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*****I** **REPORT**

on the 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))

Committee on Regional Policy, Transport and Tourism

Rapporteur: Mark Francis Watts

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 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 - 2000/0065 (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 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 (C5-0174/2000).

The Committee on Regional Policy, Transport and Tourism had appointed Mark Francis Watts rapporteur at its meeting of 19 April 2000.

It considered the Commission proposal and draft report at its meetings of 22 May, 12 September, 10 October 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; Mark Francis Watts, 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, Francis F.M. Decourrière, Jean-Maurice Dehousse (for Carmen Cerdeira Morterero), Proinsias De Rossa (for Ulrich Stockmann pursuant to Rule 153(2)), Garrelt Duin, Markus Ferber (for Dieter-Lebrecht Koch), Fernando Fernández Martín (for Sérgio Marques), Jacqueline Foster (for Francesco Musotto), Jean-Claude Fruteau (for Giovanni Claudio Fava), Fiorella Ghilardotti (for Joaquim Vairinhos pursuant to Rule 153(2)), Mathieu J.H. Grosch, Mary Honeyball, Marie Anne Isler Béguin (for Camilo Nogueira Román), Juan de Dios Izquierdo Collado, Georg Jarzembowski, Elisabeth Jeggle (for Karla M.H. Peijs), Brigitte Langenhagen (for Dana Rosemary Scallon), Giorgio Lisi, Rosa Miguélez Ramos, Arlene McCarthy (for John Hume), Juan Ojeda Sanz, Josu Ortuondo Larrea, Wilhelm Ernst Piecyk, Giovanni Saverio Pittella (for Demetrio Volcic), Samuli Pohjamo, Adriana Poli Bortone, Reinhard Rack, Carlos Ripoll i Martínez Bedoya, Marieke Sanders-ten Holte (for Isidoro Sánchez García), Gilles Savary, Elisabeth Schroedter (for Reinhold Messner), Brian Simpson, Per Stenmarck (for Ingo Schmitt), Dirk Sterckx, Johan Van Hecke (for Renate Sommer) and Ari Vatanen.

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 20 November 2000.

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

LEGISLATIVE PROPOSAL

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))

The proposal is amended as follows:

Text proposed by the Commission¹

Amendments by Parliament

(Amendment 1) Recital 3

Some ships pose a manifest risk to maritime safety and the marine environment because of their **age**, flag and history. They should therefore be refused access to Community ports, unless it can be demonstrated that they can be operated safely in Community waters. Guidelines must be established setting out the procedures applicable in the event of imposition of an access ban and of the lifting of such a ban. The list of ships refused access to Community ports must be published and displayed by the Sirenac information system.

Some ships pose a manifest risk to maritime safety and the marine environment because of their **poor condition**, flag and history. They should therefore be refused access to Community ports **and territorial waters of the Member States**, unless it can be demonstrated that they can be operated safely in Community waters. Guidelines must be established setting out the procedures applicable in the event of imposition of an access ban and of the lifting of such a ban. The list of ships refused access to Community ports **and territorial waters of the Member States** must be published and displayed by the Sirenac information system.

Justification:

The fact that a ship is not old does not mean that it is not a risk to the environment. Similarly, ships considered a risk must be refused access to waters under the jurisdiction of the Member States in order to protect the entire littoral of the EU.

¹ OJ C 212, 25.7.2000, p. 102.

(Amendment 2)
ARTICLE 1(2a) (new)
Article 4 (Directive 95/21/EC)

Article 4 is replaced by the following text

Inspection body

Member States shall maintain appropriate national maritime administrations with the requisite number of staff, in particular specialist inspectors, hereinafter called 'competent authorities', for the inspection of ships and shall take whatever measures are appropriate to ensure that their competent authorities perform their duties as laid down in this Directive.

Justification:

Given that a number of Member States still do not have an adequate number of specialist inspectors, this addition is an urgent necessity.

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

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:

- 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.***

1. Member States shall ensure that ships classed in one of the categories of Annex XI, section A are refused access to all Community ports, except in the situations described in Article 11(6), if these ships:

- have been detained more than twice in the course of the preceding 24 months in a port of a Member State,

Or

- ***have flown over the preceding 36 months the flag of a State listed in the table (rolling three years average) of above-average detentions and delays published in the annual report of the MOU under the heading "black list".***

No period before the adoption of this Directive may be included in the calculation of the preceding 36 months referred to in this paragraph.

Or

- *are not fitted with a voyage data recorder (VDR) for the purpose of providing information for the benefit of a possible casualty investigation. The VDR shall meet the performance standards of IMO Assembly Resolution A.861(20) of 27 November 1997 and comply with the testing standards laid down on International Electrotechnical Commission (IEC) standard No 61996. However, for VDRs to be placed on board vessels built before the entry into force of this Directive, exemptions for compliance with some of the requirements may be granted for a period of up to five years.*

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.

2. For the purposes of applying paragraph (1), Member States shall comply with the procedures laid down in Annex *V*, section *D*.

3. The Commission shall publish every six months the information relating to ships that have been refused access to Community ports in application of this Article.

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.

2. For the purposes of applying paragraph (1), Member States shall comply with the procedures laid down in Annex *XI*, section *B*.

3. The Commission shall publish every six months the information relating to ships that have been refused access to Community ports in application of this Article.

