

EUROPEAN PARLIAMENT

1999



2004

Session document

FINAL
A5-0043/2000

29 February 2000

*****II**

RECOMMENDATION FOR SECOND READING

on the common position established by the Council with a view to the adoption of a European Parliament and Council directive on port reception facilities for ship-generated waste and cargo residues
(11195/1/1999 – C5-0251/1999 – 1998/0249(COD))

Committee on Regional Policy, Transport and Tourism

Rapporteur: Theo Bouwman

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 to give assent
majority of the votes cast 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)

Abbreviations for committees

- I. AFET Committee on Foreign Affairs, Human Rights, Common Security and Defence Policy
- II. BUDG Committee on Budgets
- III. CONT Committee on Budgetary Control
- IV. LIBE Committee on Citizens' Freedoms and Rights, Justice and Home Affairs
- V. ECON Committee on Economic and Monetary Affairs
- VI. JURI Committee on Legal Affairs and the Internal Market
- VII. INDU Committee on Industry, External Trade, Research and Energy
- VIII. EMPL Committee on Employment and Social Affairs
- IX. ENVI Committee on the Environment, Public Health and Consumer Policy
- X. AGRI Committee on Agriculture and Rural Development
- XI. PECH Committee on Fisheries
- XII. REGI Committee on Regional Policy, Transport and Tourism
- XIII. CULT Committee on Culture, Youth, Education, the Media and Sport
- XIV. DEVE Committee on Development and Cooperation
- XV. AFCO Committee on Constitutional Affairs
- XVI. FEMM Committee on Women's Rights and Equal Opportunities
- XVII. PETI Committee on Petitions

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PROCEDURAL PAGE

At its sitting of 16 September 1999 the European Parliament confirmed as first reading under the codecision procedure its text adopted on 11 February 1999 on the proposal for a Council Directive on port reception facilities for ship-generated waste and cargo residues (COM(1998) 452 - C4-0484/1998 - 1998/0249(COD) - formerly 1998/0249(SYN)).

At the sitting of 19 November 1999 the President of Parliament announced that the common position had been received and referred to the Committee on Regional Policy, Transport and Tourism (11195/1/1999 - C5-0251/1999).

The committee had appointed Theo Bouwman rapporteur at its meeting of 13 October 1999.

It considered the common position and the draft recommendation for second reading at its meetings of 14 December 1999, 25 January 2000, 21 and 22 February 2000.

At the last meeting it adopted the draft decision by 21 votes to 10, with 9 abstentions.

The following were present for the vote: Konstantinos Hatzidakis , chairman; Rijk van Dam, Helmuth Markov, and Emmanouil Mastorakis , vice-chairmen; Theodorus J.J. Bouwman , rapporteur; Sir Robert Atkins, Emmanouil Bakopoulos, Rolf Berend, Philip Charles Bradbourn, Martin Callanan, Luigi Cesaro, Luigi Cocilovo (for Francis F.M. Decourrière), Gerard Collins, Alain Esclopé, Jacqueline Foster (for Raffaele Fitto), Mathieu J.H. Grosch, Ewa Hedkvist Petersen, Juan de Dios Izquierdo Collado, Georg Jarzembowski, Elisabeth Jeggle (for Francesco Musotto), Anna Karamanou (for Danielle Darras), Dieter-Lebrecht Koch, Caroline Lucas (for Reinhold Messner), Arlene McCarthy, Erik Meijer, Camilo Nogueira Román, Juan Ojeda Sanz, Josu Ortuondo Larrea, Wilhelm Ernst Piecyk, Samuli Pohjamo, Alonso José Puerta, Reinhard Rack, Carlos Ripoll i Martínez Bedoya, Guido Sacconi (for Demetrio Volcic), Isidoro Sánchez García, Marieke Sanders-ten Holte (for Elspeth Attwooll), Ingo Schmitt, Brian Simpson, Dirk Sterckx, Ulrich Stockmann, Joaquim Vairinhos and Mark Francis Watts.

The recommendation for second reading was tabled on 29 February 2000.

