

EXPLANATORY MEMORANDUM TO
THE MERCHANT SHIPPING (VESSEL TRAFFIC MONITORING AND
REPORTING REQUIREMENTS) (AMENDMENT) REGULATIONS 2008

2008 No. 3145

1. This explanatory memorandum has been prepared by the Department for Transport and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 The Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) (Amendment) Regulations 2008 (“the Regulations”) amend the Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004 (SI 2004/2110) (“the 2004 Regulations”) and the Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995 (SI 1995/2498) (“the 1995 Regulations”).

2.2 The main purpose of the Regulations is to apply the requirements of the 2004 Regulations to fishing vessels and traditional ships with a length of 45 metres and above and to make corresponding amendments to the 1995 Regulations to ensure that there is no duplication of legislative requirements for these types of vessels. The Regulations also make two further amendments to the 2004 Regulations. First, port authorities, which have collected notifications from ships about their arrival into the port, are required to pass that information to the Maritime and Coastguard Agency (MCA) electronically whenever practicable, rather than “by the quickest means possible” and, secondly, to clarify when disclosure of information may be made with lawful justification.

3. Matters of special interest to the Joint Committee on Statutory Instruments

None.

4. Legislative Context

4.1 European Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system (“the Directive”) is implemented into domestic legislation in the United Kingdom primarily through the Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004. Some parts of the Directive are implemented through the Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995, the Merchant Shipping (Safety of Navigation) Regulations 2002 and through administrative means.

4.2 The European Commission commenced infraction proceedings, it being of the view that the United Kingdom had not fully implemented the provisions of the Directive, in that it had failed to apply the Directive to fishing vessels and traditional

ships of 45 metres and above. This arose as a result of a difference in interpretation of the wording used in Article 2 of the Directive.

4.3 A copy of the Transposition Note is attached.

4.4 The Commission's amended proposal for the Directive was the subject of an explanatory memorandum (EM 12695/01) which David Jamieson, Parliamentary Under Secretary of State, Department for Transport, Local Government and the Regions, submitted on 19 November 2001. Sub-Committee B of the House of Lords Select Committee on the European Communities cleared it on 10 December 2001. The House of Commons Select Committee on European Scrutiny's meeting on 5 December 2001 deemed it politically important and cleared it.

5. Territorial Extent and Application

This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 The Regulations bring both fishing vessels and traditional ships which have a length of 45 metres and above within the scope of the 2004 Regulations.

7.2 The Directive is designed to help prevent accidents at sea and enhance the safety and efficiency of maritime traffic, and was instigated in response to the loss of the tanker *MV Erika*, which broke up in bad weather and sank 40 miles off the Brittany coast, in the northern part of the Biscay Bay in December 1999.

7.3 The United Kingdom is an important contributor and beneficiary of the information provided under the Directive and the 2004 Regulations, as much of North European shipping passes through United Kingdom territorial waters and the United Kingdom Pollution Control Zone.

7.4 The key elements with which the vessels to be incorporated within the scope of the legislation will need to comply are: to provide notification prior to entry into ports; comply with vessel traffic services; provide notifications when carrying dangerous or polluting goods as cargo; provide reports and take certain measures in the event of incidents and accidents at sea; and take certain measures in the event of exceptionally bad weather.

7.5 The Regulations are also being used to make two other changes, namely:

- i. to require port authorities to pass information electronically to the MCA whenever practicable, rather than by the quickest means. This will facilitate input of information to the United Kingdom's national vessel traffic monitoring and information system known as CERS (the Consolidated

European Reporting System), which is required, in turn, to transfer that information electronically to the European system known as SafeSeaNet; and

ii. to clarify when a disclosure of information under the 2004 Regulations may be made with lawful justification.

7.6 It is estimated that a total of approximately forty fishing vessels and traditional ships will fall within the scope of the requirements of the 2004 Regulations. These vessels will need to comply with the requirements summarised at paragraph 7.4. They will be affected most routinely by the requirement to make notification prior to entry into port, although, in practice, such notifications would be made by the vast majority of vessels to facilitate their accommodation on arrival at port. The amount of additional notifications, therefore, that will need to be handled by port authorities is minimal.

7.7 The impact of the amendment requiring port authorities to pass information to the MCA electronically is also estimated to be small as this is the method adopted by port authorities since CERS was implemented at the beginning of 2008. In effect, the Regulations formalise what takes place in practice.

7.8 Industry was involved in the development of the Directive originally and its implementation through the United Kingdom Safety of Navigation (UKSON) Committee. The UKSON Committee, the Fishing Industry Safety Group (comprising representatives from throughout the fishing industry) and the Vessel Traffic Monitoring Directive Operational Working Group (comprising representatives from the maritime industry and port authorities and their Associations) have been kept informed of these amendments at routine meetings and have been consulted as appropriate.

- ***Consolidation***

7.9 This is the second set of regulations amending the 2004 Regulations, it is, therefore, intended to issue a consolidated set of Regulations. However, amendments to the Directive are currently in the final stages of examination by the Council of the European Union and the European Parliament. In order to minimise the burden on industry created by a sequence of Regulations on the same topic we shall incorporate amendments introduced by the Amending Directive if the timing of its adoption and implementation coincides with the development of the consolidating regulations.

