

**Translation: Only the Danish version is authentic**

*The Danish Maritime Authority's Technical Regulation no. 5 of 9 August 2002*

**Technical regulation on the recognition and authorisation of organisations carrying out inspections and surveys of ships<sup>1</sup>**

In pursuance of section 17(5) and 22 of the Act on Safety at Sea, cf. consolidated act no. 627 of 26 July 2002, in consultation with Greenland's Home Rule and on the authority of the Minister of Economic and Business Affairs, the following provisions are laid down:

**Section 1.** When the Danish Maritime Authority authorises organisations to carry out surveys and issue certificates in accordance with international conventions, it shall be done in accordance with the conditions laid down in Council Directive 94/57/EC, as amended by Commission Directive 97/58/EC and Directive of the European Parliament and the Council 2001/105/EC on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations

*Subsection 2.* A compilation of the Directives made by the Danish Maritime Authority is annexed to this technical regulation.

**Section 2.** Information about the organisations authorised by the Danish Maritime Authority will be published in Notices from the Danish Maritime Authority.<sup>2</sup>

**Section 3.** This technical regulation shall enter into force on 1 September 2002.

*Subsection 2.* Technical regulation no. 1 of 27 February 1998 on the recognition and authorisation of organisations carrying out inspections and surveys of ships shall be repealed.

The Danish Maritime Authority, 9 August 2002

Christian Breinholt / Jens Gørtz

---

<sup>1</sup> This technical regulation contains provisions implementing Council Directive 94/57/EC on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations, as amended by Directive of the European Parliament and the Council 2001/105/EC of 19 December 2001 (Official Journal L 19/9 of 22 January 2002).

<sup>2</sup> When this technical regulation is issued, the following organisations have been authorised: American Bureau of Shipping (ABS), Bureau Veritas (BV), Det Norske Veritas (DNV), Germanischer Lloyd (GL), Lloyd's Register of Shipping (LR), Nippon Kaiji Kyokai (NK).

## **Annex to technical regulation**

Council Directive 94/57/EC on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations, as amended by Directive of the European Parliament and the Council 2001/105/EC of 19 December 2001<sup>1</sup>

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,<sup>2</sup>

Having regard to the opinion of the Economic and Social Committee,<sup>3</sup>

Having regard to the opinion of the Committee of the Regions,<sup>4</sup>

Acting in accordance with the procedure laid down in Article 251<sup>5</sup> of the Treaty, in the light of the joint text approved by the Conciliation Committee on 13 November 2001,

Whereas:

- (1) Safety and pollution prevention at sea may be enhanced by a proper and compulsory implementation by flag States of the existing relevant conventions in force at international level.
- (2) Council Directive 94/57/EC<sup>6</sup> established a system of Community-wide recognition of organisations that, in compliance with the international conventions, may be authorised to a various extent to inspect ships and issue the relevant safety certificates on behalf of the Member States.
- (3) The practical implementation of that Directive showed that some adjustments to the Community-wide recognition of organisations might have contributed greatly towards the strengthening of such a system while simplifying the monitoring and reporting obligations imposed on Member States.
- (4) Since the adoption of Directive 94/57/EC some developments have occurred in the relevant legislation at Community and international level requiring that further adjustments to Directive 94/57/EC be made.
- (5) In particular, for the purposes of Directive 94/57/EC, it is appropriate to apply the amendments to the international conventions together with the protocols and related codes of mandatory status, referred to in Article 2(d) of Directive 94/57/EC, which

---

<sup>1</sup> Not official consolidated version made by the Danish Maritime Authority. Articles and texts amended by Directive 2001/105/EC have been indicated with a line in the margin.

<sup>2</sup> Official Journal C 212 E of 25 July 2000, p. 114, and Official Journal C 154 E of 29 May 2001, p. 51.

<sup>3</sup> Official Journal C 14 of 16 January 2001, p. 22.

<sup>4</sup> Official Journal C 22 of 24 January 2001, p. 19.

