



Brussels, 12.1.2018
SWD(2018) 19 final/2

CORRIGENDUM:

This document corrects document SWD(2017) 19 final of 10.01.2018
Correction of the cover page instead of SWD(2017) read SWD(2018).

COMMISSION STAFF WORKING DOCUMENT

EVALUATION

**of the Directive 2008/106/EC on the minimum level of training of seafarers, as amended
and Directive 2005/45/EC on the mutual recognition of seafarers' certificates issued by
the Member States**

{SWD(2018) 18 final}

Table of contents

1.	INTRODUCTION	3
2.	BACKGROUND TO THE INTERVENTION	4
3.	IMPLEMENTATION / STATE OF PLAY	7
4.	METHOD	13
5.	ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS	15
6.	CONCLUSIONS.....	28

Glossary

<i>Term or acronym</i>	<i>Meaning or definition</i>
CAP	Corrective Action Plan
COLREG	International Regulations for Preventing Collisions at Sea
COSS	Committee on Safe Seas and the Prevention of Pollution from ships
CoC	Certificate of Competency
CoP	Certificate of Proficiency
EaR	Endorsement attesting the recognition of a certificate of competency or proficiency
EC	European Commission
EMCIP	European Marine Casualty Information Platform
EMSA	European Maritime Safety Agency
EU	European Union
IMO	International Maritime Organization
IMSAS	IMO Member State Audit Scheme
IGF Code	The International Code of Safety for Ships using Gases or other Low-flashpoint Fuels
MET	Maritime Education and Training
MoU	Memorandum of Understanding
OPC	Open Public Consultation
PSC	Port State Control
REFIT	Regulatory Fitness and Performance programme
STCW Code	The Seafarers' Training, Certification and Watchkeeping Code
STCW Convention	International Convention on Standards of Training, Certification and Watchkeeping for Seafarers

1. INTRODUCTION

Purpose and scope

Seafarers' training and certification systems in the EU are regulated by Directive 2008/106/EC¹ on minimum level of training of seafarers and Directive 2005/45/EC² on mutual recognition of seafarers' certificates issued by Member States.

The REFIT evaluation of these Directives has been carried out from June 2016 to September 2017. The Commission has performed a detailed analysis and evaluation of the intervention taking into account lessons learned during the implementation period of the relevant Directives as required by the legislation (Article 26 of Directive 2008/106/EC).

The analysis of the evaluation covered the relevance, effectiveness, efficiency, coherence and EU added value of the Directives, in line with the Better Regulation Guidelines³. More specifically:

- assessed whether the objectives of setting out minimum common standards for education, training and certification of seafarers, working on board EU-flagged ships, together with promoting the mobility of European seafarers across the Union have been successfully achieved through the integration into the Union law of the requirements set out in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention) of the International Maritime Organization (IMO);
- assessed whether the central EU system for the verification of compliance of the Member States and of third countries, is efficient;
- examined the coherence of the Directives with each other and with the international framework regulating the seafarers' education, training and certification,;
- investigated the EU added value that the two Directives have achieved in comparison to the international framework;
- identified any excessive administrative and regulatory burden, inconsistencies and gaps or areas where the intervention did not meet the initial objectives.

The results of the evaluation and the recommendations arising from this process are intended to inform the Commission's decision on a possible legislative intervention for any amendments to the Directives.

The evaluation covers the period starting from the 14th of May 2005 until the 31st of December 2016. It has looked at all elements of the two Directives, as applied across all the Member States, while attention was also paid to the inspections carried out by EMSA in the third countries recognised or intended to be recognised in relation to the education and training of their seafarers.

¹ <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1507885536209&uri=CELEX:32008L0106>

² <http://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1507885585721&uri=CELEX:32005L0045>

³ <https://ec.europa.eu/info/sites/info/files/better-regulation-guidelines.pdf>

2. BACKGROUND TO THE INTERVENTION

Description of the intervention and its objectives

The STCW convention

The vital role of the human element in the safety operation of ships and the need for minimum standards for the education, training and certification of the seafarers has been for a long time recognised at international level. On 7 July 1978, the International Convention on Standards of Training, Certification and Watchkeeping for seafarers was adopted among the State Parties to the International Maritime Organization.

The Convention lays down minimum requirements for the education, training and certification of seafarers, employed on board seagoing ships, and provides the requirements for the relevant certification and the recognition of the seafarers' certificates issued by the Parties to the Convention. Also, it deals with the watchkeeping duties during operations of seagoing vessels. The STCW Convention was subject to comprehensive reviews in 1995 and between 2008 and 2010.

Since then, three new amendments have been adopted and entered into force or are expected to enter into force in the short term.

The EU framework on minimum level of training of seafarers and mutual recognition⁴

The importance of the human element for the safety of life at sea and the protection of the marine environment has been recognised at the Union level since the beginning of the 1990's⁵. The STCW Convention was integrated into Union law in 1994⁶ in order to:

- improve training for seafarers in the Union by setting minimum common training and education standards, reflecting the STCW requirements and
- safeguard the uniform compliance by the Member States with the STCW minimum requirements, especially in light of the absence of any international mechanism for the enforcement of the IMO Conventions.

The Directive was revised in 1998⁷ in order to bring in new requirements, and in particular to establish a specific procedure and criteria for the recognition by the Member States of seafarers' certificates issued by third countries. Because of the multinational mix of crews serving on board vessels operating in the Union waters, the overall

⁴ For a detailed presentation of the revisions on the EU framework on minimum level of maritime education, training and certification of seafarers see Annex 3.

⁵ In its conclusions of 25 January 1993 on maritime safety and pollution prevention, the Council noted the importance of the human element in the safe operation of ships. Also, in its resolution of 8 June 1993 on a Common Policy on Safe Seas, the Council set the objective of removing substandard crews and gave priority to action aimed at enhancing training and education by developing common standards for minimum training levels of key personnel.

⁶ Council Directive 94/58/EC on the minimum level of training of seafarers, OJ L 319, 12.12.1994, p. 28

⁷ Council Directive 98/35/EC of 25 May 1998 amending Directive 94/58/EC on the minimum level of training of seafarers, OJ L172, 17.6.1998

objective of this procedure was to make sure that non-Union seafarers are trained as a minimum according to the international training requirements imposed by the STCW Convention.

In 2012⁸ the 2010 changes to the STCW Convention were integrated into EU law avoiding any conflict between the international and the EU obligations of the Member States. Also, the deadline for the recognition of third countries was extended from three months to eighteen months. The obligation of the Member States to provide standardised information to the Commission regarding the certificates of competency and endorsements attesting the recognition of certificates issued to masters and officers was introduced with the aim to improve the information fed into the decision making process.

Fostering the professional mobility of seafarers within the EU by facilitating the mutual recognition of their certificates is the aim of Directive 2005/45/EC. The Directive introduced a simplified procedure for the recognition of seafarers' certificates issued by the Member States. The purpose was to ensure that all seafarers, who are qualified in a Member State and hold such certificates, will be permitted to serve on board ships flying the flag of any Member State.

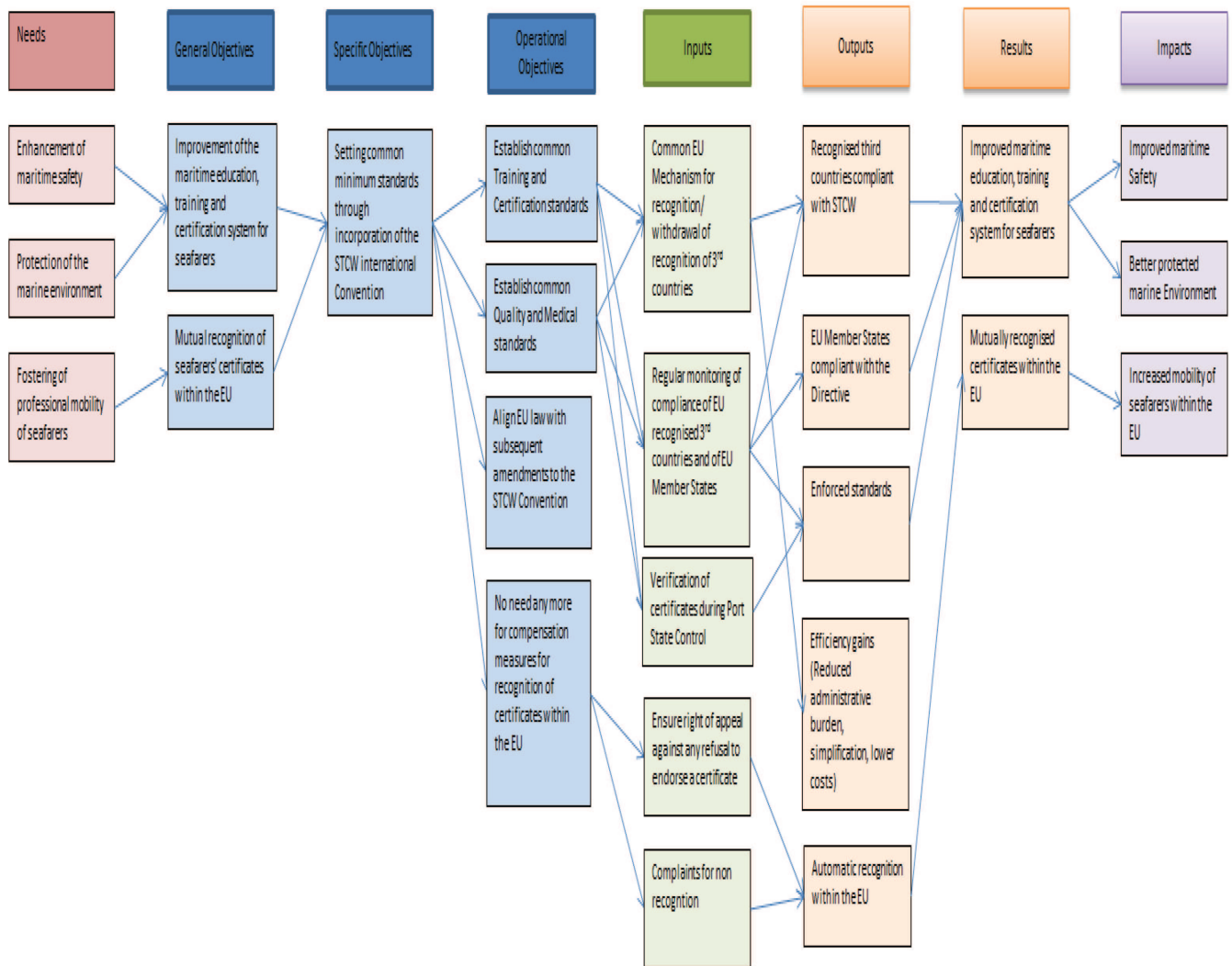
Furthermore, a crucial element to ensure that the mutual recognition scheme would be effective was considered the regular verification of the Member States' compliance with the minimum standards for education, training and certification for seafarers. The verification was entrusted to be performed by the European Commission, with the assistance of EMSA, at least every five years.

In summary, the main objective of the intervention was to enhance the training of seafarers working on board EU vessels in order to minimize the risk of maritime accidents and thus to contribute to the better protection of the marine environment. For this purpose a harmonised implementation by the Member States of the minimum training, education and certification requirements of the STCW Convention was introduced with a regular monitoring of their implementation by the Commission. In view of the international nature of the crews working on board the EU vessels, a similar level of training to the EU seafarers was intended to be safeguarded for the non-EU seafarers working on board the EU flagged vessels. This was intended to be achieved through the centralised recognition of the maritime education, training and certification system of third countries supplying seafarers to the EU vessels.

The fostering of the mobility of EU seafarers among the EU flagged vessels was intended to be achieved through the introduction of a mutual recognition scheme. Under this scheme, seafarers' certificates for masters and officers were intended to be recognised without any further compensation measures, i.e. without the need to be proved that the holder of the certificate had received training corresponding to the national requirements of the flag of the vessel on which the seafarer was willing to work.

The intervention logic below provides a graphical representation of the intervention as was intended and expected to work.

⁸ Directive 2012/35/EU, OJ L 343, 14.12.2012, p. 78



Baseline and points of comparison

Since the main elements on the minimum level of training of seafarers started to apply in 2005⁹, this year will be used as the baseline for the purposes of the current analysis. This year highlighted, also, EMSA's first visits and inspections to third countries for the verification of their compliance with the STCW Convention. Furthermore, during the same year, the mutual recognition of seafarers' certificates scheme between the Member States was introduced.

State of play before the centralised system of third countries' recognition

Before 2005, a Member State intending to recognise master's and officer's certificates issued by a third country had to verify that the latter was complying with the requirements of the STCW Convention and then to notify to the Commission the certificates it had recognised or intended to recognise. Following this notification the

⁹ The deadline for the transposition of Directive 2003/103/EC, which was later consolidated in Directive 2008/106/EC

Commission was informing the other Member States and together were assessing the notification by potentially raising an objection concerning the decision for the recognition. A separate decision was required for each Member State that intended to recognise a certificate issued by a third country and thus a new notification and assessment of the same third country could take place several times depending on the number of Member States willing to recognise certificates issued by that third country.

Before the common EU mechanism was established, only some of the Member States were conducting onsite inspections to the third countries they intended to recognise while most of the others relied mainly on the IMO "White List"¹⁰ thus constituting a mere paper-based approach on evaluating the systems of third countries. The legal deadline for such a recognition was 3 months after the submission for recognition was received.

State of play before the introduction of the mutual recognition scheme between Member States

The recognition of seafarers' certificates between Member States, before 2005, was subject to the general systems for the recognition of professional education and training¹¹. The general system had established a procedure for the recognition of evidence of professional qualifications of seafarers that involved a comparison of the education and training received in relation to the education and training provided in the Member State where the qualifications were intended to be recognised. In case of substantial differences therein, the seafarers concerned might be subjected to specific compensation measures.

This procedure was considered more demanding than the one prescribed in the STCW Convention or even the procedure for the recognition of certificates issued by third countries. Under the STCW Convention there is no requirement to compare the different systems of education and training in order to endorse a Certificate of Competency, whereas under the EU system in place before the introduction of the mutual recognition scheme, Member States could deny endorsements if it was considered that their requirements were different than the ones of the issuing Member State.