8. Consultation outcome

8.1 The consultation package was sent to forty seven consultees. The owners/operators of fishing vessels with a length of 45 metres and above were identified and specifically targeted together with fishermen's organisations representing members throughout the UK. In addition, the consultation exercise included organisations with a connection to traditional ships, relevant representatives of the maritime industry generally, seafarers organisations and port authorities. A consultation period of six weeks was adopted as it was considered that the proposed amendments were of limited extent and those most affected were a finite audience,

many of whom could be contacted personally rather than through associations, and all of whom could reasonably be expected to know about the proposed amendments through MCA industry liaison groups.

8.2 Out of the forty seven consultees two responses were received, of those one had no substantive comments to make. The other respondent expressed concern that the amendment to regulation 5(6) requiring ports to pass information to the MCA electronically instead of by the quickest means possible might lead to an indirect enforcement of electronic report submission by vessels calling into UK ports. That is not the policy aim or what is required by the Regulations.

8.3 Being conscious that the target audience comprised what could be regarded as small businesses, i.e. fishermen owners of a single vessel, small groups of enthusiasts operating a traditional ship or small port authorities, consultees were requested to advise of the cost implications of compliance with the Regulations. No information was submitted.

9. Guidance

9.1 Merchant Shipping Notice (MSN) 1817, which details the technical requirements applicable to ships and UK port authorities to comply with the 2004 Regulations, will be updated to reflect changes brought about by the Regulations.

10. Impact

10.1 The impact on business, charities or voluntary bodies is generally one of use of existing manpower as the ships would already have fitted communications equipment needed to make the notifications and reports required by the Regulations, for reasons of overriding safety. Some traditional ships are owned /operated by charities or educational trusts, but the impact is estimated to be very low for the same reasons.

10.2 The impact on port authorities in passing the information gathered under the 2004 Regulations to the MCA electronically rather than by alternative means is considered to be negligible in terms of manpower. Assumptions have been made that a limited number of small ports might have had to set up systems enabling web access to CERS. However, as systems to interface with CERS are already in place, to comply with the Directive timescales, and a large number of vessels are already subject to the requirements, the impact of these Regulations (which amounts to the handling of additional reports from forty ships), is considered to be low.

10.3 The impact on the public sector will generally fall to the MCA. It will involve the processing of a slightly increased number of notifications of entry into ports, potentially, additional reports of incidents and accidents at sea or a need to provide advice in the event of exceptionally bad weather. The additional impact likely to be created by the small number of vessels to which the Regulations relate is minimal and is within the scope of the systems already in place to implement the Directive.

10.4 An Impact Assessment is attached to this memorandum.

11. Regulating small business

11.1 The legislation applies to small business.

11.2 In considering means of minimising the impact of the requirements on firms employing up to 20 people, the MCA has examined the Directive to see whether impact on small businesses (vessel operators and ports) can be limited through exemptions or less frequent reporting. It is satisfied that Member States can not apply such derogations under the Directive upon which the Regulations are based.

11.3 In view of the conclusion reached this sector of the industry has been kept informed of the position through industry liaison groups and direct consultation.

12. Monitoring and review

12.1 The impact of the policy will be kept under review.

12.2 A review period of 10 years to assess actual cost and benefits is considered appropriate. However, amendments to the Directive are expected which may bring forward the review.

13. Contact

Mrs Jean Whitaker at the Maritime and Coastguard Agency, an executive agency of the Department for Transport, can answer any queries regarding the instrument.
Tel: 023 8032 9135 or email: navigationsafety@mcga.gov.uk

Summary: Intervention & Options		
Department /Agency: Maritime and Coastguard Agency	Title: Impact Assessment of the Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) (Amendment) Regulations 2008	
Stage: Final	Version: 16	Date: 4 December 2008
Related Publications: EU Directive 2002/59/EC; SI 2004/2110; SI 1995/2498.		

Available to view or download at: <http://www.mcga.gov.uk>

Contact for enquiries: Paul Townsend

Telephone: 023 80329523

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

Owing to a number of high profile accidents in European waters, notably the Erika off the coast of France in December 1999 and the Prestige off the coast of Spain in November 2002, there has been a growing need to monitor shipping movements in European waters, and to be able to access cargo information in the event of an incident. Industry cannot be expected to provide such a service without regulation since the costs of such a service would largely fall on industry but the benefits would accrue to the environment and rescue services.

What are the policy objectives and the intended effects?

1. Comply with Directive 2002/59/EC
2. To improve safety at sea for fishing vessels and traditional ships of 45 metres and over in length.
3. Reduce pollution in the marine environment from avoidable accidents.
4. Encourage use of electronic means for transmitting vessel monitoring data to the MCA.
5. To clarify when it is lawful to make a disclosure of information under the 2004 Regulations.

What policy options have been considered? Please justify any preferred option.

Legislation was introduced in 2004 to implement the Vessel Traffic Monitoring Directive. Inadequacies were identified by the European Commission in the transposition. Options considered were as follows:

Option 1 – Do nothing;

Option 2 – Amend Regulations to ensure consistency with Commission’s interpretation of the scope of the Directive;

It was decided that Option 2 was the most appropriate action to take to meet policy objectives

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? A review period of 10 years to assess actual costs and benefits has been chosen, however, amendments to the Directive are expected which may bring forward the review.