<sup>5</sup> Opinion of the European Parliament of 30 November 2000 (Official Journal C 228, 13 August 2001, p. 150), Council Common Position of 26 February 2001 (Official Journal C 101, 30 March 2001, p. 1), and Decision of the European Parliament of 16 May 2001 (not yet published in the Official Journal). Decision of the European Parliament of 24 October 2001 and Decision of the Council of 6 December 2001.

<sup>6</sup> Official Journal L 319 of 12 December 1994, p. 20. Directive as amended by Commission Directive 97/58/EC (Official Journal L 274, 7 October 1997, p. 8).

- entered into force after the adoption of the Directive as well as the relevant International Maritime Organisation (IMO) Resolutions.
- (6) With a view to promoting the effective implementation of the obligations of the flag States laid down in the international conventions, the IMO Assembly adopted on 27 November 1997 Resolution A.847(20) on guidelines to assist flag States in the implementation of IMO instruments.
  - (7) IMO adopted the International Safety Management (ISM) Code through Assembly Resolution A.741(18) of 4 November 1993 which was made mandatory through the new Chapter IX of the International Convention for the Safety of Life at Sea (SOLAS) Convention.
  - (8) With a view to ensuring a uniform implementation of the ISM Code, guidelines on the implementation of the ISM Code by maritime administrations were adopted on 23 November 1995 by IMO through Resolution A.788(19).
  - (9) With a view to harmonising the statutory surveys and inspections to be carried out by the flag administrations pursuant to the international conventions, IMO adopted Resolution A.746(18) of 4 November 1993 on Survey Guidelines under the Harmonised System of Survey and Certification.
  - (10) A good record of safety and pollution prevention performance – measured in respect of all ships classed by an organisation, irrespective of the flag they fly – is an important indication of the performance of an organisation and is therefore essential for granting the initial recognition and maintaining it.
  - (11) In order to grant the initial recognition to the organisations wishing to be authorised to work on behalf of the Member States, compliance with the provisions of Directive 94/57/EC can be assessed more effectively in a harmonised and centralised manner by the Commission together with the Member States requesting the recognition.
  - (12) Similarly, the continuous a posteriori monitoring of the recognised organisations to assess their compliance with the provisions of Directive 94/57/EC 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.
  - (13) In addition to the authority of Member States to suspend the authorisation of an organisation working on their behalf, a similar authority should apply at Community level, the Commission being allowed, on the basis of the Committee procedure, to suspend the recognition of an organisation for a limited period of time where the safety and pollution prevention performance of the organisation is worsening and it fails to take the appropriate corrective measures.
  - (14) In accordance with the Community-wide approach, the decision to withdraw the recognition of an organisation which fails to fulfil the provisions set out in the Directive, including cases where safety and pollution prevention performance becomes unsatisfactory, has to be taken at Community level, and therefore by the Commission, on the basis of the Committee procedure.
  - (15) Since Directive 94/57/EC 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.
  - (16) The divergence in the financial liability regimes of the organisations working on behalf of the Member States represented a difficulty in the proper implementation of Directive 94/57/EC. In order to contribute to solving this problem it is appropriate to bring about a degree of harmonisation at Community level of the liability arising out of any incident

caused by a recognised organisation, as decided by a court of law, including settlement of a dispute through arbitration procedures.

- (17) The measures necessary for the implementation of Directive 94/57/EC 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.<sup>7</sup>
- (18) Since transparency and exchange of information between interested parties, as well as public right of access to information are fundamental tools for preventing accidents at sea, the recognised organisations should provide all relevant statutory information concerning the conditions of the ships in their class to the port State control authorities and make it available to the general public.
- (19) In an attempt to prevent ships from changing class in order to avoid carrying out necessary repairs, the recognised organisations should exchange all relevant information among themselves concerning the conditions of ships changing class.
- (20) An organisation should not be controlled by shipowners or shipbuilders, or by others engaged commercially in the manufacture, equipping, repair or operation of ships. An organisation should not be substantially dependent on a single commercial enterprise for its revenue. When submitting their request for recognition, classification societies and their surveyors should give an undertaking in writing on an individual basis not to accept statutory work where there is a likelihood of a conflict of interests, i.e. where there is identity with the owner or operator of the ship to be inspected or there are business, personal or family links to the owner or operator of the ship.
- (21) The qualitative criteria to be met by the technical organisations in order to be recognised at Community level and to maintain such recognition should include provisions to ensure that only exclusive surveyors can carry out the inspections and surveys required by international conventions, i.e. statutory tasks related to the issue of relevant safety certificates. Those organisations must have tight control over all their personnel and offices, including all branches and offices within and outside the Community, and they must establish their own safety and pollution prevention performance targets and indicators. Those organisations must put in place a system to measure the quality of their services.
- (22) Directive 94/57/EC should be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

