

# Procedure file

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

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	<b>CODE</b> EP Delegation to Conciliation Committee		24/09/2008
		PPE-DE <a href="#">DE GRANDES PASCUAL Luis</a>	
	Former committee responsible		
	<b>TRAN</b> Transport and Tourism		28/03/2006
		PPE-DE <a href="#">DE GRANDES PASCUAL Luis</a>	
	<b>TRAN</b> Transport and Tourism		24/06/2008
		PPE-DE <a href="#">DE GRANDES PASCUAL Luis</a>	
	Former committee for opinion		
	<b>ENVI</b> Environment, Public Health and Food Safety	The committee decided not to give an opinion.	
Council of the European Union	Council configuration	Meeting	Date
	<a href="#">Justice and Home Affairs (JHA)</a>	<a href="#">2927</a>	26/02/2009
	<a href="#">Justice and Home Affairs (JHA)</a>	<a href="#">2908</a>	27/11/2008
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2875</a>	06/06/2008
	<a href="#">Transport, Telecommunications and Energy</a>	<a href="#">2835</a>	29/11/2007
European Commission	Commission DG	Commissioner	
	Energy and Transport	TAJANI Antonio	

Key events			
23/11/2005	Legislative proposal published	<a href="#">COM(2005)0587</a>	Summary

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

## Technical information

Procedure reference	2005/0237A(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Recast
Legislative instrument	Directive
	Repealing Directive 94/57/EC <a href="#">1993/0518(SYN)</a> Repealing Directive 2001/105/EC <a href="#">2000/0066(COD)</a> Repealing Directive 2002/84/EC <a href="#">2000/0237(COD)</a>

Legal basis	EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure completed
Committee dossier	CODE/6/67456

## Documentation gateway

Legislative proposal	<a href="#">COM(2005)0587</a>	23/11/2005	EC	
Document attached to the procedure	<a href="#">SEC(2005)1498</a>	23/11/2005	EC	
Committee draft report	<a href="#">PE378.538</a>	06/11/2006	EP	
Committee report tabled for plenary, 1st reading/single reading	<a href="#">A6-0070/2007</a>	20/03/2007	EP	
Text adopted by Parliament, 1st reading/single reading	<a href="#">T6-0150/2007</a>	25/04/2007	EP	
Council statement on its position	<a href="#">08925/2008</a>	08/05/2008	CSL	
Council position	<a href="#">05724/2/2008</a>	06/06/2008	CSL	Summary
Commission communication on Council's position	<a href="#">COM(2008)0370</a>	11/06/2008	EC	Summary
Committee draft report	<a href="#">PE407.922</a>	26/06/2008	EP	
Committee recommendation tabled for plenary, 2nd reading	<a href="#">A6-0331/2008</a>	08/09/2008	EP	
Text adopted by Parliament, 2nd reading	<a href="#">T6-0447/2008</a>	24/09/2008	EP	Summary
Commission opinion on Parliament's position at 2nd reading	<a href="#">COM(2008)0828</a>	08/12/2008	EC	Summary
Joint text approved by Conciliation Committee co-chairs	<a href="#">03719/2008</a>	03/02/2009	CSL/EP	
Report tabled for plenary by Parliament delegation to Conciliation Committee, 3rd reading	<a href="#">A6-0097/2009</a>	25/02/2009	EP	
Text adopted by Parliament, 3rd reading	<a href="#">T6-0105/2009</a>	11/03/2009	EP	Summary
Draft final act	<a href="#">03719/2008/LEX</a>	23/04/2009	CSL	
Follow-up document	<a href="#">COM(2016)0047</a>	05/02/2016	EC	Summary

## Additional information

National parliaments	<a href="#">IPEX</a>
European Commission	<a href="#">EUR-Lex</a>

## Final act

[Directive 2009/15](#)  
[OJ L 131 28.05.2009, p. 0047](#) Summary

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

The Council's common position, adopted by unanimity, introduces, in full or in part, 14 amendments proposed by the European Parliament at

1<sup>st</sup> reading. The other amendments proposed by the Parliament (14 in total) were rejected by the Council.

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

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

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

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

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

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The Committee on Transport and Tourism adopted the recommendation for second reading contained in the report by Luis de GRANDES PASCUAL (EPP-ED, ES), amending the Council common position for adopting a directive of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (recast).