Ministerial Sign-off For final proposal/implementation stage Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

Jim Fitzpatrick.....Date:5th December
2008

Summary: Analysis & Evidence	
Policy Option: 2	Description: Amend Regulations to ensure consistency with Commission's interpretation of the scope of the Directive.

COSTS	ANNUAL COSTS		Description and scale of key monetised costs by 'main affected groups' Costs are based on an assumption that 40 vessels will make 40 voyages per annum. They cover costs to ship crews of time spent reporting information, and costs to ports of recording/processing it. They also include costs for ports providing information through web-access.
	One-off	Yrs	
	£ 0 to 90,000	10	
	Average Annual Cost (excluding one-off)		
£ 4,150 to 77,770		Total Cost (PV)	£ 47,000 to 731,000
Other key non-monetised costs by 'main affected groups' There are no other costs expected to arise from this regulation.			

BENEFITS	ANNUAL BENEFITS		Description and scale of key monetised benefits by 'main affected groups' No benefits have been monetised because of the difficulty in assessing the small additional improvement of these 40 vessels complying with the EU Directive over and above the many thousands that comply already.
	One-off	Yrs	
	£	10	
	Average Annual Benefit		
£		Total Benefit (PV)	£
Other key non-monetised benefits by 'main affected groups' Ports: traffic management will improve, with knock-on safety benefits; Environment: Accidents may be avoided through the monitoring of ships and through action taken on the basis of information obtained through that monitoring and this has the potential to result in significant savings.			

Key Assumptions/Sensitivities/Risks It is assumed that:
 40 vessels (FV and TS), previously excluded, are now subject to the 2004 Regulations; the number of vessel movements for these vessels may be subject to variation;
 300 small ports need to acquire PC equipment and internet access (worst case scenario);
 no difference in manpower costs between electronic notification and other methods.

Price Base Year 2007	Time Period Years 10	Net Benefit Range (NPV) £ - 47,000 to - 731,000	NET BENEFIT (NPV Best estimate) £ - 47,000
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What is the geographic coverage of the policy/option?	Europe-wide
On what date will the policy be implemented?	Entry into force
Which organisation(s) will enforce the policy?	MCA
What is the total annual cost of enforcement for these organisations?	£
Does enforcement comply with Hampton principles?	Yes
Will implementation go beyond minimum EU requirements?	No
What is the value of the proposed offsetting measure per year?	£ 0
What is the value of changes in greenhouse gas emissions?	£ 0
Will the proposal have a significant impact on competition?	No

Annual cost (£-£) per organisation (excluding one off)	Micro	Small	Medium	Large
Are any of these organisations exempt?	No	No	N/A	N/A

Impact on Admin Burdens Baseline (2005 Prices)			(Increase -
Increase	£ 4,150	Decrease	£ 0
			Net £ 4,150

Year	Annual costs and benefits	(Net) Present Value
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[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Impact Assessment

Background

1. The 1993 Council Resolution on a Common Policy for Safe Seas included long-term aims to improve monitoring of traffic in European Community waters. Serious maritime accidents close to EU coastlines, in particular, severe sea and coastal pollution associated with the loss of the tankers “Erika” affecting France and “Prestige” affecting Spain have since emphasised the need for action. The measures in Directive 2002/59/EC are designed to reduce and prevent accidents at sea, and were instigated in response to the loss of the tanker *MV Erika*, which broke up in bad weather and sank 40 miles off the Brittany coast, in the northern part of the Bay of Biscay in December 1999.

2. Significant related developments were contained in the revised Chapter V of the International Convention for the Safety of Life at Sea (SOLAS) published by the International Maritime Organization (IMO) that required ships to be fitted with Automatic Identification Systems (AIS) and Voyage Data Recorders (VDRs) by December 2004. AIS permits ships to be tracked from the shore by Coastguard personnel and VDRs provide black box type data to investigators after an accident.

3. Directive 2002/59/EC takes advantage of this new technology on ships to introduce better arrangements for monitoring shipping from the shore and then exchanging information on ship movements with other Member States of the European Union.

4. The Directive provides in particular for the following:

- improving the identification of ships heading for European ports and monitoring all ships in transit in areas of high traffic density or potentially hazardous to shipping, and requiring most ships sailing in Community waters to carry AIS so that they can be automatically identified and monitored by coastal authorities (Articles 4, 5 and 6);
- extending the reporting requirements to other dangerous or polluting goods which doubles those already provided for by an earlier Directive 93/75/EEC (Article 13);
- simplifying and harmonising the procedures relating to the transmission and use of data on dangerous or polluting goods carried by ships, notably through the systematic use of electronic data interchange (Article 14);
- stepping up the development of common databases and the interconnection of the stations responsible for managing the information gathered under the Directive (Article 14);
- ensuring closer monitoring of ships posing a particularly serious threat to maritime safety and the environment and requiring information about them to be

circulated among Member States, to enable the latter to identify dangerous situations sooner and take any preventative action necessary in respect of such ships (Articles 16 and 17);

- requiring Member States to make plans to accommodate ships in distress in places of refuge, and stipulating measures for shore authorities to take in exceptionally bad weather conditions (Articles 18 and 20).