### *Article 1*

This Directive establishes measures to be followed by the Member States and organizations 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.

---

<sup>7</sup> Official Journal L 1984, 17 July 1999, p. 23.

## *Article 2*

For the purpose of this Directive:

- (a) “ship” means a ship falling within the scope of the international conventions;
- (b) “ship flying the flag of a Member State” means a ship registered in and flying the flag of a Member State in accordance with its legislation. Ships not corresponding to this definition are assimilated to ships flying the flag of a third country;
- (c) “inspections and surveys” means inspections and surveys that it is mandatory to carry out under the international conventions;
- (d) “international conventions” means the 1974 International Convention for the Safety of Life at Sea (SOLAS), the 1966 International Convention on Load Lines and the 1973/78 International Convention for the Prevention of Pollution from Ships, together with the protocols and amendments thereto, and related codes of mandatory status in all Member States, in force on 19 December 2001;
- (e) “organization” means a classification society or other private body carrying out safety assessment work for an administration;
- (f) “recognized organization” means an organization recognized in conformity with Article 3;
- (g) “authorization” means an act whereby a Member State grants an authorization or delegates powers to a recognized organization;
- (h) “certificate” means a certificate issued by or on behalf of a Member State in accordance with the international conventions;
- (i) “class certificate” means a document issued by a classification society certifying the structural and mechanical fitness of a ship for a particular use or service in accordance with the rules and regulations laid down and made public by that society;
- (j) “cargo ship safety radio certificate” means the certificate introduced by the amended SOLAS 1974/1978 Radio Regulations, adopted by the IMO;
- (k) “location” refers to the place of the registered office, central administration or principal place of business of an organization.

## *Article 3*

1. In assuming their responsibilities and obligations under the international conventions, Member States shall ensure that their competent administrations can assure an appropriate enforcement of the provisions of the international conventions, in particular with regard to the inspection and survey of ships and the issue of certificates and exemption certificates. Member States shall act in accordance with the relevant provisions of the Annex and the Appendix to IMO Resolution A.847(20) on guidelines to assist flag States in the implementation of IMO instruments;
2. Where for the purpose of paragraph 1 a Member State decides with respect to ships flying its flag:
  - (i) to authorize organizations to undertake fully or in part inspections and surveys related to certificates including those for the assessment of compliance with Article 14 and, where appropriate, to issue or renew the related certificates; or
  - (ii) to rely upon organizations to undertake fully or in part the inspections and surveys referred to in subparagraph (i);it shall entrust these duties only to recognized organizations. The competent administration shall in all cases approve the first issue of the exemption certificates.

However, for the cargo ship safety radio certificate these duties may be entrusted to a private body recognized by a competent administration and having sufficient expertise and qualified personnel to carry out specified safety assessment work on radio-communication on its behalf.

