



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 01.10.1996
COM(96) 470 final

96/0240 (SYN)

Proposal for a

COUNCIL DIRECTIVE

amending Directive 94/58/EC

on the minimum level of training of seafarers

(presented by the Commission)

EXPLANATORY MEMORANDUM

GENERAL INTRODUCTION

Council Directive 94/58/EC

1. Council Directive 94/58/EC on the minimum level of training of seafarers adopted on 22 November 1994 is based on the internationally agreed training rules as contained in the IMO Convention on Standards of Training, Certification and Watchkeeping for seafarers (STCW) 1978.

In addition, the Directive introduced requirements (Article 8) relating to on board communication between all members of the ship's company and communication between the ship and the shore-based authorities. For ro-ro passenger vessels specific requirements concerning communication between personnel nominated on muster lists and passengers are laid down. Regarding oil, chemical and liquefied gas tankers the Directive stipulates that the master, officers and ratings are able to communicate with each other in (a) common working language(s).

The Directive enables also Member States by means of port State control provisions (Article 10 and 11) to check seafarers on board ships flying the flag of a third country, in order to verify whether the level of training and competence meet the standards of the STCW Convention and whether they are able to communicate between themselves in accordance with Article 8. In case of non compliance Member States may proceed to the detention of the ship.

IMO 1995 Conference on the revision of STCW Convention.

2. At the IMO Conference which took place in London from 26 June to 7 July 1995 the STCW 1978 Convention was substantially revised. One of the new elements introduced in the revised STCW was that IMO obtained the right to verify that contracting Parties are giving the new training requirements full and complete effect. It was decided that IMO will draw up and publish a list of Parties which will comply with all requirements of STCW 1995.

Obligations under Directive 94/58/EC

3. Article 12 § 2 of Directive 94/58 provides that the Council, acting on a proposal from the Commission shall decide on the detailed arrangements for ratifying new instruments or protocols to the STCW Convention while ensuring that they are applied uniformly and simultaneously in the Member States.

Article 9 § 3 of (a) the Directive provides that the Council, acting in accordance with the conditions of the Treaty will adopt before 1 July 1995 a set of common criteria for the recognition of types of certificates issued by institutes or administrations of third countries.

It is mentioned that Member States shall notify the Commission and the other Member States of the types of certificates they have recognised or intend to recognise in compliance with the common criteria. If, within a period of three months following this notification, an objection is raised by a Member State or the Commission on the basis of the common criteria, the matter shall be submitted by the Commission to the Committee established under Article 13 of the Directive.

In the context of the revision of the STCW Convention, the Commission has followed very closely and taken part in the discussions and developments in IMO related, inter alia, to the regulations concerning the proper implementation of the Convention.

In its Communication on Safe Seas COM (93) 66 Final (2) the Commission has announced that actions to be taken at Community level, in the field of maritime safety, should be consistent with IMO rules and standards.

In the light of this objective and in order to examine together the issues raised in Articles 12 § 2 and 9 § 3, the Commission considered it appropriate to wait for the final approval by the IMO Conference of the revised 1995 STCW Convention before sending to the Council formal proposals for the common criteria and the adaptation of Directive 94/58/EC.

SPECIAL CONSIDERATIONS

Content of the Directive

4. The present proposal to adapt Directive 94/58 concerns *a)* the new STCW training and certification requirements including watchkeeping provisions which deal, inter alia, with mandatory minimum rest period for watchkeeping personnel and *b)* the introduction of common criteria for the recognition of seafarers' certificates issued by third countries. The proposal does not change the Articles of Directive 94/58 concerning on board communication and port State control. However, concerning the latter question, the Commission is of the opinion that provisions should be proposed in addition to the existing Articles 10 and 11 in order to take into account the requirements of Regulation I/4 of STCW 95.

The proposal therefore amends the Directive as follows :

- a) Article 4 is amended to take account of changes in existing definitions and introduce certain new STCW 95 definitions.
- b) A new Annex replaces the existing Annex to the Directive containing, as appropriate, the revised STCW Chapters.

The new STCW Code which upgrades and replaces the Appendices to the regulations of STCW 1978 is taken up in the proposed Directive by making the appropriate references to the Code which completes the provisions of Chapters I to VIII of the Annex.

