



**COUNCIL OF  
THE EUROPEAN UNION**

**EN**

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**PARLIAMENT AND COUNCIL  
CONCILIATION COMMITTEE**  
**Agreement on the third maritime package**

At a meeting of the Conciliation Committee<sup>1</sup> on 8 December 2008, the Council and the European Parliament reached agreement on the five legislative proposals in the third package on maritime safety.

The agreement must now be approved by Parliament (by an absolute majority of votes cast) and by the Council (by a qualified majority) in order for the set of proposals to be adopted.

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<sup>1</sup> The Conciliation Committee has 54 members: 27 members of the European Parliament and 27 representatives from the Council. The meeting was co-chaired by Ms Rodi Kratsa Tsagaropoulou, Vice-President of the European Parliament, and Mr Dominique Bussereau, French Minister of State for Transport.

**P R E S S**

The five proposals<sup>1</sup> covered by the agreement belong to a series of measures, consisting of a total of seven legislative proposals, aiming to strengthen the security of maritime transport in Europe by improving accident prevention and investigations into accidents and by strengthening vessel quality control.

In the framework of an overall compromise, the Conciliation Committee settled all the questions arising from the amendments adopted by the European Parliament at second reading.

### **Vessels traffic monitoring and information system**

The draft Directive is aimed in particular at incorporating additional measures to enhance ship safety and environmental protection and harmonising implementation of plans of places of refuge by the Member States.

The text approved includes in particular the development of the Community maritime safety information exchange system SafeSeaNet, which will strengthen the vessel monitoring measures, the designation by Member States of one or more authorities responsible for the accommodation of ships in distress, whether insured or not. In addition, it makes the use of automatic identification systems (AIS) compulsory for fishing vessels longer than 15 metres and tightens the shipper's information obligations.

As far as the accommodation of ships in places of refuge is concerned, the text specifies that the designated authority or authorities take an independent decision on the acceptance of a ship in need of assistance in a place of refuge following a prior assessment of the situation carried out on the basis of the plan for the accommodation for vessels. Member states will have 18 months from the entry into force of the Directive to comply with its provisions.

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<sup>1</sup> The proposals concerned are the following:

- a proposal for a Directive on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations (recast) (5912/06);
- a proposal for a Directive amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system (5171/06);
- a proposal for a Directive establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Directives 1999/35/EC and 2002/59/EC (6436/06);
- a proposal relative on port State control ([5632/06](#));
- a proposal for a Regulation on the liability of carriers of passengers by sea and inland waterways in the event of accidents ([6827/06](#)).

At the conciliation stage, the two institutions settled inter alia questions on the fair treatment of seafarers, on the authorities competent to decide on the accommodation of ships in places of refuge and on compensation for economic losses suffered by a port as a result of a decision to accommodate a vessel. The Commission will prepare for 2011 a report examining the mechanisms that exist in Member States to compensate such losses and the various policy options available.

### **Investigation of accidents in the maritime transport sector**

The draft Directive is aimed at improving maritime safety by establishing Community-wide rules on the independent technical investigations to be carried out following marine casualties and incidents. Such technical investigations do not aim at determining civil or criminal liability, but at establishing the circumstances and at researching causes of marine casualties or incidents in order to draw all possible lessons from them. The proposal is in compliance with the rules of international maritime law and in accordance with the definitions and recommendations contained in the International Maritime Organisation's Code for the investigation of marine casualties and incidents and its ongoing revision.

The Commission's original proposal was modified in particular to ensure the independence and discretionary powers of the investigative body. Compared to the Commission proposal, which set an obligation of mandatory safety investigations for very serious and serious marine casualties, investigations are automatic according to the text agreed only for very serious casualties. In the other cases, the investigative body will decide, in particular after a mandatory preliminary assessment in the case of a serious casualty, whether or not to undertake a safety investigation, taking account in particular of the seriousness of the casualty or incident and the possible lessons to be learned. In addition, the text extends the scope of the Directive for reason of consistency with the draft Directive establishing a vessel traffic monitoring and information system. It will apply to marine casualties and incidents involving fishing vessels with a length of more than 15 metres.

The text lays down that in principle every marine casualty or incident is the subject of a single investigation, carried out by one Member State, or by a Member State conducting the investigation with the participation of any other State with important interests at stake. The carrying out of parallel investigations into a single marine casualty is strictly limited to exceptional cases and requires that the reasons for such parallel investigations be notified to the Commission and that the Member States carrying out parallel security investigations cooperate.

