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INFORMATION NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee/Council
Subject:	Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Regulation (EC) No 391/2009 with regard to the withdrawal of the United Kingdom from the Union - Outcome of the European Parliament's first reading, (Strasbourg, 11 to 14 March 2019)

I. INTRODUCTION

In accordance with the provisions of Article 294 of the TFEU and the joint declaration on practical arrangements for the codecision procedure ¹, a number of informal contacts have taken place between the Council, the European Parliament and the Commission with a view to reaching an agreement on this dossier at first reading, thereby avoiding the need for second reading and conciliation.

¹ OJ C 145, 30.6.2007, p.5

In this context, the rapporteur, Isabella DE MONTE (S&D, IT), presented one compromise amendment (amendment 2) to the proposal for a Regulation on behalf of the Committee on Transport and Tourism. This amendment had been agreed during the informal contacts referred to above. No other amendments were tabled.

II. VOTE

When it voted on 13 March 2019, the plenary adopted this compromise amendment (amendment 2) to the proposal for a Regulation. The Commission's proposal as thus amended constitutes the Parliament's first-reading position which is contained in its legislative resolution as set out in the Annex hereto².

The Parliament's position reflects what had been previously agreed between the institutions. The Council should therefore be in a position to approve the Parliament's position.

The act would then be adopted in the wording which corresponds to the Parliament's position.

² The version of the Parliament's position in the legislative resolution has been marked up to indicate the changes made by the amendments to the Commission's proposal. Additions to the Commission's text are highlighted in ***bold and italics***. The symbol "■" indicates deleted text.

Amending Regulation (EC) No 391/2009 with regard to the UK's withdrawal from the Union *I**

European Parliament legislative resolution of 13 March 2019 on the proposal for a regulation of the European Parliament and of the Council amending Regulation (EC) No 391/2009 with regard to the withdrawal of the United Kingdom from the Union (COM(2018)0567 – C8-0384/2018 – 2018/0298(COD))

(Ordinary legislative procedure: first reading)

The European Parliament,

- having regard to the Commission proposal to Parliament and the Council (COM(2018)0567),
 - having regard to Article 294(2) and Article 100(2) of the Treaty on the Functioning of the European Union, pursuant to which the Commission submitted the proposal to Parliament (C8-0384/2018),
 - having regard to Article 294(3) of the Treaty on the Functioning of the European Union,
 - having regard to the opinion of the European Economic and Social Committee of 17 October 2018³,
 - after consulting the Committee of the Regions,
 - having regard to the provisional agreement approved by the committee responsible under Rule 69f(4) of its Rules of Procedure and the undertaking given by the Council representative by letter of 25 January 2019 to approve Parliament's position, in accordance with Article 294(4) of the Treaty on the Functioning of the European Union.
 - having regard to Rule 59 of its Rules of Procedure,
 - having regard to the report of the Committee on Transport and Tourism (A8-0004/2019),
1. Adopts its position at first reading hereinafter set out;

³ OJ C 62, 15.2.2019, p. 298.

2. Calls on the Commission to refer the matter to Parliament again if it replaces, substantially amends or intends to substantially amend its proposal;
3. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

P8_TC1-COD(2018)0298

Position of the European Parliament adopted at first reading on 13 March 2019 with a view to the adoption of Regulation (EU) 2019/... of the European Parliament and of the Council amending Regulation (EC) No 391/2009 with regard to the withdrawal of the United Kingdom from the Union

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2) thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Economic and Social Committee⁴,

After consulting the Committee of the Regions⁵,

Acting in accordance with the ordinary legislative procedure⁵,

Whereas:

⁴ OJ C 62, 15.2.2019, p. 298.

⁵ Position of the European Parliament of 13 March 2019.

