

Proposal for a Council Directive concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions

(94/C 107/06)

(Text with EEA relevance)

COM(94) 73 final — 94/0068(SYN)

(Submitted by the Commission on 16 March 1994)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 84 (2) thereof,

Having regard to the proposal from the Commission,

in cooperation with the European Parliament,

Having regard to the opinion of the Economic and Social Committee,

Whereas the Community is seriously concerned about shipping casualties and pollution of the seas and coastlines of the Member States, in particular by oil coming from ships;

Whereas the Community is equally concerned about maintaining on-board working and living conditions equal to those enjoyed by occupations ashore;

Whereas the Council of the Union, at its meeting on 25 January 1993 in Brussels, urged the Community to ensure more effective application and enforcement of adequate international maritime safety and environment protection standards and to implement the new measures when adopted;

Whereas the Council of the Union, at its meeting on 8 June 1993 in Luxembourg, urged the Commission to submit as soon as possible to the Council suggestions for specific action and formal proposals concerning criteria for inspection of ships, including the harmonization of detention, of publication of the results of the inspections and the possibility of refusing access to Community ports;

Whereas safety, pollution prevention and shipboard working and living conditions may be effectively enhanced through a drastic reduction of substandard ships from Community waters, while strictly applying international conventions, codes and resolutions;

Whereas the control of compliance of ships with the adopted international standards for safety, pollution prevention and shipboard living and working conditions should rest primarily with the flag State; whereas

however, there is a serious lack of implementation and enforcement of international standards by an increasing number of such States; whereas henceforth the control of compliance with the adopted international standards for safety, pollution prevention and shipboard living and working conditions has to be ensured also by the port State;

Whereas introduction of a harmonized approach to the effective enforcement of the international standards on ship safety, pollution prevention and shipboard living and working conditions by the Member States in respect of ships sailing in the waters under their jurisdiction and using their ports, will avoid distortions of competition;

Whereas the enactment of an appropriate Community law framework for harmonized control inspection procedures is fundamental to ensure the homogeneous application of the principle of preventive action relating to shipping safety and to the environment which are among the bases of Community transport and environment policies;

Whereas pollution of the sea waters of the Member States of the Community is by nature a trans-boundary phenomenon; whereas, in accordance with the principle of subsidiarity, the development of means of taking preventive action in this field is best done at Community level, since Member States cannot take adequate and effective action in isolation;

Whereas the adoption of a Council directive is the appropriate procedure for laying down the legal framework and the harmonized rules and criteria for the execution of port State control;

Whereas advantage should be taken of the experience gained during the operation of the Paris Memorandum of Understanding (MOU) on Port State Control (PSC), signed in Paris 26 January 1982;

Whereas the enforcement of port State control in the waters under the jurisdiction of the Member States is necessary to cover the possible intervention provided for in the Marpol Convention;

Whereas the obligation for the Member States to inspect at least 25 % of the individual number of foreign ships which entered their ports in the previous year in practice means that about 80 % of the ships operating within the area at a given moment have been subject to an inspection;

Whereas a special inspection regime should be enforced on ships applying standards concerning construction, equipment, manning and operation above those required by the conventions, thus being an incentive to owners to apply such high standards;

Whereas the rules and procedures for port State inspections, including criteria for detention of a ship, have to be harmonized to ensure a constant degree of effectiveness in all ports, thus also drastically reducing the selective use of certain ports of destination to avoid the net of proper control;

Whereas the casualty, detention and deficiencies statistics published in the Commission's communication 'A common policy on safe seas' and in the annual report of the MOU show that certain categories of ships need to be subject to an enhanced control;

Whereas deficiencies related to the respect of the provisions of the conventions have to be rectified, and ships failing to take corrective action have to be detained where such deficiencies are clearly hazardous to safety, health or the environment;

Whereas the facilities in the port of inspection may be such that the competent authority will have to give the ship permission to proceed to an appropriate repair yard within the Community, provided that the conditions for such voyage are complied with; whereas non-complying ships would continue to pose a threat to safety, health or the environment and to enjoy commercial advantages by not being upgraded in accordance with the applicable provisions of the conventions and should therefore be refused access to all ports in the Community;

Whereas because of unforeseeable circumstances a ship, which has been refused access to ports within the Community, might become a greater threat to safety, health or the environment while off the coast of a Member State; whereas under such circumstances such a ship may have to be permitted access to a specific port, provided all precautions are taken to ensure such ship a safe entry and an appropriate financial security has been assured;

