



EUROPEAN COMMISSION

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*Dear Presidents,*

*The Commission would like to thank the Cortes Generales for their Opinion on the proposals for Regulations amending, respectively, Regulation (EU) No 1316/2013 {COM(2018) 568 final} and Regulation (EC) No 391/2009 {COM(2018) 567 final} with regard to the withdrawal of the United Kingdom from the Union.*

*As the Cortes Generales note in their Opinion, the aim of the Commission's proposals is to tackle certain adverse consequences of the United Kingdom's withdrawal from the Union, and to preserve legal certainty*

*The proposal amending Regulation (EU) No 1316/2013 contains the necessary legal change without going beyond what is necessary to achieve the objectives of ensuring that Ireland is connected to continental Europe after the United Kingdom's withdrawal from the Union.*

*Currently, parts of the North Sea – Mediterranean Core Network Corridor (the 'NSM corridor') are located in the United Kingdom. As from the withdrawal date, and without specific arrangements in a possible withdrawal agreement, those parts will no longer belong to that corridor. The corridor would then be separated into two distinct and unconnected parts.*

*In order to avoid this effect, the route alignment of the NSM corridor needs to be revised.*

*The proposed regulation is therefore aimed at adjusting the NSM corridor's route alignment, by adding new maritime links between the Irish core ports of Dublin and Cork and the NSM corridor's ports in Belgium (Zeebrugge, Antwerp) and the Netherlands (Rotterdam). The amendment would apply from the day following which Regulation (EU)*

*Ms Ana PASTOR  
President of the  
Congreso de los Diputados  
Floridablanca s/n  
E – 28071 MADRID*

*Mr Pio GARCÍA-ESCUADERO MÁRQUEZ  
President of the Senado  
Plaza de la Marina Española, 8  
E – 28071 MADRID*

*No 1316/2013 ceases to apply to the United Kingdom and therefore the above mentioned parts located in the United Kingdom cease to form part of the NSM corridor.*

*As regards the proposal for a Regulation amending regulation (EC) No 391/2009, it should be noted that, as from the withdrawal date, and subject to any specific arrangements of a possible withdrawal agreement, the European Union's legislation on maritime transport will no longer apply to the United Kingdom. This would also affect the Union rules regarding organisations providing services for the inspection and survey of ships flying the flag of Member States.*

*In particular, Article 8(1) of Regulation (EC) No 391/2009 ('the Regulation') requires ship inspection and survey organisations recognised at the European Union level by the Commission ('recognised organisations') to be assessed at least every two years by the Commission together with the Member State that submitted the initial request for recognition of the organisation. Organisations which were initially recognised by the relevant Member State under the previous legislation and which presently enjoy European Union recognition under Article 15(1) of the Regulation should be assessed in the same way. As a result, the Member State which initially recognised these organisations, under Article 15(1), should be considered the 'sponsor' Member State that participates in the Commission's assessment under Article 8(1) of the Regulation.*

*Moreover, it follows from Articles 7 and 8 of the Regulation that in order to continue enjoying European Union's recognition, recognised organisations must continue to meet the requirements and minimum criteria set out in Annex I of the Regulation. This is verified through the continuous re-assessment conducted by the Commission and the 'sponsor' Member State under Article 8(1).*

*As of its withdrawal, the United Kingdom will no longer be in a position to participate in the assessments carried out pursuant to Article 8(1) of the Regulation for those organisations for which the United Kingdom acts as the 'sponsor' Member State. Consequently, the continued validity of the recognition for these organisations at European Union level could be called into question and could not be clarified with sufficient legal certainty under the existing provisions of the Regulation.*

*Organisations' potential loss of European Union recognition due to the United Kingdom's withdrawal could have adverse consequences for the competitiveness and appeal of the EU-27 Member States' flags that have authorised these Recognised Organisations to act on their behalf for the purposes of carrying out statutory ship inspections, surveys and certification. The recognised organisations affected currently have authorisation agreements with the majority of the EU-27 Member States and after the United Kingdom's withdrawal they would not be able to make use of these Recognised Organisations for their flagged fleet. At the same time, shipowners using these organisations also for classification purposes would face the dilemma of either out-flagging their ships to a non-European Union flag or risking breaching their current private contracts for classification of their ships with the relevant organisations.*

*The proposal to amend Regulation (EC) No 391/2009 aims at increasing legal certainty, securing business continuity for the affected shipowners and maintaining the competitiveness of EU-27 Member States' flags.*

*The proposed legislative measure would amend Article 8(1) of the Regulation by replacing the current requirement, under which only the 'sponsor' Member State shall participate in the regular assessment process conducted by the Commission, by introducing the participation of any Member State which has authorised one of the Recognised Organisations. It would allow the assessment to be carried out by the Commission together with any Member State which has authorised the relevant recognised organisation to act on its behalf for the purposes of Article 3(2) of Directive 2009/15/EC, and not only the 'sponsor' Member State.*

*The above solution was chosen as the most effective and efficient way of addressing the legal uncertainty created in the area of recognised organisations by the United Kingdom's withdrawal. The proposed act would resolve that legal uncertainty in a non-discriminatory way for those Member States that have authorised recognised organisations to act on their behalf.*

*In addition, the proposal meets the objective of safeguarding business continuity and the competitiveness of the flags of the EU-27 Member States working with the affected organisations.*

*The proposed Regulation would only avert the potential adverse consequences that the United Kingdom's withdrawal from the Union would otherwise have on the operation of ships flying one of the flags of the 27 Member States.*

*According to the proposal, the Commission would report on the effects of the amending Regulation no later than three years following its date of application. At this point, the Commission would be able, in particular, to identify any consequences which could go beyond the scope of this Regulation.*

*The Commission is pleased that the Cortes Generales share the view that action at the level of the European Union, as envisaged in the proposal, is required in order to rectify the above mentioned consequences brought about by the United Kingdom's withdrawal from the Union on the flags of the 27 Member States.*

*Discussions between the Commission and the co-legislators concerning the proposal are now underway and the Commission remains hopeful that an agreement will be reached in the near future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Violeta Bulc  
Member of the Commission*