

Title: Merchant Shipping (Port State Control) Regulations IA No: DfT00013 Lead department or agency: Maritime and Coastguard Agency Other departments or agencies: Department for Transport	Impact Assessment (IA)		
	Date: 10/10/2011		
	Stage: Final		
	Source of intervention: EU		
	Type of measure: Secondary legislation		
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Summary: Intervention and Options	RPC: RPC Opinion Status
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Cost of Preferred (or more likely) Option			
Total Net Present Value	Business Net Present Value	Net cost to business per year (EANCB on 2009 prices)	In scope of One-In, Measure qualifies as One-Out?
£2.93m	£0.59m	N/A	No
			NA

What is the problem under consideration? Why is government intervention necessary?

The problem is how to protect against the risks to health, safety or the environment posed by substandard ships. States which register ships are responsible for compliance of their ships with international standards for safety, pollution prevention and crew conditions. Failure by flag States calls for a defence by States whose ports are visited by foreign flagged ships. Directive 2009/16/EC on port State control strengthens rules intended to reduce the risks posed by substandard ships in national waters of EC members, and reduce the competitive advantage to ship owners of non compliance. Intervention is required to implement the Directive, including introducing new Regulations.

What are the policy objectives and the intended effects?

The policy objectives are to strengthen control of foreign flagged ships calling at UK ports and to comply with the UK's commitments under Directive 2009/16/EC. The Regulations and procedures will focus inspection effort on high risk ships; require owners and masters of ships due for expanded inspection to allow time for the inspection to be completed; introduce measures to permanently exclude persistently substandard ships; and require ports to provide actual times of ships calls so that the EC may monitor inspection activity. The intended effects are to reduce the risks to health, safety or the environment from substandard foreign ships calling at UK ports and to limit the competitive advantage of non compliance.

What policy options have been considered, including any alternatives to regulation? Please justify preferred option (further details in Evidence Base)

Doing nothing is not an option as the UK is required to implement EU Directives. Failure to implement the Directive would limit the UK's contribution to the cooperative efforts of member States to reduce substandard shipping; its ability to control foreign flagged ships that call at UK ports; and its contribution to providing a more level playing field for the commercial operations of responsible ship owners. It would also put the UK at the risk of infraction proceedings and the imposition of financial penalties.

Option 1: Implement the Directive, including introducing the Regulations to implement requirements of the Directive where necessary, using an administrative procedure to transpose other requirements, and modifying an MCA computer system required for implementation. This is the preferred option since it achieves the policy objectives, avoids the risks associated with a failure to implement the Directive and is consistent with UK implementation of the existing port State control Directive.

Will the policy be reviewed? It will be reviewed. **If applicable, set review date:** 01/2016

Does implementation go beyond minimum EU requirements?			No		
Are any of these organisations in scope? If Micros not exempted set out reason in Evidence Base.	Micro No	< 20 Yes	Small Yes	Medium Yes	Large Yes
What is the CO ₂ equivalent change in greenhouse gas emissions? (Million tonnes CO ₂ equivalent)			Traded: N/A	Non-traded: N/A	

I have read the Impact Assessment and I am satisfied that (a) it represents a fair and reasonable view of the expected costs, benefits and impact of the policy, and (b) that the benefits justify the costs.

Signed by the responsible Minister: _____ **Mike Penning** _____ Date: 12 October 2011

Summary: Analysis & Evidence

Policy Option 1

Description: Implement the Directive by introducing the Regulations, applying the administrative procedure, and making amendments to a MCA computer system.

FULL ECONOMIC ASSESSMENT

Price Base Year 2011	PV Base Year 2011	Time Period Years 10	Net Benefit (Present Value (PV)) (£m)		
			Low: -2.63	High: -3.26	Best Estimate: -2.93

COSTS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Cost (Present Value)
Low	0.53	0.24	2.63
High	0.55	0.32	3.26
Best Estimate	0.54	0.28	2.93

Description and scale of key monetised costs by 'main affected groups'

1) Costs to ports of providing additional information are estimated at around £16,000 to £88,000 per year (Best estimate £50,000) and one-off system upgrade costs to ports are estimated at around £149,000 to £165,000 (Best estimate £157,000). 2) It is estimated the MCA will incur one-off system upgrade costs of around £384,000 and associated maintenance costs of around £48,000 per year. 3) The costs of paying standby cover to MCA surveyors at weekends are estimated at around £180,000 per year.

Other key non-monetised costs by 'main affected groups'

1) There could potentially be additional costs to the operators or owners of foreign flagged ships (in terms of providing notification of arrival or being available for expanded inspections). 2) There will be additional costs to the MCA of conducting inspections over the weekend or on public holidays. 3) There will be familiarisation costs to industry.

BENEFITS (£m)	Total Transition (Constant Price) Years	Average Annual (excl. Transition) (Constant Price)	Total Benefit (Present Value)
Low	NQ	NQ	NQ
High	NQ	NQ	NQ
Best Estimate	NQ	NQ	NQ

Description and scale of key monetised benefits by 'main affected groups'

It has not been possible to monetise any of the potential benefits identified in this impact assessment.

Other key non-monetised benefits by 'main affected groups'

1) Option 1 should provide more effective control of foreign flagged ships that call at UK ports, thereby potentially reducing the risk to safety, health and the environment posed by substandard ships and limiting the ability of substandard ships to gain a competitive advantage. However, no evidence is available on the impacts that Option 1 will have on the risks posed by substandard ships, or on competition. 2) Other potential benefits are discussed in Section 7 of this impact assessment.

Key assumptions/sensitivities/risks	Discount rate (%)	3.5%
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1) A range of assumptions has been made, and it has not been possible to monetise some of the costs and any of the benefits of Option 1. 2) The estimates of monetised costs are sensitive to the assumptions and data sources used. 3) Details of assumptions and data sources are provided in the evidence base. 4) Risks are discussed in Section 8. 5) Modification of the MCA computer system is in progress and the administrative procedure is being applied, so some costs have already been incurred.

BUSINESS ASSESSMENT (Option 1)

Direct impact on business (Equivalent Annual) £m:			In scope of OIOO?	Measure qualifies as
Costs: N/A	Benefits: N/A	Net: N/A	No	NA

Evidence Base (for summary sheets)

The 'Merchant Shipping (Port State Control) Regulations' ("the Regulations") will apply to foreign flagged ships calling at UK ports, and anchorages within the jurisdiction of a port, to engage in the transfer of persons, goods or port services to or from the ship. For purposes of this impact assessment, foreign flagged ships are ships which are not registered in the UK or a British territory.

This impact assessment assesses the costs and benefits of UK implementation of Directive 2009/16/EC, which includes introducing the Regulations to transpose requirements of the Directive where relevant, applying the new administrative procedure which completes transposition and making the changes to a MCA computer system necessary to implement obligations under the Directive.

It should be noted that the updates to the MCA computer system have already commenced and the administrative procedure has already been applied, so some of the costs of UK implementation have already been incurred.

1. Background

1.1. Role of Port State Control

Port State control is a defence against ships registered with *flag* States which fail to enforce compliance with international standards for safety, pollution prevention and crew working and living conditions on ships on their register. The standards to be enforced are contained in relevant Conventions of the International Maritime Organization and the International Labour Organization.

The responsibility for compliance lies, in the first instance, with the ship owner or operator. The duty of the *flag* State, or classification society working on behalf of the *flag* State, is to enforce standards by a regime of regular surveys and certification. A failure on the part of a number of *flag* States to fulfil this duty requires a second line of defence by States whose ports are visited by seagoing ships that are registered with other *flag* States. A *port* State may require ships registered with other *flag* States to rectify deficiencies revealed during inspection and may detain ships in port for this purpose if necessary. Port State Control inspections do not substitute for *flag* State surveys and responsibility for substandard ships lies with the *flag* State.