Whereas the complexity of the requirements of the conventions as regards ship's construction, equipment and manning and the severe consequences of the decisions taken by the surveyors, and the necessity for the surveyors to take entirely impartial decisions requires that inspections be carried out only by surveyors who are civil servants, and in possession of a profound knowledge and experience;

Whereas pilots who board ships in transit through the waters under the jurisdiction of a Member State may

provide useful insight information on navigational deficiencies of such ships and crews;

Whereas cooperation between the competent authorities of the Member States is necessary to ensure an effective follow-up on ships which have been permitted to proceed with minor deficiencies as well as cooperation between the competent authority of a Member State and the port authorities and other relevant authorities of that State in possession of information about ships in port;

Whereas the information system called Sirenac E established under the MOU provides a large amount of the additional information needed for the application of this Directive;

Whereas publication of information on shipowners who do not comply with the international standards concerning safety, health and protection of the marine environment, may be an effective deterrent discouraging shippers to use such ships, and an incentive to these owners to undertake spontaneously corrective action;

Whereas while the port State has to carry the financial burden of the first inspection, all additional costs caused by deficiencies of ships or crews, leading to detention, should be imputable to the owner or the operator;

Whereas it is appropriate for the application of the present Directive to make use of the Committee set up by Article 12 of Directive 93/75/EEC of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods⁽¹⁾ to assist the Commission amending the inspection obligations of Member States on the basis of experience gained taking into account the developments in the MOU, and adapting the Annexes as may be necessary taking into account amendments to the conventions, protocols, codes, resolutions of relevant international bodies and to the MOU,

HAS ADOPTED THIS DIRECTIVE:

Article 1

(Purpose)

The purpose of this Directive is to contribute to a drastic reduction of substandard shipping from Community waters by:

1. enhancing compliance with international and Community legislation on maritime safety, protection of the marine environment and living and working conditions on board ships of all flags operating in Community waters;

⁽¹⁾ OJ No L 247, 5. 10. 1993, p. 19.

2. establishing common criteria for thorough control of ships by the State of the port and harmonizing procedures on inspection and detention, taking proper account of the commitments made by the maritime authorities of the Member States within the MOU.

Article 2

(Definitions)

For the purpose of this Directive including its Annexes,

- 'Conventions' means the International Convention on Load Lines, 1966, the International Convention for the Safety of Life at Sea, 1974, the International Convention for the Prevention of Pollution from Ships, 1973, and the Protocol of 1978 related thereto, the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, the Convention on the International Regulations for Preventing Collisions at Sea, 1972, the International Convention on Tonnage Measurement of Ships, 1969 and the Merchant Shipping (Minimum Standards) Convention, 1976 (ILO No 147), together with the protocols and amendments to these conventions and related codes of mandatory status, in force at the date of adoption of this Directive,
- 'MOU' means the Memorandum of Understanding on Port State Control, signed in Paris on 26 January 1982, as amended at the date of the adoption of this Directive,
- 'ship' means any seagoing vessel to which one or more of the conventions apply, flying a flag other than the one of the port State,
- 'inspection' means a visit on board a ship in order to control both the validity of the relevant certificates and other documents and the condition of the ship, its equipment and crew,
- 'a more detailed inspection' means an inspection where the ship, its equipment and crew as a whole or, as appropriate, parts thereof are subjected to an in-depth inspection in the circumstances as specified in Article 6 (3), as regards the ship's construction, equipment, manning and compliance with on-board operational procedures,
- 'enhanced control' means a thorough inspection in the cases specified in Article 7,
- 'special inspection regime' means an inspection scheme referred to in Article 5 (4) limited in its extent and with a low frequency,
- 'detention' means the formal prohibition against a ship to proceed to sea or to continue an operation due to identified deficiencies which, singly or

together, make the ship unseaworthy, or render the continuation of such an operation hazardous, irrespective of the time the ship is going to stay in port,

- 'surveyor' means a civil servant, duly authorized by the competent authority of a Member State.

