Basic information

2005/0237B(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	Procedure completed
Common rules and standards for ship inspection and survey organisations. Recast Repealing Directive 94/57/EC 1993/0518(SYN) **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)	23/06/2008

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	2875	2008-06-06

European Commission

Commission DG	Commissioner
Energy and Transport	TAJANI Antonio

Key events

Date	Event	Reference	Summary
23/11/2005	Legislative proposal published	COM(2005)0587	Summary
14/02/2006	Committee referral announced in Parliament, 1st reading		
27/02/2007	Vote in committee, 1st reading		Summary

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	Summary
06/06/2008	Council position published	05726/2/2008	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	A6-0330/2008	
23/09/2008	Debate in Parliament		
24/09/2008	Decision by Parliament, 2nd reading	T6-0448/2008	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	03720/2008	
25/02/2009	Report tabled for plenary, 3rd reading	A6-0098/2009	
26/02/2009	Decision by Council, 3rd reading		
10/03/2009	Debate in Parliament		
11/03/2009	Decision by Parliament, 3rd reading	T6-0106/2009	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	2005/0237B(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Regulation
Amendments and repeals	Repealing Directive 94/57/EC 1993/0518(SYN)
Legal basis	EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure completed
Committee dossier	CODE/6/67458

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	Summary
Committee draft report		PE407.929	26/06/2008	
Amendments tabled in committee		PE409.575	22/07/2008	
Committee recommendation tabled for plenary, 2nd reading		A6-0330/2008	08/09/2008	
Text adopted by Parliament, 2nd reading		T6-0448/2008	24/09/2008	Summary
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading		A6-0098/2009	25/02/2009	
Text adopted by Parliament, 3rd reading		T6-0106/2009	11/03/2009	Summary

Council of the EU

Document type	Reference	Date	Summary
Council position	05726/2/2008	06/06/2008	Summary
Draft final act	03720/2008/LEX	23/04/2009	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2005)0587	23/11/2005	Summary
Document attached to the procedure	SEC(2005)1498	23/11/2005	Summary
Commission communication on Council's position	COM(2008)0370	11/06/2008	Summary
Commission opinion on Parliament's position at 2nd reading	COM(2008)0826	08/12/2008	Summary
Follow-up document	COM(2015)0382	31/07/2015	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	03720/2008	03/02/2009	

Additional information		
Source	**Document**	**Date**
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act	
Regulation 2009/0391 OJ L 131 28.05.2009, p. 0011	Summary
Corrigendum to final act 32009R0391R OJ L 074 22.03.2010, p. 0001	Summary

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

2005/0237B(COD) - 05/02/2016 - Follow-up document

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 Regulation lays down recognition criteria and obligations for recognised organisations, covering both statutory and classification activities.

List of EU recognised organisations as from May 2015: pursuant to the Regulation, the Commission draws up, updates and publishes a list of the organisations recognised in accordance with the Regulation. To this end, the Commission adopted Commission Decision (EU) 2015/669 repealing Decision 2007/421/EC on the publication of the list of recognised organisations which have been notified by Member States.

The updated list was published on 19 May 2015 as a Notice from the European Commission (2015/C 162/06)15; it comprises **eleven organisations**: *American Bureau of Shipping (ABS); Bureau Veritas SA — Registre international de classification de navires et d'aeronefs (BV); China Classification Society (CCS); Croatian Register of Shipping (CRS); DNV GL AS; KR (Korean Register); Lloyd's Register Group LTD (LR); Nippon Kaiji Kyokai General Incorporated Foundation (ClassNK); Polish Register of Shipping (PRS); RINA Services S.p.A.; Russian Maritime Register of Shipping (RS).*

Oversight and monitoring of ROs at EU level: the assessment is performed by the Commission with a view to (1) verifying that the ROs meet the obligations under the Regulation and fulfil the minimum criteria set out in Annex I of the Regulation; (2) analysing any specific items of non-conformity and their (potential) consequences in terms of safety and protection of the environment.