3. This Article does not concern the certification of specific items of marine equipment.

#### *Article 4*

1. Member States which wish to grant an authorisation to any organisation which is not yet recognised, shall submit a request for recognition to the Commission together with complete information on, and evidence of, compliance with the criteria set out in the Annex and on the requirement and undertaking that it will comply with the provisions of Article 15(2), (4) and (5). The Commission, together with the respective Member States submitting the request, shall carry out assessments of the organisations for which the request for recognition was received in order to verify that the organisations meet and undertake to comply with the above mentioned requirements. A decision on recognition shall take into account the safety and pollution prevention performance records of the organisation, referred to in Article 9. Recognition shall be granted by the Commission in accordance with the procedure referred to in Article 7(2).
2. Member States may submit to the Commission special requests for a limited recognition of three years for organisations which meet all the criteria of the Annex other than those set out under paragraphs 2 and 3 of section A. The same procedure as that referred to in paragraph 1 will apply to these special requests with the exception that the criteria of the Annex for which compliance has to be assessed during the assessment carried out by the Commission, together with the Member State, shall be all the criteria other than those set out under paragraphs 2 and 3 of section A. The effects of these limited recognitions shall be limited exclusively to the Member State or States which have submitted a request for such recognition.
3. All the organizations which are granted recognition shall be closely monitored by the committee set up under Article 7, particularly those referred to in paragraph 2 above, with a view to possible decisions concerning whether or not to extend the limited recognition. With regard to these latter organisations, a decision on the extension of such recognition shall not take into account the criteria set out under paragraphs 2 and 3 of section A of the Annex but shall take into account the safety and pollution prevention performance records of the organisation, referred to in Article 9(2). Any decision on the extension of the limited recognition shall specify under which conditions, if any, such extension is granted.
4. The Commission shall draw up and update a list of the organizations recognized in compliance with paragraphs 1, 3 and 4. The list shall be published in the Official Journal of the European Communities.
5. The organisations which on 22 January 2002 are already recognised on the basis of this Directive shall continue to be recognised. Nevertheless, those organisations shall be required to comply with the new provisions laid down in this Directive and their compliance shall be assessed during the first assessments referred to in Article 11.

#### *Article 5*

1. In applying Article 3(2), Member States shall in principle not refuse to authorize any of the recognized organizations to undertake such functions, subject to the provisions of paragraph 3 and Articles 6 and 11. However, they may restrict the number of organizations they authorize in accordance with their needs provided there are transparent and objective grounds for so doing. At the request of a Member State, the Commission shall, in accordance with the procedure laid down in Article 7, adopt appropriate measures.
2. Paragraph 2 shall be deleted.
3. In order for a Member State to accept that a recognised organization 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 recognized organizations which are located in the Community. In addition, the Community may request the third State where a recognised organisation is located to grant reciprocal treatment for those recognised organisations which are located in the Community.

#### *Article 6*

1. Member States which decide to act as described in Article 3(2), shall set out a working relationship between their competent administration and the organizations acting on their behalf.
2. The working relationship shall be regulated by a formalized written and non-discriminatory agreement or equivalent legal arrangements setting out the specific duties and functions assumed by the organizations and including at least:
  - (a) the provisions set out in Appendix II of IMO Resolution A.739(18) on guidelines for the authorization of organizations acting on behalf of the administration, while drawing inspiration from the Annex, Appendixes and Attachment to IMO MSC/Circular 710 and MEPC/Circular 307 on model agreement for the authorisation of recognised organisations acting on behalf of the administration;
  - (b) the provisions concerning financial liability:
    - (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;
    - (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;
- (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;
  - (c) 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, as referred to in Article 11(1);
  - (d) the possibility for random and detailed inspections of ships;
  - (e) provisions for reporting essential information about their classed fleet, changes, suspensions and withdrawals of class, as referred to in Article 15(3).
3. The agreement or equivalent legal arrangement may set the requirement that the recognized organization has 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 requirement.
  4. Each Member State shall provide the Commission with precise information on the working relationship established in accordance with this Article. The Commission shall subsequently inform the other Member States.
  5. The Commission shall, not 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. This report shall be drawn up in cooperation with the competent authorities of the Member States and the parties concerned, in particular recognised organisations/classification societies. 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.

#### *Article 7*

1. The Commission shall be assisted by a committee.
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. The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.
3. The Committee shall adopt its rules of procedure.

### *Article 8*

1. This Directive may, without broadening its scope, be amended in accordance with the procedure laid down in Article 7(2), in order to:
  - apply, for the purposes of this Directive, subsequent amendments to the international conventions, protocols, codes and resolutions related thereto mentioned in Articles 2(d), 3(1) and 6(2), which have entered into force,
  - update the criteria in the Annex taking into account, in particular, the relevant decisions of the IMO,
  - alter the amounts specified in points (ii) and (iii) of Article 6(2)(b).
2. Following the adoption of new instruments or protocols to the conventions referred to in Article 2(d), the Council, acting on a proposal from the Commission, shall decide, taking into account the Member States parliamentary procedures as well as the relevant procedures within IMO, on the detailed arrangements for ratifying those new instruments or protocols, while ensuring that they are applied uniformly and simultaneously in the Member States.

