



EUROPEAN COMMISSION  
Regulatory Scrutiny Board

Brussels,  
Ares(2018)

## **Opinion**

### **Title: Fitness Check / Maritime Transport Legislation**

(version of 15 December 2017)\*

### **Overall opinion: POSITIVE**

#### **(A) Context**

In 2009, the EU acted to make maritime transport safer, cleaner, cheaper and more reliable. The EU integrated International Maritime Organization (IMO) obligations into Union law. This serves to harmonise implementation and help enforcement.

The Fitness Check (FC) examines how the maritime legislative framework is working. It builds on four separate evaluations. These review responsibilities of the Member States as flag, port and coastal states, as well as the functioning of maritime reporting and information systems.

The FC does not cover all recent EU legislation in this area.

#### **(B) Main considerations**

**The Board acknowledges the effort put into the preparation of the FC reflected in prior work on separate evaluations for individual legislative acts.**

**The Board gives a positive opinion, but considers that the report could be improved with respect to the following key aspects:**

- (1) The restricted scope of the FC seems to limit its quality. Some problem drivers belong to other parts of maritime legislation.**
- (2) It is not clear throughout the report that its focus is the enforcement of IMO regulations.**
- (3) The positive conclusions of the FC are not fully supported by the evidence. It is not clear whether the EU framework is effective and efficient.**
- (4) The REFIT simplification dimension is not brought out well in the report.**
- (5) The cost burden on shipping operators is not sufficiently analysed.**

\* Note that this opinion concerns a draft evaluation report which may differ from the one finalised.

### **(C) Further considerations and recommendations**

(1) Given the wide range of EU maritime transport legislation, the FC needs to substantiate better its selection of legislative acts to evaluate. This could be done, on the one hand, by reporting on the upcoming changes in international rules by IMO, and on the other hand by recalling other related EU initiatives in the field of maritime transport. To establish the logic behind the timing of the FC and subsequent policy initiatives, the report could also clarify whether EU policies only aim to enforce IMO regulations, whether EU policies also set standards for IMO, and if so, to what extent EU standard-setting and enforcement have mutually supported each other.

(2) The report presents limited evidence. It largely relies on stakeholder consultations. The evidence base needs further qualifications with respect to representativeness and robustness. If the report cannot point to more hard data, it might at least present more anecdotal evidence. To check on overall effectiveness, the report could compare high-level outcome indicators for the EU to those of comparable IMO members. It could showcase how the quality of the fleet under EU flags has improved in comparison with the rest of the world since the introduction of the EU framework in 2009.

(3) Given the limited availability and quality of the presented evidence, the report should bring more balance to its conclusions. Firstly, the overall conclusions should reconcile with conclusions on individual Directives (for instance on the lack of cost-efficiency for shipping operators or the misalignment of the Flag State Directive on IMO obligations). Secondly, the findings on the effectiveness on the EU framework should not overstate the available evidence. The report's conclusions should address all stakeholder concerns. Doing so may result in qualifying the suggestion that only the Reporting Formalities Directive needs revisions.

(4) The report should complement the assessment of the regulatory burden for Member States by assessing how the reviewed Directives affect shipping operators. It should respond to the feedback from shipping operators that required inspections are not cost effective.

(5) As a Fitness Check, i.e. part of the REFIT programme, the report should conclude on the potential for simplification that future revisions of the Directives could address.

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

### **(D) RSB scrutiny process**

**The lead DG is advised to ensure that these recommendations are taken into account in the report prior to launching the interservice consultation.**

Full title	Maritime Transport Fitness Check on 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
Reference number	2016/MOVE/076
Date of RSB meeting	17/01/2018