

ECONOMIC AND SOCIAL COMMITTEE
OF THE EUROPEAN COMMUNITIES

**PREVENTION
OF
MARINE POLLUTION**



2 OPINIONS

Brussels 1981

The European Communities' Economic and Social Committee, chaired by Mr Tomàs ROSEINGRAVE, approved these Opinions at its 186th Plenary Session held on 25/26 March 1981.

The preliminary work on Shipping Safety Standards/Community Ports was done by the Section for Transport and Communications and the Rapporteur was Mr René BONETY.

The preliminary work on Oil Pollution of the Sea was done by the Section for the Protection of the Environment, Public Health and Consumer Affairs and the Rapporteur was Mr Roderick L. DOBLE.

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C O N T E N T S

	<u>Page</u>
<u>PREFACE</u>	I
A. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE ON THE ENFORCEMENT, IN RESPECT OF SHIPPING USING COMMUNITY PORTS, OF INTERNATIONAL STANDARDS FOR SHIPPING SAFETY AND POLLUTION PREVENTION.....	1
B. REPORT OF THE SECTION FOR TRANSPORT AND COMMUNICATIONS.....	8
C. OPINION OF THE ECONOMIC AND SOCIAL COMMITTEE ON A COMMUNITY INFORMATION SYSTEM FOR PREVENTING AND COMBATING HYDROCARBON POLLUTION OF THE SEA.....	44
D. REPORT OF THE SECTION FOR THE PROTECTION OF THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER AFFAIRS.....	51

Preface

Within the space of nine years there have been 50 major accidents involving oil tankers of over 150.000 t. Several calamities were needed before the public authorities imposed stricter safety standards.

For a number of years now the Economic and Social Committee of the European Communities has been devoting attention to this phenomenon, and it considers that the Community cannot remain indifferent to it.

With its Opinions on flags of convenience, maritime safety (1), and the Amoco-Cadiz (2), the Committee played a part in initiating action at Community level of the problems involved in preventing and combatting pollution of the sea by oil.

With all the necessary data at its disposal, some of it collected on the spot (in particular at Brest in November 1980), the Committee has made a sustained study of marine pollution problems. The two Opinions attached, prepared by two different Sections, form a whole and were discussed together. The Reports appended to these Opinions contain a lot of tables, maps and concrete suggestions that could not be included in the Opinions themselves, and have aroused interest among the public and the authorities in the regions concerned.

What are the Committee's main conclusions?

(1) Cf. booklet published by the Economic and Social Committee in April 1979.

(2) Cf. OJ No. C 269 of 13 November 1980, p. 31.

First and foremost the Committee stresses that all the Member States and the applicant countries must ratify the existing international instruments and that observance of these instruments in practice must be ensured by means of effective Community legislation - otherwise there is a risk of "ports of convenience" proliferating like flags of convenience. That must be avoided at all costs.

As regards the actual fight against pollution, the Committee considers that the Community information system proposed by the Commission should be extended to cover under-sea pipelines and drilling platforms. It also suggests the setting-up of an international insurance fund to be fed by contributions from all those engaging in high-risk activities and the formation of anti-pollution task forces in vulnerable areas.

The Committee adopted the two Opinions by very large majorities, the 30 abstentions in the vote on the first Opinion reflecting disagreement merely as regards the methods of technical inspection and not a lack of support for the proposals as a whole.

A. OPINION OF THE COMMITTEE ON THE PROPOSAL FOR A COUNCIL DIRECTIVE CONCERNING THE ENFORCEMENT, IN RESPECT OF SHIPPING USING COMMUNITY PORTS, OF INTERNATIONAL STANDARDS FOR SHIPPING SAFETY AND POLLUTION PREVENTION

The Committee approves the aims and basic principle of the Proposal for a Directive, subject to the comments and suggestions below designed to enhance the effectiveness of the measures proposed by the Commission.

GENERAL COMMENTS

In its Own-Initiative Opinion of April 1979 on Community shipping policy (flags of convenience) (*), the Committee called for the introduction of a Community technical inspection system to supervise the safety of ships and sea traffic.

The proposal for a Directive is a move in this direction. Although international standards are still to be drawn up within the framework of the Inter-Governmental Maritime Consultative Organization (IMCO), they are to be enforced at Community level by supplementing inspection by the flag States by inspection by the port States in accordance with rules that are identical for all the Member States.

The Committee hopes that the Directive will be applied in a sufficiently systematic and coordinated manner to prevent "ports of convenience" (which would call into question the very principle of the Directive) from coming into being in addition to the flags of convenience criticized by the Committee in the above-mentioned Opinion.

(*) Cf. booklet issued by the ESC in April 1979, pages 3, 4 and 8.

The Committee considers it highly desirable that all the Member States and the applicant countries should make haste to ratify all the international instruments referred to in the proposal for a Directive.

The Committee would further observe that the 1974 International Convention for the Safety of Life at Sea does not cover vessels of under 500 t. The Committee strongly urges the Commission to draw up a safety code to be applicable to such vessels throughout the Community.

SPECIFIC COMMENTS

Sphere of application of the Directive (Article 2)

The Committee thinks that the prevention aimed at by the Draft Directive will be all the more effective if inspection by the port States is systematic.

It must be clear that all vessels entering Community ports, whatever their flag and regardless of whether their country of origin has signed or ratified the international conventions and protocols on safety standards or not, will be liable to checks by the port authorities on the application of these standards.

In order to preclude any subsequent wrong interpretations, the Committee would like the term "relevant Conventions" to be made clearer, particularly as regards the exceptions provided for in certain international instruments.

Ships' declarations (Article 4)

The Committee considers that Article 4 is liable to lead to rules that differ from one Member State to another.

This criticism is based on the fact that the Member States are to be allowed to decide :

- that the declaration will be made "at appropriate intervals", where a vessel frequently visits the same port of a Member State;
- that the declaration will be made only once, where the vessel visits more than one port in the course of a single voyage.

The Committee would accordingly ask that it be specified that the sole declaration is to be made in the first port of call where a vessel visits more than one port in the same Member State.

The Committee would suggest that a supplementary declaration should be required in the event of changes in the crew or damage in a Community port or in Community waters.

With a view to strengthening the resolve to achieve systematic inspection in all the Member States, the Committee would propose that paragraph 3 of Article 4 be reworded to read as follows :

"In the interests of shipping safety and pollution prevention, the documents referred to in paragraph 1 of this Article shall be examined by the appropriate authorities on board the ship".

Requirement for a vessel to be put in order where the international standards have not been observed (Article 7)

Attention is drawn to the social problems confronting the crew in cases where a vessel is detained or where

authorization to leave port is given to a vessel not conforming to the international standards in order to enable it to proceed to a port with a repair yard capable of performing the necessary work.

Inspection resources

The Committee would stress that if the Directive is to be applied correctly the resources of the Member State administrations responsible for supervision and inspection will have to be increased.

Penalties

The Committee considers that Article 9, as at present worded, is liable to lead to great divergences between the Member States as regards the level of the penalties imposed on ships that do not conform to the international standards.

In its view, Community harmonization would be highly desirable, if only to prevent the emergence of "ports of refuge" in the Community.

Furthermore, habitual offenders should be more heavily penalized.

Use of classification societies (Article 10)

The Committee is opposed to paragraph 2 of Article 10, which allows the classification societies to be entrusted with the following activities under agreements with the Member States :

- undertaking port State enforcement work as agents of the Member State concerned;

- acting on behalf of the Member State as flag State in order to release Government inspectors for port State enforcement work.

The present wording of paragraph 2 of Article 10 should be amended to take account of the following points :

- direct responsibility of the Member States for the implementation of the Directive on their territory;
- adoption by the Member States of the measures necessary to ensure as systematic as possible checks on the correct observance of international safety standards by vessels entering their ports, whatever their flag and regardless of whether their country of origin has signed or ratified the international conventions or not;
- since the responsibility for these checks lies with the public authorities, the Commission should make sure that the Member States take the necessary steps in accordance with the administrative rules and practices in force in their territory;
- the Member State should adopt measures to make it possible, by means of systematic checks during the loading and unloading of tankers, to detect any structural defects liable to lead to oil spills in ports.

It would also seem important (for a follow-up to the Directive) for the Member States to inform the Commission each year of all measures taken to implement the Directive. Furthermore, the Community's responsibility should be made clear with a view to stepping up the fight against marine pollution and intensifying supervision of the application of international safety standards.

The Commission, for its part, should inform the European Parliament and the Economic and Social Committee of the conclusions it has drawn as to the effectiveness of the measures adopted and the progress made in improving ship safety standards and in the prevention of pollution.

Social problems

Confining itself to the social problems connected with ship safety, the Committee takes the view that a Community instrument with minimum rules should be drawn up for the application of Article 2(a)(i) of ILO Convention No. 147 concerning "safety standards, including standards of competency, hours of work and manning...".

The information report to the European Parliament and the Economic and Social Committee referred to above should have a social section dealing with matters of safety on board ship.

Application of the Directive to the new Member State

The Committee has grave doubts as to whether the Directive can be implemented in the new Member State.

The list of infringements of IMCO standards per country demonstrates the need for the Commission and the Council of Ministers to make sure that the country in question is really willing to submit to Community rules in this important area.

