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From: Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director

To: Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union

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Subject: COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT
Accompanying the document 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 SWD(2023) 146 final.

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COMMISSION STAFF WORKING DOCUMENT
EXECUTIVE SUMMARY OF THE IMPACT ASSESSMENT

Accompanying the document

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} - {SEC(2023) 201 final} - {SWD(2023) 145 final}

Executive Summary Sheet

Impact assessment on a Proposal for a Revision of Directive 2009/18/EC establishing the fundamental principles governing the investigation of accidents in the maritime transport sector

A. Need for action

What is the problem and why is it a problem at EU level?

Directive 2009/18/EC sets out the EU regime on the investigation of accidents in the maritime transport sector. The Directive incorporates the principles of the United Nations Convention of the Law of the Sea as well as the relevant International Maritime Organization (IMO) code into EU law. The main purpose of the Directive is to improve maritime safety by harmonising technical investigations and lessons learnt after accidents at sea.

The Directive was the subject of an ex-post evaluation and maritime fitness check (alongside other pieces of EU legislation) in 2018. A certain number of issues have been identified as being problematic. (1) The Directive as currently formulated does not provide for the investigation of accidents involving fishing vessels of less than 15 metres length. (2) Unclear definitions, vague wording as well as lack of precision in some provisions of the text create confusion (3) developments in the relevant international regulatory environment (4) some accidents are going unreported or are not being investigated because the accident investigation bodies (AIBs) lack adequate resources and expertise (5) new developments and/or technologies that may arise in the greening of maritime transport or the use of autonomous ships will necessarily imply new challenges for AIBs.

Absent EU action, EU AIBs will work in an uncoordinated and non-harmonised way.

What should be achieved?

This initiative seeks to ensure and improve on the high level of maritime safety and pollution protection across the Union.

What is the value added of action at the EU level (subsidiarity)?

Shipping as an international business operates in different EU and international waters and is regulated at the global as well as regional and national instances, it has by nature a strong cross-border dimension.

B. Solutions

What are the various options to achieve objectives? Is there a preferred option or not? If not, why?

Three policy options (PO) have been developed. The preferred PO is PO C. This option partially brings certain types of accidents involving smaller fishing vessels (less than 15 metres) within the scope of the Directive. It allows for enhanced European Maritime Safety Agency (EMSA) operational support to AIBs. It aligns the Directive with the most up to date IMO provisions and also requires that Accident Investigation Bodies have a certified quality management system in place.

What are different stakeholders' views? Who supports which option?

The preferred policy option (PO C) is supported by the fishing industry as accidents involving larger fishing vessels are already within the scope of the Directive. There are mixed opinions among Accident Investigation Bodies as to whether the scope should be extended to smaller fishing vessels. PO C however does not envisage that all very serious marine casualties involving smaller fishing vessels have to be investigated but rather that AIBs should carry out a preliminary assessment to determine if a safety investigation should be carried out.

C. Impacts of the preferred option

What are the benefits of the preferred option (if any, otherwise of main ones)?

Societal impacts are mainly assessed in terms of impacts of the policy options on maritime safety (in terms of lives saved and injuries avoided, working conditions and environmental protection over the period 2025-2050. PO C is projected to result in 28 to 48 lives saved and 219 to 379 injuries avoided. This is mainly due to the extension of the scope of the Directive to very serious accidents involving fishing vessels below 15 meters. The reduction of external costs is estimated at EUR 132.6 to 229.28 million and prevent 101 to 176 tonnes of bunker fuel being lost at sea. In addition, **indirect impacts for vessels' owners/operators**, the cost savings are projected at EUR 5.68 to 9.41 million. It should be noted however that because the impacts of the Directive on safety are indirect, through the safety recommendations and their follow-up, there is high uncertainty regarding the estimates.

What are the costs of the preferred option (if any, otherwise of main ones)?
The most significant additional costs will fall on AIBs with an increased workload foreseen in PO C due to the higher number of investigations. In total, costs are estimated at EUR 11.97 to 141.53 million. In addition, the increased assistance from EMSA to AIBs is estimated at EUR 31.88 million. Enforcement costs for the industry (vessel owners/operators) are estimated at EUR 0.29 to 0.7 million. Costs impacts for consumers have not proved possible to quantify but they are expected to be negligible.
What are the impacts on SMEs and competitiveness?
The proposed extension of the Directive to very serious marine casualties involving fishing vessels below 15 meters in PO C is 'relevant' for SMEs. Enforcement costs for the industry, mostly SMEs, are estimated at EUR 0.29 to 0.7 million. At the same time, the benefit of the extension of the scope is estimated at EUR 5.68 to 9.41 million due to the avoidance of 18-31 vessels being sunk.
Will there be significant impacts on national budgets and administrations?
The costs for AIBs are estimated at EUR 11.97 to 141.53 million.
Will there be other significant impacts?
As the same high safety level will be preserved across the Union, there will be positive impact on the internal market and competitiveness
Proportionality
The policy option does not go beyond what is necessary to reach the overall policy objectives.
D. Follow up
When will the policy be reviewed?
The policy will be reviewed allowing for an adequate period of time after the proposal's adoption for measures to be effective and to have generated impacts. The Commission/EMSA will continue monitoring the database of accidents managed by EMSA to verify that investigations are being carried out in a timely and effective manner and that reports are uploaded. EMSA will continue to carry out visits to AIBs leading to horizontal analyses.