Basic information

2005/0242(COD) COD - Ordinary legislative procedure (ex-codecision procedure) Directive	Procedure completed
Insurance of shipowners for maritime claims **Subject** 2.50.05 Insurance, pension funds 3.20.03 Maritime transport: passengers and freight 3.20.03.01 Maritime safety	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
TRAN Transport and Tourism	SAVARY Gilles (PSE)	08/12/2008

Former committee responsible	Former rapporteur	Appointed
TRAN Transport and Tourism	SAVARY Gilles (PSE)	06/04/2006

Former committee for opinion	Former rapporteur for opinion	Appointed
JURI Legal Affairs	LÓPEZ-ISTÚRIZ WHITE Antonio (PPE-DE)	23/02/2006

Council of the European Union

Council configuration	Meetings	Date
Transport, Telecommunications and Energy	2913	2008-12-09
Transport, Telecommunications and Energy	2895	2008-10-09
Transport, Telecommunications and Energy	2861	2008-04-07

European Commission

Commission DG	Commissioner
Energy and Transport	TAJANI Antonio

Key events

Date	Event	Reference	Summary

23/11/2005	Legislative proposal published	COM(2005)0593	Summary
14/02/2006	Committee referral announced in Parliament, 1st reading		
27/02/2007	Vote in committee, 1st reading		Summary
06/03/2007	Committee report tabled for plenary, 1st reading	A6-0055/2007	
28/03/2007	Debate in Parliament		
29/03/2007	Decision by Parliament, 1st reading	T6-0094/2007	Summary
29/03/2007	Results of vote in Parliament		
24/10/2007	Modified legislative proposal published	COM(2007)0674	Summary
07/04/2008	Debate in Council		Summary
09/12/2008	Council position published	14287/2/2008	Summary
18/12/2008	Committee referral announced in Parliament, 2nd reading		
17/02/2009	Vote in committee, 2nd reading		Summary
18/02/2009	Committee recommendation tabled for plenary, 2nd reading	A6-0072/2009	
10/03/2009	Debate in Parliament		
11/03/2009	Decision by Parliament, 2nd reading	T6-0111/2009	Summary
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	2005/0242(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure completed
Committee dossier	TRAN/6/71036

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE378.568	31/10/2006	
Committee opinion	JURI	PE378.653	12/12/2006	
Amendments tabled in committee		PE382.391	19/12/2006	

Committee report tabled for plenary, 1st reading/single reading		A6-0055/2007	06/03/2007	
Text adopted by Parliament, 1st reading/single reading		T6-0094/2007	29/03/2007	Summary
Committee draft report		PE416.644	17/12/2008	
Committee recommendation tabled for plenary, 2nd reading		A6-0072/2009	18/02/2009	
Text adopted by Parliament, 2nd reading		T6-0111/2009	11/03/2009	Summary

Council of the EU

Document type	Reference	Date	Summary
Council statement on its position	15862/2008	02/12/2008	
Council position	14287/2/2008	09/12/2008	Summary
Draft final act	03615/2009/LEX	23/04/2009	

European Commission

Document type	Reference	Date	Summary
Legislative proposal	COM(2005)0593	23/11/2005	Summary
Document attached to the procedure	SEC(2005)1517	23/11/2005	Summary
Modified legislative proposal	COM(2007)0674	24/10/2007	Summary
Commission communication on Council's position	COM(2008)0846	09/12/2008	Summary
Follow-up document	COM(2016)0167	29/03/2016	Summary

Additional information

Source	Document	Date
National parliaments	IPEX	
European Commission	EUR-Lex	

Final act

Directive 2009/0020
OJ L 131 28.05.2009, p. 0128 Summary

Insurance of shipowners for maritime claims

2005/0242(COD) - 24/10/2007 - Modified legislative proposal

Of the 25 amendments adopted by Parliament the Commission has decided to accept eighteen in their entirety. Two have been rejected. The remaining have been accepted in part or in principle. In summary they are as follows:

Amendment 5: The last part of the amendment describes conduct barring limitation (circumstances under which a ship-owner loses the right to limit his liability.) This description is considered incomplete and therefore in need of revision in order to reflect all the enacting terms of the Directive. For example, reckless personal act or omission *as well as* gross negligence etc.

Amendment 21: This amendment refers to the contents of the IMO Resolution. The description is not, however, deemed to be complete and should also mention payment of the outstanding remuneration.

