

Port State control. Recast

2005/0238(COD) - 23/11/2005 - Document attached to the procedure

COMMISSION'S IMPACT ASSESSMENT

For further information regarding the context of this issue, please refer to the summary of the Commission's initial document COM(2005)0588: proposal for a Directive of the European Parliament and of the Council on port State control (Recast).

1- POLICY OPTIONS AND IMPACTS

The Commission examined four options.

1.1- Option 1 - maintain the status quo: The first option is not to amend Directive 95/21/EC. This option is seen as a reference point against which the other options are evaluated.

1.2- Option 2 - resolve the problem through increased cooperation between Member States. In regard to port state control, the legal framework for cooperation is provided by the Paris Memorandum of Understanding on port State control. This Memorandum lays down the objectives to be reached by its members and draws up harmonised procedures for the inspection of ships, in view in particular of the requirements that have arisen from international conventions on maritime safety and pollution prevention adopted by the IMO. A certain amount of inter-state cooperation exists already thanks to the Paris Memorandum, but it must now be exercised within the limits set by Directive 95/21/EC with the objective of implementing the requirements contained in this Directive. The increase in cooperation between States would depend on the 'decommunitisation' of the port State control system in the areas of action proposed.

1.3- Option 3 - simplification and improvement of the existing legislation. This option involves the analysis of aspects of the directive already in force and proposes updates, improvements and simplifications that should be made. The planned changes would be made in the form of a new proposal for a directive amending Directive 95/21/EC, with recasting being postponed until a later stage.

1.4- Option 4 - modification of the existing regime in the form of a recasting of Directive 95/21/EC. The recasting of directive 95/21/EC shares the same objectives as Option 3, namely to:

- amend the existing directive in order to respond to calls from the Council and the European Parliament following the PRESTIGE accident (for example, on the extension of requirements to notify defects observed on board ships by pilots);
- strengthen the existing regime (for example, with regard to refused access);
- update the directive in view of developments that have taken place at international level or within the Paris Memorandum;
- contribute to the application of existing Community legislation (for example, in the area of safety) or other proposals in the third package (for example, the checking of financial guarantee certificates).

CONCLUSION: The chosen option is a combination of Options 3 and 4. It responds to a number of needs:

1. the implementation of principles adopted by the Union is the area of better regulation;
2. the need to strengthen and improve the port State control system called for by the European Parliament and the Council after the PRESTIGE accident;

3. the need to update the directive given developments in international legislation and procedures covered by the Paris Memorandum;
4. the introduction of a new approach to inspections in light of the limits encountered by the current regime.

The proposal will also make it possible to strengthen the existing mechanism by introducing stricter measures with regard to sub-standard ships, while alleviating the pressure on port state control administrations and penalising reputable operators as little as possible.

IMPACTS

Option 1: maintain the status quo.

- **Advantages:** maintains the application of the current port state control system with the current costs and benefits.
- **Disadvantages:**
 - is not in line with the demands of the European Parliament and of the Council, nor with the undertakings made by the Commission following the PRESTIGE accident;
 - requires Member States to apply measures that are outdated as a result of changes in international law or developments in the situation within the EU.

Option 2: inter-State cooperation.

- **Advantages:** allows the flexible development of rules and procedures in regard to port State control.
- **Disadvantages:**
 - risks of divergence and incompatibility with Community legislative measures already in force regarding port State control;
 - risks of diverging application between Member States and distortions to competition resulting from actions decided at intergovernmental level not being of a binding character.

Option 3: simplification and improvement of the existing legislation.

- **Advantages:**
 - facilitates implementation by the Member States and operators concerned;
 - does not increase costs while providing the system with necessary updating and improvements;
 - responds to the political demands of the European Parliament and of the Council following the Prestige accident.
- **Disadvantages:**
 - o only responds in a limited way to the concern of promoting quality maritime transport in the context of a healthy competitive environment;
 - o the limits of the current approach based on an objective of 25% of inspections by Member State are maintained.

Option 4: modification of the existing regime in the form of a recasting of Directive 95/21/EC.

- **Advantages:**
 - o guarantees the inspection of all vessels using EU ports;
 - o favourable cost/efficiency ratio: sets in place a modulated approach, concentrating inspections on vessels that are most at risk and by granting the operators of quality vessels the benefit of less rigorous inspections;
 - o limits the risk of seeing the development of ports of convenience.
- **Disadvantages:** it is an approach which is in the process of development for which the precise means of application and the impacts have not yet been completely finalised.

2- FOLLOW-UP

The Commission will monitor the practical implementation by the Member States of the Directive's provisions. The Member States will communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive

In addition, the recasting exercise is an occasion for the Commission to improve and strengthen provisions regarding the communication of information by the Member States to the Commission, and broader access to the electronic transmission of data allowing more precise knowledge of the traffic situation and inspection efforts in Community ports.