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NOTE

from: General Secretariat

to: Permanent Representatives' Committee/Council

Subject: - Proposal for a Directive .../.../EC of the European Parliament and of the Council of [...] on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations

- Proposal for a directive .../.../EC of the European Parliament and of the Council of [...] on port State control (Recast)

- Proposal for a Directive of the European Parliament and of the Council amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system

- Proposal for a Directive of the European Parliament and of the Council establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Directives 1999/35/EC and 2002/59/EC

- Proposal for a Regulation of the European Parliament and of the Council on the liability of carriers of passengers by sea and inland waterways in the event of accidents

– Outcome of the European Parliament's first reading
(Strasbourg, 22 to 26 April 2007)

I. INTRODUCTION

The joint debate on the above five proposals was introduced by the Parliamentary Secretary of State Karin ROTH who, having welcomed the Commission's proposals made the following points:

- the improvement of safety at sea was a common preoccupation of the Council, the European Parliament and the Commission in respect of which considerable progress has already been made;
- secondly, the Minister emphasized the importance of protecting the rights of crews, and recalled the already significant progress made as regards the transposition of the 2006 ILO Convention;
- thirdly, the Minister underlined the significance of the proposals in the context of the ongoing struggle against climate change;
- finally, the Minister referred to the importance of the proposals in increasing maritime trade.

II DEBATE

The debate continued with the intervention of Commissioner BARROT who, referring to the "Port State Control" proposal, recalled that the Commission wished to be able to control all, not just a percentage of vessels. The Commissioner also referred to the significance of the proposals as regards the provision of better treatment of victims of maritime accidents, and in particular of the necessity of incorporating into Community law the provisions of the 2001 Athens Convention of the rights of passengers.

The debate continued with the intervention of Mr. Dirk STERCKS (ALDE-BE), who, when presenting his report, emphasised that the above proposals were 5 of a package of seven, and urged the Council to recall this and to respect the integrality of the package - a point which was reiterated later in the debate by Mr Savary (PSE, F). This was followed by the presentation of Mr. Jaromir KOHLÍČEK (GUE/NGL-CZ) which in turn was followed by Mrs. Dominique VLASTO (PPE/DE-FR) who pointed that the objective of this proposal was clear and simple: "éradiquer les navires poubelles qui polluent". In order to ensure this aim, the text provided, in particular, for stronger sanctions, such as the refusal of entry into port.

The Rapporteur went on to underline the importance of strong European rules which would reinforce the position of the European Union in its negotiation with other countries notably with Russia and Canada.

Finally, the Rapporteur referred to the major divergences between the Council and the Parliament, on one hand as to the application of this Directive to anchoring in particular in high sea and, secondly the question of flexibility as regards the carrying out of inspections and particularly the possibility of delaying an inspection until the next port of call.

Mr. Paolo COSTA (ALDE-IT), introducing his report, argued that these proposals were necessary in order to ensure the recovery of confidence for travellers and in order to protect consumers. He also pointed out the different levels of protection offered as regards accidents in the Mediterranean sea as opposed to the Atlantic ocean.

The debate continued with the intervention of Mr. Luis DE GRANDES PASCUAL (PPE-DE-ES) who called on up the Council to act quickly in order to improve maritime security, a point of view which was followed by several other speakers.

Mme Piiia-Nora KAUPPI (PPE-DE-FI), draftsman of the opinion of the Committee of Legal Affairs spoke of the strong support of that committee for the incorporation of the International Maritime Organisations Athens' Protocol of 2002 into Community legislation.

Mr. Emanuel JARDIM FERNANDES (PSE-PT), as shadow rapporteur for the proposal on the liability of carriers of passengers by sea and inland waterways in the event of accidents, argued that the rights of passengers should be reinforced in case of accidents and that the transport carriers should be held responsible in the first place in this case.

He also argued that the future regulation on safety should be applied to navigation on in land water ways as well as to navigation on the high seas.

Mme Jacky HENIN (GUE/NL-FR) also emphasized the importance of security for passengers and on the disastrous consequences of oils spillages for economic activities linked to fishing, tourism and shell-fish production.

Mr. Ian HUDGHTON (VERTS/ALE-UK) welcomed the fact that while recasting the existing Directive on Port State Control, there were new provisions in the proposal on the refusal of access to EU ports and expressed his support to the position of the Committee of Transport and Tourism which simplified the structure of the proposal and made it more coherent.

Mr Luis QUEIRÓ (PPE-DE-PT) thanked the Council for scheduling the discussions on these dossiers for the Council meeting in June.

The debate was concluded by Parliamentary Secretary of State Karin ROTH, who stressed the importance of the Paris Memorandum of Understanding which does not foresee the fixed quota of 25% but starts on the basis of risk analysis and refers to the classification of ships and also underlined that the Paris Memorandum of Understanding includes Russia and Canada.

III. VOTE

The European Parliament adopted 65 of the amendments as regards the Report of Mr. Luis DE GRANDES PASCUAL (PPE-DE-ES) (**annex I** of this note ¹), 92 amendments concerning the Report of Mrs Dominique VLASTO (PPE/DE-FR) (**annex II**²), 62 amendments as regards the report of Mr. Dirk STERCKS (ALDE-BE) (**annex III** of this note ³), 26 amendments to the Report of Mr. Jaromir KOHLÍČEK (GUE/NGL-CZ) (**annex IV** of this note ⁴), 27 amendments to the Report Mr. Paolo COSTA (ALDE-IT), (**annex V** of this note ⁵).

The text of the amendments adopted and the European Parliament legislative resolutions are annexed to this note.

¹ see page 5 of this note
² see page 25 of this note
³ see page 69 of this note
⁴ see page 90 of this note
⁵ see page 97 of this note

Ship inspection and survey organisations *I**

European Parliament legislative resolution of 25 April 2007 on the 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 version) (COM(2005)0587 – C6-0038/2006 – 2005/0237(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0587) ¹,
 - having regard to Articles 251(2) and 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0038/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A6-0070/2007),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

Amendment 1

Recital 2

(2) In its resolution of 8 June 1993 on a common policy on safe seas, the Council set the objective of removing all substandard vessels from Community waters and gave priority to Community action to secure the effective and uniform implementation of international rules by elaborating common standards for classification societies.

(2) In its resolution of 8 June 1993 on a common policy on safe seas¹, the Council set the objective of removing all substandard vessels from Community waters and gave priority to Community action to secure the effective and uniform implementation of international rules by elaborating common standards for classification societies, ***defined as ship inspection and survey organisations (hereinafter “recognised organisations”).***

¹ OJ C 271, 7.10.1993, p. 1.

(This amendment applies throughout the text.)

Amendment 3

Recital 6

(6) In compliance with such conventions all Member States may authorise to a varying extent ***ship inspection and survey organisations, generally known as classification societies***, for the certification of such compliance and may delegate the issue of the relevant ***safety*** certificates.

(6) In compliance with such conventions all Member States may authorise to a varying extent ***recognised*** organisations for the certification of such compliance and may delegate the issue of the relevant certificates ***for safety and the prevention of pollution***.

Amendment 4

Recital 7

(7) Worldwide a large number of the existing ***classification societies*** do not ensure either adequate implementation of the rules or reliability when acting on behalf of national administrations as they do not have adequate structures and experience to be relied upon and to enable them to carry out their duties in a highly professional manner.

(7) Worldwide a large number of the existing ***recognised organisations*** do not ensure either adequate implementation of the rules or reliability when acting on behalf of national administrations as they do not have adequate structures and experience to be relied upon and to enable them to carry out their duties in a highly professional manner.

Amendment 5

Recital 8

(8) Furthermore, these organisations *are given the duty of producing and implementing* rules for the design, construction, maintenance and inspection of ships and to meet the requirements of the international conventions for the issue of the relevant certificates. To enable them to carry out that duty in a satisfactory manner they need to have strict independence, highly specialised technical competence and rigorous quality management.

(8) Furthermore, these *recognised* organisations *produce and implement* rules for the design, construction, maintenance and inspection of ships and *they are responsible for inspecting ships on behalf of the flag States and certifying that those ships* meet the requirements of the international conventions for the issue of the relevant certificates. To enable them to carry out that duty in a satisfactory manner they need to have strict independence, highly specialised technical competence and rigorous quality management.

Amendment 6

Recital 9 a (new)

(9a) This objective should be pursued through measures that adequately tie in with the work of the International Maritime Organisation (IMO) and, where appropriate, build on and complement it.

Amendment 7

Recital 14

(14) A Member State may restrict the number of organisations it authorises in accordance with its needs, based on objective and transparent grounds, subject to control exercised by the Commission in accordance with a committee procedure.

(14) A Member State may restrict the number of *recognised* organisations it authorises in accordance with its needs, based on objective and transparent grounds, subject to control exercised by the Commission in accordance with a committee procedure.

Amendment 8

Recital 15

(15) Since this Directive ensures freedom to provide services in the Community, the *Community* should be entitled to negotiate, with those third countries where some of the recognised organisations are located, equal treatment for the recognised organisations *located* in the Community.

(15) Since this Directive ensures freedom to provide services in the Community, the *Commission* should be entitled to negotiate, with those third countries where some of the recognised organisations are located, equal treatment for the recognised organisations *domiciled* in the Community.

Amendment 9

Recital 16

(16) A tight involvement of the national administrations in ship surveys and in the issue of the related certificates is necessary to ensure full compliance with the international safety rules even if the Member States rely upon organisations outside their administration for carrying out statutory duties. It is appropriate, therefore, to establish a close working relationship between the administrations and the organisations, which may require that the **organisation** has a local representation on the territory of the Member State on behalf of which **it performs its** duties.

(16) A tight involvement of the national administrations in ship surveys and in the issue of the related certificates is necessary to ensure full compliance with the international safety rules even if the Member States rely upon **recognised** organisations outside their administration for carrying out statutory duties. It is appropriate, therefore, to establish a close working relationship between the administrations and the **recognised** organisations **authorised by them**, which may require that the **recognised organisations have** a local representation on the territory of the Member State on behalf of which **they perform their** duties.

Amendment 11

Recital 18

(18) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission.

(18) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. ***In particular, the Commission should be empowered to amend this Directive in order to apply subsequent amendments to the international conventions, protocols, codes and resolutions related thereto, to update the criteria in Annex I and to adopt the criteria to measure the safety and pollution prevention performance of recognised organisations. Since those measures are of general scope and are designed to amend non-essential elements of this Directive, and to supplement this Directive by the addition of new non-essential elements, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.***

Amendment 12

Recital 20

(20) It is of the utmost importance that failure by a recognised organisation to fulfil its obligations can be addressed in a prompt, effective and proportionate manner. The primary objective should be to correct any deficiencies with a view to removing any potential threat to safety or the environment at an early stage. The Commission should therefore be given the necessary powers to require that the organisation undertakes the necessary preventive and remedial action, and to impose fines and periodic penalty payments as coercive measures.

(20) It is of the utmost importance that failure by a recognised organisation to fulfil its obligations can be addressed in a prompt, effective and proportionate manner. The primary objective should be to correct any deficiencies with a view to removing any potential threat to safety or the environment at an early stage. The Commission should therefore be given the necessary powers to require that the **recognised** organisation undertakes the necessary preventive and remedial action, and to impose fines and periodic penalty payments as coercive measures.

Amendment 13

Recital 23

(23) Each Member State should periodically assess the performance of the organisations working on its behalf and provide the Commission and all the other Member States with precise information related to such performance.

(23) Each Member State should periodically assess the performance of the **recognised** organisations working on its behalf and provide the Commission and all the other Member States with precise information related to such performance.

Amendment 14

Recital 24

(24) The continuous a posteriori monitoring of the recognised organisations to assess their compliance with the provisions of this Directive can be carried out more effectively in a harmonised and centralised manner. Therefore it is appropriate that the Commission, together with the **Member State requesting the recognition**, be entrusted with this task on behalf of the whole Community.

(24) The continuous a posteriori monitoring of the recognised organisations to assess their compliance with the provisions of this Directive can be carried out more effectively in a harmonised and centralised manner. Therefore it is appropriate that the Commission, together with the **Member States that authorise recognised organisations to act on their behalf**, be entrusted with this task on behalf of the whole Community.

Amendment 15

Recital 25

(25) ***It is crucial that*** Community inspectors have access to ships and ship files regardless of the ship's flag in order to ascertain that the recognised organisations comply with the minimum criteria in respect of all ships in their respective class.

(25) ***As part of monitoring the operations of recognised organisations,*** Community inspectors ***must*** have access to ships and ship files regardless of the ship's flag in order to ascertain that the recognised organisations comply with the minimum criteria ***laid down in this Directive*** in respect of all ships in their respective class.

Amendment 16

Recital 28

(28) The ability of recognised organisations rapidly to identify and correct weaknesses in their rules, processes and internal controls is critical for the safety of the ships they inspect and certify. That ability should be enhanced by means of an independent ***joint*** body which ***can*** propose ***common*** action for the sustained improvement of all recognised organisations and ensure productive interaction with the Commission.

(28) The ability of recognised organisations rapidly to identify and correct weaknesses in their rules, processes and internal controls is critical for the safety of the ships they inspect and certify. That ability should be enhanced by means of an independent ***assessment committee*** which ***will act independently in order to*** propose action for the sustained improvement of all recognised organisations and ensure productive interaction with the Commission.

Amendment 17

Recital 28 a (new)

(28a) The rules and regulations of the recognised organisations are a key factor for safety and the prevention of accidents and pollution. The recognised organisations have initiated the process that should lead to harmonisation of their rules and regulations. That process should be encouraged and supported by Community legislation, as it should have a positive impact on maritime safety and the competitiveness of the European shipbuilding industry.

Amendment 18

Recital 29

(29) Recognised organisations should be obliged to update their technical standards and enforce them consistently in order to harmonise safety rules and ensure uniform implementation of international rules within the Community. Where the technical standards of recognised organisations are identical or very similar, mutual recognition of class certificates should be considered.

(29) Recognised organisations should be obliged to update their technical standards and enforce them consistently in order to harmonise safety rules and ensure uniform implementation of international rules within the Community. Where the technical standards of recognised organisations are identical or very similar, mutual recognition of class certificates should be considered ***in cases where this is possible, and taking the most demanding and rigorous certificates as the model.***

Amendment 19

Recital 31

(31) In order to prevent ships from changing class to avoid carrying out ***necessary*** repairs, the recognised organisations ***should*** exchange all relevant information among themselves concerning the conditions of ships ***changing*** class and involve the flag State when necessary.

(31) In order to prevent ships from changing class to avoid carrying out repairs ***called for by a classification society in its inspection, prior arrangements should be made for*** the recognised organisations ***to*** exchange all relevant information among themselves concerning the conditions of ships ***for which a change of class is sought*** and involve the flag State when necessary.

Amendment 20

Article 1

This Directive establishes measures to be followed by the Member States and organisations ***concerned*** 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 process 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.

This Directive establishes measures to be followed by the Member States and organisations ***they have 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 process includes the development and implementation of safety requirements for hull, machinery and electrical, ***radio*** and control installations of ships falling under the scope of the international conventions.

Amendment 21

Article 2, point (c)

(c) ‘inspections and surveys’ means inspections and surveys that it is mandatory to carry out under the international conventions;

(c) ‘inspections and surveys’ means inspections and surveys that it is mandatory to carry out under the international conventions, **and under this and other Community directives concerned with maritime safety**;

Amendment 23

Article 2, point (m)

(m) ‘location’ refers to the **place of** the registered office, central administration or principal place of business of an organisation.

(m) ‘**country of** location’ refers to the **state where** the registered office, central administration or principal place of business of an organisation **is located**.

Amendment 25

Article 5

The Commission shall refuse to recognise organisations which fail to meet the requirements mentioned in the first paragraph of Article 4 or whose performance is considered an unacceptable threat to safety or the environment on the basis of the criteria laid down in accordance with Article 14.

The Commission shall, **in accordance with the procedure referred to in Article 9(2)**, refuse to recognise organisations which fail to meet the requirements mentioned in the first paragraph of Article 4 or whose performance is considered an unacceptable threat to safety or the environment on the basis of the criteria laid down in accordance with Article 14.

Amendment 26

Article 6, paragraph 2

2. Recognition shall be granted to the parent entity, **if any, within the organisation and shall apply to all entities within that organisation**.

2. Recognition shall be granted to the **relevant legal** parent entity **for all the legal entities that constitute the recognised organisations, the recognition being extended to all the legal entities in a recognised organisation that contribute to ensuring that the principal legal entity provides cover for their services globally**.

Amendment 27
Article 7, paragraph 2, subparagraph 1

2. In order for a Member State to accept that a recognised organisation located in a third State is to carry out the duties mentioned in Article 3 or part of them it may **request** the third State in question to grant reciprocal treatment for those recognised organisations which are located in the Community.

2. In order for a Member State to accept that a recognised organisation located in a third State is to carry out **on its behalf** the duties mentioned in Article 3 or part of them it may **require** the third State in question to grant reciprocal treatment for those recognised organisations which are located in the Community.

Amendment 28
Article 8, paragraph 2, point (a), subparagraph 1 a (new)

Accordingly, when a recognised organisation, its inspectors or its technical staff issue the required certificates on behalf of the administration, they shall be subject to the same legal safeguards and the same jurisdictional protection, including the exercise of any defence actions, as those to which the administration and its members may have recourse in cases where the administration has issued the above required certificates itself;

Amendment 29
Article 8, paragraph 2, point (b), point (i)

(i) if liability arising out of any **incident** is finally and definitely imposed on the administration by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for loss or damage to property or personal injury or death, which is proved in that court of law to have been caused by a wilful act or omission or gross negligence of the recognised organisation, its bodies, employees, agents or others who act on behalf of the recognised organisation, the administration shall be entitled to financial compensation from the recognised organisation to the extent that the said loss, damage, injury or death is, as decided by that court, caused by the recognised organisation;

(i) if liability arising out of any **marine casualty** is finally and definitely imposed on the administration by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for loss or damage to property or personal injury or death, which is proved in that court of law to have been caused by a wilful act or omission or gross negligence of the recognised organisation, its bodies, employees, agents or others who act on behalf of the recognised organisation, the administration shall be entitled to financial compensation from the recognised organisation to the extent that the said loss, damage, injury or death is, as decided by that court, caused by the recognised organisation;
(This amendment applies throughout the text.)