5. The requirements contained in this Directive have already been implemented primarily through the Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004 (SI 2004/2110), the Merchant Shipping (Reporting Requirements for Ships Carrying Dangerous or Polluting Goods) Regulations 1995 (SI 1995/2498) and the Merchant Shipping (Safety of Navigation) Regulations 2002 (SI 2002/1473).

6. Government intervention is required at this stage because a letter issued under Article 226 of the Treaty Establishing the European Community has been received. Receipt of an Article 226 letter is the first step (albeit an administrative one) in infraction proceedings. Our legislation does not include fishing vessels and traditional ships having a length of 45 metres or more within the scope of its application.

Scope and extent of changes

7. The vast majority of shipping in Europe is already required to comply with the requirements in the Vessel Traffic Monitoring Directive. The primary purpose of this amendment is to address a difference of interpretation between the United Kingdom and the European Commission regarding the application of the Directive to fishing vessels, traditional ships and recreational craft having a length of less than 45 metres. This has now been resolved with the result that our legislation needs to be revised slightly to clarify that the 45 metres criteria applies to all three types of ships, and not just recreational craft.

8. As a result, the 34 UK-flagged fishing vessels and a very small number of traditional ships which are 45 metres or over in length are now required to comply with the requirements in the Directive. This impact assessment assumes that a maximum of 40 vessels which were not previously required to comply, will now need to do so as a result of this amendment. Ports will also receive an increased number of notifications from these vessels as a result of this amendment, and there will be a requirement for ports to input this information into the Consolidated European Reporting System (CERS) for onward transmission into SafeSeaNet operated by the European Maritime Safety Agency (EMSA). Similar vessels operating in UK waters which are flagged to other EU States will already be required to comply with the requirements of the Directive through the legislation of their own flag State.

9. This amendment will broadly affect three main user groups. Firstly, the masters and owners of vessels who may need to provide notifications or other information prior to entry into port, to co-operate with vessel traffic services of a Member State, or to co-operate with directions received from the MCA in the event of bad weather. Secondly, the ports themselves, who will receive notifications from those vessels and record the information into the Consolidated European Reporting System. Finally, the MCA (HM Coastguard) could potentially receive additional reports of incidents and accidents at sea, or need to provide additional advice in the event of exceptionally bad weather.

10. The overall impact of this amendment is small (estimated to affect 40 vessels), bearing in mind that there are many thousands of vessel movements taking place around the UK coast annually, and these vessels already need to comply with the Directive.

11. For the exact legal requirements which these vessels must comply with, please see the Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004, and the draft amending Statutory Instrument. In brief, the key elements that these vessels will need to comply with are: To provide notifications prior to entry into port; comply with vessel traffic services; provide notifications when carrying dangerous goods as a cargo; provide reports and take certain measures in the event of incidents and accidents at sea; and take certain measures in the event of exceptionally bad weather.

12. The amendment to regulation 5(6) requires some further clarification. Regulation 5 sets out the notification requirements for vessels prior to entry into port, and what the port must do with that information. As currently drafted, regulation 5(6) places a requirement on the port authority to pass the details of vessels arriving at the port to the MCA “by the quickest means possible”. This has been amended to read “whenever practicable the notification by the port authority shall be made electronically”. The purpose of this amendment has been to provide consistency with the language used in regulation 10(7). Regulation 10 concerns notifications made by vessels carrying dangerous or polluting goods as a cargo. Regulation 10(7) sets out the requirements placed upon vessels to make such reports “by electronic means using the procedures specified in Merchant Shipping Notice 1784(M).” This Notice was superseded in December 2007 by MSN 1817.

Costs

Fishing Vessels and Traditional Ships

13. In reality, these vessels will already be carrying radio communications equipment on board with which to comply with the requirements of this amendment. This equipment is already used to communicate with shore-based authorities or nearby vessels for a variety of reasons, not least in the event of needing assistance should the vessel get into difficulty. Such equipment is also carried by traditional ships, for reasons of over-riding safety.

14. Putting a monetary value on the cost to the ship of providing the port notification, and to the port which must then input this information into CERS is problematic. Against the background that only around 40 vessels will be affected by this amendment, and that a large number of ports are already complying with the Directive, the overall additional burden is negligible.

15. However, an attempt is made to put a monetary value against the reporting requirement for the vessel operator, taking into account the advice provided in the Transport Analysis Guidance provided by the Dept for Transport at www.webtag.org.uk. This report places a “value” on the travel time for commuters of £5.04 per hour in 2002 prices. Uprating this value in line with nominal GDP gives a value of £6.50 in 2008 (2007 prices). Using this value, and assuming that the estimated 40 vessels will each make, on average, 40 visits to port per annum (bearing in mind, that bad weather, fishing quotas, holiday/sick leave etc might reduce the amount of time the vessel can remain at sea), this equates to 1600 port visits per year. Assuming that it takes 10 minutes to report to the port authority, using a rate of £6.50 per hour gives a value of £1,733. This is calculated as follows:

$$£6.50 \times 10/60 = £1.08. \quad £1.08 \times 1600 = £1,733.$$

16. In reality of course, the actual monetary return from individual fishing trips will vary depending on how many fish have been caught. It has also been assumed that the number of visits to port by both fishing vessels and traditional ships is the same.

