Insurance of shipowners for maritime claims

2005/0242(COD) - 09/12/2008 - Commission communication on Council's position

The Commission’s initial ambitions, supported by the European Parliament in its opinion at first reading, were considerably curtailed by the Council. The common position retains only part of the initial proposal.

The following amendments have been made by the Council:

- the title ‘Directive on the civil liability and financial guarantees of shipowners’ has been superseded by a new title ‘Directive on the insurance of shipowners for maritime claims’;
- the requirement to ratify LLMC 1996 has been deleted, the Member States undertaking in a parallel declaration to ratify it by 1 January 2012 (together with the other relevant Conventions); the provision on the incorporation of the Convention into Community law has also been deleted;
- the provisions on the abandonment of seafarers have been deleted;
- the provisions on Community checks to ensure that insurance has been taken out have been deleted;
- the provision requiring notification of the insurance certificate on entry into maritime areas under the jurisdiction of Member States has been deleted;
- the provisions on direct action against insurers have been deleted.

The following has been retained:

- the requirement for all ships flying the flag of a Member State (throughout the world) and for all ships entering a maritime area under the jurisdiction of a Member State to have insurance cover; the cover must correspond to the ceilings set out in LLMC 1996;
- the proof of insurance will be provided by a commercial insurance certificate;
- whether or not the ship is carrying an insurance certificate can be verified during an inspection under the Port State Control Directive;
- where the ship is not carrying a certificate, it may be detained or even expelled, without prejudice to any financial penalties to be determined by each Member State ;
- the date of entry into force of the Directive is postponed until 1 January 2012, the date by which the Member States (by means of the declaration referred to above) undertake all to have ratified LLMC 1996.

Despite the deletions made by the Council, the common position retains a number of points of substance. The Commission notes that the Council, after having expressed its opposition on principle to the proposal at its meeting in April 2008, was finally able unanimously to adopt a common position on a text that brings added value.