



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.09.1996
COM(96) 455 final

96/0231 (SYN)

Proposal for a

COUNCIL DIRECTIVE

**AMENDING DIRECTIVE 93/75/EEC CONCERNING MINIMUM REQUIREMENTS FOR
VESSELS BOUND FOR OR LEAVING COMMUNITY PORTS AND CARRYING
DANGEROUS OR POLLUTING GOODS**

(presented by the Commission)

Explanatory memorandum

1. Background

On 13 September 1993, the Council adopted Directive 93/75/EEC concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods.

The aim of this Directive is to improve prevention and remedial action in the event of circumstances at sea which might lead to accidents involving ships carrying dangerous or polluting goods.

To this end, information must be supplied to the competent authorities designated by the Member States, enabling them to identify the ships concerned and giving them a more detailed knowledge of their characteristics, the details of their voyage and the nature and location of the dangerous or polluting goods on board.

Directive 93/75/EEC was first amended by Commission Directive 96/.../EC in order to apply, in accordance with Article 11, subsequent amendments which have entered into force to the International Convention, codes and Resolution referred to in Article 2(e), (f), (g) and (h). This amendment was carried out in accordance with the opinion of the Committee provided for in Article 12 of Directive 93/75/EEC.

The purpose of this proposal for a Council Directive is threefold:

- to extend the scope of the Directive to cover the carriage of irradiated nuclear fuel, plutonium and high-level radioactive waste in flasks on board ships;
- to supplement the information given in the annexes to the Directive in the light of developments in international legislation;
- to facilitate the amendment of those annexes in the light of developments in international legislation by applying the committee procedure.

2. Contents of the proposal

2.1 Extension of the scope of the Directive to cover certain radioactive materials

Concerned by the lack of special provisions regarding the carriage by sea of certain radioactive materials produced by the nuclear industry, the Assembly of the International Maritime Organization (IMO) adopted, on 4 November 1993, Resolution A.748 (18) concerning the code for the safe carriage of irradiated nuclear fuel, plutonium and high-level radioactive wastes in flasks on board ships (INF Code).

Furthermore, in view of the increasing quantities of such radioactive materials being transported by sea and the particular nature of the risk posed by such traffic, the IMO (Resolution A.790 (19) of the Assembly) decided to consider whether a revised version of the INF Code should take account of the aspects relating to route planning, notification of coastal States and the availability of information on this type of cargo, including the risks it poses.

Directive 93/75/EEC of 13 September 1993 could not take into account the international developments which have taken place in this field since it was adopted (the INF Code was adopted on 4 November 1993).

Consequently, and in view of the fact that a large proportion of the abovementioned traffic is bound for, or originates in, the Member States of the European Union, the INF Code should be expressly mentioned in the list of international legal texts referred to in Article 2 of Directive 93/75/EEC.

2.2 Amendment of the annexes in view of developments in international legislation

Annex I to Directive 93/75/EEC lists the information which must be notified to the competent authorities under the Directive. Annex II sets out the checklist of information, safety equipment and documents which the ship's captain must make available to the pilot upon embarkation.

Under Article 11 (committee procedure) these annexes may be amended in line with the developments which have taken place in international legislation since Directive 93/75/EEC was adopted - namely the amendments which have entered into force to the International Convention, codes and Resolution referred to in Article 2(e), (f), (g), (h) and (i).

However, the purpose of this proposal for a Directive is to amend those annexes in the light of changes which have been made to international legal texts not referred to in Article 2 of Directive 93/75/EEC. It aims, in particular:

- to include in Annexes I and II a reference to the IMO identification number, the purpose of which is to facilitate identification of vessels in order to enhance safety at sea and to protect the marine environment. The allocation of this identification number to passenger ships with a gross tonnage of at least 100 tonnes and to all cargo ships with a gross tonnage of at least 300 tonnes is already provided for in the SOLAS Convention, as a result of the adoption of IMO Resolution A.600 (15) on the IMO ship identification number scheme;
- to supplement Annex II (checklist to be given to the pilot) by including safety equipment and certificates referred to in:
 - * the International Convention for the Safety of Life at Sea (SOLAS), 1974, and its 1978 protocol, including the rules governing the global maritime distress and safety system (GMDSS);
 - * the International Convention on the Tonnage Measurement of Ships, 1969;
 - * the 1978 International Convention on Standards of Training, Certification and Watchkeeping (STCW);
 - * the international safety management code for the safe operation of ships and for pollution prevention (ISM Code) adopted by the IMO.