- ***Visits and inspections***: the Commission tasked the European Maritime Safety Agency (EMSA) to carry out, on its behalf, the necessary technical visits and inspections. From June 2009 when the Regulation entered into force until the end of 2014 (5.5 years), EMSA carried out 111 visits and inspections, including 31 visits of head offices, 66 visits of branch offices and 14 inspection of ships. Around 40% of the visits took place in the EU/EEA countries and 60% in third countries.
- ***Assessment by the Commission and correction of deficiencies***: the Commission periodically assesses ROs' compliance with the Regulation's obligations and minimum criteria. The assessment is addressed to the RO concerned with an extensive description and assessment of relevant items of non-compliance identified, with an invitation to undertake structural corrective and preventive actions in order to remedy those items of non-compliance and to prevent their reoccurrence. The report noted that **so far the ROs have co-operated transparently and effectively** which bears witness to their professionalism and commitment to safety.

Until now, the Commission also has specific enforcement and coercive powers so that failure by a recognised organisation to fulfil its obligations can be addressed in a prompt, effective and proportionate manner, namely the possibility to request in a formal way that the RO implements preventive and remedial actions within specified deadlines and the possibility to impose fines and/or periodic penalty payments.

Safety and pollution prevention performance: in accordance with the Regulation, the Commission adopted Decision 2009/491/EC on criteria to be followed in order to decide when the performance of an organisation acting on behalf of a flag State can be considered an unacceptable threat to safety and the environment.

The Commission implemented this Decision and shared the results with Member States on a regular basis. **Since 2009 the EU recognised organisations consistently recorded a 'fair' to 'high' performance** as measured by these criteria.

Other mechanism provided for in the Regulation:

(1) the Regulation requires the ROs to co-operate with each other with a view to aiming for **harmonisation of their rules and procedures** and to agreeing, in appropriate cases, on the technical and procedural conditions under which they will mutually recognise their class certificates for equipment, materials and components based on equivalent standards, taking the most demanding and rigorous standard as the reference. The Commission assessed the implementation of the above provisions by the EU ROs and submitted a Report to the European Parliament and the Council at the end of July 2015, based on an independent study. The said report concludes inter alia that the scheme developed and implemented by the EU ROs is compliant with the Regulation.

(2) The Regulation also provides for the **setting up of an independent quality assessment and certification entity (QACE)**. The entity was founded in November 2010 in London, United Kingdom, as a private limited and community interest (non-profit) company, with the name 'QACE - Entity for the Quality Assessment and Certification and of Organisations Recognised by the European Union (CIC).

The Commission is in general satisfied with QACE's development and the entity can now be considered as a self-standing organisation certified as compliant with ISO 9001:2008

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. Recast

2005/0237B(COD) - 25/04/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted a resolution drafted by Luis de **GRANDES PASCUAL** (EPP-ED, ES) amending the proposed directive on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations. The main amendments were as follows:

- the term "incident" was replaced by "marine casualty";

- whereas the Commission was proposing a minimum amount of financial compensation in the event of personal injury (EUR 4 million) or loss or damage to property (EUR 2 million), the committee said that, where the amount determined in the judgment or settlement is lower, that lower figure should apply;

- the aggregate amount of the fines and periodic penalty payments shall not exceed 5 % (rather than 10%) of the total turnover of the recognised organisation in the preceding business year for the activities falling under the scope of this Directive

- Parliament clarified the role of the recognised organisations when they are acting on behalf of the States;

- the Member States, together with the recognised organisations, shall set up, 18 months after the date of entry into force of the Directive, an Assessment Committee in accordance with the EN 45012 quality standards. The relevant professional associations working in the shipping industry may participate in an advisory capacity. Its tasks include regulation and assessment of the systems for management of the quality of recognised organisations, in accordance with the ISO 9001 quality standard criteria. The Assessment Committee shall act independently and shall accordingly have access to all the resources needed to be able to operate properly and carry out thorough and consistent work. It shall possess highly specialised and extensive technical skills and a code of conduct that will safeguard the independence of the auditors' activities;

- three years from the entry into force of this Directive, the Commission shall submit a report to the European Parliament and the Council, based on an independent study, on the level reached in the process of harmonising the rules and regulations and on mutual recognition. In the event of failure by the recognised organisations to fulfil the provisions relating to harmonisation, the Commission shall propose to the European Parliament and the Council the necessary measures.

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.

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

2005/0237B(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 proposal 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) – COM(2005)0587.