COMMENTS ON ANNEXES 1 AND 2

The declaration referred to in Article 4(1) (Annex 1)

The Committee suggests that the following points be added to the list :

- the date of the last actual launching of the lifeboats;
- the date of the last real fire drill, and appraisals of performance;
- the number of crew members, their training and their duties (in particular the number of crew members with AB certificates and certificates in the use of lifeboats);
- the number of men who have taken fire-prevention and fire-fighting courses;
- the personal and collective life-saving equipment;
- the state of the engines, auxiliary equipment and electrical installations.

The list of "clear grounds" (Annex 2)

The Committee also suggests that sub-paragraph a) of Annex 2 be amended to read as follows :

- "a) a report or complaint by the master, the pilot, an insurance company or any other person or any professional body or trade union with a legitimate interest in the safe operation of the ship, the prevention of pollution by the ship or the health of its crew".

B. REPORT OF THE SECTION FOR TRANSPORT AND COMMUNICATIONS

(Rapporteur : Mr BONETY)

INTRODUCTION

In a letter dated 14 July 1980, the Council requested the Committee's Opinion on the

Proposal for a Council Directive Concerning the Enforcement, in Respect of Shipping Using Community Ports, of International Standards for Shipping Safety and Pollution Prevention
(Doc. COM(80) 360 final) (*).

In a separate letter of 14 July 1980, the Council also requested the Committee's Opinion on the

Commission Communication to the Council Concerning a Plan to Combat Oil Pollution of the Sea
(Doc. COM(80) 361 final) (**).

The following documents are attached to that Communication :

- Proposal for a Council Decision establishing a Community Information System for Preventing and Combatting Hydrocarbon Pollution of the Sea
- Draft Commission Decision setting up an Advisory Committee on the Control and Reduction of Pollution caused by Hydrocarbons discharged at Sea.

(*) OJ No. C 192 of 30 July 1980, p. 8

(**) OJ No. C 200 of 6 August 1980, p. 2

The first of the abovementioned Commission documents (enforcement of shipping standards in Community ports) is based on Article 84(2) of the EEC Treaty, and the second (oil pollution of the sea) on Article 213 of the EEC Treaty.

Although for organizational reasons these proposals have been prepared by two different Commission Directorates-General (Transport and Environment) and they are also to be examined by two different Committee Sections, the Commission stresses that they should be viewed as an overall contribution towards solving the problem of the supervision of shipping and the closely related problem of combatting oil pollution of the sea.

The Transport and Environment Sections, to which these matters were referred, accordingly sought to arrive at effective cooperation. The Section for Transport and Communications set up a twelve-member Study Group, five of whose members are at the same time members of the Environment Section.

These members, with another member of the Environment Section, formed a six-member Study Group with the task of examining the problem of oil pollution of the sea. It has thus been ensured that the two Commission documents will be subjected in the final stage to an overall appraisal, even though, for procedural reasons, the findings will be presented in two separate Opinions, one prepared by Mr BONETY for the Transport Section, and the other by Mr DOBLE for the Environment Section.

On 5 and 6 November 1980, the two Study Groups made a joint working visit to Brest in Brittany, where they examined on the spot the problems posed by :

- the enforcement of standards in Community ports, and
- oil pollution of the sea.

Other transport and environment specialists, in addition to the experts appointed by the Committee, took part in this working visit, which comprised a practical, fact-finding part (supervision of maritime transport in French waters, monitoring of preventive and remedial measures to deal with oil pollution, visit to the traffic guidance centre on the island of Ushant) and a discussion.

The Committee would like to thank the French authorities, the Brest Préfecture Maritime, the Centre National d'Exploitation des Océans (CNEXO) and the Brittany Regional Economic and Social Committee for their valuable assistance in the organization of the meetings at Brest and on the island of Ushant and for their cooperation in the examination of the Commission documents.

For its examination of the Commission documents, the Section based itself on the Committee Opinion of 31 May 1978 (*) on the Amoco-Cadiz accident, the Opinion of 25/26 April 1978 of the French Economic and Social Council on marine pollution in connection with the recent events in Brittany (Rapporteur : Mr F. CASTEX). It took note of the results of Parliament's public hearing in Paris on 20/22 June 1978 on the most effective means of preventing accidents to shipping and consequential marine and coastal pollution, and the results of the Council meetings on 7 and 8 April 1978 in Copenhagen (European Council), on 30 May 1978 (environment), 12 June 1978 (transport) and 24 June 1980 (transport).

The Section also took extensive account of the Committee's work leading to an own-initiative Opinion in April 1979 on problems currently facing Community shipping policy, particularly maritime safety, the growing importance of the new shipping nations, the development of flags of convenience

(*) OJ No. C 269 of 13 November 1980, p. 31.

and the discrimination against certain flags (Rapporteur : Mr ROUZIER; Co-Rapporteurs : Mr MASSABIEAUX (growing importance of the new shipping nations), Mr HENNIG (flags of convenience) and Mr KENNA (discrimination against certain flags)) (*).

The Section also took note of the European Parliament Resolution (**) on the code of conduct for oil tankers and other vessels carrying noxious substances.

It noted with satisfaction the deliberations of the Council of Ministers on 24 June 1980 following a memorandum from the French government on the safety of sea transport and the fight against oil pollution of the sea.

The Section also took note of the final declaration of the conference of ministers responsible for maritime safety of the Federal Republic of Germany, Belgium, Denmark, Spain, Greece, Ireland, Italy, Norway, the Netherlands, Portugal, the United Kingdom, Sweden and France, who met in Paris on 1 and 2 December 1980 at the invitation of the French government.

GENERAL CONTEXT IN WHICH THE COMMISSION'S PROPOSALS SHOULD BE VIEWED : SHIPPING SAFETY AND PREVENTION OF POLLUTION

The general background to the Commission's proposals is a situation in which accident risks have considerably increased and certain accidents have taken on really catastrophic proportions with very serious human and ecological consequences.

(*) Booklet issued by the ESC in April 1979

(**) OJ No. C 147 of 16 June 1980, p. 19.

Although the basic objective of the proposal for a Directive is effective enforcement of international shipping safety standards, the Section was anxious to draw attention to the factors mentioned below, on which it is not going to comment, as some of them are being examined by other bodies.

The considerable expansion of shipping traffic, the vast dimensions of supertankers of up to 500,000 t., the fact that the English Channel is the busiest seaway in the world (1,800 tankers carrying nearly 500 million t. of crude oil pass through it each year; 400 large vessels are to be counted each day in the Straits of Dover), etc. are among the reasons for the increase in accident risks.

We can add to this the fact that vessels traditionally sail close to the coast of Finistère, the growth of flags of convenience, a phenomenon strongly criticized by the Committee in its abovementioned Opinion (27% of the world fleet sails under flags of convenience, as against 5% in 1950, and 57% of shipping accidents involve flag of convenience vessels, according to the Lloyds statistics mentioned in the Opinion of the French Economic and Social Council).

The conclusion to be drawn from all these observations is that maximum attention must be given to the enforcement of international safety standards in respect of vessels calling at Community ports, whatever their flag.

The reader will find attached a number of tables and maps showing the causes of oil spills and their location (see p. 33 - 42).

In these circumstances, the Commission proposal which is being examined by the Section for Transport and which is of major importance on account of its preventive character

is in all respects an essential Community instrument, although there are other problems which should receive attention from the Commission, the Council and the governments of the Member States.

In this connection, the Section has drawn attention to various possible sources of pollution :

- accidental grounding of a vessel;
- washing of oil tanks at sea (deliberate wrong-doing);
- accidental pollution such as that involved in many spectacular disasters particularly along the English Channel coasts;
- material defects in vessels, some of which do not meet the international standards laid down by the Inter-Governmental Maritime Consultative Organization (IMCO) - a specialized agency of the United Nations with the task of producing world standards for the construction, equipment and crewing of vessels with a view to promoting safety and preventing pollution;
- accidents, damage or fire occurring on board ships;
- pollution from land-based industrial activities (discharges into the sea, etc.);
- collisions, which may also involve small vessels;
- oil pipelines on the sea bed.

A number of partly interdependent factors may also be involved in pollution risks :

- technical shortcomings (for example, absence of equipment to facilitate towing) which the vast size of vessels only aggravates;
- the difficulties liable to arise when towing has to be carried out in bad weather (*);
- the possible human shortcomings of crews;
- the reprehensible irresponsibility of certain shipowners (the visit to Brittany by the two Study Groups afforded an opportunity to see on the spot intolerable infringements (by habitual offenders) of the traffic rules introduced after the Amoco-Cadiz catastrophe; these infringements were due to the fact that the crew had not been informed of the new rules by the shipowners);
- space constraints (narrowness of the sea lanes, insufficient under-keel clearance, increasing density of traffic, access to ports, inadequate port installations, etc.).

(*) Cf, this comment by Mr REVOIL (International Federation of Ships Masters' Associations) in his statement on the problems involved in towing large vessels, made before the European Parliament (20/21/22 June 1978): "... it is absolutely impossible to take tankers of over 300,000 t. effectively in tow in heavy seas, with high waves breaking, in the vicinity of rocky coasts".

Because of its preventive nature and the constraints imposed on all the Member States and any third countries joining them, the proposal for a Directive is capable of remedying some of the shortcomings mentioned above.

There are, however, other factors :

- the technical design characteristics of tankers;
- everything connected with shipping traffic as such, the monitoring of this traffic by guidance centres, the laying down of regulations on sea lanes and their distance from particularly dangerous coasts where traffic is dense;
- the training of crews and their instruction in the action to be taken in the event of damage or danger;
- communications and safety installations, every aspect of which is important in an examination of all the problems involved in achieving as effective as possible accident prevention.