1.2. Port State Control in the European Union

Following the grounding of the Amoco Cadiz in 1978, the European Council called on the European Commission to prepare proposals to reduce oil spills. A subsequent grounding of a fully laden oil tanker the Braer off the Shetland Islands in 1993 led to the adoption of a European Council resolution setting an objective of stricter inspections to reduce or eliminate substandard ships from waters of member States. As a result, Directive 95/21/EC on Port State Control was adopted in July 1995.

Further incidents, in particular the severe sea and coastal pollution associated with the structural failure and loss of single hull oil tankers the Erika off the coast of France in 1999 and the Prestige off the coast of Spain in 2002, led to a programme of European legislation. Measures that have been introduced in the European Union include changes in port State control, the phasing out of single hull oil tankers, and the introduction of a surveillance system for monitoring traffic in waters of EU member states. More recently, a package of 8 measures which is known as the Third Maritime Safety Package has been introduced. The Third Maritime Safety Package includes Directive 2009/16/EC on Port State Control to replace Directive 95/21/EC.

Directive 2009/16/EC introduces a risk based inspection regime for the control of foreign flagged ships and strengthens sanctions that may be applied to substandard foreign flagged ships. It also allows the European Commission to set and monitor inspection commitments of member States and monitor ship calls at ports of member States.

Gibraltar has transposed Directive 2009/16/EC in the law of Gibraltar. This is outside the scope of this impact assessment. No other UK Overseas Territory or Crown Dependency is subject to the Directive.

1.3. Paris Memorandum of Understanding on Port State Control (Paris MoU)

Port State Control inspections are often coordinated on a regional basis to improve effectiveness. In this case, Directives 1995/21/EC and 2009/16/EC draw heavily on the experience of the Paris Memorandum of Understanding on Port State Control (Paris MoU), an administrative agreement established in 1982 whose signatories share inspection data, apply common procedures and take decisions through an executive Committee at which all signatories and the European Commission are represented. Current signatories to the Paris MoU consist of 22 EU coastal States including the UK, plus Canada, Croatia, Iceland, Norway and the Russian Federation. In 2010, over 24,000 inspections were carried out in the Paris MoU region on 14,762 individual ships.

1.4. Port State Control in the UK

The Maritime and Coastguard Agency carried out 1,832 port State control inspections in 2010 to meet a UK obligation to inspect each year 25% of individual foreign flagged ships that call at UK ports (Paris MoU Annual Reports <http://www.parismou.org>).

2. Problem under consideration

The problems under consideration are how a) to protect against the risks to safety, health and the environment posed by substandard foreign flagged ships that call at UK ports and anchorages and b) to try to limit the ability of substandard ships to gain a competitive advantage.

2.1. Risks to safety, health and the environment posed by substandard foreign flagged ships that call at UK ports and anchorages

Evidence from Paris MoU detention lists show the incidence of ships detained more than once in a port in the Paris MoU region. The detention list for March 2010 included 29 ships that had been detained more than once within the previous 24 months, and 3 ships detained 5 or more times within 24 months. At least 10 ships detained in 2010 had been detained 5 times within the previous 24 months. It indicates that substandard ships are still encountered at ports within the Paris MoU. Further information on detained ships and the extent to which they fail to comply with international rules for safety, seafarers working and living conditions and pollution prevention can be found on the Paris MoU website, <http://www.parismou.org>.

Substandard ships can pose a number of risks to safety, health or the environment, including the risks of accidents and the risk of pollution incidents. Section 1.2 discusses incidents which have taken place in waters of member States and which have influenced the development of port State control legislation.

In particular, it is considered that the environmental consequences from an accident at sea could be disastrous for the economy and the environment of all coastal EU Member States. For example, the costs of a serious oil spill can run to many millions.¹ However, it is recognised that the cost of typical pollution incidents in UK waters is significantly lower.

It should be noted that the factors contributing to individual incidents are often complex and usually depend on a human element (decisions taken both on board ship and ashore), and may be outside the scope of port State control to influence. Therefore, while port State control is a defence against these risks, it cannot alone prevent these risks (as set out in section 1.1, the responsibility for substandard ships lies with the State registering the ship, the flag State).

2.2. The ability of substandard ships to gain a competitive advantage

Given that there are costs of complying with the relevant Conventions of the International Maritime Organization and the International Labour Organization, shipowners operating substandard ships can potentially undercut shipowners which meet the necessary standards, and can consequently potentially gain a competitive advantage.

¹ For example, a discussion of the costs associated with historical oil spills, which includes some examples, is available on the International Tanker Owners Pollution Federation Limited website at <http://www.itopf.com/spill-compensation/cost-of-spills/>.

3. Rationale for Government intervention

Government intervention to improve ship safety and prevent maritime pollution is necessary because the market in international shipping is competitive, and ship owners and operators seek to minimise their private costs, which do not reflect the full societal costs of their actions wherever they trade. International safety and pollution prevention standards have therefore been introduced. However, some flag State regulators do not, for whatever reason (for example, lack of expertise or revenue), enforce international safety and pollution prevention standards on ships on their register.

Where ship owners and the first line of defence (flag States) have failed to comply or enforce compliance, self regulation is not an effective means to address the problems set out in section 2.

Government intervention through port State control is therefore required to defend against the risk to persons, ships, the marine environment and UK national interests posed by internationally trading substandard ships which call at UK ports and anchorages. In defending UK interests against substandard ships, the UK is committed to regional cooperation through the framework of the Paris MoU for greater effect and efficiency, see section 1.3 above. Directive 2009/16/EC (and Directive 1995/21/EC before it) makes this commitment a legal obligation. It also requires member States to introduce legal and administrative measures to implement the Directive from 1 January 2011. The Directive therefore imposes a legal obligation of Government intervention.

Implementing the Directive in the UK will introduce a more risk based system for selecting ships for inspection so that high risk ships calling at UK ports and anchorages will be subject to frequent, detailed inspections, and lower risk ships will benefit from longer intervals between inspection. This, together with stronger sanctions (such as refusing access to UK ports) should help the MCA to identify and take action on substandard foreign flagged ships more effectively. This should help to address the problems discussed in section 2 of this impact assessment. Introducing new legislation is necessary to implement the Directive in the UK, as the affected parties would have no reason to comply with the measures in the Directive requiring new powers unless compelled to by legislation. Implementing the Directive in the UK would also reduce a risk of infraction proceedings being taken against the UK.

4. Policy objectives

The policy objectives of UK implementation are:

- To improve the control of foreign flagged ships calling at ports and anchorages in the UK by focusing inspections on high risk ships so that they are inspected, in depth, at frequent intervals. (As mentioned in section 1.1, the port State can require the owner to take actions to bring the ship and its crew in compliance with international standards.)
- To prevent persistently substandard ships from trading to ports of member States.
- To use the system for risk based inspections to reduce the frequency and therefore the burden of inspections on low risk ships.

In particular, the Regulations will introduce the following changes:

- They replace a requirement to inspect 25% of individual foreign flagged ships calling at UK ports each year by an annual inspection commitment to contribute a 'share' of risk based inspections due in the Paris MoU region as a whole.
- Expanded (in depth) inspections of ships with a high risk profile will be carried out at 6 month intervals in addition to the existing regime of expanded inspections of ships of certain types and age, which will be inspected at intervals determined by their risk profile.
- Owners and masters of ships due for expanded inspections are already required to give 72 hours notice of arrival in port. The Regulations introduce a requirement to allow sufficient time in the operating schedule for the inspection to be carried out and an obligation on the ship to remain in port until the inspection is completed.