Moreover, since the certificates issued by the Member States were falling under the STCW requirements as these have been transposed in the Union, in principle all seafarers educated and trained in the Union would have the same level of minimum qualifications.

3. IMPLEMENTATION / STATE OF PLAY

According to the latest available data in 2015¹², 182,662 masters and officers held valid certificates of competency (CoCs) issued by EU Member States while another 102,861

¹⁰ The IMO "White List" includes countries which have communicated to the IMO information demonstrating that they were giving full and complete effect to the relevant provisions of the Convention. Nevertheless, the inclusion in the list does not entail any onsite verification of the implementation of the relevant requirements.

¹¹ Directives 89/48/EEC OJ L 19, 24.1.1989, p.16 and Directive 92/51/EEC as was amended, OJ L 54, 26.2.2000, p. 42

¹² Data published in <http://www.emsa.europa.eu/publications/technical-reports-studies-and-plans/item/3094-seafarer-statistics-in-the-eu-statistical-review-2015-data-stcw-is.html>. It has to be noted

masters and officers held original CoCs issued by non-EU countries with endorsements issued by EU Member States attesting their recognition (EaRs). Overall, at the end of 2015 there were 285,523 masters and officers available as potential manpower to serve on board EU Member States flagged vessels. This means an increase in available manpower in comparison to 2014 when 248,052 masters and officers held valid certificates.

Recognition of a third country¹³

According to the STCW Convention¹⁴ when a master or officer holding a certificate of competency¹⁵ issued by a national administration wants to be employed on board a vessel under the flag of another country, the certificates have to be endorsed by that country to attest to their recognition. In order for such recognition of certificates to take place, each country has to confirm through an evaluation of the country issuing the certificates that the requirements of the STCW Convention are complied with.

At EU level, a common EU mechanism for the recognition of third countries' maritime education, training and certification systems for seafarers was put in place in 2005. The Commission, with the assistance of EMSA, assesses the seafarers' education, training and certification systems of any third country to be recognised at EU level and verifies their compliance with the requirements of the STCW Convention.

A Member State, which intends to recognise by endorsement the certificates of competency issued to masters and officers by a third country submits a request to the Commission. The Member State has to state its reasons for such a request. Even though minimum criteria for the recognition of third countries are set up in the Directive, the reasons a Member State can invoke are not specified. Hence, Member States do not have to justify their request by providing specific reasons regarding the need of recognising the third country. As a consequence, currently the Commission does not have the legal competence to assess whether the reasons indicated by the requesting Member State are satisfactory or not.

After considering the request received from a Member State for the recognition of a third country, EMSA carries out an inspection of the maritime education, training and certification system in place in that third country. The objective of the inspection is to observe and gather evidence of the third country's compliance with the requirements of the STCW Convention.

EMSA produces a factual report on the shortcomings and observations identified during the inspection. The authorities of the third country are given the opportunity to provide

that data were available only for 2014 and 2015 since the data regarding 2016 will be populated in STCW-IS database by the end of 2017. The STCW-IS database started to operate in 2014 and thus this is the first year for which data are available.

¹³ Annex 4 presents a visual illustration of the recognition process of third countries under Directive 2008/106/EC

¹⁴ Regulation I/2 paragraph 7 and Regulation I/10

¹⁵ Or certain certificates of proficiency related to the operation of tankers.

factual corrections, which are taken into account in the final inspection report. Since 2012, the inspected third country can provide a voluntary Corrective Action Plan (CAP) listing the measures already taken or to be taken to address the shortcomings identified. Based on the findings of EMSA's inspection and the documents provided by the third country, the Commission services assess the compliance of the maritime education, training and certification system of the third country with the requirements of the STCW Convention. If they consider that the third country has not taken satisfactory corrective actions, a further invitation for corrective actions is submitted together with the Commission's assessment report.

At the end of this process the Commission submits a draft decision to the Member States in the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) for their opinion regarding the recognition of the third country. The official recognition of the third country implies that any Member State may recognise the masters' and officers' certificates issued by the recognised country and that the holders of such certificates will be entitled to work on board the ships flying the flag of that Member State.

Currently there are **48 third countries** recognised at the EU level under Directive 2008/106/EC¹⁶. **The decision for the recognition has to be adopted within 18 months from the date of the request** submitted by the Member State. This period represents an extension of the 3 month period which was in place from 2003 until 2012.

However, the analysis of the data has revealed that since 2005, when EMSA started the inspections of the third countries, the 18 months period was never respected with actual recognition taking from 3 years to over 8 years¹⁷. The non-compliance with the deadline was caused by the fact that the onsite inspections conducted by EMSA and the following assessment depend also on the competent authorities in the third countries.

For instance, the preparation of EMSA's inspections to third countries entails official communication through diplomatic channels with the competent foreign authorities in order to agree the dates of the inspection. This preparation has also to be accommodated in the EMSA's inspection program which was sometimes not possible during the same year that the recognition request was submitted.

On the other hand, the main reason for the non-respect of the deadline to recognise a third country was the lengthy response time from the third country. In all cases after 2005, the third country to be recognised had to implement comprehensive corrective actions in order to comply with the STCW requirements and hence to be able to acquire the EU recognition. This entailed in most cases the need to amend their relevant legislation or to implement actions that required considerable amount of time.

¹⁶ The list of third countries recognised in EU level was published in OJ C 261, 8.8.2015, p. 25. Following the publication of this list, Montenegro was recognised by the Commission Implementing Decision published in OJ L 107, 25.4.2017, p. 31, Ethiopia was recognised by the Commission Implementing Decision published in OJ L 177, 8.7.2017, p. 43 and Fiji was recognised by the Commission Implementing Decision published in OJ L 202, 3.8.2017, p. 6

¹⁷ See the relevant table for the period between submission of the request by the Member States and adoption of the Implementing Decision in Annex 5.

If the 18 months deadline was strictly applied, then in all cases a negative recognition decision would have had to be adopted by the expiration of the 18 months period due to the non-implementation of the corrective action plan. However, such decisions were never taken because these would have probably raised the administrative burden for the affected Member States and the Commission since the process should have to be repeated from the beginning. Instead, the Member State which requested the recognition of a third country used the possibility to unilaterally recognise seafarers' certificates issued by that country until the adoption of the recognition decision.

Reassessment of the recognition of third countries is foreseen at least every five years in order to safeguard a continuous monitoring. In case of non-compliance of a third country, a withdrawal of the recognition is possible. Such a withdrawal due to non-compliance took place only once, in 2010¹⁸. The period necessary to reassess the system of already recognised countries was ranging from 24 to 48 months and thus was lower than the actual period requested for recognition¹⁹. This is a strong indication that following the implementation of corrective measures after the initial recognition, the systems of third countries recognised complied to a high degree with the requirements of the STCW Convention.

Between 2012 and 2016, EMSA's inspections in the third countries recognised had identified 443 findings, out of which 350 were considered as shortcomings and 93 as observations²⁰. From the total of the findings identified, 127 were rectified already in the phase of the submission of the voluntary Corrective Action Plan (CAP) while the rest 316 of them were rectified during the assessment performed by the Commission Services and the request to the third countries for further corrective actions.

For some of the third countries recognised at EU level the number of endorsements²¹ of individual certificates of seafarers by Member States is very low. For example in 2015^{22,23}, for 17 third countries, from the total of countries recognised at the EU level, less than 100 Endorsements attesting Recognition (EaRs) of CoCs issued by the Member States were valid. There were, even, cases where no endorsements were valid during this year while for some third countries less than ten EaRs were still valid by all the Member

¹⁸ Georgia's recognition was withdrawn by the Commission Decision C(2010) 7966 published in OJ, L 306, 23.11.2010, p. 78. Eventually Georgia's recognition was reinstated with Commission Implementing Decision C(2013) 9224 published in OJ, L 349, 21.12.2013, p. 105

¹⁹ There is only one country excepted from this timeline whose reassessment is ongoing since 2006. However, this country was recognised under the previous system, before the centralised mechanism, and therefore a comprehensive assessment was conducted for the first time only in 2006.

²⁰ A shortcoming is a full or partial failure to implement, or inadequate implementation of, a particular requirement of the STCW Convention. An observation is a remark about something identified in relation to the implementation of the STCW Convention that may lead to a shortcoming if not addressed.

²¹ Endorsement is the legal attestation by the flag administration of the seafarers' certificates issued by the initial Party to the STCW Convention .

²² See Annex 7.

²³ It has to be noted that data were available only for 2014 and 2015 since the data regarding 2016 will be populated in STCW-IS database by the end of 2017. The STCW-IS database started to operate in 2014 and thus this is the first year for which data are available.

States combined. It has to be noted that the EaRs are valid for a period of up to five years, meaning that the available data is a snapshot of the endorsements of certificates valid in 2015. Thus, the endorsements of certificates still valid in 2015 could have been issued since 2010.

In this regard, the data collected during the evaluation showed that for the majority of the 48 third countries currently recognised at the EU level only some of the Member States have recognised CoCs issued by the individual third countries. There is also one case of a third country recognised, following a request of a Member State, for which eventually none of the Member States has issued any EaRs²⁴.

Verification of compliance of the Member States

The five year cycle of monitoring and assessment of the Member States' compliance with the requirements on minimum level of training of seafarers was put in place in 2007²⁵. To monitor the compliance of the Member States, the Commission Services are assisted by EMSA. Similarly to the procedure followed for the inspection of third countries, during the visits to Member States, EMSA analyses their legislation, practices and procedures.

The implementation of the mutual recognition of seafarers' certificates scheme is also monitored during the EMSA visits, while the Commission Services are continuously monitoring its implementation through feedback from seafarers and industry stakeholders.

The first cycle of EMSA visits to Member States lasted 5 years, between 2007 and 2012. The second cycle of visits was initiated in 2014, and is estimated to last approximately 7 years.

As a result of the verification of compliance, during the implementation period of Directive 2008/106/EC seven EU Pilots²⁶ were initiated due to non-compliance of Member States while one EU Pilot was initiated for non-compliance of a Member State with the provisions of Directive 2005/45/EC. The latter case was closed after a satisfactory response during the EU Pilot procedure while two cases of non-compliance with Directive 2008/106/EC are still ongoing. The other four had been closed after a satisfactory response and actions during the EU Pilot procedure. Only for one of the cases regarding the implementation of Directive 2008/106/EC an infringement procedure was initiated for which the Commission sent a letter of formal notice to the Member State involved. The actions taken by the Member State and its response to the letter of formal notice were considered satisfactory and thus the case was closed.

²⁴ See Annex 8. It has to be noted that although Oman appears in the table, it is not yet recognised at the EU level with the relevant process being ongoing.

²⁵ Introduced by Directive 2005/45/EC

²⁶ EU Pilot is an informal dialogue between the Commission and the Member State concerned on issues related to potential non-compliance with EU law, prior to launching a formal infringement procedure. It works by the Commission and national governments using an online database and communication tool to share information on the details of particular cases.

As regards the implementation of the Directive, the main issue which was interpreted and implemented differently among the Member States was the relevance of the seagoing service required for the issuance or revalidation of Certificates of Competency or Certificates of Proficiency. Some Member States interpreted the relevance of the seagoing service to be related with the ship type while others considered it to be pertained to the relevance of the duties and the service itself.

The interpretation of the seagoing service was, together with the qualification of maritime education and training instructors, the main area of complaints received by the Commission Services regarding the implementation of Directive 2008/106/EC. Some Member States were accepting seagoing service in all types of ships while others were more restricted on the type of ship or service performed on board. This created situations where seafarers were having some advantage depending on the Member State that issued the certificates. The reason for different interpretations can be traced back to the definition of seagoing service both in the text of the STCW Convention and in Directive 2008/106/EC which define it as meaning “service on board a ship relevant to the issue or revalidation of a certificate or other qualification”. This definition apparently creates doubt on whether is the ship that is to be relevant or the service, or both.

However, the vast majority of the twenty-two complaints that the Commission Services received in the period 2009 to 2016 were related to the implementation of Directive 2005/45/EC.

The implementation of the mutual recognition by Member States (Article 3 of Directive 2005/45/EC) raised complaints although around 47.600 Endorsements attesting Recognition of CoCs issued by Member States for CoCs initially issued by another Member State were valid in 2015²⁷ The complaints cover three different issues:

- i. the non-recognition by a Member State of certificates issued by a maritime education and training institution located in the territory of that Member State but approved to provide maritime education and training only by the competent authority of another Member State;
- ii. the non-recognition of CoPs, issued by another Member State, which, together with the fulfilment of the other requirements under the STCW Convention, could lead to the issuance of a national CoC from the requested Member State; and
- iii. the non-recognition by a Member State of diplomas attesting successful completion of specific IMO STCW courses, which do not qualify under the STCW Convention as CoCs or CoPs, issued by a maritime education and training institution approved by the competent authority of another Member State.

It has to be noted that in regard to the latter issue, under the current interpretation of Article 3 of Directive 2005/45/EC, diplomas attesting participation in one of the STCW courses are not covered by the mutual recognition scheme. Nevertheless, seafarers have submitted complaints claiming that Member States are refusing to recognize such types of diplomas in order to issue a higher certificate, mainly Certificates of Proficiency.

²⁷ See table in Annex 9.

4. METHOD

Short description of methodology

In order to assess the actual performance of the interventions and to what extent they are fit for purpose, the evaluation relies mainly on the evidence and the data gathered during the implementation period of the two Directives and a support study which was conducted by EMSA. Unless mentioned otherwise, the data mentioned in the evaluation was collected during the preparation of the support study²⁸.

The sources of data regarding verification of compliance and the implementation of the two Directives comprise data gathered through desk research and data gathered through primary research, namely data collected through the consultation strategy.

