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*****II**

RECOMMENDATION FOR SECOND READING

on the Council common position for adopting a European Parliament and Council regulation on establishing a European Maritime Safety Agency (15121/1/2001 – C5-0115/2002 – 2000/0327(COD))

Committee on Regional Policy, Transport and Tourism

Rapporteur: Emmanouil Mastorakis

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 14 June 2001 Parliament adopted its position at first reading on the proposal for a European Parliament and Council regulation on establishing a European Maritime Safety Agency (COM(2000) 802 - 2000/0327 (COD)).

At the sitting of 13 March 2002 the President of Parliament announced that the common position had been received and referred to the Committee on Regional Policy, Transport and Tourism (15121/1/2001 - C5-0115/2002).

The committee had appointed Emmanouil Mastorakis rapporteur at its meeting of 24 January 2001.

It considered the common position and draft recommendation for second reading at its meetings of 17 April and 22 May 2002.

At the latter it adopted the draft legislative resolution by 41 votes, with 1 abstention.

The following were present for the vote: Luciano Caveri, chairman; Rijk van Dam, Gilles Savary and Helmuth Markov, vice-chairmen; Emmanouil Mastorakis, rapporteur; Emmanouil Bakopoulos, Rolf Berend, Philip Charles Bradbourn, Felipe Camisón Asensio, Luigi Cocilovo, Danielle Darras, Giovanni Claudio Fava, Markus Ferber (for Dieter-Lebrecht Koch), Fernando Fernández Martín (for Carlos Ripoll i Martínez Bedoya, pursuant to Rule 153(2)), Jacqueline Foster, Jean-Claude Fruteau (for Michel J.M. Dary), Juan de Dios Izquierdo Collado, Mathieu J.H. Grosch, Konstantinos Hatzidakis, Ewa Hedkvist Petersen, Georg Jarzembowski, Giorgio Lisi, Sérgio Marques, Erik Meijer, Francesco Musotto, Camilo Nogueira Román, Josu Ortuondo Larrea, Marit Paulsen (for Dirk Sterckx), Karla M.H. Peijs, Alonso José Puerta, Reinhard Rack, Isidoro Sánchez García, Dana Rosemary Scallon, Ingo Schmitt, Brian Simpson, Renate Sommer, Margie Sudre, Maurizio Turco (for Bruno Gollnisch), Joaquim Vairinhos, Herman Vermeer, Ari Vatanen and Mark Francis Watts.

The recommendation for second reading was tabled on 24 May 2002.

The deadline for tabling amendments to the common position 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 regulation on establishing a European Maritime Safety Agency (15121/1/2001 – C5-0115/2002 – 2000/0327(COD))

(Codecision procedure: second reading)

The European Parliament,

- having regard to the Council common position (15121/1/2001 – C5-0115/2002),
 - having regard to its position at first reading¹ on the Commission proposal to Parliament and the Council (COM(2000) 802²),
 - having regard to the amended Commission proposal (COM(2001) 676³),
 - 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 (A5-0187/2002),
1. Amends the common position as follows;
 2. Instructs its President to forward its position to the Council and Commission.

¹ OJ C 53E, 28.2.2002, p. 316.

² OJ C 120E, 24.4.2001, p. 83.

³ OJ C 103E, 30.4.2002, p. 184.

Amendment 1

This amendment does not concern the English version

Amendment 2

Article 10, paragraph 2(d), second subparagraph

This work programme shall be adopted without prejudice to the annual Community budgetary procedure. In case the Commission expresses, within 15 days from the date of adoption of the work programme its disagreement with the said programme, the Administrative Board shall re-examine the programme and adopt it, possibly amended, in second reading either with a two-third majority, including the Commission representatives, or by unanimity of the representatives of the Member States;

This work programme shall be adopted without prejudice to the annual Community budgetary procedure. In case the Commission expresses, within 15 days from the date of adoption of the work programme its disagreement with the said programme, the Administrative Board shall re-examine the programme and adopt it, possibly amended, ***within a period of two months***, in second reading either with a two-third majority, including the Commission representatives, or by unanimity of the representatives of the Member States;

Justification

In order to avoid a situation in which the Agency remains without a work programme for a long period of time owing to the inability of members of the Administrative Board to achieve the necessary majority, a two-month time limit is hereby imposed within which the Administrative Board must approve the amended work programme.

