

# COMMISSION OF THE EUROPEAN COMMUNITIES

COM (78) 580 final

Brussels, 7 November 1978

## PROPOSAL FOR A COUNCIL DECISION

rendering mandatory the procedures for ship inspection forming  
the subject of Resolutions of the Inter-Governmental Maritime  
Consultative Organization

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(addressed to the Council by the Commission)

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EXPLANATORY MEMORANDUM

This proposal for a Decision is one of several Commission proposals to the Council aimed at increasing the safety of sea transport and preventing and combating marine pollution of the waters and shores of the Community.

These proposals constitute a response to the statements made by the European Council after the disaster involving the vessel "Amoco Cadiz", first on 7 - 8 April 1978 and more recently on 6 - 7 July 1978, on the need to intensify the efforts already being made at Community level to increase safety at sea.

The present proposal for a Council Decision meets these objectives and, in the Commission's view, should enable an initial contribution to be made to the harmonization in all the Community ports of the port inspections carried out on ships with the aim of guaranteeing compliance with standards adopted by the Inter-Governmental Maritime Consultative Organization (IMCO), particularly safety standards and those concerning the control of discharges contained in the IMCO Conventions currently in force in this field: SOLAS 1960<sup>1</sup>, Load Lines 1966<sup>2</sup> and OILPOL 1954<sup>3</sup>. These controls have already been the subject of IMCO Resolutions on the basis of which the Member Governments of that Organization have adopted, for the inspectors nominated or approved by them, procedures and directives intended to serve as a basis in the exercise of the inspection functions laid down by the above-mentioned Conventions.

However, since these Resolutions only have the status of recommendations in the context of that organization's legal system, it seemed advisable to incorporate their content into Community law by means of this proposal for a Directive, this being, moreover, in accordance with the spirit of the Declaration included in the minutes of the meeting of the Council of the European Communities on 12 June 1978.

It is also proposed that, when these directives and inspection procedures are amended by IMCO, in parallel with the entry into force of the new international instruments at present being ratified (SOLAS 1974, SOLAS Protocol 1978, MARPOL 1973 as amended by the MARPOL Protocol of 1978), the Member States should subsequently agree to apply them at Community level by means of a simplified form of decision-making procedure.

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- 1) International Convention for the safety of life at sea, 1960
  - 2) International Convention on Load Lines, 1966
  - 3) International Convention for the prevention of pollution of the sea by oil, 1954, as amended in 1962 and 1969.

In proposing to the Council this action, which is intended to render mandatory in all Community ports certain inspection procedures which are at present covered by non-mandatory Resolutions, the Commission is aware that this is not in itself sufficient to guarantee more effective port control of compliance with international standards for the safety of ships and the prevention of pollution. For this reason, the Commission will, as soon as possible, present a proposal relating to the frequency and procedures of inspection. The Commission is currently studying the problem presented by the number of inspectors, which, at least in certain Member States, is insufficient to enable the desired number of inspections of foreign ships to be made, no matter how adequate and harmonized the legal powers of inspection might be.

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PROPOSAL FOR A COUNCIL DECISION

The Council of the European Communities,

Having regard to the Treaty establishing the European Economic Community,  
and in particular Article 84(2) thereof;

Having regard to the proposal from the Commission;

Having regard to the opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas at its meeting on 7 - 8 April 1978 the European Council stated that the Community must make the prevention of and the fight against the pollution of the sea, particularly by oil, an important objective of its programme, and reaffirmed at its meeting on 6 - 7 July 1978 the need to intensify the efforts being made with the aim of preventing and combating pollution of the seas, particularly by oil, and in addition considered it necessary, taking account of the proposals from various Member States and the Commission, to take additional measures with a view to increasing safety at sea;

Whereas action by the Community must, in particular, fit into the framework of the present and future measures taken by specialised international organizations, and whereas in this context it is necessary to harmonize at Community level the safety inspections of ships on the basis of the existing international conventions, resolutions and recommendations relating to safety standards and to the procedures for verifying their effective application;

Whereas the Inter-Governmental Maritime Consultative Organization, IMCO, has prepared a series of procedures for the inspection of ships intended to assist States in ensuring compliance with the provisions of the various international conventions relating to safety at sea and the prevention of and fight against pollution of the seas by ships;

Whereas the Council adopted a declaration at its meeting on 12 June 1978 on the strengthening of the effectiveness of ship inspections and on the Commission's intention to address to it proposals for the harmonization of national laws which have been adopted or are to be adopted in implementation of the international rules;

Whereas an initial stage in achieving this objective is to incorporate into Community law the procedures and directives to be followed in inspecting ships which have already been the subject of IMCO Resolutions;

Whereas it is desirable for the resolutions and recommendations that still have to be adopted by IMCO with regard to the effective application of other international instruments to be applied by the Member States, and whereas, in consequence, it is necessary to make provision for an appropriate decision-making procedure;

Whereas, in a subsequent stage, to ensure full application of the IMCO resolutions and of the Memorandum of Understanding of 2 March 1978 between certain maritime authorities on the maintenance of standards on merchant ships, the Commission will propose the necessary measures relating to the frequency and procedures of inspection;

Whereas disorganized application of these international rules could only lead to distortions of competition within the Community and make the environmental protection measures and the safety measures taken by certain Member States ineffective;

HAS ADOPTED THIS DECISION:

Article 1

1. The Member States shall take all measures necessary to ensure the effective application of the procedures for inspecting ships set out in the Annex to Resolution A 321 (IX) on the procedures for inspecting ships adopted on 12 November 1975 by the Assembly of the Inter-Governmental Maritime Consultative Organization (IMCO) in respect of ships putting into their ports and subject to the provisions of the international convention of 1960 for the safety of life at sea and the international convention of 1966 on load lines.

2. However, in matters covered by paragraphs 5, 9, 10 and 22 of the above-mentioned Annex, the Member States shall retain a discretionary power in respect of the application of appropriate procedures in particular cases that may arise.

Article 2

1. The Member States shall take all measures necessary to ensure effective application of the procedures to be implemented by Port States, set out in paragraph 12 of Resolution A 391 (X) on the procedures for inspecting discharges in accordance with the 1954 convention for the prevention of pollution of the sea by oil (including the amendments adopted in 1962 and 1969), which was adopted on 14 November 1977 by the Assembly of IMCO, in all cases in which they receive information about a flagrant contravention of the above mentioned convention or an alleged contravention of the convention.

2. They shall also ensure that, in accordance with the Appendix to the above mentioned Resolution, procedures are implemented in the oil-loading terminals located on their territory so that every ship presented for loading is subjected to an inspection by the staff of the said oil terminal in respect of the tank cleaning procedure on its ballast voyage and the consequent retention of residues in its slop tank(s).

Article 3

1. On a proposal by the Commission, the Council shall adopt, by a qualified majority, the decisions necessary for the effective application by the Member States of the Resolutions or Recommendations that are still to be adopted by IMCO concerning the implementation of international maritime agreements.

2. Within one year following the adoption of this Decision, the Council shall act by qualified majority on a Commission proposal regarding measures relating to the frequency and procedures for inspections.

Article 4

As soon as possible and by no later than ....., the Member States, having consulted the Commission, shall adopt the laws, regulations and administrative provisions necessary for the implementation of this Decision.

Article 5

This Decision is addressed to the Member States.

Done at Brussels,

For the Council

The President