

Marine Notice No. 07 of 2018

*Notice to all Ship Operators, Fishing Vessel Owners, Seafarers, Fishers, Recreational Craft Users,
Training Providers, Equipment Suppliers and Importers*

European Commission Brexit Preparedness Notices on Maritime Transport

In the context of the United Kingdom's exit from the European Union, the European Commission has published the following Notices to Stakeholders:

1. Notice to Stakeholders in the Field of Industrial Products.
2. Notice to Stakeholders on Seafarers Certificates.
3. Notice to Stakeholders in the Field of Maritime Transport.

These notices are attached to this Marine Notice.

These Notices are intended to facilitate preparation by EU-27 Member States and by wider stakeholders for the contingency that on 30 March 2019 the UK leaves the EU without a deal on a transitional period having been agreed (i.e. the no deal, disorderly Brexit scenario).

Draft legal text on a transition period, extending to 31 December 2020, is currently being negotiated with the UK. If, as part of the withdrawal process, this text is agreed and approved by Member States and the European Parliament, many of the elements reflected in these Notices will only become relevant at the end of the transition period.

However, in cases where UK 'leading authorities' conduct risk assessments, examinations, approvals and authorisation procedures under Union law, a leading authority in an EU-27 Member State will need to take over from the UK authority from the withdrawal date (i.e. 29 March 2019). UK leading authorities currently provide product authorisations for certain medicines, pesticides, biocides, chemicals (REACH) and plant varieties. The Commission has begun engaging EU-27 technical experts to seek to ensure that product authorisation processes transfer from UK leading authorities in the smoothest manner possible.

Irish Maritime Administration,
Department of Transport, Tourism and Sport,
Leeson Lane, Dublin 2, D02 TR60, Ireland.

06/03/2018

Encl: Annexes 1, 2 & 3.

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For general enquiries, please contact the Maritime Safety Policy Division, tel: +353-(0)1-678 3418.
Written enquiries concerning Marine Notices should be addressed to:
Maritime Safety Policy Division, Dept. of Transport, Tourism and Sport, Leeson Lane, Dublin 2, D02 TR60, Ireland.
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Brussels, 22 January 2018

NOTICE TO STAKEHOLDERS

WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF INDUSTRIAL PRODUCTS¹

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement² establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').³ The United Kingdom will then become a 'third country'.⁴

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all interested parties, and especially economic operators, are reminded of legal repercussions, which need to be considered when the United Kingdom becomes a third country.⁵

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of non-food and non-agricultural products, whether for use by consumers or professionals (hereinafter referred to as "Union product legislation"), no longer apply to the United Kingdom. This has, in particular, the consequences presented below for products **placed on the EU-27 market**⁶

¹ See the annex for the detailed list of Union product legislation.

² Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

³ Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

⁴ A third country is a country not member of the EU.

⁵ For goods placed on the EU market *before* the withdrawal date, the EU is trying to agree solutions with the United Kingdom in the withdrawal agreement. The essential principles of the EU's position on goods placed on the market under Union law before the withdrawal date are available here: https://ec.europa.eu/commission/publications/position-paper-goods-placed-market-under-union-law-withdrawal-date_en.

⁶ The concept of placing on the market refers to each individual product and not to types of products, and whether it was manufactured as an individual unit or in series. For more information on the concept of placing on the market, see Chapter 2 of Commission Notice 2016/C 272/01 "The Blue Guide on the

as from the withdrawal date.⁷ An indicative list of Union product legislation to which this notice applies can be found in the annex.⁸

This notice should be read in conjunction with any complementary, more specific notices on the legal consequences of the United Kingdom's withdrawal that may be published with regard to any of the Union acts listed in the annex.

1. CONSEQUENCES FOR THE IDENTIFICATION OF ECONOMIC OPERATORS

According to Union product legislation, the **importer** is the economic operator⁹ established in the Union who places a product from a third country on the Union market. As from the withdrawal date, a manufacturer or importer established in the United Kingdom will no longer be considered as an economic operator established in the Union. As a consequence, an economic operator established in the EU-27 who, prior to the withdrawal date, was considered as an EU distributor will become an importer for the purposes of Union product legislation in relation to products from a third country that this economic operator places on the EU-27 market as from the withdrawal date. This operator will have to comply with the specific obligations relevant to an importer, which are different from those of a distributor.¹⁰

Currently, Union product legislation does not generally oblige the manufacturer to designate an **authorised representative**.¹¹ However, if the manufacturer chooses to do so, the applicable legislation requires the authorised representative to be established in the Union. In addition, specific Union legislation does provide for the obligation to have an authorised representative (e.g. Union legislation on medical devices¹², transportable

implementation of EU product rules 2016", OJ C 272, 26.7.2016, p. 1 (hereinafter referred to as "the Blue Guide").

