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*****I**

REPORT

on the proposal for a Directive of the European Parliament and of the Council amending Council directive 94/57/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations
(COM(2000) 142 - C5-0175/2000 - 2000/0066(COD))

Committee on Regional Policy, Transport and Tourism

Rapporteur: Josu Ortuondo Larrea

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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PROCEDURAL PAGE

By letter of 22 March 2000 the Commission submitted to Parliament, pursuant to Article 251(2) and Article 80(2) of the EC Treaty, the proposal for a Directive of the European Parliament and of the Council amending Council Directive 94/57/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (COM(2000) 142 - 2000/0066(COD)).

At the sitting of 3 May 2000 the President of Parliament announced that she had referred this proposal to the Committee on Regional Policy, Transport and Tourism as the committee responsible and to the Committee on Budgets, the Committee on Industry, External Trade, Research and Energy and the Committee on the Environment, Public Health and Consumer Policy for their opinions (C5-0175/2000).

At its meeting of 19 April 2000 the Committee on Regional Policy, Transport and Tourism had appointed Josu Ortuondo Larrea rapporteur.

The committee considered the Commission proposal and draft report at its meetings of 22 May 2000, 12 September 2000, 11 October 2000 and 20 November 2000.

At the last meeting it adopted the draft legislative resolution unanimously.

The following were present for the vote: Konstantinos Hatzidakis, chairman; Emmanouil Mastorakis, Rijk van Dam and Helmuth Markov, vice-chairmen; Josu Ortuondo Larrea, rapporteur; Sir Robert Atkins, Elspeth Attwooll, Emmanouil Bakopoulos, Rolf Berend, Theodorus J.J. Bouwman, Philip Charles Bradbourn, Martin Callanan, Giles Bryan Chichester (for Felipe Camisón Asensio), Luigi Cocilovo (for Luigi Cesaro), Gerard Collins, Danielle Darras, Proinsias De Rossa (for Demetrio Volcic pursuant to Rule 153(2)), Francis F.M. Decourrière, Jean-Maurice Dehousse (for Giovanni Claudio Fava), Garrelt Duin, Markus Ferber (for Dieter-Lebrecht Koch), Fernando Fernández Martín (for Sérgio Marques), Jacqueline Foster (for Francesco Musotto), Jean-Claude Fruteau (for John Hume), Fiorella Ghilardotti (for Ewa Hedkvist Petersen pursuant to Rule 153(2)), Mathieu J.H. Grosch, Mary Honeyball, Marie Anne Isler Béguin (for Reinhold Messner), Juan de Dios Izquierdo Collado, Georg Jarzembowski, Elisabeth Jeggle (for Karla M.H. Peijs), Brigitte Langenhagen (for Dana Rosemary Scallon), Giorgio Lisi, Arlene McCarthy (for Ulrich Stockmann), Erik Meijer, Rosa Miguélez Ramos, Juan Ojeda Sanz, Wilhelm Ernst Piecyk, Samuli Pohjamo, Adriana Poli Bortone, Alonso José Puerta, Reinhard Rack, Carlos Ripoll i Martínez Bedoya, Guido Sacconi (for Joaquim Vairinhos), Marieke Sanders-ten Holte (for Paolo Costa), Gilles Savary, Elisabeth Schroedter (for Camilo Nogueira Román), Brian Simpson, Per Stenmarck (for Ingo Schmitt), Dirk Sterckx, Johan Van Hecke (for Margie Sudre), Ari Vatanen and Mark Francis Watts.

The opinions of the Committee on Industry, External Trade, Research and Energy and the Committee on the Environment, Public Health and Consumer Policy are attached; the Committee on Budgets decided on 19 April 2000 not to deliver an opinion.

The report was tabled on 21 November 2000.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

LEGISLATIVE PROPOSAL

Proposal for a Directive of the European Parliament and of the Council amending Council directive 94/57/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (COM(2000) 142 - C5-0175/2000 - 2000/0066(COD))

The proposal is amended as follows:

Text proposed by the Commission ¹

Amendments by Parliament

(Amendment 1)

Recital 12

Similarly, the continuous ex post monitoring of the recognised organisations to assess their compliance with the provisions of Directive 94/57/EC can be carried out more effectively in a harmonised and centralised manner. Therefore it is appropriate that the Commission, together with the Member State proposing the recognition, be entrusted with this task on behalf of the whole **Community**.

Similarly, the continuous ex post monitoring of the recognised organisations to assess their compliance with the provisions of Directive 94/57/EC can be carried out more effectively in a harmonised and centralised manner. Therefore it is appropriate that the Commission, together with the Member State proposing the recognition, be entrusted with this task on behalf of the whole **Union**.

Justification:

Following the Treaties of Maastricht and Amsterdam it is more appropriate to speak of the Union when referring to all of the Member States.

(Amendment 2)

Recital 18

Since transparency and exchange of information between interested parties *is* a fundamental tool to prevent accidents at sea, the **recognised** organisations shall provide all relevant information concerning the conditions of the ships in their class to the **Port State Control** authorities.

Since transparency and exchange of information between interested parties, **as well as public right of access to information, are** a fundamental tool to prevent accidents at sea, the **classification** organisations shall provide all relevant information concerning the conditions of the ships in their class to the authorities **responsible for port control and make it available to the general public.**

¹ OJ C 212 of 25.07.2000, p.114.

Justification:

The directive must provide the necessary legal base for the competent port authorities, which in some cases are not state authorities but regional and local ones, so as to secure all the information needed in order to exercise control over all vessels, even if they are sailing under flags other than those of the European Union and their classification societies are not recognised by the Commission or authorised by a Member State. More transparent information and better access to it for social and economic operators and the local authorities concerned will ensure greater environmental safety.

(Amendment 3)

Recital 20

(20) The qualitative criteria to be met by the technical organisations in order to be recognised at Community level and to maintain ***such a recognition*** shall include provisions to ensure that only exclusive surveyors can carry out the ***statutory*** tasks ***for which the organisation is authorised***. The organisation must have a tight control on all its personnel and offices, including ***the regional ones*** and it must establish its own safety and pollution prevention performance targets and indicators. The organisation must put in place a system to measure the quality of its services. Directive 94/57/EC should be amended accordingly.

(20) The qualitative criteria to be met by the technical organisations in order to be recognised at Community level and to maintain ***that status*** shall include provisions to ensure that only exclusive surveyors can carry out the ***inspection and survey*** tasks ***related to the issuing of safety and classification certificates***. The organisation must have a tight control on all its personnel and offices, including ***all branches and offices within and outside the Community*** and it must establish its own safety and pollution prevention performance targets and indicators. The organisation must put in place a system to measure the quality of its services. Directive 94/57/EC should be amended accordingly.

Justification:

The reference to the ISO 14001 quality criteria in the original Amendment 3 by the rapporteur should be deleted because this body of rules does not tally with the activities of classification societies. Moreover, classification societies offer their customers a check on the basis of ISO 9000 or QSCS quality standards.

(Amendment 4)

Recital 20a (new)

(20 a) A classification society shall not be engaged if it is to any degree identical with or has business, personal or family links to the shipowner or operator. This incompatibility shall also apply to surveyors employed by classification societies.

Justification:

To prevent ties between the body or persons carrying out inspections and the vessel being inspected.

(Amendment 5)

Recital 20b (new)

(20b) Whereas nothing in this Directive shall be construed as derogating from the absolute and non-delegable duty of a ship owner to maintain and operate seaworthy vessels.

Justification:

It is the shipowner's primary responsibility to ensure that his ship is in full working order and does not put human or maritime safety in danger.

(Amendment 6)

ARTICLE 1(1)

Article 2 (Directive 94/57/EC)

Article 2 shall be amended as follows:

a) in point (b), the words “including ships registered in Euros once that register is approved by the Council” shall be deleted;

Article 2 shall be amended as follows:

(a) in point (b), the words 'including ships registered in Euros once that register is approved by the Council' shall be deleted;

(aa) in point (c), the words 'made mandatory by' shall be replaced by 'that it is mandatory to carry out under';

b) in point (d), the words “in force at the date of adoption of this Directive” shall be replaced by “in force *on 1st July 2000*”.

(b) in point (d), the words 'in force at the date of adoption of this Directive' shall be replaced by 'in force *at the date of adoption of the present amendment to this Directive*'.

(Next paragraph not applicable to English version)

(ba) in point (i), the words 'in accordance with its rules and regulations' shall be replaced by 'in accordance with the rules and regulations laid down and agreed publicly by that society';

(bb) in point (j), the words 'and includes, during a transitional period ending on 1 February 1999, the Cargo Ship Safety Radio Telegraphy Certificate and the Cargo Ship Safety Radio Telephony Certificate' shall be deleted.

Justification:

The aim is to introduce a number of linguistic changes to prevent misunderstanding, to clarify the scope of certain definitions and to alter references to deadlines which have already expired.