During its visit to Brest and the island of Ushant, Section members were also able to see in operation the new arrangements for shipping traffic off the coast of Brittany. On 1 January 1979 a traffic separation scheme was introduced with a number of specific lanes for different kinds of traffic :

- northbound lane for oil tankers, other large vessels and vessels carrying dangerous goods (keeping them at a distance of about 20-21 nautical miles (*));
- southbound lane;
- lane for small vessels.

(*) 1 nautical mile = 1,852 metres.

GENERAL COMMENTS

The Section has drawn attention to the clear link between Draft Directive COM (80) 360 on the enforcement of international standards for shipping safety, which it has been asked to examine, and Communication COM 80 361 of 26 June 1980 concerning a plan to combat oil pollution of the sea, which has been referred to the Section for Protection of the Environment.

Draft Directive 360 is essentially preventive in character, dealing as it does with the enforcement of shipping, safety standards, whereas Communication 361 proposes, among other things, measures for tackling the pollution caused by oil spills, whatever their source.

Draft Directive 360 seeks to provide the Community with a harmonized legal instrument enabling it to apply international standards in practice, too. This is in keeping with the suggestion made by the Committee, in its own-initiative Opinion on Community shipping policy, regarding the introduction of a Community technical inspection system.

While the preparation of international standards is the task of international bodies such as IMCO and the ILO (International Labour Organization), it is up to each State to enforce these standards.

It follows logically from the Treaty of Rome that the Member States should adopt an identical, coordinated position in order to ensure everywhere the same supervision of the application of the international standards and the same rigour in dealing with non-observance.

To this end it will be necessary first of all to make sure that all the Member States have actually ratified the international instruments referred to in the proposal for a Directive, namely :

- the International Convention for the Safety of Life at Sea, 1974;
- the International Convention on Load Lines, 1966;
- the International Convention for the Prevention of Pollution of the Sea by Oil, 1954, including the amendments adopted in 1962 and 1969;
- the Convention on the International Regulations for Preventing Collisions at Sea, 1972;
- the Protocol of 1978 relating to the International Convention for Safety of Life at Sea, 1974;
- the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 relating to that Convention;
- the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978;
- Convention No. 147 concerning Minimum Standards on Merchant Ships, adopted by the International Labour Conference in 1976.

The present situation regarding ratification of these conventions by the Member States and Spain, Portugal, Norway and Sweden is shown in a table (see page 43).

An analysis of this table is instructive, since it may reasonably be assumed that a State that does not ratify one of these instruments within a reasonable period or delays ratification will not show any great keenness either in enforcing it in its ports or on the ships flying its flag.

From this angle, the proposal for a Directive unquestionably represents a stimulus for ratification, since it aligns the positions of all the Member States.

This active stimulus provided by the proposal for a Directive should help to prevent the emergence of "ports of convenience", insofar as the steps taken to enable inspections to be performed in Community ports are effective and the penalties are a real deterrent.

The Committee considers it highly desirable that all the Member States and the applicant countries should make haste to ratify all the international instruments referred to in the proposal for a Directive.

The Section has noted that the proposal is concerned basically with the enforcement of standards, the harmonization of inspection and the compulsory identification of sub-standard vessels by all the Member States.

Simultaneous, correct enforcement of existing safety standards could in itself be regarded as an effective way of achieving greater safety, given the present rather unsatisfactory situation in this respect.

The Section attaches great importance to the world-wide character of the safety standards drawn up by IMCO.

It would, however, like Community coordination to be developed in this area as a positive contribution to IMCO's activities, in order to reinforce the world-wide character of these activities.

The Section observes, however, that the 1974 Convention for the Safety of Life at Sea does not deal with small vessels, i.e. vessels of less than 500 t.

It is obvious that such vessels, like any others, may be directly or indirectly responsible for accidents liable to lead to pollution of the sea, if only through collision with another vessel.

While the proposal for a Directive clearly does not forbid the Member States to lay down specific rules and standards for small vessels, the Section thinks that the Commission should take the initiative and coordinate the activities of the Member States, in order to arrive here, too, at identical standards for the entire Community.

SPECIFIC COMMENTS

Applicability of the Directive (Articles 1, 2 and 3)

In Article 1 the Directive "requires the Member States to provide for the identification and inspection of sub-standard ships visiting their ports and the remedying of deficiencies".

The Section therefore considers that all vessels entering Community ports, whatever their flag and regardless of whether their country of origin has signed or ratified the international conventions on safety standards or not, should, by the mere act of calling at a Community port, be liable to systematic inspection by the port authorities.

It is important that inspection be systematic, for it must be clear that all vessels entering Community ports will be liable to inspection and that penalties will be imposed if the international standards have not been observed.

If the objective is to be achieved, resources will of course have to be deployed in all the Member States to ensure that the inspections are carried out properly (see below), the important thing being that the systematic nature of the inspections should be seen as something backed by the political will of all the Member States.

Article 2 contains a list of the international conventions and protocols that vessels should comply with.

In order to prevent any disputes, it is stated that these are "relevant" conventions, since some conventions and protocols exclude certain types of vessel from their field of application, for example warships, troop carriers, pleasure craft, etc.

The Commission's comments on this subject should be clarified so that a precise list can be drawn up of the exceptions referred to.

Article 2(2) covers the situation that would arise in the event of subsequent amendments or additional protocols to the relevant international instruments listed. Provision is made for the automatic application of these amendments, "unless the Council decides otherwise on a proposal from the Commission".

Similarly, under Article 2(3), the Council "may decide on a proposal from the Commission, that part or all of any of the four instruments last mentioned shall be deemed to be a relevant Convention before the instrument has entered into force".

Some members of the Section endorse these provisions.

Other members, however, are against them and would like Articles 2 and 3 to be reworded.

They point out that certain countries that have not signed or ratified a given convention would de facto be obliged to enforce it, although they may have good reasons for withholding their approval of it.

The same members ask that the 1960 SOLAS Convention be added to the list of relevant international instruments in Article 2(1).

Other members are against such a move, since the 1960 Convention has been replaced by the 1974 International Convention for the Safety of Life at Sea within the IMCO framework, in order to take account of the technical evolution of ships.

These members consider that inclusion of the 1960 SOLAS Convention in the Draft Directive would mean diverging from international opinion within IMCO, and they point out that all but one of the ten Member States (Ireland) have ratified the 1974 SOLAS Convention and that only one of the two applicant countries (Portugal) has not yet ratified it.

Ships' declarations (Article 4)

Some members consider that if one follows the letter of the Directive, it would be quite possible for a vessel to avoid any inspection, since (a) there is no inspection obligation and (b) the concrete inspection facilities are notoriously inadequate in certain States.

In the view of some members, the ineffectiveness of the proposal for a Directive is illustrated by the fact that under Article 4, the Member States are to be allowed to decide :

- that the declaration will be made "at appropriate intervals", where a vessel frequently visits the same port of a Member State;
- that the declaration will be made only once, at the first port visited, where the vessel visits more than one port of a particular Member State in the course of a single voyage.

A point was made during the Section's discussions of these provisions, namely that the (sole) declaration should be made in the first port of call where a vessel visits more than one port in the same Member State (simplified also for car ferries).

It has also been suggested that a supplementary declaration should be required in the event of changes in the crew or damage in a Community port or in Community waters.

Other members, however, reject Article 4. In view of the administrative complications these provisions would give rise to, they propose that a sole declaration be made once and for all.

In addition, it has been proposed that paragraph 3 be reworded to read as follows :

"In the interests of shipping safety and pollution prevention, the documents referred to in paragraph 1 of this Article shall be examined by the appropriate authorities on board the ship".

This wording is intended to strengthen the resolve to achieve as systematic inspection as possible in all the Member States.

Requirement for a vessel to be put in order where the international standards have not been observed (Article 7)

The Member States are already empowered to oblige a vessel to put itself in order before leaving port. In certain cases there is protection against wrongful delays. It is not therefore necessary to change the existing law. However, authorization to leave port may in practice be given to enable a substandard vessel to proceed to a port with a repair yard capable of performing the work needed to bring the vessel into conformity with the international regulations. The proposal for a Directive could take account of this particular situation so as to avoid any future controversy.

In connection with this problem, several members have drawn attention to the problems liable to arise for the crew of a vessel which is detained in a Community port, or authorized to leave it, in order to have the repairs carried out that are necessary to bring the vessel into conformity with the safety standards. Several specific examples have been mentioned : crew put out of work, dismissed, another crew taken on.

Inspection resources

The Section considers that, if the Directive is to be applied effectively, there will have to be an increase in the resources of the shipping inspectorates responsible in each Member State for enforcing the current rules and inspecting vessels in ports.

The Opinion of the French Economic and Social Council already referred to above also draws attention to this

lacuna and calls for reinforcement of the specialist staff not only for inspections but also for surveillance in territorial waters.

Penalties

Article 9 lays down that the Member States are to fix under their own legislation the amount of the fee to be paid by the owner or operator of a vessel that has been inspected and on which deficiencies justifying detention have been found.

The sole Community harmonization provided for, apart from the very principle of penalties, which is self-evident, is to be found in the following clause : "The total of fees levied shall cover the total costs of inspection in any normal accounting period".

Several members therefore urge that penalties be fixed at Community level.

They think that this would prevent new distortions of competition and further strengthen the essential Community coordination to enhance ship safety and intensify the fight against pollution.

