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*****II**

RECOMMENDATION FOR SECOND READING

on the Council common position for adopting a European Parliament and Council directive establishing harmonised requirements and procedures for the safe loading and unloading of bulk carriers

(7193/1/2001 – C5-0292/2001 – 2000/0121(COD))

Committee on Regional Policy, Transport and Tourism

Rapporteur: Rijk van Dam

Symbols for procedures

- * Consultation procedure
majority of the votes cast
- **I Cooperation procedure (first reading)
majority of the votes cast
- **II Cooperation procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- *** Assent procedure
*majority of Parliament's component Members except in cases
covered by Articles 105, 107, 161 and 300 of the EC Treaty and
Article 7 of the EU Treaty*
- ***I Codecision procedure (first reading)
majority of the votes cast
- ***II Codecision procedure (second reading)
*majority of the votes cast, to approve the common position
majority of Parliament's component Members, to reject or amend
the common position*
- ***III Codecision procedure (third reading)
majority of the votes cast, to approve the joint text

(The type of procedure depends on the legal basis proposed by the Commission)

Amendments to a legislative text

In amendments by Parliament, amended text is highlighted in ***bold italics***. Highlighting in *normal italics* is an indication for the relevant departments showing parts of the legislative text for which a correction is proposed, to assist preparation of the final text (for instance, obvious errors or omissions in a given language version). These suggested corrections are subject to the agreement of the departments concerned.

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PROCEDURAL PAGE

At the sitting of 13 February 2001 Parliament adopted its position at first reading on the proposal for a European Parliament and Council directive establishing harmonised requirements and procedures for the safe loading and unloading of bulk carriers (COM(2000) 179 - 2000/0121 (COD)).

At the sitting of 5 July 2001 the President of Parliament announced that the common position had been received and referred to the Committee on Regional Policy, Transport and Tourism (7193/1/2001 - C5-0292/2001).

The committee had appointed Rijk van Dam rapporteur at its meeting of 11 July 2000.

It considered the common position and draft recommendation for second reading at its meetings of 10 July 2001, 10 September 2001 and 10 October 2001.

At the last meeting it adopted the draft legislative resolution by 44 votes with 1 abstention.

The following were present for the vote: Konstantinos Hatzidakis, chairman; Rijk van Dam, vice-chairman and rapporteur; Helmuth Markov and Emmanouil Mastorakis, vice-chairmen; Pedro Aparicio Sánchez (for Carmen Cerdeira Morterero), Emmanouil Bakopoulos, Rolf Berend, Theodorus J.J. Bouwman, Giuseppe Brienza (for Sir Robert Atkins, pursuant to Rule 153(2)), Felipe Camisón Asensio, Massimo Carraro (for Rosa Miguélez Ramos, pursuant to Rule 153(2)), Luigi Cocilovo (for Luigi Cesaro), Gerard Collins, Paolo Costa, Francis Decourrière, Garrelt Duin, Giovanni Claudio Fava, Francesco Fiori (for Mathieu J.H. Grosch, pursuant to Rule 153(2)), Ewa Hedkvist Petersen, Mary Honeyball, Juan de Dios Izquierdo Collado, Georg Jarzembowski, Dieter-Lebrecht Koch, Sérgio Marques, Erik Meijer, Francesco Musotto, Josu Ortuondo Larrea, Karla M.H. Peijs, Wilhelm Ernst Piecyk, Samuli Pohjamo, Alonso José Puerta, Reinhard Rack, Carlos Ripoll i Martínez Bedoya, Isidoro Sánchez García, Gilles Savary, Ingo Schmitt, Brian Simpson, Renate Sommer, Dirk Sterckx, Ulrich Stockmann, Margie Sudre, Demetrio Volcic, Mark Francis Watts, Theresa Zabell (for Juan Ojeda Sanz, pursuant to Rule 153(2)) and Sabine Zissener (for Giorgio Lisi, pursuant to Rule 153(2)).

The recommendation for second reading was tabled on 10 October 2001.

The deadline for tabling amendments will be indicated in the draft agenda for the relevant part-session.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the Council common position for adopting a European Parliament and Council directive establishing harmonised requirements and procedures for the safe loading and unloading of bulk carriers (7193/1/2001 – C5-0292/2001 – 2000/0121(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (7193/1/2001 – C5-0292/2001),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2000) 179²),
 - having regard to the Commission's amended proposal (COM(2001) 158³),
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 78 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Regional Policy, Transport and Tourism (A5-0326/2001),
1. Approves the common position;
 2. Notes that the act is adopted in accordance with the common position;
 3. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
 4. Instructs its Secretary-General duly to sign the act and, in agreement with the Secretary-General of the Council, to have it published in the Official Journal of the European Communities;
 5. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 276, 1.10.2001, p. 41.

