



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.07.1997
COM(97) 344 final

96/0231 (SYN)

Amended 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 pursuant to Article 189 a (2)
of the EC-Treaty)

EXPLANATORY MEMORANDUM

1. During its 23-24 April 1997 Plenary Session, the European Parliament approved, subject to a number of amendments, the Commission's 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 goods¹.

The amendments adopted by the European Parliament aim at strengthening the notification requirements of Directive 93/75/EEC in order to improve prevention and intervention in the case of accidents at sea to vessels carrying hazardous cargoes, in particular radioactive substances.

2. The Commission can accept without reservation:

- the amendment to Article 1 of the proposed Directive (addition of a new paragraph (1g)), since it would facilitate subsequent modifications of the Annexes to the Directive, through the procedure of the Committee set-up under Directive 93/75/EEC, taking into account future amendments to the INF Code of the International Maritime Organization (IMO) concerning the safe carriage of irradiated nuclear fuel, plutonium and high-level radioactive wastes in flasks on board ships.

- the amendment to Annex I (addition of a new Paragraph (9a)) of the proposed Directive, since it would bring added value to the Directive. The Commission believes that information on the number of crew on board would be usefully made available to the competent authorities in charge of planning and carrying out emergency response in case of an accident at sea involving a ship carrying hazardous substances.

3. However, although the Commission widely shares the concern expressed by the European Parliament, the other amendments are not acceptable to the Commission. A number of them are out of the scope of the Directive, since they aim at imposing specific safety requirements in relation with the transportation of radioactive materials, whilst Directive 93/75/EEC is exclusively dealing with notification requirements. An other series of amendments are equally not acceptable because the type of notification requirements they impose are already laid down in other Commission's legislative proposals in the field of maritime safety and protection of the environment.

3.1. More precisely, the Commission could not accept the following amendments which are out of the scope of the Directive:

- the amendment aiming at the addition of a new paragraph (1a) to Article 1 of the proposed Directive, prohibiting the transport of radioactive materials on board passenger ships. It is also worth mentioning that the transport of INF III materials - the most hazardous - are not allowed on board passenger ships according to the INF Code.

¹ OJ N°L 247, 5.10.1993, p.19.

- the amendments adding a new paragraph (1b) to Article 1 of the proposed Directive, stating that radioactive materials should be transported in containers fulfilling the latest IAEA regulations, since these regulations cover conditions for packaging, marking, labelling and test procedures which are not the aim of Directive 93/75/EEC.

- the amendment to Annex I (new paragraph (9b)), which supplements the information listed in Annex I of Directive 93/75/EEC with the confirmation that the INF Code has been complied with. Such requirement (i.e. making the INF Code mandatory for all ships bound for or leaving Community ports), should not be envisaged as an amendment to Directive 93/75/EEC, but, if appropriate, as a specific measure aiming at strengthening the technical safety requirements related to the transport of radioactive materials within the European Community.

- the amendment to Annex I, new paragraph (9c), supplementing the list of information in Annex I of Directive 93/75/EEC with various safety and emergency requirements in relation with the transport of radioactive materials. Such requirements do not yet exist at international level, but are currently being discussed in IMO in the context of the review of the INF Code.

3.2. The following amendments could not be accepted since they cover situations which are already envisaged within other legislative proposals adopted by the Commission:

- Extension of reporting requirements to cover ships in transit.

The purpose of such amendments (new paragraphs (1c), (1d) and (1e)) would be to extend the existing reporting requirements of Directive 93/75/EEC, applicable to ships bound for or leaving Community ports, in order to cover also ships in transit through the territorial waters of Member States.

Three different situations are identified:

. new paragraph (1c): ships coming from a port located outside the Community and not bound for a port in the Community ("pure transit") shall report to the coastal States on route, before beginning the voyage;

. new paragraph (1d): ships leaving a Community port shall report, before departure, to the coastal States on route;

. new paragraph (1e): ships coming from a port located outside the Community and bound to a port in the Community shall report to the coastal States on route ("Community transit") before entering their territorial waters;

These situations are already dealt with in the proposed Council Directive for a European Ship Reporting System (Eurorep), adopted by the Commission on the 17th of December 1993². According to the proposal, ships which cross reporting lines set up off the European coast would have to report to the competent authorities of the coastal States concerned.

- the amendment which would oblige passenger ships carrying hazardous cargoes to have on board a "passenger list" in accordance with Annex II C ("Check-list for vessels, documents) of Directive 93/75/EEC. Such a provision would be redundant with Articles 5, 6 and 8 of the proposal for a Council Directive on the registration of persons sailing on board passenger ships adopted by the Commission on the 25 of November 1996.

Besides, the scope of the Commission proposal is more comprehensive, since it is applicable to all passenger ships, not only those carrying hazardous cargoes, and to all persons on board, including the crew.

- with regard to the amendment to Article 1 (new paragraph (1f)), which would oblige Member States to forward systematically all information received to the competent authorities of other Member States concerned (transit States or States of destination), the Commission considers that such requirement would necessitate a systematic transmission, on a routine basis, of a considerable amount of information, which would only be used in exceptional circumstances. The Commission believes that such information should only be transmitted when there is a sound justification on safety or environmental grounds.

Therefore, in compliance with Article 189A, paragraph 2, of the Treaty, the Commission modifies its proposal.

² OJ N° C 22, 26.1.1994, p.7.

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--- Original text ---

--- Amended text ---

Article 1, paragraph 2

2. Article 11 is amended as follows:

(a) - In the first indent, "(e), (f), (g), (h) and (i)" are replaced by "(e), (f), (g), (h), (i) and (j)".

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.

(b) - The following indent is added:

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

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."

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1. Paragraph 1 is amended as follows:

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

2. The following paragraph 10 is added:

"10. Number of crew on board".

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