

Appendix D: Conditions to information sharing as established in sectorial legislation

Legal instrument/Legal basis	Current user access rights and responsibility to share	Conditions for information sharing				Suggestions to improve the conditions for information sharing from a CISE perspective
		A. General nature	B. Specific nature	C. Administrative burden	D. Legal complexity	
Maritime safety and security						
<p>Directive No. 59/2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (VTM Directive)</p> <p>Legal basis: TFEU Art. 100(2)</p>	<p>Purpose</p> <p>The purpose of the Directive (Art.1) is to establish a vessel traffic monitoring and information system with a view to enhancing the safety and efficiency of maritime traffic, improving the response of authorities to incidents, accidents or potentially dangerous situations at sea, including search and rescue operations, and contributing to a better prevention and detection of pollution by ships.</p> <p>Information collected</p> <p>Annex I of the Directive provides a non-exhaustive list of information collected pursuant to the Directive: notification prior to the entry into ports of the MS (Art. 4), declaration concerning the transport of dangerous goods (Art. 12), notification of dangerous or polluting goods carried on board (Art. 13) and reporting on the entry into an area of a mandatory ship reporting system (Art.5).</p>	<p>Analysis</p> <p>A: Art. 24 provides that MS shall, in accordance with their national legislation, take the necessary measures to ensure the confidentiality of information sent to them pursuant to this Directive.</p> <p>The Directive does not contain a specific reference to the personal data protection legislation. The majority of data sets collected within the framework of the Directive will contain ship identification details (name, call sign, IMO or MMSI number) and with respect to such data it may be necessary to comply with the requirements of data processing under the Data Protection Directive (see the analysis of general principles governing information sharing). In particular, personal data may only be further processed for purposes not incompatible with the purpose for data collection, as defined in Art.1 of the Directive.</p> <p>B: Article 14(c) provides that national systems, used to manage information indicated in the Directive, shall allow MS to send information to competent authorities of another MS if such information is needed for the purpose of maritime safety or security or the protection of marine environment. This provision, on the one hand, provides access rights to the information collected in the framework of the Directive, on the other hand, it implies that the sharing of the information for purposes other than those specified in the provision is not allowed.</p>	<p>The Directive as it stands provides for the possibility to share information through SafeSeaNet. Annex I of the Directive contains a list of information to be notified and recorded in national systems.</p> <p>Article 14(c) specifies the purpose for which information collected in the context of the Directive may be shared with other competent authorities (maritime safety and security or the protection of marine environment).</p> <p>In order to improve the conditions for information sharing from a CISE perspective, it could be specified to which extent information may be shared with other CISE functions, while providing that fundamental rights of an individual and of legitimate commercial interest should be respected. This may take the form of, for example, specifying the purposes for which information may be shared with the competent authorities of other functions. Such approach would be in line with the High Level Steering Group of SafeSeaNet to allow access to SafeSeaNet for other purposes.</p>			

	<p>Additionally, several other provisions of the Directive provides for the collection of various data (Art. 16(2), 17(1), 25(3) and 25(4)).</p> <p>Relevant articles for access rights</p> <p>Art. 22a (3) requires MS to ensure that national systems set up to gather, process and preserve information can be interconnected with SafeSeaNet.</p> <p>14 and 23(e) requires MS to cooperate to ensure the interconnection and interoperability of their national systems.</p> <p>Art. 14(c) provides that upon request through SafeSeaNet MS shall be able to send information to relevant authorities of another MS if such information is necessary for the purpose of maritime safety and security.</p> <p>Arts. 10(2), 16(2), 25(3) and 25(4) provide access rights to the MS specified therein.</p> <p>Relevant articles for responsibility to share</p>	<p>C: Mandatory ship reporting systems should be adopted by the IMO and MS must include in its proposal at least the information sent to them pursuant to the Directive. MS shall communicate to the Commission a list of companies and ships granted exemption under Art. 15, as well as update that list. Article 24 requires MS and the Commission to cooperate in achieving the objectives listed therein (e.g. drawing up plans to accommodate ships in distress).</p>	
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	<p>Art. 10(2) MS shall make available data collected from VDR system to the State concerned in the event of a casualty investigation</p> <p>Art. 16(2) provides that coastal stations shall communicate relevant information regarding hazardous ships to coastal stations of other MS along the planned route of the ship.</p> <p>Art. 22a (1) provides that MS shall establish, at national or local level, the SafeSeaNet system to process information referred to in the Directive. The national SafeSeaNet systems should satisfy the requirements set out in Art. 14.</p> <p>Art. 25(3) requires MS to inform the flag state and any other MS concerned of the measures taken in respect of ships not flying their flag.</p> <p>Art. 25(4) contains an obligation to, in certain circumstances, inform the State that issued the ISM document of compliance.</p>		
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<p>Directive No. 2010/65 on reporting formalities for ships arriving in and/or departing from ports of MS (Entry into force by 1 June 2015)</p> <p>Legal basis: TFEU art. 100(2)</p>	<p>Purpose</p> <p>The purpose of the directive is to simplify and harmonise the administrative procedures applied to maritime transport by making the electronic transmission of information standard and by rationalising reporting formalities</p> <p>Information collected:</p> <p>The annex of the directive lists the categories of information to be collected in relation to the directive. Three main categories are listed: (A) Reporting formalities resulting from legal acts of the Union, (B) FAL forms and formalities resulting from international legal instruments and (C) Any relevant national legislation.</p> <p>Relevant articles for access rights</p> <p>Art. 6 (1) Exchange of data as mentioned below any information received in relation to the directive's annex section A must be shared with other MS</p> <p>Art. 6 (2) Information received in accordance with Art. 6(1) must be accessible for MS upon request.</p>	<p>Analysis</p> <p>A: Art. 8(2) states that, in respects of personal data, MS and EU bodies must ensure that they comply with the personal data protection legislation. Specifically as regards this Directive, it is relevant for information received in relation to annex: section A 1) VTM data (partly), 2) Border checks on persons, section B 4) Crew's Effects Declaration, 5) Crew list, 6) Passenger List and section C could also relate to information covered by the Data protection legislation. Such personal data may be shared only for the purpose not incompatible with the purpose for which it was originally collected according to the respective legislative acts.</p> <p>Art. 8(1) states that MS shall take the necessary measures to ensure confidentiality of commercial information. Art. 8(1) is not in itself a limitation for sharing information but a condition that needs to be in place in order to exchange the information. This implies that the provider of the information must ensure that commercially confidential information is not disclosed.</p> <p>B: The Reporting Formalities Directive requires that MS no later than June 2015 establish national single window (NSW) services for receiving the information specified in the Directive. In this connection, Article 6 is a technical Article, allowing through the NSW information to be submitted only once and within the individual MS shared with the relevant authorities. MS are obliged to make the information received available in their national SafeSeaNets systems and make relevant parts of such information available to other MS through the SafeSeaNet system. The basis upon which access rights to the information are determined is not specified by the Reporting Formalities Directive as such, rather access rights to the NSW are determined by each MS individually. Regarding access rights to the</p>	<p>As mentioned in the analysis there are substantial amounts/categories of information that can be shared as the Directive is formulated today. The Annex of the Directive lists the information to be collected within the frame of the Directive and there are some overlaps between the sections in the Annex. However, the relevant Article in the Directive (Art. 6) only refers to the legal acts of the Union, which is section A of the Annex. This means that not all the listed information in the Annex is subject to the responsibility to share and access rights. However, the potential effect of changing the scope of the Articles is assessed to be very limited due to the large overlap, which can also be seen in the Appendix.</p> <p>Regarding Art. 6 and the possible exemptions for the Community Customs Code and the Schengen Border Code there is a potential for harmonisation by including these expressly into SafeSeaNet. The information exchange is however today already handled by e-customs and the Import Control System. The real potential might be to ensure an exchange between the system respecting commercial and data protection limitations.</p> <p>Moreover, since the Directive in itself does not</p>
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	<p>Relevant articles for responsibility to share</p> <p>Art. 6 (1) Exchange of data Any information received in accordance with a legal act of the Union (annex section A) must ensure that the information is made available to other MS via SSN. This does not apply to the regulations laying down the Community Customs Code.</p>	<p>SafesSeaNet system, these are at EU level provided in the VTM Directive (see above). Art. 14c of the VTM Directive specifies that the information shall be accessible if necessary for the purpose of "maritime safety and security or the protection of marine environment".</p> <p>Moreover, Art. 6(1) allows MS not to apply Article 6 to the Community/Modernised Customs Code and the Schengen Borders Code. In other words, there is no obligation to include border control or customs information in the SafeSeaNet system. Besides from Art. 6(1) the Directive does not contain any direct specific limitations.</p> <p>.</p> <p>Section A of the Annex to the Directive provides a list of reporting formalities resulting from legal acts of the Union. These shall be in accordance with Art. 6(1) made available in the MS's national SafeSeaNet systems . Regarding information covered by Annex sections B and C, there is no responsibility to share but it can be done on a voluntary basis taking the restrictions of personal data protection and commercial confidentiality into account.</p> <p>C: When the NSW requirements of the Directive enter into force, there will be some administrative burdens laid upon (especially port authorities) in order to ensure the correct reporting to SafeSeaNet. However, the NSW will not only decrease the administrative burdens for the commercial operators but also for the port authorities, which will have easier access to the requested information regarding ships landing in ports of that specific MS. The provider of the information must report the information in a format compatible with SafeSeaNet according to Art. 5(3). This also implies that SafeSeaNet, e-Customs</p>	<p>specify the basis upon which access rights of national authorities to the information reported to the NSW shall be determined at national level, the potential to improve the conditions for information sharing from the CISE perspective lies not primarily in the individual legal acts to which the Reporting Formalities Directive refers (including the VTM Directive). Such acts may specify, in a positive fashion, the extent to which other functions may have access to the relevant information.</p>
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<p>Directive 2009/16 on port state control</p> <p>Legal basis: Article 100(2) (ordinary legislative procedure)</p>	<p>Purpose The purpose of the Directive (Art. 1) is to help to drastically reduce substandard shipping in the waters under the jurisdiction of MS by, inter alia, increasing compliance with international and relevant Community legislation on maritime safety, maritime security, protection of maritime environment and onboard living and working conditions of ships of all flags.</p> <p>Information collected Art. 9 provides that the operator, agent or master of a ship, which is eligible for an expanded inspection and bound for a port or anchorage in a MS, shall notify its arrival along with the planned duration of call. Art. 24 sets down a basis for the establishment of an inspection database. Art. 21(3) provides for the notifications regarding follow-up actions taken in the repair following the discovery of deficiencies.</p>	<p>A: The Directive does not contain any express provisions on either data protection or commercial secrecy. The data provided in accordance with Article 9(1) include ship identification (name, call sign, IMO or MMSI) and, accordingly, may constitute personal data. Personal data collected within the framework of the Directive may only be processed for the purpose not incompatible with the purpose as identified in Art. 1 (i.e. compliance with international and relevant Community legislation on maritime safety, maritime security, protection of maritime environment and onboard living and working conditions of ships of all flags). As Article 25 of the Directive refers to the sharing of data collected within the purview of other acts (Directives 2000/59, 2002/59 and 725/2004), it is important to note that the purpose of collection of such data may be slightly different for those data sets.</p> <p>B: Art. 24(3) of the Directive provides access rights to the inspection database: MS shall have access to all information recorded in the inspection database, which is relevant for implementing the inspections procedures according to the Directive. The only exception applies with respect to the data they have themselves recorded in the inspection database and data on ships flying their flag. It follows that other user communities would as a rule not have access to the information recorded in the inspection database. Articles 21(3) and 25 provide access rights to therein defined data to the competent authorities. In contrast, Art. 24 contains an access right to the MS to data registered in the inspection database. As indicated above, the use of such data is limited by the purpose laid</p>	<p>Better conditions for information sharing across sectors may be achieved by specifying the extent to which the data registered in the inspection database pursuant to Art. 24 and the information foreseen to be provided by MS port authorities to the competent port State control authorities may be shared with other CISE functions, while securing that fundamental rights of an individual and legitimate commercial interests are respected.</p>