Reference was made to previous cases where European regulations have not been enforced; non-compliance here may be attributed to the fact that the level of the penalties, and indeed the very existence of penalties, was left to discretion of the Member States.

It is also to be feared that the disparity in national attitudes will result in the Community Directive being completely inoperative in certain Member States and in the emergence of "ports of refuge" for defective vessels.

One member also suggests that provision be made for a specific additional penalty for any false declaration, for any failure to make a declaration and for any repeated infringement.

Use of classification societies

Aware of the inadequate resources of the shipping inspectorates in Member States (if not the complete absence in some countries of inspectorates qualified to carry out these checks), the Commission proposes in Article 10 that technical work be delegated to the classification societies as follows :

"In implementing this Directive the Member States shall regularly examine to what extent, in order to assist them to achieve its objectives, arrangements could be made with classification societies under which the societies or their staff would :

- undertake port state enforcement work as agents of the Member State concerned, or
- act on behalf of the Member State as flag state ...".

Some members expressed very extensive opposition to Article 10 and the use of classification societies as substitutes for the port authorities of the Member States in the enforcement of safety standards in respect of vessels calling at Member State ports.

They consider that the present function and sphere of competence of the classification societies lie more in the technical field and are only very remotely related to the role of the shipping inspectorates in respect of the technical and social aspects of the observance of safety standards.

Furthermore, several classification societies may operate in the same port and seafarers will not always know which are authorized to carry out inspections.

Also, seafarers fully recognize the independence of the shipping inspectorates.

These members are aware that certain countries at present delegate to classification societies all their powers regarding the enforcement of safety standards and their social aspects. This is, for example, the case with Liberia, a country that is also high up in the list of flags of convenience.

If one were asked for a legal definition of classification societies, one could say that they are :

"private-sector bodies with public-law powers delegated by the government".

These members consider that generalization of this situation (which arose from historical circumstances) through the application of Article 10 of the proposal for a Directive would mean that the classification societies would de facto be given public law status.

Such a state of affairs is not very satisfactory and at all events does not accord very well with the fundamental rules of law of certain Member States.

In the eyes of some members, it would constitute a surrender of sovereignty by the Member States to private-sector bodies in an area where the public authorities have direct responsibilities.

Furthermore, under Article 10 private-sector classification societies are to be invited to place their staff at the disposal of the Member State administrations, without any indication being given as to who is to have effective responsibility for inspection and the penalties to be imposed in the case of non-observance of the international conventions.

Other members, however, agree with the Commission's proposal for the use of classification societies, while accepting that the Member States will remain responsible for the application of the Directive.

Yet other members accept the use of classification societies, stressing that this would only be a temporary measure, until the States have equipped themselves with all the resources necessary to ensure that the inspections can be carried out by their appropriate administrations.

The Section as a whole therefore considers that the present wording of Article 10, paragraph 2, is unsatisfactory from both the factual and the legal points of view. It should therefore be revised by the Commission to take account of the following points :

- verification of the direct responsibility of the Member States for the enforcement of the Directive on their territory;
- verification of the adoption by the Member States of the measures necessary for as systematic as possible checks as to the correct application of the international safety standards by vessels entering their ports, whatever their flag and regardless of whether the country of origin has signed or ratified the international conventions or not;
- since the responsibility for these checks lies with the public authorities, the Commission should make sure that the Member States take the necessary steps in accordance with the administrative rules and practices in force in their territory;
- the Member States should ensure, by means of systematic checks during the loading and unloading of tankers, that it

is possible to detect any structural defect in the vessels liable to lead to an oil spill in ports;

- the Commission should be informed each year of the measures taken by the Member States to implement the Directive; the Commission should regularly inform the European Parliament and the Economic and Social Committee of the conclusions it has drawn as to the effectiveness of the measures adopted and the progress made in improving ship safety standards and in the prevention of pollution.

Social problems

Although the proposal for a Directive does not deal directly with the social and human aspects of effective safety, the Section thinks it essential to draw the Commission's attention to these problems, so that they can be thoroughly examined by the relevant Commission Directorates and tackled in specific proposals harmonizing the situations in the Member States.

The Section has voluntarily confined itself to social problems with a clear link with ship safety. Accordingly, it is with reference to International Convention 147 on Minimum Standards in Merchant Ships adopted by the International Labour Conference in 1976 that the Section makes the following suggestions :

Minimum rules should be drawn up at Community level concerning the application by the Member States of Article 2(a)(i) of Convention 147.

This clause requires the States to "have laws or regulations laying down ... safety standards, including standards of competency, hours of work and manning, so as to ensure the safety of life on board ship".

The Section discussed at length questions concerning the training of crews, manning, hours of work and living conditions on board ship with a direct bearing on ship safety and the effectiveness of any action to deal with an incident on board ship or a serious accident.

Community harmonization dealing with the social questions referred to in Article 2(a)(1) of Convention 147 would help to provide a better guarantee of the application of the Convention in these areas crucial to safety on board ship.

It would be desirable for the Community to be able to make sure that inspections of ships in Community ports cover the application of not only technical but also social standards.

The Member States could at regular intervals inform the Commission of the conclusions drawn by the maritime authorities on the basis of the inspections in question, so that the findings can be compared at Community level with the objectives behind the setting-up of a Community system for the enforcement of safety standards.

Application of the Directive to the new Member State

On 1 January 1981 Greece became the 10th Member State of the Community.

As from that date (as indicated in the Commission publications) all the rules of the common market will apply to Greece : the CAP, regional policy, competition rules, freedom of movement for workers and goods, etc. (*).

The following table gives a good illustration of certain anxieties expressed by the Section as regards the application of the Directive to Greece :

(*) OJ No. L 291 of 19 November 1979 (Act of Accession).

ANALYSIS OF DEFICIENCY REPORTS SUBMITTED TO IMCO
IN ACCORDANCE WITH REGULATION 19 OF CHAPTER 1 OF
THE SOLAS CONVENTION 1974, AND ARTICLE 21 OF
THE LOAD LINE CONVENTION, 1966

Nov. 78 - March 79	April 79 - Dec. 79	Jan. 80 - June 80
Greece 17	Greece 32	Greece 23
Cyprus 8	Panama 15	Panama 10
Panama 7	Cyprus 7	Cyprus 8
Liberia 3	Liberia 3	Liberia 8
Others 2 or less	Others 2 or less	Others 2 or less
Total 43	Total 84	Total 62

Comments on Annexes 1 and 2

Declaration referred to in Article 4(1) (Annex 1)

The Section thinks that certain points should be added to the list of "clear grounds" for "believing that the condition of the ship or of its equipment or the crewing arrangements do not correspond substantially with the particulars of a certificate or the requirements of a relevant Convention".

These additional points are as follows :

- the date of the last actual launching of the lifeboats;
- the date of the last real fire drill, and appraisals of performance;
- the number of crew members with AB certificates and certificates in the use of lifeboats;
- the number of men who have taken fire-prevention and fire-fighting courses;
- the personal and collective life-saving equipment;
- the state of the engines, auxiliary equipment and electrical installations.

List of "clear grounds" (Annex 2)

The Section proposes that sub-paragraph a) of Annex 2 be amended to read as follows :

"a) a report or complaint by the master, the pilot, an insurance company, a professional body, an association, a trade union or, generally, any person with a legitimate interest in the safety of the ship, including an interest in safety or health hazards to its crew".

This text is taken almost word for word from ILO Convention 147 and thus precludes any incorrect interpretation.

CONCLUSION

In medicine and in other fields prevention is better than cure.

In this maritime matter, one cannot but wish "fair wind" to the Commission's proposal for a Directive, enhanced by the suggestions of the Economic and Social Committee.

This wish is all the more heartfelt since the Committee is concerned about the appreciable increase in shipping accidents leading too often to the loss of many human lives.

Furthermore, the considerable damage sustained by communities in coastal areas and the negative effects on the marine environment of deliberate or accidental discharges of oil and other dangerous substances by ships clearly justify vigorous action by the Community to ensure observance of the international safety standards by all vessels.

Oil spills throughout the world
(1974-1979).

<u>Size of spill</u>	<u>Number</u>	<u>%</u>
Traces	695	19
Less than 0.5 barrel	779	22
Between 0.5 and 5 barrels	1138	32
Between 5 and 50 barrels	568	16
Between 50 and 5000	346	9
More than 5000 barrels	71	2

Oil spills in Europe
(1974-1979)

<u>Size of spill</u>	<u>Number</u>	<u>%</u>
Traces	110	14
Less than 0.5 barrel	153	20
Between 0.5 and 5 barrels	215	28
Between 5 and 50 barrels	160	21
Between 50 and 5000 barrels	103	13
More than 5000 barrels	24	3

Causes of oil spills throughout the world
(1974-1979)

	<u>Barrels</u>						<u>total</u>	<u>%</u>
	<u>Traces</u>	<u>0-0.5</u>	<u>0.5-5</u>	<u>5-50</u>	<u>50-5000</u>	<u>5000</u>		
Collision	6	5	4	12	38	21	86	3
Grounding	3	6	12	13	69	34	137	4
Taking on/discharging of ballast	101	107	177	49	18	1	453	14
Loading/unloading	380	397	606	320	133	4	1840	56
Washing of tanks	12	9	15	7	4	-	47	1
Bunkering	42	107	146	58	20	-	373	11
Pumping of bilges	22	19	32	11	1	-	85	3
Internal transfer operations	14	28	27	20	2	-	91	3
Miscellaneous	54	48	30	18	17	6	173	5

Causes of oil spills in port and at sea
throughout the world
(1974-1979)