Justification:

If a ship presents a serious risk as indicated by its detention history and flag, it should be refused access to Community ports whatever its age. Vessels flagged to a flag state on the MOU black list for three consecutive years or more should be refused access to Community ports. This amendment will discourage irresponsible use of flags of convenience which do not respect IMO Conventions and Treaties. Finally access will be refused if a VDR is not fitted.

VDRs enhance a ships security and are likely to be of considerable assistance in helping to determine the causes of accidents

(Amendment 4)

ARTICLE 1 (10a) (new)

Article 16 (2a) (new) (Directive 95/21/EC)

Article 16 is replaced by the following

Reimbursement of costs

1. Should the inspections referred to in Articles 6 and 7 confirm or reveal deficiencies in relation to the requirements of a Convention warranting the detention of a ship, all costs relating to the inspections in any normal accounting period shall be covered by the shipowner or the operator or by his representative in the port State.

2. All costs relating to inspections carried out by the competent authority of a Member State under the provisions of Article 11 (4) shall be charged to the owner or operator of the ship.

3. In the case of detention of a vessel for deficiencies or lack of valid certificates as laid down in article 9 and Annex VI, all costs relating to the detention in port shall be born by the owner or operator of the ship.

4. The detention shall not be lifted until full payment has been made or a sufficient guarantee has been given for the reimbursement of the costs.

Justification:

The directive must make clear that the detaining port authority is not liable for the extra costs incurred in detaining a ship which will occupy valuable port space whilst awaiting or undergoing repairs or valid certification

(Amendment 5)
ARTICLE 1(12)
Article 20(4) (Directive 95/21/EC) (new)

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:

In the interests of transparency, and as the European Parliament has no means of participation in the process of port State control, regular information should be made available by the Commission to the European Parliament.

(Amendment 6)
ARTICLE 19
Annex XI (new) (Dir. 95/21/EC)

Annexes IX **and** X are added, the text of which is in Annex IV to this Directive.

Annexes IX, X **and XI** are added, the text of which is in Annex IV to this Directive.

Justification:

see am. 16

(Amendment 7)
ANNEX IV
Annex XI, Directive 95/21/EC (new)

The following Annex IV is added

A. REFUSAL OF ACCESS TO ALL COMMUNITY PORTS

The following categories of ships shall be refused access to all Community ports under the terms of article 7a

- 1. Gas and chemical tankers***
- 2. Bulk carriers***
- 3. Single hull oil tankers***
- 4. Passenger ships***

**B. MANDATORY GUIDELINES
RELATING TO REFUSAL OF
ACCESS TO COMMUNITY PORTS
LKJ(as referred to in Article 7a(2))**

- 1. *If the conditions described in Article 7a are met, the competent authority of the port in which the ship is detained for the third time must inform the captain and the owner or the operator of the ship in writing of the access refusal order served on the ship. The competent authority must also inform the flag State administration, the classification society concerned, the other Member States, the European Commission, the Centre Administratif des Affaires Maritimes and the MOU Secretariat. The access refusal order will take effect as soon as the ship has been authorised to leave the port after remediation of the deficiencies leading to the detention.***
- 2. *The access refusal order may be lifted if the owner or the operator of the ship is able to show to the satisfaction of the competent authority of the port of destination that the ship can be operated without danger to the safety of passengers or crew, or without risk to other ships, or without presenting an unreasonable threat to the marine environment.***
- 3. *To this end, the owner or the operator must address a formal request for the lifting of the access refusal order to the Member State of the Community port of destination. This request must be accompanied by a certificate from the flag State administration or from the classification society acting on its behalf, showing that the ship fully conforms to the applicable provisions of the***

international conventions and satisfies the conditions mentioned in paragraph 2. The request for the lifting of the access refusal order must also be accompanied, where appropriate, by a certificate from the classification society which has the ship in class showing that the ship conforms to the class standards stipulated by that society.

4. *If the request for a lifting of the access refusal order is presented in accordance with paragraph 3, the Member State of the port of destination must, on the basis of the information provided by the owner or the operator of the ship, authorise the ship to proceed to the port of destination in question, for the sole purpose of verifying that the ship meets the conditions specified in paragraph 2.*

On arrival at the port of destination, the ship must be subjected to an expanded inspection the cost of which will be borne by the owner or the operator.

The expanded inspection must cover at least the relevant items of Annex V, section C, and the items that were inspected in the course of the last detention in a port of a Member State. The expanded inspection referred to in the previous subparagraph must be performed by the inspectors of the Member State of the port of destination, assisted by inspectors of a recognised organisation within the meaning of Directive 94/57/EC, who have no commercial interest in the ship inspected.

5. *If the results of the expanded inspection satisfy the Member State in accordance with paragraph 2, the access refusal*

order must be lifted. The owner or the operator of the ship must be informed thereof in writing. The competent authority must also notify its decision in writing to the flag State administration, the classification society concerned, the other Member States, the European Commission, the Centre Administratif des Affaires Maritimes and the MOU Secretariat.

- 6. Information relating to ships that have been refused access to Community ports must be made available in the Sirenac system and published in conformity with the provisions of Article 15 and of Annex VIII.*

Justification:

The creation of a distinct and new annex makes more transparent the types of vessel which may be refused access and the steps to be taken if access is refused.