Amendment 23, 26 and 27: These three amendments cover the creation of a Community Office responsible for managing financial guarantee certificates. The Commission accepts that, in principle, there may be reason to centralise the management of financial guarantee certificates at a European Level. However, the creation of such an office would have administrative and financial consequences that need to be taken into account.

As a result the Commission will examine this initiative in greater detail. One option proposed would be to entrust the tasks to the European Maritime Safety Agency. Based on the above the Commission has modified the new proposal in order to state that it may be appropriate, in the future, to centralise the management of financial security certificates at a European level. The European Maritime Safety Agency could be called upon to perform this role.

Insurance of shipowners for maritime claims

2005/0242(COD) - 09/12/2008 - Commission communication on Council's position

The Commission’s initial ambitions, supported by the European Parliament in its opinion at first reading, were considerably curtailed by the Council. The common position retains only part of the initial proposal.

The following amendments have been made by the Council:

- the title ‘Directive on the civil liability and financial guarantees of shipowners’ has been superseded by a new title ‘Directive on the insurance of shipowners for maritime claims’;
- the requirement to ratify LLMC 1996 has been deleted, the Member States undertaking in a parallel declaration to ratify it by 1 January 2012 (together with the other relevant Conventions); the provision on the incorporation of the Convention into Community law has also been deleted;
- the provisions on the abandonment of seafarers have been deleted;
- the provisions on Community checks to ensure that insurance has been taken out have been deleted;
- the provision requiring notification of the insurance certificate on entry into maritime areas under the jurisdiction of Member States has been deleted;
- the provisions on direct action against insurers have been deleted.

The following has been retained:

- the requirement for all ships flying the flag of a Member State (throughout the world) and for all ships entering a maritime area under the jurisdiction of a Member State to have insurance cover; the cover must correspond to the ceilings set out in LLMC 1996;
- the proof of insurance will be provided by a commercial insurance certificate;
- whether or not the ship is carrying an insurance certificate can be verified during an inspection under the Port State Control Directive;
- where the ship is not carrying a certificate, it may be detained or even expelled, without prejudice to any financial penalties to be determined by each Member State ;
- the date of entry into force of the Directive is postponed until 1 January 2012, the date by which the Member States (by means of the declaration referred to above) undertake all to have ratified LLMC 1996.

Despite the deletions made by the Council, the common position retains a number of points of substance. The Commission notes that the Council, after having expressed its opposition on principle to the proposal at its meeting in April 2008, was finally able unanimously to adopt a common position on a text that brings added value.

Insurance of shipowners for maritime claims

2005/0242(COD) - 23/11/2005 - Legislative proposal

PURPOSE: to set up a civil liability scheme for ship-owners in the event of damage to a third party and to set up a system of financial guarantees for ship-owners.

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

CONTENT: the purpose of this proposal is to establish, at a European level, a civil liability scheme for ship-owners in the event of damage to a third party. To achieve this goal the Commission is proposing the establishment of non-discriminatory rules, applicable to all ships irrespective their flag, which will make a real contribution towards preventing damage caused by ships and to guarantee that damage is made good. In presenting this

proposal the Commission is responding to a call from the European Parliament to establish a European maritime policy in which safety is of paramount concern. An effective liability system would contribute to the safety aspect of a European maritime policy. The European Council has also called for increased maritime liability as part of the on-going work on the possible revision of the international compensation system for oil damage.

The Commission notes that, in the case of civil liability, ship-owners are currently subject to a number of international Conventions. The impact of these Conventions is limited, mostly because they are yet to enter into force in many countries. Those that have entered into force have done so in a few countries only. There is no systematic monitoring of the Convention's application nor is there a mechanism to ensure that provisions are uniformly interpreted. In addition, the Convention's substance is often such that it makes no real contribution to either preventing damage or ensuring that any such damage is repaired. For example, the international Conventions apply a traditional principle of maritime law namely, the almost complete limitation of operator liability. The legitimacy of this principle, i.e. limited liability, is being increasingly contested. The Commission points out that a 2004 Directive on environmental liability deals with the principle of operators' *unlimited* liability.

Given that many of the international Conventions are not due for revision within the foreseeable future the Commission is proposing a two-stage, pragmatic approach, to filling the regulatory gaps on civil liability and financial guarantees of ship-owners. The first step would involve all of the EU Member States becoming contracting parties to the umbrella international Convention on liability for maritime transport, the 1996 *"Convention on the Limitation of Liability for Maritime Claims"*. In this way, the Convention would be incorporated into Community law, thus guaranteeing its uniform and full application across the EU. Such a move would also act as an incentive for third countries to come on board the 1996 Convention. As a second step, the Commission proposes seeking a mandate for negotiating, within the IMO, a revision of the 1996 Convention in order to review the level at which ship-owners lose their right to limit their liability.