⁷ This note does not deal with the placing on the UK market as from the withdrawal date.

⁸ Several elements are commonly present in the different pieces of EU product legislation, regardless of the harmonisation technique adopted by the legislator (e.g. the notion of placing on the market and making available of a product; the definitions of the economic operators). In addition to such common elements, Union legislation based on the so-called New Approach also shares the same approach to technical harmonisation, by setting out common requirements ("essential requirements", expressed in the form of performance requirements or objectives to be attained) on how a product has to be designed and manufactured to meet the required level of e.g. health, safety or environmental protection as well as the conformity assessment procedure, which is chosen from among a common set of modules, that has to be followed to demonstrate compliance with such requirements. For more information in this regard, please see the Blue Guide.

⁹ Union product legislation defines as economic operators the manufacturer, the importer, the distributor and the authorised representative.

¹⁰ See Chapter 3 of the Blue Guide.

¹¹ The Commission proposal for a Regulation of the European Parliament and of the Council laying down rules and procedures for compliance with and enforcement of Union harmonisation legislation on products (COM (2017) 795 final of 19.12.2017: <https://ec.europa.eu/docsroom/documents/26976>) provides for the obligation to have a person responsible for compliance information established in the Union in respect of all products that are subject to the Union harmonisation legislation set out in the Annex to the proposed Regulation.

¹² Article 14 of Council Directive 93/42/EEC concerning medical devices, OJ L 169, 12.7.1993, p.1, Article 10a of Council Directive 90/385/EEC concerning active implantable medical devices, OJ L 189, 20.7.1990, p. 17 (both Directives to be replaced as of 26 May 2020 by Regulation (EU) 2017/745 of the European Parliament and of the Council, OJ L 117, 5.5.2017, p. 1, where the corresponding provision is

pressure equipment¹³ or marine equipment¹⁴) or a responsible person (cosmetic products¹⁵) established in the Union.

Authorised representatives or responsible persons established in the United Kingdom will not, as from the withdrawal date, be recognised as authorised representatives or responsible persons for the purposes of the applicable Union product legislation. Therefore, manufacturers are advised to take the necessary steps to ensure that, as from the withdrawal date, their designated authorised representatives or responsible persons are established in the EU-27.

2. CONSEQUENCES FOR CONFORMITY ASSESSMENT PROCEDURES AND NOTIFIED BODIES

In some product areas, Union legislation requires the intervention of a qualified third party, known as Notified Body, in the conformity assessment procedure.

Union product legislation requires Notified Bodies to be established in a Member State and be designated by a Member State notifying authority for performing the conformity assessment tasks set out in the relevant act of Union product legislation. Therefore, as from the withdrawal date, UK Notified Bodies will lose their status as EU Notified Bodies and will be removed from the Commission's information system on notified organisations (NANDO database¹⁶). As such, UK bodies will not be in a position to perform conformity assessment tasks pursuant to Union product legislation as from the withdrawal date.

When the applicable conformity assessment procedure requires or provides for the possibility of third party intervention, a certificate delivered by a body recognised as an EU Notified Body at the time of the placing of that product on the market will be required for products placed on the market as from the withdrawal date.

Economic operators are advised to take the necessary steps to ensure that, where the applicable conformity assessment procedures require the intervention of a Notified Body, they will hold certificates issued by an EU-27 Notified Body to demonstrate compliance for their products placed on the market as from the withdrawal date.

Where economic operators hold certificates issued by a UK Notified Body prior to the withdrawal date and plan to continue placing the product concerned on the EU-27 market as from the withdrawal date, they are advised to consider either applying for a new certificate issued by an EU-27 Notified Body or arranging for a transfer – on the basis of

Article 11) and Article 10 of European Parliament and Council Directive 98/79/EC on in vitro diagnostic medical devices, OJ L 331, 7.12.1998, p. 1 (to be replaced as of 26 May 2022 by Regulation (EU) 2017/746 of the European Parliament and of the Council, where the corresponding provision is Article 11, OJ L 117, 5.5.2017, p. 176).