1- POLICY OPTIONS AND IMPACTS

In view of its three intermediate objectives, and having set aside the possibility of maintaining the regulatory status quo, the Commission considered the following options.

Intermediate objective No. 1: strengthening control systems.

1.1- Option 1 - separation of functions: The main cause of the problems that persist lies in the accumulation of tasks by the recognised inspection and survey organisations. The first option involves separating statutory tasks from classification tasks.

The objective of separating tasks can be reached in several ways covered by the following sub-options:

- **Option 1a**: resumption of statutory tasks by the Member States, thus putting an end to the current system of delegation;
- **Option 1b**: statutory and classification tasks to be undertaken by different inspectors in the same recognised organisation, under similar conditions to those in force under the current system;
- **Option 1c**: creation of separate ‘classification’ and ‘statutory’ branches within the recognised organizations;
- **Option 1d**: statutory and classification tasks to be carried out by different recognised organizations.

1.2- Option 2: strengthening of control systems in the recognised organisations. The second option would come into play downstream from Option 1 and would seek to make the instruments underpinning the sound management of the recognized organisations more effective. This would involve the strengthening of the recognised organisations’ control systems by means of:

- greater transparency;
- more cooperation between recognised organisations;
- increased independence of the control system;
- the specific aim of ensuring the continuing examination recognised organisations’ regulations, procedures and internal controls leading to improvements.

This option involves the recognised organisations establishing a joint body for quality system assessment and certification. The joint body must be independent, have all the necessary resources to enable work to be carried out in-depth and on a continuous basis, and have the necessary authority to impose on the recognised organisations its interpretation of quality standards, as well as to propose corrective action – whether individual or collective - for an improvement in the quality of their work – for example, in the area of risk management.

Intermediate objective No. 2: reform of limited recognition. The reform of limited recognition, by extending its validity throughout Community territory and replacing the current quantitative criteria by qualitative criteria was not considered to have an economic impact. Indeed, it does not change the market situation in any way because under the current system limited recognition of an organisation can be extended at any time to any Member States requesting it.

Intermediate objective No. 3: updating of the recognition criteria. The simplification and updating of the recognition criteria, which does not involve new obligations on the recognised organisations, by its very nature, has no appreciable economic impact (except in the case of the prohibition against using non-dedicated inspectors, where the impact will only be moderate and will be spread across the fleet classified by the recognised organisations).

CONCLUSION: **Option 2 would appear to offer the best solution in combining a high degree of efficiency and ease of implementation with only a very slight economic impact**. It is compatible with the eventual phasing out of non-dedicated inspectors, which means its impact is similar to that of the other options in being low, as well as marginal, for Community ship owners and operators. **IMPACTS**

Option 1a: resumption of statutory tasks by the Member States, thus putting an end to the current system of delegation.

- **Advantage**: the resumption of statutory tasks by the Member States would be fully in line with their responsibilities as public authorities and would directly get to the root of the problem.

- **Disadvantage**: this would require Member States to set up an entity capable of going to inspect ships where they are, something that could not be achieved without considerable costs to national budgets which means that this option is not feasible.

Option 1b: statutory and classification tasks to be undertaken by different inspectors in the same recognised organisation, under similar conditions to those in force under the current system.

- **Advantage**: the possibility of it being implemented by the recognised organisations. It would facilitate the transition from non-dedicated to dedicated inspectors at minimal cost.
- **Disadvantage**: the effectiveness of such a measure would be limited because both inspectors would be part of a common organisational structure. The organisations concerned would need to increase their manpower because they would have to be able to respect the separation obligation everywhere.

Option 1c: creation of separate 'classification' and 'statutory' branches within the recognised organisations.

- **Advantage**: the 'common organisational structure' aspect would be weakened in comparison with Option 1b, which would make this a more effective approach.
- **Disadvantage**: this option would be more burdensome both in terms of global coverage and the carrying out of unnecessary inspections.

Option 1d: statutory and classification tasks to be carried out by different recognised organisations.

- **Advantage**: the separation of functions would be clear because there would no longer be a common organisational structure.
- **Disadvantage**: the measure would most probably generate additional costs because of unnecessary inspections.

Option 2: strengthening of control systems in the recognised organisations.