The committee accepts splitting the proposal into a draft Directive and a draft Regulation. However, it considers it necessary to treat the set of proposals that make up the 'Erika III' package as an interconnected whole, in order to avoid incoherency.

The main purpose of the amendments is to reinstate Parliament's position at first reading:

Recognised organisations: MEPs consider that the name 'recognised organisations' should be used throughout the directive (instead of 'classification societies').

Purpose: it is stated that the purpose of the directive is to ensure that Member States effectively and consistently discharge their obligations as flag States, in accordance with international conventions.

Definitions: the definition of 'international conventions' should include the International Convention on Tonnage Measurement of Ships, 1969 (Tonnage 69), the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 1978), and the Convention on International Regulations for Preventing Collisions at Sea, 1972 (COLREG 72). 'Administration' means the competent authorities of the Member State whose flag the ship is flying, including departments, agencies, and bodies, in charge of the implementation of the Flag State-related provisions of the IMO Conventions.

Responsibilities and obligations of Member States: Member States shall apply the provisions of the Flag State Code. They shall: take the necessary measures for an independent auditing of their administration at least once every five years; take the necessary measures with regard to the inspection and survey of ships and the issue of statutory certificates and exemption certificates as provided for by the international conventions.

Flag State requirements: prior to allowing the operation of a ship, which has been granted the right to fly its flag, the Member State concerned shall take the appropriate measures to ensure that the ship in question complies with the applicable international rules and regulations. In particular, it shall verify the safety records of the ship by all reasonable means, consulting, if necessary, with the administration of the flag State.

Information: Member States shall ensure that at least certain information concerning the ships flying their flag is readily accessible to the administration by appropriate electronic means (for example, particulars of the ship, dates of the surveys, identification of the recognised organisations involved in the certification and classification of the ship, identification of the Body which has inspected the ship under Port State control provisions and dates of the inspections, outcome of the port State control inspections, information on casualties and identification of the ships which have ceased to fly the flag of the Member State concerned during the previous 12 months).

Quality management: each Member State shall, within the framework of a quality management system, continuously evaluate and review its performance as a flag State. These evaluations shall, over a 36 month period, cover all aspects of the quality management system for the operational parts of the administration. MEPs specified the minimum performance indicators to be included in the evaluation.

Report: the Commission shall, before the end of 2010, submit to the European Parliament and the Council a report on the feasibility of establishing a Memorandum of Understanding on flag State control obligations, aiming at ensuring a level playing field between flag States which have committed themselves to implementing in a mandatory way the Flag State Code and agreed to be audited in accordance with the provisions of Resolution A. 974 (24), adopted by the IMO Assembly on 1 December 2005.

Recognised organisations: an amendment specifies that, when a recognised organisation, its inspectors, or its technical staff issue the required certificates on behalf of the authority, they shall be subject to legal safeguards and judicial protection, including the exercise of any rights of defence, in the same forms as those to which the authority and its members could have had recourse had the authority issued the required certificates itself.

Maximum amount payable: while the common position states that the maximum amount payable by the recognised organisation must be at

least equal to EUR 4 million (in the event of a marine casualty with personal injury not resulting in death) and EUR 2 million (damage to property), the committee stipulates that where the amount determined in the judgment or settlement is lower, this latter amount shall constitute the compensation payable.

Suspension of authorisation: Member States shall be left with the possibility of suspending their authorisation of a recognised organisation for reasons of serious danger to safety or the environment. According to MEPs, the Commission should decide without delay, in accordance with the committee procedure, whether any national measure to the above effect should be overruled.

Transposition: this should take place within 18 months (instead of 24) of the date of entry into force of this Directive.

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

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The European Parliament adopted by 638 votes to 21, with 9 abstentions, a legislative resolution amending the Council common position for adopting a directive of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (recast).

The recommendation for second reading (co-decision procedure) had been tabled for consideration in plenary by Luis de GRANDES PASCUAL (EPP-ED, ES) on behalf of the Committee on Transport and Tourism.

The main purpose of the amendments is to reinstate Parliament's position at first reading.

Recognised organisations: MEPs consider that the name 'recognised organisations' should be used throughout the directive (instead of 'classification societies').

Purpose: it is stated that the purpose of the directive is to ensure that Member States effectively and consistently discharge their obligations as flag States, in accordance with international conventions.