(Amendment 8)

ANNEX II

Annex V, section D, (Directive 95/21/EC)

**D. MANDATORY GUIDELINES
RELATING TO REFUSAL OF
ACCESS TO COMMUNITY PORTS
LKJ(as referred to in Article 7a(2))**

Deleted

- 7. If the conditions described in Article 7a are met, the competent authority of the port in which the ship is detained for the third time must inform the captain and the owner or the operator of the ship in writing of the access refusal order served on the ship. The competent authority must also inform the flag State administration, the classification society concerned, the other Member States, the European Commission, the Centre*

*Administratif des Affaires
Maritimes and the MOU
Secretariat. The access refusal
order will take effect as soon as the
ship has been authorised to leave
the port after remediation of the
deficiencies leading to the
detention.*

- 8. The access refusal order may be lifted if the owner or the operator of the ship is able to show to the satisfaction of the competent authority of the port of destination that the ship can be operated without danger to the safety of passengers or crew, or without risk to other ships, or without presenting an unreasonable threat to the marine environment.*
- 9. To this end, the owner or the operator must address a formal request for the lifting of the access refusal order to the Member State of the Community port of destination. This request must be accompanied by a certificate from the flag State administration or from the classification society acting on its behalf, showing that the ship fully conforms to the applicable provisions of the international conventions and satisfies the conditions mentioned in paragraph 2. The request for the lifting of the access refusal order must also be accompanied, where appropriate, by a certificate from the classification society which has the ship in class showing that the ship conforms to the class standards stipulated by that society.*
- 10. If the request for a lifting of the access refusal order is presented in accordance with paragraph 3, the Member State of the port of destination must, on the basis of the information provided by the owner or the operator of the ship,*

authorise the ship to proceed to the port of destination in question, for the sole purpose of verifying that the ship meets the conditions specified in paragraph 2. On arrival at the port of destination, the ship must be subjected to an expanded inspection the cost of which will be borne by the owner or the operator. The expanded inspection must cover at least the relevant items of Annex V, section C, and the items that were inspected in the course of the last detention in a port of a Member State. The expanded inspection referred to in the previous subparagraph must be performed by the inspectors of the Member State of the port of destination, assisted by inspectors of a recognised organisation within the meaning of Directive 94/57/EC, who have no commercial interest in the ship inspected.

- 11. If the results of the expanded inspection satisfy the Member State in accordance with paragraph 2, the access refusal order must be lifted. The owner or the operator of the ship must be informed thereof in writing. The competent authority must also notify its decision in writing to the flag State administration, the classification society concerned, the other Member States, the European Commission, the Centre Administratif des Affaires Maritimes and the MOU Secretariat.*

Information relating to ships that have been refused access to Community ports must be made available in the Sirenac system and published in conformity with the provisions of Article 15 and of Annex VIII.

Justification:

Text currently in Annex V (D) to appear in Annex XI B

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the 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))

(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) of the EC Treaty and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C5-0174/2000),
 - 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 (A5-0343/2000),
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. 102.

EXPLANATORY STATEMENT

Introduction

The Commission proposes that the existing Directive on Port State Control(95/21/EC) be amended. This is one element in a package of three measures which together form the first of two phases of proposals to improve maritime safety. The other two proposals in this first package concern classification societies and single-hull tankers. The immediate impetus for the Commission's action was the wreck of the Maltese registered tanker, the ERIKA, of the northern French Atlantic coast in December 1999 which resulted in substantial sea and shoreline pollution.

Port State Control in the EU

The main provisions of the current Directive on Port State Control relate to the selection of ships for inspection and items for inspection. The inspection is not a full survey of the ship's condition, unlike classification society inspections, and is largely document based. The criteria laid down for selection and inspection are not mandatory although Member States must inspect 25% of vessels calling at their ports. The selection and inspection procedures, including the 25% target, largely reflect the terms of the Paris Memorandum of Understanding on Port State Control which dates from 1982 and has been signed by all seaboard Member States and a number of other European States with the support of the International Maritime Organisation. The fact that the IMO has since the early eighties encouraged regional Memorandums of Understanding on Port State Control reflects the fact that some flag states fail to respect their obligations established by International Treaties to which they are signatories.

Implementation of the current Directive

Your rapporteur takes the view that the Commission's proposals cannot be considered without reference to the implementation of the Directive it wishes to amend and which, after all, only came into force in 1996. Italy has not transposed the Directive into national legislation and the Commission has now begun an action against Italy for failing to respect the Court of Justice's initial ruling against it.

There is also the question of reaching the target of inspecting 25% of vessels calling at EU ports. The statistical annexe to the Paris MOU's most recent annual report shows that Belgium, Denmark, France and Ireland have failed to attain this. Although this is an improvement on previous years wide variations in inspection rates, from under 10% to over 40% in the EU give rise to the question-have all inspections been of a similar quality and rigour? In addition informal evidence from within the industry suggests a tendency in some ports to select ships which appear well maintained to minimise time loss and reach the 25% target.

In 1999 9% of inspections resulted in detentions in the Paris MOU area. Some flag states with very large fleets have very high detention rates. Malta and Cyprus have detention rates of about 10%. Both figure in the Paris MOU's black list.

The Commission estimates that there are currently 270 Port State Control inspectors in the EU of which 100 are in one Member State alone. These are not all dedicated solely to port state control as many have other functions. It seems evident that this number will have to increase if aspects of inspection becomes mandatory and the inspection regime is to be more effective.