- c) New Articles are inserted to deal with the STCW 95 principles contained mainly in Chapters I and VIII and the associated sections of Part A of the Code. These Articles concern in particular :
- certificates and endorsements (Article 3a) corresponding to STCW new Regulation I/2,
 - near-coastal voyages (Article 5a) corresponding to STCW new Regulation I/3
 - national provisions (Article 5b) corresponding to STCW new Regulation I/5,
 - quality standards (Article 5c) corresponding to STCW new Regulation I/8,
 - medical standards - issue and registration of certificates (Article 5d) corresponding to STCW new Regulation I/9,
 - revalidation of certificates (Article 5e) corresponding to STCW new Regulation I/11,
 - use of simulators (Article 5f) corresponding to STCW new Regulation I/12,
 - responsibilities of companies (Article 5g) corresponding to STCW new regulation I/14,
 - transitional provisions (Article 5h) corresponding to STCW new Regulation I/15,
 - fitness for duty (Article 5i) corresponding to STCW new Regulation VIII/1.
- d) Article 7 is amended in order to conform with the STCW new Regulation I/6 on training and assessment.
- e) Article 9 (3)(a), is replaced in order to define the common criteria for the recognition of seafarers' certificates issued by third countries. The criteria proposed are in conformity with STCW 1995 provisions, in particular Regulation I/10 . Detailed analysis with regard to this important area of action is presented below.
- f) New articles 10a and 11a are inserted to reflect the requirements of Regulation I/4 on port State control.
- g) Article 12 is amended in order to make possible that amendments to the Directive which will be required because of future changes in the STCW Code can be decided in accordance with the procedure laid down in Article 13 (Comitology procedure).

Object, purpose and effectiveness of the STCW Convention

5. The object and purpose of the STCW Convention when adopted in 1978 (STCW 78) was to establish in common agreement international standards of training, certification and watchkeeping for seafarers in order to promote safety of life and property at sea and the protection of the marine environment. Certificates bearing or accompanied by an agreed endorsement are required to be issued to seafarers who have attained the agreed standards and such certificates are to be accepted by all other Parties as proof that the lawful holders have met these standards.

Unfortunately confidence in the credibility of STCW 78 certificates has been undermined through poor compliance and the lack of effective monitoring and enforcement provisions in the Convention. This led to complete revision of the Convention annex in 1995. The resulting amendments enter into force on 1 February 1997 and include transitional provisions which allow Parties to continue to issue, endorse and recognize certificates under STCW 78 provisions until 1 February 2002, but only in respect of those seafarers who commence their approved seagoing service or approved training prior to 1 August 1998.

Standards of individual Parties

6. Each Party to the Convention may require, in respect of ships entitled to fly its own flag, standards higher than those internationally agreed upon. This right to establish national standards at a higher level has been exercised to some degree by various Parties. However, such national standards cannot be applied to seagoing ships of other Parties.

Diplomas issued by maritime training institutes

7. Diplomas are generally issued on the basis of scholastic achievement demonstrated while attending a pre-sea, sandwich or, in some cases, pre-certification training courses at a maritime training institute or academy. One of the major weaknesses seen in STCW 78 was that its standards are knowledge based and incorporate very few practical competency, ability, proficiency or skill requirements. However, where an integrated training programme is involved which incorporates in-service training on board ship, the on-board training may be monitored through a training record book which under STCW 95 will have to be expressly approved by the Party which is to issue the certificates. The entries and projects contained in this training record book may, in some cases in the past, have been reviewed by the student's supervising instructor at the training institute after completion of all seagoing service requirements. The practical knowledge and skills acquired during service at sea may also be tested by the supervising instructor or other assessor through oral, practical and/or simulator based examinations.

In some countries an appropriate STCW certificate may be issued on behalf of the Party by the training institute in addition to the diploma. Alternatively, the diploma may be presented to the government department responsible for administration of the STCW Convention which may then issue an appropriate STCW certificate without further examination or assessment.

Approval of maritime education and training

8. Under STCW 78, masters and deck officers are not specifically required to have completed any education or training other than to have attended an approved fire-fighting course.

Practice under STCW 78 has varied from Party to Party but in general, approval of training for deck officers has been required only when the institution has applied to the Administration for a reduction in the length of seagoing service required of their graduates.

On the other hand marine engineer officers are required under STCW 78 to have completed not less than three years of approved education or training. This is not as strict as the revised STCW 95 requirement to have completed both education and training.

