

EUROPEAN PARLIAMENT

1999



2004

Committee on Industry, External Trade, Research and Energy

PROVISIONAL
2000/0325(COD)

18 April 2001

DRAFT OPINION

of the Committee on Industry, External Trade, Research and Energy

for the Committee on Regional Policy, Transport and Tourism

on the proposal for a directive of the European Parliament and of the Council
establishing a Community monitoring, control and information system for
maritime traffic

(COM(2000) 802 – C5-0700/2000 – 2000/0325((COD)))

Draftsman: Dominique Vlasto

PROCEDURE

The Committee on Industry, External Trade, Research and Energy appointed Dominique Vlasto draftsman at its meeting of 13 February 2001.

It considered the draft opinion at its meeting(s) of

At the latter/last meeting it adopted the following amendments by ... votes to ..., with ... abstention(s)/unanimously.

The following were present for the vote: ... chairman/acting chairman; ... vice-chairman; ..., vice-chairman; ... draftsman; ..., ... (for ...), ... (for ... pursuant to Rule 153(2)), ... and

SHORT JUSTIFICATION

This Commission proposal regarding the introduction of a Community monitoring, control and information system for maritime traffic forms part of a new series of measures – the second Erika package – to promote maritime safety in the European Union. In this way the Commission is continuing its efforts to reinforce and simplify Community legislation in this field. The new proposals provide answers to some questions which had remained unanswered following the adoption of the first Erika package.

One of the Commission's proposals in the first Erika package was to reinforce State port control, which is an extremely important element of maritime safety enabling several hundreds of ships to be detained every year, but which alone is not sufficient, as these controls are only carried out when ships put into ports.

The aim of this new proposal is thus to enable the detection and monitoring of ships whose poor condition poses an obvious threat to safety and the environment, even when they are not putting into a Community port.

In order to achieve this, the Commission is proposing that coastal Member States equip themselves with a way of improving the monitoring and control of traffic passing along their coasts. This proposal aims to reinforce a legislative framework which is actually quite recent, and is chiefly based on Directive 93/75/EC, known as the 'Hazmat' directive, which was adopted in September 1993 and has been in force since 1995. The Commission's assessment of the implementation of this directive has revealed several problems: the system is relatively unknown outside the European Union, as a result of its complexity; the notification rules are not properly complied with; the information to be transmitted is complicated and, finally, the competent authorities and their responsibilities are not clearly defined.

With regard to these deficiencies, the Commission is thus proposing a new system, which will incorporate the objectives of Directive 93/75/EC but will also cover broader aims, including preventing accidental and operational pollution at sea, the management and monitoring of maritime traffic and wider scope for intervention at sea where there are threats to the environment and shipping safety.

The Commission is thus responding positively to the problems which it did much to identify. This dynamic approach by the Commission, based on an unforgiving appraisal of the Community legislation in force, is certainly to be welcomed.

Does the Commission's new proposal, however, enable these deficiencies to be put right? To a certain extent, it does: the strengthening of technical methods and the existence of legal bases enabling the Member States' domestic authorities to act – for example in preventing ships from leaving port in the event of particularly bad weather conditions – are positive aspects of the proposal.

Your rapporteur can nonetheless not help noticing that this Commission proposal contains two types of measure:

- four concrete technical measures: the introduction of transponders, the extension of the requirement to notify polluting or dangerous goods, data exchange by electronic means and the introduction of black boxes in ships;
- four measures whose implementation depends on the goodwill and resources of the Member States and the various domestic authorities involved. These are: the development of common databases, closer monitoring of ships posing a particular threat, the enhancing of the powers of coastal Member States and arrangements for accommodating ships in ports of refuge during severe storms.

The distinction drawn here by your rapporteur is, unfortunately, symptomatic: while there seems to be agreement on the technical arrangements needed to improve maritime safety, the counterpart to this agreement seems to be an absence of any method or strategy for implementing these technical arrangements. Thus, although there is consensus on the action which should be taken by transporters and ship proprietors, there is a persistent fog surrounding the action which the Member States and the Commission should undertake in order to improve maritime safety.