Main elements in the draft amending Directive

The draft Directive amends the 1995 Directive. It seeks to introduce uniformity where the current Directive depends on discretion exercised by the port inspection authorities in the areas of the selection of vessels for inspection and the scope of the various types of inspection. It also specifies conditions under which a vessel must be refused access to port, other than when it has failed to sail to dock for repair after inspection. This latter provision is entirely new.

Banning certain vessels from EU ports

If a vessel;

- is a gas or chemical tanker, bulk carrier, single –hull oil tanker or passenger vessel(except roll on-roll off ferries covered by Directive 1999/35/EC) older than fifteen years **and**
- has been detained more than twice in a Member State port in the preceding twenty-four months **and**
- flies the flag of a State with an above average rate of detention in the three-year rolling average published by the Paris Memorandum of Understanding

then it must be refused entry to an EU port.

The reason given by the Commission for the proposal is that “it is unacceptable that certain ships posing a manifest danger to maritime safety and the marine environment continue to sail in Community waters” (introduction to draft Directive on Port State Control-Com /2000/0142 final). While agreeing entirely with this statement your rapporteur would make two observations. Firstly the proposal would not prevent such vessels which sail in Community waters but do not call at EU ports from continuing so to do. For example about 40 million tonnes of crude oil and condensates traverses the Mediterranean without a call being made at a European Union port. Secondly the Commission estimates that annually the criteria set out in the draft Directive would result in the banning of only between 10 and 20 vessels EU-wide a year. There seems an evident discordance between the Commission’s stated objective and the impact of the measure it proposes to attain it. Would the Erika have been banned under these criteria? Despite the proposed amendments to the Directive on classification societies which would make it more difficult to change society, would it still be possible for a vessel to avoid banning by changing flag?

The Selection of Vessels for inspection

The Commission's objective here is to ensure that ships which pose a high risk to maritime safety and the environment are inspected. Inspection will now be obligatory in certain cases. Absolute priority for inspection will continue to be accorded to ships calling at EU ports for the first time in 12 months, flying the flag of a "blacklisted" state and certain other categories. In addition ships with a target factor greater than 50 on the SIRENAC information system (SIRENAC is an inspection database maintained by the Paris MOU) must be inspected. A target factor of 50 or above is regarded as high risk. Elements which make up the target factor include age, flag and previous detentions. The move from discretionary to mandatory inspection of ships assessed as in high risk categories is welcome. However it should be noted that the introduction of the explicit SIRENAC score criteria will effect only 2.5% of vessels on that database. Furthermore using the SIRENAC database for inspection selection means that the database must be up-to-date and reliable.

In addition to these provisions mandatory "expanded" inspections are established for gas and chemical tankers older than 10 years, bulk carriers older than 12 years and single hull oil tankers older than 15 years.

Another possibility is the use of a Matrix system to select for inspection similar to that used by the US coastguard. Your rapporteur considers this may be a basis for an alternative approach.

The scope of inspections

The new amending Directive sets out the scope of inspection and makes aspects of inspections mandatory. Gas and chemical tankers older than 10 years, bulk carriers older than 12 years, and single hull tankers and passenger ships (except vessels covered by Directive 1999/35/EC) older than 15 years are to be subject every 12 months to an expanded inspection in port. This inspection will go beyond the examination of documents to establish that the ship conforms to the international maritime conventions and will entail, inter alia, tests of safety equipment, checks for corrosion and in the case of oil tankers examination of at least one ballast tank for corrosion. This latter is generally agreed to be a difficult and even potentially dangerous exercise. The Commission recognises that inspections can only be carried out "subject to their practical feasibility". Expanded inspections of this type and the introduction of mandatory inspections generally raise two related resource observations. Firstly Member States must ensure that Port inspectors are equipped to carry out these inspections. Secondly given that expanded inspections will take more time Member States must substantially increase the number of Port inspectors.

Databases and the exchanges of information

The draft Directive also seeks to improve the exchange and availability of information. For vessels subject to the expanded inspection regime the owner or master must communicate certain operational information 48 hours before arrival to the Port inspector.

It will be obligatory to state in the inspection report which parts of the vessel have been inspected. This report must be retained on board to be available in the following inspection port. The inspection report is also to be sent to the Flag state and the ship's classification

society. For detained vessels not only will the name of the ship's operator and classification society be published but also the identity of the charterer.

In order that the Commission can monitor the application of the Directive the Member States are to report annually on the number of vessels detained by type, flag, and classification society. A publicly accessible database ,EQUASIS, has also been set up showing ship type, registration and ownership. Your rapporteur considers there may be scope for Port control authorities to use the SIRE database for tanker risk assessment and for details of all ships inspected to be included in the relevant databases whether or not deficiencies have been found.

Commitology

Both the current and draft Directives give considerable scope to a Regulatory Committee to alter the parameters of inspection and the selection for inspection criteria((except the 25% target). This seems acceptable if the intention is, as it seems to be, to allow alignment of the Directives provisions with developments at the level of the IMO, for example the adoption of a new international convention or standard. Nevertheless Parliament should be informed annually of any changes to matters such as scope of inspection or selection for inspection criteria made by the Regulatory Committee.