¹³ Article 5 of Directive 2010/35/EU of the European Parliament and of the Council of 16 June 2010 on transportable pressure equipment and repealing Council Directives 76/767/EEC, 84/525/EEC, 84/526/EEC, 84/527/EEC and 1999/36/EC, OJ L 165, 30.6.2010, p. 1.

¹⁴ Article 13 of Directive 2014/90/EU of the European Parliament and of the Council on marine equipment, OJ L 257, 28.8.2014, p. 146.

¹⁵ Articles 4 and 5 of Regulation (EC) No 1223/2009 of the European Parliament and of the Council of 30 November 2009 on cosmetic products, OJ L 342, 22.12.2009, p. 59.

¹⁶ <http://ec.europa.eu/growth/tools-databases/nando/>

a contractual arrangement between the manufacturer, the UK Notified Body, and the EU-27 Notified Body - of the file and the corresponding certificate from the UK Notified Body to an EU-27 Notified Body, which would then take over the responsibility for that certificate. This responsibility depends on the specific conformity assessment procedure required for the product concerned under the applicable product legislation set out in Annex.

The websites of the Commission on the Single Market for Goods (http://ec.europa.eu/growth/single-market/goods_en and http://ec.europa.eu/growth/sectors_en) provide general information concerning Union harmonisation legislation applicable to non-food and non-agricultural products. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Internal Market, Industry, Entrepreneurship and SMEs

Annex: Indicative list of Union product legislation

This notice applies primarily to:

- Products within the scope of Directive 2001/95/EC on general product safety (OJ L 11, 15.1.2002, p. 4)
- The restriction of the use of certain hazardous substances in electrical and electronic equipment (Directive 2011/65/EU, OJ L 174, 1.7.2011, p. 88) and Directive 2012/19/EU on waste electrical and electronic equipment (OJ L 197, 24.7.2012, p. 38)
- Batteries and waste batteries (Directive 2006/66/EC, OJ L 266, 26.9.2006, p. 1)
- Appliances burning gaseous fuels (Directive 2009/142/EC, OJ L 330, 16.12.2009, p. 10, to be replaced as of 21 April 2018 by Regulation (EU) 2016/426, OJ L 81, 31.3.2016, p. 99)
- Ecodesign requirements for energy-related products (Directive 2009/125/EC, OJ L 285, 31.10.2009, p. 10, and all implementing Regulations for specific product groups that have been adopted under this Framework Directive)
- Simple pressure vessels (Directive 2014/29/EU, OJ L 96, 29.3.2014, p. 45)
- Toys' safety (Directive 2009/48/EC, OJ L 170, 30.6.2009, p. 1)
- Electrical equipment designed for use within certain voltage limits (Directive 2014/35/EU, OJ L 96, 29.3.2014, p. 357)
- Machinery (Directive 2006/42/EC, OJ L 157, 9.6.2006, p. 24)
- Electromagnetic compatibility (Directive 2014/30/EU, OJ L 96, 29.3.2014, p. 79)
- Measuring instruments (Directive 2014/32/EU, OJ L 96, 29.3.2014, p. 149)
- Non-automatic weighing instruments (Directive 2014/31/EU, OJ L 96, 29.3.2014, p. 107)
- Cableway installations designed to carry persons (Directive 2000/9/EC, OJ L 106, 3.5.2000, p. 21, to be replaced as of 21 April 2018 by Regulation (EU) 2016/424, OJ L 81, 31.3.2016, p. 1)
- Radio equipment (Directive 2014/53/EU, OJ L 153, 22.5.2014, p. 62)
- Medical devices and Active implantable medical devices (Directives 93/42/EEC, OJ L 169, 12.7.1993, p. 1, and 90/385/EEC, OJ L 189, 20.7.1990, p. 17, to be replaced as of 26 May 2020 by Regulation (EU) 2017/745, OJ L 117, 5.5.2017, p. 1, with the exception of the provisions of Directives 93/42/EEC and 90/385/EEC listed in Article 122 of Regulation 2017/45, for which a later date of repeal is provided for)
- In vitro diagnostic medical devices (Directive 98/79/EC, OJ L 331, 7.12.1998, to be replaced as of 26 May 2022 by Regulation (EU) 2017/746, OJ L 117, 5.5.2017,

p. 176, with the exception of the provisions of Directive 98/79/EC listed in Article 112 of Regulation 2017/46, for which a later date of repeal is provided for)