2.3 Easier procedure for amending the annexes to take account of developments in international legislation

The developments described in paragraph 2.2 above show that amendments similar to those concerning the codes and Convention referred to in Article 2 of Directive 93/75/EEC but relating to other international legal texts cannot be introduced using the committee procedure.

Since international legislation on safety at sea and environmental protection is constantly developing and being amended, it is proposed that Article 11 of Directive 93/75 should be expanded so as to enable the Annexes to the Directive to be further amended in light of relevant developments in international law on safety at sea and on the protection of the marine environment, in accordance with the procedure provided for in Article 12.

2.4 In the light of the subsidiarity principle, this amendment to Directive 93/75/EEC does not affect the right of member States to impose additional requirements in respect of vessels.

COUNCIL DIRECTIVE

**amending Directive 93/75/EEC concerning minimum requirements
for vessels bound for or leaving Community ports and carrying
dangerous or polluting goods**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and, in particular, Article 84(2) thereof,

Having regard to the proposal from the Commission,¹

Having regard to the opinion of the Economic and Social Committee,²

Acting in accordance with the procedure referred to in Article 189(c) of the Treaty,³

Whereas Directive 93/75/EEC, as amended by Commission Directive .../.../EC, contains no specific provisions applicable to the carriage by sea of the radioactive materials referred to in Resolution A.748(18) of the International Maritime Organization concerning the code for the safe carriage of irradiated nuclear fuel, plutonium and high-level radioactive wastes in flasks on board ships (INF Code);

Considering the need to enhance safety at sea and to prevent pollution of the sea in connection with the transport of irradiated nuclear fuel, plutonium and high-level radioactive waste; whereas the extension of the provisions of Directive 93/75/EEC to cover such substances will enable the competent authorities to obtain the relevant information as to their nature and their location on board ships and thus to help prevent and minimize the risk of accidents involving ships transporting such substances;

Whereas it should be possible to amend Annexes I and II to Directive 93/75/EEC from time to time, and frequently if necessary, in line with developments in international law and, in particular, with amendments to international conventions, codes and resolutions not referred to in Article 2 of the Directive; whereas the procedure provided for in Article 12 of the Directive appears to be the most appropriate way of introducing such amendments; whereas Article 11 should be supplemented to that effect;

Whereas the contents of Annexes I and II to Directive 93/75/EEC should also be amended without delay to take account of the amendments to international conventions, codes and resolutions not referred to in Article 2 which have entered into force since the Directive was adopted,

HAS ADOPTED THIS DIRECTIVE:

¹ OJ C ...

² OJ C ...

³ Opinion of the European Parliament delivered on ... (OJ C ...), common position adopted by the Council on ... (OJ C ...).

Article 1

Directive 93/75/EEC is hereby amended as follows:

1. Article 2 is amended as follows:

The following is added to paragraph (c):

", and radioactive materials as defined by the INF Code;"

The following paragraph is inserted:

"(i) "INF Code" means the IMO code for the safe carriage of irradiated nuclear fuel, plutonium and high-level radioactive wastes in flasks on board ships, as it is in force at the time of adoption of Directive .../.../EC;"

Paragraphs (i), (j) and (k) become paragraphs (j), (k) and (l) respectively.

2. The following indent is added to Article 11:

"- amend the annexes in line with the relevant developments in international law on safety at sea and the protection of the marine environment."

