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*****III REPORT**

on the joint text approved by the Conciliation Committee for a directive of the European Parliament and of the Council on port State control (recast)
(PE-CONS 3721/2008 – C6-0044/2009 – 2005/0238(COD))

European Parliament delegation to the Conciliation Committee

Delegation chair Rodi Kratsa-Tsagaropoulou
Rapporteur: Dominique Vlasto

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission.)

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the joint text approved by the Conciliation Committee for a directive of the European Parliament and of the Council on port State control (recast)
(PE-CONS 3721/2008 – C6-0044/2009 – 2005/0238(COD))**

(Codecision procedure: third reading)

The European Parliament,

- having regard to the joint text approved by the Conciliation Committee (PE-CONS 3721/2008 – C6-0044/2009),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2005)0588),
 - having regard to its position at second reading² on the Council common position³,
 - having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2008)0830)⁴,
 - having regard to Article 251(5) of the EC Treaty,
 - having regard to Rule 65 of its Rules of Procedure,
 - having regard to the report of its delegation to the Conciliation Committee (A6-0099/2009),
1. Approves the joint text;
 2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
 3. Instructs its Secretary-General to sign the act, once it has been verified that all the procedures have been duly completed, and, in agreement with the Secretary-General of the Council, to have it published in the Official Journal of the European Union;
 4. Instructs its President to forward this legislative resolution to the Council and Commission.

¹ OJ C 74 E, 20.3.2008, p. 584.

² Texts adopted, 24.9.2008, P6_TA(0466)2008.

³ OJ C 198 E, 5.8.2008, p. 1.

⁴ Not yet published in OJ.

EXPLANATORY STATEMENT

I. Background

I.1 The 3rd Maritime Package

The 3rd Maritime Package (also known as Erika III Package) was proposed by the Commission at the end of 2005. This package was the follow-up to the Erika I and II Packages which were put forward in the aftermath of the Erika accident in 1999 off the French Atlantic coast. It also followed Parliament's resolution of 21.4.2004 drafted by the Temporary Committee on improving safety at sea (MARE) which was set-up following the Prestige accident in 2002.

The overall aim of the 3rd Maritime Package is to further reinforce existing EU safety legislation and to transpose major international instruments into Community law. Its seven proposals aim at preventing accidents (by improving the quality of European flags, reviewing the legislation on port state control and vessel traffic monitoring and by improving the rules relating to classification societies) and ensuring an effective response in case of an accident (by developing a harmonised framework for accident investigation, introducing rules on compensation of passengers in case of an accident and by introducing rules on ship-owners' liability coupled with a mandatory insurance scheme).

I.2 This proposal

The main aim of the Commission proposal was to review existing legislation on Port State control, with a view to clarification or reinforcement of its provisions and to ensure a more effective application of the system of control in ports and anchorages in the European Union. The Commission proposal also added a number of provisions, in areas which were not covered by port State control, such as maritime safety, in order to take account of recent developments in international and Community law.

More specifically, the Commission proposal included, inter alia:

- the establishment of a new inspection regime;
- a reinforced obligation on pilots to report defects;
- the extension and simplification of access refusal measures;
- stricter requirements for national administrations responsible for inspections;
- and an increased transparency and wider dissemination of information on ships and operators

Many provisions, especially those described in the annexes of the proposal, are based on the Paris Memorandum of Understanding on port State control (Paris MoU), which sets out the legal framework for cooperation at international level.

II. The legislative procedure before conciliation

II.1 The 3rd Maritime Package in 1st and 2nd reading

For Parliament the Maritime Package was always seen as a package and for this reason its

individual files were always dealt with together. The 1st reading on the seven proposals took place in March/April 2007. The Council reached political agreements on six of the eight proposals (one file was split in a directive and a regulation) during its meetings of June and November 2007. Two files (on flag states' obligations and civil liability), however, remained blocked because Member States were reluctant to adopt such legislation at EU level. An attempt in April 2008 to de-block the files was unsuccessful.

Member States sought to exert pressure on the Parliament to continue the legislative procedure of the six by transmitting the common positions. Parliament eventually agreed to this approach in order to make progress.

Following the transmission of the common positions in June 2008 Parliament nevertheless continued to put pressure on Council to make progress with the two remaining files (known as the "missing two"). This was done by incorporating the substance of these files into some of the active legislative files of the package via amendments.

In parallel negotiations on the six files in 2nd reading continued unsuccessfully. The fate of the "missing two" as well as difficulties in some files led to a decision not to reach a second reading agreement on any file. In plenary Parliament restored its first reading amendments to all files, as well as the amendments which incorporated the substance of the "missing two". The six files subsequently went to conciliation.

II.2. This proposal in 1st and 2nd reading

In its 1st reading, Parliament followed the general lines of the Commission's proposal but introduced a number of amendments on:

- the inclusion of more thorough and frequent inspections for high-risk vessels;
- a derogation for Member States without seaports under specific conditions;
- specific provisions on the total annual number of inspections of individual ships by Member States;
- the establishment of a Community inspection database for both the EU and Paris MoU region;
- and the introduction of penalties by Member States which allow for uniform application of the inspection regime throughout the Community.

The Council in its Common Position introduced a collective inspection objective for the whole Community based on a fair share of the number of inspections among Member States, but took also into account practical difficulties of some Member States in terms of financial and personal resources. As a general rule, substandard vessels shall be checked more often to reduce the burden of inspections for quality vessels. The Council changed also the provisions on access refusal, deleting the possibility for a permanent ban and introducing the possibility to lift the ban after 36 months under a number of conditions. Finally, Council allowed Member States to use a transposition period of 36 months to apply the new inspection regime.