- Cosmetics (Regulation (EC) 1223/2009, OJ L 342, 22.12.2009, p. 59)
- Pressure equipment (Directive 2014/68/EU, OJ L 189, 27.6.2014, p. 164)
- Transportable Pressure equipment (Directive 2010/35/EU, OJ L 165, 30.6.2010, p. 1)
- Aerosol Dispensers (Directive 75/324/EEC, OJ L 147, 9.6.1975, p. 40)
- Lifts and safety components for lifts (Directive 2014/33/EU, OJ L 96, 29.3.2014, p. 251)
- Recreational craft and personal watercraft (Directive 2013/53/EU OJ L 354, 28.12.2013, p. 90)
- Equipment and protective systems intended for use in potentially explosive atmospheres (Directive 2014/34/EU, OJ L 96, 29.3.2014, p. 309)
- Explosives for civil uses (Directive 2014/28/EU, OJ L 96, 29.3.2014, p. 1)
- Construction products (Regulation (EU) No 305/2011, OJ L 88, 4.4.2011, p. 5)
- Pyrotechnics (Directive 2013/29/EU, OJ L 178, 28.6.2013, p. 27)
- Regulation on the Labelling of Tyres (Regulation (EC) No 1222/2009, OJ L 342, 22.12.2009, p. 46)
- Personal protective equipment (Directive 89/686/EEC, OJ L 399, 30.12.1989, p. 18, to be replaced as of 21 April 2018 by Regulation (EU) 2016/425, OJ L 81, 31.3.2016, p. 51)
- Marine equipment (Directive 2014/90/EU, OJ L 257, 28.8.2014, p. 146)
- Noise emission in the environment by equipment for use outdoors (Directive 2000/14/EC, OJ L 162, 3.7.2000, p. 1)
- Energy labelling (Regulation (EU) No 2017/1369, OJ L 198, 28.7.2017, p. 1, and all delegated Regulations for specific product groups that have been adopted under this Framework Regulation and those adopted under Directive 2010/30/EU, OJ L 153, 18.6.2010, p. 1, the predecessor of Regulation 2017/1369).
- Regulation on textile fibre names and related labelling and marking of textile products (Regulation (EU) No 1007/2011, OJ L 272, 18.10.2011, p. 1)
- Directive relating to labelling of the materials used in the main components of footwear (Directive 94/11/EC, OJ L 100, 19.4.1994, p. 37)
- Metrology - (Directive 2011/17/EU OJ L 71, 18.3.2011, p. 1 - Repeal of several directives – transition till 2025)
- Bottles as measuring containers (Directive 75/107/EEC, OJ L 42, 15.2.1975, p. 14)

- Making up of pre-packaged products (Directive 76/211/EEC, OJ L 46, 21.2.1976, p. 1)
- Hot-water boilers fired with liquid or gaseous fuels (Directive 92/42/EEC, OJ L 167, 22.6.1992, p. 17. The Directive was repealed by Commission Regulation (EU) No 813/2013 (OJ L 239, 6.9.2013, p. 136) implementing Directive 2009/125/EC of the European Parliament and of the Council with regard to ecodesign requirements for space heaters and combination heaters, except for Articles 7(2) and 8 thereof and Annexes III to V thereto)
- Interoperability of the rail system within the European Union (Directive 2008/57/EC, OJ L 191, 18.7.2008, p. 1, to be replaced as of 16 June 2020 by Regulation (EU) 2016/797, OJ L 138, 26.5.2016, p. 44)
- Interoperability of Electronic Road Toll Systems (Decision 2009/750/EC implementing Directive 2004/52/EC, OJ L 268, 13.10.2009, p. 11)
- Tachographs in road transport (Regulation (EU) No 165/2014, OJ L 60, 28.2.2014, p. 1)
- Interoperability of the European Air Traffic Management network (Regulation (EC) No 552/2004, OJ L 96, 31.3.2004, p. 26)



