



European Economic and Social Committee

TEN/682
Ship inspection and survey organisations
with regard to the United Kingdom's withdrawal

OPINION

European Economic and Social Committee

Proposal for a Regulation of the European Parliament and of the Council amending Regulation (EC) No 391/2009 with regards to the withdrawal of the United Kingdom from the Union
[COM(2018) 567 final – 2018/298 (COD)]

Rapporteur-general: **Séamus BOLAND**

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| Referral | European Parliament, 10/09/2018 Council of the European Union, 10/09/2018 |
| Legal basis | Article 100(2) of the Treaty on the Functioning of the European Union |
| Section responsible | Transport, Energy, Infrastructure and the Information Society |
| Bureau decision | 18/09/2018 |
| Adopted at plenary | 17/10/2018 |
| Plenary session No | 538 |
| Outcome of vote (for/against/abstentions) | 122/0/0 |

1. Conclusions and recommendations

- 1.1 The EESC agrees with the Commission proposal to amend Regulation (EC) 391/2009 on ship inspections and certification, which is necessary as a result of the United Kingdom's withdrawal from the European Union (EU).
- 1.2 The EESC believes that the changes proposed will create an environment of opportunity and recommends that the Commission foster closer cooperation between all of the relevant European, national institutions, and the recognised organisations, with which Member States have signed authorisation agreements.
- 1.3 The EESC welcomes the fact that this proposal brings legal certainty to an industry upon which there is a huge dependency in relation to the smooth transporting of goods in conditions that are proven to be of the highest safety standards. It therefore recommends that the proposal be urgently adopted.
- 1.4 The EESC welcomes the Commission's intention to report on its effects after an adequate period of application and recommends that sufficient action is taken, in particular where consequences were not foreseen by the scope of the regulation change.

2. General comments

- 2.1 On 23 June 2016, following a referendum on the subject of EU membership, the United Kingdom of Great Britain and Northern Ireland voted to leave. This decision includes the Island of Gibraltar.
- 2.2 On 29 March 2017, the United Kingdom (UK) submitted notification of its intention to withdraw from the Union. This means that all Union primary and secondary law will cease to apply to the United Kingdom from 30 March 2019, ('the withdrawal date'). The United Kingdom will then become a third country.
- 2.3 Depending on the contents of the withdrawal agreement currently under negotiation, it is clear that EU law on maritime transport will no longer apply to the United Kingdom of Britain and Northern Ireland (including Gibraltar). In Union law, the recognition at union level of organisations providing inspection services and survey of ships, whose flag emanates from one of the Member States, can only continue subject to agreement on the proposal.
- 2.4 Article 8(1) of Regulation (EC) No 391/2009 ('the Regulation') requires that the 'recognised organisations' responsible for ship inspection and survey to be assessed every two years by the Commission and with the Member State who seeks recognition of the organisation. However, following the United Kingdom's withdrawal, it can no longer participate in assessments carried out as per Article 8(1) of the Regulation for those organisations for which the UK acts as a sponsor Member State.
- 2.5 Because there is the expected loss of EU recognition of 'organisations' who are sponsored by the UK, it is logical to assume that there will be negative consequences for the competitiveness and

appeal of the EU-27 Member States' flags that have authorised these recognised organisations to act on their behalf for the purposes of carrying out statutory ship inspections, surveys and certification. Many of the organisations affected have authorisation agreements with the remaining 27 Member States, which would become void following the UK withdrawal.

2.6 Therefore, the Commission proposal seeks to increase legal certainty, secure business continuity for the affected ship-owners and maintain the competitiveness of EU-27 Member States' flags.

2.7 When the UK withdraws as a member of the Union, it will cease participation in all work under article 8 (1) of Regulation (EC) No 391/2009. However, organisations subject to the agreement of the proposal will be able to continue their work.

3. **Gist of Commission proposal**

3.1 The Commission proposal seeks to restore legal certainty in the regulation of maritime affairs, which will be disrupted as a result of the UK's withdrawal from the Union.

3.2 In effect, by removing the need for a sponsoring state, the proposal, will allow organisations to work alongside the Commission together with Member States that have authorisation agreements with them to continue the certification and ship inspections.

3.3 It would seek to provide recognition for 'organisations' who previously acted under the United Kingdom in its role as a sponsoring Member State on behalf of the Commission. The purpose would be to ensure the continuance of existing arrangements between these organisations and the remaining EU-27 Member States. These include the completion of surveys and ship inspections, ensuring uninterrupted safety.

3.4 To achieve this, the proposal would amend Article 8(1) of the Regulation. This would change the requirement where only the sponsoring Member State participates in the process of regular assessment on behalf of the Commission. In effect, it would mean that assessments could be carried out by recognised organisations working on behalf of the Commission.

3.5 It is designed to ensure continuity of business and the competitiveness of the flags of the 27 Member States who will work with the affected organisations.

3.6 The regulation limits its remit to the resolution of 'Adverse consequences' caused as a result of the UK's withdrawal from the Union.

4. **EESC Observations**

4.1 The EESC notes that the regulations governing maritime, particularly shipping, have evolved in a manner that ensures that all trade and business is in harmony across the EU including the UK.

4.2 The EESC agrees with the main thrust of the proposal, that it is necessary to protect the EU flags and ensure that there is no legal uncertainty in place following Brexit.

- 4.3 The EESC notes that the three main entities currently involved are; EMSA (European Maritime Safety Agency), ABS (American Bureau Shipping), and Lloyds.
- 4.4 The EESC notes that without this proposal Member States would not be able to continue working with the recognised organisations for their flagged fleet. Instead, they would have to out-flag their ships to a non-EU flag. Such actions would have serious consequences, in terms of current contracts with the organisations and for the ongoing continuity of the industry.
- 4.5 The EESC believes that the shipping industry is central to world trade and movement of goods. Equally, it is important that the regulation systems ensure the utmost safety for all concerned.
- 4.6 The EESC points out that any failure to adopt the proposal could interrupt the worldwide transport of goods and seriously endanger the economy of the EU. Therefore, it is essential that it is adopted immediately.
- 4.7 The EESC notes the Commission's observation that consequences, currently not identified, will be reported on following a certain period of application.

Brussels, 17 October 2018

Luca JAHIER

The president of the European Economic and Social Committee
