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*****III REPORT**

on the joint text approved by the Conciliation Committee 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
(PE-CONS 3656/2001 - C5-0526/2001 – 2000/0066(COD))

European Parliament delegation to the Conciliation Committee

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)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

At the sitting of 30 November 2000 Parliament adopted its position at first reading on the 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 – 2000/0066 (COD)).

At the sitting of 28 February 2001 the President of Parliament announced that the common position had been received and referred to the Committee on Regional Policy, Transport and Tourism (5178/1/2001 – C5-0075/2001).

At the sitting of 16 May 2001 Parliament adopted amendments to the common position.

By letter of 20 August 2001 the Council stated that it was unable to approve all Parliament's amendments.

The President of the Council, in agreement with the President of Parliament, convened a meeting of the Conciliation Committee on 18 September 2001.

At the meeting the Conciliation Committee considered the common position on the basis of the amendments proposed by Parliament.

By letter of 24 October 2001 the President of the Council informed Parliament that it was necessary to extend the deadline for adopting the act, as laid down in Article 251(7) of the EC Treaty.

In the light of subsequent trialogues and delegation meetings agreement was reached by exchange of letters of 19 October 2001 and 24 October 2001.

On 24 October 2001 Parliament's delegation to the Conciliation Committee adopted unanimously, with one abstention, the results of the conciliation.

The following were present for the vote: James L.C. Provan, Vice-President and chairman of the delegation; Konstantinos Hatzidakis, chairman of the Committee on Regional Policy, Transport and Tourism; Sir Robert Atkins (for Georg Jarzembowski), Emmanouil Bakopoulos, Theodorus J.J. Bouwman (for Josu Ortuondo Larrea), Giovanni Claudio Fava (for Renzo Imbeni), Carmen Fraga Estévez (for Ingo Friedrich), Brigitte Langenhagen and Emmanouil Mastorakis and Mark Francis Watts.

On 13 November 2001 the co-chairmen of the Conciliation Committee established that the joint text had been approved, pursuant to paragraph III.8 of the joint declaration on practical arrangements for the new codecision procedure,¹ and forwarded it to Parliament and the Council in all the official languages.

The report was tabled on 30 November 2001.

¹ OJ C 148, 28.5.1999, p. 1.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the joint text approved by the Conciliation Committee 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 (PE-CONS 3656/2001 – C5-0526/2001 – 2000/0066(COD))

(Codecision procedure: third reading)

The European Parliament,

- having regard to the joint text approved by the Conciliation Committee (PE-CONS 3656/2001 – C5-0526/2001),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2000) 142²),
 - having regard to the amended proposal (COM(2000) 849³),
 - having regard to its position at second reading⁴ on the Council common position⁵,
 - having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2001) 338 – C5-0265/2001⁶),
 - having regard to Article 251(5) of the EC Treaty,
 - having regard to Rule 83 of its Rules of Procedure,
 - having regard to the report of its delegation to the Conciliation Committee (A5-0441/2001),
1. Approves the joint text;
 2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
 3. Instructs its Secretary-General duly to sign the act and, in agreement with the Secretary-General of the Council, to have it published in the Official Journal of the European Communities;
 4. Instructs its President to forward this legislative resolution to the Council and Commission.

¹ OJ C 228, 13.8.2001, p. 17

² OJ C 212, 25.7.2000, p. 114

³ OJ C 154, 29.5.2001, p. 51

⁴ Texts Adopted, 16.5.2001

⁵ OJ C 101, 30.3.2001, p. 1

⁶ OJ C not yet published

EXPLANATORY STATEMENT

Introduction

After the sinking of the tanker *Erika* on 12 December 1999, the European Parliament and the Council called for a major strengthening of the Community rules on maritime safety. The Commission acted rapidly on these demands, submitting the three proposals known collectively as the '*Erika* I package'. These are: the proposal under discussion in this report; the proposal on standards for shipping using Community ports (rapporteur: Mr Watts), whose legislative history has been identical; and, finally, the proposal on the introduction of double hull standards for single hull oil tankers (rapporteur: Mr Hatzidakis), which is to be debated and voted on at the forthcoming part-session. The '*Erika* II package', now being debated, concerns complementary measures of a different kind, i.e. those aimed at ensuring longer-term forms of protection against accident and pollution risks in the European maritime area.