17. In estimating the costs to port authorities, a salary range of £18,000 to £30,000 and 22 working days per month has been used. This results in a daily rate of pay ranging from £68 to £114, and an hourly rate of £9.06 to £15.20 assuming 7.5 hours as a normal day. Assuming it takes the operator 10 minutes to input the information, the cost to port authorities is in the range of £2416 to £4048 i.e.:

$$£9.06 \times 10/60 = £1.51 \times 1600 = £2416 \text{ and } £15.20 \times 10/60 = £2.53 \times 1600 = £4048.$$

18. The range for average annual costs quoted in the table on page 2 is calculated by adding £1733 to £2416 (£4149) and £4048 (£5781) (figures have been rounded up). It represents 2008 values, expressed in 2007 prices.

19. Present value costs are arrived at by appraising the policy over a ten year period. Salaries and values of time are uprated in line with HM Treasury forecasts of real GDP growth, and discounted to a present value at a rate of 3.5% pa in line with Green Book guidance. The result is a ten year net present cost of around £60,000.

20. Notifications by ships carrying dangerous goods as a cargo is thought to be highly unlikely in the context of fishing vessels and traditional ships, because these are not classified as cargo ships and would not therefore be able to carry such goods without appropriate modifications being made to the vessel.

21. The costs associated with making these notifications will have its greatest impact in Scotland. This is because most of the fishing vessels over 45 metres length are based there – in particular at Lerwick, Fraserburgh and Peterhead. Much smaller numbers are based elsewhere – eg Kilkeel in Northern Ireland and Hull on the east coast of England. However, this will not affect competition between ports since it applies to all ports.

Cost to ports in providing notifications by electronic means

22. The original Statutory Instrument already made it a requirement to provide information to the MCA (“by the quickest means”) and the Consolidated European Reporting System (CERS) was set up to satisfy this requirement, plus a wide-ranging variety of other requirements. In reality, most port authorities already provide information to CERS electronically because this clearly is the quickest and most convenient means of transferring the information, therefore, our best estimate reflects this. However, some sensitivity testing has been undertaken to explore the costs to smaller ports of providing information to CERS electronically. This sensitivity testing assumes some 300 small ports were not PC- and web-enabled. The average annual cost, total cost and net benefit ranges highlighted in the Summary pages reflect both our best estimate and the subsequent sensitivity testing undertaken.

23. By way of background comments are provided on the impact on ports of having to provide notifications to the MCA, and a brief consideration of the requirement for ports to have infrastructure in place to meet the requirements of CERS.

24. The CERS/SVD system (Single Vessel Database) is being set up for the MCA to meet a number of business needs. In particular, to meet reporting requirements contained in EU Directives concerning port waste, bulk carrier loading, port state control, vessel traffic

monitoring and security. CERS has been set up to provide information to SafeSeaNet – the European point of contact to which all information provided by EU Member States is transmitted. The system also satisfies a recommendation from an NAO report which required better visibility of vessels in transit around the UK, to improve Survey resource management. Finally, the Single Vessel Database element of the system has allowed the functional requirements from a number of MCA databases to be provided through one consolidated system.

25. Following consultation with ports, the MCA provided two means by which information could be submitted, these being by electronic interface or by WEB interface. A third option also available to port authorities is that they may nominate a third party to provide the information using one of these two options. Decisions on which approach to use has been left to individual ports, who would have needed to weigh up the costs and benefits associated with the specific circumstances of their own individual ports.

26. Currently, 12 of the largest port operators in the UK have developed, or are developing automatic interfaces and others may be following shortly. These ports appear to have existing messaging systems and IT support infrastructure in place, capable of undertaking the additional development that was required to provide the information automatically. The figure of 12 port operators quoted above, needs to be treated with caution. Associated British Ports for example, operates 21 ports around the UK but is only one of the 12 port operators referred to above. It is estimated that these 12 operators between them are responsible for approximately 50 ports around the UK. The majority of smaller ports will be providing information using WEB interface.

27. Currently, there are 660 port locations submitting information to CERS. However, some of these locations will be providing information to satisfy other requirements that CERS offers (for example, yacht marinas may be providing port waste notifications but nothing in connection with vessel traffic monitoring). The number of ports providing vessel arrival information currently stands at 329. There are currently nearly 1100 operators registered to CERS and therefore able to input data from all the sources that CERS supports.

28. If the assumption is made that approximately 300 smaller ports were required to provide arrival information to CERS using the WEB reporting capability, as a minimum this would need a WEB-enabled PC with broadband connectivity. Excluding any manpower costs for entering the data, a one-off cost estimated at £300 for a PC and running costs of £20 per month for Internet access through a broadband connection. Most ports would already have PC and internet access, but a worst case scenario in which all of the 300 smaller ports need to buy this equipment could be in line with the following:

300 PCs @ £300 each	= £90,000
Internet access £240 per annum per port	= £72,000
Total	= £162,000

29. It must be stressed however, that these figures are likely to be very much on the high side, because many ports are likely to already have had such equipment and connectivity in place before the Directive was implemented in 2004. This is reflected, therefore, in the cost range recorded on page 2 of the Summary Sheet.