- **Advantage** : although all the variants of Option 1 only covered ships flying the flags of Member States, Option 2 would contribute to improving the security of all the fleet classified by recognised organisations regardless of
- **Disadvantage**: as it is downstream from the main problem and demands a high degree of cooperation on the part of the recognised organisations, this option would require extremely careful monitoring by the Commission, including the possible use of its powers of sanction, in order to ensure that all the necessary aspects for its proper operation are at play.

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 all the main provisions of domestic national law which they adopt in the field governed by this Directive and a correlation table between those provisions and this Directive.

At the operational level, the Commission will continue to evaluate periodically the recognised organisations in order to ensure that they respect the obligations of the Directive that apply to them, and in particular those relating to the implementation of measures recommended in the reform of the Community's system for the recognition of classification societies.

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

2005/0237B(COD) - 23/04/2009 - Corrigendum to final act

PURPOSE: **Corrigendum** to Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations (*Regulation initially published in OJ L 131, 28 May 2009*).

Articles 6(1) should read as follows:

"In addition to the measures taken under Article 5, the Commission may, in accordance with the advisory procedure referred to in Article 12(2), impose fines on a recognised organisation:

(a) - whose serious or repeated failure to fulfil the minimum criteria set out in Annex I or its obligations under Articles 8(4), 9, 10 and 11,

or

- whose worsening performance reveals serious shortcomings in its structure, systems, procedures or internal controls;

or

(b) which has deliberately provided incorrect, incomplete or misleading information to the Commission in the course of its assessment pursuant to Article 8(1) or otherwise obstructed that assessment."

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

2005/0237B(COD) - 11/06/2008 - Commission communication on Council's position

The Commission accepts the separation of 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.

Concerning the Regulation, the Commission generally endorses the amendments agreed by the Council, which aim to: state explicitly that the recognition may be granted only to organisations that meet the recognition criteria; enable a more flexible approach to limiting recognition; include deadlines for corrective action; launch an Advisory Committee procedure before the Commission imposes penalties on a defaulting recognised organisation; calculate the upper limit of the fines that may be imposed on an organisation on the basis of its turnover for the previous three financial years; add a fifth case, as regards grounds for withdrawal of recognition, designed, in particular, to prevent public or private subsidies being used to pay the penalties imposed on a recognised organisation; initiate significant improvements in terms of the mutual recognition of classification certificates; extend the deadline for the Commission to submit a report on the implementation of mutual recognition from three to five years; require recognised organisations to set up a joint independent system to certify their quality management systems; make it possible for the Commission to lay down the techniques for interpreting and applying the criteria set out in the Annex.

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 Organisation (IMO) to draw up a code guaranteeing that classification societies operate at a high level of quality worldwide. The Council and the Commission have therefore signed a joint declaration to this effect.

Lastly, the Commission considers that the Council's common position fully addresses the concerns which led the Commission to submit its proposal to recast Directive 94/57/EC, and it 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 is therefore of the opinion that the common position forms a good basis for reaching agreement with the European Parliament at second reading.

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

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

The Commission accepts Amendment 1 in full. It rejects Amendments 2 to 35, which restate Parliament's opinion in first reading, as the Commission considers the common position to provide a more appropriate text for the reasons stated in its opinion of 11 June 2008.

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

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

The common position, unanimously adopted by the Council, brings together, fully or in part, 36 amendments proposed by the European Parliament at 1st reading. The other amendments proposed by the European Parliament (8 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 decided to split the text into two separate instruments, a Directive and a Regulation. In addition to the decision to include all provisions related to the Community recognition of ship inspection and survey organisations in a new Regulation, the Council deemed appropriate to modify these provisions for reasons of clarity or based on the following considerations:

Scope of recognition and minimum recognition criteria: the Council, like the European Parliament, considers it important to emphasise that the organisation to be recognised should provide services worldwide, regardless of its corporate structure. In case of a limited recognition, the common position provides for transparency as to the reasons of the limitation and the conditions to modify it. To avoid any downgrading of the minimum criteria for recognition, the common position foresees the possibility to establish rules, through the comitology procedure, on the interpretation of, and objectives for, these criteria, particularly concerning the number of staff members to be employed by the recognised organisations.

Imposition of fines against recognised organisations: Member States must be informed through the advisory procedure about any decision to be taken by the Commission in order to impose fines against recognised organisations that do not fulfil their obligations under the Regulation.

