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#### COVER NOTE

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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

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Subject:	COMMISSION STAFF WORKING DOCUMENT EXECUTIVE SUMMARY Maritime Transport Fitness Check of the legislation on flag State responsibilities, accident investigation, port State control, the vessel traffic monitoring and information system and, the reporting formalities for ships arriving in and/or departing from ports of Member States

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Delegations will find attached document SWD(2018) 229 final.

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## COMMISSION STAFF WORKING DOCUMENT

### EXECUTIVE SUMMARY

**Maritime Transport Fitness Check of the legislation on flag State responsibilities, accident investigation, port State control, the vessel traffic monitoring and information system and, the reporting formalities for ships arriving in and/or departing from ports of Member States**

{SWD(2018) 228 final}

## EXECUTIVE SUMMARY

The Maritime Transport fitness check aims to provide a comprehensive evaluation of key elements of EU legislation supporting maritime safety, pollution prevention and the efficiency of maritime traffic and transport. It covers the three pillars of maritime safety and pollution prevention: the responsibilities of Member States as flag States, port States and coastal States. It also encompasses EU legislation that supports the competitiveness of short sea shipping (compared to other modes of transport) and the achievement of a European Maritime Transport Space without Barriers.

The fitness check, conducted under the European Commission's Regulatory Fitness and Performance Programme REFIT, looked more closely at the interaction between the concerned five key directives and their implementation. It assessed whether and how the objectives of competitiveness and quality shipping can be better supported and mutually reinforced, while also considering the international rules and conventions on which they are based and that they enforce.

The fitness check is accompanied by individual evaluations of the directives, which contain additional detailed information.

The maritime safety situation today is one with very few fatalities and very few serious incidents. However, a single maritime accident can have a disproportionate effect and there is no room for complacency. Another general feature today is the level-playing field achieved between Member States through EU-led uniform implementation and enforcement of international conventions and rules related to flag, port and coastal State responsibilities and obligations.

The situation contrasts with the reporting formalities and administrative procedures for maritime transport that are not harmonised at EU level. This imposes a significant burden on shipping operators and hamper the efficiency of maritime transport and its competitiveness compared to other modes of transport.

The fitness check builds on the evidence that was gathered through the individual evaluations of the directives. The latter were supported by external studies and extensive stakeholders' consultations. There were limitations regarding for example the representativeness of some stakeholders' feedback. Furthermore the analysis is mainly of a qualitative character. It is widely acknowledged that maritime statistics and data are scarce, incomplete and not always comparable. This is another limitation of the fitness check but mitigation measures have been taken including the use of all that is available from European Maritime Safety Agency and from other sources.

It should furthermore be emphasised that linking specific impacts to the set of legislation covered by the fitness check is complicated. Maritime safety and efficiency are influenced not only by the five concerned directives but also by a comprehensive framework of international, EU and national legislation. Importantly as well, they depend on a number of external factors such as cyclical economic factors influencing the market and operation conditions as well as business, investment and operating decisions of shipowners. The conclusions drawn have to be seen in front of these caveats.

Keeping in mind the methodological limitations encountered for the assessment, the fitness check concludes that overall, the set of legislation reviewed has contributed to achieve the objectives of safe, secure and sustainable maritime transport. The added-value of EU intervention compared to a situation where international obligations are incorporated into national law only is the enforcement and harmonised implementation of rules as well as the cooperation of all EU Member States in finding together sustainable solutions at international, EU or regional level. This provides for a high and uniform level of safety and a level-playing field between Member States. A key factor making the EU layer relevant, effective, efficient and of added-value is the support offered both to the Member States and the Commission by the European Maritime Safety Agency.

With regard to the internal and external coherence of the overall set up, the fitness check demonstrates the relevance of continued support to Member States in fulfilling international, EU and national obligations incumbent on them. The analysis has highlighted a need to rebalance the overall legislative set up towards a more preventive approach, notably by reinforcing the EU layer for the first line of defence that is the responsibilities of Member States as flag State. An alignment of the Flag State Directive to the revised relevant international rules is necessary.

Regarding the Port State Control, Accident Investigation and Vessel Traffic Monitoring and Information System Directives, the situation today points to some room for gradual improvements through incremental changes.

For the Reporting Formalities Directive, there are major shortcomings in relation to the current inefficient port call reporting environment for maritime transport operators. The main problem is the lack of harmonisation of the maritime National Single Windows and the overall lack of EU-level harmonisation of all reporting required by a ship calling at a port. Today, each National Single Window looks different. Data formats are different, reporting procedures are different and the scope of reporting through each National Single Window differs. The non-harmonised reporting environment makes reporting a very burdensome and time-consuming task for shipping operators. These shortcomings will be addressed in a revision of the Directive as part of the Commission Work Programme for 2018.

Overall, the fitness check recommends to:

- Maintain the EU layer of legislation and continue to build on European Maritime Safety Agency capacity. Incremental changes can be made with no need for legislative changes.
- Explore with Member States the avenues for a better use of resources at national and EU level, taking a holistic view regarding the various inspection and survey obligations, building on the role and support provided by European Maritime Safety Agency and exploiting the efficiency gains offered by digitalisation and information sharing.
- Take steps for the necessary simplification and harmonisation of the reporting formalities as a matter of priority. The fitness check concludes very clearly that this is the major simplification step needed in the reviewed policy area and the number one priority for the years to come.

- Promote digitalisation and pursue investments in European Maritime Safety Agency digital systems, applications and databases to support enforcement, facilitate implementation and reduce burden on maritime administrations and shipping operators.

While maritime safety is crucial, the related regulatory framework should support the conditions under which the maritime industry can thrive and remain competitive on the global market. This includes the integration of new approaches and emerging technologies. An avenue worth exploring is the development of risk-based approaches with the support of European Maritime Safety Agency systems, to promote the best use, possibly sharing or pooling, of technical resources in order to avoid shortages in expertise and ease the burden on quality operators.

Such a pro-active approach on safety, security and pollution prevention would support the competitiveness of the sector without losing focus on enforcement and quality shipping. Coupled with the simplification of reporting formalities, this has the potential to achieve a safe, secure and sustainable European Maritime Transport Space without Barriers.