	Spills in port	Spills at sea
	<u>Number</u>	<u>Number</u>
Collision	87	27
Grounding	147	53
Taking on/discharging of ballast	556	37
Loading/Unloading	2120	141
Washing of tanks	60	10
Bunkering	404	23
Pumping of bilges	95	13
Internal transfer operations	95	11
Miscellaneous	208	27

Oil spills throughout the world,
broken down according to region and size of vessel
(1974-1979)

<u>Region</u>	<u>Size of vessel (in '000 DWT)</u>					
	<u>0-50</u>	<u>50-100</u>	<u>100-150</u>	<u>150-200</u>	<u>200-250</u>	<u>250-500</u>
USA	848	389	72	1	8	3
Europe	590	210	95	37	112	74
Middle East	113	159	66	36	137	94
East Asia	219	83	31	26	41	10
Caribbean	232	102	10	4	18	16
Miscellaneous	356	138	41	11	33	29
Total	2358	1081	315	115	349	226
%	53	24	7	3	8	5

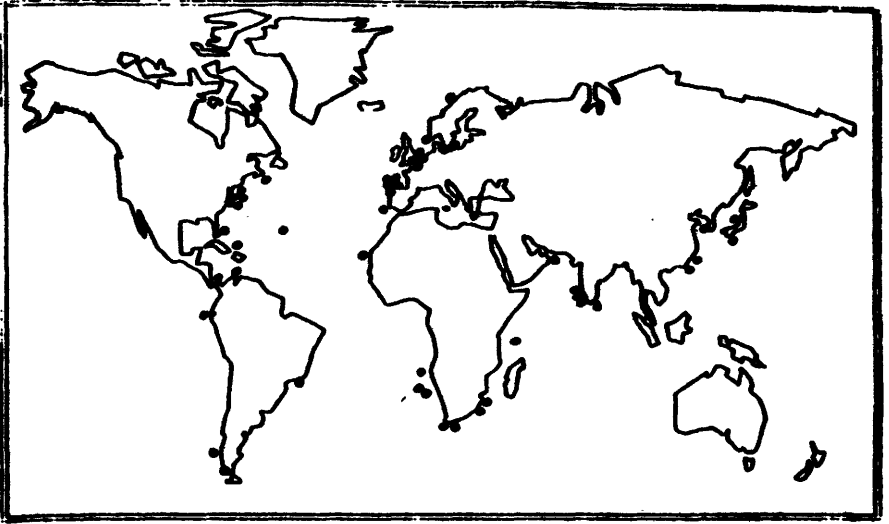
Number of oil spills of more than 5,000 barrels throughout the world
broken down according to size and age of vessel

(1974-1979)

DWT

<u>Year built</u>	<u>1-50,000</u>	<u>50,001-100,000</u>	<u>100,001-150,000</u>	<u>150,001-200,000</u>	<u>200,001-250,000</u>	<u>250,001-500,000</u>	<u>Total</u>
1901-50	1	0	0	0	0	0	1
1951-55	2	0	0	0	0	0	2
1956-60	7	1	0	0	0	0	8
1961-65	1	8	0	0	0	0	9
1966-70	3	4	2	1	3	0	13
1971-75	3	3	2	0	2	4	14
1976-79	0	0	0	0	0	0	0
TOTAL	17	16	4	1	5	4	47

LARGE OIL SPILLS SINCE 1974



MAJOR FLOWS OF OIL BY TANKER : 1977 (*)



(*) British Petroleum Company Ltd.

FIGURE 5 Oil spills of more than 5,000 barrels in European waters since 1970

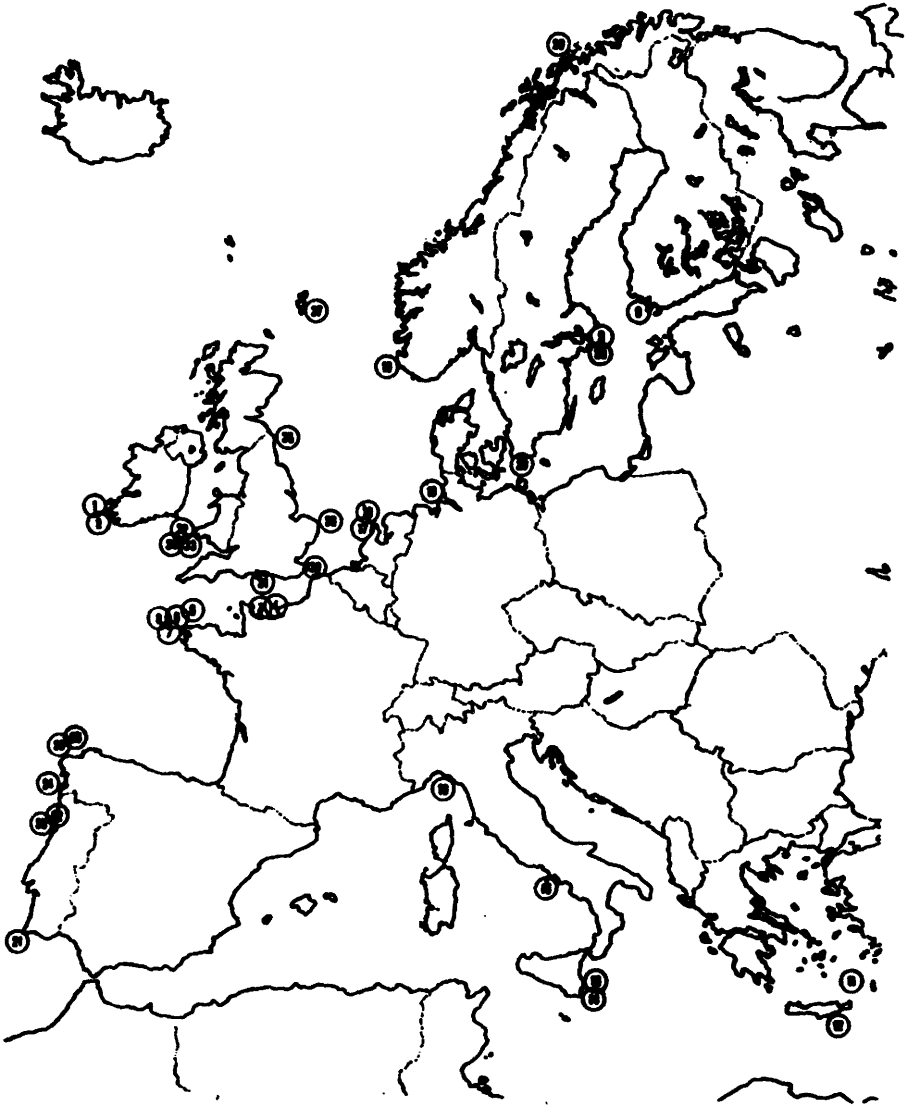
<u>Country</u>	<u>No on the map</u>	<u>Name of vessel</u>	<u>Location</u>
Ireland	1	Universe Leader	Bantry Bay
	2	Betelgeuse	Bantry Bay
France	3	Chaumont	Le Havre
	4	Peter Maersk	Le Havre
	5	Hagensee	Off Brest
	6	Bohlen	Off Brest
	7	Gino	Off Brest
	8	Amoco Cadiz	Ushant
Finland	9 (*)	Antonio Gramsci	Åland
Germany	10	Astoria	Emden
Greece	11	Tradar	Ionian Sea
	12	Messiniske Frontis	Crete
Italy	13	Marlena	Sicily
	14 (**)	Agip Venezia	Sicily
	15	Vera Berlingieri	Off Fiumicino
	16	Al Rawdatain	Genoa
Netherlands	17	Sant Ambrogio	Rotterdam
	18	Pacific Colocotronis	Off Den Helder
Norway	19	Drupa	Near Stavanger
	20	British Mallard	Near Tromsø
Portugal	21	Giuseppe Giulietti	Off Cape St Vincent
	22	Saint Mary	Oporto
	23	Jakob Maersk	Leixoes

Figure 5 Contd.

<u>Country</u>	<u>No. on the map</u>	<u>Name of vessel</u>	<u>Location</u>
Spain	24	Polycommander	Vigo
	25	Urquiola	La Coruna
	26	Andros Patria	
Sweden	27	Irini	Mysingen
	28	Jawachta	Off Trelleborg
	29	Tsisis	Stockholm
	9	Antonio Gramsci	Stockholm
United Kingdom	30	Olympic Alliance	Straits of Dover
	31	Pacific Glory	Isle of Wight
	32	Dona Marika	Milford Haven
	33	Chryssi P Goulandris	Milford Haven
	34	Christos Bitas	Off Milford Haven
	35	Fina Belgique	Teesside
	36	Eleni V	East coast
37	Esso Bernicia	Sullom Voe	

(*) The Antonio Gramsci grounded at Ventspils in the USSR, but the oil was later washed ashore on the coast of Finland and Sweden.

(**)The Agip Venezia was involved in a collision off Malta, but the oil was later washed ashore on the east coast of Sicily.



