



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 05.11.1996  
COM(96) 536 final

96/0041 (SYN)

**Amended proposal for a**

**COUNCIL DIRECTIVE**

**on safety rules and standards for passenger ships**

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

## EXPLANATORY MEMORANDUM

During its 4 - 5 September Plenary Session, the European Parliament approved, subject to a number of amendments, the Commission's proposal for a Council Directive on safety rules and standards for passenger ships<sup>1</sup>. The Economic and Social Committee delivered its opinion on 29 May 1996<sup>2</sup>.

A number of amendments adopted by the European Parliament are consistent with the main principles of the Commission's proposal and are providing an added value by clarifying or even enforcing some of its provisions and are complying some of the requests by the Economic and Social Committee. Others, which the Commission could not accept, are conflicting with the envisaged harmonization or are weakening the provisions of the proposal, or are referring superfluously to other existing Community legislation or international Conventions.

More precisely, the Commission could not accept :

- the amendments to recital 6, to article 3, paragraph 1 and to article 5, paragraph 1, since the implementation of existing national higher safety standards or changing the proposal into a minimum-standard Directive would be contrary to the main objective of the Commission proposal, i.e. to establish a harmonized safety standard, at the highest level possible and applicable in the entire Community. Only additional safety measures which are justified by local conditions (e.g. unfavourable climatic conditions) can be accepted subject to the procedures set out in the proposal;
- the amendment to recital 8, as the latter cannot be maintained for reasons of redundancy;
- the amendment to recital 16, since all rules to which high speed passenger craft have to comply are fully specified in the proposal so that there are none left to be applied in addition to this Directive;
- the amendment to recital 17, since the proposal does not contain requirements on training of seafarers and hence a reference to the Council Directive on the minimum level of training of seafarers is unnecessary;
- the amendment to article 1, since protection of the environment is covered by the international MARPOL Convention and therefore must not be referred to as one of the objectives of the proposal;
- the amendment to article 5, paragraph 4 bis, as there is no correlation between the proposal and the Community legislation referred to in the amendment;
- the amendment to article 6, paragraph 2 a) (ii), since the proposed addition is redundant taking into account that the Commission's proposal precisely establishes to which classes of ships the different provisions of the proposal apply;

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<sup>1</sup> O.J. N° C238 of 16 August 1996, p. 1

<sup>2</sup> O.J. N° C212 of 22 July 1996, p. 21

- the amendment to article 6, paragraph 3 c) (first part), since changing the provisions for existing class C and D ships by allowing them to comply with the national rules of the flag State only would be conflicting with the proposal's main objective to harmonize safety requirements in the Community at the highest level possible;
- the amendment to article 10, paragraph 4, since the monitoring of the conduct of classification societies is not the subject or related to IMO Resolution A.746(18);
- the part of the amendment to annex I, Chapter II-1, Part B, Regulation 1, requesting the exclusion of Class C and D ships from the application of this Regulation, since such an exclusion cannot be justified by technical or safety reasons;
- the amendment to Annex I, Chapter III, regulation 2 a) (new), since safety measures based on local (climatic) conditions, have to be introduced in accordance with the procedures of article 7.1 of the proposal.

The Commission accepted without reservation :

- the amendments to article 11, paragraph 1 and 2, and to annex II, changing the title of the certificate "declaration of compliance" into "passenger ship safety certificate" since this will avoid confusion with the title of the certificate required under the ISM Regulation. For reasons of consistency similar changes have been introduced in article 5, paragraph 2, in article 11, paragraph 4 as well as in technical annex I, Chapter II-1, PART B, Regulation 11, paragraphs 2 and 4. These amendments will also meet the concern of the Economic and Social Committee on this issue.
- the amendment to annex I, Chapter II-2, Part B, Regulation 16, since the proposed postponement of the implementation date will allow to take account of the implementation date of the Directive and the time necessary for the industry to prepare and execute the major alterations to existing ships required by this regulation. It also meets the request by the Economic and Social Committee.

