

**DIRECTIVE 2003/103/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**  
**of 17 November 2003**  
**amending Directive 2001/25/EC on the minimum level of training of seafarers**  
**(Text with EEA relevance)**

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,

Having regard to the opinion of the European Economic and Social Committee <sup>(1)</sup>,

After consultation of the Committee of the Regions,

Acting in accordance with the procedure laid down in Article 251 of the Treaty <sup>(2)</sup>,

Whereas:

- (1) Directive 2001/25/EC of the European Parliament and of the Council of 4 April 2001 on the minimum level of training of seafarers <sup>(3)</sup> defines minimum training, certification and watchkeeping standards for seafarers serving on board Community ships. Those standards are based on the standards agreed in the International Maritime Organisation (IMO) Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended (the STCW Convention).
- (2) In order to maintain and develop the level of knowledge and skills in the maritime sector in the EU, it is important to pay appropriate attention to maritime training and the status of seafarers in the EU.
- (3) It is essential to ensure that seafarers holding certificates issued by third countries and serving on board Community ships have a level of competence equivalent to that required by the STCW Convention. Directive 2001/25/EC lays down procedures and common criteria for the recognition by the Member States of certificates issued by third countries.
- (4) Directive 2001/25/EC provides for the reassessment of the procedures and criteria for the recognition of certificates issued by third countries and the approval of maritime training institutes and maritime education and training programmes and courses, in the light of the experience gained in applying the Directive.

- (5) The practical implementation of Directive 2001/25/EC has shown that some adjustments to those procedures and criteria could contribute greatly towards the reliability of the system of recognition, while simplifying the monitoring and reporting obligations imposed on Member States.
- (6) Compliance by third countries that provide training with the provisions of the STCW Convention can be assessed more effectively in a harmonised manner. The Commission should therefore be entrusted with this task on behalf of the whole Community.
- (7) In order to ensure that a country which is recognised continues to comply fully with the requirements of the STCW Convention, the recognition should be reviewed regularly and extended if appropriate. The recognition of a third country not complying with the requirements of the STCW Convention should be withdrawn until deficiencies are redressed.
- (8) Decisions to extend or withdraw recognition can be taken more effectively in a harmonised and centralised manner, at Community level. The Commission should therefore be entrusted with these tasks on behalf of the whole Community.
- (9) The continuous monitoring of the compliance of the recognised third countries can be carried out more effectively in a harmonised and centralised manner.
- (10) One of the tasks assigned to the European Maritime Safety Agency (the Agency) is to assist the Commission in the performance of any task assigned to it by Community legislation applicable to training, certification and watchkeeping of ships' crews.
- (11) The Agency should therefore assist the Commission in the performance of its tasks relating to the granting, extension and withdrawal of recognition of third countries. It should also assist the Commission in the monitoring of third countries' compliance with the requirements of the STCW Convention.
- (12) The STCW Convention specifies language requirements for certificates and endorsements attesting the issue of a certificate. The existing provisions of Directive 2001/25/EC should be brought into line with the relevant requirements of the Convention.

<sup>(1)</sup> OJ C 133, 6.6.2003, p. 23.

<sup>(2)</sup> Opinion of the European Parliament of 3 September 2003 (not yet published in the Official Journal) and Council Decision of 6 November 2003.

<sup>(3)</sup> OJ L 136, 18.5.2001, p. 17. Directive as amended by Directive 2002/84/EC (OJ L 324, 29.11.2002, p. 53).

- (13) The International Convention for the Safety of Life at Sea, 1974, as amended (the SOLAS Convention) lays down language requirements for bridge-to-shore safety communications. Directive 2001/25/EC should be updated in accordance with the recent amendments to the SOLAS Convention, which entered into force on 1 July 2002.
- (14) It is necessary to provide for procedures for adapting Directive 2001/25/EC to future changes in Community law.
- (15) Directive 2001/25/EC should be amended accordingly,
- (b) The decision on the recognition of a third country shall be taken by the Commission in accordance with the procedure referred to in Article 23(2), within three months from the date of the request for recognition. If granted, the recognition shall be valid subject to the provisions of Article 18a.
- (c) If no decision is taken on recognition of the third country concerned within the period laid down in subparagraph (b), the Member State submitting the request may decide to recognise the third country unilaterally until a decision is taken in accordance with the procedure referred to in Article 23(2).

HAVE ADOPTED THIS DIRECTIVE:

#### Article 1

Directive 2001/25/EC shall be amended as follows:

1. Article 5 shall be amended as follows:

(a) paragraph 3 shall be replaced by the following:

‘3. Certificates shall be issued in accordance with Regulation 1/2, paragraph 1, of the STCW Convention.’

(b) the following sentence shall be added to paragraph 5:

‘Endorsements shall be issued in accordance with Article VI, paragraph 2, of the STCW Convention.’

2. In Article 17, point (e) shall be replaced by the following:

‘(e) there are adequate means for communication between the ship and the shore-based authorities. These communications shall be conducted in accordance with Chapter V, Regulation 14, paragraph 4, of the SOLAS Convention.’

3. Article 18(3) shall be replaced by the following:

‘3. Seafarers who do not possess the certificates referred to in Article 4 may be allowed to serve on ships flying the flag of a Member State, provided that a decision on the recognition of their appropriate certificates has been adopted through the procedure set out below:

(a) A Member State which intends to recognise, by endorsement, appropriate certificates issued by a third country to a master, officer or radio operator, for service on ships flying its flag, shall submit a request for recognition of that third country to the Commission, stating its reasons.