Information as at 8.01.81	Safety of life at sea 1974 (SOLAS 1974) RRD. 1.1.79	1978 Protocol to SOLAS 1974 RRD. 30.6.79	Prevention of Maritime Pollution 1973 (MARPOL 1973) RRD. 1.6.80	1978 Protocol to MARPOL 1973 RRD. 1.6.80	ILO Convention No.147 on Minimum Stand. on ships RRD. 1.4.79	Standards of Seafarers Training (STCW 1978) RRD.31.12.80	Safety of Fishing Vessels (Torremolinos) (SFV 1977) RRD.31.7.82	Convention for Safe Containers (CSC 1972) RRD. 1.7.80
BELGIUM	X	X	0	0	0	0	0	0
DENMARK	X	X	0	X	X	0	0	X
F.R. GERMANY	X	X	0	0	X	0	0	X
FRANCE	X	X	0	0	X	X	X	X
IRELAND	0	0	0	0	0	0	0	0
ITALY	X	0	0	0	0	0	0	X
NETHERLANDS	X	X	0	0	X	0	0	0
UNITED KINGDOM	X	X	X	X	X	X	X	X
GREECE	X	0	0	0	X	0	0	0
SPAIN	X	X	0	0	X	X	X	X
PORTUGAL	0	0	0	0	0	0	0	0
NORWAY	X	0	X	X	X	0	X	0
SWEDEN	X	X	0	X	X	0	0	X
Other contracting States	37	9	7	6	1 (Finland)	4	2	23
TOTAL	48	17	9/15	10/15		7/25	6/15	30
Date of entry into force	25.5.80	1.5.81	add.cond. 50% GT/1 yr 12%	add.cond. 50% GT/1 yr 38%	28.11.81	add.cond. 50% GT/1 yr 36%	50% world fishing fleet 24 m/1 yr	6.9.1979

RRD = recommended ratification date by EC

X = has ratified

0 = has not ratified

A.3 LP/ir

8.01.81

C. OPINION OF THE COMMITTEE ON THE PROPOSAL FOR A COUNCIL
DECISION ESTABLISHING A COMMUNITY INFORMATION SYSTEM FOR
PREVENTING AND COMBATTING HYDROCARBON POLLUTION OF THE SEA

INTRODUCTION

Combatting oil pollution of the sea requires a variety of measures. All of them have severe limitations and are only effective within a narrow range of weather conditions and in dealing with a limited range of hydrocarbons which may be spilled. The measures are likely to be more effective when coordinated at Community level or even on a wider international scale.

The Committee welcomes the fact that the Commission has submitted to the Council a Communication concerning a Plan to Combat Oil Pollution of the Sea (Doc. COM(80) 361 final). This Communication contains several elements which will assist in combatting oil pollution of the sea and, in particular :

- a Community information system (Decision currently proposed),
- a proposal of the Commission to indicate equipment specifications which will be best suited to meet the problems of mitigating the aspects of oil pollution of the sea,
- a Commission proposal on the methodology to be followed in drawing up contingency programmes,
- Community support for pilot schemes in this field.

The Community information system covered in the Decision currently proposed concerns three quite separate subjects, namely :

- 1) information on staff and equipment, both mechanical and chemical, available in the Member States,

- 2) a compendium of the properties of hydrocarbons, etc. liable to cause sea pollution, and
- 3) a tanker file containing information on the characteristics of tankers, ownerships and a note of any infringements committed wherever they may have operated.

The Committee is required to give its Opinion only on the present Proposal for a Decision on a Community information system. However, there are many other measures which the Community should undertake to combat hydrocarbon pollution of the sea and these measures are described in more detail in the Section's current Report. Many of these measures should, in the Committee's opinion be given high priority and made the subject of early action by the Commission.

GENERAL REMARKS

The Committee stresses the need for more cooperation and coordination with third countries, in particular with the USA and Japan and with Mediterranean countries such as Yugoslavia. There is also a need for cooperation and coordination with existing organizations such as the Bonn Agreement, which includes the Member States as well as other North Sea countries. It is important that there should not be another organization overlapping and drawing resources from existing effective organizations. It is also important that information which has been assembled by non-Member States or by organizations such as IMCO, ILO and under the Bonn and the Hague Agreements is made generally available.

The Commission presents its information system, and especially its tanker file, as an instrument to assist competent authorities in their measures to combat a major oil accident. The Committee believes that this information system can and should also be considered as an important instrument

enabling the prevention of tankers with known records of infringement from entering the ports, or even approaching coasts, of Member States until their satisfactory condition has been ensured. In this respect the proposed Council Decision will augment and be complementary to the proposed Council Directive concerning the Enforcement, in respect of Shipping using Community Ports, of International Standards for Shipping Safety and Pollution Prevention (Doc. COM(80) 360 final).

The information needed to complete the first two inventories on staff equipment and on the nature of hydrocarbons appears to be relatively easy to collect. But the Committee is worried about the accuracy of information to enter the tanker file because of the big number of ships not flying a Member-State flag. Therefore the Committee welcomes the accession of Greece, a country with one of the largest tanker fleets in the world. The Commission should also take steps to obtain information about tankers owned by or flying the flag of non-Member States by reference to other information files which exist both in Japan and the USA. The possibility of obtaining an exchange of this information on an international basis requires investigation.

Furthermore, the Committee wonders whether this information system should not also be applied to undersea pipelines and to drilling platforms. These are both possible sources of marine oil pollution, and the fact that information about them is more easily available is no reason for not including them in the Community information system. Pipelines between land and sea where damage can cause estuarial pollution should also be included.

SPECIFIC COMMENTS

Accidents which have already occurred in coastal waters of Member States have demonstrated the value of and need for an information system and this should be set up as quickly as possible. It will always be useful to have an updated and permanent inventory of available resources which can be called upon in the event of an oil spill.

Article 1 proposes a wide ranging inventory. This information should be related to a compendium of contingency plans for specific sea and coastal areas of Member States.

- a) The number and qualifications of specialist staff available will vary according to the severity of the incident, which would alter the priorities of other duties in which these staff are normally engaged. Nevertheless up-to-date information concerning key contacts would enable responsible authorities to make the necessary arrangements with the maximum of speed.
- b) The mechanical means for dealing with oil at sea and coastal pollution could include the number of equipments of each special type dedicated to oil pollution, but for more general equipment such as gully emptiers, tractors, tipper lorries, etc., it would be too difficult to keep numbers updated, and the compendium should quote only the types which are available. It is important that equipment which has been superseded by better apparatus or has been made obsolete as a result of experience should be identified as such in the information data, as much of the original equipment used has now been discarded as not fully effective.
- c) The chemical means of combatting pollution at sea and cleaning up coasts will be largely by dispersants. Figures of

stock levels would need frequent updating, but this would not be the only factor, since they are dependent on the availability of replacements, a good potential supply leading to lower stock levels.

This inventory needs to be divided into coastline regions of, perhaps, 150 km in length, since speed of response would be an essential part of the information.

Although dispersants of very low toxicity have now been developed, potential problems exist as to when and where such dispersants can be used without danger to marine life. It would be most helpful if the information could distinguish between coastal waters where dispersants can be used freely and those where more expert advice should first be obtained.

Both Article 1 and Article 5 should include more strict rules and timetables both for the supply of the original information to the Commission and also for the subsequent up-dating. The wording used in Annexes I, II and III for the respective information to be "regularly up-dated" does not appear to be sufficiently precise if Member States are to be able to rely on the data accuracy. The Committee suggests, therefore, that the annexes should be up-dated by information supplied by the competent authorities in Member States at least every six months and that the latter should inform the Commission each time a change occurs.

In particular, the Committee feels strongly that before information is placed on the data files all the authorities, owners and other persons concerned who might be adversely affected should the information not be correct, should be given an opportunity to check and agree the files, particularly as regards the information about their ships so that any inaccurate information can be corrected before it is passed on to Member States and other persons concerned.

The Committee proposes adding to point 1 of Annex III (Contents) an indent worded as follows :

"- to identify the company (companies) with which the tanker and its cargo are insured".

In addition to having information on the international maritime conventions to which tankers are subject, it is essential to be able to contact a vessel's insurers direct in the event of an accident.

CONCLUSIONS

In the Commission's Introduction to the Draft Decision (page 3) reference is made to the need for Member States to draw up contingency plans to deal with large scale oil pollution and it is proposed by the Commission that guidance should be issued on the form and content of these contingency plans. It is also mentioned that all the various measures which the Commission has suggested must be backed up by financial support so that the necessary initiatives can be taken by those responsible. The Committee is impressed by the action which is already being undertaken in some Member States to combat oil pollution in their coastal waters and has observed the research and experiments now going on to develop new processes and equipment which may be more effective than some of those used in the past when accidents have occurred without prior warning.

The Committee would therefore like to stress how important it is that there should be adequate financial budgetary arrangements not only in 1981 but in subsequent years.

The Committee notes that the Commission has set up an Advisory Committee of Government experts and Commission representatives with the intention that this Committee should

become a forum where experts can meet for the purpose of pooling experience. It is hoped that this Committee will work in such a way as to ensure the updating and reliability of data contained in the Community information system. It is envisaged that the Advisory Committee will help the Commission on initiatives which are required and deal with the problems of oil pollution. Nevertheless, it is very important that great care is taken to avoid duplication with the work and information contained in the Bonn Agreement and the Barcelona Convention.

