



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 19.12.1997
COM(97) 716 final

97/0041 (SYN)

**Re-examined proposal for a
COUNCIL DIRECTIVE
on safety rules and standards for passenger ships**

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

EXPLANATORY MEMORANDUM

During its 5 - 6 November 1997 Plenary Session, the European Parliament adopted 7 amendments to the Council's common position of 17 June 1997 on the proposal for a Council Directive on safety rules and standards for passenger ships. The amendments of the European Parliament are attached to this memorandum.

Pursuant to Article 189 c, section (d) of the EC Treaty, the Commission has re-examined its proposal and decided to accept amendments Nos. 1, 2, 3, 4, 6 and 7, but not amendment No. 5, for the following reasons :

- Amendment n° 1 related to article 1 of the common position :

This amendment, requesting to include protection of the environment as one of the objectives of the Directive, can be accepted since protection of the environment is now explicitly referred to in article 7.5 of the common position, where danger to the environment is explicitly mentioned as one of the conditions for which safeguard measures may be taken.

- Amendment n° 2 related to article 2, paragraph (f) of the common position :

This amendment envisages to solve the problem of passenger ships of small size constructed in light-weight materials and sailing at conventional speed in sea areas of class B, C and D. After examination it appeared that, due to the combination of these design factors, these ships might be unintentionally be categorised as high speed passenger craft when applying the formula of Regulation 1 of Chapter X of the 1974 SOLAS Convention. Article 3, paragraph 2 (a) of the common position provides that ships constructed in materials other than steel or equivalent and not being high speed craft shall not be covered by the Directive. This is made unequivocally clear for this particular category of ships by this amendment.

- Amendment n° 3 related to article 6, paragraph (4)(a) of the common position :

This amendment ensures that for high speed passenger craft engaged on domestic voyages the same set of regulations can be applied as provided for in Chapter X of the 1974 SOLAS Convention for high speed passenger craft engaged on international voyages. This amendment strengthens the main objective of the provisions on high speed passenger craft included in the common position, as it ensures that the same safety standards will apply for all high speed craft operating in EU waters, irrespective of whether they are engaged on domestic or on international voyages.

- Amendment n° 4 related to article 7, paragraph (4)(b) of the common position :

This amendment changes the wording "the Member State may be required" into "the Member State shall be required", in conformity with the wording of article 7.5 of the common position and ensures in this way a better coherence between the various provisions in the common position dealing with the Committee procedure.

- Amendment n° 5 related to article 9 of the common position :

The regulatory Committee foreseen in the common position is the same type of Committee established in all other Community legislation on maritime safety and is the most appropriate because the Directive allows for adaptation of its provisions to take account of developments in international fora such as the International Maritime Organisation.

- Amendment n° 6 related to article 10, paragraph (3) and amendment n° 7 related to article 11, paragraph (3) of the common position:

These amendments ensure that the distinction made in the common position between the safety requirements for high speed craft built before 1 January 1996 and those built after that date, is also reflected in the procedures on survey and certification, providing in that way full coherence with the provisions of article 6 (4) of the common position.

Annex 1 : Re-examined proposal

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

Annex 1

Re-examined proposal for a Council Directive on safety rules and standards for passenger ships

---Common position---

---Re-examined proposal---

Article 1

The purpose of this Directive is to introduce a uniform level of safety of life and property on new and existing passenger ships and high speed passenger craft, when both categories of ships and craft are engaged on domestic voyages, and to lay down procedures for negotiation at international level with a view to a harmonization of the rules for passenger ships engaged on international voyages.

The purpose of this Directive is to introduce a uniform level of safety of life and of protection of the environment on new and existing passenger ships and high speed passenger craft, when both categories of ships and craft are engaged on domestic voyages, and to lay down procedures for negotiation at international level with a view to a harmonization of the rules for passenger ships engaged on international voyages.

Article 2, paragraph (f)

(f) "a high speed ~~passenger craft~~" means a ~~high speed~~ craft as defined in Regulation 1 of Chapter X of the 1974 SOLAS Convention, as amended at the date of adoption of this Directive, which carries more than twelve passengers;

(f) "a high speed passenger craft" means a high speed craft as defined in Regulation 1 of Chapter X of the 1974 SOLAS Convention, as amended at the date of adoption of this Directive, which carries more than twelve passengers;
passenger ships engaged on domestic voyages in sea areas of class B, C or D shall not be considered as high speed craft when :
- their displacement corresponding to the design waterline is less than 500 m³, and
- their maximum speed, as defined in paragraph 1.4.30 of the High Speed Craft Code, is less than 20 knots.

