



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 13.02.1996

COM(96) 47 final

95/0163 (SYN)

Amended proposal for a  
COUNCIL DIRECTIVE  
on Marine Equipment

(presented by the Commission pursuant to Article 189 a (2)  
of the EC-Treaty)

## EXPLANATORY MEMORANDUM

During its 28-30 November 1995 Plenary Session, the European Parliament approved, subject to a number of amendments, the Commission's proposal for a Council Directive on Marine Equipment<sup>1</sup>.

Most of the amendments adopted by the Parliament do not affect the fundamental principles of the draft Directive; some of them are consistent with the aim of the proposal and indeed they bring an added value to it. Others, which the Commission could not accept, are based on technical misunderstandings, or weaken the provisions of the proposal, or finally duplicate equivalent provisions which already exist elsewhere.

More precisely, the Commission could not accept:

- the amendment to the first recital, since the same principle is already expressed in other recitals of the original proposal;
- the amendment to Article 2, definition of "EU Ship", since it would imply a more restricted field of application than the proposal of the Commission;
- the amendment to Article 2, definition of "Testing Standards", since the reference to 'the European standards organisation or other specialized organisation, according to the type of equipment' is far too vague;
- the amendment to Article 5, paragraph 3, since, after the date of entry into force of the Directive, the equipment should be manufactured in accordance with the provisions of the Directive, notwithstanding the fact that the two years' period allowed to Member States to adopt their national laws has not passed yet. Furthermore, this amendment would eliminate the interim period after adoption of the national laws during which manufacturers can still sell the equipment they have in stock;
- the amendment to Article 6, since it is contrary to the main principle of the proposal, that is making the International testing standards, and only them, compulsory in the Community. To accept to harmonise the implementation of the testing standards existing in the Member States would mean to change approach and allow Member States to continue to use their own standards, including those which are not at the required level;
- the amendment to Article 9, paragraph 2, which is redundant, since the Commission accepted to set out the principle of independence of the Notified Bodies in Annex C and not in Article 9 (see next page);

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<sup>1</sup> O.J. N° C 218 of 23 August 1995, p. 9.

- the amendment to Annex B, module B, paragraph 2, since the procedures for the type-examination of the products are those applied in all the Community measures and the Commission intends to have a common Community approach in this field;
- the amendment to Annex C, paragraph 1, since the same principle is already taken up in substance in Annex C, indent 3.

The Commission accepted without reservation the amendment to Article 2, definition of "New Ship", which constitutes a technical-legal improvement.

Finally, the Commission accepted the substance of the following amendments, subject to drafting improvements:

- the amendment to Article 9, paragraph 1a (new), which sets the principle that Member States have to undertake regular controls on the Notified Bodies;
- the amendment to Article 9, paragraph 2, which introduces the principle of independence of the Notified Bodies; the Commission considers more appropriate to lay down this provision in Annex C to the proposal;
- the amendment to Article 14, paragraph 2, which states that discrimination has to be avoided for equipment produced in other States, and not only other Member States, when carrying out trials of the equipment, as referred to in the first paragraph of this Article.

# Amended proposal for a Council Directive on Marine Equipment

---Original text---

---Amended text---

## Article 2

"New Ship":

means a Ship, the keel of which is laid or which is at a similar stage of construction on or after the date of adoption of this Directive. For the purpose of this definition, a similar stage of construction means the stage at which:

- (i) construction identifiable with a specific ship begins and
- (ii) assembly of that ship has commenced comprising at least 50 tonnes or one per cent of the estimated mass of all structural material, whichever is less.

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- (ii) assembly of that ship has commenced comprising at least 50 tonnes or one per cent of the estimated mass of all structural material, whichever is less.

## Article 9, paragraph 1 a (new)

Member States shall carry out, at least every two years, an audit by the competent administration or by an impartial external organisation appointed by the competent administration into the duties the notified bodies are undertaking on their behalf. The audit shall ensure that the Notified Body continues to satisfy the criteria listed in Annex C.

-----Original text-----

-----Amended text-----

### **Article 14, paragraph 2**

Such trials procedures shall in no way discriminate between Equipment produced in the flag State and Equipment produced in other Member States.

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### **Annex C, paragraph 1 a (new)**

The Notified Body shall be independent and shall not be controlled by manufacturers or suppliers of the equipment.

ISSN 0254-1475

COM(96) 47 final

# DOCUMENTS

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Catalogue number : CB-CO-96-058-EN-C

ISBN 92-78-00423-5

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Office for Official Publications of the European Communities

L-2985 Luxembourg