30. To assess the additional workload on ports in having to provide information through WEB interface, reference was made to the Department for Transport website where information concerning ship arrivals at UK ports can be found

(see www.dft.gov.uk/pgr/statistics/datatablespublications/maritime/shipping). Here, a table has been published based on data supplied by Lloyd's Marine Intelligence Unit and individual ports not counted by Lloyds (mainly regular ferry services). This table lists the number of ship arrivals at UK ports for the period 2000 to 2006, broken down into individual ports and regions. The table lists the total number of arrivals for this period as follows:

Table 1: Ship arrivals at UK ports, number

2000	154,155
2001	154,434
2002	152,927
2003	152,896
2004	150,108
2005	146,182
2006	140,908
<i>Average 2000-06</i>	<i>150,230</i>

31. The arrivals recorded relate to movements of all sea-going vessels of 100 gt and above. They include repeated voyages by the same vessel arriving at a port, whether or not for the loading or unloading of cargo. They exclude vessels arriving at safe anchorages, and also vessels moving within a port or estuary, such as the Solent.

32. The following types of vessels are also not included in the statistics: Vessels of war and those carrying goods for government departments; tugs and other vessels employed within the limit of the port or estuary; other dredgers, supply and support ships, and research vessels; fishing vessels and pleasure yachts; and, vessels entering a port to land sick or injured persons (where known).

33. Using the same approach as used in the previous section to calculate the cost to port authorities of providing arrival information for fishing vessels and traditional ships, the same approach is used below using the same hourly rates of £9.06 to £15.20, and an estimate of vessel arrivals as 150,230. No account is taken of the largest ports for which data is transferred automatically (the 50 estimated above).

Labour costs are therefore calculated as follows:

$$£9.06 \times 10/60 = £1.51 \times 150,230 = £226,847 \text{ and } £15.20 \times 10/60 = £2.53 \times 150,230 = £380,081.$$

A labour cost in the range of £226,847 to £380,081 is therefore estimated.

34. It is assumed that it is not costing any more or any less, in terms of manpower, to provide the information by electronic means than by the alternative methods used prior to CERS being implemented.

35. Detailed information on infrastructure costs to ports which have chosen to provide information by electronic interface is not available. However, one large port operator has provided some basic information which may be used as an indication of the scale of costs involved. This information suggests set-up costs of approximately £10,000 per system. Assuming similar costs for each port authority, system development for 20 systems (some of which would operate in more than one port) connected to CERS would give an estimated cost of £200k for the major port operators.

Benefits

36. The introduction of the Vessel Traffic Monitoring Directive as a whole has brought with it a number of benefits. The original purpose was to provide a vessel traffic monitoring and information system which aimed to reduce accidents and pollution at sea, to minimise the impact of shipping on the marine and coastal environment, as well as the health and economy of local communities. The efficiency of maritime traffic, in particular the management of ships calling at ports also depends on ships giving adequate advance notice of their arrival in port.

37. The Directive complements requirements already brought into force on an international basis by the International Maritime Organization, such as ship reporting and routing systems, and carriage requirements for voyage data recorders and automatic identification systems.

38. Accurate knowledge of dangerous or polluting goods being carried on board vessels is essential in the event of a pollution incident, or when dealing with a fire on board the vessel. As such, ships bound for EU ports are required to provide this information in case it is needed. Electronic data sharing aids Member States with the process of managing huge amounts of cargo information. The Directive does recognise however, that when vessels are engaged on regular scheduled sailings, the need to provide daily reports can be exempted, provided it is known where cargo information can be obtained.

39. The Directive sets out a framework to ensure that in the event of an incident, cooperation between all the relevant parties involved works in an effective manner. To this end, Member States also need to make plans to accommodate ships in places of refuge, when they have got into difficulties and their condition needs to be established.

40. The primary benefit will be to shore-based authorities as a means of improving safety and in environmental protection. Increased reporting in accordance with the Directive will give a clearer picture of the whereabouts and number of vessels visiting UK ports, and the types of cargoes they are carrying. Knowledge of the types and amounts of cargoes that vessels are carrying is important in the event of an incident which requires assistance to be provided to the vessel and its cargo. Compliance with vessel traffic services will also reduce the likelihood of collisions taking place.

41. Notification prior to entry into port is of benefit to the port with regard to vessel traffic management. Fishing vessels tend to have their own discrete berthing areas in a port, but knowing in advance of a vessel's arrival will help in the process of managing the arrival and departure of all vessels. That said, it should be borne in mind that the ports where the larger fishing vessels are based, are mainly fishing ports with only a limited amount of vessel traffic beyond fishing vessels.

42. The benefits of setting up the Consolidated European Reporting System (the UK hub which will feed information into SafeSeaNet) will be considerable. It will enable fulfilment of the following requirements:

- To fulfil a variety of EU reporting requirements in accordance with a number of Directives. Notably concerning port waste, bulk carrier loading, port state control, vessel traffic monitoring and security.

Specifically, with regard to the Vessel Traffic Monitoring Directive, it will:

- Enable the MCA to search for voyage information on vessels expected to arrive or depart from EU ports.
- Enable the MCA to select vessels arriving at UK ports and rank them for inspection priority.
- With this information, the MCA will have a consolidated data source of vessel movements and other vessel data around the UK to enable it to target its resources more effectively.
- Cargo information will be more readily available in the event of an incident, which will assist in the decision-making process as the incident unfolds and decisions need to be taken to reduce any impact on the environment or property, such as places of refuge.
- Safety of life at sea will improve as incidents and accidents are reported more efficiently and advice is provided in the event of exceptionally bad weather.
- Costs to ship operators and insurers will not be as large if incidents are dealt with more efficiently resulting in fewer ships being lost and less damage to the environment.