- Rules for refusal of access (banning) are extended to ships of any type which are repeatedly detained. The period of the ban increases on each occasion and results in permanent refusal of access to ports and anchorages of member States on the third or fourth occasion.
- Pilot reporting obligations are extended to UK pilots on foreign ships in transit in UK waters (deep sea pilots). They already apply to UK harbour pilots on foreign ships engaged in berthing or unberthing the ship or bound for a UK port.
- Port authorities are required to provide the MCA with actual times of arrival and departure of ships calling at their ports and anchorages in a form that may be transferred electronically to EC data systems. This is a new requirement to allow the European Commission to set and monitor member States' inspection activity in more detail.

Details of the risk based ship selection scheme, flexibility in meeting the inspection commitment, and flexibility in circumstances where ships cannot be inspected for operational or safety reasons are set out in an appropriate administrative procedure, in order to complete transposition of the Directive. The procedure has been applied from 1 January 2011 as required by the Directive and in line with the principle that existing law must be interpreted in accordance with the Directive to the extent possible until new measures are in force.

In addition, in order to fulfil an obligation under the Directive (Article 24.4) the MCA must modify the national data exchange system, CERS (the Consolidated European Reporting System introduced under the Vessel Traffic Monitoring and Information System Directive 2002/59/EC) to allow ship call information provided by ports to be transferred electronically via the EC data exchange system SafeSeaNet to the EC inspection database. Modifications to CERS have already commenced. The timing of this change is discussed further in section 8 of this impact assessment.

The intended effects of UK implementation are to reduce the risks to safety, health and the environment, including accidents and pollution incidents, associated with substandard foreign flagged ships that call at UK ports and to limit the ability of substandard ships to gain a competitive advantage by enabling the MCA to identify more effectively, and take action on, substandard foreign flagged ships that call at UK ports.

5. Policy Options

5.1 Do Nothing

Doing nothing to implement the Directive is not an option. Directives are binding legislation of the European Community which member States are required to implement. Failure either to give proper effect to a Directive or to do so on time risks infraction proceedings being taken against the UK at the European Court of Justice which may result in a financial penalty, see section 8.

Furthermore, without giving proper effect to Directive 2009/16/EC in national law, the UK would lack powers to (for example) impose a minimum period of refusal of access or permanent refusal of access; to require ships to remain in port until an expanded inspection is completed; and to request additional reports from port authorities and pilots. This would limit the ability of the UK to a) protect against the risks posed by substandard foreign flagged ships that call at UK ports; b) limit the UK contribution to the cooperative effort of EU member States to reduce substandard shipping in national waters and c) limit the UK contribution to providing a more level playing field for responsible ship owners.

5.2 Introduce Regulations to transpose requirements of Directive 2009/16/EC where relevant, apply the new administrative procedure which completes transposition and make the changes to CERS necessary to implement obligations under the Directive (Option 1)

Self regulation where the ship owner and the first line of defence (the flag State) have failed to comply or enforce compliance is clearly not an appropriate response (improving flag State performance is a long term goal to which the UK contributes through the International Maritime Organization and International Labour Organization). In this context, the Regulations provide a legal basis for more effective control of foreign flag ships which trade to UK ports. The 1995 port State control Regulations will be revoked.

In making Regulations, the approach is to do the minimum necessary to give effect to the Directive (without 'goldplating') and to make Regulations in respect of provisions for which new UK law is needed. Where powers to do what the Directive requires already exist in UK law and can be applied by the Secretary of State (for example, powers to inspect ships), the provisions are set out in an appropriate non-legislative administrative procedure, which has been applied from 1 January 2011. The procedure is nevertheless binding on persons authorised by the Secretary of State to carry out the functions required by the Directive and contributes to transposition. Furthermore, changes are also being made to CERS as a result of the Directive.

The potential risks associated with legislating are discussed in section 8 of this impact assessment. The risk of inconsistency of application between member States is mitigated by cooperation through the framework of the Paris MoU.

The main sectors affected by the 1995 port State control Directive and port State control Regulations include ship owners, operators, agents, ship masters, seafarers, ship pilots and UK port authorities as far as their interests are affected by foreign flagged seagoing ships that call at UK ports. Indirectly port State control inspections protect the interests of the public and consumers against the threat to persons, property and the environment posed by substandard ships operating to and from UK ports.

The sectors affected are unchanged by Directive 2009/16/EC or the Regulations under Option 1. While ships registered in the UK or a British territory are not subject to provisions of the port State control Regulations (i.e. the 1995 Regulations and Regulations under Option 1), it should be noted that they are subject to Directive 2009/16/EC when calling at ports or anchorages of other EU coastal States which implement it.

6. Costs of Option 1

For the purposes of this impact assessment, the costs of Option 1 have been monetised to the extent that is possible and take account of the evidence that was provided during the industry consultation. However, limitations in the available evidence base remain so that it has not been possible to monetise some of the costs and all of the benefits of Option 1. Where it has not been possible to monetise a cost or benefit, a full qualitative description of the cost or benefit has been provided in this impact assessment. Furthermore, it should be noted that the estimates presented in this section are sensitive to the assumptions and data sources used, and should therefore be treated as indicative orders of magnitude of these costs.

6.1. Summary of the key costs of Option 1

The MCA considers that the costs of Option 1 are as follows.

Costs to business:

Description of the Cost	Has this cost been monetised?	Where is it discussed in this impact assessment?
The costs of additional reporting obligations of UK port authorities and pilots	Partially	Section 6.2
The potential additional costs to the owners and operators of foreign flagged vessels	No	Section 6.5
Potential costs from refusal of access provisions	No	Section 6.6
Familiarisation Costs	No	Section 6.7

Costs to the MCA

Description of the Cost	Has this cost been monetised?	Where is it discussed in this impact assessment?
The costs to the MCA of modifying and maintaining the Consolidated European Reporting System (CERS)	Yes	Section 6.3
The costs to the MCA of carrying out port State control inspections required by the new inspection rules	Partially	Section 6.4

6.2. Costs of additional reporting obligations of UK port authorities

The port State control Directive requires each member State to:

- *“take the appropriate measures to ensure that the information on the actual time of arrival and the actual time of departure of any ship calling at their ports and anchorage, together with..., is transferred within a reasonable time to the inspection database through the Community maritime information exchange system ‘SafeSeaNet’ referred to in Article 3(s) of Directive 2002/59/EC.”* (Article 24.2)

- *“ensure that its port authorities or bodies and other relevant authorities or bodies provide the competent authority with the following types of information in their possession:.....”*

The list includes information on ships which have failed to comply with EC Directives and Regulations related to port State control, port reception facilities, vessel traffic monitoring and ship security. (Article 25).

In the UK, information on actual times of ship arrival and departure is held by port authorities, not the Government. New law is needed to require port authorities to provide this information, and the requirement is transposed in the Regulations under Option 1.

The Vessel Traffic Monitoring Directive (2002/59/EC) and existing UK Regulations already require ports to supply the MCA with certain ship and port data. The Vessel Traffic Monitoring Directive also requires the MCA to maintain a national system for electronic exchange of data with the European 'SafeSeaNet' system. The MCA national system is known as the Consolidated European Reporting System, or CERS.

Technical specifications for national data exchange systems, including data required for port State control purposes, are set at European level and controlled through the Vessel Traffic Monitoring Directive. Modifications of national and EC systems are similarly controlled so that new data may be exchanged when the requirements of the Directives change.