Reasons for Amendments

The amendments proposed by the rapporteur at this stage concern banning vessels (Article 1 amending Article 7 of Directive 95/21). Vessels which present a serious risk to our waters should be banned no matter what their age. If a ship has a poor recent detention record and is flying the flag of a flag state with an above average rate of detentions then it is a risk no matter what its age. The aim should be to prevent such vessels, of any age, from entering EU ports and your rapporteur presents a legislative amendment in this sense.

Vessels which choose over an extended period of time to fly the flag of a blacklisted State should be banned from EU ports. It is clear that certain flag of convenience states are so lax in their implementation of international treaties and conventions that vessels flagged to them are regularly found to be seriously deficient and account for a very high proportion of all detentions. They are shown in the IMO's Black List in the statistical annexe to its annual report. Vessels whose owners choose to fly these flags for three consecutive years should be banned from EU waters. The effect of this provision proposed by legislative amendment would be to create a real incentive for owners and charterers to use flags which respect IMO treaties and conventions.

As VDR's present a simple opportunity to monitor accidents and thereby enhance safety they should be a requirement for vessels calling at our ports. No vessel not equipped with a Voyage Data Recorder should be permitted entry to an EU port

Conclusion

The world-wide reinforcement of port state control through regional Memorandums of Understanding is the consequence of the failure of certain Flag states to respect the international maritime conventions they have signed. In the light of the ERIKA disaster the Commission is right to amend Directive 95/21/EC to make aspects of port state control in the EU mandatory rather than discretionary. However for the Directive to have the desired impact, it must be firmer on banning certain vessel and implemented thoroughly and in its entirety by all the Member States. It is also important not to lose sight of the global context. Member States in concert, as members of the International Maritime Organisation, should actively seek the full implementation by all signatory states of maritime treaties and conventions and the adoption, where necessary of new agreements.

It is vital that all Member States devote sufficient resources to Port State Control to ensure the adequate implementation of the Directive as amended. In some instances this means a doubling or more of the number of inspectors and steps taken to ensure they are all adequately trained and equipped. Port State Control can no longer be a function tagged on to others and for this reason inspectors should work full-time on Port State Control.

The Commission, the Paris MOU and the industry generally must strive to ensure the SIRENAC and EQUASIS data bases are reliable and up to date given the roles they will place in allowing inspectors to target their inspections.

ANNEX

(Matrix used to select ships for inspection)

U.S. COAST GUARD

Boarding Priority Matrix

<u>OWNER</u>	<u>FLAG</u>	<u>CLASS</u>	<u>HISTORY</u>	<u>SHIP TYPE</u>
5 points Listed Owner or Operator	7 Points Listed Flag State	<p align="center">Priority 1</p> <p>10 or more arrivals with detention ratio more than 4 times the average OR fewer than 10 arrivals and involved with at least one detention in the previous 3 years</p> <p align="center">5 Points</p> <p>10 or more arrivals with a detention ratio between 3 and 4 times the average</p> <p align="center">3 Points</p> <p>10 or more arrivals with a detention ration between 2 and 3 times the average</p> <p align="center">1 Point</p> <p>10 or more arrivals with a detention ratio between the average and twice the average</p> <p align="center">0 Points</p> <p>10 or more arrivals with a detention ratio below the average OR fewer than 10 arrivals with no detentions in the previous 3 years</p>	<p>5 Points EA.</p> <p>Detention within the previous 12 months</p> <p align="center">1 Point Ea.</p> <p>Other operational control within the previous 12 months</p> <p align="center">1 Point Ea.</p> <p>Casualty within the previous 12 months</p> <p align="center">1 Point Ea.</p> <p>Violation within the previous 12 months</p> <p align="center">1 Point Ea.</p> <p>Not boarded within the previous 6 months</p>	<p>1 Point</p> <p>Oil or Chemical Tanker</p> <p align="center">1 Point</p> <p>Gas Carrier</p> <p align="center">2 Points</p> <p>Bulk freight or over 10 years old</p> <p align="center">1 Point</p> <p>Passenger Ship</p> <p align="center">2 Points</p> <p>Carrying low value commodities in bulk</p>

. Priority I vessels:

- . 17 or more points on the Matrix, or
- . ships involved in a marine casualty that may have affected seaworthiness, or
- . USCG Captain of the Port determines a vessel to be a potential hazard to the port or the environment, or
- . ships whose classification society has ten or more arrivals the previous year and a detention ratio more than four times the average, or
- . ships whose classification society has less than ten arrivals the previous year and have been associated with at least one detention.
- . Port entry may be restricted until vessel is examined by the Coast Guard.

. Priority II vessels:

- . 7 to 16 points on the Matrix, or
- . outstanding requirements from a previous boarding in this or another U.S. port, or the vessel is overdue for an annual tank or passenger exam.
- . Cargo operations may be restricted until vessel is examined by the Coast Guard.

. Priority III vessels:

- . 4 to 6 points on the Matrix, or
- . alleged deficiencies reported, or
- . the vessel is overdue for an annual freight examination, or quarterly passenger vessel re-exam.
- . No operational restrictions imposed; vessel will most likely be examined at dock.

. Priority IV vessels:

- . 3 or fewer points on the Matrix.
- . Vessel is a low risk, and will probably not be boarded.

**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))
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)
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))

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.

(Amendment 2)
Recital 14a (new)
(2000/0065 (COD) – Directive 95/21/CE)

(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, <i>or</i> |
|---|--|

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

- ***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.

