



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.04.2002

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2000/0262 (COD)

**COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT**

**pursuant to the second subparagraph of Article 251 (2) of the EC Treaty**

**concerning the**

**common position of the Council on the adoption of a Directive of the European Parliament and of the Council modifying Directive 94/25/EC on the approximation of the laws, regulations and administrative provisions of the Member States relating to recreational craft**

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**1. BACKGROUND**

Date of transmission of the proposal to the EP and the Council (document COM(2000) 639 final – 2000/0262 (COD)):	12 October 2000
Date of the opinion of the Economic and Social Committee:	28-29 March 2001
Date of the opinion of the European Parliament, first reading:	5 July 2001
Date of transmission of the amended proposal to the EP and the Council (document COM(2001) 636 final – 2000/0262 (COD)):	31 October 2001
Date of adoption of the Common Position:	22 April 2002

**2. OBJECTIVE OF THE COMMISSION PROPOSAL**

This proposal, which is based on Article 95 of the Treaty, introduces harmonised provisions on exhaust and noise emissions limit values from engines on recreational craft. It also includes a number of modifications on the construction aspects of recreational craft covered by this Directive (e.g. the inclusion of jet-skis in the scope of the original Directive 94/25/EC<sup>1</sup>).

The proposal has the following objectives:

- to contribute to the smooth functioning of internal market;
- to promote harmonised Community legislation to regulate exhaust and noise emissions from recreational marine engines and avoid market fragmentation and possible barriers to trade;
- to protect human health, the well being of citizens and the environment.

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<sup>1</sup> OJ L 164, 30.6.1994 p. 0015-0038

### **3. COMMENTS ON THE COMMON POSITION**

#### **3.1. General remarks**

The Commission is pleased to note that the Common Position adopted by the Council satisfies to a large extent the intention of the Commission's proposal to regulate exhaust and noise emissions from engines on recreational craft and offers very good technical solutions.

#### **3.2. Amendments adopted by the European Parliament at its First Reading**

Out of the 42 amendments adopted (43, 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 15, 16, 14, 17, 18, 44, 45, 20, 21, 22, 46, 23, 24, 28, 29, 30, 31, 33, 34, 48, 35, 36, 37, 38, 39, 40, 41), the Commission has accepted 11 amendments (1, 6, 14, 18, 44, 22, 28, 29, 37, 39, 41) in the form proposed by the Parliament, 3 amendments in part (43, 10, 45), 10 amendments in principle (3, 5, 7, 8, 12, 13, 21, 23, 35, 36) and the remaining 18 were rejected.

The Commission has accepted the EP amendments, which suggested useful editorial improvements. It also recognised the need for the simplification of the noise testing procedures and consequently accepted in principle all amendments, which introduce an alternative method of demonstrating compliance with the noise provisions of the proposed Directive. These simplified procedures could result in conformity assessment cost savings for small boat builders of low speed craft.

The Commission has also accepted in principle the amendments introducing a distinction of stern drive engines in two categories, i.e. those with integral exhaust and those without integral exhaust. This distinction does not alter the intended purpose or the proposed Directive. Furthermore, the similar treatment of outboard engines and of stern drive engines with integral exhausts would simplify the implementation of noise testing procedures, which should be beneficial for small boat builders.

As regards a further reduction of emission limit values, the Commission accepted in principle to explore this possibility following a report to be submitted by the Commission to the Council and to the European Parliament as foreseen under Article 2 of the proposed Directive.

Furthermore, the Commission accepted the need to exempt the boat owners who have built their boats for own use from the noise requirements of the proposed Directive.

The Commission has not accepted the amendments requiring the deletion of the provisions relating to comitology, as contrary to the principles governing the Commission's executive powers. The Commission maintains its position that a Regulatory Committee under Council Decision 1999/468/EC should be established in order for the Commission to exercise implementing powers relating to the modification of the technical provisions concerning the evolution of exhaust and noise emission limits, of exhaust duty cycles and of test fuels in the light of advances in technology. The Commission considers that this is the most appropriate way to adapt legislation to technical progress.

Furthermore, the Commission has not accepted the amendment requiring the Commission to submit a proposal for a new Directive two years after the entry into force of the proposed Directive, as contrary to its right of initiative. It has also rejected the amendment requiring the elimination of the allowance of 3 dB for twin engines and multiple engine units. The Commission considers that the limits foreseen are thought to be technologically achievable for single engine boats and that it is impossible for twin and multiple engine units to be limited to the same level of noise.