² OJ C 311, 31.10.2000, p. 240.

³ OJ C 180, 26.06.2001, p. 273.

EXPLANATORY STATEMENT

The Commission proposal for a Directive (COM(2000)179) on the safe loading and unloading of bulk carriers was prompted by the worrying statistics on the number of accidents involving bulk carriers and the resulting number of fatalities. A detailed consideration of the seriousness and extent of these accidents may be found in Parliament's report at first reading (PE 300.202).

The Commission proposal essentially comprised two elements. The first was the transposition of the Bulk Loading and Unloading (BLU) Code – which has now been agreed within the IMO on a voluntary basis but is only sporadically applied – into EU law. This code provides for procedures at the interface between ship and shore. The second is a proposal that terminals which regularly load and unload bulk carriers – should be required to establish a quality control system, in order to promote the harmonisation of procedures for the safe loading and unloading – and thus the safety level – of bulk carriers in EU terminals.

Parliament was able to approve the objectives and broad lines of the proposal but tabled 14 amendments at its plenary sitting of 13 February 2001. The main amendments related to two topics: first, the requirement for the competent authorities to intervene in the loading and unloading process as soon as they are aware that a dangerous situation for ship or crew has arisen, and secondly, the improvement of information flows between the operators involved. In its common position, the Council has taken over 11 of the 14 amendments (nos. 1 to 3, 5 to 7, 9 to 12 and 14) almost in their entirety but at any rate in spirit. Three of the amendments (nos. 4, 8 and 13) it did not take up at all.

The Council has also added a number of elements to the original text and made a large number of editorial changes.

Your rapporteur wishes to assess briefly the main points of this Council text.

Scope

The common position states that the Directive covers all bulk carriers and all terminals within the EU, except for terminals at which bulk carriers are only occasionally loaded and unloaded and which load and unload bulk carriers with their own equipment. In addition, Article 4 continues the checking of ships' suitability by the terminal operators to operational matters. Terminal operators are also only required to keep information books on their own activities (Article 5(3)). In terms of keeping the means proportionate to the ends, these restrictions are logical and acceptable.

Quality management system

The Council has made a number of changes to the original provisions regarding the quality management system which is required to be set up (Articles 5 and 6). It should be possible for new terminals to receive a temporary operational permit, since certification procedures can only be based on practice: the objective is to compare the *operational* system with the agreed standards. Existing terminals are given a 3-year transitional period to develop a quality management system and a further year to obtain the necessary certification. A new provision states that systems which are (at least) equivalent to ISO 9001:2000 may be applied. Your rapporteur is well-disposed towards this addition, on the one hand because it does not impose

impossible demands on new terminals, and on the other because these provisions mean that terminals which are already using an adequate quality system (other than one set up in accordance with ISO 9001:2001) do not have to make the costly changeover to a system of the same quality.

Reporting and notification

Parliament tabled a number of amendments seeking to complement the information flows between the various operators – including the master and classification societies – in order to enhance the safety of ship and crew both within and outside the terminal. There were also amendments calling on the Commission to carry out an evaluation of the various elements of the Directive and of the Directive as a whole. Almost all the amendments in this area (nos. 2, 5, 6, 9, 10 and 11) have been taken over by the Council in its common position. The Council has also made a number of amendments to various procedures (Articles 13 to 16) to which your rapporteur has no objection.

There are just three points to which your rapporteur would like to draw attention.

Firstly, *recital 13*, which fails to state to whom the deficiencies should be notified.

Secondly, *Article 10(1)*, which does not provide that information on *all* damage to the structure or equipment of a ship must be forwarded to the relevant classification society. The provisions of paragraph 2 do guarantee that this will in fact happen for practically any damage which affects the seaworthiness of the ship; however, inspection and verification duties which fall to the flag state are often passed on to classification societies.

Thirdly, when immediate repairs are carried out, not only the approval of the master but also of the competent authorities should be required (*Article 10(2)*) before the ship leaves port. This provision is a departure from the BLU code and also imposes on the competent authority (if this is not the PSC authority) duties for which it is not the authority initially approached. Nevertheless, the acceptance of a duty of approval by a competent authority provides an extra guarantee for verification of a ship's seaworthiness. It also means that the various problems relating to the organisation and completion of inspection duties in the Member States have been recognised and overcome.

Other matters

Finally, the Council has made a number of small changes to the Annexes, removing a few superfluous provisions and inserting a few extra safety guarantees.

Procedure

Your rapporteur considers that the potential gain in terms of clarity does not outweigh the implementation time which would be lost if further amendments were to be tabled to this text. He therefore proposes that it be adopted without further amendment.