Factors which may affect the quality of education and training provided at maritime training institutions

9. The quality of education and training provided at a maritime training institution depends upon a number of factors including :

- the entry standards applied by the institution, the standard of general education prevailing within the country and the levels of supply and demand in respect of well educated persons;
- the priority accorded to the maritime training sector by the Government and the relative attractiveness of sea life and shore life to the population;
- the quality of the teaching staff that the institution can attract and retain and the adequacy of facilities and training equipment and aids provided;
- whether or not the institution has been accredited or approved and is monitored by the maritime administration or department of education and whether or not an effective quality system is in place.
- whether or not the institution has received the particular assistance and attention of, or has been sponsored by a donor government or agency, shipping company or shipping companies directly or through an agency.

All of the above factors may apply to training institutes located in countries which supply labour to international shipping and in such cases, the receipt of assistance or attention mentioned above is of particular relevance. The motivation and management skills of those in authority must also be kept in mind.

Role of education and training in recognition of certificates

10. If little credence can be placed in the certificates issued by or on behalf of a Party, then there is equally no reason to place much credence in any approval or accreditation of a training institute granted by the maritime administration of that Party. However, factors such as the involvement of another governmental department or agency dealing with education must be taken into account.

In some labour supplying countries a small number of good quality training institutions are known to operate in direct competition with others of poor quality. However, the certificates issued under STCW 78 to those seafarers who receive a good standard of education and training do not differ in any way from those issued to poorly trained seafarers. While the situation under STCW 95 could show early improvement through closure of inadequate training institutes, it will take some years for standards to be raised at all remaining institutes to more than marginally meet the minimum standards and yet many more to meet the standards attained by institutes located in EU Member States.

The quality of training provided at any institution can only be reliably established through inspection of facilities and procedures as provided for under regulation I/10 of STCW 95. The procedure followed should, as a minimum, be based on the provisions of the STCW articles and STCW 95 regulations I/6, to I/12 inclusive and all relevant sections of parts A and B of the STCW Code, including section B I/9, paragraph 13, and take into account all information provided by the issuing Party.

Such an inspection may indicate that one or more of the training institutes approved or accepted by the issuing Party provide maritime education and training of such poor quality that it does not meet the minimum standards requires by STCW 95. A flag State Party which reaches that conclusion cannot recognize any certificate issued by the other Party. However, recognition of any or all certificates issued by or on behalf of the other Party becomes possible if, pursuant to the provisions of STCW 95, the issuing Party;

- approves only the education and training provided at those training institutes which meet the minimum standards of STCW 95.
- establishes and requires the holders of certificates which reflect a lesser standard of competence to successfully complete appropriate refresher and updating training or assessment; and
- meets all other requirements of the revised Convention.

STCW 95 prescribes minimum standards for certificates that are to be recognized by a flag State Party under Regulation I/10. As noted under § 6 on "Standards of individual Parties", this does not prevent a flag State Party from requiring the holders of certificates issued by another Party to meet higher standards of competence before they are authorized to serve on ships of its flag, by issue of an appropriate endorsement attesting recognition of their certificate. Shipping companies themselves can and occasionally do demand of their prospective employees even higher standards than their Administration requires. On that basis, some shipping companies already recruit only those seafarers who graduate from institutes which meet or exceed the shipping company's own higher standards of maritime education and training and competence.

Authentication of documents

11. Given the ease with which documents can be forged or altered today, there is a need for access to reliable records so that at least any suspicious documents may be authenticated. The simplest method of achieving this is to require, as part of the accreditation process, the provision of computerized records of all seafarers who have graduated from the academy or training institution. Sufficient detail should be incorporated in these records to reasonably ensure reliable identification of each graduate. Records of those graduating in successive years can then be progressively added.

Institute accreditation criteria and process

12. Establishment of a training institute based recognition system would necessitate the development and uniform application of precise criteria upon which recognition is to be based. These criteria should reflect the requirements of STCW 95. It should also take account of all decisions of IMO relevant to STCW 95. Additional requirements over and above those of STCW 95 are possible to be applied in the case of recognition of certificates for service on board ships of a Member State.

The procedures followed to confirm that STCW 95 standards are fully met should comprise two parts, the first being the communication of documentary evidence regarding the standards and quality of education and training provided by the institute. If review of such documentary evidence confirms that minimum standards of STCW 95 are met, it would then be necessary for the institute concerned to be visited and assessed.

STCW 78 standards and their comparison

13. Given that STCW 95 enters into force on 1 February 1997, attention should be focused on that instrument alone. STCW 95 Regulation I/11 requires each Party to compare the standards it previously applied under STCW 78 with those specified in STCW 95. Assessment of the outcome of this comparison should be incorporated in the E.U. recognition process. While the date of 1 February 2002 is employed in the Regulation I/11 so as to ensure that all certificates that may be issued under STCW 78 are covered, it is in the interests of each Party that it should complete the required comparisons prior to 1 August 1998, by which time it must communicate all information required under Regulation I/7 and section A-I/7 of the STCW Code. Any arrangements deemed necessary to upgrade or update the knowledge skills and competence of seafarers certificated under STCW 78 should also be in place by that time although an orderly process of upgrading may take up to five years to complete. Access to employment on board ships of Member States provides a powerful incentive to Governments, training institutes, and seafarers alike.