(Amendment 7)

ARTICLE 1(2)

Article 3(1) (Directive 94/57/EC)

2. Article 3, **paragraph 1** shall be amended as follows:

The following sentence shall be added at the end of the paragraph: “Member States shall act in accordance with the provisions of the Annex and the Appendix to IMO Resolution A.847 (20) on Guidelines to assist Flag States in the implementation of IMO instruments”.

2. Article 3 shall be amended as follows:

(a) The following sentence shall be added at the end of the paragraph 1: 'Member States shall act in accordance with the *relevant* provisions of the Annex and the Appendix to IMO Resolution A.847 (20) on Guidelines to assist Flag States in the implementation of IMO instruments'.

(b) *Paragraph 2 shall be amended as follows:*

Point (i) shall be amended as follows: '(i) to delegate to organisations so that, acting on behalf of the maritime administration, they may undertake fully or in part official inspections and surveys related to certificates including those for the assessment of compliance with Article 14

and, where appropriate, issue or renew the related certificates, or

In point (ii), the words 'rely upon' shall be replaced by 'delegate'.

(This paragraph does not apply to the English version.)

Justification:

The aim is to introduce linguistic changes to prevent misunderstanding and to spell out the two possible alternatives regarding the substance of the 'authorisations' which the Member States may grant to organisations, i.e. a simple 'accreditation' to perform inspections or a more specific 'delegation' of the powers or responsibilities of the administration, such as the issuing of certificates.

(Amendment 8)

ARTICLE 1(3)

Article 4 (Directive 94/57/EC)

3. Article 4 shall be replaced by the following:

‘1. Member States *may submit to the Commission a request for a recognition for organisations which fulfil* the criteria set out in the Annex and the provisions of Article 14, paragraphs 2, 4 and 5. *Member States shall submit to the Commission complete information concerning, and evidence of, compliance with such requirements.* The Commission shall carry out *an inspection* of the organisations for which the request of recognition was received in order to verify that the organisations meet the above mentioned requirements. A decision on the recognition shall take into account the safety and pollution prevention performance records of the organisation, referred to in article 9. The recognition shall be granted by the Commission in accordance with the procedure referred to in Article 7.

2. Member States may submit to the Commission *a request* for a limited recognition of three years for organisations

3. Article 4 shall be replaced by the following:

‘1. Member States *which wish to grant an authorisation to any organisation which is not yet recognised, shall submit a request for recognition to the Commission together with complete information on, and evidence of, compliance with* the criteria set out in the Annex and *on the requirement and undertaking that they will comply with* the provisions of Article 14, paragraphs 2, 4 and 5. The Commission, *together with the respective Member States submitting the request*, shall carry out *assessments* of the organisations for which the request of recognition was received in order to verify that the organisations meet *and undertake to comply with* the above mentioned requirements. A decision on the recognition shall take into account the safety and pollution prevention performance records of the organisation, referred to in article 9. The recognition shall be granted by the Commission in accordance with the procedure referred to in Article 7.

2. Member States may submit to the Commission *special requests* for a limited recognition of three years for organisations

which meet all the criteria of the Annex other than those set out under paragraph 2 and 3 of *the section ‘General’ of the Annex*. The same procedure referred to in paragraph 1 will apply with the exception that the criteria of the Annex for which compliance has to be assessed during the *inspection* carried out by the Commission *are* all the criteria other than those set out under paragraphs 2 and 3 of the section ‘*General*’. The effects of *this recognition* shall be limited to the *Member States* which have submitted a request for such recognition.

3. All the organisations which are granted recognition shall be closely monitored by the committee set up under Article 7, *also in view of deciding about extension of the limited recognition of organisations* referred to in paragraph 2. A decision on the extension of such recognition shall not take into account the criteria set out under paragraphs 2 and 3 of the section ‘*General*’ of the Annex while it shall take into account the safety and pollution prevention performance records of the organisation, referred to in article 9. *The decision on the extension of the limited recognition shall specify under which conditions such extension is granted, particularly in respect of the limitation of the effects of the recognition provided for in paragraph 2.*

which meet all the criteria of the Annex other than those set out under paragraph 2 and 3 of *section ‘A. Minimum general criteria’*. The same procedure referred to in paragraph 1 will apply *to these special requests* with the exception that the criteria of the Annex for which compliance has to be assessed during the *assessment* carried out by the Commission, *together with the Member State, shall be* all the criteria other than those set out under paragraphs 2 and 3 of section ‘*A. Minimum general criteria*’. The effects of *these limited recognitions* shall be limited *exclusively* to the *Member State or States* which have submitted a request for such recognition.

3. All the organisations which are granted recognition shall be closely monitored by the committee set up under Article 7, *particularly those* referred to in paragraph 2 *above with a view to possible decisions concerning whether or not to extend the limited recognition. With regard to these latter organisations, a* decision on the extension of such recognition shall not take into account the criteria set out under paragraphs 2 and 3 of the section ‘*A. Minimum general criteria*’ of the Annex while it shall take into account the safety and pollution prevention performance records of the organisation, referred to in article 9(2). *Any* decision on the extension of the limited recognition shall specify under which conditions, *if any*, such extension is granted.

3a. The Commission shall thoroughly scrutinise the classification society concerned in every case where the accident rate recorded by ships classed by that society is excessively high and shall thereafter withdraw recognition of the society if corrective measures are not taken.

3b. The Commission shall lay down stringent rules and ship maintenance inspection procedures with a view to compelling all the participants concerned to assume their responsibilities.

4. The Commission shall draw up and update a list of the organisations recognised in compliance with paragraphs 1, 2 and 3. The list shall be published in the Official Journal of the European Communities.

5. The organisations which, at the date of the entry into force of this Directive, are already recognised on the basis of Council Directive 94/57/EC continue to be recognised. **Their compliance** with the new provisions laid down in this Directive shall be assessed during the first **inspections** referred to in Article 11.'

4. The Commission shall draw up and update a list of the organisations recognised in compliance with paragraphs 1, 2 and 3 **above**. The list shall be published in the Official Journal of the European Communities.

5. The organisations which, at the date of the entry into force of this Directive, are already recognised on the basis of Council Directive 94/57/EC continue to be recognised. **Nevertheless, the latter organisations shall be required to comply** with the new provisions laid down in this Directive **and their compliance** shall be assessed during the first **assessments** referred to in Article 11.'

Justification:

The text relating to requests for recognition is a clarification of the procedure and ensures that when a Member State requests an organisation to be recognised that it also has the intention to authorise that organisation. This will avoid requests for recognition of organisations but for which there is no intention to use the services of that organisation.

It appears necessary to have a system where "limited" recognised organisations are given the possibility, after assessment in particular of their performance record, to either continue (extension) to be "limited" in whatever way or, to become a "full" recognised organisation or to be deleted from the list of recognised organisation. The text clarifies these possibilities. There is a need to draw a distinction between the word "inspection", as defined in the directive (article 2(c)) and the inspections the Commission carries out in order to avoid confusion. The work of the Commission seems to be of a broader nature (than audits) as it involves the verification of and adherence of compliance of the recognised organisation with the Directive in all its parts, including pollution prevention performance records and in that respect the word "assessment" describes this work in the most correct way.

The justification for paragraph 3a (new) is that the actions of recognised organisations must be scrutinised and, where appropriate, punished.

The justification for paragraph 3b (new) is that the purpose of the inspections is to make all those involved assume their responsibilities.

(Amendment 9)

ARTICLE 1(4)

Article 5 (Directive 94/57/EC)

Article 5 shall be amended as follows: .

a) In paragraph 1, the reference to "Article 3 (2) (i)" shall be replaced by

Article 5 shall be amended as follows:

a) In paragraph 1, the reference to "Article 3 (2) (i)" shall be replaced by

“Article 3 (2)” and the words “located in the Community” shall be deleted.

- b) Paragraph 2 shall be deleted.
- c) Paragraph 3 shall become paragraph 2, ***the words “reciprocal recognition” shall be replaced by “reciprocal treatment” and the following sentence shall be added at the end of the paragraph:***

“In addition, the European Community may request that the third State where a recognised organisation is located grant a reciprocal treatment for those recognised organisations which are located in the Community”

“Article 3 (2), ***the words 'authorise' and 'authorisation' shall be replaced by 'accredit' and 'accreditation'*** and the words “located in the Community” shall be deleted.

- b) Paragraph 2 shall be deleted.
- c) Paragraph 3 shall become paragraph 2, ***and shall be amended as follows: 'in order to authorise a recognised organisation located in a third country to carry out the duties mentioned in Article 3 or part of them, a Member State may request that the third country in question grant reciprocal treatment for those recognised organisations which are located in the Community.'***

" In addition, the European Community may request that the third State where a recognised organisation is located grant a reciprocal treatment for those recognised organisations which are located in the Community”.

