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Committee on Civil Liberties, Justice and Home Affairs

PROVISIONAL
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DRAFT OPINION

of the Committee on Civil Liberties, Justice and Home Affairs

for the Committee on Transport and Tourism

on the proposal for a European Parliament and Council directive on enhancing port security
(COM(2004)0076 – C6-0072/2004 – 2004/0031(COD))

Draftsman: Romano Maria La Russa

PA_Leg

SHORT JUSTIFICATION

The Committee on Civil Liberties, Justice and Home Affairs has been asked for its opinion on the proposal for a directive on enhancing port security. The committee is particularly interested in this issue because, in its amended proposal (COM(2004)393), the Commission extended the scope of the security measures to include roll-on roll-off ferries carrying passengers and/or cargo. As already happens in the air transport sector, when the directive enters into force ferry passengers will be subjected to checks before they are allowed to embark. It will be left to the Member States to decide which types of ferry and which ports these provisions will apply to, on the basis of an assessment of security levels in ports and the subsequent drafting of a port security plan.

The proposal for a directive is a valuable prevention tool in Europe's fight against terrorism and forms part of a package of measures which is soon to include a proposal for a directive covering the entire intermodal chain and seeking to ensure security at every stage in a product's journey from manufacturer to final destination.

Draftsman's position

The draftsman fully endorses both the substance of and thinking behind the directive. Port security plans will not only ensure greater protection against possible terrorist attacks, but will also reinforce measures to combat illegal immigration, drug trafficking and the counterfeiting of goods.

The draftsman endorses the Commission's approach, both as regards the directive's aim, which is to make ports more secure against the threat of intentional unlawful acts and as regards the possibility of carrying out Community inspections with a view to monitoring implementation of the directive by the Member States.

The draftsman agrees with the views expressed by the rapporteur of the Committee on Transport and Tourism and by the Council to the effect that "adjacent port areas" should be excluded from the directive's scope, with the Member States themselves defining what constitutes a port area.

The draftsman would like the Commission at the earliest opportunity to make a detailed analysis of the cost of implementing the directive and how that cost should be shared among public authorities and private operators.

AMENDMENTS

The Committee on Civil Liberties, Justice and Home Affairs calls on the Committee on Transport and Tourism, as the committee responsible, to incorporate the following amendments in its report:

Text proposed by the Commission[1]	Amendments by Parliament

Amendment 1
Recital 2

(2) The security of people, infrastructure and equipment, including means of transport, in ports ***as well as in relevant adjacent areas*** should be protected against unlawful acts and their devastating effects. Such protection would benefit transport users, the economy and society as a whole.	(2) The security of people, infrastructure and equipment, including means of transport, in ports should be protected against unlawful acts and their devastating effects. Such protection would benefit transport users, the economy and society as a whole.

Justification

It should be up to the Member States to define adjacent areas.

Amendment 2
Recital 4

(4) In order to achieve the fullest protection possible for maritime and port industries, port security measures should be introduced. They should extend beyond the ship/port interface and cover the entire port thus both protecting the port areas and ensuring that security measures taken in application of Regulation (EC) Nr. …/…. benefit from enhanced security in adjacent areas. These measures should apply to all those ports in which one or more port facilities are situated which are covered by Regulation (EC) Nr. …/…. .	(4) In order to achieve the fullest protection possible for maritime and port industries, port security measures should be introduced. They should extend beyond the ship/port interface and cover the entire port thus both protecting the port areas and ensuring that security measures taken in application of Regulation (EC) Nr. …/…. benefit from enhanced security in adjacent areas***, as defined by the Member States***. These measures should apply to all those ports in which one or more port facilities are situated which are covered by Regulation (EC) Nr. …/…. .

Justification

It should be up to the Member States to define adjacent areas.

Amendment 3
Recital 8

[1] Not yet published in OJ.

(8) Roll-on roll-off vessels are particularly vulnerable to unlawful acts, in particular if they carry passengers as well as cargo. Adequate measures should be taken on the basis of risk assessments which ensure that cars and goods vehicles destined for transport on a roll-on roll-off vessel on domestic and international routes do not cause a risk to the vessel, its passengers and crew as well as the cargo. The measures should be taken in the port or at the port's confines before the cars and goods vehicles enter the vessel and in a way which impedes as little as possible the fluidity of the operations.	(8) Roll-on roll-off vessels are particularly vulnerable to unlawful acts, in particular if they carry passengers as well as cargo. Adequate measures should be taken on the basis of risk assessments which ensure that ***passengers,*** cars and goods vehicles destined for transport on a roll-on roll-off vessel on domestic and international routes do not cause a risk to the vessel, its passengers and crew as well as the cargo. The measures should be taken in the port or at the port's confines before the cars and goods vehicles enter the vessel and in a way which impedes as little as possible the fluidity of the operations.