The secondary research of data relied on the following sources:

- a. EMSA monitoring reports and mission data on compliance of Member States and of third countries with the requirements of Directive 2008/106/EC and the STCW Convention respectively;
- b. Commission's assessment reports on compliance of Member States and of third countries with the requirements of Directive 2008/106/EC and the STCW Convention respectively;
- c. EMSA horizontal analysis of the reports of the visits to Member States;
- d. Accident investigation data related to STCW matters which were gathered from occurrences reported to EMSA's European Marine Casualty Information Platform (EMCIP) by the Member States for the period between 2011 and 2016;
- e. PSC deficiencies related to the STCW Convention in the Paris MoU area for the period 2011-2015;
- f. Complaints received by the services of the Commission; and
- g. Data on certificates of competency and endorsements attesting their recognition issued to seafarers as they were reported in the STCW Information System (STCW-IS).

The Commission tasked EMSA to carry out a support study for the evaluation in June 2016 and the final report of the support study was submitted in September 2017. The study aimed at analysing the available data and determining to what extent the intervention of both Directives has been effective and efficient, relevant to the objectives, coherent both internally and with other EU policy interventions and if an EU added value was achieved. Also, the study had as an objective the identification of any possible excessive administrative and regulatory burden, inconsistencies and gaps which could be addressed in the light of simplification and burden reduction. An evaluation guidance was developed as an aid for the study which together with the evaluation roadmap²⁹ aimed to ensure well-founded, evidence-based conclusions for each of the evaluation questions.

²⁸ https://ec.europa.eu/transport/facts-fundings/evaluations/reports-year_en

²⁹ For details see the evaluation Roadmap as it was published http://ec.europa.eu/smart-regulation/roadmaps/docs/2016_move_057_evaluation_seafarers_certificate_en.pdf

In the context of the evaluation, a targeted stakeholders' consultation was conducted which comprised five different questionnaires addressed to each group of stakeholders: maritime administrations, Maritime Education and Training (MET) institutions, shipowners, trade unions and seafarers. In total, twenty eight replies were received from 13 EU maritime administrations, 7 EU MET institutions, 7 shipowners and 1 trade union while no replies were received from seafarers. Moreover, an open public consultation was carried out by the Commission in the context of the REFIT evaluation of the EU legislation for maritime safety, including questions related to training and education certificates, for which replies from 53 respondents were collected³⁰. The same groups of respondents participated in both consultations, however, in addition to the targeted consultation 11 citizens and 2 seafarers expressed their opinions during the open public consultation.

Limitations and robustness of findings

The limitations of the study were related mainly with the insufficient number of replies received during the targeted stakeholder consultation, in particular concerning trade unions and seafarers. Nevertheless, the absence of seafarers' participation in the targeted stakeholders' consultation and the limited participation of the trade unions was mitigated by the participation of these two groups in the open public consultation (OPC). The consistency of their views expressed in the context of the OPC was adequate to shape a picture of their opinion regarding the implementation of the intervention.

Moreover, the vast majority of the complaints received during the implementation of the two Directives were submitted by seafarers, which also contributed to mitigate their limited participation during the consultation period. In this regard, the conclusions of the evaluation in relation to the recognition of seafarers' certificates is based mainly on the complaints received, since there isn't any other monitoring mechanism to identify cases of refusal of recognition. Under the current legislation, Member States are obliged to report the number of the seafarers' certificates issued by them and the relevant endorsements of certificates issued by other countries. However, there is no obligation to report cases where the Member States had reasons to deny recognition of certificates issued by another Member State.

The second limitation identified was related with two sources of data for which there was a high degree of uncertainty. Specifically, the information collected from the accident investigation reports and the port state control (PSC) deficiencies related with the STCW Convention was treated with caution on reaching solid conclusions based only on these sources of information. This critical stance on the assessment of data originated from the above sources of information was due to the high degree of difficulty in linking and tracing back an accident or a PSC deficiency to the education and training of seafarers. Moreover, data from the European Marine Casualty Information Platform, where the Member States reported information on marine casualties and incidents, are recorded only since 2011. Therefore, it could not be established whether the intervention had a positive impact or not on the reduction of the relevant casualties caused by lack of training.

³⁰ For details on the Open Public Consultation, as well as a summary of its results see: https://ec.europa.eu/transport/modes/maritime/consultations/2016-refit_en_en

In particular, the majority of STCW-related deficiencies concern improperly issued CoCs or CoPs and non-compliance with the minimum manning approved by the ship's flag administration. Given the generic nature of these deficiencies, it was considered that a link between these deficiencies and the level of seafarers' training and education was difficult to be established.

In general, the support study collected a broad range of qualitative and quantitative data, triangulated through different sources, although a financial quantification of the centralised mechanism for the recognition of third countries and a cost-benefit analysis was not performed. Moreover, consideration was given for the purposes of this evaluation to the fact that the support study was conducted by EMSA. The undertaking of the support study by EMSA benefited from the expertise and the experience gained by the agency through the implementation of the two Directives. However, as mentioned above the robustness of the data collected by the support study did not allow the establishment of a direct link between the intervention and a possible reduction to the maritime accidents.

Finally, it has to be noted that the estimation of the cost savings achieved by the introduction of the centralized mechanism was only a theoretical amount of savings in terms of the cost that would be accrued if all the Member States were conducting an on-site inspection with the same level of robustness as the one performed by EMSA. In particular, before the introduction of the centralized system, most of the Member States were conducting only a paper-based evaluation of the third systems, relying mainly on the "STCW White list" published by the IMO, without an onsite inspection as part of this assessment. Thus, the actual cost that they accrued before the introduction of the central mechanism did not correspond to the cost that an onsite inspection entails.

5. ANALYSIS AND ANSWERS TO THE EVALUATION QUESTIONS

a) Effectiveness

The evaluation has revealed that the main objectives regarding the elimination of substandard crews by the enhancement of maritime education, training and certification and the development of minimum common standards for education and training of seafarers working on board the EU-flagged ships have been attained to a high degree.

Contribution of Directive 2008/106/EC to the improvement of maritime education and training- Contribution of the centralized verification mechanism to compliance of Member States and third countries with the requirements of the Directive and the STCW Convention

The integration of the STCW Convention requirements into Union law and the monitoring of their implementation through the centralized visits of EMSA to the Member States led to the development of a common methodology for the assessment of the maritime education, training and certification systems in the Union. This procedure allowed the identification of deficiencies in the implementation of the STCW Convention requirements, by the Member States and through their follow up of the significant reduction in the number of non-conformities.

Hence, the implementation of corrective actions in order to address the non-conformities has contributed to the improvement of the maritime education, training and certification systems of the Member States. In case that the centralized mechanism was not in place, the identified non-conformities would remain unaddressed and thus the level of the education received by the seafarers in Europe would be deteriorating.

The same approach adopted towards the verification of compliance of third countries, recognized at the EU level, with the STCW Convention requirements through the common mechanism led to the improvement of their maritime education, training and certification systems. As mentioned above³¹, the high number of deficiencies identified and rectified during the inspection and the following assessment of the maritime education and training systems of third countries reveals the significance of the common EU mechanism for the recognition and assessment of compliance of the third countries. Without a continuous monitoring of the third countries' systems, these deficiencies would remain unidentified and thus the quality and the level of the education provided in these countries would be lower.

The importance of the common EU mechanism for the verification of compliance of the third countries and the regular assessment of compliance of the Member States was also recognized by stakeholders. All categories of stakeholders confirmed that the existence of the common EU mechanism for the recognition of third countries has raised the quality of the performed evaluation. In particular, before the introduction of the common mechanism most of the Member States were fulfilling their obligation for the evaluation of the third countries intended to be recognized through a mere paperwork procedure, based on supported documentation, or they were relying only to the fact that the third country was included in the IMO "White list"³².

Furthermore, if the common EU mechanism was not in place, the Member States would abide only by the requirements of the STCW Convention which requires only an initial evaluation of the maritime education, training and certification system of the country to be recognized. This would mean that the verification of compliance of third countries with the STCW Convention would not be regular. Thus, there would be a high possibility of deterioration in the maritime education, training and certification system of third countries which would have detrimental consequences on the quality of the education, training and certification of non-EU crews, working on-board EU-flagged ships. Stakeholders have recognized the contribution of the EU common mechanism and the regular reassessment process to the improvement of various aspects of the maritime education and training systems³³. In addition, it is a common perception among the stakeholders that the EU common mechanism has contributed to the harmonization of the implementation of the STCW Convention worldwide by urging many third countries to invest in their systems in order to acquire the EU recognition.

³¹ See p. 10 above.

³² The IMO "White List" includes countries which have communicated to the IMO information demonstrating that they were giving full and complete effect to the relevant provisions of the Convention. Nevertheless, the inclusion in the list does not entail any onsite verification of the implementation of the relevant requirements.

³³ In particular 86% of the METs replied that the central mechanism has improved their systems to a great or some degree.

This element is crucial in view of the international nature of shipping and the fact that the crews serving on vessels operating in the Union waters are of a multinational mix. A harmonized implementation of the STCW Convention, by safeguarding that crews employed outside of the Union are trained to the same standards as the Union seafarers, is essential to maintain and raise the safety on-board the EU-flagged vessels.

Impact of Directive 2008/106/EC on maritime accidents and the environment

Although the evaluation showed a clear link between the introduction of the centralised mechanism and the improvement of the seafarers' training, a similar link could not be established in relation to the reduction of the maritime accidents and the better protection of the marine environment. As mentioned above³⁴, data regarding the investigation of maritime accidents were available only since 2011 and thus a conclusion on whether the intervention contributed to a reduction of the accidents caused by lack of training could not be reached.

The second source of available data on deficiencies on board vessels linked to inadequate training of seafarers originates from the Port State Control (PSC). However, there were two limitations in relation to this source of data that prevented the evaluation of reaching solid conclusions: deficiencies on board vessels related to STCW were encoded in a systematic way only since 2011 and these deficiencies concern mostly improperly issued certificates. Detailed inspections are conducted only in very few cases, when there is a clear ground. Such a situation in the area of STCW could occur when the PSC officer witness a crew member not being able to operate certain equipment.

Hence, the lack of reliable data before 2005 in order to conduct a comparison between the situation as it was before the intervention and after, prevented the evaluation of reaching a solid conclusion on how Directive 2008/106/EC contributed to a reduction of the maritime casualties.

Effectiveness of the mutual recognition of seafarers' certificates between Member States

While the mutual recognition of certificates between Member States is to a large extent effective, the evaluation has revealed certain issues that hamper effectiveness.

The definition of certificates in Directive 2005/45/EC (Art. 2(b)) does not take account of the 2010 amendments to the STCW Convention, which introduced the distinction between Certificates of Competency (CoC) and Certificates of Proficiency (CoP). Instead it makes reference to a definition of certificates in Directive 2001/25/EC which is no longer in force. This has created uncertainty and has been the source of complaints from the side of seafarers.

The analysis of the received complaints has indicated that the problem lies with three types of cases of non-recognition of certificates³⁵. The common characteristic of these cases is that all of them are related to non-recognition of either CoPs or documentary evidence attesting successful completion of one of courses mandatory under the STCW

³⁴ pp. 14-15

³⁵ See above p. 12

Convention. It appears that there is not a common understanding among the stakeholders with regards to CoPs and documentary evidence that may be needed for the issuance or revalidation of the original national CoCs³⁶.

According to the STCW Convention and Directive 2008/106/EC, CoPs, could be issued by maritime training institutions on behalf of the relevant administration which has approved the institution for this purpose. It appears that some Member States have refused the recognition of CoPs issued by maritime training institutions not approved by them but only by the competent authorities of another Member State.

A similar situation appeared for documentary evidence which do not fall under the exhaustive list of CoPs in the STCW Convention³⁷. The relevant diplomas or documentary evidence attesting successful completion of courses mandatory under the STCW Convention and related to competencies required, together with acquiring seagoing experience or fulfilling other requirements, for the application of CoPs and/or CoCs. Currently, these diplomas and documentary evidence do not fall under the scope of the mutual recognition scheme envisaged in Directive 2005/45/EC.

The above situation, has led many seafarers to face refusal from some Member States to issue national CoCs based on applications which include CoPs or STCW diplomas issued by maritime education and training institutions recognized only by the competent authorities of another Member State and not also by the authorities of the issuing Member State. Consequently, the obsolete definition of the recognized certificates under Directive 2005/45/EC has hindered the objective of fostering mobility of seafarers among the Member States and has been the source of complaints related to the implementation of this Directive.

However, it has to be noted that currently there is no mechanism to monitor the extent and the number of cases that recognition of seafarers' certificates was refused by a Member State. The STCW-IS database is populated by the Member States only with the number of the endorsements and recognitions of certificates. Hence, the cases of refusal became known only when a relevant complaint was received by a seafarer.

Contribution of Directive 2005/45/EC to fostering mobility of seafarers across EU

Despite the above mentioned problems, the evaluation indicated that the introduction of the mutual recognition of seafarer's certificates issued by the Member States has facilitated the mobility of seafarers in the Union. In particular, the available data showed that around **47.600 Endorsements attesting Recognition of CoCs** for seafarers, issued initially by another Member State were valid in 2015³⁸. Although this number is not a representation of the recognitions issued during 2015, since their validity has a duration of up to 5 years, it reflects, however, the high degree of mobility of the European

³⁶ There is one case in which clarity exists which is for seafarers working onboard tankers, for which CoCs and CoPs are issued by the competent administration of each Member State.

³⁷ See Table B-I/2 of the STCW Code. The only documentary evidence referred in this table is related to the documentary evidence attesting the qualifications for passenger ships under Regulation V/2 of the STCW Convention.

³⁸ See Annex 9.

seafarers among the EU flags since the above number represents around 25% of the 182,662 masters and officers holding valid Certificates of Competency in the same year.

Before the introduction of the mutual recognition of seafarer's certificates issued by the Member States³⁹, the Member State in which a seafarer was willing to be employed (host Member State) had to take into account the requirements of the Member State issuing the relevant certificate in order to determine whether those qualifications corresponded to the ones of the host Member State. In case of differences in the national provisions regulating the seafarer's qualifications, the host Member State could require from the beneficiary, in addition to the relevant certification, to provide evidence of professional experience or to undergo aptitude tests. There is however no data available that can demonstrate the extent to which these refusals and additional tests were taken place.