Justification:

The aim is to avoid confusion by retaining the distinction drawn in previous amendments between the concept of 'accrediting' a recognised organisation to carry out certain of the tasks referred to in Article 3 and the legal concept of 'delegating' to an organisation the powers of the administration, as is also provided for in subparagraph 2(ii) of the same article, while nevertheless including both terms under the general concept of 'authorisations'. The fact that the first part of the article stipulates that 'Member States shall in principle not refuse to authorise ...' would suggest that the directive cannot compel them to 'delegate' their national powers but rather to accept the 'accreditation' of the recognised organisations. Consequently, if the word 'authorisation(s)' were left in the text, the organisations could also ask for administrative powers to be 'delegated'.

(Amendment 10)
ARTICLE 1(5a) (i) (ii) (iii)
Article 6 (Directive 94/57/EC)

Article 6 shall be amended as follows:

- a) Paragraph 2 shall be replaced by the following:
- 2. (...)

Article 6 shall be amended as follows:

- a) Paragraph 2 shall be replaced by the following:
- 2. (...)

(i) if liability arising out of any incident is finally and definitely imposed by a court of law on the Administration for loss or damage to property or personal injury or death, which is proved in that court of law to have been caused by a wilful act or omission or gross negligence of the recognised organisation, its bodies, employees, agents or others who act on behalf of the recognised organisation, the Administration shall be entitled to **indemnification** from the recognised organisation to the extent said loss, damage, injury or death is, as decided by that court, caused by the recognised organisation;

(ii) if liability arising out of any incident is finally and definitely imposed by a court of law on the Administration for personal injury or death, which is proved in that court of law to have been caused by any negligent or reckless act or omission of the recognised organisation, its employees, agents or others who act on behalf of the recognised organisation, the Administration shall be entitled to **indemnification** from the recognised organisation, to the extent said personal injury or death is, as decided by that court, caused by the recognised organisation, up to but not exceeding an amount of € 5 million;

(iii) if liability arising out of any incident is finally and definitely imposed by a court of law on the Administration for loss or damage to property, which is proved in that

(i) if liability arising out of any incident is finally and definitely imposed by a court of law on the Administration, **together with a requirement to compensate the injured parties** for loss or damage to property or personal injury or death, which is proved in that court of law to have been caused by a wilful act or omission or gross negligence of the recognised organisation, its bodies, employees, agents or others who act on behalf of the recognised organisation, the Administration shall be entitled to **financial compensation** from the recognised organisation to the extent said loss, damage, injury or death is, as decided by that court, caused by the recognised organisation;

(ii) if liability arising out of any incident is finally and definitely imposed by a court of law on the Administration, **together with a requirement to compensate the injured parties** for personal injury or death, which is proved in that court of law to have been caused by any negligent or reckless act or omission of the recognised organisation, its employees, agents or others who act on behalf of the recognised organisation, the Administration shall be entitled to **financial compensation** from the recognised organisation, to the extent said personal injury or death is, as decided by that court, caused by the recognised organisation, up to but not exceeding an amount of € 5 million. ***These amounts shall be reviewed by the Council and Parliament at the latest three years after the adoption of the Directive, on the basis of a report by the Commission in the light of the experience gained by Member States and the Commission on the implementation of the Directive and future EU legislation on the liability of the maritime players. The report shall indicate whether appropriate proposals are necessary.***

(iii) if liability arising out of any incident is finally and definitely imposed by a court of law on the Administration, **together with a requirement to compensate the injured**

court of law to have been caused by any negligent or reckless act or omission of the recognised organisation, its employees, agents or others who act on behalf of the recognised organisation, the Administration shall be entitled to **indemnification** from the recognised organisation, to the extent said loss or damage is, as decided by that court, caused by the recognised organisation, up to but not exceeding an amount of € 2.5 million;

parties for loss or damage to property, which is proved in that court of law to have been caused by any negligent or reckless act or omission of the recognised organisation, its employees, agents or others who act on behalf of the recognised organisation, the Administration shall be entitled to **financial compensation** from the recognised organisation, to the extent said loss or damage is, as decided by that court, caused by the recognised organisation, up to but not exceeding an amount of € 2.5 million. **These amounts shall be reviewed by the Council and Parliament at the latest three years after the adoption of the Directive, on the basis of a report by the Commission in the light of the experience gained by Member States and the Commission on the implementation of the Directive and future EU legislation on the liability of the maritime players. The report shall indicate whether appropriate proposals are necessary.**

Justification:

For (i) the aim is to distinguish between the sums allocated to the injured parties, who will receive 'indemnification' from the administration, and the reimbursement which the administration will receive in the form of financial compensation from the recognised organisation responsible for the damage. It would be another matter if the recognised organisation were required to pay the injured parties directly.

Concerning (ii) and (iii), this will ensure that the full chain of actors contribute fairly, responsibly and realistically according to their role and levels of income derived from services rendered. Enough experience will be gained 3 years after the adoption of the Directive to evaluate whether the amounts need to be reviewed by the legislator.

(Amendment 11)
ARTICLE 1(6)
Article 7 (Directive 94/57/EC)

6. Article 7 shall be replaced by the following:

“The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the

6. Article 7 shall be replaced by the following:

“The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the

representative of the Commission. Where reference is made to this Article, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7(3) and Article 8 thereof. The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months. This committee shall be called by the Commission at least once a year and whenever required in the case of suspension of authorisation of an organisation by a Member State or in the case of suspension of recognition by the Commission under the provisions of Article 10. The Committee shall draw up its rules of procedure.”

representative of the Commission. Where reference is made to this Article, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7(3) and Article 8 thereof. The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months. This committee shall be called by the Commission at least once a year and whenever required in the case of suspension of authorisation of an organisation by a Member State or in the case of suspension of recognition by the Commission under the provisions of Article 10, ***and when a decision must be taken on extending the limited recognitions as provided for in Article 4(2).*** The Committee shall draw up its rules of procedure ***and, with a view to improving transparency, shall consult annually with the parties concerned with regard to the means of performance measurement required by Article 9.***

Justification:

The Committee is to satisfy itself regarding the veracity of the means of performance measurement used. To assist the Committee, recognised organisations should make available a summary of their own Quality System Management Review (see IACS amendment to Art 11). This would not replace audits by the Commission nor monitoring by the individual flag administrations.

(Amendment 12)
ARTICLE 1 (7)
Article 8(1) (Directive 94/57/EC)

7. Article 8, paragraph 1, first indent, shall be replaced by the following:

‘- apply, for the purposes of this Directive, subsequent amendments to the international conventions, protocols, codes and resolutions related thereto mentioned in Articles 2 (d) and 6 (2), which have entered into force’

7. Article 8, paragraph 1, first indent, shall be replaced by the following:

‘- apply, for the purposes of this Directive, subsequent amendments to the international conventions, protocols, codes and resolutions related thereto mentioned in Articles 2 (d) and 6 (2), which have entered into force’

A third indent shall be added:

‘revise the amounts specified in points (ii) and (iii) of the second indent of Article 6(2)’

Justification:

The aim is to be able to revise the maximum amounts of compensation (limited liability) mentioned in Article 6 if the amount of financial compensation is small compared to the damages to be paid by the administration to the injured parties.

(Amendment 13)
ARTICLE 1(10)
Article 11(3) (Directive 94/57/EC)

10. Article 11 shall be amended as follows:

a) In paragraph 1, the following text shall be deleted: “and that such organisations fulfil the criteria specified in the Annex. It may do so by having the recognised organisations directly monitored by its competent administration or, in the case of organisations located in another Member State, by relying upon the corresponding monitoring of such organisations by the administration of another Member State.”

b) In paragraph 2, the words “Each Member State shall carry out this task on a biennial basis” shall be replaced by “Each Member State shall carry out this task at least on a biennial basis”.

c) Paragraphs 3 and 4 shall be deleted.

10. Article 11 shall be amended as follows:

a) In paragraph 1, the following text shall be deleted: “and that such organisations fulfil the criteria specified in the Annex. It may do so by having the recognised organisations directly monitored by its competent administration or, in the case of organisations located in another Member State, by relying upon the corresponding monitoring of such organisations by the administration of another Member State.”

b) Paragraph 2 shall be deleted.

c) Paragraphs 3 and 4 shall be deleted.

d) A new paragraph **3** shall be inserted as follows:

“3. All the recognised organisations shall be inspected by the Commission, together with the Member State which submitted the relevant request for recognition, on a regular basis and at least every **three** years to verify that they fulfil the criteria of the Annex. In selecting the organisations for inspection, the Commission shall pay particular attention to the safety and pollution prevention performance records of the organisation, to the casualty records and to the reports produced by Member States as per Article 12. The inspection may include a visit to regional branches of the organisation as well as random and detailed inspection of ships. The Commission shall provide the Member States with a report of the results of the inspection.”

d) A new paragraph **1a** shall be inserted as follows:

“1a. All the recognised organisations shall be inspected by the Commission, together with the Member State which submitted the relevant request for recognition **and States which have granted them any form of authorisation**, on a regular basis and at least every **two** years to verify that they fulfil the criteria of the Annex. In selecting the organisations for inspection, the Commission shall pay particular attention to the safety and pollution prevention performance records of the organisation, to the casualty records and to the reports produced by Member States as per Article 12. The inspection may include a visit to regional branches of the organisation as well as random and detailed inspection of ships. The Commission shall provide **all** the Member States with a report of the results of the inspection.”