	<p>Art. 25 provides a list of information that shall be provided by MS port authorities to the competent port State control authority.</p> <p>Relevant articles for access rights</p> <p>Art. 9(2) contains an access right to the information regarding the entry in a port to the competent authority (i.e. the authority responsible for port State control). Art. 21(3) states that in circumstances described in Art. 23, the competent authority of the MS in the port of inspection shall notify the competent authority, where the repair yard is situated and any other authority as appropriate of all the conditions for the voyage.</p> <p>Art. 24(3) states that MS shall have access to all information recorded in the inspection database, which is relevant for implementing the inspections procedures according to the Directive. MS shall nonetheless be granted access to any data they have recorded in the inspection database and to the data on ships</p>	<p>down in the provision.</p> <p>MS shall further take appropriate measures to ensure that the information on actual time of departure of any ship calling at their ports and anchorages, together with an identifier of the port concerned, is transferred within a reasonable time to the inspection database through SafeSeaNet. The obligation, on the other hand, does not extend to other data collected within the purview of Art. 9 of the Directive (see Annex III).</p> <p>C: Art. 29 MS shall provide the Commission annually the information provided for in Art. XIV. Nonetheless, the transferring the data described in Art.24(2) through SafeSeaNet to the inspection database exempts MS from the obligation to report certain data to the Commission.</p>	
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	<p>flying their flag.</p> <p>Art. 25 provides a list of information that shall be provided by MS port authorities to the competent port State control authority. This list includes information notified in acc. with Art. 9, information concerning ships which have failed to notify any information according to the Directive, Directive 2000/59, Directive 2002/59 and Regulation 725/2004, information concerning ships which have proceeded to sea without having complied with Art. 7 or 10 of Directive 725/2004, information concerning ships which have been denied entry or expelled from a port on security grounds, information on apparent anomalies in accordance with Art. 23.</p> <p>Art. 26 and Annex XIII list the information related to inspections, detention and refusals that the Commission shall make available on a public website (this includes the name of the ship and the ship's IMO number).</p>		
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	<p>Relevant articles for responsibility to share</p> <p>Art. 9(2) states that on receipt of the notification pursuant to Art. 9(1), regarding the entry in a port, and notification pursuant to Art.4 of Directive 2002/59 (above), the port authority shall forward this information to the competent authority.</p> <p>Art. 21(3) states that in circumstances described in Art. 23, the competent authority of the MS in the port of inspection shall notify the competent authority, where the repair yard is situated and any other authority as appropriate of all the conditions for the voyage.</p> <p>Art. 24(2) MS requires MS to take appropriate measures to ensure that the information on actual time of departure of any ship calling at their ports and anchorages, together with an identifier of the port concerned, is transferred within a reasonable time to the inspection database through SafeSeaNet.</p> <p>Art. 24(3) states that MS shall ensure that the information related</p>		
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	to inspections is transferred to the inspection database.		
<p>Directive No. 15/2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations</p> <p>Legal basis: TFEU Art. 100(2)</p>	<p>Purpose The purpose of the Directive is to establish measures to be followed by the MS in their relationship with organisations entrusted with the inspection, survey and certification of ships for compliance with the international conventions on safety at sea and prevention of marine pollution, while furthering the objective of freedom to provide services.</p> <p>Information collected: Art. 5 provides that MS shall provide the Commission with precise information on the working relationship between their competent administration and the organisation acting on their behalf. The Commission shall subsequently inform the other MS. Art. 8 provides that where a MS decides to suspend or withdraw an authorisation acc. to Art.3, it shall inform the Commission and other MS of its decision without delay and provide substantiated reasons</p>	<p>Analysis</p> <p>A: The Directive does not expressly refer to either the protection of personal data or commercial confidentiality. Some of the data reported within the context of the Regulation may nonetheless fall within those categories. This will have to be subject to an individual assessment. Personal data may only be shared for purposes not incompatible with the purpose of marine safety and security or the prevention of marine pollution (Art.1).</p> <p>B: The Directive does not envisage direct electronic exchange or real-time information sharing but is based on a system of ex-post reporting (and in case of Art. 9(2) annual reporting of monitoring activities). Only Art. 8 (information regarding the suspension or revocation of an authorisation) provides, that the information shall be given without delay. No specific limitations to the sharing of information across sectors were detected.</p> <p>C: The Directive contains reporting obligations in particular in Arts. 5 and 9(2) (annual reporting).</p>	<p>The provisions of the Directive regarding information sharing are relevant especially in detecting irregularities in issuing certificates. As no specific legal limitations to the sharing of information across sectors were detected, the major drawback in terms of sharing of information lies in the lack of an obligation to provide for a direct electronic exchange of the data collected within the framework of the Directive.</p> <p>To improve the conditions for information sharing from a CISE perspective, a provision similar to Art. 9(3) of the Directive 2009/16 - i.e. that electronic means shall be used whenever possible for any communication provided in the Act - may be inserted in the Directive.</p>

	<p>thereof.</p> <p>Art. 9(2) requires MS to monitor whether recognised organisations acting on their behalf effectively carry out the functions and provide the other MS and the Commission with a report of the monitoring activities once a year.</p> <p>Art. 10 provides that MS of the port shall report to the Commission and to the other MS and inform the flag state concerned about ships representing serious threats to safety and the environment or showing evidence of particularly negligent behaviour.</p> <p>Relevant articles for access rights and responsibility to share</p> <p>Arts. 5, 8, 9(2) and 10.</p>		
<p>Directive No. 35/2005 on ship-source pollution and on the introduction of penalties for infringements</p>	<p>Purpose</p> <p>The purpose of the Directive (Art.1) is to incorporate international standards for ship-source pollution into Community law and to ensure that persons responsible for discharges of polluting substances are subject to adequate penalties,</p>	<p>Analysis</p> <p>A: Arts 4, 5a and 5b require the MS to ensure that the discharging of polluting substances (or inciting or aiding and abetting to do so) are, if committed with intent, recklessly or with serious negligence regarded as criminal offences. The sharing of personal data related to the investigation, detection or sanctioning of such offences is therefore limited by the Council Framework decision 2008/977/JHA on the protection of personal data processed in the framework of</p>	<p>The Council Framework decision 2008/977/JHA applies to the sharing of data concerning the investigation and follow-up on infringements pursuant to the Directive. Accordingly, the potential to enhance the possibilities to exchange investigation data between different user communities is rather low. Nonetheless, it may be contemplated to</p>