- (1) On 29 March 2017, the United Kingdom submitted the notification of its intention to withdraw from the Union pursuant to Article 50 of the Treaty on European Union. ***The Treaties*** will cease to apply to the United Kingdom from ***the date of entry into force of a withdrawal agreement, or failing that, two years after that notification, namely from 30 March 2019, unless the European Council, in agreement with the United Kingdom, unanimously decides to extend that period.***
- (2) Regulation (EC) No 391/2009 ***of the European Parliament and of the Council***⁶ and Directive 2009/15/EC of the European Parliament and of the Council⁷ together constitute the regulatory framework for the activities of recognised ship inspection, survey and certification organisations.
- (3) In accordance with Article 8(1) of Regulation (EC) No 391/2009, ship inspection, **■** survey ***and certification*** organisations recognised at Union level by the Commission (‘recognised organisations’) are to be assessed on a regular basis and at least every two years by the Commission, together with the Member State that submitted the relevant request for recognition of the organisation.

⁶ Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations (OJ L 131, 28.5.2009, p. 11).

⁷ Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ L 131, 28.5.2009, p. 47).

- (4) For reasons of equal treatment, organisations which were initially recognised by the relevant Member State in accordance with Council Directive 94/57/EC⁸ and currently enjoy Union recognition under Article 15(1) of Regulation (EC) No 391/2009 are to be assessed by the Commission together with the Member State which initially recognised those organisations.
- (5) In accordance with Articles 7 and 8 of Regulation (EC) No 391/2009, in order to continue to benefit from Union recognition, recognised organisations must continue to fulfil the requirements and minimum criteria set out in Annex I to that Regulation. This is verified through the continuous assessment carried out by the Commission, together with the relevant Member State, in accordance with Article 8(1) of that Regulation. Therefore, regular assessments play an important role for continued recognition of organisations.

⁸ Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations (OJ L 319, 12.12.1994, p. 20).

- (6) Following its withdrawal from the Union, the United Kingdom will no longer be able to participate in the assessments carried out pursuant to Article 8(1) of Regulation (EC) No 391/2009.
- (7) The recognised organisations which were initially recognised by the United Kingdom currently enjoy Union recognition and have been entrusted by other Member States with duties in relation to the inspection, survey and certification of ships, in accordance with Article 3(2) of Directive 2009/15/EC. ■ Article 8(1) of Regulation (EC) No 391/2009 ***should therefore be amended*** in order to ensure that those organisations will continue to be subject to assessment in accordance with the requirements of that provision.
- (8) ■ **The monitoring and oversight obligations that Member States currently have to fulfil under Article 9 of Directive 2009/15/EC *should also be taken into account*.** In this regard, the assessment of recognised organisations under Regulation (EC) No 391/2009 should be conducted by the Commission together with the Member State or Member States which authorised the relevant recognised organisation in accordance with Article 3(2) of Directive 2009/15/EC.

- (9) *In order to ensure the coordination of national and Union activities with regard to the monitoring of recognised organisations, the Commission should consult with experts and identify and exchange good practices to avoid duplication of work and to make best use of existing capacities and resources.*
- (10) This Regulation should enter into force as a matter of urgency on the day following that of its publication in the *Official Journal of the European Union* and should apply from the day following that on which ■ Regulation (EC) No 391/2009 ceases to apply to the United Kingdom,

HAVE ADOPTED THIS REGULATION:

Article 1

In Article 8 of Regulation (EC) No 391/2009, paragraph 1 is replaced by the following:

- "1. All recognised organisations shall be assessed by the Commission, together with the Member State or Member States which authorised them in accordance with Article 3(2) of Directive 2009/15/EC, on a regular basis and at least every two years, to verify that they meet the obligations under this Regulation and fulfil the minimum criteria set out in Annex I to this Regulation. The assessment shall be confined to those activities of the recognised organisations, which fall within the scope of this Regulation."

Article 2

The Commission shall report to the European Parliament and to the Council on the effects of this Regulation not later than three years following its date of application.

Article 3

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

It shall apply from the day following that on which **Regulation (EC) No 391/2009** ceases to apply to the United Kingdom.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at ...,

For the European Parliament

For the Council

The President

The President