Definitions: the definition of 'international conventions' should include the International Convention on Tonnage Measurement of Ships, 1969 (Tonnage 69), the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW 1978), and the Convention on International Regulations for Preventing Collisions at Sea, 1972 (COLREG 72). 'Administration' means the competent authorities of the Member State whose flag the ship is flying, including departments, agencies, and bodies, in charge of the implementation of the Flag State-related provisions of the IMO Conventions.

Responsibilities and obligations of Member States: Member States shall: (a) apply the provisions of the Flag State Code; (b) take the necessary measures for an independent auditing of their administration at least once every five years, in accordance with the rules of the IMO; (c) take the necessary measures with regard to the inspection and survey of ships and the issue of statutory certificates and exemption certificates as provided for by the international conventions.

Flag State requirements: a new article stipulates that, prior to allowing the operation of a ship, which has been granted the right to fly its flag, the Member State concerned shall take the appropriate measures to ensure that the ship in question complies with the applicable international rules and regulations. In particular, it shall verify the safety records of the ship by all reasonable means and shall, if necessary, consult with the administration of the losing flag State. Whenever a flag State requests information concerning a ship which was previously flying the flag of a Member State, the requested Member State shall promptly provide details of outstanding deficiencies and any other relevant safety-related information to the requesting flag State.

Information: Member States shall ensure that at least certain information concerning the ships flying their flag is kept under the direct control of a public authority and remains at all times readily accessible to the administration by appropriate electronic means (for example, particulars of the ship; dates of the surveys; identification of the recognised organisations involved in the certification and classification of the ship; identification of the body which has inspected the ship under Port State control provisions and dates of the inspections; outcome of the port State control inspections; information on casualties; identification of the ships which have ceased to fly the flag of the Member State concerned during the previous 12 months).

Quality management: each Member State shall, within the framework of a quality management system, continuously evaluate and review its performance as a flag State. These evaluations shall, over a [36] month period, cover all aspects of the quality management system for the operational parts of the administration. As a minimum, the following performance indicators shall be included in the evaluation: (i) port State control detention rates; (ii) flag State inspection results; (iii) performance indicators, as may be appropriate, to determine whether staffing, resources and administrative procedures are adequate to meet the flag State obligations. The quality management system shall be set up and certified within a period of three years from the entry into force of the Directive.

Report: the Commission shall, before the end of 2010, submit to the European Parliament and the Council a report on the feasibility of establishing a Memorandum of Understanding on flag State control obligations, aiming at ensuring a level playing field between flag States which have committed themselves to implementing in a mandatory way the Flag State Code and agreed to be audited in accordance with the provisions of Resolution A. 974 (24), adopted by the IMO Assembly on 1 December 2005.

Role of recognised organisations: an amendment specifies that, when a recognised organisation, its inspectors, or its technical staff issue the required certificates on behalf of the authority, they shall be subject to legal safeguards and judicial protection, including the exercise of any rights of defence, in the same forms as those to which the authority and its members could have had recourse had the authority issued the required certificates itself.

Maximum amount payable: while the common position states that the maximum amount payable by the recognised organisation must be at least equal to EUR 4 million (in the event of a marine casualty with personal injury not resulting in death) and EUR 2 million (damage to property), the Parliament stipulates that where the amount determined in the judgment or settlement is lower, this latter amount shall constitute the compensation payable.

Suspension of authorisation: Member States shall be left with the possibility of suspending their authorisation of a recognised organisation for reasons of serious danger to safety or the environment. According to MEPs, the Commission should decide without delay, in accordance with the committee procedure, whether any national measure to the above effect should be overruled. If the decision is not justified, the

Commission shall request the Member State to withdraw the suspension. If the decision is justified, the Commission shall request the Member State to grant a new authorisation to another recognised organisation to replace the suspended organisation.

Transposition: this should take place within 18 months (instead of 24) of the date of entry into force of the Directive.

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

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

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

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

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The European Parliament adopted by 665 votes to 19, with 4 abstentions, under the third reading of the codecision procedure, a legislative resolution approving the joint text approved by the Conciliation Committee for a directive of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (recast).

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

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

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

**LEGISLATIVE ACT:** Directive 2009/15/EC of the European Parliament and of the Council on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations.

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

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

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

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

The main points of the Directive are as follows:

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

carried out;

- the Commission shall, on a biennial basis, inform the European Parliament and the Council of progress in the implementation of the Directive.

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

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

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

ENTRY INTO FORCE: 17/06/2009.

TRANSPOSITION: 17/06/2011.