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**COUNCIL DIRECTIVE 94/57/EC
of 22 November 1994**

on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations

(OJ L 319, 12.12.1994, p. 20)

Amended by:

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► <u>M1</u>	Commission Directive 97/58/EC of 26 September 1997	L 274	8	7.10.1997
► <u>M2</u>	Directive 2001/105/EC of the European Parliament and of the Council of 19 December 2001	L 19	9	22.1.2002
► <u>M3</u>	Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002	L 324	53	29.11.2002



COUNCIL DIRECTIVE 94/57/EC
of 22 November 1994

on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations

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⁽¹⁾,

Having regard to the opinion of the Economic and Social Committee⁽²⁾,

Acting in accordance with the procedure referred to in Article 189c of the Treaty⁽³⁾,

Whereas in its resolution of 8 June 1993 on a common policy on safe seas, the Council has set the objective of removing all substandard vessels from Community waters and has given priority to Community action to secure the effective and uniform implementation of international rules by elaborating common standards for classification societies⁽⁴⁾;

Whereas safety and pollution prevention at sea may be effectively enhanced by strictly applying international conventions, codes and resolutions while furthering the objective of freedom to provide services;

Whereas the control of compliance of ships with the uniform international standards for safety and prevention of pollution of the seas is the responsibility of flag and port States;

Whereas Member States are responsible for the issuing of international certificates for safety and pollution provided for under conventions such as Solas 74, Load Lines 66 and Marpol 73/78, and for the implementation of the provisions thereof;

Whereas in compliance with such conventions all Member States may authorize to a various extent technical organizations for the certification of such compliance and may delegate the issue of the relevant safety certificates;

Whereas worldwide a large number of the existing classification societies do not ensure either adequate implementation of the rules or reliability when acting on behalf of national administrations as they do not have adequate structures and experience to be relied upon and to enable them to carry out their duties in a highly professional manner;

Whereas the objective of submitting classification societies to adequate standards cannot be sufficiently achieved by the Member States acting individually and can be better achieved by the Community;

Whereas the appropriate way to act is by means of a Council Directive laying down minimum criteria for recognition of organizations, while leaving recognition itself, the means of enforcement, and the implementation of the Directive to the Member States;

Whereas EN 45004 and EN 29001 standards combined with International Association of Classification Societies (IACS) standards

⁽¹⁾ OJ No C 167, 18. 6. 1993, p. 13.

⁽²⁾ OJ No C 34, 2. 2. 1994, p. 14.

⁽³⁾ Opinion of the European Parliament of 9 March 1994 (OJ No C 91, 28. 3. 1994, p. 9), Council common position of 19 September 1994 (OJ No C 301, 27. 10. 1994, p. 75) and Decision of the European Parliament of 16 November 1994 (not yet published in the Official Journal).

⁽⁴⁾ OJ No C 271, 7. 10. 1993, p. 1.

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constitute an adequate guarantee of performance quality of organizations;

Whereas the issue of the Cargo Ship Safety Radio Certificate may be entrusted to private bodies having sufficient expertise and qualified personnel;

Whereas organizations wishing to be recognized for the purpose of this Directive must submit to the Member States complete information and evidence of their compliance with the minimum criteria, and the Member States must notify to the Commission and to the other Member States the organizations they have recognized;

Whereas a three-year recognition may be granted by the Commission for organizations which do not meet the criteria fixing the minimum number and tonnage of classed vessels and minimum number of exclusive surveyors laid down in the Annex but meet all the other criteria; whereas such organizations should be granted an extension of recognition after the period of three years provided they continue to meet the same criteria; whereas the effects of the three-year recognition should be limited to the requesting Member States, for that period only;

Whereas the establishment of the internal market involves free circulation of services so that organizations meeting a set of common criteria which guarantee their professionalism and reliability cannot be prevented from supplying their services within the Community provided a Member State has decided to delegate such statutory duties; whereas such a Member State may nevertheless restrict the number of organizations it authorizes in accordance with its needs based on objective and transparent grounds, subject to control exercised by the Commission through the comitology procedures;

Whereas the implementation of the principle of freedom to provide ship inspection and survey services could be gradual, but not beyond prescribed time limits;

Whereas a tighter involvement of the national administrations in ship surveys and in the issue of the related certificates is necessary to ensure full compliance with the international safety rules even if the Member States rely upon organizations outside their administration for carrying out statutory duties; whereas it is appropriate, therefore, to establish a close working relationship between the administrations and the organizations, which may require that the organization has a local representation on the territory of the Member State on behalf of which it performs its duties;

Whereas a committee of a regulatory nature should be established in order to assist the Commission in its effort to ensure effective application of the existing maritime safety and environmental standards while taking account of the national ratification procedures;

Whereas the Commission must act according to the procedure laid down in Article 13 in order to take due account of progress in international fora and to update the minimum criteria;