<p>Legal basis: TFEU Art. 100(2)</p>	<p>including criminal penalties, in order to improve maritime safety and to enhance protection of the marine environment from pollution by ships.</p> <p>Information collected Art. 6(1) states that MS shall inspect a vessel if such vessel raises suspicion as to discharging polluting substances.</p> <p>Art. 12 MS shall on a tri-annual basis transmit a report to the Commission on the application of the Directive.</p> <p>Provisions relevant for access rights Art.6(2) provides that if inspection carried out according to Art. 6(1) reveals facts that could indicate an infringement, competent authorities of MS and of the flag State shall be notified</p> <p>Art. 7(1) states that if a ship suspected of discharging polluting substances does not call at the port of a MS holding the information related to such discharge, it shall</p>	<p>criminal matters. Such data may only be shared for the purposes defined in Arts. 3(2) and 11 of the Framework decision, which limit significantly the potential to share such data with other user communities.</p> <p>B: No specific provisions creating specific limitations to the sharing of information with other user communities were detected. Yet, the Directive provides for a very limited responsibility to share information and limits the access to the MS or their authorities directly concerned (flag MS, MS of next port call). The tri-annual reporting scheme is further insufficient to contribute to an increased real-time situational awareness.</p> <p>Art. 3(2) The Directive does not apply to the discharges of polluting substances from warships, naval auxiliary or other ship owned or operated by a State and used only on government non-commercial service.</p> <p>C: MS shall cooperate with the Commission and EMSA on developing information systems required for the effective implementation of this Directive and establishing common practices and guidelines. This may entail a considerable administrative burden.</p> <p>Moreover, MS shall send to the Commission on a tri-annual basis a report on the application of the Directive.</p>	<p>remove the limitation to access rights in Arts. 6 and 7 (flag state, MS of next call) and include competent authorities of all MS in need of such data for a specified purpose (i.e. investigation and follow-up on infringements).</p>
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	<p>cooperate closely in inspecting the ship with the MS of the next port of call.</p> <p>Art. 7(3) gives access rights to the authorities of the flag State to information on polluting discharge</p> <p>Provisions relevant for responsibility to share</p> <p>Art.6(2) if inspection carried out according to Art. 6(1) reveals facts that could indicate an infringement, the MS shall notify the authorities indicated in the provision.</p> <p>Art. 7(1) provides for responsibility to share information on polluting substances with the State of next port call.</p> <p>7(3) provides that the authorities of the flag State shall be informed of a discharge of polluting substances.</p>		
<p>Directive No. 41/98 on the registration of persons on board passenger ships operating to or</p>	<p>Purpose</p> <p>The purpose of the Directive (Art.1) is to enhance the safety and possibilities of rescue of passengers and crew on board passenger ships operating to or from ports in MS of</p>	<p>Analysis</p> <p>A: The data collected within the context of Art. 5 of the Directive constitute personal data and should be handled in compliance with the rules on data protection (Arts. 8 and 11). This entails, in particular, that such data may be shared solely for the purposes of search and rescue.</p>	<p>The responsibility to share information in relation to the Directive can have potentially significant effects in relation to the efforts regarding national security and constitute an important data source for other user communities (in particular general law</p>

<p>from ports of the Member States of the Community</p> <p>Legal basis: TFEU Art. 100(2)</p>	<p>the Community and to ensure that search and rescue and the aftermath of any accident, which may occur, can be dealt with more effectively.</p> <p>Information collected</p> <p>Data collected with the framework of the Directive includes: (1) information on the amount of persons on board. This shall be pursuant to Art. 4(2) communicated to the master of the ship and to the company's passenger register, and (2) information on the passengers on board (Art. 5).</p> <p>Provisions relevant for access rights and responsibility to share. Art. 8 states that the collected data shall be at all times available for transmission to the designated authority for search and rescue purposes in the event of an emergency or in the aftermath of an accident.</p>	<p>B: Data collected within the context of the Directive may be further used solely for the purposes of search and rescue. This limitation constitutes a specific limitation, but this limitation stems from the horizontal principle of personal data protection.</p> <p>The Directive applies to passenger ships, with the exception of ships of war and troop ships and pleasure yachts.</p>	<p>enforcement and border control). However, as the Directive stands, access rights are provided only for authorities designated for search and rescue.</p> <p>The conditions for information sharing from the CISE perspective may be improved by specifying the extent to which the information collected may be shared with other CISE functions, while providing that fundamental rights of an individual and of legitimate commercial interest should be respected.</p>
<p>Directive No. 21/2009 on compliance with flag State requirements</p>	<p>Purpose</p> <p>The purpose of the Directive (Art. 1) is to ensure that MS effectively and consistently discharge their obligations as flag States and to</p>	<p>Analysis</p> <p>A: The Directive does not contain any explicit provisions on protection of personal data or the security of such data.</p> <p>B: The responsibility to share/access rights as provided for in Art. 4</p>	<p>The Directive provides for a great sharing potential because large amount of data is regularly notified or transmitted to the flag MS pursuant to the provisions of sectoral legislation. Yet, the Directive does not live up</p>

<p>Legal basis: TFEU Art. 100(2)</p>	<p>enhance safety and prevent pollution from ships flying the flag of a MS. The Directive applies to the administration of the State whose flag the ship is flying and as such has potentially a horizontal effect.</p> <p>Information collected</p> <p>Art. 6 lists the information, which shall be kept and readily accessible for the purpose of the Directive Provisions relevant for access rights and responsibility to share. Art. 4 provides that the flag state shall, if necessary, consult the losing State on matters of compliance with the applicable rules and standards. Art. 4(2) provides for a responsibility to share (and corresponding access rights) to safety-related information with the new flag State upon its request.</p>	<p>encompass only the losing and the new flag State. Furthermore, Art. 6 limits the purpose of the reuse of the data made available to the purposes of the Directive.</p> <p>C: Art. 6 requires MS to have specified information readily accessible for the purpose of the Directive. Additionally, Art. 8 obliges each MS to implement and maintain a quality management system for the operational parts of the flag State-related activities of its administration.</p>	<p>to this potential as a responsibility to share is prescribed only with respect to a relatively small amount of data. Additional data may nonetheless be made available on a voluntary basis. . In order to improve the conditions for information sharing from a CISE perspective it could be specified to which extent the information may be shared with other CISE functions, while providing that fundamental rights of an individual and of legitimate commercial interest should be respected.</p> <p>.</p>
<p>Regulation No. 789/2004 on the transfer of cargo and passenger ships between registers within</p>	<p>Purpose</p> <p>The purpose of the Regulation is to eliminate technical limitations to the transfer of cargo and passenger ships flying the flag of a MS between the registers of the MS</p>	<p>Analysis</p> <p>A: The Regulation does not contain any provisions regarding the processing of personal data. Should personal data be processed in the framework of the Regulation, this shall be done in compliance with the personal data protection legislation.</p>	<p>Since the exchange of the data specified in the Regulation is already dealt with in several other legislative instruments (e.g. the Directive 2009/16 on port State control), the identified limitations to exchange are of limited importance for the implementation of</p>

<p>the Community and repealing Council Regulation (EEC) No. 613/91</p> <p>Legal basis: TFEU Art. 100(2)</p>	<p>while, at the same time, ensuring a high level of ship safety and environmental protection, in accordance with International Conventions.</p> <p>Information collected</p> <p>The Regulation does not provide for the collection of any specific data.</p> <p>Provisions relevant for access rights and responsibility to share</p> <p>Art. 4(3) states that the MS of the losing register shall make all relevant information on the ship available to the MS of the receiving register. The data shall be available upon request.</p>	<p>B: The Regulation provides for the exchange of a large amount of data registered in national databases. Such data is, however, exchanged solely at the occasion of a register transfer between the MS of the losing and the receiving register.</p> <p>C: The responsibility to share information upon request does constitute some administrative burdens on the giving MS.</p> <p>D: The Regulation has a high degree of legislative complexity since it relates closely to several other relevant legislative acts.</p>	<p>CISE.</p>
<p>Directive No. 45/2009 on safety rules and standards for passenger ships</p> <p>Legal basis: TFEU Art. 100(2)</p>	<p>Purpose</p> <p>The purpose of the Directive (Art.1) is to introduce a uniform level of safety of life and property on new and existing passenger ships and high-speed passenger craft and to lay down procedures for negotiation at international level with a view to a harmonisation of the rules for passenger ships engaged in international voyages.</p> <p>Information collected</p>	<p>A, B: No limitations were detected.</p> <p>C: The Directive contains several reporting formalities or obligations to notify the Commission (Arts. 4(2)b, 6, 8, 9 and 16). It is furthermore likely that MS will have to implement relevant measures to live up to the provisions of the Regulation especially in surveys and certificates. Those measures could be considered an administrative burden.</p>	<p>The Directive has a potential for creating a directory of information regarding the process leading to the issuing of permission to operate. A directory could include knowledge on request for updates, warnings or previous failure to comply with the rules of the Directive.</p>