Whilst this Draft Decision (Doc. COM(80) 361 final) is only concerned with the setting up of a new and obligatory information service, the Committee would like to stress the importance of early action in other elements of the total action plan against oil pollution of the sea. Many other elements are seen to be even more important than a central and reliable information system. The Committee welcomes therefore the companion Draft Directive concerning the Enforcement, in respect of Shipping using Community Ports, of International Standards for Shipping Safety and Pollution Prevention (Doc. COM(80) 360 final). "Prevention" is always much better than "cure" and the Comsees it as a joint and integrated operation to secure both a proper standard for ships and their crews, and a proper traffic discipline for ships using international routes and waters, such as can adequately be policed and enforced with penalties, which should be sufficient, particularly in cases of deliberate non-compliance, and therefore higher than the gain derived from non-compliance. But even after those two regulations there remains a wide range of measures which need to be taken at Community level to mitigate the worst effects of oil pollution when accidents or disasters occur. The two proposals which the Commission has introduced at the present time should be considered as the first steps towards the rapid production of a complete and fully integrated plan which will deal with all the various

problems which are associated with oil pollution arising from the transport of hydrocarbons by sea from "source" to "consumers".

The Committee notes that new accidents are foreseeable. It therefore urges the Commission to speed up its preparatory work in respect of all the other measures to be taken under the overall plan for combatting oil pollution of the sea. The Committee asks to be consulted on each of the Commission's proposals in this field.

D. REPORT OF THE SECTION FOR THE PROTECTION OF THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER AFFAIRS (Rapporteur : Mr DOBLE)

INTRODUCTION

On 26 June 1980 the Commission adopted and submitted to the Council a Communication concerning a Plan to Combat Oil Pollution of the Sea (COM(80) 361 final). This Communication is an extension of the Commission's work under the First and Second Environment Programmes and deals specifically with the environmental aspect of the document of 27 April 1978 on Marine Pollution Arising from the Carriage of Oil (COM(78) 184 final). It also follows on from the Action Programme of the European Communities on the Control and Reduction of Pollution Caused by Hydrocarbons Discharged at Sea (OJ No. C 162 of 8.7.1978) and is based on the studies undertaken as part of that programme.

The Communication sets out the results of these studies, from which it emerges that the Commission should take action in the following areas :

- Information - computer processing of data on ways of dealing with marine pollution by hydrocarbons;
- Equipment specifications - studies of relevant data on tankers liable to pollute the waters around the Community including off-shore structures;
- Contingency plans - to ensure cooperation and effectiveness of emergency teams;
- Support for pilot schemes;

- Study of the amendments and improvements which may have to be made to the legal rules on insurance against the risk of accidental pollution;
- Establishment of a research programme on chemical and mechanical means of combatting pollution.

It also points out that, in order to encourage the coordination of national and Community policies, the Commission has already set up an Advisory Committee of government experts and Commission representatives.

Finally, the Communication contains a Proposal for a Council Decision Establishing a Community Information System for the Prevention and Combatting of Oil Pollution of the Sea.

By letter of 11 July 1980 the Council requested the Committee's Opinion on this proposed Decision.

On 23 September 1980 the Environment Section was instructed by the Committee's Bureau to draw up an Opinion on this matter; although it saw its terms of reference as strictly limited to the abovementioned Council Decision, it considered it appropriate, in view of the importance and complexity of the subject, for this Report to deal with a number of directly related topics which were raised in the discussions in both Study Group and Section.

At the same time the Committee was asked on 14 July 1980 for an Opinion on the Proposal for a Council Directive Concerning the Enforcement, in Respect of Shipping Using Community Ports, of International Standards for Shipping Safety and Pollution Prevention (COM(80) 360 final). The Transport Section was instructed to prepare an Opinion on this proposal. The two Commission proposals must be viewed as an overall contribution towards solving the problem of oil pollution of the

On 5 and 6 November 1980, the two Study Groups made a joint working visit to Brest in Brittany, where they examined on the spot the problems posed by

- the enforcement of standards in Community ports, and
- oil pollution of the sea.

Other transport and environment specialists, in addition to the experts appointed by the Committee, took part in this working visit, which comprised a practical, fact-finding part (supervision of maritime transport in French waters, monitoring of preventive and remedial measures to deal with oil pollution) and a discussion.

The Section would like to thank the French authorities, the Brest Préfecture Maritime, the Centre National d'Exploitation des Océans (CNEXO) and the Brittany Regional Economic and Social Committee for their valuable assistance in the organization of the meetings at Brest and on the island of Ushant and for their cooperation in the examination of the Commission documents.

ESSENTIAL ELEMENTS IN PREVENTING AND COMBATTING POLLUTION

This Report summarizes the views of the members of the Section on a number of points which they consider vital to the work of preventing and combatting oil pollution of the sea, but which it was not possible to raise in the Opinion on the proposed Council Decision because they were outside the scope of that proposal. Specifically these points are :

- the ratification and respect of international conventions intended to prevent or combat oil pollution of the sea;
- the complementary role of Community measures;

- compensation for costs arising from pollution and insurance for pollution risks;
- the intensification of research into various aspects of preventing and combatting oil pollution of the sea and the funding of this research;
- the standardization of equipment;
- the arrangements for the recruitment and training of the necessary emergency teams and for joint and combined exercises.

The international conventions

The Community should concentrate its efforts on persuading all its Member States to ratify the IMCO and ILO conventions.

In fact, these conventions contain all the provisions needed for effectively preventing and combatting hydrocarbon pollution of the sea. The Community should also press its trading partners to sign and ratify these conventions.

The Community should then act on its own initiative to ensure that the obligations contained in these conventions are respected. It is clear that, as far as the transport of petroleum products is concerned, more tangible and significant results can be achieved through IMCO and ILO rules and standards than through the formulation and implementation of rules applicable to the 10 Member States only. It is also clear that following the ratification of these international Conventions, there should be effective application and enforcement of the standards embodied in these Conventions, in particular to oil tankers, with systematic inspections at all Community ports, with the provision of adequate inspectorate staff under Member State control and jurisdiction.

The results of these inspections must become part of the Community information system described in the Commission's Communication.

If necessary the international conventions must be supplemented by binding and legally enforceable provisions relating to navigation channels in Community waters and also in relation to shipping equipment. These should be as nearly comparable as possible to the arrangements which apply to air traffic control and the standardization of procedures and equipment in aircraft (see page-16 - 19).

Compensation for costs and the problem of insurance

In practice when there is an accident the local or regional authorities often have to pay out large sums of money to prevent and combat pollution of the sea and beaches. The complex situation as regards civil liability has often led to lengthy legal proceedings, compensation not being paid until several years after the accident. This is why there should be a uniform, world-wide basis for compensation for oil pollution damage and the establishment of an International Insurance Fund from which payments would be made immediately to authorities who have incurred expenditure in dealing with oil pollution of the coastal waters or their beaches as a result of oil spills from tankers however these may have been caused.

The Community should take urgent steps in this field.

The Section is glad to note that the Commission is concurrently making a study and an assessment of amendments which need to be made to present arrangements for shipping insurance and compensation as part of their programme of action under the Environment Action Programme. Nevertheless, it would seem to be important that the principle of the

"Polluter pays" is fully observed and that proper compensation is available to persons and public bodies who suffer damage in consequence of the pollution of the sea and the beaches as a result of oil spills whether accidentally or deliberately caused.

It is noted that the Civil Liabilities Act 1969 and the Fund Convention 1979 are both now in force in more than 40 states and deal with the civil liability of owners of ships. Nevertheless liability is at present limited to a maximum sum of US\$ 16 million whereas the total damage which was occasioned by the Amoco Cadiz accident was of the order of US\$ 1,700 million. Clearly, therefore, the present legal position is totally inadequate if proper compensation is to be paid.

It is understood that the Fund Convention of 1971 has only been ratified by some 20 states. This provides for an intervention fund from oil companies whose business is concerned with traffic in or the importation of oil.

As in the case of the other international conventions previously referred to, the Community should press other states to ratify the Civil Liabilities Act of 1969 and the Fund Convention of 1971. In this regard attention is drawn to new IMCO proposals whereby a procedure could be introduced enabling amendments to be made to and adopted by tacit consent in cases where national governments fail to act. These "tacit amendment" procedures need to be added to the Conventions themselves. The Community should press forward with these proposals.

Mention should also be made of two other compensation funds: TOVALOP (*) - an oil pollution mutual agreement - and CRYSTAL (**). It is understood that more than 90% of world tanker fleet owners subscribe to and are members of one or other of these agreements. Nevertheless 10% of fleet owners remain outside and it is here that the greatest risks of accident are most likely to occur because these fleet owners frequently operate the oldest and most sub-standard tankers. There is still the problem of one-ship-companies and of flag states which have not ratified the conventions where there is no effective remedy.

It would seem that even in those cases where there is insurance for the loss or damage to tanker fleets or for the loss of the cargo they may be carrying there still remains no adequate insurance or compensation funds to meet the very considerable cost of cleaning up the beaches affected by oil spills, for meeting the loss of trade, etc. of fishermen, hotel keepers and others whose livelihoods may be affected, for looking after the bird life and taking remedial action, etc. Again, there is no money to pay for the considerable costs where Member States or regional or local authorities find it necessary to keep tugs or aircraft available "round the clock" at strategic points as is now done at Brest and other places in order to safeguard against the possibility of disabled vessels being driven ashore as occurred in the case of the Amoco Cadiz or of early sighting of oil spills.

(*) TOVALOP - Tanker Owners Voluntary Agreement concerning liability for oil Pollution

(**) CRYSTAL - Contract Regarding Interim Supplement to Tanker Liability for Oil Pollution.

It is the view of the Section that the tanker file should contain relevant information of the insurance carried and particulars of the company or companies providing this insurance and to whom reference can be made by all public authorities and third parties who may have legitimate claims on such insurances.