Article 3

(Scope)

1. This Directive applies to any ship and its crew calling at a seaport of a Member State or sailing in the waters under its jurisdiction.
2. In case of ships below 500 tonnes gross tonnage, Member States shall apply those requirements of a convention which are applicable and shall, to the extent that a convention does not apply, take such action as may be necessary to ensure that those ships are not clearly hazardous to safety, health or the environment. In their application of this paragraph, Member States shall be guided by Annex 1 to the MOU.
3. When inspecting a ship, flying the flag of a State which is not a party to a convention, Member States shall ensure that no more favourable treatment is given to such ship and its crew than that given to a ship flying the flag of a State which is a party to the convention.
4. Fishing vessels, ships of war, naval auxiliaries, wooden ships of a primitive build, government ships used for non-commercial purposes and pleasure yachts not engaged in trade, are excluded.

Article 4

(Inspection body)

Member States shall establish and maintain appropriate national maritime administrations, hereinafter called 'competent authorities' for the inspection of ships in their ports, or in the waters under their jurisdiction. Member States shall take whatever measures are appropriate to ensure that their 'competent authorities' perform their duties as laid down in this Directive.

Article 5

(Inspection commitments)

1. The competent authority of each Member State shall carry out an annual total number of inspections corresponding to at least 25 % of the number of individual ships which entered its ports during the previous calendar year.
2. In selecting ships for inspection the competent authority shall comply with the priority list in Annex I.
3. Member States shall refrain from inspecting ships which have been inspected by any of the other Member

States within the previous six months, provided such a ship is not listed in Annex I, or no deficiencies have been reported by a Member State, following a previous inspection, or no clear grounds exist to carry out an inspection.

4. The Commission, in accordance with the procedure laid down in Article 19, will establish the provisions for the categories of ships, and the conditions under which Member States shall apply the special inspection regime for these categories of ships. The special inspection regime shall not be applied whenever there are clear grounds as referred to in Article 6 (3).

Article 6

(Inspection procedure)

1. The competent authority shall ensure that an inspection includes as a minimum:

- (a) control of the certificates and documents listed in Annex II, to the extent applicable;
- (b) verification of the ability of the crew to comply with the requirements of Articles 7 and 9 of the Directive on the minimum level of training of seafarers ⁽¹⁾;
- (c) verification that the crew members are aware of their duties indicated in the muster list. On passenger ships this verification shall include the catering staff;
- (d) an overall impression of the vessel including the engine room and accommodation including hygienic conditions;
- (e) verification of the presence of a ship's medical chest and the validity of the related certificate.

2. If considered appropriate by the surveyor all relevant certificates and documents, other than those listed in Annex II, which are required to be carried on board in accordance with the conventions may be examined.

3. Whenever there are clear grounds for believing, after the inspection referred to in paragraphs 1 and 2, that the condition of a ship or its equipment, or its crew does not substantially meet the applicable requirements of a convention, a more detailed inspection shall be carried out, including further control of compliance with on-board operational requirements.

Annex III contains a non-exhaustive list of 'clear grounds' within the meaning of this Article.

4. To the extent they do not conflict with the provisions of this Directive the relevant procedures and guidelines for the control of ships specified in Annex IV shall also be taken into account.

⁽¹⁾ A political orientation agreement has been reached on this Directive by the Council on 29 November 1993, pending on the completion of the cooperation procedures.

Article 7

(Enhanced control of certain ships)

1. In addition to the inspection mentioned in Article 6, Member States shall ensure that an enhanced control on ships belonging to the categories listed in Annex V, is carried out.

2. The enhanced control shall be carried out in accordance with the guidelines set out in Annex V.

3. The ships referred to in paragraph 1 shall not be subject to enhanced control by any of the competent authorities of the Member States twice during a period of 12 months.

Article 8

(Report of inspection to the master)

On the completion of an inspection, a more detailed inspection, or an enhanced control, the master of the ship shall be provided by the surveyor with a document in the form specified in Annex 3 to the MOU, giving the results of the inspection and details of any decisions taken by the surveyor, and of corrective action to be taken by the master or owner.

Article 9

(Rectification and detention)

1. Whenever the inspection referred to in Articles 6 and 7 confirms or reveals deficiencies in relation to the requirements of a convention, where applicable, appropriate action shall be taken to ensure that they are being rectified in accordance with the provisions of that convention.

2. In the case of deficiencies which are clearly hazardous to safety, health or the environment, the competent authority of the State of the port where the ship is being inspected shall ensure that the ship is detained, or the operation in connection with which the deficiencies have been revealed is prohibited. The detention shall not be lifted until the hazard is removed, or until such authority establishes that the ship can, subject to any necessary conditions, proceed to sea, or the operation be resumed, without risk to the safety and health of passengers, or crew, or risk to other ships, or without being an unreasonable threat of harm to the marine environment.