The additional information on actual times of ship arrival and departure required by Article 24 of the port State control Directive allows the European Commission to set inspection targets and monitor the inspection activities of member States in relation to the requirement to inspect ships that are due for inspection when they call at ports or anchorages of member States.

As an interim measure until the Regulations and a modified CERS system are in place (Option 1), the UK is manually supplying the European inspection database with actual times of ship arrival and departure for ships inspected and ship inspections missed (which are sourced from local ports and ship agents). However, this represents self reporting by the member State and is not the objective evidence on which to measure a member State's performance envisaged by the Directive.

6.2.1. Overview of the changes to the reporting obligations of UK ports under the Regulations

Port authorities currently provide information to CERS by one or more of the following means:

- system to system transfer (the port system downloads information directly into CERS);
- online input via a web interface (port authority personnel input data into a CERS web portal using a secure user name and password); and
- a service provider (input is fully or partially delegated to a third party using either of the methods above).

The Regulations and associated Merchant Shipping Notice require port authorities to provide the MCA with actual times of ship arrival and departure, using similar means.

Individual ports will decide on the approach to use according to their circumstances and resources. The UK interprets 'within a reasonable time' as within 72 hours of the event in view of the diversity in size and management of ports in the UK. Small ports may be unmanned at weekends. Larger ports with systems to track the position of ships on their approach, arrival and departure would be able, after system modification, to capture and relay information on events as they occur.

The number of additional notifications that would need to be made by port authorities under Option 1 is not known with certainty, but this section provides details of the available evidence base on the impacts of these additional reporting requirements.

Actual times of ship arrival and departure

The number of notifications that would need to be made by ports each year in the future has been estimated as follows.

The number of arrivals of foreign flagged ships at UK ports - excluding foreign flagged ships on regular passenger and freight ferry services to UK ports - in recent years has been estimated by the Department for Transport from data purchased from Lloyd's List Intelligence². On the basis of this data, it is estimated that there were around 71,050 arrivals of foreign flagged ships at UK ports - excluding foreign flagged ships on regular passenger and freight ferry services to UK ports - in 2006, 65,600 arrivals in 2007, 67,980 arrivals in 2008, and 62,730 arrivals in 2009 (Annual data for 2010 is not yet available). This suggests that there were approximately 67,000 arrivals of foreign flagged ships at UK ports - excluding foreign flagged ships on regular passenger and freight ferry services to UK ports - each year on average between 2006 and 2009. In the absence of any evidence on the number of departures, it is assumed that the number of departures is equal to the number of arrivals.

Separate analysis has been undertaken to estimate the number of departures of foreign flagged ships on regular passenger services from UK ports. MCA analysis of currently advertised ferry services from UK ports suggests there are around 22,300 foreign flag passenger ferry departures a year (Source: <http://www.ferries.co.uk>). In the absence of any evidence on the number of arrivals, it is assumed that the number of arrivals is equal to the number of departures.

However, it should be noted that it has not been possible to estimate the number of separate freight ferry departures a year, so separate freight ferry services are excluded from the subsequent analysis. (For reference, the total number of foreign flag ships operating regular passenger and freight ferry services in 2010³ was 105 according to data compiled by the Department of Transport.)

As a robust forecast of the number of arrivals and departures of foreign flagged ships at UK ports in future years is not currently available, and given the limitations of the available evidence base, it has been necessary to make several assumptions in order to estimate the number of arrivals and departures of foreign flagged ships at UK ports in future years. An estimate of both arrivals and departures is required as ports would need to make notifications for both arrivals and departures.

For the purposes of this impact assessment, three scenarios have been developed to take account of the uncertainty to the extent that is possible.

² 6 monthly reports on ship movements required to be submitted to the European Commission under Article 17 of Directive 1995/21/EC and under Article 29 of Directive 2009/16/EC.

³ 6 monthly lists of regular ferry services required to be submitted to the European Commission under Article 17 of Directive 1995/21/EC and under Article 29 of Directive 2009/16/EC.

Low	High	Best
It is assumed that there would be around 62,730 arrivals of foreign flagged ships excluding regular ferry services in each year of the appraisal period.	It is assumed that there would be around 71,050 arrivals of foreign flagged ships excluding regular ferry services at UK ports in each year of the appraisal period.	It is assumed that there would be around 67,000 arrivals of foreign flagged ships excluding regular ferry services at UK ports in each year of the appraisal period.
It is assumed that there would be around 22,300 departures of foreign flagged vessels on regular passenger ferry services in each year of the appraisal period.		
The number of notifications that would need to be made by UK ports each year in the appraisal period has been estimated at approximately 170,000 per year.	The number of notifications that would need to be made by UK ports each year in the appraisal period has been estimated at approximately 187,000 per year.	The number of notifications that would need to be made by UK ports each year in the appraisal period has been estimated at approximately 179,000 per year.

The direction of bias as a result of these assumptions is uncertain, although it should be noted that separate regular freight ferry services are not included.

Information on ships which have failed to comply with EC requirements

The volume of reports that ports would need to make on ships which have failed to comply with EC requirements is difficult to estimate, but is expected to be modest. One study⁴ anticipated 120 inspections a year in the UK prompted by reports concerning ship safety from all sources. (This would also cover any additional reports from pilots, see below). The MCA does not therefore anticipate significant additional costs to port authorities. However, in the absence of any evidence on the number of such reports that would be made, it has not been possible to monetise this cost in this impact assessment.

For discussion of the overall number of ship inspections, see section 6.4 of this impact assessment

Reports from port authorities and pilots on ships with anomalies which may prejudice safety

The European Commission is developing a form for use by pilots and port authorities in carrying out an existing obligation to report anomalies observed in the course of their normal duties. Whilst the obligation to report already exists, the introduction of an EU wide format for reporting is introduced under the Directive. Use of the form is not mandatory and the MCA has indicated that it is flexible as to report format (information may continue to be forwarded by telephone, fax or email). Despite this flexibility, ports anticipate that there may be a resource implication in further developing a reporting methodology, but did not provide evidence of what the cost might be. Therefore, it has not been possible to monetise this cost in this impact assessment.

In respect of pilots, Article 23 of the Directive and the Regulations under Option 1 also extend the reporting obligation from harbour pilots (which ships are required to take on board) to deep sea pilots (whose use is voluntary). No evidence on the cost of the change was provided by pilots during the consultation. Therefore, it has not been possible to monetise this cost in this impact assessment.

However, the UK Maritime Pilots Association and union representatives point to a possible unintended consequence, which is that if pilot confidentiality is not maintained then pilots may not be re-contracted on board ship, threatening safety and the deep sea pilotage industry, see also section 9.6. Accepting the need for pilot report confidentiality, it is the MCA's intention to achieve this by administrative means to avoid this outcome. It should be noted that confidentiality of pilot reports is not a requirement of the Directive and not required by the Regulations under Option 1. No evidence of the potential impact on pilots in the event of lack of confidentiality was provided during the consultation.

6.2.2. Potential additional system upgrade and system maintenance costs to ports

Eleven port authorities and service providers currently support system to system transfer of reports due under Directive 2002/59/EC. Between them, they account for 108 ports reporting to CERS (covering 9

⁴ Technical paper submitted to the 39th meeting of the Committee of the Paris Memorandum of Understanding on Port State Control.

out of 10 major port groups in terms of traffic through UK ports, DfT Maritime Statistics 2008, <http://www.dft.gov.uk>). For the purpose of this impact assessment, it is assumed that those ports which currently provide information to CERS on a system-to-system basis would continue to do so. During the consultation, no evidence was provided by port authorities currently using system to system transfer that they would report by the other methods described in Section 6.2.1 above.