	<p>The Directive contains an obligation to report or inform the Commission on several issues identified in the Directive (Arts. 6, 8 and 9) and under Art. 4(2)(b) requires the MS to publish a list of sea areas under its jurisdiction in a public database.</p> <p>Relevant articles for access rights and responsibility to share</p> <p>The Directive does not contain any specific provisions on either responsibility to share or access rights.</p>		
<p>Directive No. 59/2000 on port reception facilities for ship-generated waste and cargo residues</p> <p>Legal basis: TFEU Art. 100(2)</p>	<p>Purpose</p> <p>The purpose of the Directive (Art.1) is to reduce the discharges of ship generated waste and cargo residues into the sea, especially illegal discharges, from ships using ports in the Community, by improving the availability and use of port reception facilities for ship-generated waste and cargo residues, thereby enhancing the protection of the marine environment.</p> <p>Information collected</p>	<p>Analysis</p> <p>A: The Regulation does not contain any provisions regarding the processing of personal data.</p> <p>B: Access rights to data related to the inspection activities is limited in Art. 11 to the competent authority of next port call. Art. 6 does not provide any explicit access rights to the data collected within the context of the provision.</p> <p>C: The scheme set in place by the directive lays some administrative burdens on the ports in MS with the provisions on setting up facilities to handle waste administration. The directive also gives ports the obligation to collect fees for the waste handling.</p>	<p>The gathering of information across MS on the type and amount of waste discharged in ports could add significantly to the knowledge on what might be illegally discharged into the sea.</p> <p>In order to improve the conditions for information sharing from a CISE perspective it could be specified to which extent the information may be shared with other CISE functions, while providing that fundamental rights of an individual and of legitimate commercial interest should be respected. Furthermore, the purpose of the directive could be better accomplished by more direct</p>

	<p>According to Art. 6 master of a ship shall notify to the authority or body designated by MS of the port for which it is bound the data set down in Annex II to the Directive.</p> <p>Relevant articles for access rights and responsibility to share</p> <p>Art. 6 (notifications of information provided in Annex II to the authority designated by MS).</p> <p>Art. 11 provides that where there is clear evidence that a ship has proceeded to sea without having complied with the provisions of the Directive, the MS has responsibility to share this information with the competent authority of the next port of call.</p> <p>Art. 12 states that MS and the Commission shall co-operate in establishing an appropriate information and monitoring system in order to improve the identification of ships that have not delivered their ship-generated waste and cargo residue.</p>		<p>provisions to share information.</p>
<p>Directive No. 18/2009</p>	<p>Purpose The purpose of the Directive is to</p>	<p>Analysis A: Some of the data notified to the Commission in the framework of</p>	<p>The Directive leaves the issue of determination of access rights to the maritime</p>

<p>establishing the fundamental principles governing the investigation of accidents in the maritime sector transport</p> <p>Legal basis: TFEU Art. 100(2)</p>	<p>improve maritime safety and the prevention of pollution by ships, and so reduce the risk of future marine casualties, by facilitating safety investigations and ensuring timely and accurate reporting on safety investigations.</p> <p>Information collected Pursuant to Art. 17 the Commission shall set an electronic database on marine casualties (EMCIP), which will contain data on marine casualties and incidents.</p> <p>Relevant provisions on access rights and responsibility to share Art. 10(c) provides that MS shall acquire and share information relevant for analysing casualty data and making appropriate safety recommendations at Community level. Art 14(3) states that MS have a responsibility to share information on marine casualties and on results from safety investigations with the Commission. Art 16 states that if an urgent</p>	<p>the Directive may constitute personal data (the notification contains, among other things, ship identification details and information on the lives lost and injuries sustained). Accordingly, the data protection legislation will apply to the further processing of such data. This will entail, in particular, that such data may be further processed only for the purposes not incompatible with the purpose for which the data was collected (i.e. in essence maritime safety and the prevention of pollution by ships). This would limit the opportunities to share the data collected within the framework of the Directive with other user communities.</p> <p>Furthermore, the sharing of data collected in the context of the Directive is restricted by the applicable rules on confidentiality. This obligation extends in particular to the data listed in Art. 9 (e.g. information related to witnesses and persons involved in maritime incidents). This information can be, unless the competent authority in that MS determines that there is an overriding public interest in the disclosure of, shared only for the purposes of safety investigations. These limitations are in line with the rules in the data protection framework in general.</p> <p>B: No specific limitations were detected.</p> <p>C: In order to continuously maintain and update the permanent cooperation framework established by the Directive some administrative burdens are unavoidable for MS, EC and the investigating bodies.</p>	<p>EMCIP database to the MS. While this does not per se constitute a limitation to information sharing across sectors, the information sharing could benefit from a clarification on the allocation of such access rights, in particular of the extent to which information may be shared with other CISE functions, while providing that fundamental rights of an individual and of legitimate commercial interest should be respected.</p>
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	<p>action on Community level is necessary to prevent casualties, MS shall inform the Commission.</p>		
<p>Regulation No. 1406/2002 establishing a European Maritime Safety Agency (EMSA)</p> <p>Legal basis: TFEU Art. 100(2)</p>	<p>Purpose</p> <p>The Regulation establishes the European Maritime Safety Agency. The core task of the Agency (Arts.1 and 2) is to cooperate with the MS and the Commission and facilitate the cooperation between the MS and the Commission with the view of ensuring a high, uniform and effective level of maritime safety and security and the prevention of pollution and response to pollution by ships within the Community. Information collected.</p> <p>Art. 2(f) states that EMSA shall collect, record and evaluate technical data in the field, systematically exploit existing databases and, when appropriate develop additional databases Relevant provisions for access rights and responsibility to share.</p> <p>Art. 2(f) provides that EMSA shall provide the Commission and the MS with objective, reliable and comparable information and data on maritime safety, maritime</p>	<p>Analysis:</p> <p>A: The Regulation does not refer to the data protection legislation. Should personal data be processed in the framework of the Regulation, this shall be done in compliance with the Data Protection Regulation.</p> <p>B: Art. 2(f) as such does not constitute a limitation to information sharing among user communities. Rather, it specifies the data to be gathered by EMSA and the corresponding responsibility to share such data (i.e. data needed for the purpose of evaluating and improving measures in the area of maritime safety and security and pollution by ships). No specific access rights are provided for such data in the Regulation as such.</p>	<p>In order to improve the conditions for information sharing from a CISE perspective, more specific provisions governing information sharing, in particular the extent to which information may be shared with other CISE functions, could be envisaged.</p>

	<p>security and on pollution by ships to enable the MS to take the necessary steps to improve their actions in these fields and to evaluate the effectiveness of existing measures.</p>		
<p>Directive No. 106/2008 on the minimum level of training of seafarers</p> <p>Legal basis: TFEU Art. 100(2)</p>	<p>Purpose The Directive seeks to ensure minimum standards for the training of seafarers. The Directive applies to seagoing ships flying the flag of a MS, but excludes from its scope of application fishing vessels, warships, naval auxiliaries and other ships owned and operated by a MS engaged only on government non-commercial service (Art. 2).</p> <p>Information collected Pursuant to Art. 5(12) MS shall maintain a register(s) of all certificates of competency and proficiency and endorsements Art. 19 sets down the rules for the cooperation between the Commission and EMSA in the process of recognising certificates. For that purpose the For that purpose they gather and verify information referred to in Annex II</p>	<p>A: The data contained in the certificates and endorsements issued pursuant to the Directive constitute personal data and, accordingly, the further processing of such data is subject to the rules of the Data Protection Directive and, when such data is processed by the Commission, the Data Protection Regulation. The data submitted to the Commission on a yearly basis is therefore submitted in an anonymised version and may be further used for statistical purposes only.</p> <p>B: Art. 2 limits the scope of the directive significantly by exempting military, government, fishing vessels etc. Access rights to the register of certificates and endorsements is limited by the purpose of verification of the status of such certificates in the course of recognition/employment (Art. 5(12)) and to establishing the authenticity of such certificates (Art. 8(3)). The specific limitations to the sharing of information collected within the framework of the Directive stem primarily from the horizontal principles of personal data protection.</p> <p>C: Article 5(12) (obligation to maintain) a register of certificates constitutes an administrative burden on MS.</p>	

	<p>of the Directive.</p> <p>Relevant provisions for access rights and responsibility to share</p> <p>Art. 5(12)(b) states that MS shall make available information on the status of certificates of competency, endorsements and dispensations to (1) other MS or (2) other parties to the STCW Convention and (3) companies which request verification of the certificates produced to them by seafarer seeking recognition or employment on board</p> <p>Art. 8(3) obliges MS that issued a particular certificate, endorsement or other documentary evidence of training to, upon request, to share information on the authenticity or otherwise of such documents with the host MS.</p> <p>Art 25(a) and Annex V to the Directive lists information, which each MS shall make available to the Commission on a yearly basis.</p>		
Fisheries control			
<p>Regulation No. 1224/2009 establishing a</p>	<p>Purpose The regulation establishes a Community system for control,</p>	<p>Analysis A: Given that the personal data protection legislation contains a very broad definition of what constitutes "personal data" and an</p>	<p>The conditions to information sharing from a CISE perspective may be improved by</p>