Amendment 30

Article 8, paragraph 2, point (b), point (ii)

(ii) if liability arising out of any **incident** is finally and definitely imposed on the administration by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for personal injury **or** death, which is proved in that court of law to have been caused by any negligent or reckless act or omission of the recognised organisation, its employees, agents or others who act on behalf of the recognised organisation, the administration shall be entitled to financial compensation from the recognised organisation to the extent that the said personal injury or death is, as decided by that court, caused by the recognised organisation; the Member States may limit the maximum amount payable by the recognised organisation, which must, however, be at least equal to EUR 4 million;

(ii) if liability arising out of any **marine casualty** is finally and definitely imposed on the administration by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for personal injury **not resulting in** death, which is proved in that court of law to have been caused by any negligent or reckless act or omission of the recognised organisation, its employees, agents or others who act on behalf of the recognised organisation, the administration shall be entitled to **demand** financial compensation from the recognised organisation to the extent that the said personal injury **not resulting in** death is, as decided by that court, caused by the recognised organisation; the Member States may limit the maximum amount payable by the recognised organisation, which must, however, be at least equal to EUR 4 million, **except where the amount determined in the judgment or settlement is lower, in which case this last figure shall apply**;

Amendment 31

Article 8, paragraph 2, point (b), point (iii)

(iii) if liability arising out of any **incident** is finally and definitely imposed on the administration by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for loss or damage to property, which is proved in that court of law to have been caused by any negligent or reckless act or omission of the recognised organisation, its employees, agents or others who act on behalf of the recognised organisation, the administration shall be entitled to financial compensation from the recognised organisation, to the extent that the said loss or damage is, as decided by that court, caused by the recognised organisation; the Member States may limit the maximum amount payable by the recognised organisation, which must, however, be at least equal to EUR 2 million;

(iii) if liability arising out of any **marine casualty** is finally and definitely imposed on the administration by a court of law or as part of the settlement of a dispute through arbitration procedures, together with a requirement to compensate the injured parties for loss or damage to property, which is proved in that court of law to have been caused by any negligent or reckless act or omission of the recognised organisation, its employees, agents or others who act on behalf of the recognised organisation, the administration shall be entitled to **demand** financial compensation from the recognised organisation, to the extent that the said loss or damage is, as decided by that court, caused by the recognised organisation; the Member States may limit the maximum amount payable by the recognised organisation, which must, however, be at least equal to EUR 2 million, **except where the amount determined in the judgment or**

settlement is lower, in which case this last figure shall apply;

Amendment 33

Article 8, paragraph 2, point (e)

(e) provisions for reporting essential information about their classed fleet, changes, suspensions and withdrawals of class, as referred to in Article 20(3).

(e) provisions for ***the compulsory*** reporting ***of*** essential information about their classed fleet, changes, suspensions and withdrawals of class, as referred to in Article 20(3).

Amendment 34

Article 8, paragraph 3

3. The agreement or equivalent legal arrangement may require the recognised organisation to have a local representation on the territory of the Member State on behalf of which it performs the duties referred to in Article 3. A local representation ***of a legal nature*** ensuring legal personality under the law of the Member State and the ***competence*** of its national courts may satisfy such a requirement.

3. The agreement or equivalent legal arrangement may require the recognised organisation to have a local representation on the territory of the Member State on behalf of which it performs the duties referred to in Article 3. A local representation ensuring legal personality under the law of the Member State and the ***jurisdiction*** of its national courts may satisfy such a requirement.

Amendment 35

Article 8, paragraph 5

5. The Commission shall, no later than 22 July 2006, submit a report to the European Parliament and to the Council evaluating the economic impact of the liability regime provided for in this Article on the parties concerned and, more particularly, its consequences for the financial equilibrium of recognised organisations.

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This report shall be drawn up in cooperation with the competent authorities of the Member States and the parties concerned, in particular recognised organisations. The Commission shall, if necessary in the light of this evaluation, submit a proposal amending this Directive with more specific reference to the principle of liability and the maximum liabilities.

Amendment 36

Article 9, paragraph 2a (new)

2a. Where reference is made to this paragraph, Article 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Amendment 37

Article 10, paragraph 1, introductory wording

1. This Directive may, without broadening its scope, be amended in accordance with the procedure referred to in **Article 9(2)**, in order to:

1. This Directive may, without broadening its scope, be amended in accordance with the procedure referred to in **Article 9(2a)**, in order to:

Amendment 38

Article 11, paragraph 2 a (new)

However, and without prejudice to their immediate implementation, the Commission must give advance notice of the measures that it intends to take to all Member States which have granted an authorisation to the recognised organisation concerned.

Amendment 39

Article 12, paragraph 1, point (a)

(a) whose failure to fulfil the criteria set out in Annex I or its obligations under this Directive or whose worsening performance reveals grave shortcomings in its structure, systems, procedures or internal controls; or

(a) whose **serious or, alternatively, repeated** failure to fulfil the criteria set out in Annex I or its obligations under this Directive or whose worsening performance reveals grave shortcomings in its structure, systems, procedures or internal controls; or

Amendment 40

Article 12, paragraph 1, point (b)

(b) which has provided incorrect, incomplete or misleading information to the Commission in the course of its assessment under Article 16(3) or otherwise obstructed that assessment.

(b) which has **deliberately** provided incorrect, incomplete or misleading information to the Commission in the course of its assessment under Article 16(3) or otherwise obstructed that assessment.

Amendment 41

Article 12, paragraph 3, subparagraph 2

They shall be imposed only after the organisation concerned **has** been given the opportunity to submit **its** observations.

They shall be imposed only after the organisation **and the Member States** concerned **have** been given the opportunity to submit **their** observations.

Amendment 42

Article 12, paragraph 3, subparagraph 3

The aggregate amount of the fines and periodic penalty payments shall not exceed **10 %** of the total turnover of the recognised organisation in the preceding business year for the activities falling under the scope of this Directive.

The aggregate amount of the fines and periodic penalty payments shall not exceed **5 %** of the total turnover of the recognised organisation in the preceding business year for the activities falling under the scope of this Directive.

Amendment 43

Article 13, paragraph 1, point (a)

(a) whose failure to fulfil the criteria set out in Annex I or their obligations under this Directive is such that it constitutes an unacceptable threat to safety or the environment;

(a) whose ***repeated and serious*** failure to fulfil the criteria set out in Annex I or their obligations under this Directive is such that it constitutes an unacceptable threat to safety or the environment;

Amendment 44

Article 13, paragraph 1, point (b)

(b) whose safety and pollution prevention performance is such that it constitutes an unacceptable threat to safety and the environment;

(b) whose ***repeated and serious failure in their*** safety and pollution prevention performance is such that it constitutes an unacceptable threat to safety and the environment;

Amendment 45

Article 14

The Commission, acting in accordance with the procedure referred to in **Article 9(2)**, shall adopt:

(a) criteria to measure ***the safety and pollution prevention performance of*** recognised organisations, having particular regard to the data produced by the Paris Memorandum of Understanding on Port State Control and/or by other similar schemes;

(b) criteria to determine when ***such*** performance is to be considered an unacceptable threat to safety or the environment, which may take into account specific circumstances affecting smaller-sized or highly specialised organizations, ***and***

(c) detailed rules for the implementation of Article 12 and, if appropriate, Article 13.

The Commission, acting in accordance with the procedure referred to in **Article 9(2a)**, shall adopt ***and publish:***

(a) criteria to measure the ***effectiveness of the rules, regulations, and performance of the recognised organisations as regards the safety of, and the prevention of pollution from, their classified ships***, having particular regard to the data produced by the Paris Memorandum of Understanding on Port State Control and/or by other similar schemes; ***and***

(b) criteria to determine when ***a given*** performance, ***omission or delay*** is to be considered an unacceptable threat to safety or the environment, which may take into account specific circumstances affecting smaller-sized or highly specialised organizations.

The Commission shall adopt detailed rules for the implementation of Article 12 and, if appropriate, Article 13 ***in accordance with the procedure referred to in Article 9(2).***

Amendment 46

Article 15, point (b)

(b) the Commission **shall examine whether the suspension is justified for reasons of serious danger to safety or the environment**;

(b) the Commission, **having regard to safety and pollution prevention, must assess the reasons put forward by the Member State for suspending its authorisation of the recognised organisation**;

Amendment 47

Article 15, point (c)

(c) acting in accordance with the procedure referred to in Article 9(2), the Commission shall inform the Member State whether or not its decision to suspend the authorisation is justified for reasons of serious danger to safety or the environment **and, if it is not justified, request the Member State to withdraw the suspension.**

(c) acting in accordance with the procedure referred to in Article 9(2), the Commission shall inform the Member State whether or not its decision to suspend the authorisation is **sufficiently** justified for reasons of serious danger to safety or the environment. **If the decision is not justified, the Commission shall request the Member State to withdraw the suspension. If the decision is justified and the Member State, pursuant to Article 7(1), has restricted the number of recognised organisations acting on its behalf, the Commission shall request the Member State to grant a new authorisation to another recognised organisation to replace the suspended organisation.**

Amendment 48

Article 16, paragraph 1

1. Each Member State must **satisfy itself** that the recognised organisations acting on its behalf for the purpose of Article 3(2) effectively carry out the functions referred to in that Article to the satisfaction of its competent administration.

1. Each Member State must **check** that the recognised organisations acting on its behalf for the purpose of Article 3(2) effectively carry out the functions referred to in that Article to the satisfaction of its competent administration.

Amendment 49

Article 16, paragraph 2

2. Each Member State shall **carry out this task** at least on a biennial basis and shall provide the other Member States and the Commission with a report on the results of **this** monitoring at the latest by 31 March of the year following the years **for** which **compliance has been assessed.**

2. Each Member State shall, at least on a biennial basis, **monitor every recognised organisation acting on its behalf** and shall provide the other Member States and the Commission with a report on the results of **these** monitoring **activities** at the latest by 31 March of the year following the years **in** which **they are carried out.**

Amendment 50

Article 16, paragraph 3, subparagraph 1

3. All the recognised organisations shall be assessed by the Commission, together with the Member State which submitted the relevant request for recognition, on a regular basis and at least every two years to verify that they meet their obligations under this Directive and fulfil the criteria of Annex I.

3. All the recognised organisations shall be assessed by the Commission, together with the Member State which submitted the relevant request for recognition, on a regular basis and at least every two years to verify that they meet their obligations under this Directive and fulfil the criteria of Annex I. ***The assessment must be confined to the maritime activities of the recognised organisations that fall within the scope of this Directive.***

Amendment 51

Article 19, paragraph 2

2. A Member State may decide to use rules it considers equivalent to ***those*** of a recognised organisation only on the proviso that it immediately notifies them to the Commission in conformity with the procedure under Directive 98/34/EC and to the other Member States and they are not objected to by another Member State or the Commission and found through the procedure referred to in Article 9(2) of this Directive not to be equivalent.

2. A Member State may decide to use rules it considers equivalent to ***the rules and regulations*** of a recognised organisation only on the proviso that it immediately notifies them to the Commission in conformity with the procedure under Directive 98/34/EC and to the other Member States and they are not objected to by another Member State or the Commission and found through the procedure referred to in Article 9(2) of this Directive not to be equivalent.

Amendment 52

Article 20, paragraph 1, subparagraph 1

1. The recognised organisations shall consult with each other periodically with a view to maintaining equivalence of their rules and regulations and the implementation thereof. They shall cooperate with each other with a view to achieving consistent interpretation of the international conventions, without prejudice to the powers of the flag States. Recognised organisations shall agree on the conditions under which they will mutually recognise their respective class certificates based on equivalent standards, taking particularly into account marine equipment bearing the wheelmark in accordance with Directive 96/98/EC.

1. The recognised organisations shall consult with each other periodically with a view to maintaining equivalence ***and securing the harmonisation*** of their rules and regulations and the implementation thereof. They shall cooperate with each other with a view to achieving consistent interpretation of the international conventions, without prejudice to the powers of the flag States. Recognised organisations shall, ***in appropriate cases***, agree on the ***technical and procedural*** conditions under which they will mutually recognise their respective class certificates based on equivalent standards, ***taking the most demanding and rigorous models as their reference and*** taking particularly into account marine equipment bearing the wheelmark in accordance with Directive 96/98/EC.

Amendment 53

Article 20, paragraph 1 a (new)

1a. 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 of Article 20(1), the Commission shall propose to the European Parliament and the Council the necessary measures.

Amendment 54

Article 20, paragraph 4

4. The recognised organisations shall not issue statutory certificates to a ship, irrespective of its flag, which has been declassified or is changing class for safety reasons, before giving the opportunity to the competent administration of the flag State to give its opinion within a reasonable time ***in order to determine*** whether a full inspection is necessary.

4. The recognised organisations shall not issue statutory certificates to a ship, irrespective of its flag, which has been declassified or is changing class for safety reasons, before giving the opportunity to the competent administration of the flag State to give its opinion within a reasonable time ***as to*** whether a full inspection is necessary.

Amendment 55

Article 20, paragraph 5, subparagraph 1, introductory wording

5. In cases of transfer of class from one recognised organisation to another, the losing organisation shall ***inform*** the gaining organisation of:

5. In cases of transfer of class from one recognised organisation to another, the losing organisation shall ***provide*** the gaining organisation ***with the complete file of the ship and, in particular, inform it*** of:

Amendment 56

Article 20, paragraph 5, subparagraph 2

On transfer, the losing organisation shall provide the gaining organisation with the complete history file of the ship. The certificates of the ship can be issued by the gaining organisation only after all overdue surveys have been satisfactorily completed and all overdue recommendations or conditions of class previously issued ***against*** the ship have been completed as specified by the losing organisation.

New certificates for the ship can be issued by the gaining organisation only after all overdue surveys have been satisfactorily completed and all overdue recommendations or conditions of class previously issued ***in respect of*** the ship have been completed as specified by the losing organisation.

Amendment 57

Article 20, paragraph 5, subparagraph 3

Prior to the issue of the certificates, the gaining organisation must advise the losing organisation of **the** date of issue **of the certificates** and confirm the **date, place and action taken to satisfy each overdue survey, overdue recommendation and overdue condition of class.**

Before completing the **new** certificates, the gaining organisation must advise the losing organisation of **their** date of issue and, **for each overdue survey, overdue recommendation and overdue condition of class**, confirm the action taken, **specifying its starting place and date and the place where, and the date when, it was satisfactorily completed.**

Amendment 74

Article 21, paragraph 1, introductory wording

1. **Recognised** organisations shall set up **by ... at the latest and maintain a joint body to undertake** the following tasks:

1. **The Member States, together with the recognised** organisations, shall set up **by ... ***, **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. The Assessment Committee shall carry out** the following tasks:
*** 18 months after the date of entry into force of this Directive**

Amendment 59

Article 21, paragraph 1, subparagraph 1, point (a)

(a) **continuous quality management system** assessment;

(a) **regulation and assessment of the systems for management of the quality of recognised organisations, in accordance with the ISO 9001 quality standard criteria;**

Amendment 60

Article 21, paragraph 1, subparagraph 1, point (b)

(b) **quality system** certification;

(b) certification **of the quality system of recognised organisations;**

Amendment 61

Article 21, paragraph 1, subparagraph 1, point (c)

(c) issue of binding interpretations of internationally recognised quality standards, in particular to take account of the specific features of the nature and obligations of recognised organisations, and

(c) issue of binding interpretations of internationally recognised quality **management** standards, in particular to take account of the specific features of the nature and obligations of recognised organisations, and

Amendment 62

Article 21, paragraph 1, subparagraph 2

The **joint body shall be independent** of the recognised organisations and shall have the necessary means to carry out its duties effectively and to the highest professional standards.

The **Assessment Committee shall be independent, shall have the necessary competences to act independently** of the recognised organisations and shall have the necessary means to carry out its duties effectively and to the highest professional standards. **The Assessment Committee shall lay down its working methods and rules of procedure.**

Amendment 63

Article 21, paragraph 1, subparagraph 3

It shall adopt an annual work plan.

deleted

Amendment 64

Article 21, paragraph 1, subparagraph 4

It shall provide the Commission **and the authorising Member States** with full information on its annual work plan as well as on its findings and recommendations, particularly with regard to situations where safety might have been compromised.

The Assessment Committee shall provide **the interested parties, including** the Commission, with full information on its annual work plan as well as on its findings and recommendations, particularly with regard to situations where safety might have been compromised.

Amendment 65

Article 21, paragraph 2, subparagraph 1

2. The **joint body referred to in paragraph 1** shall be periodically **assessed** by the Commission, which may require recognised organisations to take the measures the Commission deems necessary to ensure full compliance with paragraph 1.

2. The **Assessment Committee** shall be periodically **audited** by the Commission, which may, **acting in accordance with the procedure referred to in Article 9(2)**, require **the Assessment Committee** to **adopt** the measures the Commission deems necessary to ensure full compliance with paragraph 1.

Amendment 66

Article 23, paragraph 1

In the course of the assessment pursuant to Article 16(3), the Commission shall verify that the holder of the recognition is the **parent** entity within the organisation. If that is not the case, the Commission shall amend the recognition accordingly by decision.

In the course of the assessment pursuant to Article 16(3), the Commission shall verify that the holder of the recognition is the **relevant legal** entity within the organisation **to which the provisions of this Directive apply**. If that is not the case, the Commission shall amend the recognition accordingly by decision.

Amendment 67

Annex I, part A, point 1

1. *A recognized* organisation must have legal personality in the State of its location. Its accounts shall be certified by independent auditors.

1. ***To be eligible to obtain or to continue to enjoy Community recognition, an*** organisation must have legal personality in the State of its location. Its accounts shall be certified by independent auditors.

Amendment 68

Annex I, part A, point 3

3. The organisation must be *established* with significant managerial, technical, support and research staff commensurate with the size of the fleet in its class, its composition and the organization's involvement in the construction and *transformation* of ships. The organization must be capable of assigning to every place of work, when and as needed, means and staff commensurate with the tasks to be carried out in accordance with general minimum criteria 6 and 7 and with the specific minimum criteria.

3. The organisation must be ***equipped at all times*** with significant managerial, technical, support and research staff commensurate with the size of the fleet in its class, its composition and the organization's involvement in the construction and *conversion* of ships. The organization must be capable of assigning to every place of work, when and as needed, means and staff commensurate with the tasks to be carried out in accordance with general minimum criteria 6 and 7 and with the specific minimum criteria.

