

Port State control. Recast

2005/0238(COD) - 11/06/2008 - Commission communication on Council's position

The Commission endorses the Council's approach regarding the flexibility of the new inspection scheme. However, regarding the authorised ceiling for missed inspections, the Commission feels that the 5% rate of missed inspections which it had proposed and which is also in line with the current Directive, is a realistic approach. The Commission cannot therefore accept raising this percentage to 10% for medium or low-risk ships as suggested by the Council.

Moreover, by removing the permanent ban and replacing it with a temporary one of up to 36 months depending on several criteria, the Council has deviated significantly from one of the most important aspects of the Commission's proposal. The Commission cannot endorse the Council's approach regarding this issue.

To a lesser extent, the way in which the Council deals in its common position with the matter of inspections at anchor also poses problems. The Council has not retained the inclusion of ships anchored outside ports in the scope of the Directive and simply refers to the concept of ports' jurisdiction. The construction proposed by the Council risks being interpreted differently and restrictively by different Member States and could potentially make this provision meaningless. The Commission does feel it is essential to be able to inspect ships at anchor. Moreover, this is what the Council itself called for after the Prestige disaster. Substandard ships which simply pass through European waters without calling at a port pose a particular risk. An inspection at anchor by the port State may be the only way to inspect these ships.

In conclusion, the Commission takes note of the Council's common position, which was unanimously adopted and which does not generally amend either the objectives or the spirit of its proposal, but wishes to point out that its views differ on several specific points, such as removing the permanent ban and replacing it by a temporary one, and to a lesser extent on the Council's approach concerning inspections at anchor and increasing the authorised ceiling for missed inspections from 5% to 10%.