Responses to this consultation from the Port of London Authority and Port of Felixstowe indicate that the costs of system upgrade could be around £27,000 to £30,000 per organisation. These figures are used as the Low and High estimates in this impact assessment respectively, and a best estimate of £28,500 is used (the mid point of this range). For the purposes of this impact assessment, it is assumed that the other organisations that currently support system to system transfer of reports would incur similar costs as no other estimates are currently available (i.e. that a total of eleven port authorities and service providers would incur these costs). On the basis of this assumption, the total costs to these organisations are estimated at approximately £0.30 to £0.33 million, with a Best estimate of approximately £0.31 million (i.e. the mid point of the range). However, it should be noted that the costs to the other organisations may differ. Furthermore, to the extent that more (less) organisations would upgrade their systems, it should be noted that the above estimates would represent an underestimate (overestimate) of the additional system upgrade costs.

Modifications of the CERS system are also required to satisfy obligations under Directive 2009/17/EC on Vessel Traffic Monitoring, see Section 6.3. The MCA envisage that the estimates provided by ports relate to the total cost of adapting their systems in response to the modifications to the CERS system in order to supply the additional information required under both the Regulations and 'The Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) (Amendment) Regulations 2011'. However, there is currently no evidence available on the share of these costs that should be apportioned to each set of regulations. For the purposes of the associated impact assessments, it has been assumed that 50% of the costs to ports of system upgrade should be apportioned to the Regulations, and 50% should be apportioned to the 'The Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) (Amendment) Regulations 2011', which implements most of the requirements of Directive 2009/17/EC in UK law. Therefore, for the purposes of this impact assessment, the costs to ports as a result of the Regulations under Option 1 have been estimated at around £0.15 to £0.17 million, with a Best estimate of £0.16 million. The direction of bias as a result of this assumption is uncertain. Whilst it should be noted that the share of these costs that should be apportioned to each of the regulations is uncertain, this approach ensures that the total costs are captured across both of these impact assessments.

Some other potential costs associated with system upgrades have been identified and are described below. However, due to the limitations of the available evidence base (e.g. no evidence on these costs was received during the consultation), it has not been possible to monetise these costs in this impact assessment.

For ports which upgrade their systems, additional maintenance costs may be anticipated. However, it should be noted that no evidence on these costs is available.

Port authorities have also commented on potential resource implications from the need to identify which ships are "engaged in a ship/port interface" and fall within the scope of the Directive, especially where the ship is at anchorage. However, no evidence is available of the costs of the resource involved.

For ports which intend to transfer additional data by web interface, it is assumed that they are already equipped with a PC with an internet connection which would be needed to do so. No evidence was received on this during the consultation, but it is possible that there may be some additional costs to some ports.

6.2.3. Additional operating costs to ports of making the additional notifications using the web interface

204 ports currently enter information required by Directive 2002/59/EC into CERS using the web interface (in addition to the 108 ports that currently submit data on a system to system basis). In respect of the additional data that would need to be submitted under Option 1, the number of ports using the web interface may increase as ports decide to submit by this means rather than modify their systems. However, since no evidence of this was provided during consultation, it should be noted that the response of port operators to Option 1 is uncertain, and is likely to depend on the relative costs of each

response.

As noted in Section 6.2.2, for the purpose of this impact assessment, it is assumed that those ports which currently provide information to CERS on a system-to-system basis would continue to do so. Based on data for July 2009 to June 2010, it is estimated that around 65% of arrivals excluding regular ferry services were at ports whose authorities transfer data to CERS on a system-to-system basis (around 38,700 out of 59,600 arrivals during this period). Furthermore, MCA analysis suggests that around 56% of departures of foreign flagged vessels on regular passenger ferry services were from ports whose authorities transfer data to CERS on a system-to-system basis (around 12,500 of 22,300 departures a year). This implies that approximately 63% of notifications will be made on a system-to-system basis. The illustrative estimates of the additional operating costs to ports of making the additional notifications using the web interface that are presented below therefore assume that around 37% of notifications would be made using the web interface. The limitations of this assumption are discussed below.

As noted in section 6.2.1 of this impact assessment, the total number of additional notifications that would need to be entered in CERS has been estimated to be approximately 170,000 to 187,000 per year, with a Best estimate of around 179,000. Consequently, it is assumed that approximately 64,000 to 70,000 notifications (around 37% of the total) will be notified by using the web interface, with a Best estimate of around 67,000. For the purposes of this impact assessment, it is assumed that for each notification it would take between 1 minute and 5 minutes to enter the report, with a Best estimate of 3 minutes, and it is assumed that the labour costs to ports would be approximately £15⁵ per hour (2011 prices).

No new evidence on the costs of using the web interface was received as a result of consultation. Therefore, on the basis of the above assumptions, the total additional operating costs to ports of making the additional notifications using the web interface have been estimated at around £16,000 to £88,000 per year, with a Best estimate of around £50,000 per year (the mid point of the range). However, it should be noted that these estimates are sensitive to the assumptions that have been made and data sources that have been used. For example, whilst a range has been assumed to attempt to capture the uncertainty surrounding the length of time it would take to submit a report via the web interface, the length of time it would take to submit a report via the web interface is uncertain and could lie outside this range. Therefore, the direction of bias as a result of these assumptions is uncertain.

To the extent that ports modify their systems and transfer a greater (lesser) proportion of the necessary data automatically, the above estimates would represent an overestimate (underestimate) of the additional operating costs to ports. This is because it is assumed that the marginal cost of each report would fall to £0 if the necessary data is transferred automatically.

Where ports choose to outsource the additional work, it is assumed that the costs would not exceed this range.

6.3. MCA costs of modifying and maintaining the Consolidated European Reporting System (CERS)

The MCA is required to modify CERS in order to comply with the Directive. This will result in additional costs to the MCA compared to the Do Nothing scenario. However, work to modify CERS is already ongoing. Therefore, it should be noted that some of these additional costs have already been incurred by the MCA.

As set out in section 6.2 of this impact assessment, the MCA must ensure that data on actual ship calls (held by ports) is transferred via the European SafeSeaNet system to the inspection database (Article 24 of the Directive). The ability of ports to fulfil the obligation to provide the MCA with this information, which is imposed by the Regulations, will depend directly on the provision of a means to receive it in CERS.

⁵ Median hourly pay (excluding overtime) in the 'Warehousing and support activities for transportation' sector was £12.09 in 2010 according to the 2010 Annual Survey of Hours and Earnings (ASHE) which is available at http://www.statistics.gov.uk/downloads/theme_labour/ashe-2010/2010-ind4.pdf. This has up-rated by 21% to account for non-wage costs to employers in line with DfT webtag guidance at <http://www.dft.gov.uk/webtag/documents/expert/unit3.5.6.php#012> and inflated to 2011 prices using HMT's GDP deflators.

On the basis of the project tender submitted by the company that is carrying out the modifications, it is estimated that the transitional costs to the MCA of modifying CERS in order to be able to exchange the additional information required by this Directive and Directive 2009/17/EC on Vessel Traffic Monitoring would be £768,000⁶. For the purposes of this impact assessment, it is assumed that the transitional costs will be divided equally between 2011 and 2012 as per the milestones in the CERS modification project plan.