Amendment 69

Annex I, part B, point 4 a (new)

4a. The organisation, its inspectors, and its technical staff shall carry out their work without in any way harming the intellectual property rights of shipyards, equipment suppliers, and shipowners, including patents, licences, know-how, or any other kind of knowledge whose use is legally protected at Community or national level; under no circumstances, and without prejudice to Article 17, may either the organisation or the inspectors and technical staff whom it employs pass on or divulge commercially relevant data obtained in the course of their work of inspecting, checking, and monitoring ships under construction or repair.

Amendment 71

Annex I, part B, point 7

7. The organisation has developed, implemented and maintains an effective internal quality system based on appropriate parts of internationally recognised quality standards and in compliance with EN ISO/IEC 17020:2004 (inspection bodies) and with EN ISO 9001:2000, as interpreted and certified by the *joint body* referred to in Article 21(1).

7. The organisation has developed, implemented and maintains an effective internal quality system based on appropriate parts of internationally recognised quality standards and in compliance with EN ISO/IEC 17020:2004 (inspection bodies) and with EN ISO 9001:2000, as interpreted and certified by the *Assessment Committee* referred to in Article 21(1).

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.

Port State control *I**

European Parliament legislative resolution of 25 April 2007 on the proposal for a directive of the European Parliament and of the Council on port State control (recast version) (COM(2005)0588 – C6-0028/2006 – 2005/0238(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0588)¹,
 - having regard to Article 251(2) and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0028/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Legal Affairs (A6-0081/2007),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

Amendment 1

Recital 4

(4) Safety, pollution prevention and shipboard living and working conditions may be effectively enhanced through a drastic reduction of substandard ships from Community waters, ***which will be achieved*** by strictly applying international Conventions, codes and resolutions.

(4) Safety, pollution prevention and shipboard living and working conditions may be effectively enhanced through a drastic reduction of substandard ships from Community waters, by strictly applying international Conventions, codes and resolutions.

Amendment 2

Recital 4 a (new)

(4a) To this end, the Community hopes for the early ratification of the Maritime Labour Convention 2006 of the International Labour Organisation (ILO), part 5.2.1. of which refers to port state obligations.

Amendment 3

Recital 5

(5) Monitoring the compliance of ships with the international standards for safety, pollution prevention and shipboard living and working conditions should rest primarily with the flag State. However, there has been a serious failure on the part of a number of flag States to implement and enforce international standards. Henceforth the monitoring of compliance with the international standards for safety, pollution prevention and shipboard living and working conditions should also be ensured by the port State.

(5) Monitoring the compliance of ships with the international standards for safety, pollution prevention and shipboard living and working conditions should rest primarily with the flag State. However, there has been a serious failure on the part of a number of flag States to implement and enforce international standards. Henceforth the monitoring of compliance with the international standards for safety, pollution prevention and shipboard living and working conditions should also be ensured by the port State, ***on the understanding that a port state inspection is not an expert appraisal, that inspection reports are not equivalent to a seaworthiness certificate, and that port state control cannot absolve flag states from their responsibilities.***

Amendment 4

Recital 10

(10) The inspection by each Member State of at least one quarter of individual foreign ships which enter its ports in a given year in practice means that a large number of ships operating within the Community area at any given time have undergone an inspection. ***deleted***

Amendment 5

Recital 11

(11) An efficient port State control regime should ***however*** seek to ensure that all ships calling at a port within the European Union are regularly inspected, ***instead of limiting itself to the current objective of inspecting one quarter of incoming ships in each Member State.*** Inspection should concentrate on substandard ships, while quality ships, meaning those which have satisfactory inspection records or which fly the flag of a State complying with the *IMO* Member State Audit Scheme, should be rewarded by undergoing less frequent inspections. Such new inspection arrangements should be incorporated into the Community's port State control regime as soon as its various aspects have been defined and on the basis of an inspection-sharing scheme whereby each Member State contributes fairly to the achievement of the Community objective of a comprehensive inspection scheme.

(11) An efficient port State control regime should seek to ensure that all ships calling at a port within the European Union are regularly inspected. Inspection should concentrate on substandard ships, while quality ships, meaning those which have satisfactory inspection records or which fly the flag of a State complying with the *International Maritime Organisation (IMO)* Member State Audit Scheme, should be rewarded by undergoing less frequent inspections. Such new inspection arrangements should be incorporated into the Community's port State control regime as soon as its various aspects have been defined and on the basis of an inspection-sharing scheme whereby each Member State contributes fairly to the achievement of the Community objective of a comprehensive inspection scheme. ***Moreover, Member States should recruit and retain the requisite number of staff, including qualified inspectors, taking into account the volume and characteristics of shipping traffic at each port.***

Amendment 6

Recital 11 a (new)

(11a) The inspection regime set up by this Directive should be coordinated with the work done by the Paris MOU. Since any developments arising from the Paris MOU should be agreed at Community level before being made applicable within the EU, close coordination should be established between the Community and the Paris MOU, with a view to achieving a single distinct inspection regime.

Amendment 7

Recital 13 a (new)

(13a) Under the inspection regime set up by this Directive, the intervals between periodic inspections on ships depend on their risk profile that is determined by certain generic and historical parameters. For high risk ships this interval should not exceed 6 months.

Amendment 8

Recital 14

(14) Some ships pose a manifest risk to maritime safety and the marine environment because of their poor condition, flag and history. They should therefore be refused access to Community ports, unless it can be demonstrated that they can be operated safely in Community waters. Guidelines should be established setting out the procedures applicable in the event of the imposition of such an access ban and of the lifting of the ban. In the interests of transparency, the list of ships refused access to Community ports should be made public.

(14) Some ships pose a manifest risk to maritime safety and the marine environment because of their poor condition, flag and history. They should therefore be refused access to Community ports and anchorages, unless it can be demonstrated that they can be operated safely in Community waters. Guidelines should be established setting out the procedures applicable in the event of the imposition of such an access ban and of the lifting of the ban. In the interests of transparency, the list of ships refused access to Community ports and anchorages should be made public.

Amendment 9

Recital 19

(19) Pilots and port authorities should be enabled to provide useful information on ***defects*** found on board ships.

(19) Pilots and port authorities should be enabled to provide useful information on ***anomalies*** found on board ships.

Amendment 10

Recital 20

(20) Complaints regarding living and working conditions on board should be investigated. Any person lodging a complaint should be informed of the follow-up action given to that complaint.

(20) Complaints ***from persons with a confirmed legitimate interest*** regarding living and working conditions on board should be investigated. ***Priority should be given to dealing with complaints on board.*** Any person lodging a complaint should be informed of the follow-up action given to that complaint.

Amendment 11

Recital 28 a (new)

(28a) In accordance with point 34 of the Interinstitutional Agreement on better law-making¹, Member States are encouraged to draw up, for themselves and in the interests of the Community, their own tables illustrating, as far as possible, the correlation between this Directive and the transposition measures, and to make them public.

¹ ***OJ C 321, 31.12.2003, p. 1.***

Amendment 12

Recital 28 b (new)

(28b) In order not to impose a disproportionate administrative burden on Member States without seaports, a de minimis rule should permit them to derogate from the provisions of this Directive, in accordance with rules to be adopted under the procedure set out in Article 24.

Amendment 13

Article 1, point (b a) (new)

(ba) ensuring that all ships calling to ports or anchorages within the Community are inspected with a frequency depending on their risk profile, with ships posing a higher risk being subject to a more thorough inspection carried out at more frequent intervals;

Amendment 14

Article 1, point (b b) (new)

(bb) introducing elements related to a Community port State control regime, aiming to establishing common criteria for control of ships by the port State and harmonizing procedures on inspection and detention.

Amendment 15

Article 2, paragraph 2 a (new)

2a. "Framework and procedures for the Voluntary IMO Member State Audit Scheme" means IMO Assembly Resolution A.974(24).

Amendment 16

Article 2, paragraph 2 b (new)

2b. "Paris MOU region" means the geographical area in which the states party to the Paris MOU conduct inspections in the context of the Paris MOU.

Amendment 17

Article 2, paragraph 4 a (new)

4a. "Port" means an area of land and water made up of such works and equipment as to permit, principally, the reception of ships, their loading and unloading, the storage of goods, the receipt and delivery of these goods, and embarkation and disembarkation of passengers.

Amendment 18

Article 2, paragraph 9

9. "Inspection" means a visit on board a ship by an inspector, in order to check the **ship's** compliance with the relevant Conventions and regulations and including at least the checks required by **Article 7(1)**.

9. "**Initial** inspection" means a visit on board a ship by an inspector, in order to check the compliance with the relevant Conventions and regulations and including at least the checks required by **Article 7(2)**.

Amendment 19

Article 2, paragraph 10

10. "More detailed inspection" means an inspection where the ship, its equipment and crew as a whole or, as appropriate, parts thereof are subjected, in the circumstances specified in **Article 7(4)**, to an in-depth examination covering the ship's construction, equipment, manning, living and working conditions and compliance with on-board operational procedures.

10. "More detailed inspection" means an inspection where the ship, its equipment and crew as a whole or, as appropriate, parts thereof are subjected, in the circumstances specified in **Article 7(3)** to an in-depth examination covering the ship's construction, equipment, manning, living and working conditions and compliance with on-board operational procedures.

Amendment 20

Article 2, paragraph 11

11. “Expanded inspection” means an inspection whose scope includes as a minimum the items listed in Annex VIII Part C. An expanded inspection may include a more detailed inspection whenever there are clear grounds in accordance with **Article 7(4)**;

11. “Expanded inspection” means an inspection whose scope includes as a minimum the items listed in Annex VIII Part C. An expanded inspection may include a more detailed inspection whenever there are clear grounds in accordance with **Article 7a**;

Amendment 21

Article 2, paragraph 12

12. “Complaint” means any information or report submitted by **the master of the ship, a member of the crew, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to its crew, shipboard living and working conditions and the prevention of pollution.**

12. “Complaint” means any information or report, **other than the report on apparent anomalies or defects drawn up by pilots or port authorities in accordance with Article 17, submitted by any physical or legal person or organisation with a legitimate interest in the safety of the ship, including an interest in safety or health hazards to its crew, shipboard living and working conditions and the prevention of pollution.**

Amendment 22

Article 2, paragraph 14

14. “Refusal of access order” means a **document** issued to the master of a ship **and** to the company responsible for the ship notifying them that the ship will be refused access to ports of the Community.

14. “Refusal of access order” means a **decision** issued to the master of a ship, to the company responsible for the ship **and to the flag State** notifying them that the ship will be refused access to **all ports and anchorages** of the Community.

Amendment 24

Article 2, paragraph 19

19. “**Class** certificate” means a document issued by a recognised organisation **certifying the fitness of a ship for a particular use or service in accordance with the rules and regulations laid down and made public by that recognised organisation.**

19. “**Classification** certificate” means a document issued by a recognised organisation, **confirming compliance with SOLAS 74, Chapter II.1, Part A.1, Regulation 3.1.**

Amendment 25

Article 2, paragraph 20

20. “Inspection database” means the **central** information system for port state **inspection records.**

20. “Inspection database” means the information system for **implementing the port State control regime within the Community and taking into account inspections made in the Paris MOU region.**

Amendment 26

Article 3, paragraph 1

1. This Directive applies to any ship and its crew calling at a port or at an anchorage of a Member State.

For the purposes of this Directive a Member State may also exercise a power of inspection and detention, in accordance with international law, in relation to a ship which is in waters within its jurisdiction or at, or anchored off, an offshore installation or at any other installation or facility in the waters within its jurisdiction.

Nothing in this Article shall affect the rights of intervention available to a Member State under the relevant international Conventions.

Obligations of Member States

1. This Directive applies to any ship and its crew calling at a port or at an anchorage of a Member State.

France may decide that the ports covered by this paragraph do not include ports situated in the overseas departments referred to in Article 299(2) of the Treaty.

Where a Member State carries out an inspection on a ship in its territorial waters but outside a port, such procedure shall be deemed to be an inspection for the purposes of this Directive.

Nothing in this Article shall affect the rights of intervention available to a Member State under the relevant international Conventions.

Member States without sea ports may derogate from the application of this Directive, under certain conditions. The Commission shall adopt, in accordance with the procedures set out in Article 24, the measures for the implementation of this derogation mechanism.

Inspection powers

Amendment 27

Article 4, title

Amendment 28
Article 4, paragraph 2

2. Member States shall maintain appropriate competent authorities for the inspection of ships and shall take whatever measures are appropriate to ensure that ***their competent authorities*** perform their duties as laid down in this Directive. In particular, they shall recruit and retain the requisite number of staff, including qualified inspectors, taking into account the volume and characteristics of shipping traffic at each port.

Member States shall put in place appropriate arrangements to ensure that inspectors are available for carrying out expanded ***and mandatory*** inspections in accordance with ***Article 8*** and ***Annex I, Part A.1.***

2. Member States shall maintain appropriate competent authorities for the ***inspection*** of ships and shall take whatever measures are appropriate to ensure that ***they*** perform their duties as laid down in this Directive. In particular, they shall recruit and retain the requisite number of staff, including qualified inspectors, taking into account the volume and characteristics of shipping traffic at each port.

Member States shall put in place appropriate arrangements to ensure that inspectors are available for carrying out ***initial and*** expanded inspections in accordance with ***Articles 7 and 7a*** and ***Annex II, part II.***

Amendment 29
Article 5, title

Inspection ***commitments***

Community inspection ***regime***

Amendment 30
Article 5, paragraph 1

1. Member States shall ***contribute an individual inspection effort which, added to the number of inspections carried out by the other Member States and States signatory to the Paris MOU, shall ensure that all ships entering the ports or anchorages of the European Union are inspected. This effort shall ensure that ships posing a higher risk are subject to a more in-depth inspection carried out at more frequent intervals.***
The inspection regime established with a view to achieving the objective referred to in the first subparagraph shall include the elements described in Annex II.

1. ***The*** Member States shall ***carry out inspections in accordance with the selection scheme described in Article 7 and the provisions of*** Annex II.

Amendment 31

Article 5, paragraph 2

2. The detailed rules of the inspection referred to in paragraph 1 shall be adopted by the Commission in accordance with the procedure referred to in Article 24(2).

2. Each Member State shall carry out annually a total number of inspections of individual ships corresponding to its share of the total number of inspections to be carried out annually in the Community and in the Paris MOU area. This share shall be based on the number of ships calling at the ports or anchorages of the Member State in question in relation to the sum of the number of ships calling at the ports and anchorages of each Member State of the Community and of the states party to the Paris MOU.

Amendment 32

Article 5, paragraph 3

3. As long as measures envisaged in paragraph 2 are not in force, the total number of inspections to be carried out annually by the competent authority of each Member State shall correspond to at least 25% of the annual number of individual ships which entered its ports. This annual number shall be the average of the last three calendar years for which statistics are available. The end of the period used shall not be more than one year prior to the start of the inspection year.

deleted

Amendment 33

Article 5, paragraph 4

4. In selecting ships for inspection, the competent authority shall comply with the rules set out in Annex I.

deleted

Amendment 34
Article 5 a (new)

Article 5a

Compliance with the Community inspection regime

In accordance with Article 5, each Member State shall:

(a) inspect all Priority I ships, as referred to in Article 6c(a), calling at its ports and anchorages and

(b) annually carry out a total number of inspections on Priority I and Priority II ships, as referred to in Article 6c(a) and (b), which correspond at least to its annual inspection commitment.

Amendment 35
Article 5 b (new), paragraph 1

Article 5b

Circumstances in which certain ships are not inspected

1. In the following circumstances, a Member State may decide to postpone the inspection of a Priority I ship:

(i) if the inspection may be carried out at the next call of the ship in the same Member State, provided that the ship does not call at any other port or anchorage in the Community or the Paris MOU region in between and the postponement does not exceed 15 days; or

(ii) if the inspection may be carried out in another port of call within the Community or the Paris MOU region within 15 days, provided that the State in which such port of call is located has agreed to perform the inspection.

If an inspection is postponed, but not performed in accordance with points (i) and (ii) and not recorded in the inspection database, it shall be counted as a missed inspection against the Member State which postponed the inspection.

Amendment 36

Article 5 b (new), paragraph 2

2. Under the following exceptional circumstances an inspection not performed on Priority I ships for operational reasons shall not be counted as a missed inspection, provided that the reason for missing the inspection is recorded in the inspection data base, if in the judgement of the competent authority the conduct of the inspection would create a risk to the safety of inspectors, the ship, its crew or to the port, or to the marine environment.

Amendment 37

Article 5 b (new), paragraph 3

3. If an inspection is not performed on a ship at anchor, it shall not be counted as a missed inspection provided that, if point (ii) applies, the reason for missing the inspection is recorded in the inspection data base, if:

(i) the ship is inspected in another port within the Community or the Paris MOU region in accordance with Annex II within 15 days, or

(ii) in the judgement of the competent authority the conduct of the inspection would create a risk to the safety of inspectors, the ship, its crew or to the port, or to the marine environment.

Amendment 38

Article 5 b (new), paragraph 4

4. The Commission may adopt, in accordance with the procedure laid down in Article 24, the rules for the implementation of this Article.

Amendment 39

Article 6

The operator, agent or ***master of a ship calling at a port or anchorage*** of a Member State shall notify its arrival in accordance with Annex III.

1. The operator, agent or master of a ship eligible for an expanded inspection in accordance with Article 7a bound for a port or anchorage of a Member State shall notify its arrival in accordance with the provisions of Annex III.

2. On receipt of the notification referred to in paragraph 1 and in Article 4 of Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system¹, the relevant port authority shall pass on this information to the competent authority.

3. Electronic means shall be used for the purposes of any communication provided for in this article. Other means shall be used only when electronic means are not available.

4. The procedures and formats developed by the Member States for the implementation of Annex III shall comply with Directive 2002/59/EC.

¹ OJ L 208, 5.8.2002, p. 10.

Amendment 40

Article 6 a (new)

Article 6a

Ship risk profile

1. Every ship calling at a port or anchorage in a Member State shall be attributed a ship risk profile which determines the degree of priority of the inspection, the intervals between inspections and the scope of inspections. The ship risk profile of each ship shall be entered in the inspection database.

2. The risk profile of a ship shall be determined by a combination of generic and historic risk parameters, as follows:

a) Generic parameters

Generic parameters shall be based on the type, age, flag, recognised organisations involved and company performance in accordance with Annex II, part I, point (a),

and Annex IIa.

b) Historic parameters

Historic parameters shall be based on the number of anomalies and detentions during a given period, in accordance with Annex II, part I, point (b), and Annex IIa.