Whereas on the basis of the information provided in accordance with Article 11 by the Member States about the performance of the organizations working on their behalf, the Commission will decide whether it will request Member States to withdraw the recognition of recognized organizations which no longer fulfil the set of common minimum criteria, acting in accordance with the procedure of Article 13;

Whereas Member States must nevertheless be left the possibility of suspending their authorization to an organization for reasons of serious danger to safety or environment; whereas the Commission must rapidly decide in accordance with the procedure referred to above whether it is necessary to overrule such national measure;

Whereas each Member State should periodically assess the performance of the organizations working on its behalf and provide the Commission and all the other Member States with precise information related to such performance;

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Whereas Member States, as port authorities, are required to enhance safety and prevention of pollution in Community waters through priority inspection of vessels carrying certificates of organizations which do not fulfil the common criteria, thereby ensuring no more favourable treatment to vessels flying the flag of a third State;

Whereas the procedure by which the committee will decide should be Procedure III A of Article 2 of Council Decision 87/373/EEC of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission⁽¹⁾;

Whereas classification societies must update and enforce their technical standards in order to harmonize safety rules and ensure uniform implementation of international rules within the Community;

Whereas at present there are not uniform international standards to which all ships must conform at the building stage and during their entire life, as regards hull, machinery and electrical and control installations; whereas such standards may be fixed according to the rules of recognized classification societies or to equivalent standards to be decided by the national administrations in accordance with the procedure laid down in Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations⁽²⁾,

HAS 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.

Article 2

For the purpose of this Directive:

(a) 'ship' means a ship falling within the scope of the international conventions;

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(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 1973/1978 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, ►M3 in their up-to-date version ◀;

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(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 4;

⁽¹⁾ OJ No L 197, 18. 7. 1987, p. 33.

⁽²⁾ OJ No L 109, 26. 4. 1983, p. 8. Directive as last amended by Directive 94/10/EC (OJ No L 100, 19. 4. 1994, p. 30).

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- (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;

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- (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;

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- (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. ►M2 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.

▼M2*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).

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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 organisations 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 organisations recognised in compliance with paragraphs 1, 2 and 3. 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.

▼B*Article 5***▼M2**

1. In applying Article 3(2), Member States shall in principle not refuse to authorise any of the recognised organisations to undertake such functions, subject to the provisions of paragraph 3 and Articles 6 and 11. However, they may restrict the number of organisations they authorise 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.

3. In order for a Member State to accept that a recognised organisation 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 recognised organisations 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.

▼B*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.

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2. The working relationship shall be regulated by a formalised written and non-discriminatory agreement or equivalent legal arrange-

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ments setting out the specific duties and functions assumed by the organisations and including at least:

- (a) the provisions set out in Appendix II of IMO Resolution A.739(18) on guidelines for the authorisation of organisations 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 following 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).

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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

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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.

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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***▼M3**

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) created by Article 3 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS)⁽¹⁾.

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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.

▼B*Article 8***▼M2**

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).

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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.

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The amendments to the international instruments referred to in Article 2(d) and Article 6 may be excluded from the scope of this Directive, pursuant to Article 5 of Regulation (EC) No 2099/2002.

⁽¹⁾ OJ L 324, 29.11.2002, p. 1.

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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

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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 of Article 3(2) effectively carry out the functions referred to 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 to 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 the Member States with a report of the results of the assessment.

4. Each recognised organisation shall make available the 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.

▼B*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

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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 ►**M2** Article 7(2) ◀ not to be equivalent.

*Article 15***▼M2**

1. The recognised organisations 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.

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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.

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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.

▼B*Article 16*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the Directive no later than 31 December 1995.

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2. When Member States adopt these provisions, 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 the Member States.

3. The Member States shall immediately communicate to the Commission the text of all the provisions of domestic law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

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4. In addition, the Commission shall inform the European Parliament and the Council, on a regular basis, of progress in the implementation of the Directive within the Member States.

▼B*Article 17*

This Directive is addressed to the Member States.

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ANNEX

MINIMUM CRITERIA FOR ORGANIZATIONS REFERRED TO IN ARTICLE 3**▼M2**

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

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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.

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4. The organisation is prepared to provide relevant information to the administration, to the Commission and to the interested parties.
5. The organisation'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 organisation. The organisation's policy must refer to safety and pollution prevention performance targets and indicators.
6. The organisation has developed, implemented and maintains an effective internal quality system based on appropriate parts of internationally recognised 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 organisation's rules and regulations are established and maintained in a systematic manner;
 - (b) the organisation'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;

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- (c) the requirements of the statutory work for which the organisation is authorised 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 organisation'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 organisation;
- (g) the requirements of the statutory work for which the organisation is authorised are only carried out by its exclusive surveyors or by exclusive surveyors of other recognised organisations; 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 is maintained 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 organisation 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 recognised technical standards on the basis of which SOLAS Convention and Passenger Ship Safety Certificates (as regards adequacy of ship structure and essential ship-board 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.

▼ B

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.

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9. The organisation must allow participation in the development of its rules and/or regulations by representatives of the administration and other parties concerned.