Common rules and standards for ship inspection and survey organisations. Recast

2005/0237B(COD) - 23/11/2005 - Legislative proposal

PURPOSE: the establishment of common rules and standards for ship inspection and survey organisations and related maritime administration's ship activities.

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

CONTENT: the need for appropriate provisions on ship inspections has long been recognised by the Commission, Parliament and Council. More specifically, the need to regulate organisations, known as "classification societies", which are currently responsible for inspecting ships and issuing their licenses. Current legislation is enshrined in Directive 94/57. This, however, is in urgent need of updating and reforming. The purpose of this proposal, therefore, is to:

- Strengthen the control systems of recognised organisations.
- Harmonise the current dual system of ordinary and limited recognition.
- Simplify and improve the structure of the Community recognition criteria.
- Reform the system of penalties
- Clarify the scope of the Directive.
- Recast the Directive, given that this is its fourth updating.

Currently, two systems of safety standards apply to ship inspections. Firstly, technical safety standards which are developed by the International Maritime Organisation (IMO) through international conventions. They tend to be referred to as "statutory" requirements. The second set of standards are termed "class rules" and are devised by the classifications society themselves. The class rules cover the structural aspects of the ship such as its strength, stability and buoyancy. It also covers other areas such as machinery, equipment to be fitted on boards and operational aspects such as life-saving equipment. To apply the international conventions, the flag State must carry out the inspection required and issue the relevant certificates. Frequently, however, the flag State will delegate many of its tasks to recognised classification societies. In other words, the classification societies are responsible for approving plans as well as overseeing the construction process and thus are in full control of both the rules of substance and the inspection methods which they apply to certify that a newly built ship conforms to the said rules.

One area of concern raised by the current situation is the lack of cross checks in the system. It is unlikely that the quality of class certificates will ever be questioned when international certificates are issued. Errors made will inevitably lead to potential problems later down the line. An additional concern is that the choice of classification society is very much dependant on the relative strengths of the ship-owners and shipyards. While the major ship-owners generally manage to impose the societies they prefer, other have to accept the choice of the ship yard. Classification societies complain of being subject to pressure from major shipyards. Once a classification society has been chosen for a newly built ship, it is that society which determines the equipment to be fitted on boards since it is in a position of strength vis-à-vis equipment suppliers.

In light of the fact that EU provisions are not allowed to differ from the international regime the Community has thus far (in Directive 94/57) limited it role to setting strict criteria regarding independence and professional capability as a condition for the granting of Community recognition. Under this scheme, the Member States must ensure that ships flying their flags are designed, built and maintained in accordance with the rules and regulation of a recognised organisation or, in exceptional cases, on the basis of equivalent national regulations. In addition, the tasks arising from international conventions may only be delegated to recognised organisations. Prior to presenting this current proposal, the European Commission conducted extensive consultations with interested parties and stakeholders as well as commissioning an impact assessment.

Based on the results of the consultation process and the impact assessment the Commission proposes the following:

- *Improving the monitoring of recognised organisations*: Under this proviso, the Commission proposes that the recognised bodies should establish a joint body for quality system assessment and certification. Importantly, the joint body should act independently and be in a position to propose both individual and collective measures. At the same time it is being proposed that co-operation between the recognised organisations should be extended to ensure that their technical regulations are compatible and that these regulations and international conventions are interpreted and applied in a *uniform* manner – leading to a *uniform* level of safety within the EU. In doing so the Commission is hoping that a compatibility between the technical regulations would logically lead to the genuine recognition of class certificates.

- *Reform of limited recognition*: The Commission proposes to eliminate the principle of limited recognition given that it stifles opportunity amongst the smaller organisations. Thus, Community recognition will no longer depend on size but solely on quality and performance in terms of safety and environmental protection. At the same time the provisions specify that no organisations, regardless of size, will be allowed to work in an area in which is has no expertise – for example, equipping gas tankers or chemical tankers.

- *Reform the of the recognition criteria*: In its proposal the Commission is seeking to simplify the criteria and make them more legible, to amend those which are difficult to apply and to fill certain gaps. In particular the proposed Directive specifies the need for a clear confirmation of the number of inspectors in proportion to the fleet being classed. Other clarifications include, for example, ending the use of non-dedicated inspectors by recognised organisations and the requirement of legal personality and certification in order to check the financial independence of the recognised organisation.

- *Reform of the system of penalties*: The Commission states that a policy designed to protect maritime safety and the environment needs to be backed up by a system of penalties. It is essential that the principle of rectifying mistakes at source is upheld and strengthened. In the most serious cases – as in where there is a risk to the environment, the Commission puts forward the option of withdrawing recognition from the organisation in question. The system for penalties has accordingly been simplified and improved upon in order to make it more effective.

- *Commission's powers of inspection*. In order to guarantee that recognised organisations apply the same strict standards to ships flying the flag of a third country as to ships flying the flags of a Member States, the Commission is proposing tighter provisions on Community access to recognised organisations for the purpose of evaluation.

- *Taking account of the legal structure of recognised organisations*. The Commission is proposing the introduction of a broad organisational concept for terming “recognised organisations”, which takes account of any foreseeable relationship of dependence between legal entities whose activities fall under the scope of the proposed Directive.

The proposal has no implications on the Community budget.