



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 04.12.1996
COM(96) 628 final

95/0163 (SYN)

Re-examined proposal for a

COUNCIL DIRECTIVE

on marine equipment

(presented by the Commission pursuant to Article 189 c (d)
of the EC Treaty)

Explanatory memorandum

On 24 October 1996 the European Parliament adopted 3 amendments to the common position on the above proposal which was adopted by the Council on 18 June 1996. The amendments of the Parliament are attached to this memorandum.

In pursuance of Article 189 c, section (d) of the EC Treaty, the Commission has re-examined its proposal and decided to accept amendment N° 1 of the European Parliament and not to accept amendments N° 2 and 3, for the following reasons:

Amendment N° 1 related to Article 3, paragraph 3 of the common position

This amendment represents an improvement to the text of the common position since it will avoid unnecessary application of overlapping provisions to the same piece of radiocommunication equipment, without in any way jeopardising its safety performance. After in-depth re-examination of the technical Annex to this proposal, it was proven that compliance of radiocommunication equipment with the relevant safety requirements of the other EC directives is already ensured under this proposal when referring in Annex A to specific international testing standards to be applied to the radiocommunication equipment itself.

Amendment N° 2 related to Article 9, paragraph 3a (new)

This new paragraph proposed by the Parliament merely repeats the principle of independence for notified bodies which is already set out in the text of the common position (Annex C, paragraph 2). It is, therefore, an unnecessary duplication of such provisions.

Amendment N° 3 related to Article 18 of the common position

The regulatory Committee foreseen in the common position is the same type of Committee established in all the other Community measures on maritime safety. The common position is continuing a standard practice in this field which has to be maintained for reasons of consistency.

Annex 1: Re-examined Proposal

Annex 2: Amendments adopted by the European Parliament and not accepted by the Commission

Annex 1

Re-examined proposal for a

Council Directive

on marine equipment

Article 3(3)

3. Notwithstanding the fact that the equipment referred to in paragraph 1 may fall within the scope of Directives other than this Directive for the purposes of free movement, and in particular Council Directives 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility and 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment, that equipment shall be subject only to this Directive, to the exclusion of all others for those purposes. This paragraph shall not apply to radiocommunications equipment.

3. Notwithstanding the fact that the equipment referred to in paragraph 1 may fall within the scope of Directives other than this Directive for the purposes of free movement, and in particular Council Directives 89/336/EEC of 3 May 1989 on the approximation of the laws of the Member States relating to electromagnetic compatibility and 89/686/EEC of 21 December 1989 on the approximation of the laws of the Member States relating to personal protective equipment, that equipment shall be subject only to this Directive, to the exclusion of all others for those purposes.

Annex 2

Common position of the Council

Amendments by Parliament

(Amendment 2)
Article 9(3a) (new)

3a. The Member States shall ensure that the bodies which they appoint as notified bodies provide all the necessary guarantees of independence (financial, administrative and other) from the manufacturers or suppliers of the equipment which they are evaluating.

(Amendment 3)
Article 18(1) and (2)

1. The Commission shall be assisted by the committee set up by Article 12 of Council Directive 93/75/EC of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods¹ in accordance with the procedure laid down in this Article.

2. The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

¹ OJ L 247, 5.10.1993, p. 19.

1. The Commission shall be assisted by a committee of an advisory nature composed of the representatives of the Member States and chaired by the representative of the Commission.

2. The Commission representative shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote.

2a. The opinion shall be recorded in the minutes: in addition, each Member State shall have the right to ask to have its position recorded in the minutes.

The Commission shall take the utmost account of the opinion delivered by the committee. It shall inform the committee of the manner in which its opinion has been taken into account.

2b. The committee shall meet in public. It shall publish agendas two weeks in advance of its meetings. It shall publish minutes of its meetings. It shall establish a public register of declarations of interest by its members.

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