3. The Commission shall adopt, in accordance with the procedure laid down in Article 24, the rules for the implementation of this Article, specifying in particular:

- the values attributed to each risk parameter,

- the combination of risk parameters corresponding to each level of ship risk profile,

- the conditions for implementing the flag state criteria referred to in Annex II, part I, point (c)(iii) concerning the demonstration of compliance with the relevant instruments.

Amendment 41

Article 6 b, paragraph 1 (new)

Article 6b

Frequency of inspections

1. Ships calling at Community ports or anchorages shall be subject to periodic inspections or to additional inspections as follows:

(a) Ships shall be subject to periodic inspections at predetermined intervals depending on their risk profile in accordance with Annex II, part II. The interval between periodic inspections of high risk ships shall not exceed six months. The interval between periodic inspections of ships of other risk profiles shall increase as the risk decreases, in accordance with Annex II, part II.

(b) Ships shall be subject to additional inspections regardless of the period since their last periodic inspection as follows:

(i) the competent authority shall ensure that ships to which aggravating factors listed in Annex II, part III, point (a) apply are subject to an inspection,

(ii) ships to which unexpected factors listed in Annex II, part III, point (b) apply may be subject to an inspection. The decision to undertake such an additional inspection shall be left to the professional judgment of the competent authority.

Amendment 42

Article 6 b, paragraph 2 (new)

2. Periodic and additional inspections shall include an examination of pre-identified areas for each ship which will vary according to the type of ship, the type of inspection and the findings of previous port State control inspections. The inspection database shall indicate the elements to identify the risk areas to be checked at each inspection.

Amendment 43

Article 6 b, paragraph 3 (new)

3. The Commission shall adopt, accordance with the procedure set out in Article 24, and taking account of the procedures applied in the context of the Paris MOU, the rules for the implementation of this article, specifying in particular the list of areas to be inspected according to the type of the ship.

Amendment 44

Article 6 c (new)

Article 6c

*Selection of ships for inspection
The competent authority shall ensure that ships are selected for inspection on the basis of their risk profile as described in Annex II, part I and when overriding or unexpected factors arise in accordance with Annex II, part II, section 2.*

*With a view to the inspection of ships, the competent authority:
(a) shall select ships which are due for a*

mandatory inspection, referred to as "Priority I" ships, in accordance with the selection scheme described in Annex II.4.A.,
(b) may select ships which are eligible for inspection, referred to as "Priority II" ships, in accordance with Annex II.4.B.

Amendment 45
Article 7

Article 7

Article 7

Inspection procedure

1. *The competent authority shall ensure that the inspector shall as a minimum:*

(a) check the certificates and documents required to be kept on board in accordance with the Community maritime safety legislation and international Conventions, in particular those listed in Annex IV;

(b) verify, where appropriate, whether outstanding deficiencies from the previous inspection carried out by a Member State or by a State signatory to the Paris MOU have been rectified;

(c) satisfy himself of the overall condition of the ship, including the hygiene of the ship, including engine room and accommodation

Types of inspections

1. *Member States shall ensure that ships which are selected for inspection in accordance with Article 6c are subject to an initial inspection, a more detailed inspection or an expanded inspection as follows:*

2. Initial inspections

(a) On each initial inspection of a ship, the competent authority shall ensure that the inspector shall as a minimum check the certificates and documents listed in Annex IV required to be kept on board in accordance with the applicable Community maritime safety legislation and international Conventions,

2. When a ship has been authorised to leave a port on condition that the deficiencies are rectified at the next port, the inspection at the next port shall be limited to verifying whether these deficiencies have been rectified. However, the inspector may, in the exercise of his professional judgment, decide that the inspection must be extended to cover additional verifications. "Clear grounds" exist when the inspector finds evidence which in his professional judgement warrants a more detailed inspection of the ship, its equipment or its crew. Examples of "clear grounds" are set out in Annex V and VII, section C.

5. The relevant procedures and guidelines for the control of ships specified in Annex VI shall also be observed.

However, when the procedures and guidelines referred to in Annex VI, point 4, diverge from Community legislation in force, Member States shall not adopt any provision of national law or any administrative measure which would result in the implementation of procedures or in inspection practices contrary to such Community legislation. They shall ensure that their competent authorities are duly informed of the relevant guidelines or procedures to be implemented in accordance with Community legislation and they shall verify their proper implementation.

6. When carrying out security checks on board, the inspector shall follow the procedures set out in Annex VII.

(b) When a ship has been authorised to leave a port on condition that the deficiencies are rectified at the next port, the inspection at the next port shall be limited to verifying whether these deficiencies have been rectified. However, the inspector may, in the exercise of his professional judgment, decide that the inspection must be extended to cover additional verifications. "Clear grounds" exist when the inspector finds evidence which in his professional judgement warrants a more detailed inspection of the ship, its equipment or its crew. Examples of "clear grounds" are set out in Annex V and VII, section C.

Amendment 46
Article 7 a (new)

Article 7a

Expanded inspections

1. The following categories of ships shall be eligible for an expanded inspection in accordance with Annex II, part II, section 3.1, points (a) and (b):

- ships with a high risk profile,*
- passenger ships, oil and chemical tankers, gas carriers and bulk carriers more than 12 years old,*
- ships with a high risk profile or passenger ships, oil and chemical tankers, gas carriers and bulk carriers more than 12 years old, in case of overriding or unexpected factors,*
- ships subject to a re-inspection following a refusal of access order in accordance with Article 10.*

2. On reception of a pre-notification provided by a ship eligible for an expanded inspection, the competent authority shall inform the ship without delay whether an expanded inspection will be carried out.

Amendment 47

Article 8

deleted

Article 8

Expanded inspection of certain ships

1. A ship in one of the categories in Annex VIII, point B, shall be eligible for an expanded inspection after a period of 12 months since the last expanded inspection carried out in a port of a Member State or of a State signatory to the Paris MOU.

2. If such a ship is selected for inspection in accordance with Annex I, point A.2, an expanded inspection shall be carried out. However an inspection in accordance with Article 7 may be carried out in the period between two expanded inspections.

Any ship referred to in paragraph 1 not complying with the notification requirements in Article 6 shall be subject to an expanded inspection at the port of anchorage or destination.

3. Member States shall, subject to Article 9, ensure that an expanded inspection is carried out on a ship to which paragraph 1 applies and which has a target factor of 7 or more, as referred to in Annex I, at its first port visited after a period of 12 months since the previous expanded inspection.

4. An expanded inspection shall be carried out in accordance with the procedures set out in Annex VIII, point C.

Amendment 48

Article 9, title

Procedure in case certain ships cannot be inspected

Guidelines and procedures under Community maritime safety and security legislation

Amendment 49

Article 9, paragraph 1

1. In cases where, for operational reasons, a Member State is unable to carry out an inspection of a ship with a target factor of more than 50 as referred to in Annex I or a mandatory expanded inspection as referred to in Article 8(3), the Member State shall, without delay, inform the competent authorities of the next port, if it is a port of a Member State or of a State signatory to the Paris MOU that such inspection did not take place.

1. For the purposes of this Directive, the relevant procedures and guidelines for the control of ships specified in Annex VI shall be taken into account as appropriate.

Member States shall ensure that their competent authorities are duly informed of the relevant guidelines or procedures that need to be implemented in accordance with Community legislation and they shall verify their proper implementation.

Amendment 50

Article 9, paragraph 2

2. Such cases shall be notified, at intervals of six months, to the Commission together with the reasons for not inspecting the ships concerned. In addition, Member States shall provide the total number of inspections as referred to in Article 8(2) and in Annex I, point A.1 carried out during these six months.

These notifications shall be provided within four months from the end of the period to which data pertained.

2. As far as safety checks are concerned, the Member States shall apply the procedures set out in Annex VII to all ships referred to in Article 3(3) of Regulation (EC) 725/2004 calling at their ports, as long as they do not fly the flag of the port state of inspection.

They shall apply those procedures to the ships referred to in Article 3(3) of Regulation 725/2004 when the provisions of that regulation have been extended to the ships referred to in Article 3(3).

Amendment 51

Article 9, paragraph 3

3. During any three consecutive calendar years, the missed inspections as referred to in paragraph 1 shall not exceed 5 % of the number of ships eligible for the inspections referred to in paragraph 1 calling at the ports of the Member State during that period.

3. The provisions of Article 7a concerning expanded inspections shall apply to ro-ro ferries and to high-speed passenger craft as referred to in Article 2(a) and (b) of Directive 1999/35/EC.

When a ship has been surveyed in accordance with Articles 6 and 8 of Directive 1999/35/EC, such specific survey shall be considered as a more detailed or an expanded inspection, as relevant, and recorded as such in the inspection database.

Without prejudice to a prevention of operation of a ro-ro ferry or a high-speed passenger craft decided in accordance with Article 10 of Directive 1999/35/EC, the provisions of this Directive concerning rectification of deficiencies, detention, refusal of access, follow-up to inspections, detentions and refusal of access, as appropriate, shall apply.

Amendment 52
Article 9, paragraph 4

4. Ships referred to in paragraph 1 shall be subject to a mandatory inspection, as provided for in Annex I, point A.1 or a mandatory expanded inspection as referred to in Article 8(2), as appropriate, in the next port of call in the Community. *deleted*

Amendment 53
Article 9, paragraph 5

5. By 22 July 2008 the figure of 5 % referred to in paragraph 3 shall be amended on the basis of an assessment by the Commission, if it is considered appropriate, in accordance with the procedure referred to in Article 24(2). *deleted*

Amendment 54
Article 10, paragraph 1

1. A Member State shall ensure that any ship meeting the criteria **listed in Annex IX, point A** is refused access to its posts and anchorages, except in the situations described in Article 15(6).
The refusal of access shall become applicable as soon as the ship has left the port or anchorage where it has been the subject of a third detention and where a refusal of access order has been issued.

1. A Member State shall ensure that any ship meeting the criteria **specified in this paragraph** is refused access to its posts and anchorages, except in the situations described in Article 15(6) **if the ship:**
- flies the flag of a State which appears on the black list or grey list as defined by the Paris MOU on the basis of information recorded in the inspection database and as published annually by the Commission, and
- has been detained or issued with a prevention of operation order under Directive 1999/35/EC more than twice in the course of the preceding 36 months in a port of a Member State or of a State signatory of the MOU.
For the purposes of this paragraph, the list defined by the Paris MOU shall enter into force as from 1 July each year.
The refusal of access order shall be lifted only after a period of three months has passed from the date of issue of the order and when the conditions in paragraphs 4 to 10 of Annex IX are met.
If the ship is subject to a second refusal of access, the period shall be raised to 12 months. Any subsequent detention in a Community port shall result in the ship being permanently refused access to any port or anchorage within the Community.

Amendment 55

Article 10, paragraph 2

2. For the purposes of **paragraph 1**, Member **States** shall comply with the procedures laid down in Annex IX, point B.

2. For the purposes of **this Article**, Member States shall comply with the procedures laid down in Annex IX, point B.

Amendments 56 and 57

Article 12, paragraph 1

All complaints regarding conditions on board shall be **investigated**.

All complaints **within the meaning of Article 2(1) made by persons with a demonstrated legitimate interest** regarding conditions on board shall be **the subject of an initial investigation by the competent authority**.

The initial investigation must make it possible to establish swiftly whether the complaint is admissible or whether it is manifestly unfounded or clearly abusive.

Amendment 58

Article 13, paragraph 6

6. In the event of detention, the competent authority shall immediately inform, in writing and including the report of inspection, the flag State administration or, when this is not possible, the Consul or, in his absence, the nearest diplomatic representative of that State, of all the circumstances in which intervention was deemed necessary. In addition, nominated surveyors or recognised organisations responsible for the issue of class certificates or **certificates issued on behalf of the flag State** in accordance with international Conventions shall also be notified **where relevant**.

6. In the event of detention, the competent authority shall immediately inform, in writing and including the report of inspection, the flag State administration or, when this is not possible, the Consul or, in his absence, the nearest diplomatic representative of that State, of all the circumstances in which intervention was deemed necessary. In addition, nominated surveyors or recognised organisations responsible for the issue of class certificates or **statutory certificates** in accordance with international Conventions shall also be notified.

Amendment 59

Article 13, paragraph 8 a (new)

8a. The competent authority shall inform the port authority at its earliest convenience when a detention order is issued.

Amendment 60

Article 14, paragraph 1

1. The owner or the operator of a ship or his representative in the Member State shall have a right of appeal against a detention decision or refusal of access taken by the competent authority. An appeal shall not cause the detention or refusal of access to be suspended.

1. The owner or the operator of a ship or his representative in the Member State shall have a right of appeal against a detention decision or refusal of access taken by the competent authority. An appeal shall not cause the detention or refusal of access to be suspended, ***but shall be mentioned in the inspection database.***

Amendment 61

Article 14, paragraph 2

2. Member States shall establish and maintain appropriate procedures for this purpose in accordance with their national legislation.

2. Member States shall establish and maintain appropriate procedures for this purpose in accordance with their national legislation ***and shall cooperate in order to achieve coherent norms and procedures for the implementation of this Article, particularly with a view to ensuring that appeals are dealt with in a reasonable time.***

Amendment 62

Article 14, paragraph 3

3. The competent authority shall properly inform the master of a ship referred to in paragraph 1 of the right of appeal.

3. The competent authority shall properly inform the master of a ship referred to in paragraph 1 of the right of appeal ***and the practical arrangements relating thereto.***

Amendment 63

Article 15, paragraph 1

1. Where deficiencies as referred to in Article 13(2) cannot be rectified in the port of inspection, the competent authority of that Member State may allow the ship concerned to proceed to the nearest available repair yard to the port of detention where follow-up action can be taken, as chosen by the master and the authorities concerned, provided that the conditions determined by the competent authority of the flag State and agreed by that Member State are complied with. Such conditions shall ensure that the ship can proceed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

1. Where deficiencies as referred to in Article 13(2) cannot be rectified in the port of inspection, the competent authority of that Member State may allow the ship concerned to proceed ***directly*** to the nearest available repair yard to the port of detention where follow-up action can be taken, as chosen by the master and the authorities concerned, provided that the conditions determined by the competent authority of the flag State and agreed by that Member State are complied with. Such conditions shall ensure that the ship can proceed without risk to the safety and health of passengers or crew, or risk to other ships, or without there being an unreasonable threat of harm to the marine environment.

Amendment 64

Article 15, paragraph 4, introductory part

4. Member States shall take measures to ensure that access to any port within the Community is refused to ships referred to in paragraph 1 which proceed to sea:

4. Member States shall take measures to ensure that access to any port *or anchorage* within the Community is refused to ships referred to in paragraph 1 which proceed to sea:

Amendment 65

Article 15, paragraph 6

6. By way of derogation from the provisions of paragraph 4, access to a specific port may be permitted by the relevant authority of that port State in the event of *force majeure* or overriding safety considerations, or to reduce or minimize the risk of pollution or to have deficiencies rectified, provided that adequate measures to the satisfaction of the competent authority of such Member State have been implemented by the owner, the operator or the master of the ship to ensure safe entry.

6. By way of derogation from the provisions of paragraph 4, access to a specific port *or anchorage* may be permitted by the relevant authority of that port State in the event of *force majeure* or overriding safety considerations, or to reduce or minimize the risk of pollution or to have deficiencies rectified, provided that adequate measures to the satisfaction of the competent authority of such Member State have been implemented by the owner, the operator or the master of the ship to ensure safe entry.

Amendment 67

Article 16, paragraph 6

6. Member States shall ensure that inspectors receive appropriate training in relation to changes to the port State control regime as laid down in this Directive and amendments to the Conventions.

6. Member States shall ensure that inspectors receive appropriate training in relation to changes to the **Community** port State control regime as laid down in this Directive and amendments to the Conventions.

Amendement 68

Article 17

1. Member States shall take appropriate measures to ensure that their pilots ***engaged on the berthing or unberthing of ships or*** engaged on ships bound for a port or in transit within a Member State ***shall*** immediately inform the competent authority of the port State or the coastal State, as appropriate, whenever they learn in the course of their normal duties that there are defects which may prejudice the safe navigation of the ship, or which may pose a threat of harm to the marine environment.

2. If port authorities, when exercising their normal duties, learn that a ship within their port has defects which may prejudice the safety of the ship or poses an unreasonable

1. Member States shall take appropriate measures to ensure that their pilots engaged on ships bound for a port or in transit within a Member State ***may*** immediately inform the competent authority of the port State or the coastal State, as appropriate, whenever they learn in the course of their normal duties that there are ***anomalies, findings or apparent*** defects which may prejudice the safe navigation of the ship, or which may pose a threat of harm to the marine environment.

2. If port authorities, when exercising their normal duties, learn that a ship within their port has ***anomalies, findings or apparent*** defects which may prejudice the safety of

threat of harm to the marine environment, such authority shall immediately inform the competent authority of the port State concerned.

3. Member States shall **require** pilots and port authorities **to use the model report in Annex XIII or that of an equivalent report**, in electronic format whenever possible.

Member States shall ensure that proper follow-up action is taken on defects notified by pilots and port authorities. Every year Member States shall provide the Commission with a report on the implementation of paragraphs 1 and 2, including details on action taken to follow-up defects reported by pilots and port authorities.

the ship or poses an unreasonable threat of harm to the marine environment, such authority shall immediately inform the competent authority of the port State concerned.

3. Member States shall **ensure that** pilots and port authorities **report the following information** in electronic format whenever possible:

- **ship information (name, IMO number, call sign and flag);**

- **sailing information (port of origin, port of destination);**

- **description of anomalies, findings or apparent defects found on board.**

3a. The Commission may adopt, in accordance with the procedures laid down in Article 24, measures for the implementation of this Article, including a harmonised electronic format and procedures for the reporting of anomalies, findings or apparent defects by pilots and port authorities and of follow-up action taken by Member States.

Amendment 69

Article 18, paragraph 3 a (new)

3a. Each Member State shall ensure that the competent port State control authority provides port authorities with relevant information in their possession.

Amendement 70

Article 18 a (new)

Article 18a

Inspection database

1. A database shall be established, which shall be a common database for both the European Union and the Paris MOU. The Commission shall develop and maintain the inspection database, with the assistance of the EMSA, showing the risk profiles of ships, indicating all ships due for inspection and calculating the inspection commitment. The database shall be capable of receiving ship movement data.

2. The database shall also be used to classify Member States' ships in the white, grey and black lists in accordance with the method of calculation established by the Commission in accordance with the procedure referred to in Article 24.

3. The core of the system shall be the joint EU/Paris MOU requirements. However, in the case of specific EU requirements, the Community shall have full discretion to take decisions on the development and possible adaptation of the system to meet such requirements.

