Basic information

2005/0237A(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations. Recast Repealing Directive 94/57/EC 1993/0518(SYN) Repealing Directive 2001/105/EC 2000/0066(COD) Repealing Directive 2002/84/EC 2000/0237(COD) **Subject** 3.20.03.01 Maritime safety 3.20.15.06 Maritime or inland transport agreements and cooperation	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
CODE EP Delegation to Conciliation Committee	DE GRANDES PASCUAL Luis (PPE-DE)	24/09/2008

Former committee responsible	Former rapporteur	Appointed
TRAN Transport and Tourism	DE GRANDES PASCUAL Luis (PPE-DE)	24/06/2008
TRAN Transport and Tourism	DE GRANDES PASCUAL Luis (PPE-DE)	28/03/2006

Former committee for opinion	Former rapporteur for opinion	Appointed
ENVI Environment, Public Health and Food Safety	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Justice and Home Affairs (JHA)	2908	2008-11-27
Justice and Home Affairs (JHA)	2927	2009-02-26
Transport, Telecommunications and Energy	2835	2007-11-29
Transport, Telecommunications and Energy	2875	2008-06-06

Commission DG	Commissioner

European Commission	Energy and Transport	TAJANI Antonio

Key events

Date	Event	Reference	Summary
23/11/2005	Legislative proposal published	COM(2005)0587	
14/02/2006	Committee referral announced in Parliament, 1st reading		
27/02/2007	Vote in committee, 1st reading		
20/03/2007	Committee report tabled for plenary, 1st reading	A6-0070/2007	
24/04/2007	Debate in Parliament		
25/04/2007	Decision by Parliament, 1st reading	T6-0150/2007	
25/04/2007	Results of vote in Parliament		
06/06/2008	Council position published	05724/2/2008	Summary
19/06/2008	Committee referral announced in Parliament, 2nd reading		
04/09/2008	Vote in committee, 2nd reading		Summary
08/09/2008	Committee recommendation tabled for plenary, 2nd reading	A6-0331/2008	
23/09/2008	Debate in Parliament		
24/09/2008	Decision by Parliament, 2nd reading	T6-0447/2008	Summary
24/09/2008	Results of vote in Parliament		
27/11/2008	Parliament's amendments rejected by Council		
08/12/2008	Formal meeting of Conciliation Committee		
03/02/2009	Final decision by Conciliation Committee		
03/02/2009	Joint text approved by Conciliation Committee co-chairs	03719/2008	
25/02/2009	Report tabled for plenary, 3rd reading	A6-0097/2009	
26/02/2009	Decision by Council, 3rd reading		
10/03/2009	Debate in Parliament		
11/03/2009	Decision by Parliament, 3rd reading	T6-0105/2009	Summary
11/03/2009	Results of vote in Parliament		
22/04/2009	End of procedure in Parliament		
23/04/2009	Final act signed		
28/05/2009	Final act published in Official Journal		

Technical information

Procedure reference	2005/0237A(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Directive
Amendments and repeals	Repealing Directive 94/57/EC 1993/0518(SYN) Repealing Directive 2001/105/EC 2000/0066(COD) Repealing Directive 2002/84/EC 2000/0237(COD)
Legal basis	EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure completed
Committee dossier	CODE/6/67456

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE378.538	06/11/2006	
Amendments tabled in committee		PE382.355	07/12/2006	
Committee report tabled for plenary, 1st reading/single reading		A6-0070/2007	20/03/2007	
Text adopted by Parliament, 1st reading/single reading		T6-0150/2007	25/04/2007	
Committee draft report		PE407.922	26/06/2008	
Amendments tabled in committee		PE409.574	22/07/2008	
Committee recommendation tabled for plenary, 2nd reading		A6-0331/2008	08/09/2008	
Text adopted by Parliament, 2nd reading		T6-0447/2008	24/09/2008	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A6-0097/2009	25/02/2009	
Text adopted by Parliament, 3rd reading		T6-0105/2009	11/03/2009	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	08925/2008	08/05/2008	
Council position	05724/2/2008	06/06/2008	Summary
Draft final act	03719/2008/LEX	23/04/2009	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2005)0587	23/11/2005	
Document attached to the procedure	SEC(2005)1498	23/11/2005	

