washing water or other residues or mixtures containing such substances shall be prohibited.
12. The provisions of this regulation do not prohibit a ship from retaining on board residues of a cargo of category B or C and discharging them into the sea outside a special area in accordance with the provisions of paragraph 2 or 3 respectively.

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## Rule 6: Exceptions

Regulation 5 of this Annex does not apply to:

- (a) the discharge into the sea of harmful liquid substances or mixtures containing such substances when necessary to ensure the safety of the ship or to save human life at sea; or
- b) [not applicable under the terms of the regulation]<sup>12</sup>
- (c) the discharge into the sea of noxious liquid substances or mixtures containing such substances approved by the Administration [of the flag State], where such substances or mixtures are used to combat specific pollution incidents with a view to minimising the damage resulting therefrom. Any such discharge shall be subject to the approval of the government having jurisdiction in the area where the discharge is intended to take place.

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<sup>12</sup>As set out in Article 3(2), the exception provided for in Regulation 6(b) of Annex II to MARPOL 73/78 is not applicable in the context of this Regulation. The said paragraph states:

"b) The discharge into the sea of harmful liquid substances or mixtures containing such substances as a result of damage to the ship or its equipment:

(i) provided that, after the occurrence of the damage or the detection of the discharge, all reasonable precautions have been taken to prevent or minimize such discharge; and

(ii) Unless the owner or master acted intentionally to cause the damage or negligently and knowingly that the damage was likely to occur; or"

## **ANNEX II**

### **NON-EXHAUSTIVE LIST OF IRREGULARITIES OR INFORMATION REFERRED TO IN THE REGULATION**

- (1) Any irregularities in respect of the oil record book or other relevant records or otherwise relating to potential pollution offences discovered in inspections as required by the Regulation;
- (2) Any irregularities with regard to the delivery of ship-generated waste or cargo residues or the notification thereof as required by the Regulation;
- (3) Any information provided by another Member State concerning potential pollution offences attributable to the ship, obtained in application of procedures as required by the Regulation; or
- (4) Any other information provided by persons involved in the operation of the vessel, including pilots, which indicates irregularities in respect of compliance with the obligations laid down in this Regulation.

## **ANNEX III**

### **REQUIREMENTS FOR PORT RECEPTION AND MANAGEMENT PLANS OF THE WASTE REFERRED TO IN ARTICLE 7**

The plans must cover all types of waste generated on ships and cargo residues from ships that normally call at the port and their preparation must take into account the size of the port and the type of ships that call at it.

The plans must contain the following elements:

- (a) an assessment of the need for port reception facilities, in light of the needs of ships that normally call at the port,
- b) a description of the type and capacity of the port reception facilities,
- c) a detailed description of the procedures for receiving and collecting ship-generated waste and cargo residues,
- d) a description of the fee regime,
- e) the procedures for reporting alleged deficiencies in port reception facilities,
- (f) ongoing consultation procedures with port users, waste handling companies, terminal operators and other interested parties,
  
- (g) the types and quantities of waste generated on ships and of cargo residues received and processed.

Plans may also include:

- (a) a summary of the relevant legislation and delivery formalities,
- b) the identification of the person or persons responsible for implementing the plan,
- c) a description of the pre-treatment equipment and processes that may be available at the port,
- d) a description of the methods of recording the use of the reception facilities,



(e) a description of the methods for recording the quantities of ship-generated waste and cargo residues received,

f) a description of the method of disposal of waste generated on ships and cargo residues,

Reception, collection, storage, treatment and disposal procedures should comply, in all respects, with an appropriate environmental management plan for the progressive reduction of the environmental impact of these activities.

Information to be made available to port users:

a) brief reference to the fundamental importance of the delivery of ship-generated waste and cargo residues,

b) location of the port reception facilities corresponding to each quay using diagrams/maps,

c) list of wastes generated on ships and of cargo residues normally processed,

d) list of contact persons, operators and proposed services,

e) description of delivery procedures,

f) description of the fee regime, and

g) procedures for reporting alleged shortcomings in port reception facilities.