Furthermore, again on the basis of the project tender, additional maintenance costs to the MCA as a result of modifying CERS have been estimated at £480,000⁷ over the course of five years. It is assumed that these additional maintenance costs will be likely to continue into the future. Therefore, for the purposes of this impact assessment, it is assumed that 1/5 of these costs (around £96,000) will be incurred in each year of the 10 year appraisal period.

As noted above, modifications to the CERS system would also be required to satisfy obligations under Directive 2009/17/EC. There is currently no evidence available that would enable the total additional costs to the MCA to be accurately apportioned between the changes required to satisfy the UK's obligations under each of the Directives. For the purposes of the associated impact assessments, it has been assumed that the additional costs to the MCA should be apportioned equally between the two Directives. Therefore, for the purposes of this impact assessment, the transitional costs to the MCA have been assumed to be around £384,000 under the Regulations (Option 1) (i.e. 50% of around £768,000) which is assumed to be spread over 2 years, and the additional maintenance costs to the MCA have been assumed to be around £48,000 per year under the regulations (Option 1) (i.e. 50% of around £96,000). The direction of bias as a result of this assumption is uncertain.

Whilst it should be noted that the share of these costs that should be apportioned to the UK's implementation of each of the Directives is uncertain, this approach ensures that the total additional costs to the MCA are captured across both of these impact assessments.

6.4. Costs to the MCA of carrying out port State control inspections required by the new selection and inspection rules

The Directive (Article 5) requires the UK to carry out risk based inspections and in doing so to deliver a 'share' of all risk based inspections due in the Paris MoU region. The Regulations and administrative procedure transpose these obligations.

In terms of the overall number of PSC inspections, the European Commission has confirmed that the total number of PSC inspections that would need to be carried out to meet the second part of the UK inspection commitment (to contribute a 'share' of the number of risk based inspections which are due in the Paris MoU region as a whole) is 1,740 in 2011 and 1,384 in 2012. Compared with the actual number of inspections carried out in 2010 applying the 25% inspection rule, 1,832, this would represent a reduction of 92 inspections (5%) in 2011 and 448 (24%) in 2012. However, while it appears that there is the potential that the overall number of PSC inspections to be delivered could be reduced (for further discussion see section 7.3 below), inspections due on ships calling at weekends, including expanded inspections, must also be carried out to meet the first part of the inspection commitment (to inspect ships which are due for inspection under the risk based system when they call at UK ports and anchorages).

For the purposes of conducting inspections outside usual hours (before 0800 and after 1800 Monday to Friday, all Saturdays, Sundays and Public Holidays), the MCA proposes to contract the existing port State control inspectors to be available to carry out inspections, additionally, outside usual hours at a stand by rate of £3,000 per year for each inspector taking part⁸. Given the number and distribution of ports in the UK, the MCA considers that a minimum of one inspector would need to be available at any one time outside usual hours in each of 11 operational areas covering the coast of England, Wales, Scotland and Northern Ireland, with a second inspector available in areas of greater demand. Since inspectors are carrying out duties in working hours, the standby cover is arranged on a rota basis between inspectors. The MCA propose that this is organised on a basis of 1 week in 4. For the purposes of this impact assessment, it is assumed that up to 60 surveyors (to provide 1 or 2 inspectors in each of 11 areas according to demand) would be needed to provide standby cover outside usual hours.

⁶ As this cost is based on a fixed-price tender bid, it can be considered an actual cost to MCA in current prices.

⁷ As this cost is based on a fixed-price tender bid, it can be considered an actual cost to MCA in current prices.

⁸ Based on DfT(c) Standby rates.

On the basis of the above assumptions, the total cost of standby cover outside usual hours has been estimated at around £180,000 per year. However, it should be noted that this estimate is sensitive to the assumptions that have been made. The direction of bias resulting from these assumptions is uncertain.

Additionally, where inspections would be required over the weekend or on a public holiday, the cost of an inspection would be higher as overtime could be payable. Early data on arrivals in the first 6 months of operation of the new inspection regime suggest that up to 25% of ships which are due for inspection when calling at a UK port or anchorage arrive at a weekend. However, given the early stage and limited period of implementation, it has not been possible to monetise this cost in this impact assessment

Weekend working by inspectors is currently taking place on a voluntary basis, so it should be noted that some of these costs in overtime are currently being incurred.

The MCA will meet any additional costs from within existing budget allocations.

6.5. Potential Additional Costs to the owners and operators of foreign flagged ships

The potential additional costs to the owners and operators of foreign flagged ships are set out below. No evidence on these costs was received during consultation, therefore it has not been possible to monetise these costs in this impact assessment. In addition, since an impact assessment is concerned with the costs and benefits to the UK, it should be noted that the costs and benefits that would fall on the owners and operators of foreign flagged ships would represent costs or benefits to the UK only where these costs and benefits fall on UK entities (e.g. UK businesses and UK customers). The extent to which this would be the case is uncertain.

Furthermore, it should be noted that when the Directive is implemented across EU member states, it will impact on UK flagged vessels as they call at the ports of other member states. The cost impacts are likely to be limited since the UK flag has a good performance based on the number of UK flagged ships detained in the Paris MoU region, a factor taken into account in determining ship risk profiles (see black, grey and white list of flag performance and ship risk profile calculators at <http://parismou.org>). There could also potentially be some benefits to UK flagged vessels if the Directive decreases the number of inspections they would undergo. However, it should be noted that these impacts are not captured in this impact assessment because they would not be a result of the UK's implementation of the Directive (Option 1), but instead would arise as a result of implementation of the Directive by other member States.

6.5.1. The potential costs to ship owners and operators subject to expanded inspections

Under the 1995 Regulations, foreign flagged ships that call at UK ports are subject to port State control checks of documentation and the overall condition of the ship. A more detailed inspection of specific area(s) takes place where findings from the initial inspection warrant further investigation. The inspections involve, on average, no more than 1 surveyor for 1 day. Certain ships are subject to 'in depth' expanded inspections of prescribed areas at 12 month intervals, usually involving 2 inspectors for 8 hours. Expanded inspections apply to older foreign flagged ships of certain types - bulk carriers, oil, gas and chemical tankers and passenger ships. Other ship types are not subject to expanded inspections unless requested at the owner's expense in order to lift a refusal of access order.

Under Option 1, expanded inspections will be extended to ships with a high risk profile regardless of ship type or age and due at 6 month intervals. Since ships of higher risk are already due for inspection after one month from the previous inspection to a level of detail determined by conditions found on board, these ships may spend no greater time undergoing inspection under Option 1, but they would be consistently subject to 'in depth' inspections of prescribed areas. The likelihood of detection of serious deficiencies under Option 1 may increase. However, it should be noted that the costs of rectifying deficiencies found during inspections should be regarded as deferred costs of compliance with the relevant international standards which responsible owners meet at outset and substandard ships avoid to their competitive advantage. Since ship owners should already have incurred these costs, the costs of rectifying deficiencies should not be counted as costs of Option 1 in this impact assessment.

Under Option 1, minor changes affecting ships already subject to expanded inspections would include a common age threshold of 12 years instead of 10, 12 or 15 years according to ship type, and expanded

inspections being undertaken at intervals determined by the ship risk profile, which could be 24-36 months in the case of a ship with a low risk profile. Surveys carried out on passenger ferries under Directive 1999/35/EC (the ferry Directive) would count as expanded inspections for port State control.

The inspection database identifies high risk ships due for expanded inspections, and the minor changes affecting ships already subject to expanded inspections described above. Since the ships are identified in accordance with the risk based selection system, and the risk based inspection scheme is set out in the administrative procedure (to complete transposition), these changes have already been implemented.