3. A non-exhaustive list of deficiencies which, singly or together, shall warrant the detention of a ship is set out in Annex VI.

4. In the event the inspections referred to in Articles 6 and 7 give rise to an intervention of any kind, the surveyor carrying out the inspection shall act in accordance with the provisions of Regulation 19 (d) to (f) of Chapter I to the Protocol of 1978 relating to the International Convention for the Safety of Life at Sea, 1974.

*Article 10***(Follow-up of inspections and detention)**

1. Where deficiencies referred to in Article 9 (2) cannot be rectified in the port of inspection, the competent authority of that Member State may allow such ship to proceed to a repair yard located in the Community, and as decided by the master, provided that the conditions determined by the competent authority of that Member State are complied with. Such conditions shall ensure that the ship can so proceed without risk to the safety and health of passengers, or crew, or risk to other ships, or without being an unreasonable threat of harm to the marine environment.

2. In the circumstances referred to in paragraph 1, the competent authority of the Member State in the port of inspection shall notify the competent authority of the Member State where the repair yard is situated, the parties mentioned in Article 9 (4) and any other authority as appropriate.

3. Notification to the parties referred to in paragraph 2 shall be in accordance with Annex 2 to the MOU.

The competent authority receiving such notification shall inform the notifying authority of the action taken.

4. Member States shall take measures to ensure that ships referred to in paragraph 1 which proceed to sea:

- without complying with the conditions determined by the competent authority of the Member State in the port of inspection, or
- which refuse to comply with the applicable requirements of the Conventions by not calling into the indicated repair yard,

shall be refused access to any port within the Community, until the owner has provided evidence to the competent authority of the Member State where the ship was found defective that the ship fully complies with all applicable requirements of the Conventions.

5. The competent authority of the Member State where the ship was found defective shall, in the circumstances as referred to in paragraph 4 immediately alert the competent authorities of all the other Member States.

Notwithstanding the provisions of paragraph 4, access to a specific port may be permitted in case of *force majeure*, provided adequate measures, to the satisfaction of the competent authority of such Member State, have been implemented by the owner or the master of the ship to ensure safe entry, and provided that an appropriate financial security has been assured.

*Article 11***(Professional profile of surveyors)**

1. The inspections shall be carried out only by surveyors who fulfil the qualification criteria specified in Annex VII.

2. The surveyors carrying out port State control must have no direct commercial interest vested in neither the ports, nor the ships where inspections in accordance with this Directive are carried out.

*Article 12***(Reports from pilots and harbour authorities)**

1. Pilots engaged in berthing or unberthing ships or on ships bound for a port within a Member State, or on ships in transit through waters under the jurisdiction of a Member State shall immediately inform the competent authority of the port State or the coastal State, where appropriate, whenever they learn that there are deficiencies which may prejudice the safe navigation of the ship, or the safety of the crew or passengers.

2. If port authorities, when exercising their normal duties, learn that a ship within their port has deficiencies which may prejudice the safe operation of the ship, or the safety of the crew or passengers, such authority shall immediately inform the competent authority of the port State concerned.

*Article 13***(Cooperation)**

1. Each Member State shall make provisions for cooperation between its competent authority established pursuant to Article 4, its port authorities and other relevant authorities to ensure that its competent authority can obtain all relevant information on ships calling at its ports.

2. Member States shall make provisions for the exchange of information and cooperation between their competent authority and the competent authorities of all other Member States and maintain the established operational link between their competent authority, the Commission and the Sirenac E information system set up in St Malo, France.

3. The information referred to in paragraph 2 shall be that specified in Annex 4 to the MOU, and that required to comply with Article 14 of this Directive.

*Article 14***(Publication of detentions)**

Each competent authority shall publish quarterly the number of detentions which have been carried out by that authority in the previous three months. The publi-

cation shall include the name of the ship, IMO number, flag State, the shipowner and the classification society, whether or not it has issued the statutory certificates on behalf of the flag State, and, if applicable, any other party which has issued certificates to such ship in accordance with the conventions on behalf of the flag State.

