

SCHEDULE 1

Regulations 5(1)(a) and (4) and 6(4)

Initial determination of likely effects on European sites

1. The harbour authority must—

- (a) determine, and
- (b) provide to the Secretary of State a written statement with reasons stating,

whether the cargo transfers to be carried out under the requested oil transfer licence are likely to have a significant effect on any European site, either individually or in combination with other plans or projects.

2.—(1) If the harbour authority determines that the cargo transfers are not likely to have a significant effect on any European site the Secretary of State must, on receipt of the harbour authority's application, review that determination in the light of the environmental statement and any further information provided.

(2) If, following such review, the Secretary of State determines that the cargo transfers are likely to have a significant effect on any European site, the Secretary of State must give notice to the harbour authority to that effect.

3.—(1) If the harbour authority or the Secretary of State has determined that the cargo transfers are likely to have a significant effect on any European site, the procedure set out in Schedule 2 shall be modified as follows.

(2) Having considered the environmental statement provided in accordance with paragraph 1(1)(c) of Schedule 2, the Secretary of State must make an appropriate assessment of the implications of the proposed cargo transfers for the European site, in view of the conservation objectives of the site, for the purposes of Article 5 of the Habitats Directive.

(3) Before the Secretary of State may grant an oil transfer licence without having concluded that the proposed cargo transfers will not adversely affect a European site, the Secretary of State must be satisfied that—

- (a) there is no appropriate alternative to granting the oil transfer licence in the proposed terms, and
- (b) the oil transfer licence must be granted in view of imperative reasons of overriding public interest which, subject to sub-paragraph (4), may be of a social or economic nature.

(4) Where the European site referred to in sub-paragraph (3) hosts a priority natural habitat type or a priority species as defined in Article 1 of the Habitats Directive, the reasons referred to in that sub-paragraph must be either—

- (i) reasons relating to human health, public safety or beneficial consequences of primary importance to the environment; or
- (ii) reasons which are, in the opinion of the European Commission, imperative reasons of overriding public interest,

and the Secretary of State may seek the opinion of the European Commission in connection with sub-paragraph (4)(ii).

(5) Where the Secretary of State considers that any adverse effects of the proposed cargo transfers on the integrity of a European site would be avoided by granting an oil transfer licence subject to conditions, the Secretary of State may not grant the licence except subject to those conditions.

(6) If, in spite of a negative assessment of the environmental implications for the European site and in the absence of alternative solutions, the Secretary of State decides to grant the oil transfer licence for imperative reasons of overriding public interest, the Secretary of State must—

Status: *This is the original version (as it was originally made).*

- (a) ensure that all compensatory measures necessary to ensure that the overall coherence of Natura 2000 are taken; and
- (b) inform the European Commission of the compensatory measures adopted.