Commission communication on Council's position	COM(2008)0370	11/06/2008	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2008)0828	08/12/2008	Summary
Follow-up document	COM(2016)0047	05/02/2016	Summary

Other institutions and bodies

Institution/body	Document type	Reference	Date	Summary
CSL/EP	Joint text approved by Conciliation Committee co-chairs	03719/2008	03/02/2009	

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Directive 2009/0015
OJ L 131 28.05.2009, p. 0047 Summary

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

2005/0237A(COD) - 05/02/2016

The Commission presented a report on the progress in the implementation of Regulation (EC) No 391/2009 and **Directive 2009/15/EC** on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations.

The Regulation and the Directive form one coherent piece of legislation which provides the regulatory framework for ship inspection and survey organisations (otherwise called recognised organisations or ROs) in the EU.

The Directive governs the relations between the Member States, in their capacity as flag States, and the recognised organisation(s) which they authorise to carry out tasks on their behalf for the statutory certification of the ships flying their flags.

Transposition of Directive 2009/15/EC: Member States had to complete the transposition of the Directive by 17 June 2011. The completeness of the transposition of the Directive by the Member States was assessed by the Commission and was found **overall satisfactory**.

Working relationships between the Member States and the ROs: the Directive provides that Member States which decide to authorise a recognised organisation establish a formal 'working relationship' with the RO concerned in a form of a written formal agreement or equivalent legal arrangements.

All Member States which use one or several ROs provided the information about their working relationship as required, including changes or updates where appropriate. The Commission verified that the said agreements are in line with the requirements.

All Member States except one have concluded agreements with one or several ROs. The number of agreements concluded by each Member State ranges from one to ten, with an average of six ROs authorised per Member State.

The number of agreements concluded by EU ROs with Member States ranges from one to twenty-five, with an average of fourteen agreements per RO.

Pursuant to the Directive, a Member State may **suspend or withdraw the authorisation of a RO** if it considers that the RO concerned can no longer carry out on its behalf the tasks specified in Article 3 (inspection, surveys and/or issuance of statutory certificate). In such case, the Member State shall inform the Commission without delay and give substantiated reasons thereof. The Commission **did not record any such notification** since the entry into force of the Directive.

Monitoring of ROs by Member States: the Directive provides that each Member State shall on a biennial basis monitor every RO acting on its behalf and share the results of this monitoring with the Commission and the other Member States.

The report noted that in general, Member States fulfilled this obligation and provided their monitoring reports to the Commission as required. However the Directive does not provide any specific requirement as to the structure, contents and level of details of the monitoring reports. Thus the completeness and quality of the reports varies significantly from one Member State to another. The Commission has started a discussion with the Member States with a view to agreeing on a list of minimum elements to be covered by the reports.

Member States have also to carry out monitoring of ROs in their capacity as port States and notify the Commission and the other Member States of cases of ships representing **a serious threat to safety and the environment** or showing evidence of particularly negligent behaviour of the recognised organisations. To date, the Commission did **not record any such notification** from Member States.

In conclusion, the Commission considered that the **implementation of Directive 2009/15/EC and Regulation (EC) No 391/2009 progressed effectively since 2009**, thanks to the combined effort of, and the co-operation between, the Member States, the Commission and European Maritime Safety Agency (EMSA).

Practically all provisions of the Regulation and of the Directive have been implemented as required, meaning that the various activities, mechanisms, schemes and working arrangements are now put in place and operative.

The Commission considered that it is too early to assess the impact of this legislation and priority should be given to further implementation of the existing framework.

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.

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

2005/0237A(COD) - 29/11/2007

The Council reached a political agreement on a proposal for a Directive on ship inspection and survey organisations by agreeing on **a Directive** on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations and **a Regulation** on common rules and standards for ship inspection and survey organisations.

The main issue that raised concerns during the discussions in the Council bodies was the form of the legal act proposed by the Commission. The Council agreed to split the proposal into two separate instruments: a Directive and a Regulation. The Directive includes provisions addressed to the Member States concerning their relationship with ship inspection and survey organisations, while the Regulation contains all provisions related to the recognition at Community level, i.e. the granting, withdrawal, obligations, criteria and sanctions.