Such a system, nevertheless, entailed obstacles for the prompt recognition of seafarer's certificates and positioned the European seafarers who were willing to work on-board a vessel flying the flag of another Member State to a more unfavourable state than the seafarers certified by a third country. This was due to the fact that seafarers holding certificates issued by a third country were subject only to the requirements of the STCW Convention whereas the European seafarers could be asked in addition to their certification, further proof that they were trained in accordance with the requirements of the host Member State.

The introduction of the mutual recognition scheme was also appraised during the OPC by the stakeholders who recognized its beneficial effect towards fostering the professional mobility of seafarers within the EU. However, both the stakeholders' replies and the complaints received by the Commission have demonstrated cases of non-recognition of seafarers' certificates between some Member States.

b) Efficiency

The efficiency achieved due to the introduction of the centralized system

The evaluation looked into the costs and benefits incurred by the implementation of Directive 2008/106/EC and Directive 2005/45/EC, using all the available data under the perspective of proportionality. Although both interventions resulted to significant reduction in the administrative burden and cost, several areas of concern were identified.

In particular, the common EU mechanism for the recognition of seafarers' certificates issued by third countries, established in Directive 2008/106/EC, significantly improved the efficiency of process. By avoiding duplication of individual recognitions by each Member State burden for Member States has been reduced. By improving the effectiveness through a centralized system without additional cost for Member States the process is more efficient than national systems would be⁴⁰.

³⁹ The recognition of seafarers' qualification was regulated before the introduction of Directive 2005/45/EC by the provisions of the general Directives on recognition of professional qualifications, i.e. Directives 89/48/ECC and 92/51/EC.

⁴⁰ See Annex 6.

Prior to the introduction of the common EU mechanism for the recognition of third countries, every Member State, which was willing to recognize certificates issued by third countries in order for the masters and officers holding such certificates to work onboard its flagged vessels, had to notify this intention to the Commission. Following this notification, the Commission together with the Member States were conducting an assessment of the relevant third country system and a decision for its recognition by the requesting Member State was adopted.

However, the same procedure had to be repeated every time a Member State was willing to recognize a third country, even if the latter was already recognized by another Member State. Hence, multiple recognition decisions were adopted for the same third country depending on the number of the Member States willing to recognize seafarers' certificates issued by that country.

As a result, the introduction of the common EU mechanism has simplified the framework and reduced the administrative burden through the avoidance of the duplication of work. In particular, through the centralized system, third countries are recognized at the EU level once and not individually for each Member State. Thus if a third country is recognized centrally at the EU level then every Member State is able to issue endorsements of the certificates from third countries, without further assessment.

Furthermore, the STCW Convention stipulates that each Party to the Convention that recognizes certificates issued by another country shall perform an evaluation of the maritime education, training and certification system of that country. That would mean that for a third country which was intended to be recognized by different Member States, multiple inspections and evaluations with the same objective had to be performed. Instead, with the introduction of the centralized system of recognitions and assessments the relevant obligation is fulfilled once for all the Member States.

The regular re-assessment, on a five years basis, of the third countries that have been recognized, introduced by the Directive is ensuring continued effectiveness of the recognition system. Under a regime of national systems such a re-assessment would have resulted in additional costs for Member States which are avoided through the centralized system.

Cost savings for Member States were calculated comparing the centralized system introduced by the EU legislation with national systems conducting the same level of inspections prior to recognizing the certification system of a third country. This does however, represent a different case as in reality the majority of Member States prior to 2015 were relying on documentary checks only.

Since 2005, EMSA performed 66 field inspections in third countries which represent 1.272 man working days spent for onsite inspections. To this number of working man days, the preparatory work of desk analysis should be added which could be estimated in 60 man working days per inspection on average.

On the other hand, the follow up work of the assessment conducted by the services of the Commission should be estimated in 45 man working days. The differentiation in the days needed for the preparation and the follow up could be justified by the fact that the Commission's assessment is mainly based on the preparatory work and the onsite inspection performed by EMSA.

Taking into account the mean monthly earnings of civil servants with expertise in technical issues⁴¹ among the Member States, it was possible to multiply the number of man working days spent for each recognition and reassessment of the third countries since 2005 in order to estimate the cost that would be accrued for the Member States, if the common EU mechanism was not in place. Austria was not taken into account for this estimation since it has closed its flag registry and therefore there are no endorsements of third countries' certificates issued by this Member State. Moreover, for the inspections carried out between 2005 and 2007, only 24 countries were taken into account while for the inspections carried out between 2007 and 2013, only 26 countries were taken into account⁴².

Hence, based on the formula "*Total costs = (60*total average daily salaries (sum of 24 or 26 or 27 countries)) + (n° days field inspection* total average daily salaries (sum of 24 or 26 or 27 countries)) + (45* total average daily salaries (sum of 24 or 26 or 27 countries))*" the evaluation estimated the benefit, in terms of the cumulated costs avoided by the introduction of the common EU mechanism instead of introducing similar national mechanisms, to be around **EUR 13million in total since 2005 or €198,000,000 per inspection.**

The whole calculation was conducted under the notion that Member States would have to conduct onsite inspections as part of their evaluation of the maritime education system of the third country. This assumption is considered necessary to allow for a comparable robustness of the evaluations and thus effectiveness of the system.

The benefits of the common EU mechanism were highly appraised by the maritime administrations of the Member States during the stakeholders' consultation. The national administrations of the Member States highlighted particularly the fact that without the centralized system it would be impossible to conduct the same level of inspections and evaluations of the third countries with the national resources available⁴³.

Furthermore, the relationship between the common EU mechanism and the IMO Member State Audit (IMSAS) has been examined for a potential overlap that could render the EU centralized system inefficient due to a duplication of audits and evaluations with the same objective, namely the verification of compliance with the STCW Convention. In this regard, and after a comparison of the two schemes it was concluded that the EU centralized system and the EMSA inspections performed under it have a broader scope than the IMO IMSAS audits. Therefore, the common EU mechanism does not overlap with the audits performed under the IMO IMSAS scheme and thus there is no duplication of procedures that could raise the administrative burden.

Further potential for simplification and burden reduction

⁴¹ Data reported by Eurostat in http://ec.europa.eu/eurostat/web/products-datasets/-/earn_ses_monthly

⁴² Romania and Bulgaria acceded in the Union in 2007 while Croatia acceded in 2013.

⁴³ One of the national administrations made an estimation of a reduction of at least 160 man hours per Member State due to the introduction of the centralized system.

Despite the above significant achievements, **the evaluation has indicated three areas of concern that could hinder the efficiency of the common EU mechanism and potentially compromise also its effectiveness.** The first issue is related with the time needed between the notification by a Member State for a new recognition and the final decision for the recognition of the third country. The evaluation has revealed that in all cases since 2005, the period of the 18 months for the recognition of a third country was greatly exceeded⁴⁴.

Although the relevant period had been extended from 3 months in 2003 to 18 months in 2012, this extension does not seem to allow for sufficient time for the inspections by EMSA and the necessary actions in third countries to rectify any identified deficiencies. The main factor for the delay between the request from a Member State for the recognition of a third country and the final decision adopted by the Commission lies in the complexity of the process for the recognition and the fact that **most of the necessary actions rely on the third country concerned.** Specifically, according to the Directive the chronological point that initiates the 18 months period is the notification by the Member State, whereas the third country inspection has to be performed by EMSA. This implies that a considerable time might pass until the performance of the inspection due to the necessary arrangements, such as the agreement with the third country about the available dates and the notification by its relevant authorities of all the necessary documentation regarding its maritime education, training and certification system. Moreover, following the EMSA inspection the authorities of the third country are involved in a process of dialogue with the Commission in order to rectify any identified deficiencies by implementing the necessary measures.

However, it has to be noted, that the above mentioned delay did not have any considerable impact on the employment of seafarers originated from the relevant countries. This was due to the fact that the Member State that submitted the request of the recognition did unilaterally recognize certificates issued by this country until the adoption of the Commission's decision on the issue.

Thus, in practice many recognition requests for the same third country have been submitted by different Member States when there was a need to recognize certificates and employ seafarers originated from that country, pending the adoption of the recognition decision. Hence, there was no significant impact to seafarers or vessels flying a European flag from the delays occurred in the recognition of third countries.

However, the Commission showed a leniency on implementing the relevant provision in order to not cause any significant impacts to the seafarers and the European flags. This leniency was shown, as mentioned above, because in all cases of recognitions the relevant third country had to implement corrective actions in order to comply with the STCW Convention requirements and thus be recognized in the EU level.

If the Commission was strictly implementing the legal requirement then negative decisions should have been adopted at the end of the 18 months period and a new recognition request would have needed to be submitted when the country had implemented the relevant corrective actions. This, however, would have considerably

⁴⁴ See Annex 5.

extended the whole process and would have raised administrative burden for the Member States and the third countries.

The second element that hinders efficiency is related to the **limited number of the Endorsements attesting Recognition (EaR) issued by the Member States for some of the third countries recognized**. The relevant data available indicated that for 17 of the 45 third countries recognized in 2015 less than 100 EaRs were issued by all of the Member States combined and were valid during this year, while for one third country not even one EaR was valid in this year⁴⁵. Taking into consideration that for all of these 17 third countries more than 10 man working days⁴⁶ were spent for on-site inspection related to their initial recognition or their re-assessment, it becomes obvious that **the use of the human and financial resources needed was disproportionate to the objective**.

In particular, since there is no obligation under the Directive for the Member States to justify the need for recognizing a third country in terms of demand for employing seafarers from the specific country, it was observed a trend from the Member States to submit requests for recognition of third countries for which eventually only very few EaRs were issued by the Member States. In the most extreme case, for the recognition of Ecuador no EaR was valid during 2015, meaning that not even the Member State which initially submitted the request for its recognition had issued any EaRs for this country until 2015.

On the other hand, countries which provide a high number of masters and officers employed on-board the EU flagged vessels are currently treated under the Directive in the same way with the above referred countries in terms of their re-assessment and verification of their compliance every five years⁴⁷. **This obligation of equally re-assessing every third country on a five year cycle** without consideration of the actual number of masters and officers holding certificates issued from every country could result, not only to an **inefficient use of the available resources, but also to a compromise on the effectiveness of the EU centralized mechanism**. If the available resources are used for the re-assessment of countries which provide a very low number of masters and officers at the same way for the labour providing countries then the latter might not be monitored at the appropriate level.

Currently the Commission can define priority criteria for the re-assessment of the third countries but without the leniency to exceed the 5 years cycle for the countries which have ceased to be major maritime labour providers⁴⁸. Thus without a change on the re-assessment criteria the five years cycle seems to be difficult to be followed in the future.

Efficiency of the scheme for the mutual recognition of certificates

⁴⁵ See Annex 7.

⁴⁶ EMSA's estimation based on own experience. See p. 57 of the Support Study Final Report.

⁴⁷ According to the statistics as presented in Annex 7, the Philippines, the Russia federation and Ukraine, are the three major labour supplying countries.

⁴⁸ Article 21(2) of Directive 2008/106/EC

Directive 2005/45/EC has achieved a great degree of efficiency. The mutual recognition of seafarers' certificates between the Member States, as provided by the Directive, has reduced the administrative burden in comparison to the situation before. If the recognition of the seafarers' certificates was regulated directly by the STCW Convention then the Member States would have to enter into bilateral undertakings between themselves. This would result to an obligation for each Member State to conduct an evaluation of all the other Member States before recognizing the seafarer's certificates issued by them.

Therefore, the introduction by Directive 2005/45/EC of the central verification of compliance with the requirements of Directive 2008/106/EC by all the Member States reduced both the cost and the administrative burden while in parallel raised the mobility of seafarers' across the Member States.

Furthermore, from the seafarers' perspective the introduction of the mutual recognition scheme contributed to an easier procedure for the recognition of their professional qualifications in comparison to the situation before the adoption of Directive 2005/45/EC⁴⁹. In particular, before the introduction of Directive, the position of the seafarers holding certificates issued by an EU Member State was more onerous than the position of seafarers' holding certificates issued by one of the recognized third countries, since they were subjected to a potential comparison of the requirements between the issuing Member State and the hosting Member State.⁵⁰ Thus, this procedure was longer than the recognition of certificates under the STCW Convention, were such a requirement is not envisaged.

That created delays or even refusal to recognize certificates issued by another Member State.

Hence, the introduction of Directive 2005/45/EC was a necessary in order to align the position of the European seafarers with the position of seafarers employed by recognized third countries. As a result, the mutual recognition of seafarer's certificates issued by a Member State was simplified and the administrative burden for the seafarers was considerably reduced.

Finally, in terms of potential simplification, it was proposed by the stakeholders during the consultation period that a merger of the two Directives would raise the efficiency and clarify the existed legislative framework on the seafarers training and certificates requirements. Currently the implementation of both Directives is monitored through the same procedure of assessment of compliance, while the consolidation of the two

⁴⁹ See above under the section in effectiveness, pp. 18-19.

⁵⁰ Under the provisions of the general Directives on recognition of professional qualifications, i.e. Directives 89/48/ECC and 92/51/EC.

interlinked Directives would eliminate the obsolete definition of certificates in Directive 2005/45/EC⁵¹.

c) Relevance

Relevance of the Directives' objectives to the needs of the maritime sector

The evaluation concluded that the problems targeted by the two Directives remain relevant today. The human factor remains one of the most important elements that affect the safe operation of the vessels since a significant percentage of the maritime accidents could be attributed to it⁵². For this reason, establishing minimum requirements for the education, training and certification of seafarers is still considered at the international level as one of the most important pillars for the promotion of safety in the shipping sector. This is reflected by the STCW Convention which the two Directives have introduced into the Union law.

In particular, Directive 2008/106/EC ensures not only that European seafarers are educated, trained and certified according to the international standards but also maintains the level playing field by ensuring similar requirements for the education, training and certification of masters and officers holding certificates issued by third countries. On the other hand, Directive 2005/45/EC has fostered the mobility of European seafarers in the Union vessels by introducing the mutual recognition of certificates issued by the Member States.