1b) A new paragraph 1b) shall be inserted as follows:

“1b). Each recognised organisation shall make available the results of its Quality System Management Review to the Committee set up under Article 7, on an annual basis.”

Justification:

Under the directive the Member States are required to inspect the inspection organisations every two years. For reasons of harmonisation, the same timescale should be used for inspections by the Member States and the Commission.

Concerning 1b new, the requirement for recognised organisations to make their results available reflects the principle of continuous improvement and full and open dialogue with the Committee and Commission.

(Amendment 14)
ARTICLE 1(11)
Article 12 (Directive 94/57/EC)

11. Article 12 shall be replaced by the following:

“In exercising their inspection rights and obligations as port states Member States shall report to the Commission and to other Member States the discovery of issue of valid certificates by organisations acting on behalf of a flag State to a ship which does not fulfil the relevant requirements of the international conventions, or any failure of a ship carrying a valid class certificate and relating to items covered by that certificate. Only cases of ships representing a serious threat to safety and environment or proving a particularly negligent behaviour of the organisations shall be reported for the purposes of this Article.

11. Article 12 shall be replaced by the following:

“In exercising their inspection rights and obligations as port states Member States shall report to the Commission and to other Member States the discovery of issue of valid certificates by organisations acting on behalf of a flag State to a ship which does not fulfil the relevant requirements of the international conventions, or any failure of a ship carrying a valid class certificate and relating to items covered by that certificate. Only cases of ships representing a serious threat to safety and environment or proving a particularly negligent behaviour of the organisations shall be reported for the purposes of this Article. ***The recognised organisation concerned shall be advised of the case at the time of the initial inspection so that it can take appropriate follow-up action immediately.***”

Justification:

The members of the International Association of Classification Societies are required by the Association's Quality System Certification Scheme and by IACS Procedural Requirements to investigate any 'complaint' and take any necessary corrective action.

(Amendment 15)

ARTICLE 1(13) a (new)

Article 13 (ex 14) (Directive 94/57/EC)

13a. At the end of paragraph 2 of Article 13 (formerly 14), the reference to 'Article 13' shall be replaced by 'Article 7'.

Justification:

Provision should be made for the deletion of former Article 13, requiring a reference to be introduced to new Article 7.

(Amendment 16)

ARTICLE 1(14)

Article 14 (ex 15) (Directive 94/57/EC)

14. Article 14 shall be replaced by the following:

1. The recognised organisations shall consult with each other periodically with a view to maintaining equivalence of their technical standards and the implementation thereof in accordance with the provisions of IMO Resolution 847(-20) – 'Guidelines to assist flag states in the implementation of IMO instruments'. They shall provide the Commission with periodic reports on fundamental progress in standards.

2. The recognised organisations shall demonstrate willingness to cooperate with port State control administrations when a ship of their class is concerned, in particular, in order to facilitate the rectification of reported deficiencies or other discrepancies.

Article 14, paragraphs 3 and 4, shall be replaced by the following:

"3. The recognised organisations shall provide all relevant information to the administration and to the Commission about their classed fleet, changes, suspensions and withdrawals of class, irrespective of the flag the vessels fly. Information on changes, suspensions, and withdrawals of class, including information on all overdue surveys, overdue recommendations, conditions of class, operating conditions or operating restrictions issued against their classed vessels – irrespective of the flag the vessels fly - shall also be communicated to the Sirenac information system for Port State Control inspections."

"4. The recognised organisations shall not issue certificates to a ship, irrespective of its flag, declassified or changing class for safety reasons before **informing** the competent administration of the flag State to determine whether a full inspection is necessary."

"3. The recognised organisations shall provide all relevant information to the administration, **to all Member States which have granted any of the authorisations provided for in Article 3** and to the Commission about their classed fleet, changes, suspensions and withdrawals of class, irrespective of the flag the vessels fly. Information on changes, suspensions, and withdrawals of class, including information on all overdue surveys, overdue recommendations, conditions of class, operating conditions or operating restrictions issued against their classed vessels - irrespective of the flag the vessels fly - shall also be communicated to the Sirenac information system for Port State Control inspections **and shall be published on the websites of these organisations.**"

"4. The recognised organisations shall not issue certificates to a ship, irrespective of its flag, declassified or changing class for safety reasons before **giving an opportunity to** the competent administration of the flag State **to express its opinion within a time-limit of 24 hours in order** to determine whether a full

inspection is necessary."

The following paragraph 5 shall be added:

"5. In cases of transfer of class from one recognised organisation to another, the losing organisation shall inform the gaining organisation of all overdue surveys, overdue recommendations, conditions of class, operating conditions or operating restrictions issued against the vessel. On transfer, the losing organisation shall provide the gaining organisation with the complete history file of the vessel. The certificates of the ship can be issued by the gaining organisation only after all overdue surveys have been satisfactorily completed and all overdue recommendations or conditions of class previously issued against the vessel have been completed as specified by the losing organisation. Prior to the issuance of the certificates, the gaining organisation must advise the losing organisation of the date of issuing of the certificates and confirm the date, location and action taken to satisfy each overdue survey, overdue recommendation and overdue condition of class. The recognised organisations shall co-operate with each other to properly implement the provisions of this paragraph."

"5. In cases of transfer of class from one recognised organisation to another, the losing organisation shall inform the gaining organisation of all overdue surveys, overdue recommendations, conditions of class, operating conditions or operating restrictions issued against the vessel. On transfer, the losing organisation shall provide the gaining organisation with the complete history file of the vessel. The certificates of the ship can be issued by the gaining organisation only after all overdue surveys have been satisfactorily completed and all overdue recommendations or conditions of class previously issued against the vessel have been completed as specified by the losing organisation. Prior to the issuance of the certificates, the gaining organisation must advise the losing organisation of the date of issuing of the certificates and confirm the date, location and action taken to satisfy each overdue survey, overdue recommendation and overdue condition of class. The recognised organisations shall co-operate with each other to properly implement the provisions of this paragraph."

Justification:

The reference to the key IMO resolution in Amendment 15 by the rapporteur has been corrected here, and the phrase 'a reasonable time' in paragraph 4 has been replaced with a specific time-limit of 24 hours in order to prevent delays in inspections.

(Amendment 17)
ARTICLE 1(15)
Article 15 (ex 16) (Directive 94/57/EC)

15. Article 15, paragraph 3, shall be replaced by the following:

15. Article 15 shall be replaced by the following:

'1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this directive within 12 months of the date of its adoption. They shall immediately inform the Commission thereof.

2. When Member States adopt these provisions, they shall contain a reference to this directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

"3. The Member States shall immediately communicate to the Commission and to the other Member States the text of all the provisions of domestic law which they adopt in the field governed by this Directive."

"3. The Member States shall immediately communicate to the Commission and to the other Member States the text of all the provisions of domestic law which they adopt in the field governed by this Directive."

3a. In addition, the Commission shall inform the European Parliament, on a regular basis, on the progress of the implementation of the Directive within the Member States.

Justification:

The date of entry into force of the directive (31 December 1995) should be deleted and replaced by a reference to the 12 months following the most recent date of adoption.

Concerning new paragraph 3a, in the interests of transparency, and as the European Parliament has no means of participation in the process of recognition of classification societies, the European Parliament should be informed regularly by the Commission.

(Amendment 18)
ARTICLE 1(16)
Annex (Directive 94/57/EC)

The Annex to the Directive shall be amended as follows:

The Annex to the Directive shall be amended as follows:

- a) The word “should” shall be replaced by the word “must” in paragraph 2 of Section ‘A. GENERAL’.
- b) The words “would be” shall be replaced by the word “are” in the second sentence of paragraph 3 of Section ‘A. GENERAL’.
- c) The word “should” shall be replaced by the word “must” in paragraph 4 of Section ‘A. GENERAL’.
- d) The word ‘should’ shall be replaced by the word ‘must’ in paragraph 5 of Section ‘A. GENERAL’. The following words shall be added at the end of the paragraph: "or maintained in an electronic data base accessible to *interested parties*".
- e) The word “should” shall be replaced by the word “must” both in the first and in the second sentence of paragraph 6 of Section ‘A. GENERAL’.
- f) The word “should” shall be replaced by the word “must” in paragraph 7 of Section ‘A. GENERAL’.
- g) The following words shall be added at the end of paragraph 4 of Section ‘B. SPECIFIC’: "and to the Commission".
- h) The following words shall be added at the end of paragraph 5 of Section ‘B. SPECIFIC’: "The organisation's policy must refer to safety and pollution prevention performance targets and indicators".
- i) The following words shall be added at the end of paragraph 6 (b) of Section ‘B. SPECIFIC’: "and an internal system to measure the quality of service in relation to these rules and regulations is put in place".
- j) The following words shall be added at the end of paragraph 6 (c) of Section ‘B. SPECIFIC’: "and an internal system to

Section 'A. GENERAL' shall become 'A. General minimum criteria' and section 'B. SPECIFIC' shall become 'B. Specific minimum criteria'.