4. The inspection database shall be capable of adapting to future developments and of interfacing with other Community maritime safety databases and, where appropriate, with relevant national information systems.

5. The inspection database shall, as appropriate, incorporate specific requirements from the Paris MOU and be capable of receiving information concerning inspections recorded by third States which are parties to the Paris MOU for the purposes of this Directive.

6. The inspection database shall be accessible in "read only" mode to the administrations of Members of the IMO, to bodies under their responsibility and to the parties concerned. Such access shall be dependent on a confidentiality agreement similar to that required of inspectors of Member States.

Amendment 71

Article 20

The Commission shall establish and publish **every year a black-list showing the performance of ship operators and companies in accordance with the procedures and criteria laid down in Annex XV.**

The Commission shall establish and publish **at least once a month, on a public website, information relating to companies whose performance with a view to determining the ship risk profile as referred to in Annex II, part I, point (e) has been considered as poor or very poor for a period of three months or more.**

The Commission shall, in accordance with the procedure in Article 24, adopt the rules required to implement this Article.

Amendment 72

Article 21, paragraph 1

1. Should the inspections referred to in **Articles 7 and 8** confirm or reveal deficiencies in relation to the requirements of a Convention warranting the detention of a ship, all costs relating to the inspections in any normal accounting period shall be covered by the shipowner or the operator or by his representative in the port State.

1. Should the inspections referred to in **Articles 7 and 7a** confirm or reveal deficiencies in relation to the requirements of a Convention warranting the detention of a ship, all costs relating to the inspections in any normal accounting period shall be covered by the shipowner or the operator or by his representative in the port State.

Amendment 73

Article 22

Member States shall provide the Commission with the information listed in Annex XVI at the intervals **stated** in that Annex.
Member States shall take all appropriate measures to ensure that the Commission **has** a full and unrestricted access to all data administered by the **inspection** database referred to in Article 18(2).

Member States shall provide the Commission **and the EMSA** with the **information** listed in Annex XVI at the intervals stated in that Annex.
Member States shall take all appropriate measures to ensure that the Commission **and the EMSA have** full and unrestricted access to all data administered by the inspection database referred to in Article 18(2).

Amendment 74

Article 24, paragraph 2, first subparagraph

2. Where reference is made to this paragraph, **Articles 5 and 7** of Decision 1999/468/EC shall apply, **having** regard to the provisions of Article 8 thereof.

2. Where reference is made to this paragraph, **Article 5a(1) and (4), and Article 7** of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Amendment 75

Article 25, point (a)

(a) adapt the **obligations referred to in Articles 5 to 17 and 19 to 22 and in the Annexes to which these Articles refer**, on the basis of the experience **gained** from the implementation of this Directive and taking into account developments in the Paris MoU;

(a) adapt the Annexes on the basis of the experience **gained** from the implementation of this Directive and taking into account developments in the Paris MoU;

Amendment 76

Article 25, point (b)

(b) adapt the Annexes in order to take into account amendments which have entered into force to the **Community** legislation on maritime safety and security, and to the Conventions, Protocols, codes and resolutions of relevant international organizations and to the Paris MoU;

(b) **adapt** the Annexes, **except Annex II**, in order to take into account amendments which have entered into force to the Community legislation on maritime safety and security, and to the Conventions, Protocols, codes and resolutions of relevant international organizations and to the Paris MoU;

Amendment 77
Article 25, point (c)

(c) amend the definitions in, and **update, in Article 2**, the list of international Conventions which are relevant for the purposes of this Directive.

(c) amend the definitions in, and the list of international Conventions which are relevant for the purposes of this Directive.

Amendment 78
Article 26

Article 26

deleted

Integration of the new inspection regime into Community law

Additional measures may be adopted, in accordance with the procedure referred to in Article 24 (2), in order to:

- establish the values attributed to each risk parameter; Flag State performance, elements related to classification societies and company performance should be given higher values than other criteria;

- determine the combination of risk parameters corresponding to each level of ship risk profile;

- develop criteria and procedures related to the type and scope of inspections;

- develop the principles and modalities related to the inspection commitments of Member States;

Each year, the Commission shall review the implementation of the ship risk parameters and, if appropriate, make a proposal in accordance with the procedure referred to in Article 24(2) with a view to adjusting the parameters in the light of experience gained or policy objectives to be met.

Amendment 80

Article 27

Member States shall lay down a system of **sanctions** for the breach of national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that those **sanctions** are applied. The **sanctions** thus provided shall be effective, proportionate and dissuasive.

Member States shall lay down a system of **penalties** for the breach of national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that those **penalties** are applied. The **penalties** thus provided shall be effective, proportionate and dissuasive.

The Commission shall ensure that the penalties thus defined allow for uniform application of the inspection regime throughout the Community and do not create distortions between Member States.

Amendment 81

Article 28, paragraph 1

The Commission shall review the implementation of this Directive no later than 18 months after expiry of the time limit for the transposition of this Directive. The review will examine, *inter alia*, the number of port State control inspectors in each Member State **and** the number of inspections carried out, **including mandatory expanded inspections**.

The Commission shall review the implementation of this Directive no later than 18 months after expiry of the time limit for the transposition of this Directive. The review will examine, *inter alia*, **the fulfilment of the overall Community inspection commitment laid down in Article 5**, the number of port State control inspectors in each Member State, the number of inspections carried out **and the functioning of the fair share mechanism for missed inspections laid down in Article 5b**.

Amendment 82

Article 29, paragraph 1

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles [...] and points [...] of Annexes [...] [articles or subdivisions thereof, and points of Annexes which have been changed as to their substance by comparison with the earlier Directive] not later than 18 months after the date fixed in Article 31. ***They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.***

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with Articles [...] and points [...] of Annexes [...] [articles or subdivisions thereof, and points of Annexes which have been changed as to their substance by comparison with the earlier Directive] not later than 18 months after the date fixed in Article 31.

Amendment 83

Annex I

This annex is deleted

Amendment 84

Annex II, title

Main elements of the Community Port State Inspection Regime (as referred to in **Article 5(2)**)

Elements of the Community Port State Inspection Regime (as referred to in **Article 5**)

Amendment 86

Annex II, part I, section 1, title (new)

1. Generic parameters

Amendment 87

Annex II, part I, point (b)

(b) Age of ship

Older ships are considered as posing a higher risk.

(b) Age of ship

Ships **more than 12 years old** are considered as posing a higher risk.

Amendment 88

Annex II, part I, point (c), point (iii)

(iii) Ships flying the flag of a State for which an independent audit has been carried out in accordance **with** the Code for the implementation of mandatory IMO instruments which has demonstrated compliance with the relevant instruments are considered as posing a lower risk.

(iii) Ships flying the flag of State for which an audit has been carried out in accordance with **the Framework and procedures for the Voluntary IMO Member State Audit Scheme and** which has demonstrated compliance with the relevant instruments **in accordance with the measures referred to in Article 6a, paragraph 3, third indent, or, until such measures have been adopted, provides evidence that a corrective action plan has been submitted,** are considered as posing a lower risk.

Amendments 89 and 85
Annex II, part I, point (f)

(f) Inspection history in the European Union and Paris MOU region

(i) Ships which have been detained more than once are considered **as** posing a higher risk.

(ii) Ships which have not been detained within the *previous 36 months and have had few deficiencies* are considered as posing a lower risk.

The risk parameters referred to in *the first subparagraph* shall be **combined** to determine the following ship risk profiles:

- high **risk**,
- standard **risk**,
- low **risk**.

In determining these risk profiles greater emphasis **will** be given to the parameters for flag State **performance**, recognised organisations and company performance.

2. Historical parameters

(i) Ships which have been detained more than once are considered as posing a higher risk.

(ii) Ships which, during inspection(s) carried out within the past 36 months, have presented fewer than five deficiencies per inspection and have not been detained within the past 36 months are considered as posing a lower risk.

(iii) Ships which have not been detained within the *past 36 months* are considered as posing a lower risk.

The **generic and historic** risk parameters referred to in *sections 1 and 2* shall be combined to **determine** the following ship risk profiles:

- high **risk**,
- **standard** risk,
- low risk.

In determining these risk profiles greater emphasis **shall** be given to the parameters for **type of ship**, flag State performance, recognised organisations and company performance.

Amendment 90

Annex II, part II, section 1, paragraph 1

The intervals between periodic inspections shall be determined by the ship risk profile. The interval between periodic inspections of high risk ships shall not exceed 6 months. The interval between periodic inspections of ships of other risk profiles shall increase as the risk decreases.

Periodic inspections shall be carried out at predetermined intervals. Their frequency shall be determined by the ship risk profile. The interval between periodic inspections of high risk ships shall not exceed 6 months. The interval between periodic inspections of ships of other risk profiles shall increase as the risk decreases.

Amendment 91

Annex II, part II, section 1, paragraph 2, indent 3

- Any ship with a low risk profile which has not been inspected in a port of the EU or of the Paris MoU region during the last **36 months**. Low risk ships become eligible for inspection as from the 24th month.

- Any ship with a low risk profile which has not **been** inspected in a port of the EU or of the Paris MoU region during the last **30 months**. Low risk ships become eligible for inspection as from the 24th month.

2. Additional inspections

Ships to which the following unexpected factors apply are **subject** to an inspection regardless of the period since their last periodic inspection.

- Ships which have been suspended or withdrawn from their class for safety reasons since the last inspection in the European Union or in the Paris MoU region.

- Ships carrying certificates issued by a formerly recognised organisation whose recognition has been withdrawn since the last inspection in the European Union or in the Paris MoU region.

- Ships which have **been** the subject of a report or notification by another Member State.

- Ships which cannot be identified in the inspection database.

- Ships which:
- have been involved in a collision, grounding or stranding on their way to the port;
- have been accused of an alleged violation of the provisions on discharge of harmful substances or effluents, or
- have manoeuvred in an erratic or unsafe manner whereby routing measures, adopted by the IMO, or safe navigation practices and procedures have not been followed.

2. Additional **inspections**

Ships to which the following **overriding or unexpected factors** apply are subject to an inspection regardless of the period since their last periodic inspection.

2.1. Overriding factors

Ships to which the following overriding factors apply shall be inspected regardless of the period since their last periodic inspection:

- Ships which have been suspended or withdrawn from their class for safety reasons since the last inspection in the European Union or in the Paris MoU region.

- Ships which have been the subject of a **report** or notification by another Member State.

- Ships which cannot be identified in the inspection database.

- Ships which:
- have been involved in a collision, grounding or stranding on their way to the port,
- have been accused of an alleged violation of the provisions on discharge of harmful **substances** or effluents, or
- have manoeuvred in an erratic or unsafe manner whereby routing measures, adopted by the IMO, or safe navigation practices and procedures have not been followed.

- Ships which have failed to comply with the relevant notification requirements referred to in Article 6 of this Directive, in Directive 2000/59/EC, Directive

2002/59/EC and if appropriate in Regulation (EC) N° 725/2004.

- Ships which have been reported with outstanding deficiencies, except those for which deficiencies had to be rectified within 14 days after departure, or for deficiencies which had to be rectified before departure.

2.2. Unexpected factors

Ships to which the following unexpected factors apply shall be subject to inspection regardless of the period since their last periodic inspection. However, the decision to undertake such an additional inspection is left to the professional judgement of the inspector.

- ***otherwise*** been operated in such a manner as to pose a danger ***to*** persons, property or the environment, or

- not complied with recommendations on navigation ***adopted by the*** IMO.

- Ships which have been reported by pilots or port authorities as having ***defects*** which may prejudice their safe navigation or pose a threat of harm to the ***environment*** in accordance with Article 17 of this Directive.

- Ships which have failed to comply with the relevant notification requirements referred to in Article 6 of this Directive, in Directive 2000/59/EC, Directive 2002/59/EC and if appropriate in Regulation (EC) N° 725/2004.

- Ships which have:

- ***been*** operated in such a manner as to pose a danger to persons, property or the environment, or

- not complied with recommendations on navigation ***through the entrances to the Baltic Sea as given in the Annexes to Resolution MSC.138(76) of the*** IMO.

- ships carrying certificates issued by a formerly recognised organisation whose recognition has been withdrawn since the last inspection in the European Union or in the Paris MoU region.

- Ships which have been reported by pilots or port authorities as having ***anomalies/findings or apparent*** which may ***prejudice*** their safe navigation or pose a threat of harm to the environment in accordance with Article 17 of this Directive.

- Ships which have been the subject of a report or complaint by the master, a crew member, or any person or organisation with a legitimate interest in the safe operation of the ship, shipboard living and working conditions or the prevention of pollution, unless the Member State concerned deems the report or complaint to be manifestly unfounded.

- Ships which have been previously detained more than three *months* ago.

- Ships which have been reported with outstanding deficiencies.

- Ships which have been reported with problems concerning *their* cargo, in particular noxious and dangerous cargoes.

- Ships which have been operated in such a manner as to pose a danger to persons, property or to the environment.

- Ships which have been the subject of a report or complaint by the master, a crew member, or any person or organisation with a legitimate interest in the safe operation of the ship, shipboard living and working *conditions* or the prevention of pollution, unless the Member State concerned deems the report or complaint to be manifestly unfounded.

- Ships which have been previously detained more than three months ago.

- Ships which have been reported with problems concerning their cargo, in *particular* noxious and dangerous cargoes.

- Ships which have been operated in such a manner as to pose a danger to persons, property or to the environment.

- Ships where information from a reliable source became known, that their risk parameters differ from the recorded ones and the risk level is thereby increased.

Amendment 111/rev
Annex II, part II, section 3

3. Scope of inspections

Periodic and additional inspections shall include an examination of pre-identified areas for each ship which will vary according to the type of the ship, the type of inspection and the findings of previous port state controls. Periodic inspections of high risk ships and ships posing a higher risk due to their type and age, and re-inspections of ships to which a refusal of access order has been issued in accordance with Annex XII shall be more in-depth.

The inspection database will indicate the elements to identify the risk areas to be checked at each inspection.

3. Selection system

3.1. Priority I vessels shall be inspected as follows:

(a) an expanded inspection shall be carried out:

– on all ships with a high risk profile which have not been inspected within the last six months,

– on all passenger ships, oil and chemical tankers, gas carriers and bulk carriers more than 12 years old with a standard risk profile which have not been inspected within the last 12 months,

– on all passenger ships, oil and chemical tankers, gas carriers and bulk carriers more than 12 years old with a low risk profile which have not been inspected within the last 36 months;

(b) an initial inspection or, where appropriate, a more detailed inspection shall be carried out:

– on all ships, other than passenger ships, oil and chemical tankers, gas carriers and bulk carriers, more than 12 years old with a standard risk profile which have not been inspected within the last 12 months,

– on all ships, other than passenger ships, oil and chemical tankers, gas carriers and bulk carriers, more than 12 years old with a low risk profile which have not been inspected within the last 36 months;

(c) where an overriding factor has arisen:

– a more detailed inspection or an expanded inspection, according to the inspector's professional judgement, shall be carried out on all ships with a high risk profile and on all passenger ships, oil and chemical tankers, gas carriers and bulk carriers more than 12 years old;

– a more detailed inspection shall be carried out on all ships more than 12 years old, other than passenger ships, oil and chemical tankers, gas carriers and bulk carriers.

3.2. Priority II vessels shall be inspected as follows:

(a) an expanded inspection shall be carried out:

– on all ships with a high risk profile which have not been inspected within the last five months,

– on all passenger ships, oil and chemical tankers, gas carriers and bulk carriers more than 12 years old with a standard risk profile which have not been inspected within the last 10 months,

– on all passenger ships, oil and chemical tankers, gas carriers and bulk carriers more than 12 years old with a low risk

profile which have not been inspected within the last 24 months;

(b) an initial inspection or, where appropriate, a more detailed inspection shall be carried out:

– on all ships, other than passenger ships, oil and chemical tankers, gas carriers and bulk carriers, more than 12 years old with a standard risk profile which have not been inspected within the last 10 months,

– on all ships, other than passenger ships, oil and chemical tankers, gas carriers and bulk carriers, more than 12 years old with a low risk profile which have not been inspected within the last 24 months;

(c) where an unexpected factor has arisen:

– a more detailed inspection or an expanded inspection, according to the inspector's professional judgement, shall be carried out on all ships with a high risk profile and on all passenger ships, oil and chemical tankers, gas carriers and bulk carriers more than 12 years old,

– a more detailed inspection shall be carried out on all ships more than 12 years old, other than passenger ships, oil and chemical tankers, gas carriers and bulk carriers.

III. INSPECTION COMMITMENTS OF MEMBER STATES *deleted*

Member States shall contribute an equitable effort towards the objective of inspecting all eligible ships calling at EU ports.

A Member State shall carry out a proportion of the total number of inspections required in the Paris MoU Region. This proportion is based on the number of individual ships calling at ports of the Member State concerned relative to the sum of the number of individual ships calling at each Member State.

In addition the compliance of Member States with the above objective shall be evaluated in the light of the number of missed periodic inspections.

A mechanism shall be developed, as appropriate, for a fair sharing of the inspections between Member States.

Justification

These provisions are incorporated in the new Articles 5a and 5b.

Amendment 95
Annex II a (new)
Amendment by Parliament

Annex IIa
Design of Ship Risk Profile

**Annex IIa
Design of Ship Risk
Profile**

Generic Parameters		High Risk Ship (HRS)		Profile Standard Risk Ship (SRS)	Low Risk Ship (LRS)
		Criteria	Weighting points	Criteria	Criteria
1	Type of ship	Chemical tankship Gas Carrier Oil tankship Bulk carrier Passenger ship	2		All types
2	Age of ship	all types > 12 y	1		All ages
3a	Flag	Black - VHR, HR, M to HR Black - MR	2 1		White
3b	IMO-Audit	-	-	<i>neither a high risk nor a low risk ship</i>	Yes
	H	-	-		High
4a	Recognized Organisation	M	-		-
	L	Low	1		-
	VL	Very Low			-
4b	EU recognised	-	-		Yes
	H	-	-		High
5	Company	M	-		-
	L	Low			-
	VL	Very low	2		-
Historic parameters					
6	Number of def. recorded in each insp. within previous 36 months	Deficiencies	Not eligible		≤ 5 (and at least one inspection carried out in previous 36 months)
7	Number of Detention within previous 36 months	Detentions	≥ 2 detentions	1	No detention

HRS are ships which meet criteria to a total value of 5 or more weighting points.

LRS are ships which meet all the criteria of the Low Risk Parameters.