Amendment 3

This amendment does not concern the English version

Amendment 4
Article 13, paragraph 4

4. ***Upon proposal of the Chairperson***, when there is a matter of confidentiality or conflict of interest, the Administrative Board may decide to examine specific items of its agenda without the presence of the members nominated in their capacity as professionals from the sectors most concerned. Detailed rules for the application of this provision may be laid down in the rules of procedure.

4. When there is a matter of confidentiality or conflict of interest, the Administrative Board may decide to examine specific items of its agenda without the presence of the members nominated in their capacity as professionals from the sectors most concerned. Detailed rules for the application of this provision may be laid down in the rules of procedure.

Justification

It is not appropriate that the Chairperson of the Administrative Board alone should be able to raise matters of confidentiality. The other members must also be able to do so.

Amendment 5
Article 15, paragraph 1

1. The Agency shall be managed by its Executive Director, who shall be completely independent in the performance of his/her duties. ***Without*** prejudice to the respective competencies of the Commission and the Administrative Board, ***the Executive Director shall neither seek nor take instructions from any government nor from any other body.***

1. The Agency shall be managed by its Executive Director, who shall be completely independent in the performance of his/her duties, ***without*** prejudice to the respective competencies of the Commission and the Administrative Board.

Justification

The objective of the amendment is to avoid superfluous repetition. It is enough simply to refer to the complete independence of the Executive Director.

EXPLANATORY STATEMENT

A. INTRODUCTION

The proposal for a regulation on the establishment of a European Maritime Safety Agency forms part of the second raft of measures proposed by the Commission in the wake of the Erika tanker disaster. Apart from proposing the establishment of this Agency, these measures provide for the establishment of a European information system for maritime traffic and a European compensation fund for oil spills. The Commission intends by these measures to effectively protect European shipping from the risks of accidents and the seas from pollution.

This new Agency will provide the Member States and the Commission with the necessary technical and scientific support in order to effectively implement Community legislation in the field of maritime safety and to prevent pollution from ships, and will also monitor the implementation of legislation and evaluate the results of the measures in force.

B. PARLIAMENT'S AMENDMENTS

In completing the first reading in June 2001, Parliament adopted 17 amendments. These seek essentially to reinforce the Agency's independence vis-à-vis the Commission, to strengthen the powers of its Administrative Board, to allow Member States to ask the Agency for technical assistance in certain cases and to include a provision on combating fraud. Parliament also included tackling pollution from vessels in the Agency's general objective and changed its name accordingly. As regards the composition of the Administrative Board, Parliament rejected the involvement of EP representatives in this Agency, taking the view that experience in maritime safety should be the criterion for the appointment of members. Finally, it demanded that the evaluation report on the Agency's activities be carried out by external experts.

C. COMMON POSITION OF THE COUNCIL

1. Position on Parliament's amendments

(a) *Parliament's amendments incorporated in the common position*

The Council accepted the following European Parliament amendments which provide for:

- the insertion of a new recital concerning transparency and control over the management of the Community funding allocated to the Agency (Parliament's Amendment 1, contained in Recital 12);
- the power of the Agency to assist States applying for accession without the specific request of the Commission (Parliament's Amendment 4, contained in Article 2(g));

- the obligation of the Agency to forward the findings of its visits to the Member States not only to the Commission but also to the Member State concerned (Parliament's Amendment 7, contained in Article 3(3));
- the consultative role of the Commission in the adoption by the Administrative Board of the Agency's work programme. As regards Parliament's consent, the Council adopted the view that the administrative board would act 'taking the opinion of the Commission into account' (Parliament's Amendment 8, contained in Article 10, paragraph 2(d));
- the obligation to appoint members of the Administrative Board on the basis of their degree of relevant experience and expertise within the remit of the Agency (Amendment 22, contained in Article 11(1));
- the obligation of the Executive Director to respond to any requests for assistance from a Member State (Parliament's Amendment No 11, contained in Article 152(a));
- the power of the Administrative Board to appoint or dismiss the Executive Director. The Commission is entitled to propose one or more candidates (Parliament's Amendment 14, as contained in Article 16(1));
- A specific article on combating fraud (Amendment 20(a) contained in Article 20).