(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."

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.

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 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))

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 last 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 Bowe, 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 wreck of the oil tanker Erika on 12 December 1999 was a disaster waiting to happen. The Erika presented all the characteristic features of a high-risk vessel: built with a single hull in 1975, it had changed names seven times and had been 'inspected' by four different classification societies; registered in Malta since 1993, it had previously flown the Japanese and Liberian flags.

Of the 77 oil tankers 'lost at sea' since 1992, 60 were more than 20 years old.

The causes analysed by the Commission fall into two categories, with shipwrecks being attributed to human error and to the generally poor state of the vessel's structure, particularly in the case of the oldest vessels.

The underlying reasons are of an economic nature and are linked to the race for profits and the impact of unbridled competition in a deregulated market. The Commission notes that fewer and fewer tankers are owned by oil companies themselves and that there are more and more single-ship umbrella companies; widespread use of flags of convenience makes it possible to take on poorly trained and under-paid seamen on the most precarious conditions.

All these factors combine to make it difficult to unravel the chain of responsibility. The regulations, which are numerous, are poorly applied and do not allow either effective prevention or real, dissuasive sanctions against polluters. Classification societies are sometimes lax and not sufficiently independent from the flag state. There is no transparent monitoring of the state of vessels, and no obligation to carry out checks.

In view of this situation, the Commission is proposing an initial package of three pieces of legislation: a directive on the rules governing vessel inspections by the port state, a directive on the monitoring of classification societies and a regulation designed to phase out single hull tankers.

In the near future, the Commission will also submit a second package of legislation geared to ensuring systematic exchanges of information, improving surveillance of navigation, establishing a European structure for maritime safety and extending the liability of the various players in the seaborne oil trade.

The first three measures are aimed at improving checks and establishing procedures and rules governing inspections (both of vessels and of classification societies), and finally placing more responsibility on states and on the Commission.

It would have appeared judicious to begin by placing more responsibility on the economic players in maritime transport themselves. The chain of responsibility is not clear and the polluter-pays principle is not unambiguously established.

Finally, even though the Commission's analysis reveals that many accidents can be attributed to human error (particularly linked to fatigue), its proposals do nothing to address the situation of seafarers. There is no mention of abandoned crews, deaths or injuries, and no mention either of the introduction of a convention regulating crew levels, wages and the duration of working time. Even though it is clear that the ILO and IMO are responsible for labour

legislation, the European Union might make a start by applying social legislation of a high standard.

The status of members of the crew and their living conditions on board might be monitored in parallel with the technical monitoring provided for in the draft directives. Amendments will be tabled to that effect.

The proposal to amend Directive 95/21/EC is designed to strengthen port state control. The intention is to:

- ban from European waters ships identified as being the most dangerous: ships more than 15 years old, which have been detained more than twice over the last two years and/or which fly the flag of a state on the blacklist of detentions;
- carry out compulsory inspections on ships posing a high risk to maritime safety and the environment, in particular single hull ships and ships which are 15 years old or more;
- make it obligatory to draw up a report stating which parts of the ship have been inspected; that report is to be forwarded to the flag state and the classification society concerned;
- verify the documents relating to the financial guarantee covering pollution risk;
- authorise the publication of certain information:
 1. the identity of the charterer and type of charter
 2. information on the most recent inspection
 3. measures taken following a detention.

These provisions are to be welcomed and are likely to improve maritime safety.

Nevertheless, no measures have been proposed on training for inspectors, the number of inspectors or consistency between inspections carried out in different countries.

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 in its report:

Text proposed by the Commission¹

Amendments by Parliament

(Amendment 1)
Recital -1(new)

(-1) The Council conclusions of 26 June 2000 on maritime safety.

¹ OJ C 212, 25.7.2000, p. 102.

Justification:

It is important to mention the conclusions of the Council's debate on the topic.

(Amendment 2)

Recital 3

(3) Some ships pose a manifest risk to maritime safety and the marine environment because of their **age**, flag and history. They should therefore be refused access to Community ports, ***unless it can be demonstrated that they can be operated safely in Community waters***. Guidelines must be established setting out the procedures applicable in the event of imposition of an access ban and of the lifting of such a ban. The list of ships refused access to Community ports must be published and displayed by the Sirenac information system.

(3) Some ships pose a manifest risk to maritime safety and the marine environment because of their **poor condition**, flag, ***the technology used in their construction*** and their history. They should therefore be refused access to Community ports ***and to the territorial waters of the Member States***. Guidelines must be established setting out the procedures applicable in the event of imposition of an access ban and of the lifting of such a ban. The list of ships refused access to Community ports ***and to the territorial waters of the Member States*** must be published and displayed by the Sirenac information system.

Justification:

The technology used in construction is a determining factor in assessing the possible risk.

(Amendment 3)

Recital 3a (new)

(3a) Ships flying the flag of a country that is not a Community Member State, on board which compliance with the minimum social standards as laid down in the ILO's international conventions is not assured, and ships flying the flag of a Community Member State that do not comply with Directive 1999/95¹ on working conditions at sea will be refused access to Community ports and the territorial waters of Member States.

¹ *OJ L 14, 20.1.2000, p. 29*

Justification:

We must include in the criteria for prohibition the case of ships whose crews do not enjoy the legal minimum standards for their working conditions.