### **3.3. New aspects introduced by the Council**

The Common Position introduces the following important innovations to the original Commission proposal:

- Article 1(1), sub-paragraph 2, lit.c): Exception for craft built for own use

An exception for noise emissions regarding craft built for own use and not put on the Community market simplifies issues and avoids high costs for individuals who should not face an unnecessary burden. The Commission can accept this change.

- Article 1(8), sub-paragraph 2: Definition of Boat Design Category D.

This sub-paragraph includes an amended definition of Boat Design Category D, as suggested by the Task Force which has been convened by the Commission. Following the proposed solution of the Task Force which has been submitted to the Council, the Commission can now agree on this change.

- Article 1(8), sub-paragraph 7: Provisions on fire fighting equipment

The harmonised provisions on fire fighting equipment have been strengthened and clarified in line with the objectives of the Commission proposal. The Commission can agree on this change.

- Article 1(8), sub-paragraph 10; point C 1.2.: Simplification of noise testing for SMEs

In order to ease the burden for SMEs, the reference boat procedure and the relevant noise tests have been complemented by the alternative of applying simple limit values. The Commission accepts this change as this could result in conformity assessment cost savings for small boat builders of low speed craft.

- Article 2: More detailed list of possible items to be included in the Commission's report

The subject of constantly improving EU legislation in order to further reduce emissions and increase environmental protection has been strengthened by inserting detailed points for consideration in the report to be presented by the Commission to the Council and to the European Parliament. The Commission can accept this list of items, as this could serve as a useful and comprehensive basis for possible future Commission proposals.

## **4. CONCLUSION**

The Commission delivers a favourable opinion on the Common Position and notes that the Council has reached unanimity on this dossier.

The Commission made two statements when the Council reached a political agreement on this proposal concerning conformity assessment procedures on the construction of personal watercraft in Article (8)(2)(d) and concerning a possible further stage of limit values in Article 2. These statements are also in line with its position at the European Parliament.

In addition, the Commission has a reservation on the text on the 3 dB allowance for twin and multiple engines in Annex I, part C, item 1.1. A statement by the Commission was attached to

the minutes of the Council to this respect. The reasons of the Commission's position are explained under point 3.2 above.

Furthermore, the Commission and the Council issued a joint declaration undertaking to find a solution concerning boat design category D before the final adoption of the proposed legislation. In response to this undertaking, the Commission can accept the solution adopted by the Council which is also in line with the substance of the EP amendment no 46.

## ANNEX

### Statements concerning recreational craft

#### Re ARTICLE 1

##### concerning Article 8 (2)(d)

"On the conformity assessment procedures concerning the construction of personal watercraft, the Commission will ensure that the modules applied will adequately cover all relevant essential requirements of the Directive."

##### concerning Article 8(4)(a)(iii)

"Based on the experience gained in applying other EC Directives, the Commission intends to invite the technical secretariat of the Group of Notified Bodies to be designated under the current proposal, to create and maintain the list of certified reference boats, under supervision of the Commission."

#### Re ARTICLE 2

"The Commission takes note of the request made to it under Article 2 in respect of which it reserves the right to reply in accordance with the rules laid down in the Treaty, and in particular its right of initiative."

"The Council and the Commission declare that they will undertake to find a solution concerning Boat Design Category D before the final adoption of the proposed Directive. To this extent the Commission has already organised a Recreational Craft Directive experts' group meeting to deal with this problem in the second half of November 2001.

If a solution is not found by the date of the final adoption of the proposed Directive, the Council will consider including in the current modification under Annex I, Boat Design Categories, Boat Design Category D, the following text:

"For Boat Design Category D, allowance shall be made for waves of passing vessels up to a maximum wave height of 0,5 m".

#### Re article 3(2)

"The Council stresses the importance of resolving the conflict between the recreational craft Directive 94/25/EC (and this amending Directive) and Annex VI of the IMO Marpol Convention as soon as possible. The Member States with the assistance of the Commission are urged to make the matter a priority so that all Member States are able to ratify Annex VI of Marpol, an important world-wide pollution prevention measure."

#### Re Annex I, part C, item 1.1

"As regards the 3dB allowance for the noise testing of engines, the Commission considers that its original proposal concerning the application of this allowance to all types of twin and multiple unit engines, addresses in a more appropriate way this issue".