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1 October 1996

A4-0294/96



## **RECOMMENDATION FOR SECOND READING**

on the common position established by the Council with a view to the adoption of the Council Directive on marine equipment (C4-0370/96 - 95/0163 (SYN))

Committee on Transport and Tourism

Rapporteur: Mr Nikitas Kaklamanis

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PE 218.429/fin

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At its sitting of 29 November 1995 Parliament delivered its opinion at first reading on the proposal for a Council Directive on marine equipment.

At the sitting of 18 July 1996 the President of Parliament announced that the common position had been received and referred to the Committee on Transport and Tourism.

At its meeting of 26 September 1995 the committee appointed Mr Nikitas Kaklamanis rapporteur.

It considered the common position and the draft recommendation for second reading at its meetings of 22 July, 30 September and 1 and 2 October 1996.

At the last meeting it unanimously adopted the draft decision.

The following were present for the vote: Cornelissen, Chairman, Lüttge and Parodi, vice-chairmen, Kaklamanis, rapporteur, Baldarelli (for Farthofer), Bellere, Blot (for Gollnisch), Burtone (for Grosch), Castricum, Cunningham (for Watts), Danesin, Killilea, Koch, McIntosh, Miller (for Megahy), Morris (for Panagopoulos), Novo Belenguer (for Tapie), Peltari, Piecyk, Rehder (for Schlechter), Tamino (for van Dijk), Salafranca, Sarlis, Schmidbauer, Simpson, Sindal, Sisó Cruellas, Stenmarck, Stockmann, van der Waal and Wijsenbeek.

The recommendation for second reading was tabled on 1 October 1996.

The deadline for tabling amendments to the common position or proposals to reject will be indicated in the draft agenda for the relevant part-session.

A

DRAFT DECISION

Decision on the common position established by the Council with a view to the adoption of a Council Directive on marine equipment (C4-0370/96 - 95/0163(SYN))

(Cooperation procedure: second reading)

The European Parliament,

- having regard to the common position of the Council, C4-0370/96 - 95/0163(SYN),
  - having regard to its opinion at first reading<sup>1</sup> on the Commission proposal to the Council, COM(95)0269<sup>2</sup>,
  - having been consulted by the Council pursuant to Article 189c of the EC Treaty,
  - having regard to Rule 67 of its Rules of Procedure,
  - having regard to the recommendation for second reading of the Committee on Transport and Tourism (A4-0294/96,
1. Amends the common position as follows;
  2. Instructs its President to forward this decision to the Council and Commission.

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<sup>1</sup> OJ C 339, 18.12.1995, p.12.

<sup>2</sup> OJ C 218, 23.08.95, p.9

Common position of the Council

Amendments by Parliament

(Amendment 1)

Article 3, paragraph 3

3. Notwithstanding the fact that the equipment referred to in paragraph 1 may fall within the scope of Directives other than this Directive for the purposes of free movement, and in particular Council Directives 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility and 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment, that equipment shall be subject only to this Directive, to the exclusion of all others for those purposes. This paragraph shall not apply to radiocommunications equipment.

3. Notwithstanding the fact that the equipment referred to in paragraph 1 may fall within the scope of Directives other than this Directive for the purposes of free movement, and in particular Council Directives 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility and 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment, that equipment shall be subject only to this Directive, to the exclusion of all others for those purposes.

(Amendment 2)  
Article 9, paragraph 3a (new)

3a. The Member States shall ensure that the bodies which they appoint as notified bodies provide all the necessary guarantees of independence (financial, administrative and other) from the manufacturers or suppliers of the equipment which they are evaluating.

(Amendment 3)  
Article 18

1. The Commission shall be assisted by the committee set up by Article 12 of Council Directive 93/75/EC of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods in accordance with the procedure laid down in this Article.

2. The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

1. The Commission shall be assisted by a committee of an advisory nature composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

3. The opinion shall be recorded in the minutes: in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

4. The Committee shall meet in public. It shall publish agendas two

weeks in advance of its meetings. It shall publish minutes of its meetings. It shall establish a public register of declarations of interest by its members.

**B**  
**EXPLANATORY STATEMENT**

1. This proposed Council directive is the first piece of Community legislation relating to the safety and effectiveness of marine equipment, matters which have been considered and been the subject of arrangements within the IMO (UN International Maritime Organization) and a number of rules relating to marine equipment have been adopted at international level. The basic aim of the Community directive is twofold: to enhance the safety of vessels using European Union ports and at the same time to promote the integration of the internal market by ensuring a high and uniform level of quality and suitability of the equipment carried by those vessels.
2. In view of the importance of ensuring the highest possible degree of protection and safety on vessels either flying the flag of a Union Member State or using EU ports there has been broad agreement between the European Parliament, the Council and the Commission as to the attainment of these objectives.  
  
At first reading Parliament adopted all the amendments tabled by the Committee on Transport and Tourism to the Commission proposal for a directive. The Commission adopted four points, which it incorporated in the proposed text. The Council's common position also incorporates these points, with the addition of one further point which Parliament had proposed but the Commission had not accepted. The rapporteur considers that the substance of Parliament amendments has essentially been incorporated in the Council's common position.
3. Ten of the amendments adopted by Parliament have been incorporated in the Council's common position, either unchanged, with a small number of changes on grounds of linguistic harmonization, legal practice or terminology (Ams. 3, 4, 6 and 14) or some of them in part (Ams. 4 and 7). For those amendments not accepted as tabled by Parliament, satisfactory explanations were provided. As the text of the common position is a clear improvement over the original proposal, some of Parliament's amendments were redundant.
4. In general, it would appear that the problems which arose over the Commission's original proposal have been resolved in the Council's common position. There will however, have to be scope for resolving the problems which may emerge in the practical implementation of the Directive. One such problem concerns the necessity to equip ships operating in waters where temperature is below 15<sup>o</sup> C. (with special survival clothing for passengers and crew). This issue should be considered in the forthcoming review of Annex I of the proposed Directive.
5. Although the common position is a clear improvement on the text of the Directive, both in respect of the original Commission proposal with Parliament's amendments and the Council's additions, and it has to be regarded as a satisfactory compromise, some omissions and additions by the Council do not appear adequately justified, and seem more likely to cause confusion than to improve the Directive.
6. In this context, Parliament must re-adopt its first reading amendments, in particular that seeking to protect the safety of vessels via the checks on the suitability and guarantees of independence of notified bodies. It should be emphasized that the implementation of the Directive will depend on these notified bodies, which are entrusted with the assessment of compliance of the various items of equipment carried on vessels.
7. Two of the items added to the Directive by the common position cannot be accepted. They are that referring to radio communications equipment and the change in the form of the committee to assist the Commission.
8. On the first point, it must be emphasized that marine radio equipment by its very nature has to be standard and interchangeable with equipment from other manufacturers and other countries, and in particular because of the role it plays in marine safety. Moreover, the aim of the directive is to harmonize and promote the highest possible quality of equipment on vessels with a view to making them as safe as possible in order to protect both human life and the marine and coastal environment.

9. These conditions are largely met by the inclusion of shipboard radio equipment in the Directive covering marine equipment. However, this provision was changed in the common position so as to remove radio communications equipment from the scope of this Directive. As no satisfactory reason for this change is given, the rapporteur proposes that this exemption be deleted from the text of the Directive.
  
10. In conclusion, the final amendment proposed by the rapporteur relates to the 'comitology' procedure. Where the Council amended the Commission's original proposal which referred to decision-making by advisory committee procedure (type I), replacing it by a regulatory committee (type III), in accordance with Parliament's standard practice in such cases, the rapporteur is proposing reinstating the advisory committee.