(Amendment 4)

Recital 5

(5) The categories of ships listed in Annex V also present a major accident or pollution hazard ***when they reach a certain age***. The broad discretionary power of the inspection authority as to whether to select such ships for expanded inspection prevents the achievement of uniform practices within the Community. It is therefore necessary to make inspection of these ships mandatory.

(5) The categories of ships listed in Annex V also present a major accident or pollution hazard ***whatever their age***. The broad discretionary power of the inspection authority as to whether to select such ships for expanded inspection prevents the achievement of uniform practices within the Community. It is therefore necessary to make inspection of these ships mandatory ***and thorough***.

Justification:

Simple inspections are not sufficient to observe and assess the state of the vessel and calculate the risk of an accident. Those inspections must be as comprehensive as possible.

(Amendment 5)

Recital 7a (new)

(7a) The application of high social standards to all ships is a central condition for safety at sea.

Justification:

There is a need to take account of proper compliance with social standards on board ship as a central aspect of safety at sea.

(Amendment 6)
Recital 8a (new)

(8a) Some agencies such as NGOs, seamen's unions and seamen's aid associations must be entitled to board ships to satisfy themselves that the living and working conditions and pay levels are acceptable. In so doing they must be able to have access to the seamen's living quarters.

Justification:

The inspectors' work must be backed up by action by NGOs and seamen's unions and aid associations.

(Amendment 7)
Recital 9

(9) Given the risks of major pollution caused by oil tankers ***and in view of the fact that the great majority of deficiencies leading to detention concern ships older than 15 years***, the expanded inspection regime should be applied to oil tankers ***from the age of fifteen***.

(9) Given the risks of major pollution caused by oil tankers, the expanded inspection regime should be applied to oil tankers ***whatever their age***.

Justification:

Ships under Annex V must be inspected whatever their age, as they pose an additional risk to the environment because of the goods they carry.

(Amendment 8)
Recital 10a (new)

(10a) Improving maritime safety requires that crews should be fully qualified and should enjoy good shipboard working conditions; otherwise, there will be a detrimental effect on efforts made to prevent marine pollution.

Justification:

Self-explanatory.

(Amendment 9)
Recital 10b (new)

(10b) The Member States of the European Union should not only ratify the international conventions (IMO and ILO) on shipboard working conditions but should also make the adjustments to their national legislation necessary for their application and look for solutions to the frequent problem of crews abandoned by shipowners in Community ports.

Justification:

Self-explanatory.

(Amendment 10)
Recital 10c (new)

(10c) Inspections should not be confined to vessels calling at Community ports but should also be carried out on vessels passing through waters falling under the jurisdiction of the Member States, ensuring that they comply with international rules on maritime safety, the prevention of pollution and shipboard living and working conditions.

Justification:

Surveillance of the waters under a state's own jurisdiction is a significant precondition if the objectives of the directive are to be achieved.

(Amendment 11)
Recital 10d (new)

(10d) The applicant countries should associate themselves with the EU's efforts to develop a policy on maritime safety at all levels which will reduce the risk of accidents, preventing loss of life and marine pollution.

Justification:

It is highly important to involve the applicant countries from the start in order to prevent future problems linked to their fleets and safety levels in the European context.

(Amendment 12)
Recital 10e (new)

(10e) The proliferation of flags of convenience is weakening international action on maritime safety and the prevention of marine pollution.

Justification:

It would be appropriate for states to reflect on the risk posed by the shady practices associated with certain flags of convenience and on the threat to the environment which they represent.

(Amendment 13)
Recital 11

(11) The administration of the flag State of a ship inspected or the classification society concerned must be informed of the result of inspection in order to ensure more effective monitoring of the development and, where appropriate, the deterioration in the state of the ship in order to take the necessary remedial action while there is still time.

(11) The administration of the flag State of a ship inspected or the classification society concerned must be informed of the result of inspection in order to ensure more effective monitoring of the development and, where appropriate, the deterioration in the state of the ship in order to take the necessary remedial action while there is still time. ***That information must be public and be available to NGOs involved in this area.***

Justification:

Organisations working to protect the marine environment and combat pollution should be expressly and explicitly informed of possible risks.

(Amendment 14)
Recital 12

(12) ***Accidental*** pollution by oil ***is likely to cause*** considerable damage to the environment and the economy of the region concerned. It is therefore necessary to verify whether oil tankers calling at European Union ports have appropriate cover for such risks. Whenever an oil tanker carrying more than 2 000 tonnes of

(12) Pollution by oil ***causes*** considerable damage to the environment and the economy of the region concerned. It is therefore necessary to verify whether oil tankers calling at European Union ports have appropriate cover for such risks. Whenever an oil tanker carrying more than 2 000 tonnes of oil in bulk is inspected, the

oil in bulk is inspected, the inspector must check the presence on board of an insurance or other financial guarantee covering pollution damage, in conformity with the 1969 International Convention on Civil Liability for Oil Pollution Damage, as amended by its 1992 Protocol.

inspector must check the presence on board of an insurance or other financial guarantee covering pollution damage, in conformity with the 1969 International Convention on Civil Liability for Oil Pollution Damage, as amended by its 1992 Protocol.

Justification:

Self-explanatory.

(Amendment 15)

Recital 16

(16) As the measures required to implement this Directive are measures of general scope within the meaning of Article 2 of Council Decision 1999/468/EC, they should be adopted according to the regulatory procedure laid down in Article 5 of that Decision.