The text also includes those of the European Parliament's amendments, adopted at first reading, which are acceptable to the Council.

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

2005/0237A(COD) - 11/03/2009 - Text adopted by Parliament, 3rd reading

The European Parliament adopted by 665 votes to 19, with 4 abstentions, under the third reading of the codecision procedure, a legislative resolution approving the joint text approved by the Conciliation Committee for 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)**.

For details of the agreement, see the summary dated 08/12/2008.

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

2005/0237A(COD) - 08/12/2008 - Commission opinion on Parliament's position at 2nd reading

The Commission accepts in full a certain number of amendments to the common position, adopted by the European Parliament in first reading. It accepts one amendment in part and three amendments in principle, given that they incorporate elements from its proposal for a Directive on compliance with Flag State obligations. However, the definitions introduced by these amendments should only apply to the provisions concerning Flag State obligations.

The Commission notes that the Council achieved a political agreement concerning its proposal on a Directive on Flag State obligations. This political agreement concerns the subject matter of a certain number of amendments and therefore renders these amendments no longer necessary within the perspective of the conciliation procedure.

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

2005/0237A(COD) - 23/04/2009 - Final act

PURPOSE: to establish measures to be followed by the Member States in their relationship with organisations entrusted with the inspection, survey and certification of ships, operating in the Community.

LEGISLATIVE ACT: Directive 2009/15/EC 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.

CONTENT: following conciliation between Parliament and Council and a third reading by the European Parliament, the Council adopted this Directive which aims at recasting successive amendments to Directive 94/57/EC establishing common rules and standards for organisations that inspect ships and issue ships' certificates, known as recognised organisations. The purpose of the Directive is to reform the current system for Community recognition of the bodies tasked by the Member States with inspecting and certifying ship safety under international conventions (classification societies), a system set up by Directive 94/57/EC.

The Directive establishes measures to be followed by the Member States in their relationship with organisations entrusted with the inspection, survey and certification of ships for compliance with the international conventions on safety at sea and prevention of marine pollution, while furthering the objective of freedom to provide services. This includes the development and implementation of safety requirements for hull, machinery and electrical and control installations of ships falling under the scope of the international conventions.

The Council decided to split the Commission's initial proposal into two separate instruments, a Directive and a Regulation, in order to ensure that the system is legally watertight, particularly as it involves imposing obligations on recognised organisations and setting up a system of financial penalties. This was supported by the European Parliament.

The Directive notes that worldwide, a large number of the existing organisations recognised by International Maritime Organisation (IMO) Contracting Parties do not ensure either adequate implementation of the rules or sufficient reliability when acting on behalf of national administrations as they do not have reliable and adequate structures and experience to enable them to carry out their duties in a highly professional manner. This Directive is intended to rectify that.

The main points of the Directive are as follows:

- in assuming their responsibilities and obligations under the international conventions (i.e SOLAS and MARPOL) , Member States must ensure that their competent administrations can ensure appropriate enforcement of the provisions thereof, in particular with regard to the inspection and survey of ships and the issue of statutory certificates and exemption certificates. They must act in accordance with the relevant provisions of IMO Resolution A.847;
- Member States may delegate the tasks listed above to recognised organisations;
- they must set out a ‘working relationship’ between their competent administration and the organisations acting on their behalf, which must be regulated by a formalised written and non-discriminatory agreement setting out the specific duties and functions assumed by the organisations and including, inter alia, certain **specified provisions concerning financial liability**, and provisions for a **periodical audit** by the administration or by an impartial external body appointed by the administration into the duties the organisations are undertaking on its behalf;
- where a Member State considers that a recognised organisation can no longer be authorised to carry out on its behalf the tasks specified it may suspend or withdraw such authorisation;
- each Member State shall, at least on a biennial basis, monitor every recognised organisation acting on its behalf and provide other Member States and the Commission with a report at the latest by 31 March of the year following the year in which the monitoring was carried out;
- the Commission shall, on a biennial basis, inform the European Parliament and the Council of progress in the implementation of the Directive.

The recitals note that when a recognised organisation, its inspectors, or its technical staff issue the relevant certificates on behalf of the administration, Member States should consider enabling them, as regards these delegated activities, to be subject to proportionate legal safeguards and judicial protection, including the exercise of appropriate rights of defence, apart from immunity, which is a prerogative that can only be invoked by Member States as an inseparable right of sovereignty and therefore cannot be delegated.

