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*****III REPORT**

on the joint text approved by the Conciliation Committee for a European Parliament and Council directive amending Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)
(PE-CONS 3657/2001 - C5-0525/2001 – 2000/0065(COD))

European Parliament delegation to the Conciliation Committee

Rapporteur: Mark Francis Watts

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 30 November 2000 Parliament adopted its position at first reading on a European Parliament and Council directive amending Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) (COM(2000) 142 - 2000/0065 (COD)).

At the sitting of 28 February 2001 the President of Parliament announced that the common position had been received and referred to the Committee on Regional Policy, Transport and Tourism (5179/1/2001 - C5-0074/2001).

At the sitting of 16 May 2001 Parliament adopted amendments to the common position.

By letter of 20 August 2001 the Council stated that it was unable to approve all Parliament's amendments.

The President of the Council, in agreement with the President of Parliament, convened a meeting of the Conciliation Committee on 18 September 2001.

At the meeting the Conciliation Committee considered the common position on the basis of the amendments proposed by Parliament.

By letter of 24 October 2001 the President of the Council informed the Parliament that it was necessary to extend the deadline for adopting the act, as laid down in Article 251(7) of the EC Treaty.

In the light of subsequent dialogues and delegation meetings agreement was reached by exchange of letters of 19 October 2001 and 24 October 2001.

On 24 October 2001 Parliament's delegation to the Conciliation Committee adopted unanimously, the results of the conciliation.

The following took part in the vote: James L.C. Provan, Vice-President and chairman of the delegation, Konstantinos Hatzidakis, chairman of the Committee on Regional Policy, Transport and Tourism; Mark Francis Watts, rapporteur; Sir Robert Atkins (for Georg Jarzembowski), Emmanouil Bakopoulos, Theodorus J.J. Bouwman (for Josu Ortuondo Larrea), Giovanni Claudio Fava (for Renzo Imbeni), Carmen Fraga Estévez (for Ingo Friedrich), Brigitte Langenhagen and Emmanouil Mastorakis.

On 13 November 2001 the co-chairmen of the Conciliation Committee established that the joint text had been approved, pursuant to paragraph III.8 of the Joint declaration on practical arrangements for the new co-decision procedure,¹ and forwarded it to Parliament and the Council in all the official languages.

The report was tabled on 30 November 2001.

¹ OJ C 148, 28.5.1999, p. 1.

DRAFT LEGISLATIVE RESOLUTION

European Parliament legislative resolution on the joint text approved by the Conciliation Committee for a European Parliament and Council directive amending Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) (PE-CONS 3657/2001 - C5-0525/2001 – 2000/0065(COD))

(Codecision procedure: third reading)

The European Parliament,

- having regard to the joint text approved by the Conciliation Committee (PE-CONS 3657/2001 - C5-0525/2001),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2000) 142²),
 - having regard to the amended proposal (COM(2000) 850³),)
 - having regard to its position at second reading⁴ on the Council common position⁵,
 - having regard to the Commission's opinion on Parliament's amendments to the common position (COM(2001) 339 - C5-0264/2001⁶),
 - having regard to Article 251(5) of the EC Treaty,
 - having regard to Rule 83 of its Rules of Procedure,
 - having regard to the report of its delegation to the Conciliation Committee (A5-0440/2001),
1. Approves the joint text;
 2. Instructs its President to sign the act with the President of the Council pursuant to Article 254(1) of the EC Treaty;
 3. 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;
 4. Instructs its President to forward this legislative resolution to the Council and Commission.

¹ OJ C 228, 13.8.2001, p. 133.

² OJ C 212, 25.7.2000, p. 102.

³ OJ C 154, 29.4.2001, p. 67.

⁴ Texts Adopted, 16.5.2001.

⁵ OJ C 101, 30. 3.2001, p. 15.

⁶ OJ C not yet published.

EXPLANATORY STATEMENT

Introduction

Following the sinking of the oil tanker, Erika, on 12 December 1999, the Commission responded quickly to the calls from the Parliament and the Council to tighten significantly the rules governing safety at sea at Community level. It submitted three proposals (known as the "Erika I package"): the present one, the proposal with regard to classification societies (rapporteur Mr ORTUONDO) which has followed the same legislative procedure and, finally, the proposal banning single-hull oil tankers (rapporteur: Mr HATZIDAKIS) which will be discussed and voted at the same plenary session. Further action to provide long-term protection of European waters against the risk of accidents and pollution of the seas is also under consideration ("Erika II package").