In 2nd reading, the Parliament reintroduced most of its first reading agreements, strengthening the Council common position text, and a number of technical amendments to reflect discussions at Paris MOU level as agreed with the Commission.

III. Conciliation

III.1 The 3rd Maritime Package in conciliation

Following the 2nd reading vote of 24.9.2008 and given the political will to conclude the conciliation under the French Presidency the Parliament's conciliation delegation was constituted very quickly on 7.10.2008.

In parallel the pressure applied by Parliament on Council to find agreement on the "missing two" began to yield results. Following an informal Council meeting which discussed the issue in the presence of the TRAN Chair Paolo Costa, political agreements were reached on both files on 9.10.2008.

Parliament and Council held two trialogues (on 4.11. and 2.12.) and one informal meeting on the most difficult dossiers to run up to the conciliation committee on 8.12 which concluded the negotiations. Parliament's delegation met twice (5.11. and 3.12.) in addition to the meetings of the negotiating team which exceptionally included - because of the size of the package - the TRAN coordinators.

Agreement on the last outstanding issues of the most difficult dossier (of Mr. Costa) was reached on 8.12. On that evening Parliament also gave the Presidency letters confirming its willingness to conclude early 2nd reading agreements on the "missing two" thereby allowing the Council to adopt its two common positions at its meeting on 9.12.

At the conciliation committee the Council was represented by Mr. Bussereau, President-in-Office of the Council and Secretary of State for Transport of France. Vice-President Tajani represented the Commission. This demonstrated once more that in the case of very difficult negotiations the involvement of the highest political level and the dynamics of a conciliation evening can make a difference in reaching agreement.

The overall result of conciliation for Parliament is very positive. Not only were the "missing two" concluded in parallel but many improvements were also made to the texts agreed in conciliation. This was mainly due to the solidarity between Members who did not allow any file to be concluded without an overall agreement on all of them.

The special circumstances of the Maritime Package showed, however, that it is not an ideal situation when the same Presidency is responsible for negotiations in 2nd and 3rd reading. In Coreper, it seemed very difficult for the Presidency to convince Member States to make yet another effort since psychologically the negotiations had been going on for too long already. For Parliament on the other side a completely new phase had started with conciliation, yet in Council, with the same Presidency, it was regarded as a continuation of the same phase.

III.2 This proposal in conciliation

Negotiations on this file in conciliation were finalised at the level of trialogue meetings, prior to the meeting of the conciliation committee, which only dealt with the remaining open file. The main points of the agreement can be summarised as indicated below:

- Extension of scope to also include vessels calling at anchorages: Parliament managed to reintroduce vessels calling at anchorages (off shore from the port) from the inspection requirements of the Directive, which had been excluded from Council in its Common position.
- Increased frequency of inspection of vessels: The frequency of inspections of vessels in different risk categories was another issue of discrepancy: The Parliament in 2nd reading wanted inspection rates up to 100% over a given period of time, whereas the Council in its common position proposed target inspection rates as low as 85% in certain circumstances. The compromise found during the conciliation increased the inspection rates of those vessels in the highest risk category and included the issue of frequency of inspection of vessels in the general review.
- Permanent banning of vessels under certain conditions: On access refusal, Council accepted finally to follow Parliament's position and to reintroduce provisions related to permanent banning under specific conditions.

IV. Conclusion

The agreement reached at the end of the conciliation procedure includes the main points in the amendments adopted by Parliament at second reading. The delegation accordingly recommends that Parliament approves the joint text at third reading.

PROCEDURE

Title	Joint text approved by the Conciliation Committee for a directive of the European Parliament and of the Council on port State control (recast)
References	PE-CONS 3721/2008 – C6-0044/2009 – 2005/0238(COD)
Delegation chairwoman: Vice-President	Rodi Kratsa-Tsagaropoulou
Committee responsible Chairman:	TRAN Paolo Costa
Rapporteur(s)	Dominique Vlasto
Commission proposal	COM(2005)0588
Date of Parliament's first reading – P number	25.04.2007 P6_TA(2007)0149
Amended Commission proposal	
Council common position Date announced in plenary	5722/3/2008 – C6-0224/2008 19.6.2008
Commission position (Article 251(2), subpara 2, indent 3)	COM(2008)0208
Date of Parliament's second reading – P number	24.9.2008 P6-TA(2008)0446
Commission opinion (Article 251(2), subpara 3, point (c))	COM(2008)0830
Date Council received 2nd reading	10.10.2008
Date of Council letter on non-approval of Parliament amendments	27.11.2008
Conciliation Committee meetings	8.12.2008
Date of vote by Parliament delegation	8.12.2008
Result of vote	+: 14 -: 0 0: 0
Members present	Paolo Costa, Emanuel Jardim Fernandes, Luis de Grandes Pascual, Georg Jarzembowski, Anne E. Jensen, Rodi Kratsa-Tsagaropoulou, Rosa Miguélez Ramos, Gilles Savary, Brian Simpson, Dirk Sterckx, Silvia-Adriana Țicău, Dominique Vlasto, Corien Wortmann-Kool
Substitute(s) present	Inés Ayala Sender, Renate Sommer
Substitute(s) under Rule 178(2) present	
Date of agreement in Conciliation Committee	8.12.2008
Agreement by exchange of letters	
Date on which the co-chairmen established that the joint text had been approved and forwarded it to Parliament and the Council	3.2.2009
Date tabled	25.2.2008
Comments (available in one language only)	...

EXTENSION OF DEADLINES

Deadline for second reading by Council	0.0.0000
Deadline for convening the Committee Requesting institution – date	0.0.0000 [Council] – 0.0.0000
Deadline for work in the Committee Requesting institution – date	3.2.2009 [Parliament] – 19.1.2009
Deadline for adopting the act Requesting institution – date	0.0.0000 [Council] – 0.0.0000