## ANNEX IV

(A) The following substances, families and groups of substances are listed in no particular order of priority for the purposes of Article 43 of the Regulation. They have been chosen primarily on the basis of their toxicity, persistence, bioaccumulation:

- 1) Organo-halogenated compounds and substances that can give rise to such compounds in the marine environment.
  - 2) Organo-phosphorus compounds and substances that can give rise to such compounds in the marine environment.
  - 3) Organo-tannic compounds and substances that can give rise to such compounds in the marine environment.
  - 4) Mercury and mercury compounds.
  - 5) Cadmium and cadmium compounds.
  - 6) Used lubricating oils.
  - 7) Persistent synthetic materials that can float, sink or remain in suspension and that can interfere with any legitimate use of the sea.
  - 8) Substances that have been proven to have carcinogenic, teratogenic or mutagenic power in or through the marine environment.
  - 9) Radioactive substances, including waste, if their discharges do not comply with the principles of radio-protection defined by the competent international organizations taking into account the protection of the marine environment.
- B) This Annex does not apply to discharges containing the substances listed in Section A above, in quantities below the limits determined by the legislation in force on the subject, with the exception of those which are biologically harmless or which rapidly transform into biologically harmless substances.

## ANNEX V

(A) The substances, families or groups of substances or sources of pollution listed below in no particular order of priority for the purposes of Article 5 of this Regulation have been chosen mainly on the basis of criteria used in Annex IV but taking into account the fact that they are generally less harmful or are more easily rendered harmless by a natural process and therefore generally affect more limited coastal areas.

1. The following elements and their compounds:

- a) Zinc
- b) Copper
- c) Nickel
- d) Chromium
- e) Lead
- f) Selenium
- g) Arsenic
- h) Antimony
- i) Molybdenum
- j) Titanium
- k) Tin
- l) Barium
- m) Beryllium
- n) Boron
- o) Uranium
- p) Vanadium
- q) Cobalt
- r) Thallium
- s) Tellurium
- t) Silver

2. Biocides and their derivatives not covered by Annex IV.

3. Organosilicon compounds and substances that can give rise to such compounds in the marine environment, with the exception of those that are biologically harmless or that rapidly transform into biologically harmless substances.

4. Crude oil and hydrocarbons of all origins.

5. Cyanides and fluorides.

6. Detergents and other non-biodegradable surface-active substances.

7. Inorganic compounds of phosphorus and elemental phosphorus.

8. Pathogenic microorganisms.
  9. Thermal discharges.
  10. Substances that exert unfavourable influences either directly or indirectly on the oxygen content of the marine environment, in particular those that may give rise to eutrophication phenomena.
  11. Acidic or basic compounds whose composition and quantity are such that they can compromise the quality of marine waters.
  12. Substances which, although non-toxic in nature, may become harmful to the marine environment or affect any legitimate use of the sea due to the quantities discarded.
- B) The control and strict limitation of the discharge of the substances mentioned in section A above shall be applied in accordance with Annex III.

## ANNEX VI

With a view to granting an authorisation for the discharge of waste containing the substances referred to in Annex V or Section B of Annex IV to this Regulation, the following factors shall be taken into account, in particular and as appropriate:

### A. Characteristics and composition of the debris:

1. Type and importance of waste source (industrial process, for example)
2. Type of debris (origin, average composition)
3. Form of the waste (solid, liquid, pasty).
4. Total quantity (volume rejected per year, for example).
5. Type of rejection (permanent, intermittent, varying, seasonal, etc.).
6. Concentration of the main constituents, substances listed in Annex IV, substances listed in Annex V and other substances, as appropriate.
7. Physical, chemical and biochemical properties of the detritus.

### B. Characteristics of the waste constituents in terms of their harmfulness:

1. Persistence (physical, chemical and biological) in the marine environment.
2. Toxicity and other harmful effects.
3. Accumulation of biological matter or sediments.
4. Biochemical transformation that produces harmful compounds.
5. Adverse effects on oxygen content and balance.
6. Sensitivity to physical, chemical and biochemical transformations and interaction in the aquatic environment with other constituents of seawater that may produce biological or other effects that are harmful from the point of view of the uses listed in section E below.