The relevance of the objectives of the two Directives was confirmed by both the public and the targeted consultation. All the stakeholder groups consulted appeared to consider the maritime education and training of seafarers as a very important element for the prevention of maritime accidents⁵³.

d) Coherence

The evaluation examined the coherence of the two Directives with the STCW Convention and with the wider EU policy on maritime safety, in particular with the EU Maritime Transport Strategy. Also, the internal coherence between the Directives was analysed as part of the evaluation. The main element of concern regarding their internal coherence was the difference in the definition of certificates, as it is explained above (see section on effectiveness).

As far as coherence with the international framework is concerned, there was a strong urge from the stakeholders consulted for keeping Directive 2008/106/EC aligned with the STCW Convention⁵⁴. The Directive is not currently aligned with the latest amendments

⁵¹ All articles of Directive 2005/45/EC, except for Article 3 which provide the mutual recognition of seafarers' certificates, were amendments to the previous Directive 2001/25/EC which have now been integrated and consolidated in the recast Directive 2008/106/EC.

⁵² See pp. 20-21 of the Support Study Final Report.

⁵³ See Annex 2, p. 34.

⁵⁴ See Annex 2, p. 34-35.

of the STCW Convention: relating to training and qualification of masters, officers, ratings and other personnel on ships subject to the International Code of Safety for Ships using Gases or other Low-flashpoint Fuels (entered into force on 1 January 2017); relating to further training for masters and officers on board vessels operating in Polar waters (entering into force on July 2018); relating to training and qualifications of masters, officers, ratings and other personnel on passenger ships⁵⁵.

Although Article 1 (24) of Directive 2008/106/EC defines the STCW Convention and the STCW Code as the ones "applied in their up-to-date versions", Article 3 of the Directive stipulates that the Member States should transpose the requirements of the STCW Convention as laid down in Annex I of the Directive. This reference has been interpreted during the implementation of the Directive as a static rather than a dynamic reference for the parts of the STCW Convention which are laid down in the Annex.

Thus, every time the STCW Convention or the STCW Code are amended, a formal legislative procedure for the amendment of the Directive is necessary in order to incorporate in Annex I of the Directive any new requirements of the STCW Convention.

This procedure causes considerable delays and with the above mentioned negative consequences. Therefore, a consideration should be given that in future the relevant alignment could take place through delegated or implementing acts, especially taking into account the technical nature of the subject.

Delaying the alignment poses the risk of de-harmonizing the implementation of the STCW Convention in the Union. If the new amendments to the STCW Convention are not incorporated in the Annex I of the Directive, then each Member State will have the discretion to implement differently the relevant requirements, since the latter would not constitute part of the verification assessment of the central EU system.

In addition some inconsistencies on the current text of the Directive exist. Specifically, in Article 7 of the Directive regarding equivalent requirements for seafarers employed on board vessels which are engaged only in near coastal voyages wrong reference is made regarding the applicable legal text.

In addition, Article 12 (3) may not be invoked when it comes to findings concerning the comparison of standards of competence for CoPs related to tankers before and after the amendments of 2010 to the STCW Convention. According to this Directive, the required comparison of standards of competence is exclusively applicable to those of CoCs. Therefore, in this regard the scope of Directive 2008/106/EC is limited in comparison to the STCW Convention and hence the monitoring of the implementation of the relevant requirement by the Member States is restricted.

Both Directives are coherent with the EU Transport Policy, as that was laid down in the 2011 White Paper on Transport⁵⁶, and the EU Maritime Transport Strategy⁵⁷. In

⁵⁵ Regulation V/2 and Section A-V/2

⁵⁶ COM (2011) 144 final, 28.3.2011

⁵⁷ COM (2009) 8, final, 21.1.2009

particular, Directive 2008/106/EC has contributed to the objective, as laid down in the 2011 White Paper, of ensuring thorough enforcement of international and Community requirements under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW) by all countries granting seafarers' certificates of competence.

This was also verified during the Commission's report on the implementation of the EU Maritime Transport Strategy 2009-2018⁵⁸. However, some elements of the initial EU Maritime Transport Strategy have not been incorporated and achieved through the current legislative framework. These relate to the establishment of maritime certificates of excellence that go beyond the minimum requirements of the STCW Convention and an "Erasmus" model for the exchanges between the maritime training institutions of the Member States.

e) European added value

The main added value of Directive 2008/106/EC compared to the STCW Convention is the harmonization in setting and implementing, across the Union, minimum common standards for the education, training and certification of seafarers working on EU flagged vessels. The EMSA visits to the Member States for the verification of their compliance to the requirements of the Directive had resulted to the development of a common methodology that allows identifying horizontal trends regarding difficulties in the implementation of the relevant provisions.

Moreover, the common EU system for the recognition of third countries and the verification of their compliance with the provisions of the STCW Convention had resulted in an increase of compliance of the third countries with the STCW requirements and thus to better qualified masters and officers certified by third countries, able to work on board the EU flagged vessels.

This was achieved by carrying out onsite inspections of the third countries' maritime education, training and certification systems rather than only paper-based evaluations or reliance on the "STCW White list" published by the IMO, as it was the practice before. In parallel, the common EU system had resulted to a reduction of the cost that would be incurred if onsite inspections were performed by each Member State individually (see analysis of the efficiency).

The added value of Directive 2005/45/EC compared to the provisions of the STCW Convention was achieved through the introduction of the mutual recognition scheme of seafarers' certificates issued by the Member States. Under the STCW Convention each Member State intended to recognize seafarers' certificates issued by another Member State would have to conduct an evaluation of the concerned Member State. Therefore, Directive 2005/45/EC had resulted in a reduction of administrative burden among Member States, as Parties to the STCW Convention, and the increase of mobility for the European seafarers between the EU flagged vessels.

⁵⁸ SWD(2016) 326 final, 30.9.2016

6. CONCLUSIONS

The overall conclusion of this evaluation, based on the sub-conclusions related to the effectiveness, the efficiency, the coherence, the relevance and the EU added value, is that both Directives have been found fit for purpose and have met to a great extent the initial objectives and expectations.

In particular, the development of a centralised system for the assessment of compliance of the Member States with the requirements of Directive 2008/106/EC has led to a harmonised implementation of minimum standards for the seafarers' education, training and certification across Europe. In this regard, the evaluation could establish a link between the intervention and the enhancement of the maritime training and education across Europe through the continuous monitoring under the centralised system. However, such a link could not be established between the intervention and the impact it had on a potential reduction to the maritime accidents. This limitation was due to the fact that relevant data were not available before 2005 in order to perform a comparison of the situation before and after the introduction of the intervention.

In addition, the common EU mechanism for the recognition of masters and officers' certificates issued by third countries has contributed to maintain the level playing field and ensure that masters and officers employed from third countries are trained to the same standards with the European counterparts. In this regard, the onsite inspections conducted by EMSA have raised considerably the effectiveness of the performed evaluations in comparison with the paper-based evaluations conducted by most of the member States before. Meanwhile, the establishment of the centralised system has led to a reduction of the administrative burden for those Member States that performed individual onsite inspections to the third countries before.

However, the evaluation identified elements that have hindered the effectiveness and the efficiency of the common EU mechanism. Especially, the first issue identified as an area of concern is the actual period needed between the submission of request by a Member State for the recognition of a third country and the adoption of the relevant decision. The current deadline of 18 months⁵⁹ was never respected and the Commission had shown a leniency allowing to the relevant third countries the necessary time to adopt and implement the corrective actions required in order to comply with the requirements. This situation does not seem to be sustainable and a realistic timeframe taking account of all procedural steps could be envisaged.

The second issue which raised concerns is that the current legislative framework allows the submission of requests from the Member States for the recognition of third countries without any limitation or justification for such a need. That has led to requests for recognition of third countries for which afterwards only a limited number of endorsements were issued. Hence, there is a strong indication suggesting that in some cases the available financial and human resources on recognition were used inefficiently.

In addition, the obligation of re-assessing the recognised third countries on a five year cycle has increased the burden on the available human and financial resources. Even though, Directive 2008/106/EC gives already the possibility to define priority criteria for

⁵⁹ Article 19 of Directive 2008/106/EC

the re-assessment of third countries based on the available data the current legislative framework does not provide the flexibility that could allow a longer interval between the re-assessments for some third countries for which limited number of endorsements are issued by the Member States and for which there is strong indication that they continue to comply with the requirements of the STCW Convention.

Moreover, the evaluation indicated the need to align Directive 2008/106/EC with the latest amendments to the STCW Convention. One of the most important elements that the intervention contributed was the harmonised implementation of the STCW requirements into the EU. Therefore, if the new amendments to the STCW Convention are not incorporated, the Member States could have the discretion to implement differently the relevant requirements since these will not be part of the European acquis.

The procedure for incorporating amendments of the STCW convention causes considerable delays with resulting negative effects. Therefore, a consideration should be given that in future the relevant alignment could take place through delegated or implementing acts, especially taking into account the technical nature of the subject.

Finally, in relation to Directive 2005/45/EC, the evaluation concluded that the objective of fostering mobility of seafarers across the EU flagged vessels was achieved. However, the definition of the seafarer's certificates that are falling under the scope of the Directive has become obsolete due to amendments in the STCW Convention and consequently to the Directive 2008/106/EC. This inconsistency in the definitions between the two Directives has been the source of the majority of complaints received from seafarers during the implementation period of the intervention.

Therefore, there is strong suggestion from the evaluation that the definition of certificates recognised under the Directive 2005/45/EC has to be updated and aligned with the relevant definitions under Directive 2008/106/EC. In this regard, a consideration for a possible merger of the two Directives in the future was indicated by the evaluation. That would result to an alignment of the definition of certificates while it would reduce the administrative burden through a common procedure for the monitoring of their implementation by the Member States.

Annex 1: Procedural information

1. LEAD DG, DeCIDE PLANNING/CWP REFERENCES

- DG MOVE is the lead DG
- DECIDE Planning Reference: 2016/MOVE/057

2. ORGANISATION AND TIMING

- The evaluation began in June 2016 with a kick-off meeting between DG MOVE and EMSA which had been tasked to carry out the support study of the evaluation.
- The Inter-Service Steering Group (ISG) held 3 meetings in total to discuss on the different steps of the evaluation process. The 1st ISG meeting was held on the 9th of November 2016 to discuss the Draft Inception Report and the approach for the targeted consultation. The 2nd meeting was held on the 30th of June 2017 where the draft final report of the support study was discussed while the last ISG meeting was held on the 3rd of October 2017 to discuss the draft SWD by the Commission. The Commission Services participating in the ISG are: Secretariat-General, Legal Service, DG Maritime Affairs and Fisheries, DG Employment, Social Affairs and Inclusion, DG for Internal Market, Industry, Entrepreneurship and SMEs and the European Maritime Safety Agency (EMSA).

3. EXCEPTIONS TO THE BETTER REGULATION GUIDELINES

The Better Regulation Guidelines⁶⁰ and Toolbox⁶¹ were followed without any exceptions.

4. CONSULTATION OF THE RSB (IF APPLICABLE)

Not applicable.

5. EVIDENCE, SOURCES AND QUALITY

The evaluation relies mostly on the "Study for the REFIT evaluation of Directives 2008/106/EC and 2005/45/EC" conducted by EMSA.

⁶⁰ https://ec.europa.eu/info/files/better-regulation-guidelines_en

⁶¹ https://ec.europa.eu/info/better-regulation-toolbox_en

Annex 2: Synopsis Report of stakeholders' consultation

Methodology

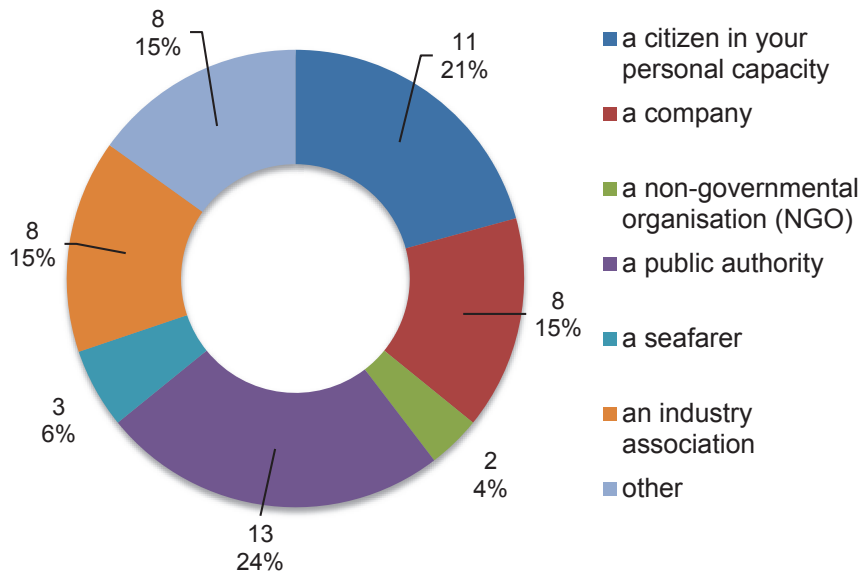
The aim of the consultation on Directive 2008/106/EC and Directive 2005/45/EC was to collect views, evidence and opinions on the legislative acts and their implementation. Two consultation tools have been used to achieve the above mentioned goal:

- The Open Public Consultation (OPC): it was designed by the Commission and included question regarding the two Directives as part of its wider initiative on Maritime Fitness Check.
- The Targeted Consultation: it was comprised of 5 targeted questionnaires, each designed to address the specific stakeholders identified: EU maritime administrations, EU MET institutions, EU shipowners, EU trade unions and seafarers.

Open Public Consultation

The Open Public Consultation (OPC) for the REFIT evaluation of Directive 2008/106/EC and of Directive 45/2005/EC was carried out by the Commission in the context of the REFIT evaluation of the EU legislation for maritime safety. The OPC was launched and the online questionnaire remained opened on the Commission web portal from 7 October 2016 to 20 January 2017. The questionnaire was promoted via the European Commission Open Public Consultations website, the DG MOVE website and through social media. In the context of the preparation of the support study, EMSA also promoted the OPC questionnaire to the stakeholder contacts available to the agency.

