



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 14.05.1998

COM(1998) 319 final

96/0231 (SYN)

**Re-examined 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 c (d)
of the EC Treaty)

EXPLANATORY MEMORANDUM

During its 9-13 March 1998 Plenary Session, the European Parliament adopted 4 amendments to the Council's common position of 11 December 1997 on the 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.

Pursuant to Article 189 c, section (d) of the EC Treaty, the Commission has re-examined its proposal and decided to accept amendments n° 2 and n° 4, but not amendments n° 1 and n°3, for the following reasons.

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

This amendment states that amendments adopted through the Committee referred to in Article 18 of the Directive shall not weaken the Directive, nor substantially modify its provisions without recourse to the appropriate legislative procedure.

Although the Commission agrees with the concern expressed through this amendment, it cannot be accepted, for drafting reasons, since it repudiates the express provision which reaffirms ships in transit cannot be brought within the scope of this Directive. This text was added by the Council in its common position and supported by the Commission, given the pending proposal on a European ship-reporting system (COM(93) 647 final). Besides, since the text added by the Council also states that the amendments adopted through the Committee procedure shall not alter the reporting requirements of the Directive, the Commission believes that this applies equally to any weakening as well as to any broadening of the scope of the Directive.

- Amendment n° 2 related to Article 1, Paragraph 1, second indent of the common position:

This amendment refers to the version of the INF Code (*Code for the safe carriage of irradiated nuclear fuel, plutonium and high level radioactive wastes in flasks on board ships, of the International Maritime organization*) in force on the 1st January 1998, instead of 1st January 1996 as stated by the Council in its common position. The Commission fully supports this amendment, which takes into consideration the amendments to the Code which were adopted by the IMO assembly in November 1997.

Amendment n° 3 introducing a new Article 1(1a) in the text of the proposed Directive:

This amendment was already proposed by the European Parliament, in similar terms, in first reading. It aims at introducing notification requirements for vessels in transit through the territorial waters of Member States. This situation is already dealt with in the proposed Council Directive for a European Ship reporting System (Eurorep) adopted by the Commission on the 17th of December 1993, and still before the Council.

Therefore, as in first reading, the Commission cannot accept this amendment.

Amendment n° 4 related to Article 1, paragraph 2, second indent of the common position:

This amendment, referring to the scope of the Committee procedure as described in Article 11 of Directive 93/75/EEC, states that amendments to the Annexes adopted through the Committee procedure shall not represent a weakening of safety and marine protection provisions.

This is fully in line with the concern expressed by the Commission that it might be possible that developments occur at international level, in particular in the IMO, which would result in a lowering of existing safety and environmental standards. The Commission therefore can approve such an amendment, which will ensure that the general level of safety and environmental standards as laid down in this Directive is nevertheless maintained should such developments occur at international level.

Annex 1: Re-examined proposal

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

Annex 1

**Re-examined proposal for a
Council Directive
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--- Common position ---

--- Re-examined proposal ---

**Article 1(1), 2nd indent
Article 2(I) (Directive 93/75/EEC)**

(i) "INF Code" means the IMO code for the safe carriage of irradiated nuclear fuel, plutonium and high-level radioactive wastes in flasks on board ships, as it is in force on 1 January 1996.

(i) "INF Code" means the IMO code for the safe carriage of irradiated nuclear fuel, plutonium and high-level radioactive wastes in flasks on board ships, as it is in force on 1 January 1998.

**Article 1(2), 2nd indent
Article 11, new indent (Directive 93/75/EEC)**

- amend the Annexes to this Directive in line with the relevant subsequent amendments to international conventions, codes and resolutions on safety at sea and protection of the marine environment which have entered into force, without broadening its scope.

- amend the Annexes to this Directive in line with the relevant subsequent amendments to international conventions, codes and resolutions on safety at sea and protection of the marine environment which have entered into force and which do not represent a weakening of safety and marine protection provisions, without broadening its scope.

Annex 2

Amendments adopted by European Parliament but not accepted by the Commission

--- Common position ---

--- Amendment adopted
by European Parliament

Recital 5

Whereas it should be possible to amend Annexes I and II to Directive 93/75/EEC, through a simplified procedure, in line with developments in international law and, in particular, with amendments to international conventions, codes and resolutions not referred to in Article 2 of the Directive which have entered into force since the Directive was adopted; whereas, however, these amendments should neither broaden the scope of the Directive, nor alter the reporting requirements as described in the Directive, and in particular should not lead to extending the reporting requirements as described in the Directive to transiting ships; whereas the procedure provided for in Article 12 of the Directive appears to be the most appropriate way of introducing such amendments; whereas Article 11 should be supplemented to that effect;

Whereas it should be possible to amend Annexes I and II to Directive 93/75/EEC, through a simplified procedure, in line with developments in international law and, in particular, with amendments to international conventions, codes and resolutions not referred to in Article 2 of the Directive which have entered into force since the Directive was adopted; whereas, however, these amendments should not weaken the provisions of this Directive, nor substantially modify its provisions without recourse to the appropriate legislative procedure; whereas the procedure provided for in Article 12 of the Directive appears to be the most appropriate way of introducing such amendments; whereas Article 11 should be supplemented to that effect;

Article 1(1a) (new)

Article 5(1a) (new) (Directive 93/75/EEC)

1a. In Article 5, the following paragraph shall be added:

"1a. The operator of a vessel transporting dangerous or polluting goods whilst transiting through the territorial waters of the European Community without stopping at a Community port shall also notify the coastal Member States on route, before beginning the voyage, of all information listed in Annex I."

ISSN 0254-1475

COM(98) 319 final

DOCUMENTS

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07 14 01 02

Catalogue number : CB-CO-98-319-EN-C

ISBN 92-78-36142-9

Office for Official Publications of the European Communities

L-2985 Luxembourg