### *Article 9*

1. The recognition of organisations referred to in Article 4 which no longer fulfil the criteria set out in the Annex or which fail to meet the safety and pollution prevention performance records mentioned in paragraph 2 shall be withdrawn. The withdrawal of recognition shall be decided by the Commission in accordance with the procedure referred to in Article 7(2), after the organisation concerned has been given the opportunity to submit its observations.
2. In preparing drafts for a decision relating to the withdrawal of recognition as referred to in paragraph 1, the Commission shall take into account the outcome of the assessments of the recognised organisations referred to in Article 11 as well as the safety and pollution prevention performance records of the organisations, measured for all the ships they have in class irrespective of the flag the ships fly. The safety and pollution prevention performance records of the organisations shall be derived from the data produced by the Paris Memorandum of Understanding on Port State Control and/or by similar schemes. Other indications may be derived from an analysis of the casualties involving ships classed by the recognised organisations. Reports produced by Member States on the basis of Article 12 shall also be taken into consideration to assess the safety and pollution prevention performance records of the organisations. The Committee set up under Article 7 shall determine the criteria to be followed in order to decide, on the basis of the information referred to in this paragraph, when the performance of an organisation acting on behalf of a flag State can be considered an unacceptable threat to safety and the environment. Draft decisions relating to the withdrawal of recognition as referred to in paragraph 1 shall be submitted to the Committee by the Commission upon its own initiative or at the request of a Member State.

### *Article 10*

1. Notwithstanding the criteria specified in the Annex, where a Member State considers that a recognised organisation can no longer be authorised to carry out on its behalf the tasks specified in Article 3 it may suspend such authorisation on the basis of the following procedure:
  - (a) the Member State shall inform the Commission and the other Member States of its decision without delay, giving substantiated reasons therefor;
  - (b) the Commission shall examine whether the suspension is justified for reasons of serious danger to safety or the environment;
  - (c) acting in accordance with the procedure laid down in Article 7(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.
2. Whenever the Commission considers that the safety and pollution prevention performance records of a recognised organisation worsen, without however justifying the withdrawal of its recognition on the basis of the criteria referred to in Article 9(2), it may decide to inform the recognised organisation accordingly and request it to take appropriate measures to improve its safety and pollution prevention performance records, and inform the Member States thereof. Should the recognised organisation fail to provide the Commission with an appropriate answer or should the Commission consider that the measures taken by the recognised organisation have failed to improve its safety and pollution prevention performance records, the Commission may decide to suspend recognition of the organisation for a period of one year in accordance with the procedure referred to in Article 7(2) after the organisation concerned has been given the opportunity to submit its observations. During that period, the recognised organisation will not be allowed to issue or renew any certificate to ships flying the flag of the Member States while the certificates issued or renewed in the past by the organisation remain valid.
3. The procedure referred to in paragraph 2 shall also apply where the Commission has evidence that a recognised organisation has failed to comply with the provisions of Article 15(3), (4) or (5).
4. One year after the adoption of the decision of the Commission to suspend recognition of an organisation, the Commission shall assess whether the shortcomings referred to in paragraphs 2 and 3 which led to the suspension have been removed. Where such shortcomings are still present, recognition shall be withdrawn in accordance with the procedure referred to in Article 7(2).

#### *Article 11*

1. Each Member State must satisfy itself that the recognised organisations acting on its behalf for the purpose Article 3(2) effectively carry out the functions referred in that Article to the satisfaction of its competent administration.
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 of the results of this monitoring at the latest by 31 March of each year following the years for which compliance has been assessed.
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 fulfil the criteria of the Annex. In selecting the organisations for assessment, the Commission shall pay particular attention to the safety and pollution prevention performance records of the organisation, to the casualty records and the reports produced by Member States in accordance with Article 12. The assessment may include a visit to regional branches of the organisation as well as random inspection of ships for the purpose of auditing the organisation's performance. In this case the Commission shall, where appropriate, inform the Member States where the regional branch is located. The Commission shall provide Member States with a report of the results of the assessment.