C. Characteristics of the discharge site and the receiving aquatic environment

1. Hydrographic, meteorological, geological and topographic characteristics of the coastal zone.
2. Location and type of rejection (outfall, canal, water outlet, etc.) and situation in relation to other locations (such as recreational, spawning, culture and fishing areas, shellfish farming areas) and other rejections.
3. Initial dilution achieved at the point of discharge into the receiving aquatic environment.
4. Dispersion characteristics, such as the effect of currents, tides and wind on horizontal transport and vertical mixing.
5. Characteristics of the receiving water, in relation to the physical, chemical, biological and ecological conditions existing in the rejection zone.
6. Capacity of the receiving aquatic environment to accept rejected waste without adverse effects.

D. Availability of waste-related techniques.

Waste reduction and rejection methods should be chosen for both industrial effluents and domestic wastewater taking into account the existence and possibility of implementing:

- a) Alternative treatment processes;
- b) Methods of re-use or disposal;
- c) Discharge alternatives on the mainland;
- d) Small waste technologies.

E. Possible damage to marine ecosystems and seawater uses:

1. Effects on human health due to the incidence of pollution on:
  - a) Edible marine organisms;
  - b) bath water;
  - c) Aesthetics.

2. Effects on marine ecosystems, in particular on biological resources, endangered species and vulnerable habitats.
3. Effects on other legitimate uses of the sea.

**ANNEX VII**  
**VIOLATIONS OF TITLE III OF THIS REGULATION**

<b>Article</b>	<b>Infringement</b>	<b>Sanction</b>
Article 54	Circulation of motorized land vehicles without a license or against the conditions of the license	20,000,00 Mtn
	Parking vehicles outside the locations indicated by the competent authorities	2,000,00 Mtn
Article 55	Practicing water sports without a license or against the license conditions	20,000,00 Mtn
Article 56	Carrying out competitive sporting events or cultural events without a license or against the license conditions	10,000,00 Mtn
	Practice of non-competitive sporting events outside the locations defined by the competent entities	5,000,00 Mtn
Article 57	Docking, launching, circulation and permanence of vessels on beaches reserved for bathers without a license or against the license conditions	10,000.00 Mtn
Article 58	Walking and staying of large domestic animals on beaches reserved for bathers or, outside these, without the necessary license or against the conditions of the same license	10,000,00 Mtn
	Walking and keeping small and medium-sized pets on beaches reserved for bathers without taking the necessary precautions	1,000,00 Mtn
Article 59	Sport and recreational fishing on beaches reserved for bathers	5,000,00 Mtn
	Fishing for ornamental fish	10,000,00 Mtn
Article 60	Collection of ornamental or collectible shells for economic purposes without a license or against the provisions of the license	10,000,00 Mtn



Article 61	Carrying out any activities that damage or may damage corals or coral reefs	10,000,00 Mtn
	Fishing, collection, acquisition, transportation, handling, processing, storage, marketing and coral export	20,000,00 Mtn
Article 62	Collection, slaughter, exploitation, transportation, storage, commercialization, export of native flora species outside the cases permitted by law	20,000,00 Mtn
Article 63	Introduction of new species into the areas covered by this regulation	20,000,00 Mtn
Article 64	Hunting, the practice of any activity that may disturb the normal development of sea turtles, including the destruction of ecosystems and habitats, and the capture or destruction of their eggs	50,000,00 Mtn
Article 65	Carrying out any activity on wetlands contrary to the provisions of this Regulation	20,000,00 Mtn
Article 67	Construction of works and other infrastructures contrary to the provisions of this regulation	50,000,00 Mtn
	Implementation of works and other infrastructures that, due to their size, volume, architecture, aesthetics, characteristics, color or location, cause an impact on the pre-existing landscape	50,000.00 Mtn
Article 68	Prevent any citizen from having free access to beaches	20,000,00 Mtn
	Construction of access roads contrary to the provisions of this Regulation	20,000,00 Mtn
Article 52	Disposal of waste or used materials outside of the appropriate receptacles	2,000,00 Mtn
	Practice of open defecation in the areas covered by this regulation	200,00 Mtn
	Installation of scrap, garbage and nitrate bins, landfills, construction materials and toxic products	50,000,00 Mtn
Article 86	Failure to post in a visible place by the owners of	20,000,00 Mtn

	tourist enterprises, a copy of this table	
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