More specifically, the proposed Directive includes provisions whereby:

- ships flying the flag of a state that is not party to this Convention will be subject to a more severe liability regime with gross negligence as conduct barring limitation.
- the financial guarantee must be a sum equivalent to double the ceilings laid down in the aforementioned 1996 Convention.
- a system of notification is set-up that guarantees "financial certificates" are on board all those ships entering waters under the jurisdiction of the EU Member States.
- a specific obligation is introduced whereby ship-owners must have a financial guarantee to cover the costs of repatriating abandoned seafarers.

Such an approach, argues the Commission has a number of advantages. In terms of removing ceilings, only ship-owners guilty of gross negligence will be affected. Establishing an obligatory insurance system will help tackle the problem of substandard ships. As regards obligatory insurance, the vast majority of owners who already have a civil liability insurance policy for damage to third parties caused by their ships will benefit from the new regime in that the market will not be distorted by the actions of a few unscrupulous operators who have no insurance. The crew would also benefit from the proposed financial guarantee for the repatriation of seafarers. Lastly, third parties affected by damage caused by a ship will, undoubtedly, benefit from the removal of ceilings and from obligatory insurance policies.

Insurance of shipowners for maritime claims

2005/0242(COD) - 09/12/2008 - Council position

Although the Council agrees with the objective of the Commission proposal striving for more effective coverage of the interest of victims of damages resulting from the operation of ships, it considers that several provisions of the proposal (creating specific Community rules in parallel to international obligations regarding the same matter) would result in a contradictory situation and be counterproductive in relation to the above mentioned objective. This applies in particular to the provisions relating to the liability regime and the measures concerning seafarers.

The proposed provisions rendering the ratification of an IMO Convention mandatory are not acceptable for Member States, particularly for constitutional reasons. Furthermore, the Council deems some provisions, in particular those related to issuing and verifying of certificates, inappropriate as they would create unnecessary administrative burdens.

Thus, the Council's common position – adopted by unanimity - modifies, to a large extent, the original Commission proposal by redrafting it and deleting several parts of the text. This implies that all amendments introduced in the European Parliament's first-reading opinion related to these deleted parts were not accepted by the Council.

The main issues are as follows:

Mandatory insurance for maritime claims: the Council follows the proposal by the Commission to introduce an insurance obligation for shipowners of ships flying the flag of a Member State and those of ships flying the flag of another State. Relating to the latter, the Council's common position specifies that this applies as soon as the ship enters a port under a Member State's jurisdiction, or, if so decided by a Member State, when the ship is operating in its territorial waters.

With a view to a harmonised global level of insurance cover, the Council, in its common position, refers to the ceilings laid down in the LLMC 1996 as amount of the insurance for each ship per incident. The term "insurance", used in the common position, is largely based on the definition set out in IMO Resolution A.898(21) ("Guidelines on shipowner's responsibilities in respect of maritime claims").

Control and compliance: in order to control the compliance of shipowners with their insurance obligation, the common position provides for a verification by the port State, in accordance with the Directive on Port State Control. To this effect, one or more certificates issued by the insurance

provider have to be carried on board of the ship. The specificities of the certificate set out in the common position are based to a large extent on the original Commission proposal.

Penalties: the common position foresees the possibility for specific sanctions in case the insurance certificate is not carried on board. Without prejudice to the detention of the ship concerned according to the rules on port State control, the ship can be expelled from a port and will be denied entry into any of Member States' ports as long as the situation is not rectified. The common position also includes a general provision of penalties to be established for non compliance with the Directive, relating to the Member States' obligation as flag States.

Relation to regimes established in accordance with other liability and compensation instruments: following the Commission proposal, the Council provides in its common position that the Directive does not affect the regimes established according to other international Conventions, namely the CLC Convention, the HNS Convention, the Bunker Oil Convention and the Wrecks Removal Convention, as well as the Regulation transposing the Athens Convention into Community law.

In parallel to the common position, a **declaration** of the representatives of the Governments of the Member States of the European Union confirms their commitment to do the utmost with a view to ensuring a rapid and effective application of the international conventions on maritime safety, the IMO rules related to flag State obligations and the IMO audit.