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

DRAFT LEGISLATIVE RESOLUTION

Legislative resolution of the European Parliament on the Council common position for adopting a European Parliament and Council directive on port reception facilities for ship-generated waste and cargo residues (11195/1/1999 – C5-0251/1999 – 1998/0249(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position 11195/1/1999 – C5-0251/1999),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(1998) 452²),
 - having regard to the Commission's amended proposal(COM(1999) 149³,
 - having regard to Article 251(2) of the EC Treaty,
 - having regard to Rule 80 of its Rules of Procedure,
 - having regard to the recommendation for second reading of the Committee on Regional Policy, Transport and Tourism (A5-0043/2000),
1. Amends the common position as follows;
 2. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 150, 28.5.1999, p. 283 and Minutes of 16.9.1999, Part II, Item 6

² OJ C 271, 31.8.1998, p. 78

³ OJ C 148, 28.5.1999, p. 7

(Amendment 1)

Recital 12

The effectiveness of port reception facilities can be improved by requiring ships to notify their need to use reception facilities; such notification would also provide information for effectively planned waste management; waste from fishing vessels and recreational craft may be handled by the port reception facilities without prior notification;

The effectiveness of port reception facilities can be improved by requiring ships to notify their need to use reception facilities; such notification would also provide information for effectively planned waste management; waste from fishing vessels and recreational craft certified to carry fewer than 12 people may be handled by the port reception facilities without prior notification;

Justification

This restrictive criterion should be spelled out in accordance with the SOLAS definition of passenger vessels.

(Amendment 2)

Recital 14a (new)

"vessels producing reduced quantities of ship-generated waste should be treated more favourably in the cost recovery systems; common criteria would facilitate the identification of such vessels."

(Amendment 3)

Article 3a(new)

"Member States shall take measures to ensure that ships which are exempted from the scope of this Directive under paragraph 1(a) shall deliver their ship-generated waste and cargo residues in a manner consistent, in so far as is reasonable and practicable, with this Directive"

Justification

It should be made clear that exemptions from the requirements imposed do not lead to maritime pollution.

(Amendment 4)

Article 6(1), introduction

1. The master of a ship, other than a fishing vessel or recreational craft, bound for a port located in the Community shall complete truly and accurately the form in Annex II and notify that information to the authority or body designated for this purpose by the Member State in which that port is located:

The master of a ship, other than a fishing vessel or recreational craft certified to carry fewer than 12 people, bound for a port located in the Community shall complete truly and accurately the form in Annex II and notify that information to the authority or body designated for this purpose by the Member State in which that port is located:

Justification

This restrictive criterion should be spelled out in accordance with the SOLAS definition of passenger vessels.

(Amendment 5)

Article 7(3)(a) (new)

Member States may draw up a list of traditional sailing ships (recreational craft) which may be excluded from the delivery of black and grey water (sewage) on cultural-historical and technical grounds (no possibility of installing technical facilities without damaging the cultural-historical status of the ship).

Justification

This will improve the enforcement of the Directive.

(Amendment 6)

Article 8(2)(a)

(a) all ships calling at a port of a Member State shall contribute to the costs referred to in paragraph 1, irrespective of actual use of the facilities. Arrangements to this effect may include incorporation of the fee in the port dues or a separate standard waste fee. The fees may be differentiated with respect to, inter alia, the category, type and size of the ship;

(a) all ships calling at a port of a Member State shall contribute significantly, i.e. at least 90% of the costs referred to in paragraph 1, irrespective of actual use of the facilities. Arrangements to this effect may include incorporation of the fee in the port dues or a separate standard waste fee. The fees may be differentiated with respect to, inter alia, the category, type and size of the ship;

Justification

The compromise reached in Council, whereby the cost of the facilities is covered either in accordance with a 'no-special-fee' system or with the requirement of a variety of solutions is deemed to be counterproductive. A direct-fee system covering 90% of the cost would correspond better to the Directive's requirements and to the need to ensure fair competition between ports. The solution adopted by Parliament at first reading, which is already being successfully implemented in a similar form in Baltic Sea ports on a voluntary basis under the HELCOM Agreement, requires no framework conditions which might distort competition.

The economic incentive for the discharging of waste at sea, which arises as a result of the 'polluter-pays' principle, would disappear as soon as a 'no-special-fee' was introduced. If, on the other hand, every vessel using the port collection facilities had to fund that as well, a large number of vessels would continue to avoid their share of the funding. Discharging waste at sea is cheaper. A 'no-special-fee' covering 90% of the cost would result in the amount involved being fairly distributed.

(Amendment 7)

Article 8 (3a) (new)

3a. The variety of cost recovery systems provided for in paragraph 2 should not have an adverse effect on the marine environment, waste flow patterns, or competition between ports. In this case, the Commission will submit a proposal to amend this Directive.

Justification

The first reading amendment was included in the statement in the minutes by the Council.

For reasons of legal clarity and uniformity of the text, Parliament should insist on its inclusion.

(Amendment 8)

Article 11(2), introduction

2. For inspections concerning ships other than fishing vessels and recreational craft:

2. For inspections concerning ships other than fishing vessels and recreational craft_ certified to carry fewer than 12 people:

Justification

This restrictive criterion should be spelled out in accordance with the SOLAS definition of passenger vessels.