<p>Community control system for ensuring compliance with the rules of the common fisheries policy (The Fisheries Control Regulation)</p> <p>Legal basis: TFEU Art. 37</p>	<p>inspection and enforcement to ensure compliance with the rules of the common fisheries policy.</p> <p>Information collected</p> <ol style="list-style-type: none"> 1. VMS, AIS and VDS data 2. Specification of catches, such notifications include, e.g. information regarding the dates of the fishing trips, arrivals and departures from ports, geographical areas of catches 3. Surveillance and inspection data. <p>Relevant articles for access rights Art 111 (Exchange of data).</p> <p>Relevant articles for responsibility to share Art 114-116 (Official websites).</p>	<p>assessment of whether particular data constitutes personal data has to be made on a case-to-case basis by the controller, it is not possible to draw a clear line between which of the data collected within the context of the Regulation constitutes personal data and which does not. This is relevant in particular in connection with the data transmitted through the VMS and AIS systems, which contains the vessel identification details (EU Fleet Register Number, flag state, radio call sign and, optionally, external registration number and the name of the vessel, and MMSI/IMO, call sign and name, respectively) and may eventually lead to the identification of a single natural person (e.g. the owner, the captain of the vessel, etc.).</p> <p>In this connection, Article 12 of the Regulation, is a good attempt to allow for information sharing across user communities (and possibly a model for the future implementation of CISE). It provides that the data from the VMS, AIS and the VDS systems, collected in the framework of the Regulation, may be transmitted to Community agencies and competent authorities of the MS engaged in surveillance operations "for the purpose of maritime safety and security, border control, protection of the marine environment and general law enforcement". Article 27 of the Implementing Regulation further specifies that MS shall use the data specified in the Regulation for the effective monitoring of the activities of fishing vessels. The European Data Protection supervisor (EDPS) indicated that the provision may be too broadly formulated so as to cover a broad range of processing activities not even remotely connected with the purposes of the Fisheries Control Regulation (e.g. general law enforcement). Accordingly, the purpose limitation principle would require the provision to be construed restrictively, so as to cover only processing activities not incompatible with the purposes</p>	<p>providing for an obligation to share data specified in Article 12 with other user communities and extending the scope of Article 12 to other CISE functions, under the condition that the fundamental rights of an individual and legitimate commercial interests are respected.</p>
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		<p>of the Regulation, i.e. common fisheries policy. Furthermore, the data collected within the framework of the Regulation (e.g. VMS data) shall be treated in accordance with the applicable rules on professional and commercial secrecy of the data. This does not necessarily constitute a limitation to the exchange of such data, but entails that such data may only be used for the purposes provided in the Regulation unless the authorities providing the data give their express consent for the reuse of the data for other purposes, provided that the provisions in force in the MS of the authority receiving the data do not prohibit such use.</p> <p>B: The Regulation established essentially three regimes for the sharing of VMS data: (a) mandatory real-time direct electronic exchange of data with competent authorities of the state in the waters of which the vessel is located and at the ports of which it is likely to call or land its catches, (b) mandatory direct electronic exchange of up to date computer VMS files with competent authorities of all MS to the extent that such data is necessary for carrying out tasks to ensure the compliance with the common fisheries policy, and (c) voluntary transmission of VMS data to the competent authorities for the purposes of maritime safety and security, marine environment, general law enforcement and marine environment (this applies also to AIS and VDS data). In other words, there is a responsibility to share real-time VMS data only within function and with specified MS (cross-function and cross-border limitation), computer files within function (cross-function limitation), while sharing across functions is voluntary. Furthermore, Article 12 covers only 4 out of 6 user communities; customs and defence are not mentioned. The responsibility to share and access rights to the documents related to fishing activities, catches, prior notifications, sales notes,</p>	
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		<p>etc. is limited to competent authorities of MS directly concerned. This constitutes both a specific cross-function and a cross-border limitation, which nonetheless stems from horizontal principles, such as confidentiality and personal data protection.</p> <p>Additionally, the re-use of data from the surveillance database is limited to the purposes of complying with the rules of common fisheries policy. This constitutes a limitation to cross-function information sharing.</p>	
<p>Council Regulation 768/2005 establishing a Community Fisheries Control Agency</p> <p>Legal basis: TFEU Art 37</p>	<p>Purpose Establishes a Community Fisheries Control Agency, the objective of which is to organise operational coordination of fisheries control and inspection activities by the MS and to assist them to cooperate so as to comply with the rules of the Common Fisheries Policy in order to ensure its effective and uniform application.</p> <p>Information collected The agency is obliged to collect the relevant information in order to fulfil the tasks specified in chapter 2 of the regulation.</p> <p>Relevant articles for access rights and responsibility to share Art 16 (Information network).</p>	<p>A: Recital 36 states that with regard to the processing of personal data by the Community institutions and bodies and on the free movement of such data regulation 45/2001 should apply to this Regulation.</p> <p>B: Art. 16 of the Regulation provides that the Commission, the Agency and the competent authorities of MS shall exchange relevant information available to them regarding joint control and inspection activities. The provision is, however, of limited importance to the implementation of CISE as it relates to joint control and inspection activities only.</p>	<p>If any legislative measure is to be taken, this should be done in sync with the Fisheries Control Regulation. However, in order to improve the conditions for information sharing from a CISE perspective, there is some potential in inserting, rephrasing provisions in the Regulation to facilitate, and possibly make mandatory, the sharing of information with at least some of the other CISE functions.</p> <p>With respect to other information collected within the framework of the Regulation (e.g. surveillance and inspection data, information on catches), it could be specified to which extent information may be shared with other CISE functions; while providing that fundamental rights of an individual and of legitimate commercial interest should be respected when information is being shared.</p>

Marine pollution			
<p>Directive No. 4/2003 on public access to environmental information</p> <p>Legal basis: TFEU Art. 192</p>	<p>Purpose</p> <p>The purpose of the Directive (Art. 1) is to guarantee the right of access to environmental information held by public authorities and to ensure that this information is progressively made available and disseminated to the public.</p> <p>Information collected</p> <p>The Directive as such does not envisage the collection of data.</p> <p>Relevant articles for access rights and responsibility to share</p> <p>Art. 3 provides that public authorities have the responsibility to share environmental information upon request by natural and legal persons.</p> <p>Art. 7 states that public authorities shall disseminate environmental information to the public.</p>	<p>Analysis</p> <p>A: The limits to responsibility to share pursuant to Art. 3 are set in Art. 4 and include, among other things, the confidentiality of commercial or industrial information, intellectual property rights, the confidentiality of personal data, international relations, public security or national defence.</p> <p>When the information falling within the scope of the exceptions can be separated from the rest of the information requested, environmental information shall be made available in part.</p> <p>B: No specific limitations to cross-function information exchange were detected.</p>	<p>The Directive does not provide for any specific regime for information sharing among the authorities of other user communities, but it sets the baseline for an open information sharing environment with very few restrictions and, as such, may serve as an inspiration to other functions. Regarding potential legislative initiatives, it is an option to limit the exceptions stated in Art. 4, however, that is also based on general principles of good administration and corresponds with related community legislation.</p>
<p>Directive No. 60/2000 establishing a</p>	<p>Purpose</p> <p>The purpose of this Directive is to establish a framework for the</p>	<p>A: The Directive does not make any mention of the protection of personal data. Should personal data be processed in the framework of the Directive, it shall be done in compliance with the data</p>	<p>The Directive deals almost exclusively (with the exception of Art. 12) with the sharing of plans and strategies prepared by the MS,</p>

<p>framework for Community action in the field of water policy</p> <p>Legal basis: TFEU Art. 192</p>	<p>protection of inland surface waters, transitional waters, coastal waters and groundwater (Art. 3).</p> <p>Information collected</p> <p>MS shall for each river basin district or the portion of an international river basin within their territory: (1) carry out analysis specified in Art. 5; (2) establish a register or registers of all areas lying within each river basin, which have been designated as requiring special protection (Art. 6); (3) identify all bodies of water used for the abstraction of water for current or future human consumption (Art.7); (4) establish programmes for the monitoring of water status (Art. 8); (5) ensure the establishment of a programme of measures, in order to achieve the environmental objectives of the Directive (Art. 11), (6) produce a river basin management plan (Art. 13(1).</p> <p>Relevant articles for access</p>	<p>protection legislation.</p> <p>B: No specific limitations to information sharing were detected.</p>	<p>rather than with a responsibility to share the data collected in the process of establishing such plans and strategies. It may be considered to provide for the sharing of such data, although this does not appear to be the core of CISE.</p>
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	<p>rights and responsibility to share</p> <p>Art. 12 includes a responsibility to share issues, which have an impact on the management of its water, but cannot be resolved by that MS, with the Commission and any other MS concerned.</p> <p>Pursuant to Art. 14, river basin management plans and other relevant documents shall be made public for the purpose of publication, send to the Commission and any other MS concerned.</p> <p>Art. 15 MS shall submit summary reports of the analyses specified in Arts. 5 and 8 and interim reports describing the progress of implementation of the planned programme of measures.</p>		
<p>Directive No. 105/2008 on environmental quality standards in the field of water policy</p> <p>Legal basis: TFEU</p>	<p>Purpose</p> <p>The Directive lays down environmental quality standards (EQS) for priority substances and other pollutants, with the aim of achieving good surface water chemical status.</p>	<p>A: The Directive makes no specific mention of the data protection legislation. Should personal data be processed in the framework of the Directive, it shall be done in compliance with the data protection legislation.</p> <p>B: No specific limitations to information sharing were detected.</p>	