Justification

Security standards and controls should also apply to the passengers of the ferries, as is already the case with airline passengers.

Amendment 4
Recital 8 a (new)

	(8) Extending the controls to cover roll-on roll-off ferries is a useful means of combating illegal immigration, drug trafficking and counterfeiting of goods.

Amendment 5
Recital 10

(10) Member States should approve assessments and plans and monitor the implementation in their ports. The effectiveness of the implementation monitoring should be ***the subject of inspections supervised by*** the Commission.	(10) Member States should approve assessments and plans and monitor the implementation in their ports. ***With a view to ensuring the*** effectiveness of the implementation monitoring ***and to avoiding any distortion of competition between Member States, inspections*** should be ***carried out under the supervision of*** the Commission.

Justification

Community inspections will ensure effective and uniform implementation by the Member

States of the measures laid down in the directive and will reduce the likelihood of any distortion of competition.

Amendment 6
Recital 12 a (new)

(12a) The cost-benefit analysis provided for in Regulation (EC) No 725/2004 of the European Parliament and of the Council of 31 March 2004 on enhancing ship and port facility security[1] should also cover the costs involved in measures taken under this directive and establish guidelines for cost-sharing between the authorities and operators.

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[1] OJ L 129, 29.4.2004, p. 6.

Justification

The directive fails to set out a clear financial framework for the measures it lays down.

Amendment 7
Article 1, paragraph 1, subparagraph 2

It shall also ensure that security measures taken in application of Regulation (EC) Nr. …/…. benefit from enhanced security in ***adjacent*** port areas.	It shall also ensure that security measures taken in application of Regulation (EC) Nr. …/…. benefit from enhanced security in port areas.

Justification

It should be up to the Member States to define adjacent areas.

Amendment 8
Article 2, paragraph 1

1. This directive addresses security measures which need to be observed by or affect people, infrastructure and equipment, including means of transport, in ports ***as well as in adjacent areas where these have a direct or indirect impact on security in the***	1. This directive addresses security measures which need to be observed by or affect people, infrastructure and equipment, including means of transport, in ports.

port.

Justification

It should be up to the Member States to define adjacent areas.

Amendment 9
Article 3, paragraph 1

1. “port” or “seaport” means an area of land and water made up of such works and equipment as to permit principally, the reception of ships, their loading and unloading, the storage of goods, the receipt and delivery of these goods, and the embarkation and disembarkation of passengers.	1. “port” or “seaport” means an area of land and water ***whose boundaries shall be determined by the Member States,*** made up of such works and equipment as to permit principally, the reception of ships, their loading and unloading, the storage of goods, the receipt and delivery of these goods, and the embarkation and disembarkation of passengers.

Justification

It should be up to the Member States to define adjacent areas.

Amendment 10
Article 7, paragraph 7, subparagraph 1

7. In particular, the port security plan shall ensure that, on the basis of risk assessments, adequate security controls are carried out by competent national authorities on cars and goods vehicles set for embarkation on vessels which also carry passengers.	7. In particular, the port security plan shall ensure that, on the basis of risk assessments, adequate security controls are carried out by competent national authorities on cars and goods vehicles set for embarkation on vessels which also carry passengers***, and on the passengers themselves.***.

Justification

Security standards and controls should also apply to the passengers of the ferries, as is already the case with airline passengers.

Amendment 11
Article 10

Article 10	***deleted***

Port security committee

1. Member States shall ensure that port security committees are established to provide practical advice in the ports covered by this directive, unless the specificity of a port renders such committees superfluous.

2. The membership of the port security committee may vary between ports, but should always reflect the operational and public authority functions in a port. It shall function on a 'need to know basis'.

Justification

On the basis of the subsidiarity principle, there is no need for an advisory committee.

Amendment 12
Article 14, paragraph 3, subparagraph 2

The Member State concerned shall submit to such inspections and shall ensure that bodies or persons concerned also submit to those inspections.	The Member State concerned shall submit to such inspections and shall ensure that bodies or persons concerned also submit to those inspections. ***The Commission and the bodies responsible within the Member States shall take the necessary steps to ensure that the inspections cause the least possible disruption to ports.***

Amendment 13
Article 19 a (new)

Article 19a

Evaluation report

No later than three years after the entry into force of the directive, and every five years thereafter, the Commission shall submit an evaluation report to the European Parliament and the Council based, among other things, on the information obtained pursuant to Article 14. In the report, the Commission shall analyse compliance with the directive by

the Member States and the effectiveness of the measures taken. If necessary, it shall present proposals for additional measures.

Justification

Periodic evaluations of implementation of the directive are necessary in order to keep up to date with any new threats to port security.