(Amendment 9)

Article 11(2)(b)

(b) such inspection may be undertaken within the framework of Directive 95/21/EC, when applicable;

(b) such inspection shall be undertaken within the framework of Directive 95/21/EC, when applicable, and the 25% inspection requirement set out in the Directive shall apply;

Justification

Although the inspection ratio of 25% must be laid down, it should be geared to the categories of vessels set out in the Port State Control Directive. With regard to quantity requirements, it should not cover, for example, small recreational craft.

(Amendment 10)

Article 11(3)

3. Member States shall establish control procedures, to the extent required, for fishing vessels and recreational craft to ensure compliance with the applicable requirements of this Directive.

3. Member States shall establish control procedures, to the extent required, for fishing vessels and recreational craft certified to carry fewer than 12 people to ensure compliance with the applicable requirements of this Directive.

Justification

This restrictive criterion should be spelled out in accordance with the SOLAS definition of passenger vessels.

(Amendment 11)

Article 12 (1g)

(g) ensure that ships are not unduly delayed due to inadequacy of waste reception facilities or of waste management in ports; in such cases, adequate compensation must be given to ships.

Justification

It seems essential that ports should provide adequate services if the whole system is to be applicable. Consequently, any lack in this sector should be born by the ports and not the ships.

(Amendment 12)

Article 12(3)

Member States and the Commission shall cooperate to establish an appropriate information system to facilitate the identification of ships which have not delivered their ship-generated waste and

Member States and the Commission together with the ports, shall cooperate to establish an appropriate at least EU-wide information and monitoring system to:

cargo residues in accordance with this Directive.

- Monitor ships allowed pursuant to Article 9(1) to dispose of waste and cargo residues at a subsequent port of call.
- Improve the identification of ships which have not delivered their ship-generated waste and cargo residues in accordance with this Directive, and
- To ascertain whether the goals set in Article 1 of the Directive have been met.
- For the latter, the Commission should use the data provided by the system in place for its report according to Article 17.

Justification

The introduction of 1st reading in this contents does not constitute simple details to be worked out by the experts; the role of the legislator should be clear in order to ensure a harmonised implementation of the proposed rules

(Amendment 13)

Article 12.4 (new)

"The Member States and the Commission shall cooperate in establishing common criteria for identifying ships referred to in Article 8.2(c)"

(Amendment 14)

Article 14(1)

1. The Commission shall be assisted by the Committee set up pursuant to Article 12(1) of Directive 93/75/EEC.

1. The Commission shall be assisted by the regulatory committee referred to in Article 5 of Council Decision 1999/468/EC, having regard to Article 7 thereof and without prejudice to Article 8 thereof.

The period provided for in Article 5(6) of the Decision 1999/468/EC shall be three

months.

The committee shall adopt its own rules of procedure.

(Amendment 15)

Article 16(1), first subparagraph

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before [.....]* and forthwith inform the Commission thereof.

24 months following the date of entry into force of this Directive

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive before [.....]* and forthwith inform the Commission thereof.

18 months following the date of entry into force of this Directive

Justification

This Directive should be transposed not 24 months following its entry into force but at the latest 18 months thereafter, as the Commission provided for originally.

EXPLANATORY STATEMENT

1. Although all EU Member States are signatories to the international agreement on prevention of pollution from ships (MARPOL Convention) and the countries on the Baltic Sea have signed the Helsinki Convention on the same subject, substantial quantities of waste including oil are still dumped at sea, causing serious pollution in the coastlines.

It is evident that the problem is not the absence of rules but their implementation and enforcement.

2. The Commission's proposed Directive aims at addressing this problem by improving the availability of reception facilities for ship-generated waste and cargo residues, in order to prevent pollution and protect the maritime environment.
3. In its first reading⁴ European Parliament welcomed this proposal and submitted 18 amendments aiming at a more stringent implementation and better protection of the sea from polluting vessels.
4. In its modified proposal, the Commission accepted a substantial number of these amendments, as did also the Council in its common position (11 out of 18 amendments were accepted, in one form or another).
5. Although the main objectives seem to be adequately provided for in the proposed Directive, such as the obligation of ports to set up waste reception facilities and handling plans as well as the obligation of ships to notify their waste reception requirements in advance and to deliver all their ship-generated waste, a number of issues are still open, such as the need to avoid distortion of competition between ports, the issue of cost, the exact nature of spot checks and others.
6. Your rapporteur proposes, therefore, a number of amendments on the text of the common position, accompanied by the explanations pertaining to each, which aim at fulfilling the requirements set by Parliament in the first reading while taking into account the improvements for the marine environment as proposed in Council's common position.

⁴ OJ C 150, of 28 May 1999, p. 283-436.