- a) The word “should” shall be replaced by the word “must” in paragraph 2 of Section ‘A. **General minimum criteria**’.
- b) The words “would be” shall be replaced by the word “are” in the second sentence of paragraph 3 of Section ‘A. **General minimum criteria**’.
- c) The word “should” shall be replaced by the word “must” in paragraph 4 of Section ‘A. **General minimum criteria**’.
- d) The word ‘should’ shall be replaced by the word ‘must’ in paragraph 5 of Section ‘A. **General minimum criteria**’. The following words shall be added at the end of the paragraph: "or maintained in an electronic data base accessible to *the public*".
- e) The word “should” shall be replaced by the word “must” both in the first and in the second sentence of paragraph 6 of Section ‘A. **General minimum criteria**’.
- f) The word “should” shall be replaced by the word “must” in paragraph 7 of Section ‘A. **General minimum criteria**’.
- g) The following words shall be added at the end of paragraph 4 of Section ‘B. **Specific minimum criteria**’: "and to the Commission *and interested parties*".
- h) The following words shall be added at the end of paragraph 5 of Section ‘B. **Specific minimum criteria**’: "The organisation's policy must refer to *those* safety and pollution prevention performance targets and indicators *which are under the direct control of the organisation*".
- i) The following words shall be added at the end of paragraph 6 (b) of Section ‘B. **Specific minimum criteria**’: "and an internal system to measure the quality of service in relation to these rules and regulations is put in place".
- j) The following words shall be added at the end of paragraph 6 (c) of Section ‘B. **Specific minimum criteria**’: "and an internal

measure the quality of service in relation to the compliance with the international conventions is put in place".

k) Paragraph 6 (g) of Section 'B. SPECIFIC' shall be replaced by the following:

"(g) the requirements of the statutory work for which the organisation is authorised are only carried out by its exclusive surveyors or by exclusive surveyors of other recognised organisations; in all cases, the exclusive surveyors must have an extensive knowledge of the particular type of ship on which they carry out the statutory work and of the relevant applicable requirements;"

l) The word "and" at the end of paragraph 6 (I) of Section 'B. SPECIFIC' shall be deleted.

m) Paragraph 6 (j) of Section 'B. SPECIFIC' shall be replaced by the following:

"(j) a comprehensive system of planned and documented internal audits of the quality related activities is maintained in all locations".

n) The following two paragraphs shall be added to paragraph 6 of Section 'B. SPECIFIC':

"(k) the statutory surveys and inspections required by the Harmonised System of Survey and Certification for which the organisation is authorised are carried out in accordance with the provision set out in the Annex and Appendix to IMO Resolution A.746 (18) on Survey Guidelines under the Harmonised System of Survey and

system to measure the quality of service in relation to the compliance with the international conventions is put in place".

k) Paragraph 6 (g) of Section 'B. ***Specific minimum criteria***' shall be replaced by the following:

"(g) the requirements of the statutory work for which the organisation is authorised are only carried out by its exclusive surveyors or by exclusive surveyors of other recognised organisations; in all cases, the exclusive surveyors must have an extensive knowledge of the type of ship on which they carry out the statutory work ***as relevant to the particular survey to be carried out*** and of the relevant applicable requirements."

ka) A classification society may not be engaged if it is to any degree identical with or has business, personal or family links to the shipowner or operator. This incompatibility shall also apply to surveyors employed by classification societies. This incompatibility shall be regulated in the general terms contained in the administrative law of the Member States.

l) The word "and" at the end of paragraph 6 (i) of Section 'B. ***Specific minimum criteria***' shall be deleted.

m) Paragraph 6 (j) of Section 'B. ***Specific minimum criteria***' shall be replaced by the following:

"(j) a comprehensive system of planned and documented internal audits of the quality related activities is maintained in all locations".

n) The following two paragraphs shall be added to paragraph 6 of Section 'B. ***Specific minimum criteria***':

"(k) the statutory surveys and inspections required by the Harmonised System of Survey and Certification for which the organisation is authorised are carried out in accordance with the provision set out in the Annex and Appendix to IMO Resolution A.746 (18) on Survey Guidelines under the Harmonised System

Certification;

(l) clear and direct lines of responsibility and control are established between the central and the regional offices of the society."

o) Paragraph 7 (b) of Section 'B. SPECIFIC' shall be replaced by the following:

"(b) to carry out all inspections and surveys required by the international conventions for the issue of certificates, including the means of assessing - through the use of qualified professional staff and in accordance with the provisions set out in the Annex to "IMO Resolution A.788 (19) on guidelines on implementation of the International Safety Management (ISM) Code by administrations" - the application and maintenance of the safety management system, both shore-based and on board ships, intended to be covered in the certification."

p) The word "should" shall be replaced by the word "must" in paragraph 9 of Section 'B. SPECIFIC'.

of Survey and Certification;

(l) clear and direct lines of responsibility and control are established between the central and the regional offices of the society ***and between the classification organisations and their surveyors.***"

o) Paragraph 7 (b) of Section 'B. ***Specific minimum criteria***' shall be replaced by the following:

"(b) to carry out all inspections and surveys required by the international conventions for the issue of certificates, including the ***necessary*** means of assessing - through the use of qualified professional staff and in accordance with the provisions set out in the Annex to "IMO Resolution A.788 (19) on guidelines on implementation of the International Safety Management (ISM) Code by administrations" - the application and maintenance of the safety management system, both shore-based and on board ships, intended to be covered in the certification."

p) The word "should" shall be replaced by the word "must" in paragraph 9 of Section 'B. ***Specific minimum criteria***'.

q) ***At the end of paragraph 8 of Section 'B. Specific minimum criteria', the following words shall be added: 'if its main office is not located in the Union, it shall be subject to certification by the Member State in which it has its main branch or regional office or, failing that, by the Member State which first requested its recognition and granted it any of the authorisations provided for in Article 3.***

Justification:

More transparent information and better access to it for economic and social operators and the local authorities concerned will ensure greater environmental safety. ISO 14001 is a voluntary environmental management system which gives the possibility and flexibility to an organisation to define its boundaries and may choose to implement it with respect to the entire organisation or to specific operating units or activities of the organisation. As such it is concerned and will apply to environmental management practices (such as waste disposal in the office) of the company, but it will not as such contribute to raising the environmental standard of ships

classed with a recognised organisation and will not improve maritime safety. On a different matter, the problem of the poor quality and efficiency of the supervision of classification societies frequently derives from inspections, where an inspector using his own standards decides that potentially major technical shortcomings in the ships inspected are insignificant. Finally, provision should be made for the possibility that some recognised organisations do not have their main offices in the Union.

Concerning k): the requirement is knowledge of the particular work to be carried out, which may not require expert knowledge of all aspects of that type of ship.

The new ka) is to prevent ties between the body or persons carrying out inspections and the vessel being inspected.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the proposal for a Directive of the European Parliament and of the Council amending Council directive 94/57/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (COM(2000) 142 - C5-0175/2000 - 2000/0066(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2000) 142¹),
 - having regard to Article 251(2) and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0175/2000),
 - having regard to Rule 67 of its Rules of Procedure,
 - having regard to the report of the Committee on Regional Policy, Transport and Tourism and the opinions of the Committee on Industry, External Trade, Research and Energy and the Committee on the Environment, Public Health and Consumer Policy (A5-0342/2000),
1. Approves the Commission proposal as amended;
 2. Asks to be consulted again should the Commission intend to amend its proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 212, 25.7.2000, p. 114

EXPLANATORY STATEMENT

Introduction

Under international law, the seaworthiness of a vessel is the responsibility of the state whose flag it is flying.

Because of a lack of expertise and technical infrastructures, many flag states are unable to perform the necessary regular inspections themselves to determine whether ships sailing under their flag are complying with the rules on safety and environmental protection laid down in the international conventions¹. As a result flag states have delegated this responsibility to special organisations known as 'classification societies'.

Classification societies are non-profit-making organisations which employ specialist inspectors and which concern themselves with supervising ships from the construction stage onwards.

These classification societies are few in number. This is because of the extensive experience needed and the high level of technical expertise required of the inspectors employed, as well as the powerful research and computer centres they need to use.

The delegation of these supervisory tasks to classification societies is an internationally accepted practice. These societies fulfil a vital role in maintaining maritime security and must therefore be efficient and reliable organisations.

Nevertheless, it is clear that a degree of uniformity in terms of quality and expertise is needed in respect of the organisations responsible for monitoring compliance by different vessels with the various rules in force and that inspections should not differ greatly from one society to another.