At the conciliation stage, questions resolved included in particular the scope of the Directive, fair treatment of seafarers, the principle of the single investigation and confidentiality.

## **Port State control**

This proposal recasts successive amendments to Directive 95/21/EC on port state control in a consolidated text, as well as simplifies or amends certain provisions in order to reinforce the effectiveness and quality of inspections on vessels by the port State with a view to enhancing the fight against substandard vessels navigating in Community waters.

The text agreed establishes a new inspection system with the aim of ensuring that a maximum of vessels calling at ports or berths in the Member States are inspected, taking into account the equitable sharing of the overall inspection commitment among Member States.

Inspections will be focused on substandard vessels, which will be checked more often, while the burden will be alleviated with regard to quality vessels. As an ultimate measure against substandard vessels, whose performance will be inter alia evaluated in relation to the performance of the flag State concerned, the access of these vessels to Member States' ports may be refused for three months. This period becomes twelve if there is a second refusal of access. A third refusal of access can be lifted only after 24 months, but solely under specific conditions relating to the flag State, the approved body and the company responsible for the vessel concerned. Any subsequent immobilisation gives rise to a permanent refusal of access to the vessel at any port or berth in the Community.

The new inspection regime provides for an equitable share of the overall inspection commitment between Member States, while also taking account of specific circumstances through flexibility mechanisms applicable to compulsory inspections. Member States are allowed to miss inspections on 5 % of vessels with a high risk profile and on 10 % of other vessels. They must, however, give particular attention to vessels that do not often call at ports of Community Member States and, at berths, to high-risk priority I vessels that do not often call there. Furthermore, Member States may, in specific circumstances, postpone an inspection for 15 days.

In order to allow for a seamless implementation of the new complex port State control regime, the text as agreed establishes a transposition period until 1 January 2011, after which the Directive will be applied by all Member States.

At the conciliation stage, the two institutions settled inter alia the question of permanent refusal of access.

## **Liability of carriers of passengers by sea in the event of accidents**

The draft Regulation aims at creating a single set of EU rules governing the rights of carriers by sea and their passengers in the event of an accident. To this end it incorporates into Community legislation the Athens Convention relating to the carriage of passengers and their luggage by sea as amended in 2002. The proposal also includes several additional requirements related in particular to compensation for damage or loss of mobility equipment, pre-journey information of passengers and advance payments.

Compared to the initial Commission proposal, the approved text modified, among others, the provisions concerning the scope, the relation between the Regulation and other international conventions on global limitation of liability and the transitory provision of the Regulation. As far as the scope is concerned, the Commission's proposal to extend the application of the Athens Convention to international and domestic carriage by inland waterways was rejected by the Council and the Parliament, since both institutions considered that the sector had specific features.

The main issues settled at the conciliation stage concerned the entry into force of the Regulation and its application to carriage by sea within a single Member State (classes of vessels defined in Article 4 of Directive 98/18/EC), in particular:

- the Regulation will apply from the date of the entry into force of the Athens Convention for the Community, but not later than 31 December 2012;
- Member States may decide to defer application of the Regulation to Class A vessels until 31 December 2016 and to Class B vessels until 31 December 2018;
- to extend the scope to Class C and D vessels, the Commission will, if appropriate, present a legislative proposal by 30 June 2013.

## **Ship inspection and survey organisations**

The proposal for a Directive aims at recasting, in a consolidated text, successive amendments to Directive 94/57/EC establishing common rules and standards for organisations that inspect ships and issue ships' certificates, the so-called recognised organisations. In addition, certain provisions of the existing directive are amended with a view to their reinforcement or simplification, e.g. by strengthening the control of recognised organisations and by reforming the system of penalties against those that do not fulfil the established minimum criteria.

The Council's decision to split the Commission's initial proposal into two separate instruments, a Directive and a Regulation, was supported by the European Parliament. The Directive includes provisions addressed to the Member States concerning their relationship with ship inspection and survey organisations, while the Regulation contains all provisions relating to the recognition at Community level, i.e. the granting and the withdrawal of the recognition by the Commission, the obligations and criteria to be fulfilled by the organisations to be eligible for Community recognition as well as possible sanctions against recognised organisations that fail to fulfil these obligations and criteria.

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

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