4. Each recognised organisation shall make available results of its quality system management review to the Committee set up under Article 7, on an annual basis.

#### *Article 12*

In exercising their inspection rights and obligations as port States, Member States shall report to the Commission and to other Member States, and inform the flag State concerned, the discovery of the issue of valid certificates by organisations acting on behalf of a flag State to a ship which does not fulfil the relevant requirements of the international conventions, or of any failure of a ship carrying a valid class certificate and relating to items covered by that certificate. Only cases of ships representing a serious threat to safety and the environment or showing evidence of particularly negligent behaviour of the organisations shall be reported for the purposes of this Article. The recognised organisation concerned shall be advised of the case at the time of the initial inspection so that it can take appropriate follow-up action immediately.

#### *Article 13*

Article 13 shall be deleted.

#### *Article 14*

1. Each Member State shall ensure that ships flying its flag shall be constructed and maintained in accordance with the hull, machinery and electrical and control installation requirements of a recognized organization.
2. A Member State may decide to use rules it considers equivalent to those of a recognized organization only on the proviso that it immediately notified them to the Commission in conformity with the procedure of Directive 83/189/EEC and to the other Member States and they are not objected to by another Member State or the Commission and found through the procedure of Article 7(2) not to be equivalent.

#### *Article 15*

1. The recognized organizations shall consult with each other periodically with a view to maintaining equivalence of their technical standards and the implementation thereof in line with the provisions of IMO Resolution A.847(20) on guidelines to assist flag States

in the implementation of IMO instruments. They shall provide the Commission with periodic reports on fundamental progress in standards.

2. The recognized organizations shall demonstrate willingness to cooperate with port State control administrations when a ship of their class is concerned, in particular, in order to facilitate the rectification of reported deficiencies or other discrepancies.
3. The recognised organisations shall provide to all Member States administrations which have granted any of the authorisations provided for in Article 3 and to the Commission all relevant information about their classed fleet, transfers, changes, suspensions and withdrawals of class, irrespective of the flag the vessels fly. Information on transfers, changes, suspensions, and withdrawals of class, including information on all overdue surveys, overdue recommendations, conditions of class, operating conditions or operating restrictions issued against their classed vessels – irrespective of the flag the vessels fly – shall also be communicated to the Sirenac information system for port State control inspections and shall be published on the website, if any, of these recognised organisations.
4. The recognised organisations shall not issue 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.
5. In cases of transfer of class from one recognised organisation to another, the losing organisation shall inform the gaining organisation of all overdue surveys, overdue recommendations, conditions of class, operating conditions or operating restrictions issued against the vessel. On transfer, the losing organisation shall provide the gaining organisation with the complete history file of the vessel. 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 vessel have been completed as specified by the losing organisation. Prior to the issuance of the certificates, the gaining organisation must advise the losing organisation of the date of issue of the certificates and confirm the date, location and action taken to satisfy each overdue survey, overdue recommendation and overdue condition of class. The recognised organisations shall cooperate with each other in properly implementing the provisions of this paragraph.

## Annex to the Directive

### A. General minimum criteria

1. The recognised organisation must be able to document extensive experience in assessing the design and construction of merchant ships.
2. The organisation must have in its class a fleet of at least 1,000 ocean-going vessels (over 100 GRT) totalling no less than 5 million GRT.
3. The organisation must employ a technical staff commensurate with the number of vessels classed. As a minimum, 100 exclusive surveyors are needed to meet the requirements in paragraph 2.
4. The organisation must have comprehensive rules and regulations for the design, construction and periodic survey of merchant ships, published and continually upgraded and improved through research and development programmes.
5. The organisation must have its register of vessels published on an annual basis or maintained in an electronic base accessible to the public.
6. The organisation must not be controlled by shipowners or shipbuilders, or by others engaged commercially in the manufacture, equipping, repair or operation of ships. The organisation must not be substantially dependent on a single commercial enterprise for its revenue. The recognised organisation must not carry out statutory work if it is identical with or has business, personal or family links to the shipowner or operator. This incompatibility shall also apply to surveyors employed by the recognised organisation.
7. The organisation must operate in accordance with the provisions set out in the Annex to IMO Resolution A.789(19) on specifications on the survey and certification functions of recognised organisations acting on behalf of the administration, in so far as they cover matters falling within the scope of this Directive.