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

- the amendments to article 6, paragraph 3, litera c) and d), since they ensure a more active involvement of the Host Member State in case existing Class C and D ships flying the flag of another Member State are to be engaged on domestic voyages in the Host State's territory;
- the amendment to article 5, introducing the provision that ships have to comply, in addition to the requirements of the Directive, with national safety requirements based upon specific local conditions and subject to Committee approval. The Commission proposes to include this provision by amending article 5, paragraph 2;
- the amendment to annex I, Chapter II-1, Part B, Regulation 1, in so far it clarifies the scope of application for this regulation by adding a reference to the length limit of 24 metres, which was also requested by the Economic and Social Committee;
- the amendment to Regulation 2 of Chapter III of Annex I, which introduces a provision to take account of difficulties which might arise from applying the technical requirements of Annex I to existing small vessels. The amendment to article 3 proposed by the Commission accommodates this concern by limiting the scope of application to existing ships with a length of 24 metres and above.

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

**Amended proposal for a  
Council Directive  
on safety rules and standards for passenger ships**

---Original text---

---Amended text---

**Article 3, paragraph 1**

1. This Directive applies to:
  - a) new and existing passenger ships;  
and
  - b) high speed passenger craft,  
regardless of their flag, when engaged  
on domestic voyages.

1. This Directive applies to:
  - a) new passenger ships;
  - b) existing passenger ships of 24  
metres in length and above,
  - c) high speed passenger craft,  
regardless of their flag, when engaged  
on domestic voyages.

**Article 5, paragraph 2**

2. Member States shall not withhold from operation, for reasons arising from this Directive, passenger ships, respectively high speed passenger craft, when engaged on domestic voyages, which comply with the requirements of this Directive.

Each Member State, acting in its capacity as host State, shall recognise the High Speed Craft Safety Certificate and Permit to Operate, issued by another Member State for high speed passenger craft, when engaged on domestic voyages, or the declaration of compliance referred to in Article 11 issued by another Member State for passenger ships when engaged on domestic voyages.

2. Member States shall not withhold from operation, for reasons arising from this Directive, passenger ships, respectively high speed passenger craft, when engaged on domestic voyages, which comply with the requirements of this Directive, including any additional requirements imposed by a Member State, in accordance with the provisions of Article 7.1.

Each Member State, acting in its capacity as host State, shall recognise the High Speed Craft Safety Certificate and Permit to Operate, issued by another Member State for high speed passenger craft, when engaged on domestic voyages, or the passenger ship safety certificate referred to in Article 11 issued by another Member State for passenger ships when engaged on domestic voyages.

**Article 6, paragraph 3, c)**

3. With regard to existing passenger ships:

- c) Existing passenger ships of Classes C and D shall comply with the specific relevant requirements of this Directive and Chapter III of Annex I and in respect of matters not covered by such requirements with the rules of the Administration of the flag State. Such rules shall provide an equivalent level of safety to that of Chapters II-1 and II-2 of Annex I, while taking into account the specific local operational conditions related to the sea areas in which ships of such classes may operate.

3. With regard to existing passenger ships:

- c) Existing passenger ships of Classes C and D shall comply with the specific relevant requirements of this Directive and Chapter III of Annex I and in respect of matters not covered by such requirements with the rules of the Administration of the flag State. Such rules shall provide an equivalent level of safety to that of Chapters II-1 and II-2 of Annex I, while taking into account the specific local operational conditions related to the sea areas in which ships of such classes may operate.

Before existing passenger ships of Class C and D can be engaged on regular domestic voyages in a host State, the Administration of the flag State shall obtain concurrence of the host State on such rules.

**Article 6, paragraph 3, d)**

- d) In the event that a Member State is of the view that rules laid down by the Administration of a flag State pursuant to paragraphs (b) and (c) do not respect the requirements laid down therein it shall immediately notify the Commission thereof. The Commission shall initiate proceedings in order to take a decision in accordance with the procedure laid down in Article 9 paragraph 2.

- d) In the event that a Member State is of the view that rules required by the Administration of the host State pursuant to paragraph (c) are unreasonable, it shall immediately notify the Commission thereof. The Commission shall initiate proceedings in order to take a decision in accordance with the procedure laid down in Article 9.

### Article 11, paragraph 1

1. All new and existing passenger ships shall be provided with a declaration of compliance with this Directive. The declaration of compliance shall have a format as laid down in Annex II. This declaration shall be issued by the Administration of the flag State after an initial survey, as described in Article 10, paragraphs 1.a) and 2.a), has been carried out.

1. All new and existing passenger ships shall be provided with a Passenger Ship Safety Certificate in compliance with this Directive. The Passenger Ship Safety Certificate shall have a format as laid down in Annex II. This certificate shall be issued by the Administration of the flag State after an initial survey, as described in Article 10, paragraphs 1.a) and 2.a), has been carried out.

