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### WORKING PAPER

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#### **CONTRIBUTION**

From:	General Secretariat of the Council
To:	Working Party on Shipping
N° Cion doc.:	ST 9051/18 + ADD 1-3
Subject:	Proposal for a Regulation of the European Parliament and of the Council establishing a European Maritime Single Window environment and repealing Directive 2010/65/EU - Comments by France

Delegations will find attached comments by France on the above proposal.

## FR Working Paper

French proposal regarding the regulation establishing a European Maritime Single Window environment

### Article 1 subject matter and scope

France proposes to add the following sentence :

« *This Regulation establishes a framework for a harmonised and interoperable European Maritime Single Window environment ('EMSWe'), based on National Single Windows, in order to facilitate electronic transmission of information in relation to reporting obligations for ships arriving and staying in and departing from a Union port. **This regulation shall apply to all ships arriving, staying in or departing from a Union port and subject to reporting obligations with the exception of pleasure yachts and pleasure craft with a length of less than 45 meters coming from or departing to a port situated in a Member State** ».*

Justification :

All merchants' ships have to fulfill reporting obligations. Consequently, it is not difficult to enforce the National Single Window requirements, the electronic transmission, to these ships. But for pleasure ships, the reporting obligations may change depending on the scope of the different underlying Union acts. It is necessary to review different legal acts to know whether a pleasure ship should provide information to the National Single Windows. In line with this new regulation's overall objective to facilitate reporting for the maritime industry, the text should at least state that pleasure ships are concerned by the electronic transmission. It should be noted that this new proposal doesn't change the substance of reporting obligations.

### Article 2 definition (5)

France proposes to change the definition of 'declarant' :

« 'declarant' means ~~the operator of the ship or any other natural or legal person subject to the reporting obligations~~ **the ship data provider organization (the master or any other person duly authorised by the operator of the ship). That ship data provider organization may identify cargo data provider organizations, which are allowed to complement reporting obligations. Each cargo data provider organization will only be allowed to view and update its own information** ".

Justification :

Because the National Single Windows will include new customs formalities, we should define more precisely who will be allowed to view and update the reporting obligations related to a ship call.

### Article 7 - Paragraph 2 (c)

France proposes to change the only-once principle regarding the re-use of information between the port of departure and the port of arrival.

« 2. The Member States shall ensure that: [...]

(c) reporting information provided at departure from a port in the Union is **made available** at arrival to the next port **of call** in the Union, provided that the ship has not called to a port outside of the Union during the voyage. This point shall not apply to information received pursuant to Regulation (EU) No 952/2013, unless such possibility is provided for in that Regulation;

Justification :

Member States should not be forbidden to request again information provided at a previous port. Indeed reporting obligations are highly important at arrival for the management of the port call and for the safety and the security of port operations. In case of lack of information or problems of communication between the port of departure and the port of arrival or any event related to the data quality and integrity, Member States should be allowed to request any necessary information.

Besides, declarants should still play an active role in the declaration process to ensure declarant's liability about the accuracy and the completeness of the information provided. In the future implementing acts, information should not be automatically re-used without a review and an approval of the declarant.

#### **Article 9**

France proposes to add the following paragraph :

**«3a. Access to the National Single Windows in different Member States for the declarants registered in the EMSWe user and access management system shall be managed and authorised by the national authority responsible for the user management of declarants. ».**

And to modify this one :

*« 4. The Commission shall adopt, by means of implementing acts, the technical specifications, standards and procedures for setting up of the instrument referred to in paragraph 1 for collecting, storing and provision of user credentials **and the procedure for registering new users and modifying existing accounts of the user authentication instrument.** Those implementing acts shall be adopted in accordance with the advisory procedure referred to in Article 19(2). »*

Justification :

Declarants registered in a Member State should not have automatically access to the National Single Windows of the other Member States because of security issues and because Member states should be aware of any new declarant who will submit reporting obligations.

Besides, the future implementing acts regarding this new user and access management system should include a common procedure concerning the management, by every national authority, of new and existing accounts.

#### **Articles 10, 11 and 12**

France proposes to add this sentence in articles 10, 11 et 12 :

**“This database should be made available to port community systems”**

Justification :

The 3 future databases (ship, location and hazmat) should be made available to port community systems because these systems are used by declarants to submit their reporting formalities. These database should ensure a harmonised re-use of reporting information between EU Member States. Consequently, all reporting means should have access to these information sources to guarantee true harmonisation of all reporting interfaces.

#### **Article 14**

France proposes the following changes:

*« In order to facilitate the timely implementation of this Regulation, the Commission shall adopt, following appropriate expert and **Member States** consultations, a multi-annual implementation plan (MIP) revised on a yearly basis which shall provide:*

*(a) development plan for development and updating of the reporting interface module foreseen within the following 18 months and **the subsequent changes expected to be conducted in the National Single Windows** »*

Justification :

The involvement of the Member States in the development of the reporting interface module is necessary to ensure the implementation of the new versions within the deadlines

Furthermore, Member States need to plan and budget the futures changes of their National Single Windows. That's why, the development plan should be sufficiently detailed and identify the impacts of the new versions of the module on the National Single Windows and the expected developments.

#### **Article 21**

France proposes the following changes:

*« It shall apply from [OP- insert four years after entry into force of this Regulation] **or one year after the adoption of all the delegated and implementing acts planned in the regulation, whichever date is the latest.** »*

Justification :

The application of this regulation depends on a high number of delegated and implementing acts which are very important because they will resolve many technical issues not defined in the regulation.

Member States won't be able to apply the regulation as long as the European Commission has not developed and made available all the ICT tools planned in the regulation. That's why the date of application should be subject to the achievement of the work to be performed by the European Commission.