Your rapporteur notes that some of the deficiencies identified in Directive 93/75/EC are potentially present in this new proposal. For instance, the new system is likely to suffer from the same lack of awareness outside the European Union as the previous one, because of the complex administrative organisation on which it is based. The new system's lack of visibility is obvious, and magnified by the fact that the proposal never deals with the issue of the human resources needed to implement it. If there is a major problem in Community policy on maritime safety, it is the lack of staff in a position to monitor the provisions which we adopt. In particular, your rapporteur notes that a decision to create a European coastguard body, one of whose responsibilities would have been to verify application of these provisions, might have had a positive effect. This proposal contains no such measure, and no enhanced system of cooperation between the coastal Member States is clearly advanced.

Your rapporteur is of the opinion that in its proposal the Commission has put forward the requisite technical means and legal instruments for the creation of a Community monitoring, control and information system for maritime traffic, but that the system itself is not properly described. Various provisions concerning its operation, organisation and introduction are missing from the proposal.

Your rapporteur believes that it is not part of the responsibilities of the Committee on Industry, External Trade, Research and Energy to draft such provisions. However, she calls on the committee responsible to work on the organisational problems posed by the Commission's proposal, and deplores the proposal's vagueness in this regard.

AMENDMENTS

The Committee on Industry, External Trade, Research and Energy calls on the Committee on Regional Policy, Transport and Tourism, as the committee responsible, to incorporate the following amendments in its report:

Amendment 1
Article 15(2a) (new)

No later than five years after the entry into force of this Directive, the European Maritime Safety Agency shall report to the European Parliament and the Commission on the effectiveness and implementation by the Member States of the administrative measures referred to above. The Agency may, in particular, propose joint measures for the Member States to improve maritime safety in the event of particularly bad weather conditions.

Justification

This provision, which enables the Member States to take action in the event of particularly bad weather conditions, represents a significant increase in the scope of action available to Member States. However, it should be verified that this action is actually applied in the Member States within a reasonable period. The Maritime Safety Agency should carry out an evaluation of this provision in order to monitor its application, so that if necessary it may be improved by new proposals.

Amendment 2
Article 17, first paragraph

Member States shall make the necessary arrangements to ensure that ports are available on their territory which are capable of accommodating ships in distress. To this end, having consulted the parties concerned, they shall draw up plans specifying, for each port concerned, the features of the area, the installations

Member States shall make the necessary arrangements to ensure that ports are available on their territory which are capable of accommodating ships in distress. To this end, having consulted the parties concerned, ***no later than one year after the entry into force of this Directive*** they shall draw up plans specifying, for each port

¹ OJ C not yet published.

available, the operational and environmental constraints and the procedures linked to their possible use to accommodate ships in distress.

concerned, the features of the area, the installations available, the operational and environmental constraints and the procedures linked to their possible use to accommodate ships in distress.

Justification

This provision is concerned with improving maritime safety, but does not contain any deadline for implementation. However, it would be desirable for the information on ports of refuge to be made available and made known to the relevant parties speedily.

Amendment 3

Article 20(2), fourth indent a (new)

- formulating proposed amendments to this Directive, in accordance with Articles 15 and 22 of this Directive;

Justification

This amendment refers to the new obligations imposed on the Maritime Safety Agency by Articles 15 and 22.

Amendment 4

Article 22(2), second subparagraph a (new)

The Member States shall inform the European Maritime Safety Agency of the nature and amount of the financial penalties for which they have made provision in their domestic law. The Agency shall be responsible for keeping a register of these penalties for all the Member States. It shall make this information available to anyone

requesting it. No later than five years after the entry into force of this Directive, the Agency shall submit a report to the European Parliament and the Commission on the effectiveness and implementation of these financial penalties in the Member States. If necessary, the Agency shall put forward in the report proposed amendments to this Directive to improve its application.

Justification

The European Maritime Safety Agency should keep a register of the penalties for which provision is made in the domestic laws of each Member State for failure to comply with this Directive. The register must enable anyone making a request to gain easy access to the information on failure to comply with the provisions of this Directive. The Agency would also seem the most appropriate body to assess the effectiveness of these penalties and, if necessary, to propose new measures to improve the directive's application.

Amendment 5

Article 22(5), subparagraph 1

Where a Member State finds, on the occasion of an accident or incident at sea referred to in Article 16, that the company has not been able to establish and maintain a link with the ship or with the operational authorities concerned, it shall so inform the State which issued the ISM certification, or on whose behalf it was issued.

Where a Member State finds, on the occasion of an accident or incident at sea referred to in Article 16, that the company has not been able to establish and maintain a link with the ship or with the operational authorities concerned, it shall so inform **the Commission and** the State which issued the ISM certification, or on whose behalf it was issued.