The OPC allowed collecting the views from the wider public, giving the opportunity of getting an overview of the perception of different segments of the public and of the interested stakeholders. In this particular case it was noticeable that – possibly because of the specificity of the Directives – those who replied to the OPC were to a certain extent interested parties, some of them even having a role in the implementation process. Indeed, of the 53 respondents, 24% (13) replied as a public authority, 21% (11) as concerned citizens, 15% (8) as industry associations, same as those who identified as companies, and those who were other type of actors. Only 6% (3) were seafarers, and 4% (2) non-governmental organisations.



OPC Respondents

Targeted stakeholder consultation

This consultation addressed specific questions to the most relevant stakeholders who, under different capacities, were fully engaged in the implementation of both Directives. The survey was extended from 4 to 5 weeks (10 February - 21 March 2017) for a wider and more balanced participation among the stakeholder groups. Invitations for participating in the consultation were sent through emails and specific channels of promotion were utilised which included:

- Contacts and experts in the competent administration of every Member State;
- Stakeholder association members (i.e. ECSA, ETF, IMLA etc.); and
- Professional networks of the European Commission and EMSA.

Eventually, 28 questionnaires were received from 13 EU maritime administrations, seven EU MET institutions, seven shipowners and one trade union representative. It appeared that participation of individual seafarers was not successful since no individual contact details could be procured. For this reason the relevant questionnaires were circulated to the trade unions with an invitation to further distribute them to their members. However, this channel turned out to be ineffective since the trade unions were not actively participated in the consultation. Nevertheless, since seafarers participated in the OPC, their views were taken into account.

For the purposes of the consultation and in order to cover all the affected groups by the implementation of both Directives, five stakeholder groups were identified and consulted:

1. EU Maritime administrations

All 28 EU Member States, in their capacity of implementing and enforcing authorities were consulted. In particular, the competent authorities of each Member State responsible for monitoring the MET institutions approved under the national maritime and education system and for issuing the seafarers' certificates were invited to share their views and opinions on the implementation of the two Directives.

2. EU Maritime education and training institutions

Maritime and training institutions in every Member State were contacted as one of the major stakeholders. METs are delivering the courses needed to obtain Certificates of Competency or Certificates of Proficiency, while sometimes have been approved by the national competent authorities to issue the latter category of certificates on behalf of the national administration.

3. Shipowners

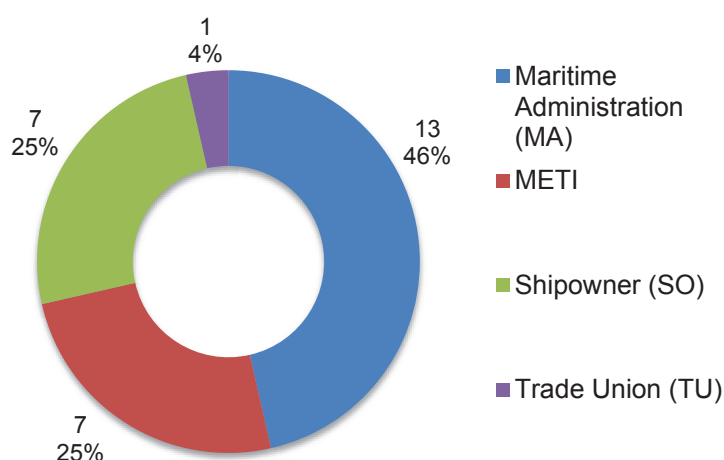
The shipowners are the employers of the seafarers and are affected in a twofold way by the Directives: they are in need of competent seafarers to operate and maintain their vessels while recognition of third countries' seafarers and facilitation of their mobility could impact the cost of their operations.

4. Trade Unions

Trade unions are representing the seafarers associations in Europe and although are not affected directly by the two Directives, was one of the identified stakeholder group in order to disseminate the questionnaires to their members (seafarers) since the direct contact with individual seafarers was difficult to be achieved.

5. Seafarers

Seafarers are the group impacted directly by the provisions of both Directives. They are interested on facilitating mobility among the different EU flags so that could improve their employability. Furthermore, they have an interest on safeguarding a level playing field with seafarers' employed from third countries through the setting of common minimum training standards.



Type of stakeholders

Forty six percent of the respondents (13 out of 28) to the questionnaire work in maritime administrations, 25% (7) in MET institutions and the same percentage in shipping companies. Despite the request by the European Commission when sending the questionnaire, only one trade union replied to it. Nevertheless, it is the largest trade union in the EU, with members from two relevant maritime EU Member States. Being so concentrated, this response may not be the ideal sample but it still provides a view from the trade unions' side.

Consultation results

Effectiveness

Stakeholders were asked to assess the effectiveness of both Directives vis-à-vis their declared objectives:

- Contribution of Directive 2008/106/EC in the harmonization of seafarers' training across the Member States.
- Improvement of the maritime education, training and certification systems of the Member States and of the third countries recognised at the EU level.
- Contribution of Directive 2005/45/EC in facilitating the mobility of seafarers across the EU.

Survey participants considered that the intervention through Directive 2008/106/EC had a positive impact. In particular, the OPC results the view that it is very important or important to verify the maritime education and training systems of both the Member States and the third countries (64% and 53% respectively). The opinion of the stakeholders regarding the effectiveness of the verification of maritime systems through the common EU mechanism indicated an even stronger support to the system: 93% (26 out of 28) of the respondents considered the existence of the EU mechanism as important or very important.

The fact that the views of the stakeholders, including the policy maker authorities of the EU maritime administrations and the METIs, were more positive than the views collected during the OPC indicates the broad acceptance that the current mechanism has among the directly affected by the intervention. In this regard, the vast majority of the METs (86%) have replied that the inspections conducted by EMSA have contributed to the improvements of their system, especially in areas regarding the training facilities, the qualification of the academic staff and the quality management systems.

As regards the mobility of seafarers across EU, 18 out of 53 (34%) respondents during the OPC stated that the current system under Directive 2005/45/EC has facilitated mobility of seafarers to a great extent, while 11 respondents (21%) replied that facilitation was achieved to some extent. However, the majority (95%) of the stakeholders concerned⁶² (shipowners and trade unions) indicated that the mutual

⁶² Only replies from shipowners and trade unions were collected since there was no participation of individual seafarers.

recognition has facilitated the professional mobility of seafarers in the Union to "some or to a great" extent.

The majority of the respondents considered that the intervention through Directive 2008/106/EC had a positive impact on the improvement of the maritime training and certification systems of both the EU Member States the third countries recognised at the EU level. This same view was shared among all the stakeholders in relation to the effectiveness of facilitating the mobility of the seafarers through the mutual recognition of certificates under Directive 2005/45/EC.

However, it appears that the awareness of the different types of the certificates recognised was varied among the different groups of stakeholders. The analysis of the results indicated that only 54% (7 out of 13) of the maritime administrations were aware that both the CoCs and the CoPs were covered by Directive 2005/45/EC while on the other hand 86% (6 out of 7) shipowners considered that both types of certificates are covered under the scheme.

This differentiation between the two groups of stakeholders could indicate a confusion of the EU administrations regarding the types of seafarers' certificates falling under the scope of Directive 2005/45/EC due to the obsolete definition of certificates included in this Directive. Hence, it was revealed during the stakeholders' consultation that there is a need for an update of the obsolete definition of seafarers' certificates in Directive 2005/45/EC and its alignment with the relevant definition in Directive 2008/106/EC.

Efficiency

In order to assess the efficiency of Directive 2008/106/EC, questions focused on the administrative and cost impact that the central mechanism for the recognition of third countries had on the maritime administrations of the EU member states. Moreover, in relation to Directive 2005/45/EC focus was given on the impact that the mutual recognition of certificates had, not only, on the national administrations but also on seafarers.

It appears that the benefits of the centralised system for the recognition of third countries were not obvious to the public opinion since during the OPC the majority (55%) of the respondents expressed either no opinion or didn't provide an answer regarding the impact of the system on the administrative burden and cost incurred by the Member States. On the contrary, during the targeted consultation, the replies originated from the maritime administrations of the Member States recognised the benefits of the centralised system in 84%.

On the other hand, a strong support for introducing improvements in the system was expressed by all the stakeholders (67% of the participants). It is worth noting that all shipowners and the trade union agreed that the MET verification system of the EU could be improved. As for the maritime administrations, results shown in the chart below express a less clear-cut view: 46% of them (6 out of 13) considered that there could be an improvement of the EU system, while a further 46% had no opinion, and one did not give an answer.

Suggestions for improvement received from maritime administrations are listed below:

- Reduction in time gap between inspection completion and approval decision (maritime administration);
- Reduction of visits to Member States and increase in the number of visits to third countries (maritime administration);
- Assessment of the resources available to comply with the intended intervals between inspections (maritime administration);
- Detailing of the specifications of which training and certificates should be recognised (maritime administration);
- Invitation for Member States to be invited to participate in the inspections (maritime administration).

It could be concluded, that the overall majority of respondents agree that a cost and administrative burden reduction was achieved thanks to the common EU mechanism. However, many respondents expressed the view that the verification system of the EU could be improved in order to become more efficient. In this regard, it appears that the participants expressed views that support the need to intervene and allocate more efficiently the available resources in relation to the recognition and re-assessment of third countries. Moreover, the long period between the request for recognising a third country and the adoption of the final decision was one of the issues indicated as a problematic area of Directive 2008/106/EC.

Relevance

Stakeholders were asked to assess the relevance of the maritime education and training in the prevention of maritime accidents. The respondents expressed in 86% the importance of seafarers' education and training in preventing maritime accidents. In a similar question, 62% of the participants replied that they were aware of cases where lack of training had been the cause of maritime accidents.

The respondents were asked to provide specific examples of maritime accidents that they were aware of where lack of training could have been a cause. Some examples were provided where improper use of the COLREG, inadequate use of the English language, inability to identify corrosion or unsuitable maintenance plans were noted by the respondents.

It was a common perception that seafarers' training plays an important role in the safe operation of ships and the protection of the marine environment by preventing maritime accidents.

Coherence

Stakeholders were inquired regarding the coherence of the European legislative framework with the internationally agreed minimum standards set by the STCW Convention on maritime education and training. 28 out of 53 (53%) survey respondents in the OPC supported the view that the European framework should be kept aligned with the STCW Convention while a minority expressed the position that the European standards should go beyond the international one. On the other hand, stakeholders had a stronger preference for an alignment of the two systems since 86% expressed this view, with only 9% supporting the idea of going beyond the international standards.

Some of the ideas expressed during the OPC suggested that an additional study should be performed in order to determine additional areas where the knowledge and skills of the seafaring personnel could be improved, and relevant steps be taken towards elaboration of new programmes and curricula.

The opinions collected during the consultation period largely indicate that the European framework regulating seafarers' education and training should be kept aligned with the STCW Convention. This indicates a support to amend Directive 2008/106/EC in order to incorporate the latest amendments to the STCW Convention.

EU added-value

The questions put forward to the stakeholders were related to the need for verifying through a centralised common mechanism the compliance of the Member States and the third countries with the provisions of Directive 2008/106/EC and the STCW Convention, respectively. 21 out of 28 respondents (75%) considered the mechanism as very important while 5 respondents classified it as important.

The high number of total positive replies (97%) indicates the broad recognition of the added value that the centralised system has introduced. Some of the comments received illustrate the high appreciation of the system by the stakeholders:

- “The quality of seafarers depends on the education and training that they passed. Quality of education among others depends on the control exercised. The control carried out by the IMO is based on papers submitted and once a Member State is entered in the so called "White List" no chance to be taken out. Instead the EU carries out verification on site and has the right to take out a country from the list of recognises third countries” (Maritime administration);
- “Taking into account that large number of foreign seafarers (holding certificates issued outside the European Union) work on board EU flagged vessels and their numbers are increasing and they are also taking over more and more senior officer functions, EU plays very important role in verifying that maritime education and training system of third countries complies with the minimum international standards set by Directive 2008/106/EC and the STCW Convention (Maritime administration).

Annex 3: Table with the main revisions of the EU framework on minimum level of maritime education, training and certification of seafarers

Legislative instrument	Main objectives
Council Directive 94/58/EC on the minimum level of training of seafarers ⁶³	Transposition of the STCW Convention in the EU legal order.
Council Directive 98/35/EC of 25 May 1998 amending Directive 94/58/EC on the minimum level of training of seafarers ⁶⁴	Integration into Directive 94/58/EC of the STCW amendments in 1995 and the new STCW Code
Directive 2001/25/EC ⁶⁵	Recast of the previous amendments.
Directive 2002/84/EC ⁶⁶	Defined the comitology procedure for the recognition of third country certificates.
Directive 2003/103/EC ⁶⁷	<p>The Commission was entrusted to verify the compliance of third countries with the STCW Convention, in order to harmonise the process of recognition defined in Regulation I/10 of the Convention. Under the STCW Convention, when a master or officer holds a certificate of competency, or certain certificates of proficiency, issued by a national administration and is willing to be employed on board a vessel flying the flag of another country, such master or officer should have his/her certificates endorsed by the latter administration to attest the recognition of the seafarer's certificates. However, every Party to the STCW Convention which attests recognition of certificates issued by another Party shall confirm through an evaluation of the other Party that the latter is complying with the requirements of the Convention.</p> <p>Thus, Directive 2003/103/EC established a common EU mechanism for the recognition of the seafarers' training and certification systems of third countries. The purpose of this revision was to set up at the Union level</p>

⁶³ OJ L 319, 12.12.1994, p. 28

⁶⁴ OJ L172, 17.6.1998

⁶⁵ OJ L 136, 18.5.2001, p. 17

⁶⁶ OJ L 324, 29.11.2002, pp. 53-58

⁶⁷ OJ L 326, 13.12.2003, p. 28

	<p>an efficient and reliable system for the recognition of certificates of competency and certificates of proficiency issued outside the European Union.</p> <p>This common EU mechanism was designed in order to safeguard the recruitment on board the Union ships of proficient third countries' crews trained according to the minimum requirements established in the STCW Convention. Furthermore, Directive 2003/103/EC introduced specific procedures for the extension and withdrawal of the Union-wide recognition of third countries, as well as the continuous monitoring of compliance of the third countries with the relevant requirements of the STCW Convention.</p>
Directive 2005/23/EC ⁶⁸	Introduced requirements for seafarers serving on board passenger ships
Directive 2005/45/EC ⁶⁹	Introduced the mutual recognition of seafarers' certificates issued by EU Member States.
Directive 2008/106/EC ⁷⁰	A recast of the previous amendments to Directive 2001/25/EC
Directive 2012/35/EU ⁷¹	The objective of this Directive was to integrate into EU law the 2010 amendments to the STCW Convention in order to avoid any conflict between the international and the EU obligations of the Member States.