Small Firms Impact Test

43. Most of the fishing industry is made up of owners of single vessels. These owners are often members of local associations and/or the national federations. Fishing vessels are operated in accordance with the Fishing Vessel Safety Rules Provisions 1975 (as amended), and the Fishing Vessel (EC Directive on Harmonised Safety Regime) Regulations 1999 (as amended). A Code of Practice for the Construction and Safe Operation of Fishing Vessels of 24 metres Registered Length and over is currently under development. This Code will be given legal effect through the Fishing Vessels (Codes of Practice) Regulations which are still being drafted. As such, it is anticipated that this amendment will have a limited impact on the owners of fishing vessels. The owners of vessels in the 300 gt/45m range were consulted during the consultation period in order to gain further information from this sector on potential costs or burdens to small businesses; none was received.

44. Traditional ships tend to be run by Trusts or groups of enthusiasts on a voluntary non-profit making basis. These vessels are preserved as “living museums” and provide a means of continuing traditional skills and seamanship.

45. There may be a disproportionate impact on smaller ports in having to provide notifications by “electronic means”. Such ports will still need to have IT infrastructure and internet access in place, but may find that the number of vessels for which notifications are required, is less. However, their labour costs for inputting data will be lower, and it is likely that any computer equipment which needed to be installed would be put to other uses as well.

Competition assessment

46. Due to the Industry being comprised of many individual operators and few larger concerns, it is not believed that competition will be affected adversely.

47. No firms have more than 10% of the market share, and no three firms have as much as 50% of the market share. It is not expected that some firms would be affected substantially

more than others. The market is not characterised by rapid technological change, and there would be no restriction on the ability of firms to choose the price, quality, range or location of their product.

Enforcement, sanctions and monitoring

48. Enforcement of safety rules is carried out by MCA surveyors during vessel inspections. Vessels which are found not to have complied with the requirements of the Directive in accordance with United Kingdom legislation, will be liable to detention. Vessels which are detained are required to pay fees to the MCA for inspections to establish the action required to bring vessels up to the required standard, on an hourly basis, before the vessel is released from detention. Owners who fail to comply or make false declaration may be liable to prosecution.

49. Many vessels now carry radiocommunications equipment known as Automatic Identification Systems (AIS). AIS equipment automatically transmits certain information about the vessel to HM Coastguard who in turn are aware of the vessel's presence and whether it has provided the necessary information in accordance with the Directive.

50. In cases where known breaches have taken place through monitoring of AIS by HM Coastguard, it is possible that an MCA surveyor could visit the vessel at its next port of call and investigate the breach.

Results of Consultation

51. The consultation package was sent to forty seven consultees. The owners/operators of fishing vessels with a length of 45 metres and above were identified and specifically targeted together with fishermen's organisations representing members throughout the UK. In addition, the consultation exercise included organisations with a connection to traditional ships, relevant representatives of the maritime industry, seafarers' organisations and port authorities. The consultation package was issued on 29 August and responses were requested by 10 October 2008. Two responses were received and have been taken into account in the draft Regulations. Being conscious that the target audience comprised what could be regarded as small businesses, ie fishermen owners of a single vessel, small groups of enthusiasts operating a traditional ship or small port authorities, consultees were requested to advise of the cost implications of compliance with the Regulations. No information was submitted.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	No	No
Other Environment	No	No
Health Impact Assessment	No	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	No	No
Rural Proofing	No	No

VESSEL TRAFFIC MONITORING DIRECTIVE

TRANSPOSITION NOTE

Directive 2002/59 of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC.

NOTE: In this Transposition Note

“MCA” refers to the Maritime and Coastguard Agency, an Executive Agency of the Department for Transport.

“MAIB” refers to the Marine Accidents Investigation Branch of the Department for Transport.

“SOLAS” refers to the International Convention for the Safety of Life at Sea, and

references to specific regulations are to regulations in the Merchant Shipping (Vessel Traffic Monitoring and Reporting Requirements) Regulations 2004 unless otherwise stated.

SafeSeaNet is a Community traffic monitoring system run for the European Maritime Safety Agency (EMSA) in Lisbon. It is intended to be a system whereby information about dangerous and polluting goods carried on ships and other information about ships can be exchanged between the Member States.

Article	Purpose	Implementation
1	To summarise the purpose of the Directive to establish a vessel traffic monitoring and information system	For article 1, no implementation by Regulations is required.
2	To give details of application	Article 2 is implemented by regulation 4.
3	To provide definitions	Article 3 is implemented by regulation 2.
4	To provide for notification prior to entry into ports of Member States	Article 4.1 is implemented by regulation 5. Article 4.2 cross-refers to article 13, which is implemented by regulation 10