Insurance of shipowners for maritime claims

2005/0242(COD) - 29/03/2007 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted the resolution drafted by Gilles **SAVARY** (PES, FR) making some amendments to the proposed directive on the civil liability and financial guarantees of shipowners.

The main amendments were as follows:

- new recitals state that protection of European coasts and European citizens in the face of ecological damage of any kind resulting from maritime accidents is an absolute priority for the EU. Protecting European coasts involves the dual aspects of preventing accidents by ensuring that only safe ships sail and of providing for the arrangements required to ensure that victims can, in as short a time as possible, receive compensation fully commensurate with the damage caused by an accident;

- MEPs stressed that oil was not the main concern of the proposal and amended the third recital in order to place emphasis on the role of international conventions on compensation of third party victims for damage related to maritime transport of goods in general (and not just oil pollution), to ensure fair compensation and encourage operators and their representatives to exercise greater vigilance and professionalism;

- a new recital stated that it should be possible to apply limitation of liability under the 1996 Convention to victims not party to the maritime transport operation, if the owner of the ship responsible for the damage has failed to act in a professional manner and should have been aware of the harmful effects of his act or omission;

- it should not be possible to apply limitation of liability under the 1996 Convention to victims not party to the maritime transport operation, if the owner of the ship responsible for the damage has failed to act in a professional manner and should have been aware of the harmful effects of his act or omission;

- Parliament amended the definition of "civil liability" and introduced a definition of 'gross negligence', meaning "conduct showing an unusual lack of due diligence and care, and a consequent disregard of what should in principle have been clear to everyone in a given situation";

- two new articles (3a and 3b) stipulated that the Member States should become contracting parties to the 2001 Bunker Oil Convention and the 1996 HNS Convention;

Member States which are still parties to the 1976 Convention on Limitation of Liability for Maritime Claims must denounce it;

- for the purposes of applying Article 4 of the 1996 HNS Convention, knowledge of probable damage by the person responsible may in all cases be deduced from the nature and circumstances of the personal act or omission of that person committed recklessly;

- when issuing certificates to shipowners, competent authorities shall also consider whether a guarantor has a business establishment in the EU;

- the authority which issued or certified a certificate shall forward a copy of the certification file to the Community Office (see below) so that the latter may include it in the register;

- Member States shall monitor compliance with the rules laid down in the Directive and shall establish penalties for the infringement of these rules. These penalties shall be effective, proportionate and dissuasive;

- Parliament introduced a new Article on a Solidarity fund to cover damage caused by ships without a financial guarantee. It states that a solidarity fund will be set up to compensate third parties, whether natural or legal persons, that have suffered damage caused by ships which, notwithstanding the obligations laid down in the Directive, have sailed in EU territorial waters without being covered by a financial guarantee certificate;

- the amount to be allotted to this fund, and the fund's operating rules, will be determined in accordance with the procedure referred to in the Directive;

- a Community Office shall be established which is responsible for keeping a full register of certificates issued, monitoring and updating their validity, and checking the existence of financial guarantees registered by third countries.

Lastly, Member States reports to the Commission shall assess in particular the procedures for certification and issuing of certificates by Member States and the need to consider whether this task should be delegated wholly or partly to the Community Office.

Insurance of shipowners for maritime claims

2005/0242(COD) - 07/04/2008

The Council held a public policy debate on a proposal for a Directive on the civil liability and financial guarantees of ship-owners.

During the debate, the Council reaffirmed its strong commitment to take the necessary measures in order to strengthen maritime safety. The Council also recalled that it already adopted six political agreements on the basis of five Commission proposals of the third maritime safety package and that the related common positions will be shortly transmitted to the European Parliament in order to reach a quick agreement and start their implementation as soon as possible.

The debate showed that the legislative proposal is not supported by a large majority of Member States. Ministers, although agreeing with the above aim as proposed by the Commission, considered that the proposed Directive would not be the most appropriate means to achieve this objective. Member States stated that a solution should be found at international (IMO) level and not through the proposed Commission Directive on civil liability.

In view of the above, a majority of Member States committed themselves to take the necessary steps to ratify and fully implement the LLMC 1996 and other related international conventions, in order to help to prevent damage caused by ships to third parties and to effectively respond to the interests of accident victims.

The presidency concluded that this proposal does not receive qualified majority support and that Member States instead reaffirmed their commitment to examine all possible solutions to achieve the outlined above objectives.

Insurance of shipowners for maritime claims

2005/0242(COD) - 23/04/2009 - Final act

PURPOSE: to establish insurance requirements for shipowners.