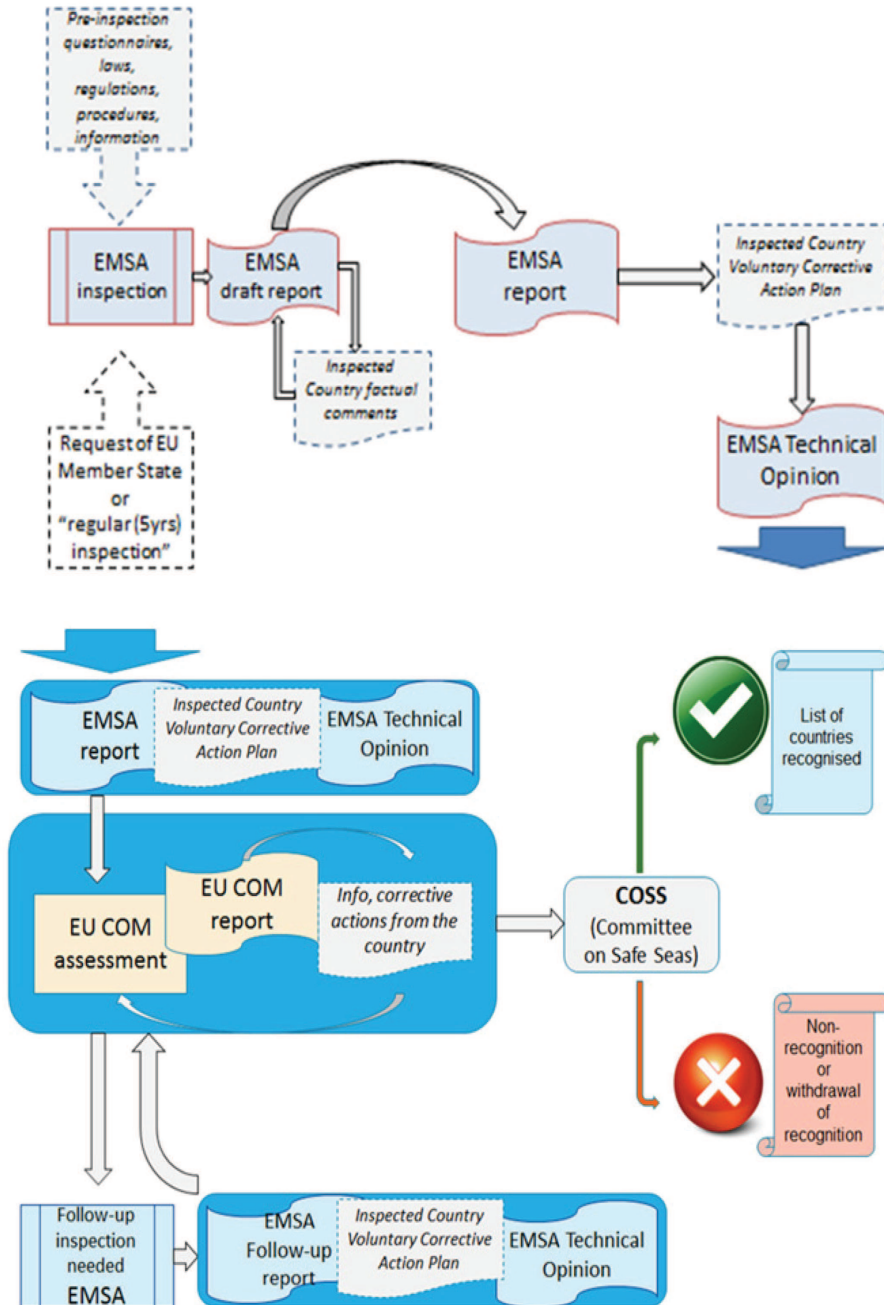
⁶⁸ OJ L 62, 9.3.2005, pp. 14-15

⁶⁹ OJ L 255, 30.09.2005, p. 160

⁷⁰ OJ L 323, 3.12.2008, p. 33

⁷¹ OJ L 343, 14.12.2012, p. 78

Annex 4: Visual illustration of the recognition process of third countries under Directive 2008/106/EC



Annex 5: Table with the period between submission of request for recognition of a third country and adoption of the decision⁷²

Non-EU Country	Notification date	Visit date: From	Visit date: To	Inspection final report	Date of the decision	In years, months, days
Cape Verde	25/07/2005	26/06/2006	30/06/2006	19/12/2006	07/12/2011	6 years, 4 months, 24 days
Algeria	12/02/2005	16/09/2006	21/09/2006	16/01/2007	28/06/2010	5 years, 4 months, 11 days
Sri Lanka	21/10/2005	20/11/2006	29/11/2006	11/05/2007	22/11/2010	5 years, 1 months, 20 days
Egypt	21/10/2005	04/12/2006	08/12/2006	21/05/2007	17/09/2012	6 years, 10 months, 20 days
Morocco	08/12/2005	11/12/2006	15/12/2006	20/06/2007	31/08/2011	5 years, 8 months, 7 days
Israel	30/01/2005	26/03/2007	30/03/2007	26/09/2007	28/06/2010	5 years, 4 months, 29 days
Tunisia	09/03/2006	16/04/2007	20/04/2007	18/12/2007	27/04/2011	5 years, 1 months, 8 days
Uruguay	14/03/2006	25/06/2007	29/06/2007	07/02/2008	09/02/2012	5 years, 10 months, 13 days
Ecuador	03/04/2006	23/07/2007	27/07/2007	26/03/2008	28/06/2011	5 years, 2 months, 2 days
Bangladesh	31/07/2007	03/02/2008	11/02/2008	31/10/2008	07/12/2011	4 years, 4 months, 30 days
Azerbaijan	07/08/2008	16/02/2009	20/02/2009	17/07/2009	25/08/2011	3 years, 0 months, 6 days
Ghana	21/10/2005	07/12/2009	11/12/2009	31/03/2010	09/02/2012	6 years, 3 months, 20 days
Japan	23/02/2006	06/02/2012	15/02/2012	16/07/2012	17/12/2014	8 years, 9 months, 22 days
Montenegro	12/01/2009	21/02/2012	28/02/2012	07/08/2012	23/03/2017	8 years, 2 months, 11 days

⁷² Data from EMSA, Support Study, pp.55-56

Annex 6: Analysis of the cost savings by the introduction of the centralised for the recognition of third countries under Directive 2008/106/EC

Purpose

Before the introduction of the centralised system by Directive 2003/103/EC, each Member State had to conduct its own evaluation of the maritime training, education and certification system of the third country intended to be recognised, under the Regulation I/10 of the STCW Convention. In this regard, the main objective of the centralised system was to avoid duplication of effort in the case of multiple recognitions of the same third country by different Member States. Hence, one of the main elements of the evaluation was the estimation of the cost savings related to the inspections performed by EMSA and the following assessment of compliance performed by the services of the Commission.

Methodology

Although the exact cost saved for the Member States by the introduction of the common EU mechanism is difficult to be quantified with accuracy, the available data make possible an estimation of the cost that would be incurred by the national administrations of the Member States. Since 2005, EMSA performed 66 field inspections in third countries which represent 1.272 man working days spent for onsite inspections.

To this number of working man days, the preparatory work of desk analysis should be added which could be estimated in 60 man working days per inspection on average. This is only an estimation of the time needed for EMSA to prepare an on-field inspection by performing a desk analysis of the available data. The estimation **is based on the available experience and is only indicative** since the relevant period could considerably vary depending on the complexity of the maritime education, training and certification system of the third country to be inspected. The 60 man working days entail 3 full time employees working on the file for 4 working weeks (4 working weeks x 5 working days x 3 employees= 60 man working days).

On the other hand, the follow up work of the assessment conducted by the services of the Commission should be estimated in 45 man working days. The differentiation in the days needed for the preparation and the follow up could be justified by the fact that the Commission's assessment is mainly based on the preparatory work and the onsite inspection performed by EMSA. The above period includes the factual assessment of the maritime education, training and certification system that the third country has in place together with the follow up of the implementation of any necessary corrective action plan. Moreover, the procedures for the adoption of the relevant Commission's implementing decision have been taken into consideration.

The third step of the cost quantification was to use the available Eurostat data in order to calculate the costs savings. Taking into account the mean monthly earnings of civil servants with expertise in technical issues⁷³ among the Member States, it was possible to multiply the

⁷³ Data reported by Eurostat in http://ec.europa.eu/eurostat/web/products-datasets/-/earn_ses_monthly

number of man working days spent for each recognition and reassessment of the third countries since 2005 in order to estimate the cost that would be accrued for the Member States, if the common EU mechanism was not in place.

Table: Monthly earnings of civil servants with expertise in technical issues, Eurostat

Country	2010	2014	Average daily salary
Austria	€2,150.00	€2,162.00	€72.07
Belgium	€2,709.00	€2,655.00	€88.50
Bulgaria	€325.00	€404.00	€13.47
Cyprus	€2,053.00	€3,547.00	€118.23
Czech Republic	€915.00	€838.00	€27.93
Germany	€2,050.00	€2,255.00	€75.17
Denmark	€3,739.00	€3,834.00	€127.80
Estonia	€658.00	€805.00	€26.83
Greece	€1,698.00	€1,508.00	€50.27
Spain	€1,645.00	€1,602.00	€53.40
Finland	€2,571.00	€2,769.00	€92.30
France	€2,134.00	€2,233.00	€74.43
Croatia	€980.00	€1,033.00	€32.67
Hungary	€562.00	€586.00	€19.53
Ireland	€3,488.00	€3,275.00	€109.17
Italy	€2,208.00	€2,313.00	€77.10
Lithuania	€408.00	€475.00	€15.83
Luxembourg	€4,160.00	€4,203.00	€140.10
Latvia	€476.00	€574.00	€19.13
Malta	€1,357.00	€1,747.00	€58.23
Netherlands	€1,939.00	€1,954.00	€65.13
Poland	€605.00	€706.00	€23.53
Portugal	€1,436.00	€1,205.00	€40.17
Romania	€352.00	€393.00	€13.10
Sweden	€2,428.00	€2,868.00	€95.60
Slovenia	€1,472.00	€1,466.00	€48.87
Slovakia	€697.00	€777.00	€25.90
United Kingdom	€2,122.00	€2,390.00	€79.67
General total		€51,557	€1,684.13
Total 24 countries (between 2005-2007 all except RO, BG, HR, AT)		€47,618.00	€1,552.83
Total 26 countries (between 2007-2013 all except HR, AT)		€48,415.00	€1,579.40
Total 27 countries (since 2013 all except AT)		€49,395.00	€1,612.07

Austria was not taken into account for this estimation since it has closed its flag registry and therefore there are no endorsements of third countries' certificates issued by this Member State. Moreover, for the inspections carried out between 2005 and 2007, only 24 countries

were taken into account while for the inspections carried out between 2007 and 2013, only 26 countries were taken into account⁷⁴.

Hence, based on the formula "*Total costs = (60*total average daily salaries (sum of 24 or 26 or 27 countries)) + (n° days field inspection* total average daily salaries (sum of 24 or 26 or 27 countries)) + (45* total average daily salaries (sum of 24 or 26 or 27 countries))*" the total cost saved by the introduction of the EU common mechanism for the recognition and reassessment of the third countries since 2005 **was estimated to be €13,042,811.50 in total or €197,618.36 per inspection.**

For example, from the data available from, EMSA carried out three inspections in Turkey in 2005, 2009 and 2015. For the first inspection in 2005, the estimated number of days spent for preparatory work (60) was multiplied with the sum of the average daily salaries of inspectors in 24 EU Member States, to which the result of the number of days spent by EMSA for field inspection (30) it was added and multiplied with the sum of the average daily salaries of inspectors in 24 EU Member States. Finally, the result of the number of days spent for follow-up work (45) multiplied with the sum of the average daily salaries of inspectors in 24 EU Member States was added. This formula was repeated for the other inspections, this time counting 26 countries for the 2009 inspection and 27 countries for the 2015 inspection.

Caveats

However, **the above amount does not represent the actual amount** that would be accrued by the Member States if they were performing individually the inspection for each third country recognised. It is considered that the actual amount would be significantly higher since this amount does not include the travel cost which is a considerable percentage of the total cost. The travel cost that would be accrued for each Member State to perform an on-site inspection was not taken into account for the purposes of the estimation since that would vary significantly for each third country inspected.

Furthermore, not all the Member States have currently recognised CoCs and CoPs issued by all the 48 third countries. However, it was considered as appropriate for the purposes of the evaluation to calculate the cost saved for all the Member States, which currently operate a shipping registry, because every one of them could decide at some stage to recognise the certificates issued by any of the third countries, if there is a need to employ masters and officers holding certificates issued by them. Thus, all the 27 Member States operating a shipping registry could avail themselves of the benefits of the central recognition system.

Another caveat that should be taken into consideration is the difficulty on determining the actual cost of a man working day, since the salaries vary considerably between the Member States. For this reason, the average monthly salary, across EU, of civil servants specialised in technical issues was taken into consideration.

Finally, for the purposes of the above estimation it was considered that different people were involved in the on-site inspection and the following assessment. This consideration was based

⁷⁴ Romania and Bulgaria acceded in the Union in 2007 while Croatia acceded in 2013.

on the current procedures followed by the Commission and EMSA. However, it is reasonable to be assumed that in some of the Member States the on-site inspection and the following assessment would be performed by the same people.

For all the above reasons, the estimation performed for the purposes of the evaluation reflects **only the cost of the human resources** that should be allocated by the Member States in order to perform individual onsite inspections in the third countries recognised, if the centralised system was not in place. Therefore, it is considered as reasonable that **the actual cost saved for the Member States is in reality higher** than the above amount since the travel cost constitutes a significant percentage of the total cost.