Article	Purpose	Implementation
5	To monitor ships entering areas of mandatory reporting systems	<p>Article 5.1 is implemented by the Merchant Shipping (Safety of Navigation) Regulations 2002 (S.I. 2002/1473) which gives effect to SOLAS Chapter V, regulation 11.</p> <p>For article 5.2, no implementation by Regulations is required</p>
6	To make provision for the carriage and use of automatic identification systems (AIS)	<p>Article 6.1 is implemented partially by regulation 8 and partially by the Merchant Shipping (Safety of Navigation) Regulations 2002 (S.I. 2002/1473) which gives effect to SOLAS Chapter V, Regulation 19.</p> <p>Article 6.2 is implemented by regulation 9.</p>
7	To monitor the use of mandatory ship's routing systems	<p>Article 7.1 is implemented by the Merchant Shipping (Safety of Navigation) Regulations 2002 (S.I. 2002/1473) which gives effect to SOLAS Chapter V, Regulation 10.</p> <p>For article 7.2, no implementation by Regulations is required.</p>
8	To monitor the compliance of ships with vessel traffic services (VTS)	Article 8 is implemented by regulations 6 and 7
9	To provide shore-based installations for receiving and utilising the AIS information	For article 9, no implementation by Regulations is required. MCA has a coastal system of AIS stations.
10	To ensure that ships calling at EU ports are fitted with Voyage Data Recorders (VDR)	<p>Article 10.1 is implemented by the Merchant Shipping (Safety of Navigation) Regulations 2002 (S.I. 2002/1473) which gives effect to SOLAS Chapter V, Regulation 20.</p> <p>Article 10.2 is implemented by the Merchant Shipping (Accident Reporting and Investigation) Regulations 2005 (S.I. 2005/881) and Section 259 of the Merchant Shipping Act 1995.</p>
11	To comply with provisions of the IMO Code for the Investigation of Marine Casualties and Incidents	<p>For article 11, no implementation by Regulations is required.</p> <p>The MAIB operates in accordance with the Code.</p>

Article	Purpose	Implementation
12	To require shippers to declare information on dangerous or polluting goods to the master or operator	Article 12 is implemented by regulation 22(4) and Schedule 2 which amend the Merchant Shipping (Dangerous Goods and Marine Pollutants) Regulations 1997 (SI. 1997/2367).
13	To notify a competent authority of dangerous or polluting goods carried on board	Article 13 is implemented by regulation 10. The MCA has upgraded the UK network for electronic transmissions using XML syntax and EDIFACT.
14	To use computerised data exchange for information on ships carrying dangerous or polluting goods	For article 14, no implementation by Regulations is required. MCA is connected to SafeSeaNet.
15	To permit exemption of ships on certain routes from Article 13 notification requirements	Article 15.1 is implemented by regulation 11(1) and 11(2). Article 15.2 is implemented by regulation 11(5) Article 15.3 is implemented by regulation 11(3). For article 15.4, no implementation by Regulations is required. MCA provides the Commission with a list of the exemptions that are issued.
16	To communicate to other Member States Information about certain ships posing a potential hazard on the route of such ships	For article 16, no implementation by Regulations is required. MCA will implement the “alert” message in SafeSeaNet.
17	To ensure that ships’ masters report incidents and accidents at sea	Article 17.1 is implemented by regulations 12(1) and 12(2). Article 17.2 is implemented by regulation 12(3) and (4).
18	To restrict movement of shipping in or out of ports in exceptionally bad weather or sea conditions	Article 18.1 is implemented by regulations 13(1) to (6). Article 18.2 is implemented by regulations 13(8) and (9). Article 18.3 is implemented by regulations 13(1).

Article	Purpose	Implementation
19	To ensure safety of shipping, persons and the environment in the event of incidents and accidents at sea	<p>For article 19.1, no implementation by Regulations is required.</p> <p>Article 19.2 is implemented by Schedule 3A to the Merchant Shipping Act 1995 and regulation 22(1) which amends that Schedule.</p> <p>Article 19.3 is implemented by regulations 14 and 15.</p>
20	To provide places of refuge for ships in distress	<p>For article 20, no implementation by Regulations is required.</p> <p>The UK provided the Commission with details of measures on 30 June 2003.</p>
21	To promulgate information on ships posing a threat	<p>For article 21, no implementation by Regulations is required.</p> <p>MCA will implement the “alert” message in SafeSeaNet.</p>
22	To designate all authorities and other bodies involved in implementing the Directive’s requirements	<p>Article 22.1 is implemented by regulation 3.</p> <p>For articles 22.2 and 22.3, no implementation by Regulations is required.</p> <p>The UK Hydrographic Office issues Notices to Mariners and the Admiralty List of Radio Signals. MCA provides the Commission with a list of authorities and stations.</p>
23	To improve and develop monitoring and reporting systems in European waters	<p>For article 23, no implementation by Regulations is required.</p> <p>MCA cooperates with the Commission on the development of SafeSeaNet.</p>
24	To ensure confidentiality of information required by the Directive	<p>Article 24 is implemented by regulation 16.</p>

Article	Purpose	Implementation
25	To monitor the implementation of the Directive and its sanctions	<p>For article 25.1, no implementation by Regulations is required.</p> <p>Article 25.2 is implemented by regulation 17.</p> <p>For articles 25.3 and 25.4 no implementation by Regulations is required.</p> <p>MCA stations are manned 24 hours a day and have procedures for inspections and communicating with other States.</p>
26	Future reports to the European Commission on implementation of the Directive	<p>For article 26, no implementation by Regulations is required.</p> <p>MCA provides reports to the Commission as required.</p>