Article 15

(Fee for reinspection)

1. A fee shall be levied on the owner, or the operator of a ship which has been inspected in accordance with this Directive, and on which deficiencies, justifying a detention, have been revealed. The total fee levied in accordance with this Article shall cover, but not exceed, the total costs in any normal accounting period for the inspections carried out after the formal notice of detention has been issued.

2. All costs related to inspections carried out by the competent authority of a Member State pursuant to the provisions of Article 10 (4) shall be charged to the owner, or operator of the ship.

Article 16

(Data to monitor implementation)

1. Member States shall supply yearly the following information to the Commission and the MOU Secretariat:

- number of surveyors working on their behalf. For authorities where surveyors are dealing with port State inspections on a part time basis only, the number has to be converted into a number equal to full time employed surveyors,
- number of individual ships entering their ports in the previous calendar year.

2. The information listed in paragraph 1 shall be forwarded within three months after this Directive enters into force and thereafter once every calendar year, not later than the 1 April.

Article 17

(Advisory Committee)

The Commission shall be assisted by the Committee set up by Article 12 of Council Directive 93/75/EEC ⁽¹⁾ in accordance with the procedure laid down in Article 19.

⁽¹⁾ OJ No L 247, 5. 10. 1993, p. 19 (Directive concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods).

Article 18

(Amendment procedure)

The Commission, in accordance with the procedure laid down in Article 19, may:

- (a) amend the inspection obligation of Member States mentioned in Article 5 on the basis of the experience resulting from the application of this Directive and taking into account the developments in the MOU;
- (b) amend the Annexes in order to take into account amendments to the conventions, protocols, codes, resolutions of relevant international bodies and to the MOU.

Article 19

(Committee procedure)

1. The representative of the Commission shall submit to the Committee referred to in article 17 a draft of the measures to be taken;
2. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote;
3. The opinion shall be recorded in the minutes; in addition each Member State has the right to have its position recorded in the minutes;
4. The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

Article 20

(Implementation)

1. The Member States shall adopt the laws, regulations and administrative provisions necessary to implement this Directive not later than 1 July 1996 and shall inform the Commission thereof.
2. When Member States adopt these measures, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by Member States.
3. Member States shall communicate to the Commission the text of provisions of national law adopted by them in the field governed by this Directive.

Article 21

The present Directive shall enter into force on the 20th day after its publication.

Article 22

This Directive is addressed to the Member States.

*ANNEX I***Priority list of ships to be inspected as referred to in Article 5 (2)**

1. Ships visiting a port of a Member State for the first time. In their application of this criterion Member States shall also take into account those inspections which have been carried out by members of the MOU. In the absence of appropriate data to implement this obligation, Member States shall rely upon the available Sirenac E data and inspect those ships which have not been registered in the Sirenac E database, after the entry into force of that database on 1 January 1993.
2. Ships flying the flag of a State appearing in the three-year rolling average table of above average detentions and delays published in the annual report of the MOU.
3. Ships which have been permitted to leave the port of a Member State under the condition that noted deficiencies are being rectified within a specified period, upon expiration of such period.
4. Ships which have been reported by pilots or harbour authorities to have deficiencies which may prejudice their safe navigation (see Council Directive 93/75/EEC of 13 September 1993 ⁽¹⁾ and Article 12 of this Directive).
5. Ships to which the statutory certificates on the ship's construction and equipment, issued in accordance with the conventions, and the classification certificates, have been issued by an organization which is not a recognized organization under the terms of Council Directive on common rules and standards for ship inspection and survey organizations ⁽²⁾.
6. Ships which have failed to comply with the obligations embodied in Directive 93/75/EEC ⁽¹⁾.
7. Ships which are in a category for which enhanced control has been decided (see Article 7).
8. Ships which have been suspended from class for safety reasons in the course of the preceding six months.

⁽¹⁾ OJ No L 247, 5. 10. 1993, p. 19 (Directive concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods).

⁽²⁾ Proposal for a Directive concerning common rules and standards for ship inspection and survey organizations. This Directive has been provisionally adopted by the Council on 29. 11. 1993, pending on the completion of the cooperation procedure.