The Commission, assisted by the European Maritime Safety Agency (the Agency), and with the possible involvement of any Member State concerned, shall collect the information referred to in Annex II and shall carry out an assessment of the training and certification systems in the third country for which the request for recognition was submitted, in order to verify whether the country concerned meets all the requirements of the STCW Convention and whether the appropriate measures have been taken to prevent fraud involving certificates.

(d) A Member State may decide, with respect to ships flying its flag, to endorse certificates issued by the third countries recognised by the Commission, account being taken of the provisions contained in Annex II(4) and (5).

(e) Recognitions of certificates issued by recognised third countries and published in the *Official Journal of the European Union*, C series, before (...) (\*) shall remain valid. These recognitions may be used by all Member States unless the Commission has subsequently withdrawn them pursuant to Article 18a.

(f) The Commission shall draw up and update a list of the third countries that have been recognised. The list shall be published in the *Official Journal of the European Union*, C Series

(\*) 18 months after the date of entry into force of the Directive.’

4. The following Articles shall be inserted:

#### ‘Article 18a

1. Notwithstanding the criteria specified in Annex II, when a Member State considers that a recognised third country no longer complies with the requirements of the STCW Convention, it shall notify the Commission immediately, giving substantiated reasons. The Commission shall without delay refer the matter to the Committee referred to in Article 23.

2. Notwithstanding the criteria specified in Annex II, when the Commission considers that a recognised third country no longer complies with the requirements of the STCW Convention, it shall notify the Member States immediately, giving substantiated reasons. The Commission shall without delay refer the matter to the Committee referred to in Article 23.

3. When a Member State intends to withdraw the endorsements of all certificates issued by a third country it shall without delay inform the Commission and the other Member States of its intention, giving substantiated reasons therefor.

4. The Commission, assisted by the Agency, shall reassess the recognition of the third country concerned in order to verify whether that country failed to comply with the requirements of the STCW Convention.

5. Where there are indications that a particular maritime training establishment no longer complies with the requirements of the STCW Convention, the Commission shall notify the country concerned that recognition of that country's certificates will be withdrawn in two months' time unless measures are taken to ensure compliance with all the requirements of the STCW Convention.

6. The decision on the withdrawal of the recognition shall be taken in accordance with the procedure referred to in Article 23(2), within two months from the date of the communication made by the Member State. The Member States concerned shall take appropriate measures to implement the decision.

7. Endorsements attesting recognition of certificates, issued in accordance with Article 5(6) before the date on which the decision to withdraw recognition of the third country is taken, shall remain valid. Seafarers holding such endorsements may not claim an endorsement recognising a higher qualification, however, unless that upgrading is based solely on additional seagoing service experience.

#### Article 18b

1. The third countries that have been recognised under the procedure referred to in Article 18(3)(b), including those referred to in Article 18(3)(f), shall be reassessed by the Commission, with the assistance of the Agency, on a regular basis and at least every five years to verify that they fulfil the relevant criteria set out in Annex II and whether the appropriate measures have been taken to prevent fraud involving certificates.

2. The Commission shall define the priority criteria for assessment of third countries on the basis of performance data provided by the Port State control pursuant to Article 20, as well as the information relating to the reports of the independent evaluations communicated by third countries pursuant to section A-I/7 of the STCW Code.

3. The Commission shall provide the Member States with a report on the results of the assessment.'

5. the following sentence shall be added to Article 22(1):

'This Directive may also be amended in accordance with the same procedure in order to apply, for the purposes of this Directive, any relevant amendments to Community legislation.'

6. Annex II shall be amended in accordance with the Annex to this Directive.

#### Article 2

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 14 May 2005. They shall forthwith inform the Commission thereof.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

Not later than 14 December 2008 the Commission shall submit an evaluation report to the European Parliament and the Council, based on a detailed analysis and evaluation of the provisions of the IMO Convention, the implementation thereof and new insights gained with regard to the correlation between safety and the level of training of ships' crews.

#### Article 3

This Directive shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

#### Article 4

This Directive is addressed to the Member States.

Done at Brussels, 17 November 2003.

*For the European Parliament*

*The President*

P. COX

*For the Council*

*The President*

G. ALEMANN

## ANNEX

Annex II to Directive 2001/25/EC is hereby replaced by the following:

‘ANNEX II

**CRITERIA FOR THE RECOGNITION OF THIRD COUNTRIES THAT HAVE ISSUED A CERTIFICATE OR UNDER THE AUTHORITY OF WHICH WAS ISSUED A CERTIFICATE, REFERRED TO IN ARTICLE 18(3)(a)**

1. The third country must be a Party to the STCW Convention.
  2. The third country must have been identified by the Maritime Safety Committee as having demonstrated that full and complete effect is given to the provisions of the STCW Convention.
  3. The Commission, assisted by the Agency and with the possible involvement of any Member State concerned, must have confirmed, through all necessary measures, which may include the inspection of facilities and procedures, that the requirements concerning the standard of competence, the issue and endorsement of certificates and record keeping are fully complied with, and that a quality standards system has been established pursuant to Regulation I/8 of the STCW Convention.
  4. The Member State is in the process of agreeing an undertaking with the third country concerned that prompt notification will be given of any significant change in the arrangements for training and certification provided in accordance with the STCW Convention.
  5. The Member State has introduced measures to ensure that seafarers who present for recognition certificates for functions at management level have an appropriate knowledge of the maritime legislation of the Member State relevant to the functions they are permitted to perform.
  6. If a Member State wishes to supplement assessment of compliance of a third country by evaluating certain maritime training institutes, it shall proceed according to the provisions of section A-I/6 of the STCW Code.’
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