With respect to the present report, Directive 94/57 establishes a system of Community-wide recognition of survey organisations, i.e. organisations that, in compliance with the international conventions, may be authorised to a various extent to inspect ships and issue the relevant safety certificates on behalf of the Member States.

The evolution of the applicable legislation at both Community and international level, in particular the codes and resolutions of the International Maritime Organisation (IMO), has been such that further adaptations of the directive are now required.

More specifically, the divergence in the financial liability regimes of the organisations working on behalf of the Member States has represented a considerable difficulty in the proper implementation of Directive 94/57. It is therefore appropriate to bring about a degree of harmonisation at Community level of the liability arising out of any incident caused by a recognised organisation, in relation to the settlement of disputes through legal procedures.

In addition, one of the necessary conditions for the initial and continued recognition of an organisation must be that it can demonstrate a good record of safety and pollution prevention performance, measured in respect of all ships classed by it, irrespective of the flag they fly.

Finally, the granting of recognition and the subsequent monitoring of recognised organisations should be centralised and should be the joint responsibility of the Commission and the Member State which has asked for the recognition.

First and second reading

On 30 November 2000 the European Parliament adopted the first-reading report by Josu Ortuondo Larrea (Verts/ALE, ES). The amendments in this report essentially concerned the practical aspects of the classification system, the withdrawal of recognition in case of serious accidents, greater transparency in the provision of information by the organisations, and the revision of the compensation levels relating to their liability.

On 26 February 2001 the Council adopted its common position. The changes introduced in the

new text, arising from the modification of the proposal by the Commission, related primarily to financial liability and, notably, the limits to the sums payable in case of personal injury or material damage.

Parliament adopted the present rapporteur's second-reading report on 16 May 2001. This report contained seven amendments relating to potential conflicts of interest between the survey organisation and shipowners or shipbuilders and to various aspects of the limits of the financial liability of the organisations arising from negligence or omission in the course of inspection.

The directive at the conciliation stage

Following the Council's communication to the effect that it could not accept all of Parliament's amendments, the delegation of Parliament was constituted, following the written procedure, on 28 June 2001. The Council had, in fact, accepted only three of Parliament's amendments at its second reading.

The trialogue meetings took place on 11 September and 18 October 2001, and their respective results were analysed by the EP delegation on 4 and 24 October. The conciliation procedure was formally opened on 18 September, in the course of the conciliation meeting on the money laundering directive.

As far as the substantive aspects were concerned, the discussion centred on the following:

- the question of 'conflict of interests'. On this point, the Council finally accepted that an organisation should not be controlled by shipowners or shipbuilders, or by others engaged commercially in the manufacture, equipping, repair or operation of ships. It was also agreed that, when submitting their request for recognition, survey organisations and their surveyors should give an undertaking in writing on an individual basis not to accept statutory work where there is a likelihood of a conflict of interests, i.e. where there is identity with the owner or operator of the ship to be inspected or there are business, personal or family links to the owner or operator;

- the limits of financial liability in respect of the maximum sums payable in case of accidents arising from negligence or omission imputable to the organisation (which should be obliged to compensate the administration following the decision of a court). Parliament's amendment proposed a maximum of EUR 4 m to 7 m in case of personal injury or death and EUR 2 m to 4 m in case of material damage. Over and above these maxima, Parliament considered that administrations should not attempt to recover further sums from the survey organisations. Finally, the delegations of the two institutions concluded that this aspect should be examined in the light of the evaluation report to be submitted by the Commission on the economic impact of the liability regime and, in particular, its consequences for the financial equilibrium of recognised organisations. The Commission will, if necessary in the light of this evaluation, submit a proposal amending the directive with more specific reference to the principle of liability and the maximum liabilities

Conclusion

Parliament may consider the end result of the conciliation to be satisfactory, as the majority of its amendments have been incorporated, whether in full, in revised form or in spirit, into the joint text. It is therefore proposed that the text be adopted in plenary at third reading.