3. Annexes I and II are amended as provided for in the Annex to this Directive.

Article 2

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive no later than 31 December 1997. They shall forthwith inform the Commission thereof.

2. When Member States adopt the measures referred to in paragraph 1, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

3. Member States shall communicate to the Commission the texts of the basic provisions of national law which they adopt in the field governed by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following its publication.

Article 4

This Directive is addressed to the Member States.

Done at Brussels,

ANNEX

I. In Annex I, paragraph 1 is amended as follows:

"1. Name and call sign of the vessel and, where appropriate, its IMO identification number."

II. The following amendments are made to Annex II:

1. In paragraph A, first column, fourth line, "Vessel's international call sign, if available" is replaced by "Distinctive letters or numbers (Call sign)".

In paragraph A, second column, fourth line, the following is inserted: "IMO identification number, where appropriate".

2. The following is added to paragraph B(2):

"Instrument for measuring speed and distance (loch) "

Paragraph B(3) is replaced by the following:

"3. Radio equipment

Radiotelegraphy installation	<input type="checkbox"/>	<input type="checkbox"/>
Radiotelephony installation	<input type="checkbox"/>	<input type="checkbox"/>
GMDSS radio installation	<input type="checkbox"/>	<input type="checkbox"/>
Radio installation for survival craft	<input type="checkbox"/>	<input type="checkbox"/>"

Paragraph C is replaced by the following:

"C. Documents	Certificates/ documents valid on board	
	Yes	No
International tonnage certificate	<input type="checkbox"/>	<input type="checkbox"/>
Passenger ship safety certificate	<input type="checkbox"/>	<input type="checkbox"/>
Cargo ship safety certificate	<input type="checkbox"/>	<input type="checkbox"/>
Cargo ship safety construction certificate	<input type="checkbox"/>	<input type="checkbox"/>
Cargo ship safety equipment certificate	<input type="checkbox"/>	<input type="checkbox"/>

Cargo ship safety radio certificate	<input type="checkbox"/>	<input type="checkbox"/>
Cargo ship safety radiotelegraphy certificate	<input type="checkbox"/>	<input type="checkbox"/>
Cargo ship safety radiotelephony certificate	<input type="checkbox"/>	<input type="checkbox"/>
Exemption certificate	<input type="checkbox"/>	<input type="checkbox"/>
Load line certificate	<input type="checkbox"/>	<input type="checkbox"/>
Classification certificate	<input type="checkbox"/>	<input type="checkbox"/>
Pollution risk insurance certificate	<input type="checkbox"/>	<input type="checkbox"/>
SOLAS dangerous goods certificate	<input type="checkbox"/>	<input type="checkbox"/>
Passenger safety certificate	<input type="checkbox"/>	<input type="checkbox"/>
Oil/cargo record book filled in	<input type="checkbox"/>	<input type="checkbox"/>
(International) certificate of fitness for the carriage of dangerous chemicals in bulk	<input type="checkbox"/>	<input type="checkbox"/>
(International) certificate of fitness for the carriage of liquified gases in bulk	<input type="checkbox"/>	<input type="checkbox"/>
International oil pollution prevention certificate (IOPP) certificate	<input type="checkbox"/>	<input type="checkbox"/>
International pollution prevention certificate for the carriage of noxious liquid substances in bulk	<input type="checkbox"/>	<input type="checkbox"/>
Stowage diagram for dangerous and polluting goods	<input type="checkbox"/>	<input type="checkbox"/>
Stability data	<input type="checkbox"/>	<input type="checkbox"/>
Document specifying the minimum safety crewing levels	<input type="checkbox"/>	<input type="checkbox"/>
Copy of the certificate and attestation of conformity issued in accordance with the international safety management code for the safe operation of ships and for pollution prevention (IMO Resolution A.741 (18)).	<input type="checkbox"/>	<input type="checkbox"/>

3. In paragraph D, the following column is inserted after the first column:

"Holder of a GMDSS operator's general certificate".

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