SRS are ships which are neither HRS nor LRS

ANNEX III
Notification

(as referred to in Article 6)

1. The operator, agent or master of a ship eligible for an expanded inspection in accordance with Article 8(1) bound for a port or anchorage of a Member State shall notify the information listed below to the port authority or to the authority or body designated for that purpose at least three days before the expected time of arrival in the port or anchorage or before leaving the previous port or anchorage if the voyage is expected to take fewer than three days:

- (a) ship identification (name, call sign, IMO identification number or MMSI number);
- (b) planned duration of the call;
- (c) for tankers:
 - (i) configuration: single hull, single hull with SBT, double hull;
 - (ii) condition of the cargo and ballast tanks: full, empty, inerted;
 - (iii) volume and nature of the cargo;
- (d) planned operations at the port or anchorage of destination (loading, unloading, other);
- (e) planned statutory survey inspections and substantial maintenance and repair work to be carried out whilst in the port or anchorage of destination;
- (f) date of last expanded inspection in the Paris MOU.

2. The operators, agents or masters of other ships bound for a port of a Member State shall notify their arrival in accordance with Article 4 of Directive 2002/59/EC.

ANNEX III
Notification

Information to be provided in accordance with Article 6(2)

The information listed below **shall be submitted** to the port authority or to the authority or body designated for that purpose at least **three** days before the expected time of arrival in the port or anchorage or before leaving the previous port or anchorage if the voyage is expected to take fewer than three days:

- (a) ship **identification** (name, call sign, IMO identification number or MMSI number);
- (b) planned duration of the call **and list of Community ports successively visited on the same voyage;**
- (c) for tankers:
 - (i) configuration: single hull, single hull with SBT, double hull;
 - (ii) condition of the cargo and ballast tanks: full, empty, inerted;
 - (iii) volume and nature of the cargo;
- (d) planned operations at the port or anchorage of destination (loading, unloading, other);
- (e) planned statutory survey inspections and substantial maintenance and repair work to be carried out whilst in the port or anchorage of destination;
- (f) date of last expanded inspection in the Paris MOU.

3. On receipt of the information listed above, the relevant port authority or body shall forward such information to the port State control competent authority. Electronic means shall be used whenever possible.

4. The procedures and formats developed by the Member States for the purposes of this Annex shall comply with the relevant provisions laid down in Directive 2002/59/EC regarding ships' notifications.

Amendment 97
Annex V, title

**EXAMPLES OF “CLEAR GROUNDS”
FOR A MORE DETAILED
INSPECTION**
(as referred to in *Article 7(3)*)

**EXAMPLES OF “CLEAR GROUNDS”
FOR A MORE DETAILED
INSPECTION**
(as referred to in *Article 7(2)*)

Amendment 98
Annex V, point 1

1. Ships identified in *Annex I, Part B.I and Part B.II, paragraphs II-3, II-4, II-5b, II-5c and II-8*

1. Ships identified in *Annex II 3A and 3B.*

Amendment 99
ANNEX VII, part A, paragraph 1

1. This guidance applies only to ships mentioned in *articles 3(1), 3(2) and 3(3)* of Regulation (EC) No. 725/2004, as long as they do not fly the flag of the port state of inspection.

1. This guidance applies only to ships mentioned in *Articles 3(1) and 3(2) and, where appropriate, 3(3)* of Regulation (EC) No. 725/2004, as long as they do not fly the flag of the port state of inspection.

Amendment 100
Annex VIII, title

**PROCEDURES FOR EXPANDED
INSPECTIONS OF SHIPS**
(as referred to in *Article 8*)

**PROCEDURES FOR EXPANDED
INSPECTIONS OF SHIPS**
(as referred to in *Article 7a*)

A. MEASURES TO FACILITATE THE CONDUCT OF AN EXPANDED INSPECTION *deleted*

On reception of a pre-notification provided by a ship eligible for an expanded inspection, the competent authority shall inform the ship without delay whether or not an expanded inspection will be carried out.

The operator or master of the ship shall ensure that sufficient time is available in the operating schedule to allow the expanded inspection to be carried out. Without prejudice to control measures required for security purposes the ship shall remain in the port or anchorage until the inspection is completed.

B. CATEGORIES OF SHIPS SUBJECT TO EXPANDED INSPECTION *deleted* (as referred to in Article 8(1))

1. Gas and chemical tankers older than 12 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.

2. Bulk carriers older than 12 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.

3. Oil tankers with a gross tonnage of more than 3 000 gt and older than 12 years of age, as determined on the basis of the date of construction indicated in the ship's safety certificates.

4. Passenger ships older than 12 years of age other than the passenger ships referred to in Article 2(a) and (b) of Council Directive 1999/35/EC.

Amendment 103
Annex VIII, part C, title
C. PROCEDURES RELATING TO
EXPANDED INSPECTION OF
CERTAIN CATEGORIES OF SHIPS (*as
referred to in Article 8(4)*)

C. PROCEDURES RELATING TO
EXPANDED INSPECTION OF
CERTAIN CATEGORIES OF SHIPS

Amendment 105
Annex XIII

This annex is deleted

Amendment 106
Annex XV

This annex is deleted

Community vessel traffic monitoring *I**

European Parliament legislative resolution of 25 April 2007 on the proposal for a directive of the European Parliament and of the Council amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system (COM(2005)0589 – C6-0004/2006 – 2005/0239(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0589)¹,
 - having regard to Article 251(2) and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0004/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Fisheries (A6-0086/2007),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

Amendment 1

RECITAL 5

(5) The automatic ship identification systems (AIS – Automatic Identification System) referred to in the SOLAS Convention make it possible not only to improve the possibilities of monitoring these ships but above all to make them safer in close navigation situations. They have accordingly been integrated into the enacting terms of Directive 2002/59/EC. Considering the large number of collisions involving fishing vessels that have clearly not been seen by merchant ships or which have not seen the merchant ships around them, extension of this measure to include fishing vessels with a length of more than 15 metres is very much to be desired.

(5) The automatic ship identification systems (AIS – Automatic Identification System) referred to in the SOLAS Convention make it possible not only to improve the possibilities of monitoring these ships but above all to make them safer in close navigation situations. They have accordingly been integrated into the enacting terms of Directive 2002/59/EC. Considering the large number of collisions involving fishing vessels that have clearly not been seen by merchant ships or which have not seen the merchant ships around them, extension of this measure to include fishing vessels with a length of more than 15 metres is very much to be desired. ***The International Maritime Organisation (IMO) has recognised that the publication for commercial purposes on the worldwide web or elsewhere of AIS data transmitted by ships could be detrimental to the safety and security of ships and port facilities and has urged member governments, subject to the provisions of their national laws, to discourage those who make available AIS data to others for publication on the worldwide web, or elsewhere, from doing so. In addition, the availability of AIS information on ships' routes and cargoes should not be detrimental to fair competition between actors in the shipping industry.***

Amendment 2

RECITAL 6

(6) It would be useful to study what synergies might be possible between AIS and the positioning and communication systems used in the context of the common fisheries policy, such as the satellite-based vessel monitoring system (VMS). Investigation of the possibilities of integrating these systems should take account of the needs and requirements of controlling fishing fleets, particularly as regards the security and confidentiality of the data transmitted.

(6) It would be useful to study what synergies might be possible between AIS and the positioning and communication systems used in the context of the common fisheries policy, such as the satellite-based vessel monitoring system (VMS). ***The timetable for fitting vessels with AIS should accordingly be determined in the light of the findings of such a study.*** Investigation of the possibilities of integrating these systems should take account of the needs and requirements of controlling fishing

fleets, particularly as regards the security and confidentiality of the data transmitted.

Amendment 3

RECITAL 6 A (new)

(6a) This Directive provides that new ships must be fitted with AIS. To equip the existing fishing fleet, a special budget line should be created in addition to the Financial Instrument for Fisheries Guidance, which would allow cofinancing of up to around 90% from Community funds, regardless of geographical area.

Amendment 4

RECITAL 8

(8) In accordance with Article 18 of Directive 2002/59/EC concerning the risks posed by exceptionally bad weather, it seems necessary to take into account the potential danger to shipping from ice formation. Therefore, where a competent authority designated by a Member State considers, on the basis of an ice forecast provided by a qualified information service, that the sailing conditions are creating a serious threat to the safety of human life or of pollution, it should inform the masters of the ships present in its area of competence or intending to enter or leave the port or ports in the area concerned. The authority concerned should be able to take any appropriate steps to ensure the safety of human life at sea and to protect the environment.

(8) In accordance with Article 18 of Directive 2002/59/EC concerning the risks posed by exceptionally bad weather, it seems necessary to take into account the potential danger to shipping from ice formation. Therefore, where a competent authority designated by a Member State considers, on the basis of an ice forecast provided by a qualified information service, that the sailing conditions are creating a serious threat to the safety of human life or of pollution, it should inform the masters of the ships present in its area of competence or intending to enter or leave the port or ports in the area concerned. The authority concerned should be able to take any appropriate steps to ensure the safety of human life at sea and to protect the environment. ***To avoid possible problems with the ice rules laid down by some classification societies, it would be helpful if states standardised their rules; in this regard there could be unified requirements from the International Association of Classification Societies (IACS) or other leading associations in order to avoid such possible conflicts.***

Amendment 5
RECITAL 11

(11) *In* the event of a situation of distress at sea, that is to say, a situation that could give rise to loss of a vessel or an environmental or navigational hazard, *a* decision *may have to be taken* as regards the accommodation of a ship in distress in a place of refuge. To this end, *the authority concerned* should make a preliminary evaluation of the situation on the basis of the information contained in the relevant “place of refuge” plan.

(11) *It is important, in* the event of a situation of distress at sea, that is to say, a situation that could give rise to loss of a vessel or an environmental or navigational hazard, *to be able to call on an independent authority having the powers and expertise to take any necessary decisions to assist the vessel in distress with a view to protecting human lives and the environment and minimising economic damage. It is desirable that the competent authority should be permanent in nature. In particular, this authority should be empowered to take an independent* decision as regards the accommodation of a ship in distress in a place of refuge. To this end, *it* should make a preliminary evaluation of the situation on the basis of the information contained in the relevant “place of refuge” plan.

Amendment 6
RECITAL 12

(12) Plans for accommodating ships in *distress* should describe precisely the decision-making chain with regard to alerting and dealing with the situations in question. The authorities concerned and their remits should be clearly described, as should the means of communication between the parties involved. The applicable procedures should ensure that decisions can be taken quickly on the basis of specific maritime expertise. *To this end, the competent authority responsible for determining the appropriate place of refuge for accommodating a ship in distress should offer the necessary guarantees of independence and be fully capable of enforcing its decisions.*

(12) Plans for accommodating ships in *need of assistance* should describe precisely the decision-making chain with regard to alerting and dealing with the situations in question. The authorities concerned and their remits should be clearly described, as should the means of communication between the parties involved. The applicable procedures should ensure that decisions can be taken quickly on the basis of specific maritime expertise *in handling incidents where serious harmful consequences can be expected.*

Amendment 7

RECITAL 14

(14) It is important for the list of competent authorities responsible for deciding whether to accommodate a ship in a place of refuge, and the list of authorities responsible for receiving and handling alerts, to be published appropriately. The Member States should give the Commission an inventory of potential places of refuge. It may also prove useful for the parties involved in a maritime assistance operation and the authorities of neighbouring Member States likely to be affected by an emergency at sea to have access to appropriate information on the plans and places of refuge.

(14) It is important for the list of competent authorities responsible for deciding whether to accommodate a ship in a place of refuge, and the list of authorities responsible for receiving and handling alerts, to be published appropriately. The Member States should give the Commission an inventory of potential places of refuge. It may also prove useful for the parties involved in a maritime assistance operation and the authorities of neighbouring Member States likely to be affected by an emergency at sea to have access to appropriate information on the plans and places of refuge. ***It is important that the parties possessing such information guarantee its confidentiality.***

Amendment 56

RECITAL 14 A (NEW)

(14a) The implementation of a network of marine protected areas should be accelerated, and in addition the Member States should, under the coordination of the Commission, set up seasonal marine environmental and human resources index maps.

Amendment 8

RECITAL 15

(15) The accommodation of a ship in distress can cause substantial damage to goods, persons and the environment. Accordingly, before taking a decision the authorities concerned should be able to verify whether the ship is covered by insurance or some other financial guarantee permitting appropriate compensation for costs and damage associated with its accommodation in a place of refuge. Even where there is no such insurance or financial guarantee, the authorities should make an assessment of the factors and risks attached to accommodating or refusing to accommodate the ship.

(15) The absence of financial guarantees or insurance should not exonerate a Member State from its obligation to assist a ship in distress and to accommodate it in a place of refuge if by so doing it can reduce the risks to the crew and the environment. Though the competent authorities may verify whether the ship is covered by insurance or some other financial guarantee permitting appropriate compensation for costs and damage associated with its accommodation in a place of refuge, the act of requesting this information should not delay the rescue operation.

Amendment 9

RECITAL 15 A (new)

(15a) Ports which accommodate a ship in distress must be able to rely on prompt compensation in respect of costs and any damage associated with the operation. To that end it is important that not only Directive 2007/.../EC of the European Parliament and of the Council of ... [on the civil liability and financial guarantees of shipowners] and regulations of the International Oil Pollution Compensation Funds, but also the International Convention of 1996 on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea (the 'HNS Convention') and the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (the 'Bunker Oil Convention') be applied. Member States should therefore ratify these conventions as soon as possible. It is also desirable that Member States should press, within the IMO, for the adoption of the Wreck Removal Convention. In exceptional cases, Member States should ensure the compensation of costs and economic loss suffered by a port as a result of accommodating a ship in distress, particularly if such costs and economic loss are not covered by the financial guarantees of the vessel owners and other existing compensation mechanisms.

Amendment 10

RECITAL 15 B (new)

(15b) In order to obtain the full cooperation and trust of ships' masters and crew, it needs to be ensured that those masters and crew can rely on good and fair treatment from the competent authorities of the Member State which is required to accommodate their ship in distress. To that end, it is desirable that Member States apply the IMO guidelines on fair treatment of seafarers in the event of a maritime accident.

Amendment 11
RECITAL 15 C (new)

(15c) Surveillance of the Union's coasts and monitoring of ships entering its territorial waters are a cornerstone of European maritime safety. To deny impunity to ships and ensure that any place of refuge receives compensation in the event of an accident, it is essential to intensify coastal checks and ensure that no ship enters Union territorial waters if it does not have a financial guarantee within the meaning of Directive 2007/.../EC of the European Parliament and of the Council of ... [on the civil liability and financial guarantees of shipowners].

Amendment 12
RECITAL 17

(17) In accordance with Directive 2002/59/EC the Member States and the Commission have made substantial progress towards harmonising electronic data exchange, in particular as regards the transport of dangerous or polluting goods. The Community information exchange system SafeSeaNet, in development since 2002, should now be established as the reference network at Community level.

(17) In accordance with Directive 2002/59/EC the Member States and the Commission have made substantial progress towards harmonising electronic data exchange, in particular as regards the transport of dangerous or polluting goods. The Community information exchange system SafeSeaNet, in development since 2002, should now be established as the reference network at Community level. ***It is important to ensure that the SafeSeaNet system does not result in increased administrative or cost burdens for industry, that there is harmonisation with international rules and that confidentiality in relation to any possible commercial implications is taken into account.***

Amendment 13
RECITAL 18

(18) The progress made in the new technologies and in particular in their space applications, such as ***beacon-based*** ship monitoring systems, imaging systems or Galileo, now makes it possible to extend traffic monitoring further offshore and thereby to ensure better coverage of European waters. Furthermore, ***discussions are going on now in the International Maritime Organisation on the development of long-range traffic monitoring systems. There will have to be***

(18) The progress made in the new technologies and in particular in their space applications, such as ***satellite-based*** ship monitoring systems, imaging systems or Galileo, now makes it possible to extend traffic monitoring further offshore and thereby to ensure better coverage of European waters. Furthermore, ***the IMO has amended the SOLAS Convention for maritime safety and security and maritime environmental purposes with a view to developing systems for global long-range***

full cooperation within the Community on this work if these tools are to become an integral part of the maritime traffic monitoring system established by Directive 2002/59/EC.

identification and tracking of ships (LRIT). In accordance with the architecture approved by the IMO, which provides for the possibility of setting up regional LRIT Data centres, and taking into account the experience gained from the SafeSeaNet system, a LRIT European Data Centre should be set up for the collection and management of LRIT information. In order to retrieve LRIT data, Member States will need to be connected to the LRIT European Data Centre.

Amendment 14

RECITAL 18 A (new)

(18a) The IMO requirements for the fitting of ships with a LRIT system are applicable only to ships engaged in international voyages. However, since ships in domestic voyages between ports of a Member State may also pose a risk for maritime security, safety and the environment, such ships should also be fitted with LRIT, in accordance with a timetable to be proposed in due time by the Commission.

Amendment 15

RECITAL 19 A (new)

(19a) Information gathered pursuant to this Directive may only be disseminated and used to prevent situations which threaten the safety of human life at sea and the protection of the marine environment; it is therefore desirable that the Commission, in cooperation with the European Network and Information Security Agency, investigate how to tackle the network and information security problems resulting from the application of this Directive.

Amendment 57

ARTICLE 1, POINT -1 (new)

Recital 19 (Directive 2002/59/EC)

(-1) Recital 19 shall be replaced by the following:

"(19) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission. In particular, the Commission should be empowered to draw up an annex on SafeSeaNet and to amend Annexes I, III and IV in the light of experience gained. Since those measures are of general scope and are designed to amend non-essential elements of the Directive, they should be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC. The Commission should also be empowered to lay down requirements for the fitting of LRIT equipment on board ships engaged in domestic voyages and to modify definitions, references or the annexes to bring them into line with EC or international law. These measures can be adopted in accordance with the regulatory procedure provided for in Article 5 of Decision 1999/468/EC."

Amendment 16

ARTICLE 1, POINT -1 A (new)

Article 1, paragraph 1 (Directive 2002/59/EC)

(-1a) In Article 1, paragraph 1 shall be replaced by the following:

"The purpose of this Directive is to establish in the Community a vessel traffic monitoring and information system with a view to enhancing the safety and efficiency of maritime traffic, port and maritime security, improving the response of authorities to incidents, accidents or potentially dangerous situations at sea, including search and rescue operations, and contributing to a better prevention and detection of pollution by ships."