Brussels, 11 December 2017

NOTICE TO SEAFARERS SUBJECT TO DIRECTIVE 2008/106/EC ON THE MINIMUM LEVEL OF TRAINING OF SEAFARERS AND DIRECTIVE 2005/45/EC ON THE MUTUAL RECOGNITION OF SEAFARERS' CERTIFICATES

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that unless a ratified withdrawal agreement¹ establishes another date or the period is extended by the European Council in accordance with Article 50(3) of the Treaty on European Union, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date'). The United Kingdom will then become a 'third country'.²

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all seafarers subject to Directive 2008/106/EC on the minimum level of training of seafarers³ and Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by the Member States⁴ are reminded of certain legal repercussions stemming from currently applicable rules of Union law when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of minimum level and mutual recognition of seafarers' certificates no longer apply to the United Kingdom. This has in particular the following consequences which may need to be considered and anticipated:

VALIDITY OF CERTIFICATES

According to Article 3 of Directive 2008/106/EC seafarers serving on-board a vessel flying the flag of an EU Member State have to hold the requisite certificate of competency or certificate of proficiency (hereafter "**certificates**") issued by that Member State, by another EU Member State or by one of the third countries recognised under Article 19 of Directive 2008/106/EC. The Member State of the vessel recognises the certificates issued to seafarers by the other Member States or the recognised third

¹ Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

² A third country is a country not member of the EU.

³ Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers, OJ L 323, 3.12.2008, p. 33.

⁴ Directive 2005/45/EC of the European Parliament and of the Council of 7 September 2005 on the mutual recognition of seafarers' certificates issued by the Member States and amending Directive 2001/25/EC, J L 255, 30.9.2005, p. 160.

countries, for such certificates to be valid in that Member State. There are two distinct recognition procedures:

- Article 3 of Directive 2005/45/EC provides that every Member State shall recognise the certificates issued to seafarers by the other Member States: the recognition of these certificates (by the Member State of the vessel) must be accompanied by an 'endorsement attesting such recognition'.
- Article 19(4) of Directive 2008/106/EC provides that a Member State may decide to endorse the certificates issued by the recognised third countries.

It follows that:

- As of the withdrawal date, the certificates issued to seafarers by the United Kingdom can no longer be presented for an 'endorsement attesting recognition' by a EU-27 Member State under Directive 2005/45/EC.

The 'endorsement[s] attesting recognition' issued prior to the withdrawal date by EU-27 Member States under Directive 2005/45/EC of certificates issued to seafarers by the United Kingdom will continue to be valid until their expiration. A master or an officer holding an 'endorsement attesting recognition' issued by a Member State will be able to continue working on board vessels flying the flag of that Member State. However, they will not be able to change and work on-board a vessel flying the flag of another Member State on the basis of their existing UK-issued certificates, given that the basis for the recognition of their certificates by that Member State (Directive 2005/45/EC) would no longer be applicable.

- As of the withdrawal date, recognition by an EU-27 Member State of certificates issued to seafarers by the United Kingdom will be subject to the conditions set out in Article 19 of Directive 2008/106/EC,⁵ in line with the new status of the United Kingdom as a third country.

Preparing for the withdrawal is not just a matter for Union and national authorities, but also for private parties.

The Commission services stand ready to provide further clarifications to interested stakeholders. The website of the Commission on maritime transport (https://ec.europa.eu/transport/modes/maritime/seafarers_en) provide for general information. These pages will be updated with further information, where necessary.

European Commission
Directorate-General for Mobility and Transport

⁵ The list of third countries recognised at EU level was published in OJ C 261, 8.8.2015, p. 25. Following the publication of this list, Montenegro was recognised by the Commission Implementing Decision published in OJ L 107, 25.4.2017, p. 31, Ethiopia was recognised by the Commission Implementing Decision published in OJ L 177, 8.7.2017, p. 43 and Fiji was recognised by the Commission Implementing Decision published in OJ L 202, 3.8.2017, p. 6.