*ANNEX II***List of certificates and documents which, to the extent applicable, shall be checked during the inspection referred to in Article 6 (1)**

1. International Tonnage Certificate (1969).
2. Passenger Ship Safety Certificate;
 - Cargo Ship Safety Construction Certificate,
 - Cargo Ship Safety Equipment Certificate,
 - Cargo Ship Safety Radiotelegraphy Certificate,
 - Cargo Ship Safety Radiotelephony Certificate,
 - Cargo Ship Safety Radio Certificate,
 - Exemption Certificate.
3. International Certificate of Fitness for Carriage of Liquefied Gases in Bulk;
 - Certificate of Fitness for the Carriage of Liquefied Gases in Bulk.
4. International Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk;
 - Certificate of Fitness for the Carriage of Dangerous Chemicals in Bulk.
5. International Oil Pollution Prevention Certificate.
6. International Pollution Prevention Certificate for the Carriage of Noxious Liquid Substances in Bulk.

7. International Load Line Certificate (1966):
 - International Load Line Exemption Certificate.
8. Oil Record Book, Part I and II.
9. Cargo Record Book.
10. Minimum Safe Manning Document;
 - Certificates of Competency.
11. Medical Certificates, see ILO Convention No 73 concerning medical examination of seafarers.
12. Stability information.
13. Copy of document of compliance and certificate issued in accordance with the International Management Code for the Safe Operation of Ships and for Pollution Prevention (IMO Resolution A.741 (18)).
14. Certificates as to the ship's hull strength and machinery installations issued by the classification society in question (only to be required if the ship maintains class with a classification society).

ANNEX III

(Non-exhaustive list)

The following are examples of 'clear grounds' for a more detailed inspection as referred to in Article 6 (3).

1. A report or notification by another Member State.
 2. A report or complaint by the master, a crew member, or any person or organization 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.
 3. The ship has been involved in a collision on its way to the port.
 4. The 'Oil Record Book' has not been properly kept.
 5. The ship has been accused of an alleged discharge of harmful substances or effluents.
 6. During examination of the certificates and other documentation (see Article 6 (1) (a)) inaccuracies have been revealed.
 7. Indications that the crew members are not able to communicate orally (see Article 6 (1) (b)).
 8. Evidence of cargo and other operations not being conducted safely, or in accordance with IMO guidelines, e.g. the content of oxygen in the inert gas main supply to the cargo tanks is above the prescribed maximum level.
 9. Failure of the master on an oil tanker to produce the record of the oil discharge monitoring and control system for the last ballast voyage.
 10. Absence of an up-to-date muster list, or crew members not aware of their duties in case of fire or abandon ship.
 11. If the professional judgement of the surveyor warrants for a detailed inspection of specific areas of the ship, its equipment or its crew.
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ANNEX IV**Procedures and guidelines for the control of ships as referred to in Article 6 (4)**

1. Procedures for the control of ships (IMO Resolution A.466 (XII)), as amended.
2. principles of safe manning (IMO Resolution A.481 (XII) and Annexes which are contents of minimum safe manning document (Annex 1) and guidelines for the application of principles of safe manning (Annex 2).
3. Procedures for the control of ships and discharges under Annex I of Marpol 73/78 (IMO Resolution A.542 (13)).
4. Procedures for the control of ships and discharges under Annex II of Marpol 73/78 (IMO Resolution MEPC 26 (23)).
5. Procedures for the control of operational requirements related to the safety of ships and pollution prevention (IMO Resolution A.742 (18)).
6. The provisions of the International Maritime Dangerous Goods Code.
7. The procedures laid down in Annex 1 to the MOU.
8. ILO publication *Inspection of labour conditions on board ship: Guidelines for procedure*.

ANNEX V**Categories of ships subject to enhanced control as referred to in Article 7 (1)**

1. Oil tankers, five years or less from the date of phasing out in accordance with Marpol 73/78, Annex I, Regulation 13G.
2. Bulk carriers, older than 12 years of age.
3. Passenger ships.

Guidelines for enhanced control of certain categories of ships as referred to in Article 7 (2)

To the extent applicable the following items shall be considered as part of the enhanced control. Surveyors shall be aware that it may jeopardize the safe execution of certain on board operations, e.g. cargo operation, if tests, having a direct effect thereon, are required carried out during such operations.

A. SHIPS IN GENERAL (Category 1, 2 and 3)

- Black-out and start of emergency generator.
- Inspection of emergency lighting.
- Operation of emergency fire pump with two firehoses connected to the fire main line.
- Operation of bilge pumps.
- Closing of watertight doors.
- Lowering of one seaside lifeboat to the water.
- Test of remote emergency stop for, for example, boilers, ventilation and fuel pumps.
- Testing of steering gear including auxiliary steering gear.
- Inspection of emergency source of power to radioinstallations.
- Inspection and, to the extent possible, test of engine room separator.