Harmonisation of rules and procedures of recognised organisations and mutual recognition of certificates issued by them: the Council approves the Commission's proposal to encourage recognised organisations to further harmonise their rules and procedures and to consider when to mutually recognise their certificates for materials, equipment and components. The common position includes, however, a set of safeguard clauses. The latter relate to cases where the mutual recognition of certificates cannot be agreed upon between recognised organisations, or to cases where it has been confirmed that the material, a piece of equipment or a component does not comply with its certificate. In line with the European Parliament’s proposal, the Commission is asked to provide a report on the level reached in the process of harmonisation of the rules and procedures of recognised organisations and on mutual recognition of certificates issued by them.

Assessment and certification of the quality management systems of recognised organisations: the Council fully agrees with the broad outlines of the Commission's proposal: that recognised organisations should set up an entity responsible for the assessment and certification of their quality management systems. Mostly in agreement with the European Parliament's amendment, the Council emphasises that this should be done in accordance with the applicable international quality standards and following advice from the relevant professional associations working in the shipping industry. Further modifications by the Council of the provisions related to this Quality Assessment and Certification System aim, in particular, to streamline the tasks of this entity and to clarify that it must have the necessary governance and competences to act independently from the recognised organisations.

Introduction of the regulatory procedure with scrutiny: the Council introduces in its common position the regulatory procedure with scrutiny to: amend the Regulation according to amendments to the international conventions, protocols, codes and resolutions; update the minimum recognition criteria; and adopt criteria to measure the effectiveness of the rules and procedures, as well as the performance of the recognised organisations regarding safety and pollution prevention.

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

2005/0237B(COD) - 24/09/2008 - Text adopted by Parliament, 2nd reading

The European Parliament adopted by 645 votes to 18, with 8 abstentions, a legislative resolution amending the Council common position for adopting a regulation of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations (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:

Assessment Committee: the Parliament calls on the Member States, together with the recognised organisations to set up, by 18 months after the date of entry into force of the directive, an Assessment Committee in accordance with the quality standards EN 45012. The Assessment Committee shall have the necessary competences to act independently and shall be periodically audited by the Commission. The Committee shall be responsible for the following tasks:

- regulation and continuous assessment of the quality management systems of recognised organisations, in accordance with the ISO 9001 quality standard criteria;
- certification of the quality system of recognised organisations;
- issue of binding interpretations of internationally recognised quality management standards;
- adoption of individual and collective recommendations for the improvement of recognised organisations' rules, processes and internal control mechanisms.

Access to information for assessment purposes: according to MEPs, no clauses in a contract of a recognised organisation with a third party or in an authorisation agreement with a flag State may be invoked to restrict the access of the Commission to the information necessary for the purposes of the assessment of the recognised organisations.

Cooperation between recognised organisations: the recognised organisations shall consult with each other periodically with a view to maintaining equivalence and aiming for harmonisation of their rules and regulations and the implementation thereof. In appropriate cases, the organisations shall agree on the technical and procedural conditions under which they will mutually recognise their respective classification certificates based on equivalent models , taking the most demanding and rigorous standards as their reference and particularly taking into account marine equipment bearing the mark of conformity in accordance with Council Directive 96/98/EC.

Report: the Commission shall submit a report to the European Parliament and the Council by three years after the entry into force of the directive, based on an independent study, on the level reached in the process of harmonising the rules and regulations and on mutual recognition. In the event of failure by the recognised organisations to fulfil the provisions of the Regulation, the Commission shall propose to the European Parliament and the Council the appropriate measures.

Comitology: the Regulation may, without broadening its scope, be amended, in accordance with the regulatory procedure with scrutiny, in order to update the minimum criteria set out in Annex I, taking into account the relevant decisions of the IMO.

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

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

PURPOSE: to establish measures to be followed by 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.

LEGISLATIVE ACT: Regulation (EC) No 391/2009 of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations.

CONTENT: following conciliation between Parliament and Council and a third reading by the European Parliament, the Council adopted this Regulation 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 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 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 this 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).