To ensure that this is the case, the Commission has submitted a proposal for a directive laying down the rules that should apply to the Member States and classification societies with the aim of ensuring wider and more uniform compliance with international conventions in the EU.

For this purpose it was necessary to recognise certain organisations in the EU on the basis of a set of uniform criteria. This was done by Directive 94/57/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations.

The existing system

¹ These international conventions are:

- International Convention for the Safety of Life at Sea (SOLAS, 1974)
- International Convention on Load Lines, on the solidity and stability of ships
- International Convention for the Prevention of Pollution from Ships (MARPOL), on the construction and operation of ships.

Under the provisions of Directive 94/57/EC, the system applicable to all ships, including those transporting oil products, is based on acceptance by all Member States of certificates issued by classification societies recognised by the EU to ships which comply with the environmental and safety rules and requirements laid down in the international conventions. Although the International Association of Classification Societies (IACS), which is recognised by the EU and consists of ten members which are also individually recognised, aims to set appropriate standards and ensure that they are observed throughout the entire class system, there are serious doubts as to the willingness of all members to take all possible steps to apply the strict standards necessary, as shown by the accident involving the Erica, a ship inspected by the Italian classification society RINA, a member of the IACS. Many in the industry consider that not all IACS members meet the requisite high standards. There seem to be variations both between performance of individual IACS members and also within classification societies, where differing standards are reported, depending upon the flag administration and /or the client.

The Commission proposal

The Erica accident clearly exposed the limits of the work done by classification societies with regard to monitoring the construction and seaworthiness of the ships under their responsibility. The sector concerned (IACS) has already taken action to redress these problems and some improvements have been made to the systems for the detection and monitoring of the structures of ageing ships, which frequently suffer degradation of steelwork in ballast tanks.

The oil industry has also announced a series of measures to improve its private inspection system, bearing in mind that most major oil companies have their own inspection procedures and already publish some 10 000 tanker inspection reports annually. These reports will be made available to the port state authorities.

From the legislative point of view, despite the fact that the existing directive has been applied in all Member States, a number of shortcomings merged as soon as it came into force. One of the major shortcoming is the fact that the recognition of classification societies is left entirely to individual Member States without *ex ante* harmonised and centralised control of the fulfilment of the criteria of the Directive by the organisation wishing to be recognised. the same lack of a harmonised and centralised approach applied to the *ex post* controls of the recognised organisations.

To take account of these factors, the proposed changes contained in the directive relate to the following points:

1. The Commission will be responsible (together with a regulatory committee) for the granting or withdrawal of the recognition or classification of societies. The Commission will share this responsibility, which was previously the preserve of the Member States.
2. The possibility of suspending recognition for a period of one year if shortcomings are identified in the authorised organisation. If the shortcomings persist, recognition may be withdrawn.
3. A good record of safety and pollution prevention performance by the classification society as a whole is a *conditio sine qua non* for granting and maintaining recognition.

4. In the event of an accident, the financial liability of the authorised organisations is provided for and harmonised at Community level and may be unlimited or limited to different levels in accordance with the seriousness of the act or omission.
5. Stricter rules will be introduced governing changes from one society to another, in particular the requirement that the society losing the ship should pass on the complete file on the history of the ship concerned to the society gaining it.

Remarks

Given the importance of the inspections performed by classification societies both for the safety of ships and the prevention of marine pollution, it is vital to strengthen the rules governing their activities and responsibilities in order to guarantee maritime safety. The Commission's proposed amendments go a long way towards achieving this goal. Greater transparency is also needed if a safe system of navigation is to operate more effectively. There must be a greater willingness to provide third parties with information on transfers of class, changes of owner and extensions of certificates, as proposed by the Commission.

The proposal for a directive is to be welcomed in that it continues to strengthen the classification system and make Directive 94/57/EC an important weapon that will allow strict and uniform rules to be laid down. Problems could arise, however, from the practical application of the proposed system.

- (a) The procedure also raises questions regarding the Commission's ability to meet its new responsibilities and the resources it will have to employ in order to do so. In view of the high level of expertise required in this sector, the financial and human resources needed for the effective operation of this system will be considerable, unless a formula can be found that makes it possible to draw on the existing resources of the Member States. Under the proposal, the Commission is responsible for inspecting organisations which apply for recognition to see whether they meet the requirements laid down in the directive. Provision could be made for a joint inspection by the Commission and the Member States which have submitted the application for recognition. In this way, use could be made of the existing resources of the Member States.
- (b) The rules governing the liability of classification societies for omissions or accidents caused by their actions are drawn up on the basis of the act or omission concerned in order to establish a uniform system of financial liability. The Committee does not totally agree with the Commission proposal, which fixes a ceiling for the amount of compensation to be paid by the inspection organisation (€5 million for personal injury or death and €2.5 million for loss or damage to property caused by any negligent or reckless act or omission of the recognised organisation), and believes that the Council and Parliament should review such amounts in the light of experience gained on the liability of the maritime players.
- (c) The rapporteur welcomes the fact that one of the criteria laid down by the Commission for recognition is that the classification society should be independent of shipowners or constructors or other persons engaged in commercial activities in the manufacture, equipment, repair or operation of ships. It is also clear that the society's income should not depend to a significant extent on a single commercial enterprise.

- (d) Improved transparency is also an important aspect for Parliament. With this in view, inspection organisations must ensure that all relevant information on changes, suspensions or withdrawals of class is accessible to the public on their websites.
- (e) In the interests of transparency with regard to the flag state and the classification society, if the Member States discover that they have delivered valid certificates to a ship which does not meet the provisions laid down in the international conventions, they must inform not only the Commission and the other Member States, but also the flag state and the classification society concerned, thereby exercising their rights of inspection in their capacity as port State.
- (f) Under the Commission proposal, the Member States must ensure that inspection organisations are inspected every two years. For its part, the Commission proposes carrying out its own inspections every three years, to check whether the organisations in question meet the criteria laid down in the directive. In the interests of harmonisation, it seems justified to adopt the same timescale for the inspections by the Member States and by the Commission, in other words every two years.
- (g) Finally, the procedures followed by classification societies for the surveillance of inspectors need to be more strictly defined.

These problems can be satisfactorily resolved by making a number of minor changes to the Commission proposal, since unconditional support should be given to the underlying objective pursued by the directive, namely to strengthen the classification system. In conclusion, it is clear that in order to maintain an international legal system it is vital to continue efforts to establish a common system of control for the bodies responsible for security within the framework of the IMO. In this connection, a European directive would facilitate the Union's work in negotiating a more effective control system within the IMO.

13 November 2000

**OPINION OF THE COMMITTEE ON INDUSTRY, EXTERNAL TRADE, RESEARCH
AND ENERGY**

for the Committee on Regional Policy, Transport and Tourism
on the

1. proposal for a European Parliament and Council directive amending Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)
(COM(2000) 142- C5-0174/2000 - 2000/0065 (COD) (report by Mark Francis Watts)
2. proposal for a European Parliament and Council directive amending Council Directive 94/57/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations
(COM(2000) 142 - C5-175/2000) - 2000/0066 (COD) (report by Josu Ortuondo Larrea)
3. proposal for a European Parliament and Council regulation on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers
(COM(2000)142 – C5-0173/2000 - 2000/0067 (COD) (report by Konstantinos Hatzidakis)

Draftsman: Yves Piétrasanta

PROCEDURE

The Committee on Industry, External Trade, Research and Energy appointed Yves Piétrasanta draftsman at its meeting of 25 May 2000.

It considered the draft opinion at its meetings of 13 July and 7 November 2000.

At the latter meeting it adopted the following amendments unopposed with 2 abstentions.

The following were present for the vote: Carlos Westendorp y Cabeza, (chairman); Renato Brunetta, Nuala Ahern and Peter Michael Mombaur vice-chairmen; Maria del Pilar Ayuso González (for Concepció Ferrer), Ward Beysen (for Willy C.E.H. De Clercq), Massimo Carraro, Giles Bryan Chichester, Harlem Désir, Francesco Fiori (for Guido Bodrato), Colette Flesch, Christos Folias, Jacqueline Foster (for Godelieve Quisthoudt-Rowohl), Pat the Cope Gallagher, Neena Gill (for Mechtild Rothe), Norbert Glante, Alfred Gomolka (for Werner Langen), Michel Hansenne, Malcolm Harbour, Philippe A.R. Herzog, Hans Karlsson, Wolfgang Kreissl-Dörfler (for Glyn Ford pursuant to Rule 153(2)), Bernd Lange (for Reino Kalervo Paasilinna), Rolf Linkohr, Caroline Lucas, Eryl Margaret McNally, Erika Mann, Véronique Mathieu (for Yves Butel pursuant to Rule 153(2)), Marjo Tuulevi Matikainen-Kallström, Emilio Menéndez del Valle (for Elena Valenciano Martínez-Orozco pursuant to Rule 153(2)), Elizabeth Montfort, Angelika Niebler, Giuseppe Nisticò (for Umberto Scapagnini), Hervé Novelli (for Anders Wijkman), Samuli Pohjamo (for Nicholas Clegg), John Purvis, Daniela Raschhofer, Imelda Mary Read, Christian Foldberg Røvsing, Paul Rübig, Konrad K. Schwaiger, Esko Olavi Seppänen, Astrid Thors, Claude Turmes (for Nelly Maes), Jaime Valdivielso de Cué, W.G. van Velzen, Alejo Vidal-Quadras Roca, Dominique Vlasto, François Zimeray and Myrsini Zorba.