What is perhaps even more important is to ensure that innocent third parties who may suffer damage from oil pollution including port authorities, local and regional authorities and all others who have to take immediate action to combat oil pollution have an immediate and certain method of obtaining compensation and repayment of costs and expenses incurred without having to await the outcome of often complex and lengthy litigation necessary to determine legal liability as between one ship owner and another in cases of accidents at sea. There should be a central fund from which advance payments can be made to meet these costs as soon as they are incurred and to which all who engage in these hazardous operations contribute.

Research and standardization of equipment

The Section notes that scientific and technical progress in preventing and combatting hydrocarbon pollution of the sea has not been able to keep pace with qualitative and quantitative changes in the transport of petroleum products. Hence there is a pressing need for much more intensive and coordinated research into the problems of developing suitable equipment to deal with oil pollution both at sea and on land and for the production of such equipment or apparatus so that it can be stock-piled at suitable locations ready for use in emergencies. The method of funding this research and production should be a subject of a study as much of the cost should be met by ship owners as part of the commercial operating costs.

This research should concentrate on identifying suitable equipment, specifications and procedures for dealing with oil pollution at sea and to standardize these, as far as possible, so that equipment is interchangeable and personnel will be familiar with both their operation and maintenance.

In particular the Section asks the Commission to expedite its work concerning the Equipment Specifications which would give type approval to products and equipment used in oil pollution, but which must be capable of ready updating so that developments in this field are not inhibited.

Particular need is felt for work on methods of removing oil from the surface of the sea where conditions are not calm, existing equipment being ineffective in other than relatively calm waters.

Another field where considerable research is necessary is on the treatment and disposal of all contaminated beach material and of recovered oil in either a relatively pure or an emulsified state. In incidents up to the present this recovered material has been rendered inert by some means and disposed of as a waste material. The contamination of recovered oil through emulsification with sea-water, mixture with dispersants, seaweed, sand or other material makes its treatment in a refinery very difficult and sometimes impossible. However, research on the processing of recovered oil to enable it to be passed through a refinery could be fruitful. The recovered oil may still represent a risk of damage to a refinery and it may be necessary to initiate measures to designate outdated and disused refineries in key locations as permanent equipment for use in such emergencies.

All these matters would be better pursued if the present fragmented efforts in Member States were coordinated and financed through Community funds.

The Contingency Programme and Pilot Schemes

The Section asks also that the Commission speed up its work concerning Contingency Programmes which will include the drawing up of Joint Contingency Plans (point 5 of the Communication), although these would not pre-empt the contingency plans already in operation under the aegis of such measures as the Bonn Agreement. The Programme should be designed to harmonize.

The Section would strongly request the Council to accept the budget requirements the Commission has put forward for 1981 in this matter and which will enable the Commission to finance the pilot schemes mentioned in the Communication (point 6).

Community support for Pilot Schemes, as mentioned in point 6, appears to be one of the most valuable contributions which the Community could make to the improvement of efficiency in dealing with oil pollution, although it has apparently not been the first action which it has been possible to initiate. Research, training and organization of Contingency Plans is being carried out in Member States but there appears to be a great need to coordinate these operations, particularly research, and to ensure that they are adequately financed and not duplicated unnecessarily. The current economic recession brings pressure on the resources of research establishments and the Commission's initiative could counter this so that development of methods of combatting oil pollution continues in the most effective way.

The Section would therefore like to stress how important it is that there should be adequate financial budgetary arrangements not only in 1981 but in subsequent years so as to provide continuous interventions for training schemes, pilot experiments and the provision of additional or new testing centres. It also is very important that this work

shall be properly coordinated by the Commission to prevent unnecessary duplication or overlap as between Member States. As far as possible equipment should be fully compatible so that, like Fire Brigade equipment, it can be interchanged and used in one location or another, also as between Member States, so as to make for the maximum impact in the event of an emergency and a large oil-spill occurring.

It is important therefore that exercises should be held and that personnel from the competent authorities in two or more Member States should train together so as to be familiar with the procedures which would be taken or the transfer of exchange of equipment in the interest of combating the risks of pollution of international seaways which carry heavy tanker traffic such as the English Channel and the coast of Brittany.

Whilst Article 1 of the proposed directive provides for a wide ranging inventory giving details of (a) specialist staff available in Member States and (b) mechanical and chemical equipment held in stock - this information is really only valuable if the contents and scale of such inventories are really adequate to meet the physical demands which authorities may be called upon to face. There would seem to be an urgent need to train an adequate number of people for both "full time" and also for "part time" or emergency call-out in the case of accidents occurring in any part of the coastline in the main traffic lanes. As in the case of the "Fire Services" or "Lifeboat" Organizations it would seem to be absolutely necessary to have a sufficient number of persons who are skilled in the methods needed to be used to combat oil pollution both at sea and on the beaches and who are trained in the use of both the mechanical and chemical equipment which are being stockpiled to meet these emergencies. In addition, it is very necessary to have a proven communication system both at national and international level and that such system should be manned "around the clock" in order that the minimum

delay is involved in providing assistance from neighbouring locations to other Member States. To this end it may well be necessary to recruit, train and keep established at designated locations a "task force" or "task forces" which can be sent to whatever location needs its help and which is completely self-contained just like a military airborne task force. The cost of maintaining this "task force" might be seen to be both a national and also a Community responsibility.

In order to ensure that an adequate number of persons are continuously recruited and trained in all aspects of combatting pollution it may be considered a practical proposition to provide both permanent and long-term employment to a cache of skilled persons for certain key positions and also for shortterm training programmes similar to a National Service call-up. This might provide useful and instructive employment for school leavers not able to find permanent jobs immediately and for the unemployed in coastal regions. Similarly those called up for military service might have some training in oil pollution techniques included in their military service curriculum.

In short, the objective might be to have in each vulnerable area a limited number of highly skilled and full-time people whose names and qualifications would be noted on the "Personnel Register" under Article 1. These people would also act as instructors or trainers. In addition there would be a second class of semi-skilled or part-trained personnel on the lines of the Territorial Army who would receive both initial and also "refresher" training and who would take part in annual or periodic exercises which might be organized on a Community or "cross-frontier" basis so that there would be proper opportunities for training and exercises in the use of the latest equipment and chemicals and the establishment of proper lines of communication over land, sea and air.

The main training would probably be in simple beach tasks and in the supervising of others carrying out these duties. There is a clear need for the concept of a reserve of labour since the labour normally used for oil pollution activities is very much the same as is used for other emergencies, e.g. earthquake disasters, snowfalls, flooding and similar local disasters.

If, every year, a certain number of young people are given a short course of training and their names and qualifications notified to the "data bank" at Brussels, then over the years these would be added to and a powerful emergency reserve would be established of people living or working in the most vulnerable locations who could be called out when any oil pollution emergency arises and would be capable of operating with minimum of supervision.

CONCLUSIONS

In this Report the Section has tried to bring out the overall complexity of the problem of preventing and combatting oil pollution of the sea and to indicate those areas where the Community can usefully contribute.

In view of the worldwide risk of oil pollution of the sea and beaches, the Community's role should be complementary to that of the relevant international bodies.

In the Section's view, however, complementary must not here be taken to mean passive; on the contrary, because of its special geographical situation and dependence on imported petroleum products the Community bears an additional responsibility in this matter; since it possesses a legal system enabling it to undertake action on a European scale it is in a position to assume this responsibility.

Accordingly the Section urges that in future the Community work more vigorously towards positive and direct collaboration between local and national authorities and other bodies in the Member States, including the private enterprises concerned, and, wherever possible, towards joint measures for preventing and combatting pollution.

Acknowledging the important progress achieved at the conference on 1 and 2 December 1980 in Paris and endorsing most of its conclusions, the Section shares the determination expressed by the Member States to continue their efforts to achieve the objectives set by the Community Institutions.

The Section would wish to place its special emphasis on the need for coordination of research which should be organized on an international scale. The international organization known as STCELA (*) would seem to be ideally placed to undertake work on various projects and assignments in order to develop, harmonize and standardize the most satisfactory equipment and apparatus in order to deal with oil pollution both at sea and also on the beaches and to ensure that all mechanical and chemical apparatus is compatible as between one Member State and another. This would facilitate joint use and the shared cost of development and production. This is not always the case where each authority decides to "go it alone". There is a clear need for immediate and ready access to research carried out in Member States. Here again the services of STCELA would prove to be invaluable.

(*) Standing Technological Conference of European Local Authorities.

European Communities - Economic and Social Committee

- a) "The Enforcement, in Respect of Shipping Using Community Ports, of International Standards for Shipping Safety and Pollution Prevention"
- b) "Community Information System for Preventing and Combating Hydrocarbon Pollution of the Sea"

2 Opinions of the Economic and Social Committee

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a) The Committee expresses the hope that the Directive will be applied in a sufficiently systematic and coordinated manner to prevent "ports of convenience", where technical standards would be less strictly enforced, springing up in the Community, in addition to the flags of convenience which it criticized in its earlier Opinion.

It wants to see all Member States and the applicant countries ratify the set of international standards to which the Directive refers. Further, it urges that inspections also be carried out in the near future on vessels of under 500 t and calls upon the Commission to take the requisite steps.

b) The Committee takes the view that the information system can, and must, be considered as an important instrument making it possible to prevent tankers with known records of infringement from entering the ports or even approaching the coasts of Member States until it has been ensured that they are in a satisfactory condition.

It suggests that the information system be extended to cover underseas pipelines and drilling platforms. It puts forward a number of proposals for making the system more effective and asks that information concerning tanker insurance be added.

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