### Article 11, paragraph 2

2. The declaration of compliance shall be issued for a period not exceeding 12 months. The period of validity of the declaration may be extended by the Administration of the flag State for a period of grace of up to one month from the date of expiry stated on it. When an extension has been granted, the new period of validity of the declaration starts from the expiry date of the existing declaration before its extension.

2. The Passenger Ship Safety Certificate shall be issued for a period not exceeding 12 months. The period of validity of the certificate may be extended by the Administration of the flag State for a period of grace of up to one month from the date of expiry stated on it. When an extension has been granted, the new period of validity of the certificate starts from the expiry date of the existing certificate before its extension.

Renewal of the declaration of compliance, shall be issued after a renewal survey, as described in Article 10, paragraphs 1.b) and § 2.b), has been carried out.

Renewal of the Passenger Ship Safety Certificate, shall be issued after a renewal survey, as described in Article 10, paragraphs 1.b) and § 2.b), has been carried out.

### Article 11, paragraph 4

4. Exemptions granted to a ship or craft under and in accordance with the provisions of article 7, paragraph 3, shall be noted on the declaration of compliance.

4. Exemptions granted to a ship or craft under and in accordance with the provisions of article 7, paragraph 3, shall be noted on the ship's or craft's certificate.

## Annex I, Chapter II-1, PART B, Regulation 1

### 1 Intact stability (Resolution A.167 as amended by A.206 and resolution A.749)

#### NEW CLASS A, B, C and D SHIPS :

All classes of new ships shall comply with the relevant provisions for passenger ships of the Code on Intact Stability as adopted on 4 November 1993 by the International Maritime Organization at the 18th session of its Assembly through resolution A.749(18).

### 1 Intact stability (Resolution A.167 as amended by A.206 and resolution A.749)

#### NEW CLASS A, B, C and D SHIPS OF 24 M IN LENGTH AND ABOVE:

All classes of new ships of 24 metres in length and above shall comply with the relevant provisions for passenger ships of the Code on Intact Stability as adopted on 4 November 1993 by the International Maritime Organization at the 18th session of its Assembly through resolution A.749(18).

## Annex I, Chapter II-1, PART B, Regulation 11, paragraphs 2 and 4

### 11 Assigning, marking and recording of subdivision load lines (R 13)

- .2 The subdivision load lines assigned and marked shall be recorded in the Document of Compliance, and shall be identified by the notation C.1 if there is only one subdivision loadline.

If there are more than one subdivision load line, the alternative conditions shall be identified by the notations C.2, C.3, C.4 etc.

- .4 The freeboard corresponding to each approved subdivision load line and the conditions of service for which it is approved, shall be clearly indicated on the Document of Compliance.

### 11 Assigning, marking and recording of subdivision load lines (R 13)

- .2 The subdivision load lines assigned and marked shall be recorded in the Passenger Ship Safety Certificate, and shall be identified by the notation C.1 if there is only one subdivision loadline.

If there are more than one subdivision load line, the alternative conditions shall be identified by the notations C.2, C.3, C.4 etc.

- .4 The freeboard corresponding to each approved subdivision load line and the conditions of service for which it is approved, shall be clearly indicated on the Passenger Ship Safety Certificate.

**Annex I, Chapter II-2, PART B, Regulation 16**

**16 Upgrading of existing CLASS B ships carrying more than 36 passengers (R 41-1)**

In addition to the requirements for existing CLASS B ships in this Chapter II-2, existing CLASS B ships carrying more than 36 passengers shall comply with the following requirements :

- .1 not later than 1 October 1997:

**16 Upgrading of existing CLASS B ships carrying more than 36 passengers (R 41-1)**

In addition to the requirements for existing CLASS B ships in this Chapter II-2, existing CLASS B ships carrying more than 36 passengers shall comply with the following requirements :

- .1 not later than 1 October 2000:

**ANNEX II**

*(title page of annex II) :*

**FORM OF  
DECLARATION OF COMPLIANCE**

*(title of certificate) :*

**DECLARATION OF COMPLIANCE**

*(reverse of certificate) :*

The undersigned declares that he is duly authorized by the said Member State to issue this declaration of compliance.

**FORM OF  
PASSENGER SHIP SAFETY  
CERTIFICATE**

**PASSENGER SHIP SAFETY  
CERTIFICATE**

The undersigned declares that he is duly authorized by the said Member State to issue this Passenger Ship Safety Certificate.



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