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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	1 June 2023
To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	SEC (2023) 201 final
Subject:	REGULATORY SCRUTINY BOARD OPINION Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector

Delegations will find attached document SEC (2023) 201 final.

Encl.: SEC (2023) 201 final

EUROPEAN COMMISSION

Brussels, 29.4.2022
SEC(2023) 201 final

REGULATORY SCRUTINY BOARD OPINION

Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector

{COM(2023) 270 final}
{SWD(2023) 145 final} {SWD(2023) 146 final}

EUROPEAN COMMISSION
Regulatory Scrutiny Board

Brussels,
RSB

Opinion

Title: **Impact assessment / Maritime Accident Investigation**

Overall opinion: POSITIVE

(A) Policy context

In order to contribute to the safety of crew, vessels and the environment, the Maritime Accident Investigation Directive aims to ensure that relevant accidents are reported, investigated and that lessons can be drawn to prevent future occurrences. The investigations are distinct from those of an administrative or criminal nature that seek to determine or assign liability.

The initiative works closely with the Directives on port state control and on flag states towards maritime safety. It transposes international rules and aims to establish a harmonised EU-wide approach.

Building on the shortcomings identified in a dedicated evaluation and the Maritime Fitness Check, the Commission is working on revising all three Directives. This is also in the context of the EU zero pollution ambitions as announced in the European Green Deal.

(B) Summary of findings

The Board notes the additional information provided in advance of the meeting and commitments to make changes to the report.

The Board gives a positive opinion. The Board also considers that the report should further improve with respect to the following aspects:

(1) The report is not sufficiently clear about how well the instrument currently works, particularly to what extent and through which mechanisms investigations lead to avoided accidents and pollution.

(2) The grouping of measures into options is not sufficiently well explained. Some elements considered in the analysis of options do not clearly link to the problem description.

(3) The limitations of estimates used to underpin the analysis are not sufficiently highlighted, particularly the estimates of benefits and the expected costs for SMEs of including smaller fishing vessels.

This opinion concerns a draft impact assessment which may differ from the final version.

(C) What to improve

(1) The report should better explain the effectiveness of the instrument and to what extent and through which mechanisms investigations lead to avoided accidents and pollution. It should discuss whether it is possible to counter the scarcity of investigative resources by better focussing investigations, instead of increasing their number.

(2) The report should clarify how it grouped the measures into options. It should consider whether combining different levels of ambitions for the various objectives could lead to a better outcome. The report should clarify how measures on GDPR and the introduction of a quality management system link to problems that the initiative aims to tackle.

(3) The report should include more detailed explanations on how the estimates were calculated, including any sensitivity analysis carried out. The report should be explicit about the reasons for the limited quantified costs for SMEs. It should also underline uncertainties related to the benefits and acknowledge the risk that the benefits may not materialise as expected. It should further explain how efficiency in investigations is understood and used in the analysis.

(4) The report needs to justify better the proportionality of including smaller fishing vessels in the scope of the initiative. The report should clarify how this will work in the context of national authorities having the choice as to when to investigate beyond the very serious accidents. It should also set out how maritime accident investigations could be coordinated with police and other investigations in the most serious cases to minimise the potential loss of earnings for SME operators. It should clarify whether the additional costs expected for the European Maritime Safety Agency are covered by existing budgetary commitments.

(5) The report needs to be explicit about how success will be measured and which indicators will be monitored to this end.

The Board notes the estimated costs and benefits of the preferred option(s) in this initiative, as summarised in the attached quantification tables.

Some more technical comments have been sent directly to the author DG.

(D) Conclusion

The DG must take these recommendations into account before launching the interservice consultation.

Full title	Proposal for a directive amending Directive 2009/18/EC on maritime accident investigation
Reference number	PLAN/2019/5433
Submitted to RSB on	30 March 2022
Date of RSB meeting	27 April 2022

ANNEX – Quantification tables extracted from the draft impact assessment report

The following tables contain information on the costs and benefits of the initiative on which the Board has given its opinion, as presented above.

If the draft report has been revised in line with the Board's recommendations, the content of these tables may be different from those in the final version of the impact assessment report, as published by the Commission.

I. Overview of Benefits (total for all provisions) – Preferred Option (Policy option C)		
Description	***Amount***	***Comments***
Direct benefits		
Improvement in the functioning of the internal market		The initiative will ensure that Accident Investigation Bodies investigate similar accidents in the same way, to improve the functioning of the internal market and to ensure an appropriate safety net across the Union to protect life and the marine environment. EU action ensures a level playing field for shipowners, ports and between Member States.
Indirect benefits		
Reduction of external costs related to accidents relative to the baseline (i.e. present value over 2022-2050)	EUR 132.6 to 229.28 million	Indirect benefit to ships' crews, in particular those of small fishing vessels, port workers and passengers of maritime vessels, and to society at large, due to the lives saved and injuries avoided. Part of completed investigations give rise to recommendations or define actions to prevent similar accidents from occurring in the future. These are projected to result in 28 to 48 lives saved and 219 to 379 injuries avoided over 2025-2050 relative to the baseline. The reduction of external costs related to accidents, due to the lives saved and injuries avoided, is estimated at EUR 132.6 to 229.28 million relative to the baseline (i.e. present value over 2022-2050).
Cost savings for vessels operators relative to the baseline (i.e. present value over 2022-2050)	EUR 5.68 to 9.41 million	Indirect impacts for vessels' owners/ operators, in particular for small fishing vessels. Cost savings in terms of avoided vessels lost are estimated at EUR 5.68 to 9.41 million relative to the baseline (18-

		31 avoided vessels lost).
Reduction in the bunker fuel lost at sea, relative to the baseline over 2025-2050 (in tonnes)	101 to 176 tonnes	Indirect benefit to society at large. Preventing similar accidents from occuring in the future is projected to avoid 101 to 176 tonnes of bunker fuel lost at sea relative to the baseline. This is expected to have a positive impact on the quality of marine water and biodiversity.
Administrative cost savings related to the 'one in, one out' approach		
No costs savings related to the 'one in, one out' approach have been identified	-	-

II. Overview of costs – Preferred option (Policy option C)						
	Citizens/Consumers		**Businesses**		**Administrations**	
	One-off	**Recurrent**	**One-off**	**Recurrent**	**One-off**	**Recurrent**
Direct adjustment costs for Accident Investigation Bodies (AIBs) and EMSA, relative to the baseline (i.e. present value over 2022-2050)	-	-	-	-	**For AIBs**: one-off costs of EUR 0.3 million for setting up the quality management system (QMS)	**For AIBs**: EUR 11.66 to 141.23 million, of which EUR 9.59 to 139.16 million additional investigation costs and EUR 2.07 million for QMS **For EMSA**: EUR 31.88 million
Direct administrative costs for Accident Investigation Bodies (AIBs), relative to the baseline (i.e. present value over 2022-2050)	-	-	-	-	-	EUR 0.06 million
Direct enforcement costs for ship	-	-	-	EUR 0.29 to 0.7 million	-	-

owners/operators, relative to the baseline (i.e. present value over 2022-2050)							
Indirect costs							
Costs related to the 'one in, one out' approach							
Total	Direct adjustment costs	-	-	-	-		
	Indirect adjustment costs	-	-	-	-		
	Administrative costs (for offsetting)	-	-	-	-		