### B. Specific minimum criteria

1. The organization is established with:
  - (a) a significant technical, managerial, support and research staff commensurate to the tasks and to the vessels classed, catering also for capability – developing and upholding rules and regulations;
  - (b) world-wide coverage by its exclusive technical staff or through exclusive technical staff of other recognized organizations.
2. The organization is governed by a code of ethics.
3. The organization is managed and administered in such a way as to ensure the confidentiality of information required by the administration.
4. The organization is prepared to provide relevant information to the administration, to the Commission and to the interested parties.
5. The organization's management has defined and documented its policy and objectives for, and commitment to, quality and has ensured that this policy is understood, implemented and maintained at all levels in the organization. The organisation's policy must refer to safety and pollution prevention performance targets and indicators.
6. The organization has developed, implemented and maintains an effective internal quality system based on appropriate parts of internationally recognized quality standards and in compliance with EN 45004 (inspection bodies) and with EN 29001, as

interpreted by the IACS Quality System Certification Scheme Requirements, and which, inter alia, ensures that:

- (a) the organization's rules and regulations are established and maintained in a systematic manner;
- (b) the organization's rules and regulations are complied with and an internal system to measure the quality of service in relation to these rules and regulations is put in place;
- (c) the requirements of the statutory work for which the organization is authorized are satisfied and an internal system to measure the quality of service in relation to the compliance with the international conventions is put in place;
- (d) the responsibilities, authorities and interrelation of personnel whose work affects the quality of the organization's services are defined and documented;
- (e) all work is carried out under controlled conditions;
- (f) a supervisory system is in place which monitors the actions and work carried out by surveyors and technical and administrative staff employed directly by the organization;
- (g) the requirements of major statutory work for which the organization is authorized are only carried out by its exclusive surveyors or by exclusive surveyors of other recognized organizations; in all cases, the exclusive surveyors must have an extensive knowledge of the particular type of ship on which they carry out the statutory work as relevant to the particular survey to be carried out and of the relevant applicable requirements;
- (h) a system for qualification of surveyors and continuous updating of their knowledge is implemented;
- (i) records are maintained, demonstrating achievement of the required standards in the items covered by the services performed, as well as the effective operation of the quality system;
- (j) a comprehensive system of planned and documented internal audits of the quality related activities in all locations;
- (k) the statutory surveys and inspections required by the Harmonised System of Survey and Certification for which the organisation is authorised are carried out in accordance with the provision set out in the Annex and Appendix to IMO Resolution A.746(18) on Survey Guidelines under the Harmonised System of Survey and Certification;
- (l) clear and direct lines of responsibility and control are established between the central and the regional offices of the society and between the recognised organisations and their surveyors.

7. The organization must demonstrate ability:

- (a) to develop and keep updated a full and adequate set of own rules and regulations on hull, machinery and electrical and control equipment having the quality of internationally recognized technical standards on the basis of which SOLAS Convention and Passenger Ship Safety Certificates (as regards adequacy of ship structure and essential shipboard machinery systems) and Load Line Certificates (as regards adequacy of ship strength) can be issued;
- (b) to carry out all inspections and surveys required by the international conventions for the issue of certificates, including the necessary means of assessing – through the use of qualified professional staff and in accordance with the provisions set out in the Annex to IMO Resolution A.788(19) on guidelines on implementation of the International Safety Management (ISM) Code by administrations – the

application and maintenance of the safety management system, both shore-based and on board ships, intended to be covered in the certification.

8. The organization is subject to certification of its quality system by an independent body of auditors recognized by the administration of the State in which it is located.
9. The organization must allow participation in the development of its rules and/or regulations by representatives of the administration and other parties concerned.