LEGISLATIVE ACT: Directive 2009/20/EC of the European Parliament and of the Council on the insurance of shipowners for maritime claims

CONTENT: this Directive lays down rules applicable to certain aspects of the obligations on shipowners as regards their insurance for maritime claims. It applies to ships of 300 gross tonnage or more. However, it does not apply to warships, auxiliary warships or other State owned or operated ships used for a non commercial public service. It is also without prejudice to the regimes established by the instruments in force in Member State concerned and listed in the Annex, such as the International Convention on Civil Liability for Oil Pollution Damage, 1992.

The Directive provides that each Member State must require that shipowners of ships flying its flag have insurance covering such ships. Each Member State must require shipowners of ships flying a flag other than its own to have insurance in place when such ships enter a port under the Member State's jurisdiction. This shall not prevent Member States, if in conformity with international law, from requiring compliance with that obligation when such ships are operating in their territorial waters. The insurance must cover maritime claims subject to limitation under the 1976 Convention on Limitation of Liability for Maritime Claims, adopted by the International Maritime Organisation (IMO), as amended by the 1996 Protocol. The amount of the insurance for each and every ship per incident must be equal to the relevant maximum amount for the limitation of liability as laid down in the 1996 Convention.

The Directive notes that the obligation to have insurance should make it possible to ensure better protection for victims. It should also help to eliminate substandard ships and make it possible to re-establish competition between operators.

With regard to sanctions, Directive 2009/16/EC on port State control already provides for the detention of ships in the case of absence of certificates which have to be carried on board. However, this Directive also provides for the possibility of expelling a ship which does not carry a certificate of insurance. As a result of the issuing of such an expulsion order, every Member State will refuse entry of this ship into any of its ports until the shipowner notifies the insurance certificate.

Penalties: Member States shall lay down a system of penalties for the breach of national provisions adopted pursuant to the Directive and take all the measures necessary to ensure that those penalties are applied.

Reports: every 3 years, and for the first time before 1 January 2015, the Commission must present a report on the application of the Directive.

It should be noted that the Commission’s original proposal concerned the civil liability of shipowners. However, the final text approved by Parliament and Council concerned the obligation on shipowners to carry insurance covering possible maritime claims. The administrative costs for Member States have been reduced and a revised penalty system introduced.

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/2005/0237, COD/2005/0238, COD/2005/0239, COD/2005/0240 and COD/2005/0241).

ENTRY INTO FORCE: 29/05/2009.

TRANSPOSITION: 01/01/2012.

Insurance of shipowners for maritime claims

2005/0242(COD) - 11/03/2009 - Text adopted by Parliament, 2nd reading

The European Parliament adopted a legislative resolution approving unamended, under the second reading of the codecision procedure, the Council's common position for adopting a directive of the European Parliament and of the Council on the insurance of shipowners for maritime claims.

Insurance of shipowners for maritime claims

2005/0242(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 the civil liability and financial guarantees of ship owners – COM(2005)0593.

1- POLICY OPTIONS AND IMPACTS

The Commission considered two potential policy directions.

1.1- Option 1 - to promote the implementation of international conventions. The relatively slow pace of national ratification processes makes the date of entry into force and the geographical scope of these conventions uncertain. This directive would offer a binding instrument under which these conventions could be swiftly and uniformly applied at EU level. In addition, this directive would permit a medium-term possibility of modernising civil liability law in the maritime sector,

1.2- Option 2 - to set up a tailored Community regime aimed partly at removing ceilings on civil liability, but also at obliging ship owners to take out insurance. The interest of such an instrument would be with a view to the harmonisation of applicable law, along the lines recommended at international level (resolutions of the International Maritime Organisation and the International Labour Organisation).

CONCLUSION: **the Commission favoured Option 2** which would involve the establishment of compulsory insurance.

IMPACTS : the impacts relating to Option 2 are described below.

- In terms of removing ceilings, only ship owners guilty of gross negligence will be affected, to the greater benefit of those owners respectful of security standards who will continue to enjoy the protection of limited liability. Establishing an obligatory insurance system will help tackle the problem of sub-standard ships in the same way as applying the other measures contained in this legislative package. Accordingly, it is expected that the risk to insurers will not increase.

- It should also be noted that this approach would presuppose that the Member States which are contracting parties to the 1996 Convention withdraw from it in good time and at the latest by the end of the transposition period for this Directive.