<p>Art 192</p>	<p>Information collected Art. 3(2)(d): MS shall notify the Commission and other MS of certain substances for which EQS have been established and the frequency of monitoring planned. Art. 5: MS shall establish an inventory, including maps, of emissions, discharges and losses of all priority substances and pollutants for each river basin district lying within their territory and communicate this inventory to the Commission. Art 6 (information regarding transboundary pollution) Relevant articles for access rights and responsibility to share. Arts. 3(2)(d) (notification to Commission and other MS); Art. 5 (communication to the Commission of inventory of emissions, discharges, etc.); Art. 6 (information to the Commission on transboundary pollution).</p>	<p>C: The Directive envisages extensive reporting and notifications to the Commission by MS.</p>	
<p>Regulation No. 401/2009 on the European Environmental</p>	<p>Purpose The Regulation established the European Environment Agency (EEA) and aims at the setting up</p>	<p>A: The Regulation makes no specific mention of the data protection legislation. Should EEA process personal data in the framework of the Regulation, it shall comply with the rules provided in the Data Protection Regulation 45/2001.</p>	<p>The Directive does not provide any specific access rights, but states that MS shall cooperate with EEA and contribute to the Network. There is some potential in</p>

<p>Agency</p> <p>Legal basis: TFEU Art. 192</p>	<p>of a European Environment Information and Observation Network ('the Network').</p> <p>Information collected The Regulation does not provide for the collection of any specific data sets.</p> <p>Art. 2(a) states that the Agency is responsible for the collection, processing and analysis of environmental data.</p> <p>Relevant articles for access rights and responsibility to share Pursuant to Art. 1(b), EEA shall provide the Community and the MS with objective, reliable and comparable information at European level.</p>	<p>B: EEA shall provide the Community and the MS with objective, reliable and comparable information, enabling them to take the requisite measures to protect the environment, to assess the result of such measures and to ensure that the public is properly informed about the state of the environment (Art. 1 (b)) and necessary for framing and implementing sound and effective environmental policies (Art. 2(b)). These provisions do not constitute a limitation to information sharing among user communities. Rather, they specify the data gathered by EEA and the corresponding responsibility to share such data (i.e. data needed for the purpose of taking measures to protect environment, evaluating such measures and informing the public). No specific access rights are provided for such data in the Regulation as such.</p>	<p>inserting, rephrasing provisions in the Regulation to facilitate the sharing of information with other CISE functions.</p>
<p>Directive No. 56/2008 establishing a framework for community action in the field of marine environmental policy (Marine Strategy</p>	<p>Purpose The Directive establishes a framework within which MS shall take the necessary measures to achieve or maintain good environmental status in the marine environment (Art. 1).</p> <p>Information collected Art. 5(1) (marine strategy); Art. 8</p>	<p>A: The Directive makes no specific mention of the data protection legislation. Should personal data be processed in the framework of the Directive, such processing shall comply with the rules provided in the Data Protection Directive/Regulation.</p> <p>B: The Directive applies to all marine waters, but excludes activities the sole purpose of which is defence or national security. No specific limitations to information sharing between user communities were detected.</p>	<p>Similar to the conclusions made with respect to the Water Framework Directive, the Directive deals almost exclusively with the sharing of plans and strategies prepared by the MS, rather than with a responsibility to share the data collected in the process of establishing such plans and strategies. It may be considered to provide for the sharing of such data, although this does not appear to be the core of CISE.</p>

<p>Framework Directive)</p> <p>Legal basis: TFEU Art. 192</p>	<p>(initial assessment of marine waters); Art. 10 (comprehensive environmental targets); Art. 11 (coordinated monitoring programmes); Art. 13 (identification of measures which need to be taken in order to achieve or maintain good environmental status).</p> <p>Relevant articles for access rights and responsibility to share</p> <p>Arts. 9(2), 10(2), 11(3), 13(9) provide that the strategies and programmes specified therein shall be notified to the Commission.</p> <p>Art. 19(2) list of documents that shall be made publically available.</p>	<p>C: The Directive provides for extensive system of reporting/ notifications to the Commission.</p>	
<p>Regulation No. 911/2010 on the European Earth monitoring programme (GMES) and its initial operations</p> <p>Legal basis: TFEU Art. 189</p>	<p>Purpose</p> <p>The Regulation establishes the European Earth monitoring programme called GMES and provides for the rules for its implementation.</p> <p>Information collected</p> <p>The Regulation itself does not provide for the collection of any</p>	<p>A: The GMES programme financing is limited to end of 2013. At present, a Proposal aiming to provide for the framework for 2014-2020 is pending in the legislative process.</p> <p>A, B: No general or specific limitations detected.</p>	<p>Art. 9 sets out the objectives for the data and information policy under the GMES programme. The objective is, for example, to promote the use and sharing of the GMES data and full and open access to data collected through GMES infrastructure. The Regulation does not contain any specific provisions on either responsibility to share or access rights and no limitations to information sharing were detected therein. Since the core</p>

	<p>particular data sets.</p> <p>Relevant articles for access rights and responsibility to share</p> <p>The GMES programme comprises of several elements. From the CISE viewpoint, the first element, i.e. a component ensuring access to information in the area of marine environment monitoring is of relevance (Art. 2(2)(a)).</p>		<p>of GMES is information gathering and sharing, the programme holds the potential of positively impacting on CISE.</p>
<p>Regulation No. 2099/2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships</p> <p>Legal basis: TFEU Art. 100(2)</p>	<p>Purpose</p> <p>The purpose of the Regulation (Art. 1) is to improve the implementation of the community legislation on maritime safety, the prevention of pollution from ships and shipboard living and working conditions.</p> <p>Relevant articles for access rights and responsibility to share</p> <p>The Regulation does not contain any specific provisions on responsibility to share or access rights.</p>	<p>A, B: No general or specific limitations detected. The Regulation establishes a Committee on SafeSeas and the Prevention of Pollution from ships (COSS) (Art. 3(1)). The task of the Committee is primarily to assist the Commission in order to accelerate the update and amendments to maritime legislation.</p>	
Council Decision	Purpose	A: The Decision does not contain any express provisions regarding	

<p>No. 779/2007 establishing a Community Civil Protection Mechanism</p> <p>Legal basis: TFEU Art. 352 (TEAEC Art. 203)</p>	<p>The aim of the Decision is to facilitate reinforced cooperation between the Community and MS in civil protection assistance intervention in the event of major emergencies, or the imminent threat thereof.</p> <p>Information collected</p> <p>The Decision does not provide for the collection of information, but provides a mechanism for communication and sharing of information between the MIC and the contact points of the MS.</p> <p>Relevant articles for access rights and responsibility to share</p> <p>Art. 6 states that the MS in which the emergency has occurred shall, without delay, notify, through CECIS, the Commission and the MS, which may be affected of the emergency</p> <p>Art. 7 provides that where a major emergency occurs within the Community, a MS may request assistance through the MIC or directly from other MS</p>	<p>the processing of personal or commercially confidential data.</p> <p>B: The Mechanism includes a Monitoring and Information Centre (MIC) and a Common Emergency Communication and Information System (CECIC), which serves for communication between the MS and the Commission in the event of a major emergency within the Community or an imminent threat thereof, which causes or is capable of causing trans-boundary effects. The mechanism as such does not constitute a limitation to information sharing among user communities, but prescribes the channels through which the information specified in the Decision shall be exchanged.</p>	
Customs			

