Common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations. Recast

2005/0237A(COD) - 24/09/2008 - Text adopted by Parliament, 2nd reading

The European Parliament adopted by 638 votes to 21, with 9 abstentions, a legislative resolution amending the Council common position for adopting a directive of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (recast).

The recommendation for second reading (co-decision procedure) had been tabled for consideration in plenary by Luis de **GRANDES PASCUAL** (EPP-ED, ES) on behalf of the Committee on Transport and Tourism.

The main purpose of the amendments is to reinstate Parliament's position at first reading.

Recognised organisations: MEPs consider that the name 'recognised organisations' should be used throughout the directive (instead of 'classification societies').

Purpose: it is stated that the purpose of the directive is to ensure that Member States effectively and consistently discharge their obligations as flag States, in accordance with international conventions.

Definitions: the definition of 'international conventions' should include the International Convention on Tonnage Measurement of Ships, 1969 (Tonnage 69), the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 1978), and the Convention on International Regulations for Preventing Collisions at Sea, 1972 (COLREG 72).'Administration' means the competent authorities of the Member State whose flag the ship is flying, including departments, agencies, and bodies, in charge of the implementation of the Flag State-related provisions of the IMO Conventions.

Responsibilities and obligations of Member States: Member States shall: (a) apply the provisions of the Flag State Code; (b) take the necessary measures for an independent auditing of their administration at least once every five years, in accordance with the rules of the IMO; (c) take the necessary measures with regard to the inspection and survey of ships and the issue of statutory certificates and exemption certificates as provided for by the international conventions.

Flag State requirements: a new article stipulates that, prior to allowing the operation of a ship, which has been granted the right to fly its flag, the Member State concerned shall take the appropriate measures to ensure that the ship in question complies with the applicable international rules and regulations. In particular, it shall verify the safety records of the ship by all reasonable means and shall, if necessary, consult with the administration of the losing flag State. Whenever a flag State requests information concerning a ship which was previously flying the flag of a Member State, the requested Member State shall promptly provide details of outstanding deficiencies and any other relevant safety-related information to the requesting flag State.

Information: Member States shall ensure that at least certain information concerning the ships flying their flag is kept under the direct control of a public authority and remains at all times readily accessible to the administration by appropriate electronic means (for example, particulars of the ship; dates of the surveys; identification of the recognised organisations involved in the certification and classification of the ship;

identification of the body which has inspected the ship under Port State control provisions and dates of the inspections; outcome of the port State control inspections; information on casualties; identification of the ships which have ceased to fly the flag of the Member State concerned during the previous 12 months).

Quality management: each Member State shall, within the framework of a quality management system, continuously evaluate and review its performance as a flag State. These evaluations shall, over a [36] month period, cover all aspects of the quality management system for the operational parts of the administration. As a minimum, the following performance indicators shall be included in the evaluation: (i) port State control detention rates; (ii) flag State inspection results; (iii) performance indicators, as may be appropriate, to determine whether staffing, resources and administrative procedures are adequate to meet the flag State obligations. The quality management system shall be set up and certified within a period of three years from the entry into force of the Directive.

Report: the Commission shall, before the end of 2010, submit to the European Parliament and the Council a report on the feasibility of establishing a Memorandum of Understanding on flag State control obligations, aiming at ensuring a level playing field between flag States which have committed themselves to implementing in a mandatory way the Flag State Code and agreed to be audited in accordance with the provisions of Resolution A. 974 (24), adopted by the IMO Assembly on 1 December 2005.

Role of recognised organisations: an amendment specifies that, when a recognised organisation, its inspectors, or its technical staff issue the required certificates on behalf of the authority, they shall be subject to legal safeguards and judicial protection, including the exercise of any rights of defence, in the same forms as those to which the authority and its members could have had recourse had the authority issued the required certificates itself.

Maximum amount payable: while the common position states that the maximum amount payable by the recognised organisation must be at least equal to EUR 4 million (in the event of a marine casualty with personal injury not resulting in death) and EUR 2 million (damage to property), the Parliament stipulates that where the amount determined in the judgment or settlement is lower, this latter amount shall constitute the compensation payable.

Suspension of authorisation: Member States shall be left with the possibility of suspending their authorisation of a recognised organisation for reasons of serious danger to safety or the environment. According to MEPs, the Commission should decide without delay, in accordance with the committee procedure, whether any national measure to the above effect should be overruled. If the decision is not justified, the Commission shall request the Member State to withdraw the suspension. If the decision is justified, the Commission shall request the Member State to grant a new authorisation to another recognised organisation to replace the suspended organisation.

Transposition: this should take place within 18 months (instead of 24) of the date of entry into force of the Directive.