As far as this report is concerned, Council directive 95/21/EC establishes a system of port State control of shipping in the European Community based on uniform inspection and detention procedures. It takes account of the changes made to the International Maritime Organisation (IMO) conventions and to the Paris Memorandum of Understanding (MOU) on port State control.

Structural defects in a ship are likely to increase the risk of an accident at sea. In the case of a ship carrying a bulk cargo of oil, such accidents can have disastrous consequences for the environment. Indeed, some ships pose a manifest risk to maritime safety and the marine environment because of their poor condition, flag and history, among which in particular, ships flying the flag of a State described as "very high risk" or "high risk" in the black list published in the MOU.

They should therefore be refused access to Community ports, unless it can be demonstrated that they can be operated safely in Community waters. Guidelines must be established setting out the procedures applicable in the event of the imposition of such an access ban and of the lifting of the ban. In the interests of transparency, the list of ships refused access to Community ports should be made public.

In addition, ships with a high target factor (for example, oil tankers) present a particularly serious accident or pollution risk, justifying the need to inspect them frequently at Community ports of call. Those ships are currently not inspected with sufficient rigour when they call at European ports. Member States should be entitled to organise the mandatory inspections efficiently so as to achieve the highest value added from a strengthened inspection regime.

First and second reading

The subject was addressed in the Mark WATTS (PES, UK) report, adopted at first reading on 30 November 2000 and containing 8 amendments. The Parliament broadly endorsed the aims of the proposal but:

- felt that it should be firmer on banning certain vessels (black listed flags),
- argued that ships should be fitted with VDRs for the purpose of providing information for use in an accident investigation, since essential technological progress has been made in the field of on-board equipment, which enables voyage data to be recorded (voyage data recorder - VDR system or "black boxes") in order to facilitate post-accident

- investigations, Parliament also
- tabled other amendments related to the number of specialist inspectors and extra costs liability.

The Council adopted its common position on 26 February 2001. It reflected the concern for flexibility voiced by Member States with the prospect of an increased workload, but at the same time it showed their commitment to stepping up port State controls in the European Union, in particular regarding expanded inspections and the procedure for refusing access to Community ports.

At second reading (16 May 2001) Parliament adopted 2 amendments concerning the VDRs and the need to give immediate legislative effect to Council's political commitment in this area, as well as the review of the implementation of the Directive.

The directive in conciliation

The Council decided it could not accept all Parliament's amendments and the EP delegation was constituted by written procedure on 28 June 2001.

The amendment relating to the revision of the implementation of the directive no later than 36 months after its entry into force, was accepted by the Council with minor re-drafting.

The amendment seeking to introduce the obligation to refuse access to Community ports for ships not complying with with VDR requirements, was rejected. It was argued that it represented a distortion of the scope of the directive, which was intended to verify whether the ship complied with the international requirements and not to impose indirectly additional equipment requirements.

Two dialogues (11 September and 18 October) and two delegation meetings (4 October and 24 October) took place. The conciliation procedure was opened on 18 September 2001 without debate at the Money Laundering conciliation committee meeting.

The European Parliament delegation succeeded in having "black boxes" made compulsory under the present directive:

- the ship shall be detained, if not equipped with a functioning VDR system, when its use is compulsory in accordance with the timetable detailed in Annex XII. If the deficiency cannot be readily rectified in the port of detention, the competent authority may allow the ship to proceed to the nearest appropriate port where it shall be readily rectified or require that the deficiency is rectified within a maximum period of 30 days;
- timetable: passenger ships built on or after 1 July 2002; ships other than passenger ships, of 3000 gross tonnage and upwards, built on or after 1 July 2002; from 2007/2008 onwards on old cargo ships.

The delegation approved the overall compromise package submitted by the Council on 24 October. The joint text was approved by letter signed on 13 November 2001.

Conclusions

The delegation regards the end result of conciliation as very satisfactory for Parliament, as the joint text has incorporated its amendments, either in full or in a reworked form. It therefore proposes that the House adopt the text at third reading.