Brussels, 27 February 2018

NOTICE TO STAKEHOLDERS**WITHDRAWAL OF THE UNITED KINGDOM AND EU RULES IN THE FIELD OF MARITIME
TRANSPORT**

The United Kingdom submitted on 29 March 2017 the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. This means that, unless a ratified withdrawal agreement¹ establishes another date, all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, 00:00h (CET) ('the withdrawal date').² The United Kingdom will then become a 'third country'.³

Preparing for the withdrawal is not just a matter for EU and national authorities but also for private parties.

In view of the considerable uncertainties, in particular concerning the content of a possible withdrawal agreement, all operators are reminded of certain legal repercussions stemming from currently applicable rules of Union law in the field of maritime transport when the United Kingdom becomes a third country.

Subject to any transitional arrangement that may be contained in a possible withdrawal agreement, as of the withdrawal date, the EU rules in the field of maritime transport no longer apply to the United Kingdom. This has in particular the following consequences in the different areas of Union law in the field of maritime transport:⁴

¹ Negotiations are ongoing with the United Kingdom with a view to reaching a withdrawal agreement.

² Furthermore, in accordance with Article 50(3) of the Treaty on European Union, the European Council, in agreement with the United Kingdom, may unanimously decide that the Treaties cease to apply at a later date.

³ A third country is a country not member of the EU.

⁴ This notice does not address marine equipment (which is addressed in the *Notice to stakeholders - Withdrawal of the United Kingdom and EU rules in the field of industrial products*, https://ec.europa.eu/growth/single-market/goods_en) nor seafarer qualifications (which is addressed in the *Notice to stakeholders - Withdrawal of the United Kingdom and EU rules on the minimum level of training of seafarers and the mutual recognition of seafarers' certificates*, https://ec.europa.eu/transport/transport-modes/news/2017-12-11-brexite-notice-stakeholders_en).

1. MARKET ACCESS

- **Intra-Union shipping services and third-country traffic:** Regulation (EEC) No 4055/86⁵ stipulates the freedom to provide maritime transport services between Member States, as well as between Member States and third countries, in respect of:
 - "nationals of Member States who are established in a Member State other than that of the person for whom the services are intended";⁶ and
 - "nationals of the Member States established outside the EU", or "shipping companies established outside the EU and controlled by nationals of a Member State, if their vessels are registered in that Member State in accordance with its legislation."⁷

Persons or companies who, as of the withdrawal date, do not meet those criteria will no longer benefit from this Regulation, notably in terms of non-discriminatory treatment as regards international maritime transport connections.

- **Cabotage:** According to Article 1(1) of Regulation (EEC) No 3577/92⁸, the provision of maritime transport services within EU Member States (maritime cabotage) is restricted to **Community shipowners** (as defined in Article 2(2) of that Regulation). As of the withdrawal date it will no longer be possible to provide maritime transport services in accordance with this Regulation if the conditions for constituting a Community shipowner are no longer fulfilled, unless national legislation⁹ allows access to cabotage to vessels flying the flag of a third country.

2. MARITIME SAFETY

- **Recognition of organisations:** The withdrawal of the United Kingdom does not as such affect the recognitions by the Commission in accordance with Article 4 of Regulation (EC) No 391/2009¹⁰ of organisations referred to in Article 2(c) of that Regulation. However, according to Article 8 of Regulation (EC) No 391/2009 Recognised Organisations are to be assessed on a regular basis (at least every two years) by the Commission, together with the Member State that initially

⁵ Council Regulation (EEC) No 4055/86 of 22 December 1986 applying the principle of freedom to provide services to maritime transport between Member States and between Member States and third countries, OJ L 378, 31.12.1986, p.1.

⁶ Article 1(1) of Regulation (EEC) No 4055/86.

⁷ Article 1(2) of Regulation (EEC) No 4055/86.

⁸ Council Regulation (EEC) No 3577/92 of 7 December 1992 applying the principle of freedom to provide services to maritime transport within Member States (maritime cabotage), OJ L 364, 12.12.1992, p.7.

⁹ E.g. the legislation of Denmark, Ireland, Belgium, and the Netherlands.

¹⁰ Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations, OJ L 131, 28.5.2009, p.11.

submitted the request for recognition for the organisation in question. This also applies to the organisations which had initially been recognised by the relevant Member State and which now enjoy recognition pursuant to Article 15 of Regulation (EC) No 391/2009. As of the withdrawal date, the United Kingdom will no longer be in a position to participate in the assessments carried out in accordance with Article 8 of Regulation (EC) No 391/2009 of organisations initially recognised by it. With respect to this procedural requirement, the Commission is considering the necessary and appropriate steps to allow for the assessment in accordance with the terms of the Regulation.