6.5.2. The potential costs to ship owners and operators of notifying the MCA of arrival for expanded inspections

The Directive (Articles 9 and 14) requires owners or masters of ships due for expanded inspection to give 72 hour notice of arrival in port. This requirement is transposed in the Regulations under Option 1 and not by administrative means since an obligation is placed on a body other than the State. The revised reporting requirements cannot therefore be imposed on ship owners and masters until the Regulations are in place.

Owners and masters of ships due for expanded inspections at 12 month intervals are already required to provide the MCA with 72 hour notice of arrival in port to allow arrangements to be made for conducting an inspection which typically entails 2 inspectors for 8 hours

Under Option 1, notice is required after 5, 10 or 24 months from the previous inspection for a ship with a high, standard or low risk profile respectively. Regular surveys under the ferry Directive 1999/35/EC are generally scheduled at more frequent intervals, so it is unlikely that such passenger ships would need to give notice for expanded inspections (unless it is a high risk profile ship).

While expanded inspections are extended to high risk profile ships under Option 1, the MCA expects that the increase in the number of additional inspections will be modest. The most authoritative impact assessment carried out within the Paris MoU based on inspection records for 2004 only⁹ indicates an increase of 33% for the region as a whole. If this is replicated in the UK, this would be equivalent to an additional 40 expanded inspections a year in the UK (33% of the UK annual average 2007-2009 of 121). (Early stage data from the inspection database at <http://www.parismou.org> shows about 80 expanded inspections conducted in UK ports in the first half of 2011, which is consistent with the analysis.)

The additional resource cost associated with these additional ship notifications is likely to be very limited.

6.5.3. Costs of the requirement to be available for expanded inspections

The Directive (Article 14) requires owners or masters of ships due for expanded inspection to allow sufficient time in the operating schedule for an expanded inspection to be carried out and requires the ship to remain in port until the inspection is completed. These requirements are transposed in the Regulations under Option 1 and not by administrative means since an obligation is placed on a body other than the State. The new obligations described above cannot be imposed on owners and operators without regulations, and therefore they have not yet been implemented.

Under the 1995 Regulations, foreign flagged ships which fail to give notice for expanded inspections are subject to expanded inspection at the next port of call in the Paris MoU region. Even so, failure to report has been seen as a limiting factor. For this reason, Directive 2009/16/EC requires owners and masters to allow sufficient time in the operating schedule for an expanded inspection to be carried out and the ship to remain in port until it is completed. The Regulations under Option 1 introduce this requirement into UK law. Directive 2009/16/EC also requires the MCA, where notice is received, to inform the ship in the event that an expanded inspection will not go ahead.

Since nearly 90% of expanded inspections due in UK ports in the past 3 years were completed, the MCA considers that most operators already accommodate expanded inspections within their trading schedule as they become due and that there would be no significant additional costs to responsible ship owners.

⁹ Technical paper submitted to the 39th meeting of the Committee of the Paris Memorandum of Understanding on Port State Control.

EC and Paris MoU websites provide tools to enable owners and master to determine if and when their ships are due for expanded inspections. However, it is possible that there could be some costs for some operators or owners.

6.6. Potential costs from refusal of access provisions

Under Option 1, refusal of access (banning) rules are extended to ships of any type which are repeatedly detained. The period of the ban increases on each occasion and could result in permanent refusal of access to ports and anchorages of member States on the third or fourth occasion. There will be costs to the owners and operators of any ships that are subject to refusal of access provisions under Option 1. However, the scale of the potential costs of Option 1 to the UK as a result of this sanction is very uncertain as it would depend on whether the costs to owners and operators of these vessels fall on UK entities (e.g. UK businesses or UK consumers), and no evidence on these costs was received during the consultation. Therefore, it has not been possible to monetise this potential cost in this impact assessment.

6.7. Familiarisation costs

The MCA, the Paris MoU and the European Maritime Safety Agency have issued information about the changes (see section 10 of this impact assessment). These actions will minimise the costs for shipowners and seafarers of becoming familiar with the new requirements of the Regulations, the residual cost of which is not considered to be significant.

6.8. Summary of monetised costs of Option 1

Table 1 presents the Best estimates of the monetised costs of Option 1. For the purposes of this impact assessment, it is assumed that all of the recurring costs will start to be incurred in 2011. The timing of the implementation of the Directive in the UK is discussed in section 8 of this impact assessment.

Table 1 - Summary of Monetised Costs (Best estimates) (£m) (2011 prices)

	Total (PV)	Total	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Costs to ports of system upgrades	0.16	0.16	0.16	0	0	0	0	0	0	0	0	0
Costs to ports of providing notifications via the web interface	0.43	0.50	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05
Costs to MCA of modifying CERS	0.79	0.86	0.24	0.24	0.05	0.05	0.05	0.05	0.05	0.05	0.05	0.05
Costs to MCA of inspector standby cover	1.55	1.80	0.18	0.18	0.18	0.18	0.18	0.18	0.18	0.18	0.18	0.18
Total	2.93	3.32	0.63	0.47	0.28	0.28	0.28	0.28	0.28	0.28	0.28	0.28

7. Benefits of Option 1

Given the limitations of the available evidence base, it has not been possible to monetise any of the benefits of Option 1. A full qualitative description of each of the benefits that have been identified has therefore been provided in this impact assessment.

7.1. Summary of the key benefits of Option 1

Provisions of the Directive which introduce risk based inspections and stricter sanctions for ships which are repeatedly found to be substandard could potentially provide benefits. The MCA considers that the potential benefits of Option 1 that stem from implementation of the Directive in UK law and administrative provisions as required by the Directive are as follows.

Description of the Benefit	Has this benefit been monetised?	Where is it discussed in this impact assessment?
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Description of the Benefit	Has this benefit been monetised?	Where is it discussed in this impact assessment?
There could potentially be a reduction in the risks posed by substandard ships	No	Section 7.2
There could potentially be a reduction in the number of Port State Control inspections the UK is required to undertake	No	Section 7.3
There could potentially be efficiency gains from removing the 25% inspection commitment	No	Section 7.4
There could potentially be a more level competitive playing field	No	Section 7.5

7.2. A potential reduction in the risks posed by substandard foreign flagged ships

The Regulations under Option 1 would provide a legal basis for more effective enforcement of the relevant Conventions on foreign flagged ships that call at UK ports and anchorages. Therefore, it is considered that a potential benefit of Option 1 would be a reduction in the number of substandard foreign flagged ships that operate to and from UK ports, which could thereby reduce the risks to safety, health or the environment associated with such ships. More effective targeting of ships for inspection and stronger penalties for non-compliance, including permanent refusal of access to ports and anchorages of member States, could deter and prevent persistently substandard ships from operating in the Paris MoU region. As an indicator of the effect of harmonised enforcement in the Paris MoU region, ship detentions show a downward trend from 9.5% of inspections in 2000 to 3.28% in 2010 (Source: Paris MoU Annual Reports <http://www.parismou.org>).

The discussion in section 2 illustrates the potentially significant costs associated with maritime oil pollution incidents. In addition, DfT WebTAG guidance¹⁰ suggests an average value of avoiding a fatality of around £1.6 million in 2009 prices in the context of road users, which WebTAG suggests should be used in the appraisal of maritime interventions in the absence of other evidence. This evidence provides some context since it illustrates the potential for benefits to arise from interventions that make the marine environment safer and better controlled. However, it should be noted that no quantitative evidence is available on the extent that Option 1 would reduce the risk posed by substandard foreign ships.