<p>Decision 2008/70 on a paperless environment for customs and exchange</p> <p>Legal basis: TFEU Arts. 33 and 114</p>	<p>Purpose The Decision provides that the Commission and the MS shall set up secure, integrated, interoperable and accessible electronic customs systems for exchange of data. The objectives of such systems are defined in Art. 2.</p> <p>Information collected The decision as such does not provide for the collection of information.</p> <p>Relevant articles for access rights and responsibility to share Art. 3 defines the participants in the data exchange. Those are customs authorities, economic operators, the Commission and other administration or official agencies involved in the international movement of goods.</p>	<p>Analysis</p> <p>A: The electronic systems set up in accordance with the decision involve the exchange of considerable amount of data, some of which will constitute personal data (Art. 3(2)). Accordingly, such data may be further processed only provided that in particular, the purpose limitation principle is complied with. Additionally, conditions upon the sharing of the data exchange within the framework of the Decision stem from the wish to protect commercial interests of economic operators.</p> <p>B: The Decision was a basis for the establishment of the e-customs system, replacing paper format customs procedures by electronic ones, and thereby creating a more efficient and modern customs environment. The purpose of the electronic customs systems (Art. 2) and the list of actors participating in the data exchange (Art. 3) is formulated (e.g. agencies involved in the international movement of goods) so as to cover essentially the customs function only. Some customs information (e.g. entry summary declarations and the FAL forms and formalities in accordance with the FAL Convention) is nonetheless envisaged to be reported through the National Single Window. As analysed above, this in principle includes the possibility of sharing of the with other CISE functions, although no express access rights are provided (see above).</p> <p>C: Art. 4 requires MS to establish the following electronic customs systems: (1) systems for import and export interoperating with system from transit enabling the seamless flow of data from one customs system to another throughout the Community, (2) a system of identification and registration for economic operators interoperating with the authorised economic operators system and</p>	<p>In order to improve the conditions for information sharing from a CISE perspective, it could be specified to which extent information may be shared with other CISE functions; while providing that fundamental rights of an individual and of legitimate commercial interest should be respected.</p>
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		<p>(3) a system for the authorisation procedure, including the information and consultation process, the management of certificates for authorised economic operators and the registration of those certificates in a data base accessible by customs authorities. Art. 7 further elaborates on the MS' specific tasks in this connection. According to Art. 12, MS are obligated to report to the Commission regularly and provide annual progress reports.</p>	
<p>Council Regulation 2913/92 establishing the Community Customs Code</p> <p>Legal basis: TFEU art 34, 114 and 207</p>	<p>Purpose</p> <p>The Regulation lays down Community customs rules that shall apply uniformly throughout the customs territory of the Community.</p> <p>Information collected</p> <p>Art. 13(4) provides that custom authorities shall carry out controls to ensure that custom rules are complied with, and in that connection collect data.</p> <p>Art. 36a states that a summary declaration shall be made and submitted with respect to goods brought into the customs territory of the Community and lodged with the customs office of entry.</p> <p>Arts. 62, 76 and 77 deal with customs, simplified and other declarations, which shall contain particulars necessary for implementation of the provisions</p>	<p>Analysis</p> <p>A: Art. 14 provides that all information, which is by nature confidential or which is provided on a confidential basis shall be covered by the duty of professional secrecy and, accordingly, cannot be disclosed without the express permission of the person or authority providing it. Furthermore, the processing of personal data, collected within the Regulation, shall comply with the data protection legislation, in particular it shall respect the purpose limitation principle.</p> <p>B: Art. 13(4) of the Regulation contains several limitations to the sharing of information between user communities. Firstly, the access rights are limited to customs authorities (i.e. authorities responsible for applying customs rules) and the Commission. The term "other competent authorities" must be interpreted in the context of Art. 13, i.e. as authorities carrying out control functions.</p> <p>Secondly, the responsibility to share and the corresponding access rights are limited to situations where sharing is necessary to minimise risk. The definition of risk is very broad (Art. 4(25)); yet it is unlikely to extend to all user communities. In any event, Art. 13(4) limits access rights to customs authorities of other MS (see above). Art. 40(2) of the Draft Regulation Union Customs Code will broaden the scope of information sharing to cover the purpose of</p>	<p>In order to improve the conditions for information sharing from a CISE perspective, it could be specified to which extent information may be shared with other CISE functions; while providing that fundamental rights of an individual and of legitimate commercial interest should be respected.</p>

	<p>governing customs procedure Relevant articles for access rights and responsibility to share Art. 14(3) states that customs and other competent authorities may in the context of custom controls communicate data, received in connection with the movement of the goods between the customs territory and third countries, between each other and to the customs authorities of the MS and to the Commission where this is required for the purposes of minimising risk.</p>	<p>combating fraud. Additionally, it provides that customs authorities and the Commission may also exchange such data with each other to ensure a uniform application of customs legislation. This is, however unlikely to enhance the possibilities to share information across sectors. Thirdly, the sharing of data in the context of controls carried out in the framework of Art. 13 is voluntary only; the Customs Code does not contain an obligation to share. The Regulation does not provide for a specific access right to the documents lodged in the framework of the Regulation, but the exchange of such documents is envisaged to take place through the electronic custom systems set up in accordance with the Decision 70/2008 (see above).</p>	
Border control			
<p>Council Regulation 2007/2004 amended by 1168/2011 on establishing a European Agency for the Management of Operational Cooperation at the External Borders of Member States (FRONTEX) Legal basis: TEU</p>	<p>Purpose The agency is established to improve the integrated management of the external borders of the MS of EU. Information collected FRONTEX collects data on migration routes, trends, number of immigrants, follows research activities and carries out analysis the enormous amount of data collected from MS. In order to make the tasks operational the FRONTEX Situation Centre (FSC)</p>	<p>A: The Regulation explicitly contains provisions specifying how personal data must be handled within the Agency. The rules are very specific and comprehensive. Art. 11(a-c) ensures that personal data are only processed to the purpose for which they are collected. It is stated in Article 11(c) that personal data collected in relation to the FRONTEX joint operations, pilot projects and rapid interventions can only be shared with Union law enforcement agencies. In addition, the EUROSUR Regulation (see below) inserts an additional paragraph to the rules governing the processing of personal data, proving FRONTEX the legal basis to, subject to the conditions laid down in the Frontex Regulation, process personal data in the context of EUROSUR. However the majority of the data collected in relation to the tasks specified in the Regulation establishing FRONTEX will not be directly</p>	<p>The Regulation does not provide any specific regime of information sharing between user communities except from Art 13. Regarding the potential legislative initiatives, it is an option to extend the scope of Art 13 to cover other user communities explicitly. However, the new EUROSUR Regulation already foresees the possibility to exchange information with other CISE functions.</p>

<p>Art. 66(2)(a) and 66</p>	<p>has been established.</p> <p>Relevant articles for access rights and responsibility to share</p> <p>Art. 2 (Main tasks), Art 6 (monitoring and contributing to research), 11 (Information exchange system) and 13 (Cooperation with Union Agencies and bodies and international organisations)</p>	<p>collected by FRONTEX and the data used for analytical purposes will often not be personal data, whereas the personal data collected in relation to the immigrants will be collected by the MS and can only be shared with FRONTEX or other relevant institutions under the rules governing data protection. The MS would have to ensure respect of the provision governing purpose limitation.</p> <p>B: Regarding responsibility to share and access rights the information exchange done within the frame of the FRONTEX Regulation is limited to be shared within the border control community with the explicit exception in Art. 13 on cooperation with Europol, European Asylum Support Office, the Fundamental Rights Agency, other Union Agencies and international organisations. Art 13 gives the option for FRONTEX to cooperate with Europol and the international organisations competent in matters covered by FRONTEX. Additionally, the new EUROSUR Regulations foresees information exchange at national level with search and rescue, law enforcement and asylum and immigration authorities at national level.</p> <p>D: In accordance with Arts. 1 and 2 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark did not take part in the adoption of the FRONTEX Regulation. However, according to Art. 5 of the Protocol Denmark decided to transpose the FRONTEX Regulation into its national law. The Regulation constitutes a development of provisions of the Schengen acquis in which the United Kingdom (Decision 2000/365/EC) and Ireland (2002/192/EC) does not take part. However, according to Art. 12 of the regulation FRONTEX "shall facilitate operational cooperation of the MS with Ireland and the United Kingdom" and national authorities in both</p>	
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<p>Regulation establishing the European Border Surveillance System (EUROSUR) (2011/0427(COD), not yet published in the OJ)</p> <p>The Regulation will become applicable as of 2 December 2013 (with the exception of Art. 5(1), which will, to the MS specified therein, become applicable as of 1 December 2014).</p> <p>Legal basis: TFEU Art. 77(2)(d)</p>	<p>Purpose The vision of EUROSUR is to provide MS and FRONTEX with a common infrastructure & tools ('framework') needed to quickly detect & respond to changing routes and methods used for irregular migration & cross-border crime</p> <p>Information collected Arts. 8-11 specify the content of the situational pictures (national, European and common pre-frontier intelligence picture).</p> <p>Art. 12 sets down a basis for the provision of common application of surveillance tools by FRONTEX. The information provided may be collected from various sources: ship reporting systems, satellite imagery and sensors mounted on any vehicles, vessels or other craft.</p> <p>Relevant articles for access rights and responsibility to share Arts. 5 (National Coordination</p>	<p>countries participates' in the FRONTEX cooperation.</p> <p>A: Art. 13 provides detailed rules for the processing of personal data in the framework of the Regulation. The Article draws a distinction between (1) processing of personal data in the context of the national situational picture and (2) the European situational picture and the common pre-frontier intelligence picture. In the former case, the processing shall comply with the provisions of the Directive 95/46/EC, the Council Framework Decision 2008/977/JHA and the relevant national provisions on data protection. In order to share any personal data collected the principle of purpose limitation applies and the collected data can only be used for "not incompatible" purpose. That is specifically relevant in relation to personal data collected on immigrants where there personal data is collected by the authorities in one MS and could benefit from the full situational awareness picture if the same person is detected attempting to enter another MS. It is however likely that the information can be shared within the border control community as long as the purpose limitation is respected. On the other hand, personal information collected is not likely to be able to be shared with other user communities.</p> <p>The European situational picture and the common pre-frontier intelligence picture may, on the other hand, be used for the processing of personal data concerning ship identification numbers only. It may only be processed for the purposes of detection, identification and tracking of vessels and for the purposes defined in Art. 11c(3) of the FRONTEX Regulation 2007/2004; i.e. the transmission, on a case-to-case basis to Europol or other Union law enforcement agencies, subject to a specific working arrangement or, in a depersonalised form, for the preparation of risk analysis.</p> <p>B and C: When analysing the EUROSUR framework the detected</p>	<p>The EUROSUR Regulation sets up a sophisticated communication network (Art. 7) and a specified description of the cooperation system in Art. 17. The Regulation, as adopted on 9 October 2013, opens the possibility to share information across functions (in particular through the revised Art. 5(3) and 17(2) of the Regulation).</p>
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	<p>Centre), 7 (Communication network), 8-12 (Common application of surveillance tools), 13 (Processing of personal data) and 18 (Cooperation of the Agency with third parties)..</p>	<p>limitations are limited to those stemming from horizontal legislation such as personal data protection legislation and specific legislation that limits the access for reasons relevant to the specific user community.</p> <p>The recently introduced Art. 5(3) aa) expressly provides for the possibility for the national coordination centres to exchange information with search and rescue, law enforcement and asylum and immigration authorities at national level. The cooperation between border control and general law enforcement is a key area of information sharing. This is mainly due to the similarities in the task and operations that they carry out.</p> <p>Regarding civil-military cooperation, the Regulation emphasises the importance of cooperation with the European External Action Service. For this purpose</p> <p>Additionally, Art. 18 of the Regulation lays down the basis for the cooperation of FRONTEX with other Union bodies, offices and agencies and international organisations. This includes EUROPOL, EMSA and EFCA and the European External Action Service. The cooperation, including the exchange of information, is regulated in individual working arrangements concluded for that purpose with the relevant agencies. Information received shall only be used within the limits of the agencies/bodies' legal framework in compliance with the personal data protection legislation.</p> <p>D: As stated in the recitals 19-21 of the Regulation in accordance with Arts. 1 and 2 of the Protocol on the position of Denmark, Denmark is not bound by the Regulation and is not subject to the application thereof. Given that this Regulation builds upon the Schengen acquis Denmark shall, decide within six months after</p>	
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		<p>adoption of this Regulation whether it will implement it in its national law.</p> <p>Since the Regulation regards the Schengen acquis, in which the United Kingdom (Council Decision 2000/365/EC) and Ireland (Council Decision 2002/192/EC) are not participating, they are not bound by it or subject to application thereof. Art. 19 lays down detailed provisions for their cooperation with the two MS.</p>	
General Law Enforcement			
<p>Council decision (2009/371/JHA) on establishing the European Police Office (Europol)</p> <p>Legal basis: TEU Art. 30(1)(b) and 34(2)(c)</p>	<p>Purpose</p> <p>The objective of Europol shall be to support and strengthen action by the competent authorities of the Member States and their mutual cooperation in preventing and combating organised crime, terrorism and other forms of serious crime.</p> <p>Information collected:</p> <p>Art. 12 of the decision list the pieces of information that Europol can collect, store and process. The overall content is information on: persons who are under suspicion or have committed crimes including specific personal data and data related to criminal offences committed or investigated.</p> <p>Relevant articles for access</p>	<p>Analysis</p> <p>A: The majority of the data collected according to Art. 12 is personal data and should be treated as such. However according to Art 3(2) of the Data Protection Directive criminal matters are exempted from the scope of the Directive. This would imply that the handling of personal data should be done in accordance to the provisions of the Decision itself, which also dealt with in detail in chapter III of the decision. In chapter III, Art. 19 constitutes a purpose limitation in the use of "Europol" data stating that the data can only be used by competent authorities in MS and to carry out tasks within the mandate of Europol.</p> <p>B: Art. 5 states that Europol must notify the competent authorities via the national units as defined in Art. 8 without delay when they obtain information relevant to them within the area of Europol. This constitutes a clear responsibility to share and competent authorities in MS via the national unit have access to request information and under the conditions of the decision can have access to relevant information.</p> <p>D: Europol's tasks are mainly to collect, store, process, analyse and exchange information and intelligence, however due to the sensitive nature of the most of the data collected and processed the decision</p>	<p>It is unavoidable that a large part of the information collected in the frame of the General Law Enforcement community is exclusively for that community due to the nature of the tasks carried out by the authorities in the area. However, in order to improve the conditions for information sharing from a CISE perspective a more precise formulation of Art. 13 and of the options to ensure sharing with other functions when the information is not restricted could be introduced.</p>