- As regards obligatory insurance, the vast majority of owners who already have a civil liability insurance policy for damage to third parties caused by their ships will benefit from this new regime in that the market will not be distorted by the actions of unscrupulous operators with no insurance.

- In practical terms, ship owners should follow the procedures to obtain certificates and then notify their on-board presence.

- The crew will also benefit from the protection afforded by the financial guarantee for the repatriation of seafarers.

- The situation of persons who have suffered damage caused by a ship and who demand that this be made good by the owner of that ship (individuals, professionals, but also public authorities) will be improved by the new mechanism removing ceilings and making insurance obligatory. Introducing a direct action will further ease their situation.

- Governments (flag States and port States) are affected in that they must set up a system for issuing and verifying financial guarantee certificates. It should be noted that Member States are already under this obligation, but that this is limited to tankers transporting persistent oils.

2- FOLLOW-UP

The provisions of the directive relating to civil liability (provisions incorporating the 1996 Convention) will be implemented, if necessary, by the national courts where victims can make their claims. Referrals could be made to the Court of Justice to give preliminary rulings and to guarantee the uniform interpretation of the directive's provisions.

The other provisions (the granting and checking of certificates) will be implemented by the Member States as flag states and/or port States, including by the national authorities responsible for the implementation of legislation regarding maritime approaches and coastal areas. The Commission, and where appropriate, the Court of Justice, will seek to guarantee the conformity of these national measures with the directive. The Commission will draw up a report on the implementation of the directive within five years of the directive's entry into force. This report may highlight the necessity for changes to be made to the directive.

Insurance of shipowners for maritime claims

2005/0242(COD) - 29/03/2016 - Follow-up document

The Commission adopted a report on the application of Directive 2009/20/EC on the insurance of ship-owners for maritime claims.

To recall, the Directive entered into force on 29 May 2009. It aims to encourage responsible behaviour by all economic operators, to improve the quality of merchant shipping and ensure safety at sea.

The Directive makes compulsory in the EU the requirement for ship-owners to have adequate insurance covering their ships. This requirement is combined with the principle of limitation of liability in accordance with the 1996 Protocol to the 1976 Convention on Limitation of Liability for Maritime Claims ('LLMC 1996').

The report relies on the outcome of a survey undertaken by the European Maritime Safety Agency (EMSA) at the request of the European Commission on the application of the Directive, as well as on information and **data retrieved from the inspection database (commonly known as 'THETIS')** established in accordance with Directive 2009/16/EC on port State control as amended.

The main conclusion of the report is that the Directive which has been in force for approximately four years and it **appears to be working well** in pursuing its objectives.

EU Flag State Implementation: as compliance records show based on the information available, **the vast majority of ships flying EU flags or entering EU ports have adequate insurance** in line with the Directive.

Reports from Member States in THETIS on the outcome of Port State Control inspections on ships flying a flag of another EU Member State indicate that, as regards ships flying EU flags, **13 cases of non-compliance** related to insurance certificates have been identified between July 2013 and end September 2015. When comparing this to the total number of 45 cases of noncompliance related to insurance certificates on ships recorded in THETIS during the same period, it can be concluded that ships flying an EU flag represent nearly one third (29 %) of the total of the non-compliance cases.

The report highlighted that the percentage of non-compliant ships flying an EU flag in relation to the total number of Port State Control inspections of such ships is **very low, i.e. 0.1 %**. Moreover, the non-compliance percentage of EU flagged ships is lower compared to non-EU flagged ships (respectively 0.1 % compared to 0.15 % for non-EU ships). According to the report, no Member State has reported to have imposed any **penalty** on a ship flying its flag for lack of adequate insurance cover under the Directive.

Port State Control: since the specialised module on THETIS (THETIS-I) has become operational on 1 July 2013 and until September 2015, **34 944 inspections** in total have been recorded. Port State Control enforcement has identified a total of 45 deficiencies under the Directive as depicted in Annex B of this report. When compared to the total of 34 944 inspections, 45 deficiencies give a **99.87 % compliance rate**, which is significantly high.

Taking account of the findings, the Commission considered that the system established under the Directive, thus, gives **reasonable assurance** that, should an incident involving such a ship result in a third party loss, and consequently give rise to maritime claims as defined in LLMC 1996, victims will be able to receive compensation from the ship-owner and his insurer, up to the amount of the relevant liability limit.

Some issues of implementation and enforcement of the obligations under the Directive, as outlined in the present report, could be **further improved through enhanced use of the existing operational information and exchange systems** to achieve a more uniform application of the Directive, both from a flag State and port State point of view.