The aim of the recasting is to:

- strengthen the systems for monitoring recognised organisations by setting up a common but independent body to certify their quality management systems;
- harmonise the current dual system of ordinary and limited recognition, which would mean that recognition will henceforth be granted on the basis of the quality of service and the performance achieved by the organisations concerned, with the size of such organisations no longer a factor;
- simplify and improve the structure of the Community recognition criteria, making them more stringent;
- reform the system of penalties, retaining the scope for withdrawal for the most serious cases;
- introduce mutual recognition of classification certificates between recognised organisations (certificates of conformity with the organisations' own technical rules), in particular for certificates that apply to marine equipment and are issued on the basis of equivalent technical standards;
- clarify the scope and facilitate the application of certain provisions of the Directive.

At the conciliation stage, questions resolved included those concerning the legal protection of approved bodies, withdrawal of authorisations, compliance with international obligations and the quality evaluation and certification body to be set up by the approved bodies.

This Regulation 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.

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

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

The European Parliament adopted by 655 votes to 17, with 5 abstentions, under the third reading of the codecision procedure, a legislative resolution approving the joint text approved by the Conciliation Committee for a **regulation of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations (recast)**.

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

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

2005/0237B(COD) - 31/07/2015 - Follow-up document

The Commission’s report reviews the implementation, by the Recognised Organisations, of Article 10 (1) of Regulation (EC) N° 391/2009 regarding harmonisation of their rules and procedures and setting up a system of mutual recognition of their class certificates for equipment, materials and components. The report is based on an independent study.

At this stage, the report draws the following **general conclusions**:

Conformity with Union Regulation: the mutual recognition scheme developed by EU recognised organisations is compliant with the EU Regulation **although its scope is still limited and should be further developed.** Manufacturers criticise the application process for mutual recognition certificates as not yet completely streamlined.

Coexistence of certificates: existing experience, which is very limited, shows that component suppliers still apply for individual certificates and additionally the mutual recognition certificate. At present **mutual recognition certificates co-exist with individual Type Approval certificates for the same products**. Recognised organisations should consider simplifying the procedures for mutual recognition Certificates in appropriate cases so that their costs become more competitive and individual certificates might be phased out.

On-going issues:

Compliance with safety requirements: by following the same risk based approach used by EU recognised organisations including the strictest technical requirements for all products belonging to the 3rd safety criticality level, **the mutual recognition scheme appears to be compliant with safety considerations.** Still, there is **room for expansion** of the mutual recognition certification scheme to cover a broader range of marine equipment products (e.g. more complex products or materials) under different safety criticality levels.

Involvement of stakeholders: the report stresses that the marine equipment industry is involved in the mutual recognition certification process only to **a limited extent**. On one hand, big original equipment manufacturers (OEMs) are more involved in the mutual recognition process due to their own interest, but on the other hand, smaller OEMs are not as well informed or involved.

A range of stakeholders shares the view that **there is lack of or limited information available**. The Commission considers that additional information and dissemination of information could improve awareness and participation in the mutual recognition certification scheme.

End-user involvement: industry stakeholders within the EU appear to be more active in terms of participation in the EU recognised organisations consultation process but **global industry could ensure higher involvement in the future.** Out of 7 manufacturers already using the new mutual recognition Certificate for some of their products, 3 have their headquarters outside EU (i.e. USA, Taiwan and South Korea).

Voluntary international acceptance is the most important target for which to aim: dialogue between industry representatives as well as between relevant public authorities may increase understanding and acceptance of the mutual recognition certification scheme outside the EU.

Costs and administrative burden: the report notes that at present there is a **lack of transparency concerning the cost of acquiring a mutual recognition certificate.** When witnessed testing is required for the latter, the cost is often considered overwhelming (especially for SMEs).

Furthermore, the preliminary data from the independent study demonstrate that the amount of time needed to acquire a mutual recognition certificate varies a lot (from 6 months up to 2 years) depending on the product in question and the complexity of the overall process (i.e. administrative burden).

Additional considerations: the report states that it is not clear at this juncture whether EU recognised organisations will manage to elaborate requirements for mutual recognition certifications for more complex products in the near future. Equipment manufacturers are eager to propose a list of possible new products with higher safety criticality.

Dissemination events (e.g. workshops, seminars, etc.) in combination with wider distribution of existing information on the technical requirements of the eligible products for the mutual recognition scheme to a larger proportion of stakeholders with different industry interests could be envisaged to enlarge the outreach of the mutual recognition scheme to a wider audience.