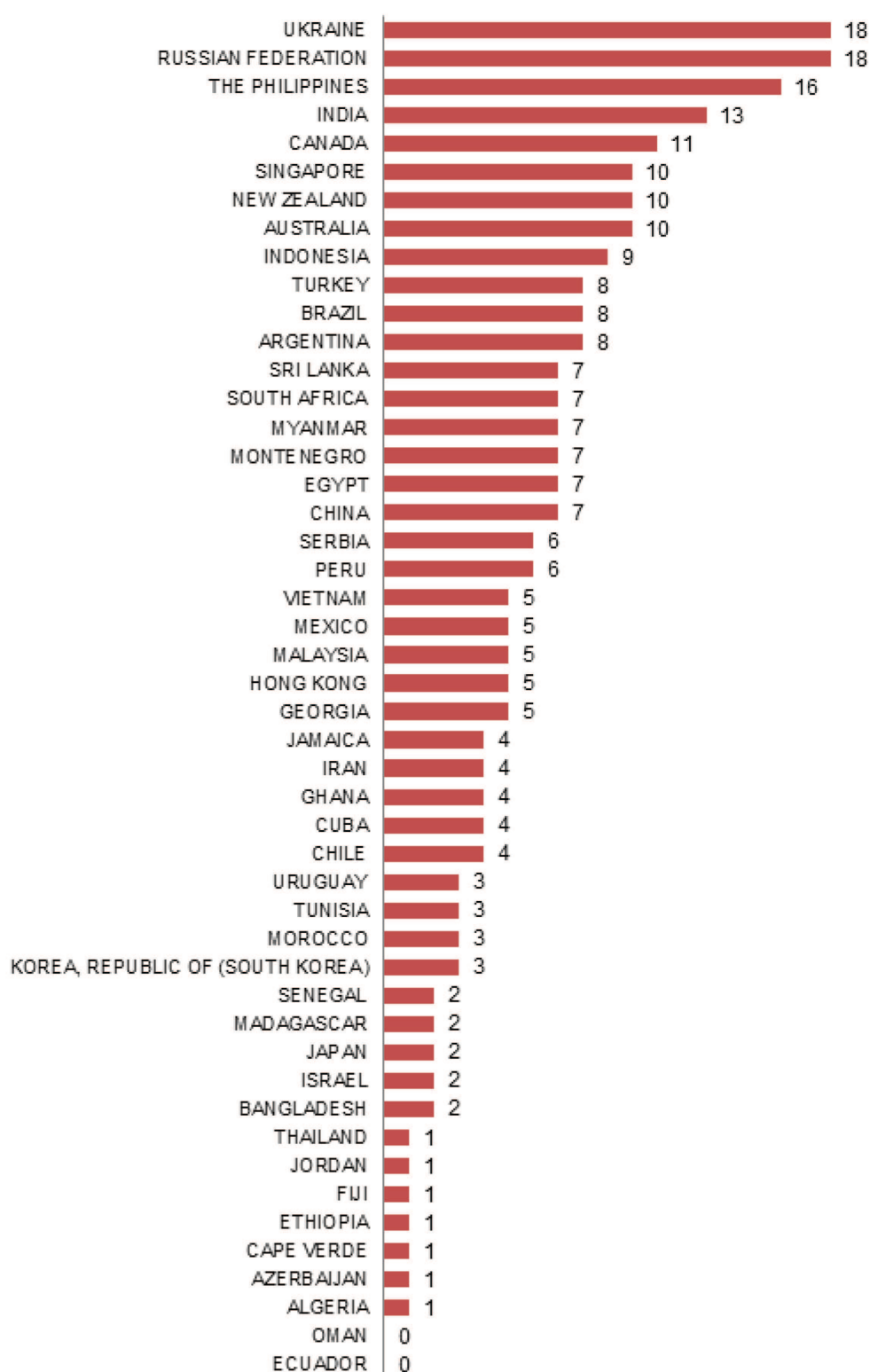
Annex 7: Number of seafarers holding valid Endorsements of Recognition during 2015

Non-EU Country	Number of officers from countries recognised after the adoption of Directive 2003/103/EC who hold valid EaRs in 2015												
	BE	CY	DE	DK	ES	FR	GB	GR	LU	MT	PT	SK	Total
Algeria	0	0	0	0	0	2	0	0	0	0	0	0	2
Azerbaijan	0	0	0	0	0	0	0	0	0	464	0	0	464
Bangladesh	1	12	0	0	0	0	0	0	0	0	0	0	13
Cape Verde	0	6	0	0	0	0	0	0	0	0	0	0	6
Ecuador	0	0	0	0	0	0	0	0	0	0	0	0	0
Egypt	2	174	1	1	0	0	0	0	52	689	28	0	946
Ghana	0	85	0	0	0	0	0	0	27	7	2	0	121
Israel	0	30	0	0	0	0	0	0	0	49	0	0	79
Japan	0	3	0	0	0	0	0	0	0	2	0	0	5
Jordan	0	0	0	0	0	0	0	0	0	79	0	0	79
Montenegro	0	263	18	0	0	0	200	17	40	343	0	1	849
Morocco	0	41	0	0	0	37	0	0	19	0	0	0	97
Sri Lanka	3	143	13	0	0	0	94	0	6	211	31	0	496
Tunisia	0	0	0	0	0	18	0	0	23	5	0	0	46
Uruguay	0	11	0	0	2	0	0	0	22	0	0	0	35
Total	6	768	32	1	2	57	294	17	189	1849	61	1	3238

Non-EU Country	Number of officers from countries recognised before the adoption of Directive 2003/103/EC who hold valid EaRs in 2015																						
	BE	CY	DE	DK	EE	ES	FI	FR	GB	GR	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SK	Total
Argentina	75	18	1	9	0	7	0	0	0	0	0	1	0	10	0	0	0	0	6	0	0	0	127
Australia	38	191	3	58	14	0	0	6	187	0	0	0	0	136	0	286	116	0	0	0	0	0	1010
Brazil	0	281	0	183	0	0	0	12	73	0	0	3	0	25	0	0	10	0	18	0	0	0	591
Canada	3	23	0	14	0	0	0	1	110	12	1	0	0	4	0	100	13	0	2	0	0	0	279
Chile	0	31	0	0	0	6	0	0	0	0	0	0	0	23	0	0	0	0	1	0	0	0	61
China	0	206	5	3	0	0	0	0	767	0	0	0	0	0	0	455	51	0	8	0	0	0	1487
Cuba	0	58	0	0	0	99	0	0	0	0	0	0	0	0	0	176	0	0	84	0	0	0	416
Georgia	0	118	0	0	0	0	0	0	0	30	0	0	1	0	0	357	0	0	4	0	0	0	510
Hong Kong	1	3	1	0	0	0	0	0	6	0	0	0	0	0	0	9	0	0	0	0	0	0	19
India	283	939	5	1113	1	0	0	179	1271	34	0	252	0	160	0	3336	75	0	40	0	0	0	7626
Indonesia	14	384	0	0	0	0	0	6	0	14	0	8	0	84	0	236	320	0	54	0	0	0	1118

Iran, Islamic Republic Of	1	479	0	0	0	0	0	0	8	0	0	0	0	0	0	1260	0	0	0	0	0	0	1746
Jamaica	50	1	0	0	0	0	0	0	26	0	0	0	0	0	0	6	0	0	0	0	0	0	82
Korea, Republic Of	0	38	0	0	0	0	0	0	14	0	0	0	0	0	0	255	0	0	0	0	0	0	307
Madagascar	0	0	0	0	0	0	0	55	0	0	0	0	0	61	0	0	0	0	0	0	0	0	115
Malaysia	1	27	0	0	0	0	0	8	9	0	0	0	0	4	0	0	0	0	0	0	0	0	49
Mexico	1	28	0	0	0	6	0	0	0	0	0	0	0	8	0	0	0	0	4	0	0	0	47
Myanmar	0	136	26	0	0	0	0	1	121	0	0	0	0	24	0	302	0	0	101	0	0	0	707
New Zealand	8	82	0	31	8	0	0	2	160	0	0	0	0	34	0	106	68	0	3	0	0	0	491
Pakistan	0	76	0	0	0	0	0	0	20	4	0	0	0	0	0	0	0	0	0	0	0	0	100
Peru	1	56	1	0	0	11	0	0	0	0	0	0	0	0	0	141	0	0	122	0	0	0	332
Russian Federation	345	4273	389	152	22	0	16	14	1120	0	50	25	52	569	185	6678	2452	0	516	0	2	2	16381
Senegal	0	0	0	0	0	0	0	19	0	0	0	0	0	9	0	0	0	0	0	0	0	0	28
Serbia	0	1	1	0	0	0	0	0	5	7	0	0	0	0	0	5	0	0	1	0	0	0	19
Singapore	8	88	0	184	0	0	0	7	93	0	0	1	0	15	0	164	16	0	3	0	0	0	576
South Africa	33	51	0	8	0	0	0	0	149	0	0	0	0	21	0	0	1	0	1	0	0	0	235
The Philippines	253	7043	1273	1399	0	0	125	708	2120	3661	36	0	0	517	0	13806	2285	1	654	6	506	0	33966
Turkey	0	6	4	0	0	0	1	0	0	0	0	0	0	21	0	6291	4	0	48	0	0	3	6377
Ukraine	935	5689	494	380	1	0	2	269	1817	614	13	0	9	1240	59	9604	1907	1	966	0	0	27	23192
United States	14	13	1	20	0	0	0	0	108	0	0	0	0	7	0	58	0	0	0	0	0	0	220
Vietnam	0	94	0	0	0	0	0	2	0	0	0	0	0	6	0	38	41	0	0	0	0	0	181
Total	2060	20422	2204	3549	46	129	144	1289	8177	4376	100	290	62	2978	244	43669	7349	2	2636	6	508	32	98351

Annex 8: Number of Member States recognising CoCs of individual third countries



Annex 9: Mutual recognition of certificates among EU Member States

EU & EFTA Countries issuing the original CoC	Number of officers holding valid EaRs during 2015																								
	BE	CY	DE	DK	EE	ES	FI	FR	GB	GR	HR	IE	IT	LT	LU	LV	MT	NL	PL	PT	RO	SE	SI	SK	Total [1]
Austria	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1
Belgium	0	20	10	2	0	2	0	102	8	4	0	0	0	0	476	0	44	155	0	0	0	0	0	0	814
Bulgaria	202	303	94	19	0	0	0	100	463	27	0	3	109	0	62	0	1763	53	0	106	1	1	0	0	3151
Croatia	388	475	39	90	0	5	1	52	681	0	0	0	109	0	822	0	1396	368	0	96	3	0	6	1	4340
Cyprus	0	0	0	0	0	0	0	0	0	58	0	0	0	0	0	0	429	0	0	1	0	0	0	0	488
Czech Republic	0	1	1	0	0	0	0	0	0	0	0	0	0	0	1	0	4	0	0	3	0	0	0	0	10
Denmark*	2	38	5	0	0	0	1	1	45	0	0	2	0	0	3	3	80	49	0	0	0	49	0	0	276
Estonia	4	236	25	34	0	0	175	3	217	0	0	3	13	9	16	125	204	210	0	25	0	5	0	0	1247
Finland	0	18	3	6	43	0	0	0	21	2	0	0	0	0	5	1	46	29	0	2	0	256	0	0	413
France	28	40	2	2	0	5	0	0	85	0	0	0	18	0	455	0	99	17	0	0	0	2	0	0	749
Germany	1	179	0	16	3	26	2	4	100	0	0	0	54	0	181	1	403	144	4	214	0	0	0	0	1302
Greece	3	1274	1	1	1	0	0	1	41	0	0	6	0	0	3	0	3369	23	0	30	0	6	0	0	4754
Hungary	0	6	1	0	0	0	0	0	0	0	0	0	0	0	0	0	3	0	0	2	0	0	0	0	12
Iceland	0	2	5	7	12	2	0	0	4	0	0	0	0	1	1	0	0	0	12	0	0	2	0	0	48
Ireland	0	34	1	8	0	0	0	0	326	0	0	0	0	0	6	0	31	16	0	2	0	0	0	0	415
Italy	2	114	4	1	0	3	1	4	602	1	0	0	0	0	19	0	376	14	0	72	0	1	5	0	1202
Latvia	35	445	50	131	13	0	3	78	731	3	0	3	24	8	63	0	851	355	1	118	0	19	0	0	2734
Lithuania	25	418	108	57	3	14	0	29	489	0	0	35	11	0	209	20	303	265	1	109	0	3	0	2	1804
Malta	0	2	2	0	0	0	0	0	9	0	0	0	0	0	2	0	0	1	0	2	0	0	0	0	18
Netherlands	452	558	136	38	0	6	7	11	118	0	5	1	0	0	449	3	433	0	0	8	2	4	0	0	2191
Norway	0	175	2	27	0	1	5	9	200	0	0	0	0	0	3	0	405	21	0	2	0	31	0	0	878
Poland	59	2619	810	437	0	2	5	117	2039	19	0	340	37	0	345	5	2853	246	0	579	0	29	0	6	10114
Portugal	1	8	2	8	0	5	0	0	16	0	0	0	0	0	2	0	80	5	0	0	0	0	0	0	126
Romania	71	437	182	290	0	1	0	529	828	196	0	0	371	0	204	1	2398	276	0	332	0	4	0	0	5815
Slovakia	0	3	3	0	0	0	0	0	0	0	0	0	0	0	1	0	7	0	0	7	0	0	0	0	21
Slovenia	2	54	1	1	0	12	0	3	28	0	7	0	31	0	14	0	55	13	0	11	0	0	0	1	199
Spain	11	147	6	7	0	0	0	5	173	9	0	0	5	0	36	0	434	44	0	176	0	1	0	0	1032
Sweden	1	88	11	388	1	1	26	2	84	0	0	0	0	0	3	1	118	16	0	2	0	0	0	0	736
United Kingdom	109	650	10	559	2	4	1	79	0	3	0	53	189	0	170	0	1394	389	0	51	0	5	0	0	3636