- **Port State Control:** Directive 2009/16/EC¹¹ sets out the EU Port State Control system. The Directive requires Member States to inspect foreign ships in ports by Port State Control officers for the purpose of verifying that the condition of a ship and its equipment comply with the requirements of international conventions, and that the vessel is manned and operated in compliance with applicable international law. Directive 2009/16/EC also requires verification of compliance with a number of other EU-law based requirements,¹² including insurance certificates under Directive 2009/20/EC.¹³ While EU-27 Member States will continue to verify United Kingdom ships calling to EU ports, as of the withdrawal date, the Port State Control inspection system set out in Directive 2009/16/EC no longer applies in the United Kingdom.¹⁴ Relations between the United Kingdom and the EU in respect of Port State Control will be governed by the Paris Memorandum of Understanding on Port State Control.¹⁵
- **Operations of passenger ships:** According to Articles 4, 5 and 6 of Council Directive 1999/35/EC,¹⁶ host States, as defined in that Directive, are to carry out mandatory inspections to provide for assurance of safe operation of regular ro-ro ferry and high-speed passenger craft services to or from ports of the EU. While these ships will continue to be subject to such inspections in the EU-27 Member States to or from which they operate, as of the withdrawal date, the United

¹¹ Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control, OJ L 131, 28.5.2009, p. 57.

¹² Article 13 and Annex IV of Directive 2009/16/EC.

¹³ Point 41 of Annex IV to Directive 2009/16/EC and Article 4(1) of Directive 2009/20/EC of the European Parliament and of the Council of 23 April 2009 on the insurance of shipowners for maritime claims, OJ L 131/128, 28.05.2009.

¹⁴ Note that, as of the withdrawal date, United Kingdom flagged ships will no longer be required to carry the inventory of hazardous materials that complies with Article 5(2) of Regulation 1257/2013 on ship recycling. However, this obligation becomes applicable again to ships flying the flag of a third country as of 31 December 2020 (Articles 12 and 32(2)(b) of Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling, OJ L 330, 10.12.2013, p. 1). The certificate will be verified in accordance with Point 49 of Annex IV to Directive 2009/16/EC.

¹⁵ All EU Member States with sea ports, including the United Kingdom, are members of the Paris Memorandum of Understanding.

¹⁶ Council Directive 1999/35 of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high-speed passenger craft services, OJ L 138, 1.6.1999, p. 1. Note that this Directive is being repealed and replaced by Directive (EU) 2017/2110 that entered into force on 20 December 2017 and will have as deadline for transposition 21 December 2019 (after the withdrawal date).

Kingdom will no longer have to carry out such inspections in accordance with Directive 1999/35/EC.

- **Safety of fishing vessels:** According to Article 3(5) of Directive 97/70/EC,¹⁷ Member States shall prohibit fishing vessels flying the flag of a third country from operating in their internal waters or territorial sea or landing their catch in their ports unless they are certified by their flag State administration to comply with the requirements referred to in Article 3(1)-(4) and Article 5 of Directive 97/70/EC, namely the technical provisions of that Directive.

In addition, under Article 7(3) of Directive 97/70/EC fishing vessels flying the flag of a third State shall be subject to control by a Member State when in its ports, in order to verify their compliance with the Torremolinos Protocol,¹⁸ once it has entered into force.

The Commission services stand ready to provide further clarifications to interested stakeholders. The website of the Commission on maritime transport (https://ec.europa.eu/transport/modes/maritime_en) provide for general information. These pages will be updated with further information, where necessary. Further information on other maritime safety related questions is available on European Maritime Safety Agency's website at the following link: <https://www.emsa.europa.eu/>.

European Commission
Directorate-General for Mobility and Transport

¹⁷ Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over, OJ L 34, 9.2.1998, p. 1.

¹⁸ A number of provisions of the Torremolinos Protocol were updated and amended by the Cape Town Agreement of 2012 on the Implementation of the Provisions of the 1993 Protocol relating to the Torremolinos International Convention for the Safety of Fishing Vessels.