Amendment 62

ARTICLE 1, POINT 1 A (new)

Article 2, paragraph 2, point (c) (Directive 2002/59/EC)

(1a) In Article 2(2), point (c) shall be replaced by the following:

"(c) ships' stores and equipment for use on board ships."

Amendment 17

ARTICLE 1, POINT 2, POINT (A), POINT (II)

Article 3, point (a), indent 14 a (new) (Directive 2002/59/EC)

- IMO Resolution A.917(22) means International Maritime Organisation Resolution A.917(22) entitled "Guidelines for the onboard use of AIS", as amended by Resolution A.956(23);

Amendment 18

ARTICLE 1, POINT 2, POINT (A), POINT (II)

Article 3, point (a), indent 14 b (new) (Directive 2002/59/EC)

- IMO Resolution A.987(24) means International Maritime Organisation Resolution A.987(24) entitled "Guidelines on the fair treatment of seafarers in the event of a maritime accident";

Amendment 58

ARTICLE 1, POINT 2, POINT (B)

Article 3, point (s) (Directive 2002/59/EC)

(s) "SafeSeaNet" means the Community maritime information exchange system developed by the Commission in cooperation with the Member States to ensure the implementation of Community legislation;

(s) "SafeSeaNet" means the Community maritime information exchange system developed by the Commission in cooperation with the Member States to ensure the implementation of Community legislation, ***as set out in a special annex which will be drawn up in accordance with the procedure referred to in Article 28(2a);***

Amendment 20

ARTICLE 1, POINT 2, POINT (B)

Article 3, point (u a) (new) (Directive 2002/59/EC)

(ua) 'LRIT' means a system that automatically transmits long-range identification and tracking information in accordance with Regulation 19 Chapter V of the SOLAS Convention for maritime safety and security and maritime environmental purposes.

Amendment 21

ARTICLE 1, POINT 3

Article 6 a (Directive 2002/59/EC)

Any fishing vessel with a length of more than **15 metres** overall and sailing in waters under the jurisdiction of a Member State must, in accordance with the timetable set out in Annex II, part I(3), be fitted with an AIS which meets the performance standards drawn up by the IMO.

Any fishing vessel with a length of more than **24 metres** overall and sailing in waters under the jurisdiction of a Member State must, in accordance with the timetable set out in Annex II, part I(3), be fitted with an AIS which meets the performance standards drawn up by the IMO.

Amendment 22

ARTICLE 1, POINT 3

Article 6a, paragraph 1 a (new) (Directive 2002/59/EC)

Fishing vessels equipped with an AIS, shall maintain it in operation at all times, except where international agreements, rules or standards provide for the protection of navigational information.

Amendment 23

ARTICLE 1, POINT 3

Article 6a, paragraph 1 b (new) (Directive 2002/59/EC)

In accordance with the IMO Guidelines for the onboard use of AIS, AIS may be switched off where the master considers this necessary in the interests of the safety or security of his vessel.

Amendment 59

ARTICLE 1, POINT 3 A (new)

Article 6 b (new) (Directive 2002/59/EC)

(3a) The following Article 6b shall be inserted:

"Article 6b

Use of long-range identification and tracking of ships (LRIT)

1. Ships engaged in international voyages, except when fitted with AIS and operating exclusively within a sea area A1 covered by an AIS network, shall be fitted with an LRIT system in accordance with Regulation 19 Chapter V of the SOLAS Convention and the performance standards and functional requirements adopted by the IMO.

The Commission shall lay down, in accordance with the procedure referred to in Article 28(2), requirements for the fitting of LRIT equipment on board ships engaged in domestic voyages between ports of a

Member State of the European Union.

2. Member States and the Commission shall cooperate to establish, by 31 December 2008, an LRIT European Data Centre in charge of processing the long-range identification and tracking information.

The LRIT European Data Centre shall be a component of the European maritime information and exchange system, SafeSeaNet. Costs related to modifications of national elements of SafeSeaNet so as to include LRIT information shall be borne by Member States.

Member States shall establish, by 31 December 2008 at the latest, and maintain a connection to the LRIT European Data Centre.

3. The Commission shall determine the policy and principles for access to information held in the LRIT European Data Centre in accordance with the procedure referred to in Article 28(2)."

Amendment 25

ARTICLE 1, POINT 4

Article 12, paragraph 1, introductory wording (Directive 2002/59/EC)

No dangerous or polluting goods shall be offered for carriage or taken on board any ship, irrespective of its size, in a port of a Member State unless a declaration has been delivered to the master or operator containing the following information:

1. Shippers offering dangerous or polluting goods for carriage in a port of a Member State shall deliver to the master or operator of the ship, irrespective of its size, before the goods are taken on board, a declaration containing the following information:

Amendment 26

ARTICLE 1, POINT 4

Article 12, paragraph 1, point (b) (Directive 2002/59/EC)

(b) for the substances referred to in Annex I to the Marpol Convention, the safety data sheet detailing the physico-chemical characteristics of the products, including their viscosity expressed in cSt at 50°C and their density at 15°C;

(b) for the substances referred to in Annex I to the Marpol Convention, the safety data sheet detailing the physico-chemical characteristics of the products, including their viscosity expressed in cSt at 50°C and their density at 15°C *and the other data contained in the safety data sheet in accordance with IMO resolution MSC.150(77);*

Amendment 27

ARTICLE 1, POINT 4

Article 12, paragraph 1 a (new) (Directive 2002/59/EC)

1a. Vessels coming from a port outside the Community and heading for a port of a Member State or an anchorage in the territorial waters of a Member State which have dangerous or polluting substances on board must be in possession of a declaration by the shipper containing the following information:
(a) the information listed in Annex I, section 3;
(b) the information required under points (b) and (c) of paragraph 1 of this Article.

Amendment 28

ARTICLE 1, POINT 4

Article 12, paragraph 2 (Directive 2002/59/EC)

It shall be the duty of the shipper to *deliver to the master or operator such declaration and to* ensure that the shipment offered for carriage is indeed the one declared in accordance with *the first paragraph*.

1b. It shall be the duty *and responsibility* of the shipper to ensure that the shipment offered for carriage is indeed the one declared in accordance with *paragraphs 1 and 1a*.

Amendment 64

ARTICLE 1, POINT 4 A (new)

Article 14, paragraph 2, point (c) (Directive 2002/59/EC)

(4a) In the second paragraph of Article 14, point (c) shall be replaced by the following:
"(c) each Member State must be able, upon request, to send using SafeSeaNet information on the ship and on the dangerous or polluting goods on board without delay to the national and local competent authorities of another Member State. This must not lead to Member States routinely requesting information on ships and their cargoes for purposes other than maritime safety or security or the protection of the maritime environment."

Amendment 30
ARTICLE 1, POINT 6

Article 18a, paragraph 1, point (b) (Directive 2002/59/EG)

(b) they may request that a ship which is in the area concerned, and intends to enter or leave a port or terminal or to leave an anchorage area, **satisfy** the strength and power requirements commensurate with the ice situation in the area concerned.

(b) they may request that a ship which is in the area concerned, and intends to enter or leave a port or terminal or to leave an anchorage area, **prove by way of documentary evidence that it satisfies** the strength and power requirements commensurate with the ice situation in the area concerned.

Amendment 31
ARTICLE 1, POINT 8

Article 20, paragraph 1 (Directive 2002/59/EC)

1. Member States shall **ensure that, subject to the results of the assessment of the situation carried out on the basis of the plan referred to in Article 20a, ships in distress are admitted to a place of refuge which makes it possible to limit the threat posed by their situation.**

1. Member States shall **designate a competent authority which has the required expertise and is independent in that it has the power, at the time of the rescue operation, to take decisions on its own initiative concerning the accommodation of ships in distress with a view to:**

- **the protection of human lives**
- **coastal protection**
- **the protection of the marine environment**
- **safety at sea**
- **minimising economic loss.**

Amendment 32
ARTICLE 1, POINT 8

Article 20, paragraph 1 a (new) (Directive 2002/59/EC)

1a. The authority referred to in paragraph 1 may, inter alia:

- (a) restrict the movement of the ship or direct it to follow a specific course. This requirement does not affect the master's responsibility for the safe handling of his ship;**
- (b) give official notice to the master of the ship to put an end to the threat to the environment or maritime safety;**
- (c) come aboard or send an evaluation team aboard the ship to assess the damage to the ship and the degree of risk, help the master to remedy the situation and keep the competent coastal station informed;**
- (d) call on and deploy rescue workers itself where necessary;**
- (e) cause the ship to be piloted or towed.**

Amendment 55

ARTICLE 1, POINT 8

Article 20, paragraph 1 b (new) (Directive 2002/59/EC)

1b. The Member States shall, under the coordination of the Commission, draw up seasonal (transborder) marine environmental and human resources index maps.

Amendment 33

ARTICLE 1, POINT 8

Article 20, paragraph 2 (Directive 2002/59/EC)

2. The accommodation of a ship in distress in a place of refuge shall be the subject of a prior assessment of the situation and a decision taken by an independent competent authority designated by the Member State.

2. The authority referred to in paragraph 1 shall assume responsibility for the execution of the plans referred to in Article 20a.

Amendment 34

ARTICLE 1, POINT 8

Article 20, paragraph 2 a (new) (Directive 2002/59/EC)

2a. On the basis of a preliminary assessment of the circumstances, the authority referred to in paragraph 1 shall decide on the accommodation of a ship in distress in a place of refuge.

The authority referred to in paragraph 1 shall ensure that, based on an assessment of the circumstances in accordance with the plans referred to in Article 20a, ships in distress are admitted to a place of refuge in all cases where the accommodation of the ship in distress in a place of refuge permits the risks associated with those circumstances to be reduced.

Amendment 35

ARTICLE 1, POINT 8

Article 20, paragraph 2 b (new) (Directive 2002/59/EC)

2b. Member States shall respect the IMO Guidelines on the fair treatment of seafarers in the event of a maritime accident in relation to the crew of a ship in distress in the waters under their jurisdiction.

Amendment 36

ARTICLE 1, POINT 9

Article 20a, paragraph 1 (Directive 2002/59/EC)

1. Member States shall draw up plans for responding to threats presented by ships in distress in the waters under their jurisdiction.

1. Member States shall draw up plans for responding to threats presented by ships in distress in the waters under their jurisdiction ***and for securing the accommodation of ships and the protection of human lives.***

Amendment 37

ARTICLE 1, POINT 9

Article 20a, paragraph 3, subparagraph 2 a (new) (Directive 2002/59/EC)

Persons receiving relevant information pursuant to this paragraph concerning emergency plans and places of refuge must guarantee the confidentiality of such information.

Amendment 38

ARTICLE 1, POINT 10

Article 20b, title (Directive 2002/59/EC)

Financial guarantees

Financial guarantees ***and compensation***

Amendment 39

ARTICLE 1, POINT 10

Article 20b, paragraph 1 (Directive 2002/59/EC)

1. Prior to accommodating a ship in distress in a place of refuge, the Member State may request the ship's operator, agent or master to present an insurance certificate or a financial guarantee, within the meaning of Article X of Directive XX/XXXX/EC [on the civil liability and financial guarantees of shipowners], covering his liability for damage caused by the ship.

1. The absence of an insurance certificate or financial guarantee shall not exonerate the Member States from the preliminary assessment and decision referred to in Article 20 and is not of itself sufficient reason for a Member State to refuse to accommodate a ship in distress in a place of refuge.

Amendment 40

ARTICLE 1, POINT 10

Article 20b, paragraph 2 (Directive 2002/59/EC)

2. The absence of an insurance certificate or financial guarantee shall not exonerate the Member States from the prior assessment and decision referred to in Article 20.

2. Without prejudice to paragraph 1, when accommodating a ship in distress in a place of refuge, the Member State may request the ship's operator, agent or master to present an insurance certificate or a financial guarantee, within the meaning of Article 7 of Directive 2007/.../EC of the European Parliament and of the Council of ... [on the civil liability and financial guarantees of shipowners], covering his liability for damage caused by the ship. The requesting of this certificate shall not lead to a delay in accommodating a ship in distress.

Amendment 41

ARTICLE 1, POINT 10

Article 20b, paragraph 2 a (new) (Directive 2002/59/EC)

2a. Member States shall ensure the compensation of costs and potential economic loss suffered by a port as a result of a decision taken pursuant to Article 20(2a) if such costs or economic loss are not compensated within a reasonable time by the owner or operator of the ship pursuant to Directive 2007/.../EC of the European Parliament and of the Council of ... [on the civil liability and financial guarantees of shipowners] and the existing international compensation mechanisms.

Amendment 65

ARTICLE 1, POINT 11

Article 22 a, paragraph 3 (Directive 2002/59/EC)

3. To guarantee an effective exchange of the information referred to in this Directive, Member States shall ensure that the national or local systems set up to gather, process and preserve that information can be interconnected with the Community maritime information exchange system SafeSeaNet.

3. To guarantee an effective exchange of the information referred to in this Directive, Member States shall ensure that the national or local systems set up to gather, process and preserve that information can be interconnected with the Community maritime information exchange system SafeSeaNet. *The Commission shall ensure that the Community maritime information exchange system SafeSeaNet is operational on a 24 hours-a-day basis.*

Amendment 42
ARTICLE 1, POINT 11
Article 22a, paragraph 3 a (new) (Directive 2002/59/EC)

3a. When cooperating within regional agreements or in the framework of cross-border, inter-regional or transnational projects, Member States shall ensure that information systems or networks developed comply with the requirements of this Directive and are compatible with and connected to the SafeSeaNet system.

Amendment 43
ARTICLE 1, POINT 11
Article 22a, paragraph 3 b (new) (Directive 2002/59/EC)

3b. To ensure that there is a sufficient period to test the functioning of the SafeSeaNet system, that system shall become fully operational on 1 January 2009.

Amendment 44
ARTICLE 1, POINT 12, POINT (B)
Article 23, points (e) and (f) (Directive 2002/59/EC)
(b) the following points (e) **and** (f) are added:

(b) the following points (e), (f) **and (fa)** are added:

Amendment 45
ARTICLE 1, POINT 12, POINT (B)
Article 23, point (e) (Directive 2002/59/EC)
(e) ensuring the interconnection and interoperability of the national systems used for managing the information referred to in the Annex, and developing and updating the SafeSeaNet system;

(e) ensuring the interconnection and interoperability of the national systems used for managing the information referred to in the Annex, **integrating conventional with satellite-based systems used for the same purpose**, and developing and updating the SafeSeaNet system;

Amendment 46
ARTICLE 1, POINT 12, POINT (B)
Article 23, point (f) (Directive 2002/59/EC)
(f) studying the feasibility and determining the detailed rules for integrating automatic identification systems (AIS) with the positioning and communication systems used in the context of the common fisheries policy.

(f) studying the feasibility and determining the detailed rules for integrating automatic identification systems (AIS) with the positioning and communication systems used in the context of the common fisheries policy. **The findings of that study shall be made available at the latest twelve months before the entry into force of the obligation referred to in Article 6a, and in any case not later than 1 July 2008.**

Amendment 47

ARTICLE 1, POINT 12, POINT (B)

Article 23, point (f a) (new) (Directive 2002/59/EC)

(fa) studying and implementing procedures that will more effectively guarantee the confidentiality of information gathered.

Amendment 66

ARTICLE 1, POINT 13 A (new)

Article 24, paragraph 1 a (new) (Directive 2002/59/EC)

(13a) In Article 24 the following paragraph 1a shall be added:

"Member States shall, in accordance with their national legislation, verify that AIS and LRIT data transmitted by ships is not being made publicly available or used for purposes other than safety, security and the protection of the environment, or which would affect competition between ship operators. In particular, they shall not authorize the public dissemination of information concerning the details of the cargo or of the persons on board, unless the master or the operator of the vessel has agreed to such use."

Amendment 49

ARTICLE 1, POINT 13 B (new)

Article 24, paragraph 1 b (new) (Directive 2002/59/EC)

(13b) In Article 24 the following paragraph 1b shall be added:

"In cooperation with the European Network and Information Security Agency, the Commission shall investigate how to tackle the network and information security problems which may be associated with the measures provided for under this Directive, and in particular Articles 6, 6a, 14 and 22a thereof. No later than one year after the entry into force of this Directive, the Commission shall take the necessary measures to combat the unauthorised use or commercial abuse of data exchanged pursuant to this Directive."

Amendment 60

ARTICLE 1, POINT 13 C (new)

Article 27, paragraph 2 (Directive 2002/59/EC)

(13c) In Article 27, paragraph 2 shall be replaced by the following:

"2. Furthermore, Annexes I, III and IV may be amended in accordance with the procedure referred to in Article 28(2a), in the light of experience gained with this Directive, in so far as such amendments do not broaden the scope of this Directive."

Amendment 61

ARTICLE 1, POINT 14

Article 28, paragraph 2 a (new) (Directive 2002/59/EC)

2a. Where reference is made to this paragraph, Article 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Amendment 63

ARTICLE 1, POINT 14 A (new)

Annex I, point 4, indent X (Directive 2002/59/EC)

(14a) In Annex I, indent X of point 4 shall be replaced by the following:

"- X. various information:

- characteristics and estimated quantity of bunker fuel for all ships carrying bunker fuel,*
- navigational status."*

Amendment 51

ARTICLE 1, POINT 15

Annex II, section I, point 3, introductory wording (Directive 2002/59/EC)

Any fishing vessel with a length of more than **15 metres** overall is subject to the carrying requirement laid down in Article 6a according to the following timetable:

Any fishing vessel with a length of more than **24 metres** overall is subject to the carrying requirement laid down in Article 6a according to the following timetable:

Amendment 50

ARTICLE 1, POINT 15

Annex II, section I, point 3, indent -1 (new) (Directive 2002/59/EC)

*- new fishing vessel of overall length 24 metres and upwards: on ... *;*

** The date of entry into force of this Directive.*

Amendment 52

ARTICLE 1, POINT 15

Annex II, section I, point 3, indent 1 (Directive 2002/59/EC)

- fishing vessel of overall length of 24 metres and upwards but less than 45 metres: not later than **1 January 2008**;

- fishing vessel of overall length of 24 metres and upwards but less than 45 metres: not later than ... *;

*** Two years after the date of entry into force of this Directive.**

Amendment 53

ARTICLE 1, POINT 15

Annex II, section I, point 3, indent 2 (Directive 2002/59/EC)

fishing vessel of overall length 18 metres and upwards but less than 24 metres: not later than 1 January 2009; ***deleted***

Amendment 54

ARTICLE 1, POINT 15

Annex II, section I, point 3, indent 3 (Directive 2002/59/EC)

fishing vessel of overall length exceeding 15 metres but less than 18 metres: not later than 1 January 2010. ***deleted***

Investigation of accidents *I**

European Parliament legislative resolution of 25 April 2007 on the proposal for a directive of the European Parliament and of the Council establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Directives 1999/35/EC and 2002/59/EC (COM(2005)0590 – C6-0056/2006 – 2005/0240(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0590)¹,
 - having regard to Article 251(2) and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0056/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A6-0079/2007),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

Amendment 26
RECITAL 11

(11) Investigation of casualties and incidents involving seagoing vessels, or other vessels in port or other restricted maritime areas, should be carried out by or under the control of an independent body or entity in order to avoid any conflict of interest.