Article 6, paragraph 4 (a)

4. With regard to high speed passenger craft:
- (a) high speed passenger craft constructed or subjected to repairs, alterations or modifications of a major character, on or after 1 January 1996, shall comply with the requirements laid down in the High Speed Craft Code, unless:
4. With regard to high speed passenger craft:
- (a) high speed passenger craft constructed or subjected to repairs, alterations or modifications of a major character, on or after 1 January 1996, shall comply with the requirements of Regulation X/3 of the 1974 SOLAS Convention, unless:

Article 7, paragraph 4 (b)

4. A Member State which avails itself of the provisions of paragraphs 1, 2 or 3 shall proceed as follows:
- (b) if, within a period of 6 months from the notification, it is decided, in accordance with the procedure laid down in Article 9, that the proposed measures are not justified, the said Member State may be required to amend or not to adopt the proposed measures;
4. A Member State which avails itself of the provisions of paragraphs 1, 2 or 3 shall proceed as follows:
- (b) if, within a period of 6 months from the notification, it is decided, in accordance with the procedure laid down in Article 9, that the proposed measures are not justified, the said Member State shall be required to amend or not to adopt the proposed measures;

Article 10, paragraph (3)

3. Each high speed passenger craft shall be subject by the Administration of the flag State to the surveys required in the High Speed Craft Code.
3. Each high speed passenger craft having to comply, in accordance with the provisions of article 6.4, with the requirements of the HSC Code, shall be subject by the Administration of the Flag State to the surveys required in the High Speed Craft Code. High speed passenger craft, having to comply, in accordance with the provisions of article 6.4, with the requirements of the DSC Code as amended, shall be subject by the Administration of the flag State to the surveys required in the DSC Code.

Article 11, paragraph 3

3. For high speed passenger craft complying with the requirements of the High Speed Craft Code, a High Speed Craft Safety Certificate and a Permit to Operate High Speed Craft shall be issued by the Administration of the flag State, in accordance with the provisions of the High Speed Craft Code.

3. For high speed passenger craft complying with the requirements of the High Speed Craft Code, a High Speed Craft Safety Certificate and a Permit to Operate High Speed Craft shall be issued by the Administration of the flag State, in accordance with the provisions of the High Speed Craft Code.

For high speed passenger craft complying with the requirements of the DSC Code as amended, a DSC Construction and Equipment Certificate and a DSC Permit to operate shall be issued by the Administration of the flag State, in accordance with the provisions of the DSC-Code.

Before issuing the Permit to Operate for high speed passenger craft engaged on domestic voyages in a host State, the Administration of the flag State shall concur with the host State on any operational conditions associated with operation of the craft in that State. Any such conditions shall be shown by the Administration of the flag State on the Permit to Operate.

Before issuing the Permit to Operate for high speed passenger craft engaged on domestic voyages in a host State, the Administration of the flag State shall concur with the host State on any operational conditions associated with operation of the craft in that State. Any such conditions shall be shown by the Administration of the flag State on the Permit to Operate.

Annex 2

Amendment adopted by European Parliament but not accepted by the Commission

---Common position---

---Amendment adopted by European
Parliament---

Article 9

Committee

The Commission shall be assisted by the Committee established by Article 12(1) of Directive 93/75/EC. The Committee shall operate in accordance with the procedure laid down in paragraphs 2 and 3 of that Article.

(Advisory Committee)

1. The Commission shall be assisted by the Committee established by Article 12(1) of Directive 93/75/EC.
2. Where reference is made to this paragraph, the following procedure shall apply :
 - a) The representative of the Commission shall submit to the Committee referred to in paragraph 1 a draft of the measures to be taken;
 - b) The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter, if necessary by taking a vote;
 - c) The opinion shall be recorded in the minutes; in addition each Member State has the right to have its position recorded in the minutes;
 - d) The Commission shall take the utmost account of the opinion delivered by the Committee. It shall inform the Committee of the manner in which its opinion has been taken into account.

ISSN 0254-1475

COM(97) 716 final

DOCUMENTS

EN

07 15

Catalogue number : CB-CO-97-735-EN-C

ISBN 92-78-29723-2

Office for Official Publications of the European Communities

L-2985 Luxembourg