SHORT JUSTIFICATION

The loss of the oil tanker Erika in December 1999 exposed the inadequacy of the legal and physical resources for preventing large-scale accidental oil pollution.

The Committee on Industry, External Trade, Research and Energy believes that these proposals meet the main needs identified in legal terms in the fields described in their respective objectives, provided they are correctly implemented by the Member States and monitored by the Commission which, over and above the principles set forth in the texts, presupposes adequate numbers of properly trained people, used to cooperation, whatever their country of origin or secondment, and to using similar equipment, or even in the longer term the establishment of a European coastguard.

Our committee is therefore submitting amendments at this stage seeking only to bar vessels giving rise to the most concern as a more realistic approach to the risk of a casualty and automatically requiring effective and transparent action by the control authorities.

Furthermore the regular use by shipowners and charterers of flags of convenience and complicated financial structures based on 'brass-plate' companies, located in countries frequently described as 'uncooperative' by the authorities responsible for fighting financial crime, provides grounds for doubting the good will the parties involved in the industry will be prepared to demonstrate in response to the Commission's desire for transparency. Closer consideration of these points seems called for, which should in the short term allow the introduction of binding measures for determining actual ownership and control of companies and vessels and perhaps the introduction of positive discrimination towards non-Community countries which meet their international obligations and take a responsible attitude towards the ships flying their flag.

The European Community also needs as a matter of course to act well before the dates for implementing any new safety rules decided by the IMO.

The Committee on Industry, External Trade, Research and Energy would also point out that, as the Commission notes in the communication on tanker safety included with its three legislative proposals, the source of most marine pollution is not accidents but what are coyly described as 'operational' practices, i.e. tank cleaning and other deliberate spills, against which a broader range of deterrents is needed.

CONCLUSIONS

The Committee on Industry, External Trade, Research and Energy therefore calls on the Commission to submit proposals for legislation designed to achieve those aims, and as regards the current proposals, calls on the Committee on Regional Policy, Transport and Tourism as the committee responsible to incorporate the following amendments in its report:

AMENDMENTS

Text proposed by the Commission¹

Amendments by Parliament

(Amendment 1)

Recital 7

(2000/0065 (COD) – Directive 95/21/CE)

(7) Structural defects in a ship are likely to increase the risk of an accident at sea. In the case of a ship carrying a bulk cargo of oil, such accidents can have disastrous consequences for the environment. The inspection authority should carry out a visual examination of the accessible parts of the ship in order to detect any serious corrosion and take whatever follow-up action may be necessary, in particular vis-à-vis the classification societies responsible for the structural quality of ships.

(7) Structural defects in a ship, ***irrespective of age, vessel class or hull type***, are likely to increase the risk of an accident at sea. In the case of a ship carrying a bulk cargo of oil, such accidents can have disastrous consequences for the environment. The inspection authority should carry out a visual examination of the accessible parts of the ship in order to detect any serious corrosion and take whatever follow-up action may be necessary, in particular vis-à-vis the classification societies responsible for the structural quality of ships.

Justification:

Accidents also occur to new double hull vessels, for example because of structural deficiencies or faulty maintenance. It follows that the proposal for a directive on ship safety must not concern solely older or single hull vessels.

¹ OJ C 212, 25.7.2000, p. 102.

(14a). The Commission must cooperate with the Member States to ensure that the Community's ports have the technical and professional capacities to enable them to carry out their inspection and prevention activities rigorously and effectively, thus making it possible to effect the controls required under this Directive in greater number and with improved quality, in good time and as economically as possible.

Justification:

The Commission itself recognises that certain port authorities are insufficiently strict and that the extended inspection functions now attributed to the ports are a fairly recent phenomenon. It is therefore necessary to provide the port authorities with support regarding their acquisition of competences adjusted to the requirements of the Directive.

(Amendment 3)
ARTICLE 1(5)
Article 7a(1) (Directive 95/21/EC)

Access refusal measures concerning certain ships subject to expanded inspection

- | | |
|---|---|
| <p>1. Member States shall ensure that ships older than 15 years classed in one of the categories of Annex V, section A are refused access to all Community ports, except in the situations described in Article 11(6), if these ships:</p> <ul style="list-style-type: none">- have been detained more than twice in the course of the preceding 24 months in a port of a Member State, and- fly the flag of a State listed in the table (rolling three-year average) of above-average detentions and delays, published in the annual report of the MOU. | <p>1. Member States shall ensure that ships older than 15 years classed in one of the categories of Annex V, section A are refused access to all Community ports, except in the situations described in Article 11(6), if these ships:</p> <ul style="list-style-type: none">- have been detained more than twice in the course of the preceding 24 months in a port of a Member State, and- fly the flag of a State listed in the table (rolling three-year average) of above-average detentions and delays, published in the annual report of the MOU, or |
|---|---|

- ***have not been subject to an expanded inspection as laid down in Article 7 of this directive.***

The refusal of access shall become applicable immediately the ship has been authorised to leave the port where it has been the subject of a third detention

The refusal of access shall become applicable immediately the ship has been authorised to leave the port where it has been the subject of a third detention.

(Amendment 4)

ARTICLE 1(6)

Article 7

(2000/0066 (COD) - (Directive 94/57/CE)

6. Article 7 shall be replaced by the following:

"The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

Where reference is made to this Article, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in compliance with Article 7(3) and Article 8 thereof.

The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months.

This committee shall be called by the Commission at least once a year and whenever required in the case of suspension of authorisation of an organisation by a Member State or in the case of suspension of recognition by the Commission under the provisions of Article 10. The Committee shall draw up its rules of procedure."

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This committee shall be called by the Commission at least once a year and whenever required in the case of suspension of authorisation of an organisation by a Member State or in the case of suspension of recognition by the Commission under the provisions of Article 10. The Committee shall draw up its rules of procedure.

The new Committee shall draw up an annual report, which shall be brief but fully justified, setting out, transparently and clearly, the reasons for its decisions, and shall be addressed to the responsible bodies in the Member States."

Justification:

The decision to suspend a classifying body has consequences in one or more Member States, for port authorities, shipbuilders, shipping companies and even for insurance companies. A decision of this nature must therefore be transparent and fully justified.

20 November 2000

**OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC
HEALTH AND CONSUMER POLICY**

for the Committee on Regional Policy, Transport and Tourism

on the proposal for a Directive of the European Parliament and of the Council amending Council Directive 94/57/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations
(COM(2000) – C5--0175/2000 – 2000/0066((COD))

Draftsman: Roseline Vachetta

PROCEDURE

The Committee on the Environment, Public Health and Consumer Policy appointed Roseline Vachetta draftsman at its meeting of 23 May 2000.

It considered the draft opinion at its meetings of 10 October and 20 November 2000.

At the latter meeting it adopted the amendments below unopposed with one abstention.

The following were present for the vote: Caroline F. Jackson (chairman), Alexander de Roo (vice-chairman), Roseline Vachetta (draftsman), Per-Arne Arvidsson, Hans Blokland, David Robert Bowie, John Bowis, Chris Davies, Avril Doyle, Jim Fitzsimons, Marialiese Flemming, Karl-Heinz Florenz, Robert Goodwill, Roger Helmer, Hans Kronberger, Bernd Lange, Jules Maaten, Minerva Melpomeni Malliori, Rosemarie Müller, Riitta Myller, Karl Erik Olsson, Mihail Papayannakis, Béatrice Patrie, Marit Paulsen, Dagmar Roth-Behrendt, Guido Sacconi, María Sornosa Martínez, Catherine Stihler, Charles Tannock (for Maria del Pilar Ayuso González), Antonios Trakatellis, Kathleen Van Brempt (for Dorette Corbey) and Phillip Whitehead.

SHORT JUSTIFICATION

The shipwreck, on 12 December 1999, of the oil tanker *Erika* was a disaster waiting to happen, since the ship in question had all the hallmarks of a high-risk vessel: built with a single hull in 1975, it had had seven changes of name and had been 'inspected' by four different classification societies. It had been registered in Malta since 1993 but had previously flown the flags of Japan and Liberia.

Sixty of the 77 oil tankers which have been 'lost at sea' since 1992 were more than 20 years old.

The causes of shipwrecks, as analysed by the Commission, fall into two categories: human error and the generally poor structural state of vessels, particularly older ones.