7.3. A potential reduction in the number of Port State Control inspections the UK is required to undertake

The Regulations under Option 1 will replace the 25% inspection commitment by an obligation to carry out a UK 'share' of the total number of risk based inspections to be carried out in the Paris MoU region. The impact on the number of PSC inspections the UK is required to undertake is uncertain.

In 2010, the MCA carried out 1,832 PSC inspections to meet the 25% inspection commitment referred to in section 4. However, it should be noted that the number of PSC inspections that would be undertaken each year under the Do Nothing scenario is uncertain as it would vary according to the number of individual ship calls. As an illustration of this uncertainty, the number of PSC inspections carried out by the UK varied between 1,646 and 1,832 in the years 2007 to 2010 (see Paris MoU Annual Reports available at <http://www.parismou.org>).

The European Commission has confirmed that the UK 'share' of inspections is 1,743 in 2011 and 1,384 in 2012. (The Paris MoU wide reduction in the number of risk based inspections reflects the improving quality of ships visiting the Paris MoU region in terms of fewer flags on the Paris MoU black list and a reduction in the average age of visiting ships). Compared with the number of PSC inspections carried

¹⁰ <http://www.dft.gov.uk/webtag/documents/expert/unit3.4.1.php>.

out in 2010, this suggests that it is possible that there could be a reduction in the number of PSC inspections the UK is required to undertake under Option 1. However, whether this figure would represent a reduction in the number of PSC inspections the UK is required to undertake compared to the Do Nothing scenario would depend on the number of PSC inspections the UK would be required to undertake under the Do Nothing scenario, which is uncertain.

Given the limitations of the available evidence base, the scale of these potential benefits is very uncertain. Therefore, it has not been possible to monetise this potential benefit in this impact assessment.

7.4. Potential efficiency gains from removing the 25% inspection commitment

Removing the 25% inspection commitment is likely to lead to efficiency gains, since it would reduce the time that is spent on inspecting ships that are compliant. It is a recognised feature of the 25% inspection target that ships are inspected to make up numbers regardless of the risk they pose. The change is likely to result in a more productive use of resources.

It would also reduce the burden of port State inspections on responsible owners. However, the scale of the potential benefits to the UK is very uncertain as it would depend on whether the benefits to owners and operators of these vessels would fall on UK entities (e.g. UK businesses or UK consumers). Therefore, it has not been possible to monetise this potential benefit in this impact assessment.

7.5. The potential for a more level competitive playing field

By enabling the MCA to inspect foreign flagged ships that call at UK ports more effectively, and by strengthening the sanctions which could be imposed on substandard ships, Option 1 could contribute to creating a more level playing field for shipping, as it could help to prevent shipowners and operators who take inappropriate risks (in operational safety, pollution prevention or labour practices) from gaining a competitive advantage by doing so.

8. Risks to implementation

- The Regulations are not in place by 1 January 2011 as required by Directive 2009/16/EC. This is the case and the UK is at risk of infringement action by the European Commission for delayed transposition. Until the Regulations under Option 1 are made, the MCA is applying risk based inspections under existing powers to inspect ships, but cannot impose or enforce additional obligations on external bodies or strengthen sanctions for substandard ships.
- The MCA data exchange system (CERS) is not modified by 1 January 2011. The CERS project plan anticipates delivery of a modified system in April 2012. Until it is in place, port authorities are unable to provide actual times of ship calls to the MCA in a form that may be transferred electronically to the EC SafeSeaNet system. (The Regulations provide a defence for port authorities against enforcement action for failure to report). However, a minimum set of information on actual times of ship calls is being recorded in the inspection database manually by the MCA.
- The delay by ports in reporting actual times of ship arrival does not affect port State inspection activity which is planned on the basis of expected times of ship arrival and departure provided by port authorities under Directive 2002/59/EC using the existing CERS system.
- Port authorities decide not to modify their data exchange systems to provide additional data. In this case, port authorities would be required to use one or more of the other means to transfer data (see section 6.2.1 of this impact assessment), subject of course to modifications to the MCA data exchange system being in place to support this.

The number and timing of demand led inspections in the UK is uncertain until the new inspection regime is tested, as is the resource and its deployment needed to meet the inspection commitment (see sections 6.4 and 7.3 of this impact assessment). The European Commission is required by the Directive to review implementation by member States by 30 June 2012, with the ability to amend or propose further legislation.

9. Wider impacts of Option 1

9.1. Small and medium enterprises

The key cost identified that would fall on UK ports is that associated with reporting on ship arrivals and departures to the MCA. However, this cost relates directly to the number of vessel movements to or from the port and hence is very likely to be correlated with the size of the enterprise. For example, large ports handling many vessel movements would account for a very significant proportion of the vessel movement reports required. The potential impacts of Option 1 on UK shipping interests are discussed in section 6.5 of this impact assessment.

No evidence on the impact on small and medium enterprises was received as a result of consultation.

9.2. Competition

Directive 2009/16/EC applies across the EU and applies to all foreign flagged vessels. On the basis that Option 1 does not go beyond the minimum needed to implement Directive 2009/16/EC, it is considered unlikely that there would be any negative impacts on competition between ports. However, it should be noted that no evidence on the impact of Option 1 on competition between ports is available.

Stricter control of ships which take inappropriate risks in operational safety, pollution prevention or labour practices could impact on competition between ships. Option 1 should therefore help to provide a more level competitive playing field for the shipping industry.

9.3. Health

Any potential impact from stricter enforcement of international conventions would be likely to be to the benefit of seafarers living and working on board ship. However, it should be noted that no evidence on the impact of Option 1 on health is available.

9.4. Equality

Option 1 would have no effect, positive or negative, on outcomes for persons in relation to their age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

9.5. Human rights

The Regulations do not raise any human rights issues.

9.6. Unintended consequences.

Deep sea pilots have highlighted a potential risk in that without strict confidentiality of reporting, ship owners would stop using their services (which is voluntary), with a reduction in safety of navigation and a risk to the deep sea pilotage industry, see section 6.2.1.

It is known that ships which are refused access to ports of member States may operate in contiguous areas, passing through waters of member States without their control.

9.7 One In One Out

This measure is not in scope of OIOO as it is from a European origin.

10. Implementation plan

The Secretary of State is responsible in law for meeting UK obligations under Directive 2009/16/EC. The functions will be carried out by the MCA who are responsible for implementation in the UK.

The Paris MoU has over past years issued press releases on the planned introduction of the new inspection regime; information is available on the website <http://www.parismou.org>. The European

Maritime Safety Agency has publicised the new reporting requirements.

The MCA issued Marine Information Note 380 for ship owners and seafarers, and port authorities are aware of the new reporting obligations and technical specifications through established joint working groups. A programme of training sessions for MCA inspectors and administrator has been completed. The risks identified in section 8 of this impact assessment have not substantially affected the ability of the MCA to carry out port State inspections from 1 January 2011.

The Regulations contain a statutory duty of post implementation review every five years of the operation and effect of the regulations, and for reports to be laid before Parliament.

11. Monitoring, Enforcement & Sanctions

Enforcement of contravention of the Regulations by ship owners, masters, pilots or port authorities will be carried out by the MCA as part of its existing enforcement activities. The penalties for non compliance contained in the Regulations, including a fine not exceeding the statutory maximum or imprisonment not exceeding a specified period are consistent with penalties under the status quo. To date, no prosecutions related to port State control regulations have been brought.

Monitoring of UK inspection activity in relation to its inspection commitments is an existing activity which will be further assisted by tools provided in the EC inspection database and reporting tools provided by the Paris MoU. The European Commission is responsible for monitoring compliance of member States with Directive 2009/16/EC and enforcing compliance through the European Court of Justice.