Marine equipment

2012/0358(COD) - 17/12/2012 - Legislative proposal

PURPOSE: to enhance safety at sea and the prevention of marine pollution through the uniform application of the relevant international instruments relating to equipment to be placed on board ships, and to ensure the free movement of such equipment within the Union.

PROPOSED ACT: Directive of the European Parliament and of the Council.

BACKGROUND: the international maritime safety conventions require flag States to ensure that the equipment carried on board ships complies with certain safety requirements as regards design, construction and performance, and to issue the relevant certificates. To that end, detailed performance and testing standards for certain types of marine equipment have been developed by the International Maritime Organisation (IMO) and by the international and European standardisation bodies.

The international instruments leave a significant margin of discretion to the flag administrations.

Back in 1995, the Commission clearly identified the problems encountered in the Internal Market as a result of this state of affairs and in the absence of EU harmonisation in the marine equipment sector.

Council Directive 96/98/EC on marine equipment (MED) thus laid down common rules to eliminate differences in the implementation of international standards by means of a clearly identified set of requirements and uniform certification procedures.

Experience has shown that it is necessary to take additional measures in order to enhance the implementation and enforcement mechanisms of the said Directive and simplify the regulatory environment while guaranteeing that IMO requirements are applied and implemented in a harmonised way across the Union.

Decision No 768/2008 (New Legislative Framework) constitutes a general framework of a horizontal nature for future legislation harmonising the conditions for the marketing of products and a reference text for existing legislation. This general framework provides appropriate solutions to the problems identified in the implementation of Directive 96/98/EC. It is therefore necessary to incorporate the definitions and reference provisions of Decision No 768/2008 into this Directive by making the adaptations which are required by the specific features of the marine equipment sector.

IMPACT ASSESSMENT: the impact assessment focused on **two alternatives** to the baseline (*statu quo*) scenario, namely: (i) a maximum alignment with the new legislative framework; and (ii) **conditional alignment**, allowing for a number of MED-specific measures in order to cater for the sector's particular features.

The analysis showed that **conditional alignment** was the most effective and least burdensome solution and, at the same time, it had the most positive overall economic, social and environmental impacts.

LEGAL BASIS: Article 100(2) of the Treaty on the Functioning of the European Union (TFEU).

CONTENT: the proposal aims to establish requirements for marine equipment to meet the safety standards laid down in the applicable international instruments, including the relevant testing standards, in order to ensure that equipment which complies with these requirements can circulate unimpeded within the Internal Market and be placed on board ships flying the flag of any Member State .

Scope: the scope of the Directive is defined by reference to equipment which is (a) due to be installed on board a ship flying the flag of a Member State , and (b) for which the approval of the flag State is required by the international conventions.

Requirements for marine equipment: these are defined by reference to the international conventions and instruments. As required by these, demonstration of compliance is confined to the specific applicable testing standards. Given the need to ensure continued consistency with the international regulatory framework, these requirements and standards must apply in their up-to-date version.

Responsibility: the proposal provides that the flag State has the responsibility to ensure that only equipment which has been duly approved in accordance with the then applicable requirements of the international instruments is placed on board ships flying its flag.

In addition, the proposed Directive:

- provides the basis for the **free movement of marine equipment** within the EU, based on the concept of mutual recognition between Member States of equipment complying with the requirements laid down in the Directive;
- reflects the **priority given to the international regulation of maritime safety**, consistent with the global nature of shipping;
- governs the particular case of the **transfer of a ship** to a Member State's register based on the principle of compliance with the Directive's requirements;
- established rules and conditions for **affixing the wheel mark**;
- incorporates the reference provisions of Decision 768/2008 as regards the **specific obligations of the economic operators**;
- lists the **conformity-checking procedures** made available to manufacturers;
- aligns the Directive with Decision 768/2008 as regards the **EU declaration of conformity**;
- incorporates the reference provisions of Decision 768/2008 as regards **notification**, notifying authorities, notified bodies and their respective regimes;
- fully aligns the Directive with the **general EU market surveillance framework**, including as regards the safeguard procedure. Checks on board may be necessary and are therefore regulated;
- contains the **specific regime in exceptional circumstances**, largely taken from the existing Directive. This regime concerns exemptions in cases of technical innovation or for the purpose of testing and evaluation.

Lastly, as regards the **implementation measures**, the Commission:

- shall be empowered to uniformly implement the requirement for marine equipment to comply with the specific design, construction and performance requirements laid down in the international instruments, including the relevant testing standards, as defined by the Legislator;
- is also empowered to adopt common criteria and procedures for the application of these requirements and standards;
- is charged with the task of gathering and publishing a significant package of information. This codifies and expands existing practice and will facilitate the implementation of the Directive by all actors.

BUDGETARY IMPLICATION: this proposal has no budgetary implications. The tasks devolved to the Commission, including those for which the assistance of the European Maritime Safety Agency is foreseen, are not expected to represent an increase in workload and will be carried out with existing resources.

DELEGATED ACTS: the proposal contains provisions empowering the Commission to adopt delegated acts in accordance with Article 290 of the Treaty on the Functioning of the European Union.