The Directive focuses on the relationship between the Member States and the recognised organisations to which they delegate the inspection and certification of ships under international conventions, whereas the Regulation deals in full with the recognition system as a whole (including the granting of recognition, the recognition criteria, the recognised organisations' obligations as regards reporting and cooperation, the periodic assessment of recognised organisations, the correction of shortcomings and, finally, withdrawal of recognition).

This Directive is part of a series of measures, comprising the **third maritime package**, aiming to strengthen the security of maritime transport in Europe by improving accident prevention and investigations into accidents and by strengthening vessel quality control. (See also COD/2005/0236, COD/2005/0238, COD/2005/0239, COD/2005/0240, COD/2005/0241 and COD/2005/0242).

ENTRY INTO FORCE: 17/06/2009.

TRANSPOSITION: 17/06/2011.

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

2005/0237A(COD) - 11/06/2008

The Commission accepts splitting the proposal into a draft Directive and a draft Regulation in so far as (a) it remains a formal procedure and the substance of its proposal is fully respected; and (b) it helps create greater legal certainty for the organisations concerned.

In terms of the Directive, the Commission can accept the amendment made by the Council that aims to remove the safeguard clause from Article 8(1), which does not undermine its right of initiative. The Commission also reiterated its position on Member States drawing up concordance tables between Member States' transposal measures and the provisions of the Directive, in the interests of citizens, better regulation and transparency. Despite the removal of this requirement from Article 14, the Commission offered no opposition to the Council's agreement. However, it expects this horizontal matter to be considered jointly by the institutions.

The Commission and the Council are both of the opinion that the system currently being developed by the Community could usefully serve as a model at international level. This is in line with the European Parliament's concerns regarding the need for coordination between the Community system and the international system. The Commission and the Member States are therefore prepared to call on the International Maritime Organization (IMO) to draw up a code guaranteeing that classification societies operate to a high level of quality worldwide. The Council and the Commission have therefore signed a joint declaration to this effect.

In conclusion, the Commission considers that the Council's common position fully addresses the concerns which led it to submit its proposal to recast Directive 94/57/EC and retains the key elements of the measures it recommended. Now that the act has been split into a draft Directive and a draft Regulation, most of those measures have been incorporated into the draft Regulation. Furthermore, the common position incorporates almost all of those amendments put forward by the European Parliament which the Commission was able to accept either in whole or in part. The Commission therefore accepts the common position, which forms a good basis for reaching agreement with the European Parliament at second reading.

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

2005/0237A(COD) - 06/06/2008 - Council position

The Council’s common position, adopted by unanimity, introduces, in full or in part, 14 amendments proposed by the European Parliament at 1st reading. The other amendments proposed by the Parliament (14 in total) were rejected by the Council.

The main issue raised during the discussions in the Council bodies was the form of the legal act proposed by the Commission. In its political agreement, the Council agreed to split the text into two separate instruments, a Directive and a Regulation.

In terms of the Directive, the Council was able to agree on almost all main elements of the Commission proposal concerning the relationship of Member States with organisations entrusted with the inspection, survey and certification of ships. The related provisions contain only a few changes compared to the corresponding provisions of the existing Directive 94/57/EC.

The modifications of the text by the Council were either necessary for editorial or terminological reasons or concern the following issues:

- firstly, in line with the existing Community system, under which Member States can delegate their powers to recognised organisations to inspect ships and issue certificates under the relevant international conventions, the Council is of the view that, if a Member State does no longer wish to authorise a specific recognised organisation to act on its behalf, it is up to the Member State concerned to suspend or withdraw the authorisation. The text of the common position does not specify any procedure, apart from the obligation to inform the Commission and other Member States without delay of the suspension or withdrawal and to give substantiated reasons for this measure;
- secondly, in accordance with the amended Comitology Decision, the Council introduces in its common position the regulatory procedure with scrutiny for the adaptation of the Directive to amendments to the international conventions, protocols, codes and resolutions;
- thirdly, the Council deems it appropriate to specify the timeframe for the information by the Commission on the implementation of the Directive by Member States and provides that this will be done every two years.