(11) Investigation of casualties and incidents involving seagoing vessels, or other vessels in port or other restricted maritime areas, should be carried out by or under the control of an independent body or entity ***endowed in permanent fashion with the powers enabling it to take decisions***, in order to avoid any conflict of interest.

Amendment 2
RECITAL 17

(17) According to Regulation (EC) No 1406/2002, the Agency must facilitate cooperation in the provision of the support of the Member States in activities concerning investigations related to serious maritime accidents, and in the carrying out of an analysis of existing accident investigation reports.

(17) According to Regulation (EC) No 1406/2002, the Agency must facilitate cooperation in the provision of the support of the Member States in activities concerning investigations related to serious maritime accidents, and in the carrying out of an analysis of existing accident investigation reports. ***The Agency must also, in the light of the results of the analyses, incorporate into the joint methodology any elements arising therefrom which may be of interest for the prevention of new disasters and the improvement of maritime safety in the EU.***

Amendment 3
RECITAL 17 A (new)

(17a) The IMO guidelines on the fair treatment of seafarers in the event of a maritime accident counteract the risk of the criminalisation of the captain and the crew. They could give them more confidence in investigation methods, and should therefore be used by the Member States.

Amendment 4

RECITAL 18

(18) The safety recommendations resulting from a casualty or incident safety investigation should be duly taken into account by the Member States.

(18) The safety recommendations resulting from a casualty or incident safety investigation should be duly taken into account by the Member States **and the Community**.

Amendment 5

ARTICLE 1, PARAGRAPH 2

Investigations under this Directive shall not be concerned with determining liability nor, **except so far as is necessary to achieve its objective**, apportioning blame.

Investigations under this Directive shall not be concerned with determining liability nor apportioning blame.

Amendment 6

ARTICLE 2, PARAGRAPH 1, INTRODUCTORY WORDING

1. **This** Directive shall apply to marine casualties, incidents and distress alerts that:

1. **In accordance with Member States' obligations under the United Nations Convention on the Law of the Seas (UNCLOS), this** Directive shall apply to marine casualties, incidents and distress alerts that:

Amendment 7

ARTICLE 3, PARAGRAPH 8

8. 'Safety recommendation' means any proposal made by either of the following:

- (a) the investigative body of the State conducting, or leading, the marine casualty or incident safety investigation on the basis of information derived from that investigation; or, where appropriate;
- (b) the Commission, acting on the basis of an abstract data analysis.

8. 'Safety recommendation' means any proposal made, **including for purposes of registration and control**, by either of the following:

- (a) the investigative body of the State conducting, or leading, the marine casualty or incident safety investigation on the basis of information derived from that investigation; or, where appropriate;
- (b) the Commission, acting **with the assistance of the Agency and** on the basis of an abstract data analysis **and the results of the investigations carried out**.

Amendment 8

ARTICLE 4, PARAGRAPH 1, POINT (A)

(a) are independent from criminal or other **parallel** investigations held to determine liability or apportion blame; and

(a) are independent from criminal or other investigations held to determine liability or apportion blame, **allowing that only the conclusions or recommendations arising from investigations initiated under this Directive can contribute to other parallel investigations**; and

Amendment 9

ARTICLE 4, PARAGRAPH 1, SUBPARAGRAPH 1 A (new)

Furthermore, Member States shall ensure that in the course of such investigations, witnesses are protected from having their statements or other information provided by them obtained by third country authorities so as to prevent such statements or information from being used in criminal investigations in the countries in question.

Amendment 10

ARTICLE 4, PARAGRAPH 2, POINT (B A) (new)

(ba) rapid alert measures in case of casualty or incident.

Amendment 11

ARTICLE 5, PARAGRAPH 4

4. Safety investigations shall follow the common methodology for investigating marine casualties and incidents developed pursuant to Article 2(e) of Regulation (EC) No. 1406/2002. The adoption or modification of such methodology for the purposes of this Directive shall be decided in accordance with the procedure laid down in *Article 18(2)*.

4. Safety investigations shall follow the common methodology for investigating marine casualties and incidents developed pursuant to Article 2(e) of Regulation (EC) No. 1406/2002. The adoption, **updating** or modification of such methodology for the purposes of this Directive shall be decided in accordance with the procedure laid down in *Article 18(2a)*.

Amendment 12

ARTICLE 5, PARAGRAPH 5

5. A safety investigation shall be started as promptly as is practicable after the marine casualty or incident occurs.

5. A safety investigation shall be started as promptly as is practicable after the marine casualty or incident occurs **and no later than two months after its occurrence.**

Amendment 13

ARTICLE 7, PARAGRAPH 1, SUBPARAGRAPH 1

1. In cases of serious and very serious casualties involving a substantial interest for two or more Member States, the Member States concerned shall rapidly agree which of them is to be the lead investigating Member State.

1. In cases of serious and very serious casualties involving a substantial interest for two or more Member States, the Member States concerned shall rapidly agree which of them is to be the lead investigating Member State. ***Should the Member States concerned not determine which Member State is to lead the investigation, they shall immediately implement a recommendation by the Commission on the matter, based on an opinion from the Agency.***

Amendment 14

ARTICLE 8, PARAGRAPH 1, SUBPARAGRAPH 1

1. Member States shall ensure that marine casualty or incident safety investigations are conducted under the responsibility of an ***impartial permanent*** investigative body or entity (hereinafter referred to as “investigative body”), ***and by suitably qualified investigators, competent*** in matters relating to marine casualties and incidents.

1. Member States shall ensure that marine casualty or incident safety investigations are conducted under the responsibility of an investigative body or entity (hereinafter referred to as “investigative body”) ***equipped on a permanent basis with the necessary powers and consisting of investigators who are suitably qualified*** in matters relating to marine casualties and incidents.

Amendment 15

ARTICLE 8, PARAGRAPH 1, SUBPARAGRAPH 2

That investigative body shall be functionally independent of, in particular, the national authorities responsible for seaworthiness, certification, inspection, manning, safe navigation, maintenance, sea traffic control, port state control, operation of seaports and, in general, of any other party whose interests could conflict with the task entrusted to it.

That investigative body shall be functionally independent of, in particular, the national authorities responsible for seaworthiness, certification, inspection, manning, safe navigation, maintenance, sea traffic control, port state control ***and*** operation of seaports, ***of bodies undertaking investigations for purposes of liability or law enforcement*** and, in general, of any other party whose interests could conflict with the task entrusted to it.

Amendment 16

ARTICLE 9, INTRODUCTORY PART

Member States shall ensure that the following records are not made available for purposes other than the safety investigation, ***unless the appropriate judicial authority in that State determines that the interest in their disclosure outweighs the adverse domestic and international impact that such action may have on that investigation or on any future investigations:***

Member States shall ensure that the following records are not made available for purposes other than the safety investigation:

Amendment 17

ARTICLE 14, PARAGRAPH 2

2. Investigative bodies shall make every effort to make a report available to the public within 12 months from the day of the casualty. If it is not possible to produce the final report within that time, an interim report shall be published within 12 months from the date of the casualty.

2. Investigative bodies shall make every effort to make a report available to the public, ***and especially to the entire maritime sector, which shall receive specific conclusions and recommendations, when needed,*** within 12 months from the day of the casualty. If it is not possible to produce the final report within that time, an interim report shall be published within 12 months from the date of the casualty.

Amendment 18
ARTICLE 14, PARAGRAPH 3 A (new)

3a. Every three years, the Commission shall provide information to the European Parliament in the form of a report which shall set out the degree of implementation and compliance with the provisions of this Directive, as well as the further steps considered necessary in the light of the recommendations set out in the report.

Amendment 19
ARTICLE 15, PARAGRAPH 1

1. Member States shall ensure that safety recommendations made by the investigative bodies are duly taken into account by the addressees and, where appropriate, acted upon in accordance with Community and international law.

1. Member States shall ensure that safety recommendations made by the investigative bodies are duly taken into account by the addressees and, where appropriate, acted upon in accordance with Community and international law. ***The Commission, acting with the assistance of the Agency, shall incorporate into the joint methodology the conclusions of the accident reports and the safety recommendations contained therein.***

Amendment 20
ARTICLE 15, PARAGRAPH 2

2. Where appropriate, an investigative body or the Commission shall make safety recommendations on the basis of an abstract data analysis.

2. Where appropriate, an investigative body or the Commission, ***acting with the assistance of the Agency***, shall make safety recommendations on the basis of an abstract data analysis ***and of the results of any investigations carried out.***

Amendment 22
ARTICLE 17 A (new)

Article 17 a
Fair treatment of seafarers
The Member States shall comply with the IMO guidelines on the fair treatment of seafarers in the event of a maritime accident.

Amendment 23
ARTICLE 18, PARAGRAPH 2 A (new)

2a. Where reference is made to this paragraph, Article 5a(1) to (4), and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

Amendment 24
ARTICLE 20

Nothing contained in this Directive shall prevent a Member State from taking additional measures on maritime safety which are not covered by this Directive, provided that such measures do not infringe this Directive or in any way adversely affect its attainment.

Nothing contained in this Directive shall prevent a Member State from taking additional measures on maritime safety which are not covered by this Directive, provided that such measures do not infringe this Directive or in any way adversely affect its attainment, *nor jeopardise the realisation of the objectives of the Union.*

Liability of carriers of passengers by boat in the event of accidents *I**

European Parliament legislative resolution of 25 April 2007 on the proposal for a regulation of the European Parliament and of the Council on the liability of carriers of passengers by sea and inland waterways in the event of accidents (COM(2005)0592 – C6-0057/2006 – 2005/0241(COD))

(Codecision procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to the European Parliament and the Council (COM(2005)0592)¹,
 - having regard to Article 251(2) and Article 80(2) of the EC Treaty, pursuant to which the Commission submitted the proposal to Parliament (C6-0057/2006),
 - having regard to Rule 51 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism and the opinion of the Committee on Legal Affairs (A6-0063/2007),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to refer the matter to Parliament again if it intends to amend the proposal substantially or replace it with another text;
 3. Instructs its President to forward its position to the Council and Commission.

¹ Not yet published in OJ.

Amendments 16 and 22

Title

Proposal for a regulation of the European Parliament and of the Council on the liability of carriers of passengers by sea **and inland waterways** in the event of accidents

Proposal for a regulation of the European Parliament and of the Council on the liability of carriers of passengers by sea in the event of accidents

Amendments 17 and 23

Recital 1

(1) Within the framework of the common transport policy, further measures must be adopted to enhance safety in maritime and inland waterway transport. Those measures include liability rules for damage caused to passengers, since it is important to ensure a proper level of compensation for passengers involved in maritime **and inland waterway** accidents.

(1) Within the framework of the common transport policy, further measures must be adopted to enhance safety in maritime and inland waterway transport. Those measures include liability rules for damage caused to passengers, since it is important to ensure a proper level of compensation for passengers involved in maritime accidents.

Amendments 18 and 24

Recital 3

(3) The Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended by its protocol of 2002, (hereinafter referred to as “the Athens Convention 2002”) is applicable to international transport only. In the internal maritime market, the distinction between national and international transport has been eliminated and it is therefore appropriate to have the same level and nature of liability in both international and national transport within the Community. ***The Athens Convention 2002 regime should be extended to inland waterways.***

(3) The Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended by its protocol of 2002, (hereinafter referred to as “the Athens Convention 2002”) is applicable to international transport only. In the internal maritime market, the distinction between national and international transport has been eliminated and it is therefore appropriate to have the same level and nature of liability in both international and national transport within the Community.

Amendment 1

Recital 3 a (new)

(3a) The insurance arrangements required under the Athens Convention 2002 must be appropriate to the capacities of shipowners and insurance companies. Shipowners must be in a position to manage their insurance arrangements in an economically acceptable way and, particularly in the case of small shipping companies operating national transport services, account must be taken of the seasonal nature of their operations. The transitional period which is provided for for

the application of this Regulation must be sufficiently long to enable the compulsory insurance provided for by this Regulation to be implemented without affecting existing insurance schemes.

Amendment 2

Recital 4

(4) It is appropriate to oblige the carrier to make advance payment in the event of the death of, or personal injury to, a passenger.

(4) It is appropriate to oblige the carrier to make advance payment in the event of the death of, or personal injury to, a passenger, ***whereby advance payment does not constitute recognition of liability.***

Amendment 3

Recital 5

(5) Appropriate information on the new rights being conferred on passengers should be provided to those passengers prior to the journey.

(5) Appropriate, ***full and comprehensible*** information on the new rights being conferred on passengers should be provided to those passengers prior to the journey.

Amendment 4

Recital 7 a (new)

(7a) Owing to the need for greater consultation among the Member States on matters of maritime safety, it is vital to reassess the EMSA's competences and possibly consider extending its powers.

Amendment 5

Recital 7 b (new)

(7b) The national authorities, particularly the port authorities, play a fundamental and vital role in identifying and managing the various risks for maritime safety.

Amendments 19 and 25

Article 1, paragraph 1

This Regulation lays down a Community regime of uniform liability for the carriage of passengers by sea ***and inland waterways.***

This Regulation lays down a Community regime of uniform liability for the carriage of passengers by sea.

Amendments 20 and 26

Article 1, paragraph 2

To that end, this Regulation incorporates the relevant provisions of the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea 1974, as amended by its protocol of 2002, hereinafter referred to as "the Athens Convention 2002" and extends the application of those provisions to carriage by sea within a single Member State ***and to international and domestic carriage by inland waterways.***

To that end, this Regulation incorporates the relevant provisions of the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea 1974, as amended by its protocol of 2002, hereinafter referred to as "the Athens Convention 2002" and extends the application of those provisions to carriage by sea within a single Member State.

Amendments 21 and 27
Article 2, introductory part

The Regulation shall apply to any international or domestic carriage, by sea *or inland waterway*, if:

The Regulation shall apply to any international or domestic carriage by sea, if:

Amendment 6
Article 3, paragraph 1

The liability of a carrier and of a performing carrier in respect of passengers and their luggage shall be governed by all provisions of the Athens Convention 2002 relevant to such liability.

The liability of a carrier and of a performing carrier in respect of passengers and their luggage shall be governed by all provisions of the Athens Convention 2002 relevant to such liability, ***including the IMO reservation and guidelines for implementation of the Athens Convention 2002 adopted by the Legal Committee of the IMO on 19 October 2006, both annexed to this Regulation.***

Amendment 7
Article 4, paragraph 1

Article 7(2) of the Athens Convention 2002 is not applicable to the carriage of passengers falling within the scope of this Regulation, ***except if all Member States agree on such an application when amending*** this Regulation.

Article 7(2) of the Athens Convention 2002 is not applicable to the carriage of passengers falling within the scope of this Regulation ***unless the European Parliament and the Council, acting in accordance with the procedure referred to in Article 251 of the Treaty, amend this Regulation to this effect.***

Amendment 8
Article 4, paragraph 1 a (new)

Article 19 of the Athens Convention 2002 is not applicable to the carriage of passengers falling within the scope of this Regulation.

Amendment 9
Article 5

In the event of the death of, or personal injury to, a passenger the carrier shall make an advance payment sufficient to cover immediate economic needs, within 15 days from the identification of the person entitled to damages. In the event of death this payment shall not be less than EUR 21 000.

In the event of the death of, or personal injury to, a passenger ***resulting from a shipping incident or accident*** the carrier ***or the performing carrier*** shall make an advance payment sufficient to cover immediate economic needs, within 15 days from the identification of the person entitled to damages. In the event of death ***or the absolute and permanent invalidity of a passenger, or injuries to 75% or more of the passenger's body considered clinically very serious***, this payment shall not be less than EUR 21 000.

Amendment 10

Article 5, paragraph 1 a (new)

An advance payment shall not constitute recognition of liability and may be offset against any subsequent sums paid on the basis of this Regulation and is not returnable except where the person who received the advance payment was not the person entitled to compensation or the carrier is deemed not at fault. Receipt of an advance payment shall enable the carrier, the performing carrier or the passenger to initiate judicial proceedings to establish liabilities and fault.

Amendment 11

Article 6, paragraph 1

The carrier, the performing carrier and/or the tour operator shall provide passengers, prior to their departure, with information regarding their rights under this Regulation, in particular with information on the limits of compensation for death, personal injury or loss and damage of luggage, on their right of direct action against the insurer or the person providing financial security and on their entitlement to an advance payment.

The carrier, the performing carrier and/or the tour operator shall provide passengers, prior to their departure, with ***appropriate, full and comprehensible*** information regarding their rights under this Regulation, in particular with information on the limits of compensation for death, personal injury or loss and damage of luggage, on their right of direct action against the insurer or the person providing financial security and on their entitlement to an advance payment.

Amendment 12

Article 6, paragraph 2

This information shall be provided in ***the most*** appropriate format.

This information shall be provided in ***an appropriate, full and comprehensible format and, in the case of information provided by tour operators, in accordance with Article 4 of Council Directive 90/314/EEC of 13 June 1990 on package travel, package holidays and package tours¹.***

¹ *OJ L 158, 23.6.1990, p. 59.*

Amendment 13

Article 8, paragraph 2 a (new)

In relation to domestic carriage by regular ferry lines, it shall apply from two years after [the date of its entry into force or from the date of the entry into force of the Athens Convention 2002 for the Community, whichever is the later].

Amendment 14

Article 8, paragraph 2 b (new)

In relation to carriage by inland waterways, it shall apply from four years after [the date of its entry into force or from the date of the entry into force of the Athens Convention 2002 for the Community, whichever is the later].

Amendment 15

Article 8, paragraph 2 c (new)

In relation to domestic carriage by regular ferry lines in the regions covered by Article 299(2) of the Treaty, it shall apply from four years after [the date of its entry into force or from the date of the entry into force of the Athens Convention 2002 for the Community, whichever is the later].