The underlying reasons are financial in nature: a profit has to be made in the midst of unbridled competition within a deregulated market. The Commission notes that there are ever fewer oil-tanker owners and an ever more 'brass-plate' companies owning just a single vessel which the widespread use of flags of convenience allows to be crewed by poorly trained and under-paid seamen in a highly precarious employment situation.

The consequence of all these factors is that there is no clear chain of responsibility. The plethora of regulations are poorly enforced and they do not ensure effective prevention, nor do they enable proper sanctions with a deterrent effect to be imposed on polluters. Classification societies are sometimes lax in their approach and their independence from the flag states is more notional than real. Last but not least, there is no transparent monitoring of the state of vessels and no obligation to carry out checks.

In response to this state of affairs the Commission is proposing an initial package comprising three pieces of legislation: a directive on the enforcement of checks on vessels by the port State, a directive governing classification societies and a regulation which will gradually outlaw single-hull oil tankers.

In the near future the Commission will bring forward a second package of legislation designed to systematise exchanges of information, improve the surveillance of navigation, introduce a European structure for maritime safety and develop a liability scheme applicable to those involved in the transport of oil by sea.

The first three of these measures are intended to improve monitoring and to introduce rules and procedures relating to inspections (either of vessels or of classification societies) and, ultimately, to increase the responsibility of the Commission and the Member States.

It would be wiser to begin by making economic operators in the sea-transport sector aware of their responsibilities. The chain of responsibilities is not at all clear and the 'polluter pays' principle is not firmly established.

Although the Commission deduces that many accidents are attributable to human error (and, in particular, to crew fatigue), it has not even a single proposal to put forward relating to the situation of seamen: nothing concerning neglect, death or bodily injury and nothing on the introduction of a convention governing crew sizes, wages and working hours. Even though labour law is obviously a matter for the ILO and the IMO as well, the European Union could begin to implement advanced social legislation.

The statutes applicable to crew members could be subject to checks similar to the technical checks advocated in the draft directives, as could their on-board living conditions.
Appropriate amendments will be tabled.

The legislative proposal under consideration here relates to organisations which are authorised to inspect and survey ships. The directive tightens up the conditions under which such authorisation is granted, since safety at sea and the prevention of pollution are two essential objectives which such organisations are supposed to help achieve.

Authorisation may be suspended by a Community authority in agreement with the Member State concerned if an inspection and survey organisation ceases to perform adequately, or may be suspended by the Commission.

The directive therefore enhances the role of the Commission in order to enable international law to be applied more effectively and the inspection criteria applicable to all the countries of Europe to be harmonised. It may be hoped that such inspection will lead to a genuine improvement in the work of the classification societies, which are sometimes indulgent towards vessels flying the flag of the country by which they have been delegated powers of inspection.

Lastly, the financial liability of classification societies will in future be clearly defined and a scale of penalties is proposed for use if liability in the event of loss or damage is established.

Once again, the directive contains nothing concerning the training of, and the rules relating to, those responsible for carrying out inspections.

AMENDMENTS

The Committee on the Environment, Public Health and Consumer Policy calls on the Committee on Regional Policy, Transport and Tourism, as the committee responsible, to incorporate the following amendments into its report:

Text proposed by the Commission¹

Amendments by Parliament

(Amendment 1)
Recital 1a (new)

***(1a) European Parliament and Council
Directive 2000/.../EC on port facilities for
the disposal of refuse generated by vessels
and of cargo waste plays an important
role.***

Justification:

The role to be played by this Directive will make a major contribution to achieving the ultimate objective of preventing marine pollution.

¹ OJ C 212, 25.7.2000, p. 114.

(Amendment 2)
Recital 1b (new)

(1b) European Parliament and Council decision 1999/.../EC establishing a Community framework for cooperation in the field of accidental or deliberate marine pollution plays a key role.

Justification:

Attention should be drawn to the coordination and cooperation which this piece of Community law will encourage between the Member States' maritime administrations.

(Amendment 3)
Recital 9a (new)

(9a) The rules and standards used by organisations which are authorised to carry out ship inspections and surveys, and also the relevant activities of the maritime authorities, should be strictly and more uniformly harmonised in order to enable those organisations and authorities to perform the tasks and achieve the objectives assigned to them.

Justification:

Effective cooperation enabling action to be taken against the risks in question would be difficult in the absence of harmonised national criteria.

(Amendment 4)
Recital 10

(10) A good record of safety and pollution prevention performance – measured in respect of all ships classed by an organisation, irrespective of the flag they fly – shall become essential to grant the initial recognition and to maintain such a recognition.

(10) A good record of safety and pollution prevention performance, ***respect for living and working conditions, and compliance with social standards*** – measured in respect of all ships classed by an organisation, irrespective of the flag they fly – shall become essential to grant the initial recognition and to maintain such a recognition.

Justification:

Compliance with social standards and respect for living and working conditions must be taken into account when granting recognition.

(Amendment 5)
Recital 16a (new)

(16a) The liability arrangement applying to organisations working on behalf of the Member States will have to be made consistent with the future system governing the liability of charterers and shipowners so as to create an unbroken chain of responsibilities.

Justification:

The Commission will have to make sure that there are no missing links in the chain of responsibilities when it submits its second maritime safety package.

(Amendment 6)
Recital 20a (new)

(20a) To implement the above Directive, the Commission must be able to make use of the necessary additional human and financial resources.

Justification:

Human and financial resources must be sufficient and, where necessary, increased to enable the Directive to be implemented properly.

(Amendment 7)
ARTICLE 1(3)
Article 4(3a) (new) (Directive 94/57/EC)

3a. The Commission shall review the conditions governing the commercial link between shipowners, flag States, and a classification society. A single classification society acting alone may not, under any circumstances, simultaneously conduct inspections on behalf of a shipowner and a

flag State.

Justification:

The relationships linking shipowners, flag States, and classification societies have to be clarified so as to ensure that each of the different players can operate independently of the others.

(Amendment 8)

ARTICLE 1(3)

Article 4(3b) (new) (Directive 94/57/EC)

3b. The Commission shall thoroughly scrutinise the classification society concerned in every case where the accident rate recorded by ships classed by that society is excessively high and shall thereafter withdraw recognition of the society if corrective measures are not taken.

Justification:

The actions of recognised organisations must be scrutinised and, where appropriate, punished.

(Amendment 9)

ARTICLE 1(3)

Article 4(3c) (new) (Directive 94/57/EC)

3c. The Commission shall lay down stringent rules and ship maintenance inspection procedures with a view to compelling all the participants concerned to assume their responsibilities.

Justification:

The purpose of the inspections is to make all those involved assume their responsibilities.

(Amendment 10)

ARTICLE 1(6)

Article 7 (Directive 94/57/EC)

6. Article 7 shall be replaced by the following:

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'The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

advisory committee as referred to in Article 3 of Council Decision 1999/468/EC, having regard to Articles 7 and 8 thereof.'

Where reference is made to this Article, the regulatory procedure laid down in Article 5 of Decision 99/468/EC shall apply, in compliance with Article 7(3) and Article 8 thereof.

The period provided for in Article 5(6) of Decision 1999/468/EC shall be three months.

This committee shall be called by the Commission at least once a year and whenever required in the case of suspension of authorisation of an organisation by a Member State or in the case of suspension of recognition by the Commission under the provisions of Article 10. The Committee shall draw up its rules of procedure.'

Justification:

This amendment is in accordance with Parliament's general guidelines on comitology.

(Amendment 11)
ARTICLE 1(7a) (new)
Article 8(1) (Directive 94/57/EC)

The following indent is added:

- increase the amounts specified in Article 6(2), second indent, points (ii) and (iii).

Justification:

The level of financial penalties must be revised upwards in order to compel recognised organisations to assume their responsibilities.

(Amendment 12)
ARTICLE 1(16)(m) (new)
Annex, Section B, paragraph 6(j) (Directive 94/57/EC)

“(j) a comprehensive system of planned and documented internal audits of the quality related activities is maintained in all locations”.

“(j) a comprehensive system of planned and documented internal audits of the quality related activities is ***permanently*** maintained in all locations”.

Justification:

Checks on the minimum criteria applying to recognised organisations need to be tightened up and laid down on a lasting footing.

(Amendment 13)
ARTICLE 1a (new)

The Member States shall cooperate with a view to improving the quality and the efficiency of the maritime authorities within their respective territories.

By 1 January 2003 they shall submit to the Commission a report on the situation concerning their maritime authorities' human resources, the equipment (either civilian or military) at those authorities' disposal and the arrangements for coordination with other authorities.

The Commission shall draw up a report on the effectiveness of the legislation in force and shall devise proposals with a view to promoting harmonised vocational training at Community level and coordinated management of inspection and surveillance resources.

These proposals shall be forwarded to the European Parliament and the Council by 1 January 2004.

Justification:

This amendment speaks for itself.