(b) *Parliament amendments partially incorporated in the common position:*

- the provision concerning the composition of the Agency's Administrative Board on which Parliament decided not to be represented (Parliament's Amendment 9 which was taken into account in the amended Article 11). Bearing in mind the above change and the enhanced role which the Agency will play vis-à-vis the Member States, Article 11 was amended so as to provide that the Administrative Board will consist of: one representative from each Member State, four Commission representatives and four professionals appointed by the Commission;
- the provision referring to the procedure for drawing up the work programme. The Council specified that the Executive Director would submit the work programme to the administrative board after consulting the Commission. This amendment in Article 15, paragraph 2(a), is close to the spirit of Parliament's Amendment 12 which dispensed with the obligation of prior approval of the work programme by the Commission;
- most of the provisions concerning the Agency's budget (Parliament's Amendment 15, as incorporated in Article 18);
- the provisions regarding the evaluation of the agency within five years of the Agency taking up its responsibilities. As Parliament proposed, this evaluation will be external and will be held in consultation with the parties involved and the findings will be forwarded to the European Parliament (Parliament's Amendment 17, as incorporated in Article 22).

(c) Parliament's amendments not incorporated in the common position

These amendments concern the following points:

- the name of the Agency. Parliament had proposed that the name of the Agency should contain a reference to its task of preventing pollution caused by ships (Parliament's Amendment 2). The Council did not adopt this proposal, but agreed that a clear reference to this task would be included in Article 1 where the objectives of the Agency are set out and in all other relevant provisions, in both articles and recitals;
- the term of office of the Chairperson and Deputy Chairperson of the Administrative Board which Parliament had proposed should be five years (Parliament's amendment 10) and the obligation for the Administrative Board to meet at the request of Parliament or six of its Members (Parliament's Amendment 23). In both cases the Council preferred the text of the original Commission proposal.

2. New elements in the common position

Among the new elements introduced by the Council in the proposal for a regulation, your rapporteur would point out the following:

- the rewording of Article 2 on the duties on the Agency which makes the text clearer without altering its content;
- a reference to the transparency and protection of information (Article 4);
- the removal of the reference to the seat of the Agency in Article 5;
- provisions specifying the language arrangements at the Agency (Article 9);
- a special adoption procedure for the work programme in the event of disagreement by the Commission (Article 10);
- the representation of all the Member States on the Administrative Board and the participation of professionals (not representatives of branches) without the right to vote (Article 11);
- power of the Administrative Board to examine specific issues without the presence of members nominated in their capacity as professionals (Article 13);
- the possibility of appointing/dismissing the Executive Director by a special majority of four-fifths of members (Article 16);
- the deletion of Article 17 on controlling legitimacy.

D. COMMENTS

On the basis of the above, your rapporteur would like to make the following comments:

- in formulating its common position the Council has taken into account wholly or partly a significant number of European Parliament amendments;
- some of the new elements introduced in the proposal by the Council help make it clearer and more streamline;
- generally, the Council adheres to the spirit of the proposal which seeks to address problems in the sector of maritime safety and protection of the marine environment.

Nevertheless, your rapporteur would like to draw attention to the following points in the common position which may cause problems:

- representatives of professional branches are excluded and replaced by professionals appointed by the Commission who have no right to vote, but may be excluded from meetings where this is considered advisable (Articles 11 and 13). At this point the Council has ignored the spirit of the Commission proposal as well as Parliament's amendments which sought to ensure the participation of representatives of professional branches in the Agency on a footing of equality with other members;
- the procedure introduced by the Council for the adoption of the Agency's work programme in the event of disagreement by the Commission (Article 10) is curious. In order to maintain the balance between the two institutions, the common position requires, for the programme to be adopted in this specific instance, either a majority of two-thirds of members, including the Commission representatives, or a unanimous vote of the representatives of the Member States. This ensures the balance between the Council and the Commission, if at the expense of making the decision-taking procedure more difficult.

In addition to the above, the common position needs to be reworded in some places, without changing its substance, in order to make it more precise.

Apart from these reservations, the common position should be welcomed because it corresponds to Parliament's main objective which is to make maritime transport safer and protect the marine environment better. We believe that this proposal must be adopted without delay. Over two years have now passed since the Erika tanker disaster, and European public opinion will take a unsympathetic view of any delays in the putting into effect important measures, such as the setting-up of the Agency under discussion.