Justification

With regard to measures concerning incidents or accidents at sea, it is important that the Commission also be informed of problems which may arise between companies and the Member States, and that it be informed of problems which may lie behind withdrawal of ISM certification from a company.

2. Ships built prior to 1 July 2002

Ships built prior to 1 July 2002 which call at a port located in the Community are subject to the carrying requirement laid down in Article 7 according to the following timetable:

- passenger ships: not later than 1 July 2003;
- tankers: not later than the first survey for safety equipment after 1 July 2003;
- ships, other than passenger ships and tankers, of 50 000 gross tonnage and upwards: not later than 1 July **2004**;
- ships, other than passenger ships and tankers, of 10 000 gross tonnage and upwards but less than 50 000 gross tonnage: not later than 1 July **2005**;
- ships, other than passenger ships and tankers, of 3 000 gross tonnage and upwards but less than 10 000 gross tonnage: not later than 1 July **2006**;
- ships, other than passenger ships and tankers, of 300 gross tonnage and upwards but less than 3 000 gross tonnage: not later than 1 July **2007**.

2. Ships built prior to 1 July 2002

Ships built prior to 1 July 2002 which call at a port located in the Community are subject to the carrying requirement laid down in Article 7 according to the following timetable:

- passenger ships: not later than 1 July 2003;
- tankers: not later than the first survey for safety equipment after 1 July 2003;
- ships, other than passenger ships and tankers, of 50 000 gross tonnage and upwards: not later than 1 July **2003**;
- ships, other than passenger ships and tankers, of 10 000 gross tonnage and upwards but less than 50 000 gross tonnage: not later than 1 July **2004**;
- ships, other than passenger ships and tankers, of 3 000 gross tonnage and upwards but less than 10 000 gross tonnage: not later than 1 July **2005**;
- ships, other than passenger ships and tankers, of 300 gross tonnage and upwards but less than 3 000 gross tonnage: not later than 1 July **2006**.

Justification

The installation of this equipment is an essential prerequisite for the smooth operation of the system put forward by the Commission. It is therefore important for the ships most exposed to risk, passenger ships and cargo ships of 20 000 gross tonnage and upwards to be the first to be fitted out. It is unacceptable for the installation of this equipment to take over 6 years, in view of the fact that the system should be operational as soon as possible. Finally, it would be

preferable to harmonise the deadlines for the installation of this equipment on comparable ships, in order to make any checks by the authorities easier.

Amendment 7
Annex II, II

Ships in the following classes must, inasmuch as they call at a port located in the Community, be fitted with a voyage data recorder (black box) meeting the performance standards of IMO Resolution A.861(20) and the testing standards set by Standard No 61996 of the International Electronics Commission (IEC):

- passenger ships built on or after 1 July 2002, not later than the date on which this Directive enters into force,
- ships, other than passenger ships, of 3 000 gross tonnage and upwards, built on or after 1 July 2002, not later than the date on which this Directive enters into force
- passenger ships built before 1 July 2002, not later than **1 January 2004**,
- cargo ships of 20 000 gross tonnage and upwards, not later than **1 January 2007**,
- cargo ships of between 3 000 and 20 000 gross tonnage, not later than **1 January 2008**.

Ships in the following classes must, inasmuch as they call at a port located in the Community, be fitted with a voyage data recorder (black box) meeting the performance standards of IMO Resolution A.861(20) and the testing standards set by Standard No 61996 of the International Electronics Commission (IEC):

- passenger ships built on or after 1 July 2002, not later than the date on which this Directive enters into force,
- ships, other than passenger ships, of 3 000 gross tonnage and upwards, built on or after 1 July 2002, not later than the date on which this Directive enters into force
- passenger ships built before 1 July 2002, not later than **1 July 2003**,
- cargo ships of 20 000 gross tonnage and upwards, not later than **1 July 2003**,
- cargo ships of between 3 000 and 20 000 gross tonnage, not later than **1 July 2005**.

Justification

The installation of this equipment is an essential prerequisite for the smooth operation of the system put forward by the Commission. It is therefore important for the ships most exposed to risk, passenger ships and cargo ships of 20 000 gross tonnage and upwards to be the first to be fitted out. It is unacceptable for the installation of this equipment to take over 6 years, in view of the fact that the system should be operational as soon as possible. Finally, it would be

preferable to harmonise the deadlines for the installation of this equipment on comparable ships, in order to make any checks by the authorities easier.