	<p>rights Art. 13 (Use of the Europol Information System).</p> <p>Relevant articles for responsibility to share Art. 5 (Tasks).</p>	<p>is very restrictive on, who can access the data. The access rights to the Europol information systems are defined in Art 13, which gives the national units access under certain conditions mentioned in Art 13(2). This means that information exchange of data collected can only be shared within the general law enforcement community. This is a limitation in relation to CISE. It is a specific limitation stemming from a sector specific legislation, however building upon horizontal principles such as the protection of personal data.</p>	
<p>Proposal for a Regulation on the European Union Agency for Law Enforcement Cooperation and Training (Europol) and repealing Decisions 2009/371/JHA and 2005/681/JHA (COM(2013) 173 final)</p> <p>Legal basis: Arts. 88 and Article 87(2)(b) TFEU</p>	<p>Purpose: The purpose of the proposed Regulation is to set up the legislative framework of Europol and to improve the governance of Europol, to enhance the supply of information by MS to Europol and ensure a robust data protection regime for Europol and provide Europol with new responsibilities in order to provide a more comprehensive support for law enforcement authorities of the MS.</p> <p>Relevant articles for information sharing: Arts. 23-28 (Processing of information), Arts. 30-33 (Exchange/transfers of personal data), 34-48 (Data protection safeguards).</p>	<p>Analysis: A: In particular Chapters VI-VII of the proposed Regulation contain a set of robust rules and conditions for the processing of personal data. These rules have been aligned with other personal data protection instruments applicable in the area of police and judicial cooperation (such as the 1981 Convention for the protection of individuals with regard to automatic processing of personal data, the Council of Europe Committee of Ministers Recommendation No. R(87) 15 to the MS and the Council Framework Decision 2008/977 on the protection of personal data processed in the framework of police and judicial cooperation).</p> <p>The access by MS to personal data held by Europol is made indirectly based on a hit/no hit system. Through this system, an automated comparison produces an anonymous 'hit' if the data held by the requesting MS match the data held by Europol. The related personal or case data are provided in response to a separate follow-up request.</p> <p>The categories of personal data and the purposes for which such data may be processed by Europol is listed in Annex 2.</p>	
<p>Council Framework Decision</p>	<p>Purpose: The Decision establishes the rules</p>	<p>A: Art. 8 of the Framework Decision provides that MS shall ensure that established rules on data protection are complied with when</p>	<p>The Framework decision does not contain any provisions indicating to whether and to which</p>

<p>2006/960/JHA on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union</p>	<p>under which MS's law enforcement authorities may exchange existing information and intelligence effectively and quickly for the purpose of conducting criminal investigations or criminal intelligence operations.</p> <p>Relevant articles for information sharing: Art. 6 (Communication channels and language).</p>	<p>exchanging information and intelligence in the context of the Framework Decision.</p> <p>In each specific case of exchange of information or intelligence account shall also be taken of the requirements of investigation secrecy. In accordance with the requirements of national law, confidentiality of all provided information and intelligence determined as confidential (Art. 9).</p> <p>B: The Framework Decision establishes the legal framework for the exchange of information between the MS's competent law enforcement authorities. With the exception of Art. 6(2) (exchange of information and intelligence with Europol and Eurojust), the Framework Decision does not provide any rules governing the exchange of information with other sectors.</p>	<p>extent information may be exchanged with other functions. This is clearly justified by the sensitive character of the information exchanged (personal data and intelligence). However, in order to improve the conditions for information sharing from a CISE perspective, a provision to ensure sharing of information with other functions when the information is not restricted could be introduced.</p>
Defence			
<p>Council joint action 2004/551/CFSP on the establishment of the European Defence Agency</p> <p>Legal basis: TEU Art. 14</p>	<p>Purpose</p> <p>The purpose of the joint action is to support the Council and the MS in their efforts to improve the EU's defence capabilities in the field of crisis management and to sustain the European Security and Defence Policy (ESDP) as it stands now and develops in the future. However, EDA must function without prejudice to the competences of MS in defence matters.</p> <p>Information collected</p>	<p>A: As regards the protection of personal data, the personal data protection legislation would normally not cover the defence area since it is part of the exemption in the Data Protection Directive Art 3(2). However, if personal data stemming from the defence community were to be shared with other CISE communities the data would then not be exempted and the principles for sharing personal data would apply regarding the further processing of data within CISE.</p> <p>B and C: Traditionally, the defence community is fairly closed partly due to their handling of very sensitive material. There is no tradition for sharing information with other user communities and at present there are no legal provisions for doing so.</p> <p>D: In conformity with Art. 6 of the Protocol on the position of Denmark annexed to the Treaty on European Union and to the Treaty establishing the European Community, Denmark does not</p>	<p>The defence community is normally under the discretion of MS and not governed by EU legislation.</p> <p>If legal initiatives should envisaged they would normally be in the form of council measures as the Council Joint action governing EDA. An option for generally ensuring more sharing with other user communities could be to ensure that provision or recommendations regarding information sharing are included in relevant council measures.</p>

	<p>In order to carry out the tasks listed in Art. 5 a substantial amount of data must be obtained from MS, ESDP initiatives and other available sources. Relevant sources could be NEC, NAVFOR, MSSIS (NATO), SatCen and ESS.</p> <p>Relevant articles for access rights and responsibility to share</p> <p>Art. 5 (Functions and tasks)</p>	<p>participate in the elaboration and implementation of decisions and actions of the European Union that have defence implications. Denmark has therefore not participated in the elaboration and adoption of this Joint Action and shall not be bound by it</p>	
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