B. OIL TANKERS

In addition to the items listed under A, the following items shall also be considered as part of the enhanced control for oil tankers:

- fixed deck foam system,
- fire fighting equipment in general,
- inspection of fire dampers to engine room, pump room and accommodation,
- control of pressure of inert gas and oxygen content thereof,
- control that possible crude oil washing is being carried out in accordance with the manual.

C. BULK CARRIERS

In addition to the items listed under A, the following items shall also be considered as part of the enhanced control for bulk carriers:

- possible corrosion of deck machinery foundations,
- possible deformation and/or corrosion of hatch covers,
- possible cracking at bulwark stays,
- possible cracks or local corrosion in transverse bulkheads,
- access to cargo holds.

D. PASSENGER SHIPS

In addition to the items listed under A, the following items shall also be considered as part of the enhanced control for passenger ships:

- testing of fire detection and alarm system,
- testing of proper closing of fire doors,
- test of public address system,
- fire drill where, as a minimum, all sets of fireman's outfit are being demonstrated and part of the catering crew take part,
- demonstration that key crew members are acquainted with the damage control plan.

Considering the short period some passenger ships (e.g. ferries) stay in port, and the consequences of delaying such a ship, surveyors may have to refrain from requiring certain tests carried out, unless in their professional judgement the condition of the ship, its equipment or crew warrant for the ship to be delayed.

ANNEX VI

The following are examples of deficiencies which are of such a nature that they warrant the detention of a ship as referred to in Article 9 (3). The list is not exhaustive, and the surveyor will have to use his professional judgement to determine whether to detain a ship on the basis of his findings during the inspection.

1. The lack of valid certificates as required by the conventions. For ships flying the flag of a non-party to a convention a letter of compliance or a non-convention certificate may be accepted by the surveyor, if they have been issued by a competent organization.
2. Significant areas of damage or corrosion, or pitting of plating and associated stiffening in decks and hull, affecting seaworthiness or strength to take local loads. Proper temporarily repairs for a voyage to a port for permanent repairs may be accepted.

3. The absence of sufficient and reliable information, in an approved form, which by rapid and simple processes enables the master to arrange for the loading and ballasting of his ship in such a way that a safe margin of stability is maintained at all stages and at varying conditions of the voyage, and that the creation of any unacceptable stresses in the ship's structure are avoided.
4. Emergency generator inoperative.
5. Major parts of the emergency lighting inoperative, e.g. at the life saving appliances.
6. Main- or emergency fire pump inoperative.
7. Absence, or failure of proper operation of the required radio equipment for distress and safety communication.
8. Number, composition or certification of crew not corresponding with the safe manning document and the crew not able to comply with watchkeeping procedures of the International Convention on Standards of Training, Certification and Watch keeping for Seafarers, 1978.
9. Absence, serious deterioration or failure of proper operation of the oily-water separating equipment, the oil discharge monitoring and control system, or the 15 ppm alarm arrangements. Departure to a repair port may be permitted, pending on operational conditions being complied with as required by the surveyor.
10. Substantial deterioration of hatch closing arrangements and coamings impairing the weathertightness of the hull.

ANNEX VII

Minimum criteria for surveyors as referred to in Article 11 (1)

1. The surveyor has to be authorized to carry out flag State control by the competent authority of the Member State.
 2. A minimum of two years of service as a flag State surveyor has to be completed.
 3. Possession of an authorization to detain a ship in accordance with the appropriate national legislation.
 4. Possession of:
 - (a) a certificate of competency as master, e.g. STCW, Reg. II/2; or
 - (b) a certificate of competency as chief engineer, e.g. STCW, Reg. III/2; or
 - (c) a certificate of competency as radio officer, e.g. STCW, Reg. IV/1; or
 - (d) having passed examination as a naval architect, a mechanical engineer or an engineer related to the maritime fields and worked in that capacity for at least five years.
 5. The surveyors mentioned under 4 (a) to (c) must have served at least as a chief officer, a second engineer (in some Member States that position is referred to as first engineer) or a radio officer respectively, for a period of not less than two years.
 6. Ability to communicate orally and in writing in the English language.
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