Deleted

Justification:

These changes are in line with Parliament's general guidelines on commitment.

(Amendment 16)

ARTICLE 1(3a) (new)

Article 6(1) (Directive 95/21/EC)

3a. The following subparagraph (ba) is inserted in Article 6(1) of Directive 95/21/EC:

(ba) satisfy himself that the social agreements and rest periods for crews are being complied with in accordance with the ILO's standards.

Justification:

Checking compliance with social standards on board ships is an integral part of inspection operations.

(Amendment 17)
ARTICLE 1(5)
Article 7a(1) (Directive 95/21/EC)

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:
- 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.

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.

1. Member States shall ensure that ships 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:
- have been detained more than twice in the course of the preceding 24 months in a port of a Member State, and/or
 - 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.

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.

Justification:

Ships under Annex V must be inspected whatever their age, as they pose an additional risk to the environment because of the goods they carry.

(Amendment 18)
ARTICLE 1(5)
Article 7a(3) (Directive 95/21/EC)

3. The Commission shall publish **every six months** the information relating to ships that have been refused access to Community ports in application of this Article.”

3. The Commission shall publish **every three months** the information relating to ships that have been refused access to Community ports in application of this Article.”

Justification:

There is a need to have a document as up-to-date as possible to strengthen the impact of all those involved in safety at sea.

(Amendment 19)
ARTICLE 1(6)
Article 8(1) (Directive 95/21/EC)

1. On completion of an inspection, a more detailed inspection or an expanded inspection, the inspector shall draw up a report containing at least the information listed in Annex X, giving the results of the inspection, the parts or elements of the ship that have been inspected in the case of a more detailed or an expanded inspection, the details of any decisions taken by the inspector and of the corrective action to be taken by the master, owner or operator.

1. On completion of an inspection, a more detailed inspection or an expanded inspection, the inspector shall draw up a report containing at least the information listed in Annex X, **reporting on the proper application of social standards and** giving the results of the inspection, the parts or elements of the ship that have been inspected in the case of a more detailed or an expanded inspection, the details of any decisions taken by the inspector and of the corrective action to be taken by the master, owner or operator.

Justification:

Checking compliance with social standards on board ships is an integral part of inspection operations.

(Amendment 20)
ARTICLE 1(10)
Article 15(2) (Directive 95/21/EC)

“2. The information listed in Annex VIII, Parts I and II, and the information on changes, suspensions and withdrawals of class referred to in Article 15(3) of Directive 94/57/EC, shall be available in the Sirenac system. It shall be made public through the Equasis information system, when the latter becomes operational, **as soon as possible** after the inspection has been completed or the detention has been lifted.”

“2. The information listed in Annex VIII, Parts I and II, and the information on changes, suspensions and withdrawals of class referred to in Article 15(3) of Directive 94/57/EC, shall be available in the Sirenac system. It shall be made public through the Equasis information system, when the latter becomes operational, **immediately** after the inspection has been completed or the detention has been lifted.”

Justification:

There is a need to reduce delays in publishing the results of inspections as much as possible.

(Amendment 21)
ARTICLE 1(11)
Article 18 (Directive 95/21/EC)

'Article 18

Regulatory Committee

1. The Commission shall be assisted by the Committee set up pursuant to Article 12 of Directive 93/75/EEC.

2. Where reference is made to this provision, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, in conformity with the provisions of Article 8 of the Decision.

3. The period stipulated in Article 5(6) of Decision 1999/468/EC shall be three months.'

'Article 18

Committee procedure

The Commission shall be assisted by an advisory committee as referred to in Article 3 of Council Decision 1999/468/EC, having regard to Articles 7 and 8 thereof.'

Justification:

These changes are in line with Parliament's general guidelines on committeeology.

(Amendment 22)
ARTICLE 1a (new)

Member States shall cooperate in developing a system for exchanging experience on organisation and working methods, in particular on improving coordination between their various maritime administrations, and shall forward a report to the Commission by 1 January 2003.

The Commission, on the basis of those reports, shall submit proposals for the creation of a system for assisting maritime traffic at European level, a system of vessel monitoring which, by using the most advanced technologies, will make it possible to locate vessels more efficiently, and a database at Community level on incidents and accidents at sea.

The Commission shall also draw up a report on the application of Community

law in the Member States and shall propose the relevant initiatives to establish a legal framework which will strengthen the provisions in force with regard to liabilities for pollution caused by petroleum products.

Both reports shall be forwarded to the European Parliament and to the Council by 1 January 2004.

Justification:

Self-explanatory.

(Amendment 23)

ANNEX II

Annex V(A), points 1, 2, 3 and 4 (Directive 95/21/EC)

1. Gas and chemical tankers *older than 10 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.*

2. Bulk carriers *older than 12 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.*

3. Single hull oil tankers *older than 15 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.*

4. Passenger ships *older than 15 years of age* other than the passenger ships referred to in Article 2(a) and (b) of Directive 1999/35/EC.

1. Gas and chemical tankers.

2. Bulk carriers.

3. Single hull oil tankers.

4. Passenger ships other than the passenger ships referred to in Article 2(a) and (b) of Directive 1999/35/EC.

Justification:

Ships under Annex V must be inspected whatever their age, as they pose an additional risk to the environment because of the goods they carry.