Port State control aspects

14. As previously noted under "Standards of individual Parties" only STCW minimum requirements concerning education and training should be applied to ships entitled to fly the flag of other Parties.

The control provisions of regulation I/4 have been broadened to include :

- the production of documentary proof that application has been made for an endorsement attesting recognition;
- verification that the numbers and certificates of seafarers serving on board conform to safe manning requirements of the Administration; and
- assessment of ability to maintain watchkeeping standards if the ship is operated in such a manner as to pose a danger to persons, property or the environment.

Detention of the ship in case of :

- failure to comply with safe manning requirements of the Administration,
- failure to comply with the watchkeeping requirements of the Administration,
- absence in a watch of persons qualified to operate equipment essential to safe navigation, safety radiocommunications or the prevention of marine pollution, and
- inability to provide watchkeepers who are sufficiently rested and otherwise fit for duty.

Language aspects

15. Ability to communicate orally and to understand orders, instructions and advice in all circumstances is essential to ensure proper co-ordination of the activities of a ship's complement. Careful attention must therefore be paid to the language capabilities of holders of certificates which are to be recognised.

Knowledge of flag State legislation relevant to duties

16. Although a number of alternative approaches are available, knowledge of the Member State legislation could be ensured through distribution of a summary of key relevant legislative provisions and some form of written test to be completed and forwarded with each application for recognition of a certificate or for revalidation of an endorsement attesting recognition. This requirement concerns seafarers to serve on board at the management level.

Endorsements attesting recognition

17. A format for the endorsements attesting recognition of certificates is prescribed under Regulation I/2 of the revised STCW Convention and in section A-I/2 of the STCW Code. However, Regulation I/2, § 8 states that "Administrations may use a format different from the format given in section A-I/2 of the STCW Code, provided that, as a minimum, the required information is provided in Roman characters and Arabic figures, taking into account the variations permitted under section A-I/2.

Conclusions

18. It is entirely feasible for Member States to recognize, by endorsements issued in accordance with Regulation I/2 of STCW 95, certificates issued by other Parties and thus authorize the employment of the holders on board ships entitled to fly their flag. The conditions governing the issue of such endorsements can include proof of completion of approved maritime education and training at an accredited institute, within or beyond the jurisdiction of the other Party concerned.

The advantages of such a system include :

- assurance that the holder of each individual certificate recognized has completed education and training considered to be equivalent to that approved by a Member State under STCW 95 and including, at least in the future, approved monitoring of in-service training and assessment activities and their supervision and monitoring on board ships flying its flag.
- the ability to initiate corrective action in respect of any weakness in the education and training of endorsement holders which may become apparent through their in-service performance and
- upgrading of the education and training provided at the selected training institutes in labour supplying countries to fully meet STCW 95 standards;

The disadvantages of such a system include :

- the significant human and financial resource demands involved;
- the necessity to obtain the co-operation of each Party whose certificates are to be recognised in this particular manner which could be viewed as undermining the value of certificates otherwise issued by or on behalf of that Party.

Entry into Force

19. The revised STCW Convention is foreseen to enter into force on 1 February 1997. The entry into force of the Convention is done under the tacit approval laid down in Article XII of the Convention. It is stipulated that "an amendment to the annex shall enter into force with respect to all Parties, except those which have objected to the amendment under subparagraph (a)(vii) and which have not withdrawn such objections, six months after the date on which it is deemed to have been accepted.

It is expected that all Member States apart Austria which is not yet contracting Party to the 1978 STCW Convention, will accept the revised STCW Convention.

Under these circumstances the Commission believes that the present proposal should not raise particular difficulties for Member States and it would therefore urge the Council to adopt as soon as possible the proposal in view of making possible that the amended Directive will come into force in 1997.

**Proposal for a
Council Directive amending Directive 94/58/EC
on the minimum level of training of seafarers**

THE COUNCIL OF THE EUROPEAN UNION,

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

Having regard to the proposal from the Commission, (1)

Having regard to the opinion of the Economic and Social Committee, (2)

Acting in accordance with the procedure referred to in Article 189c of the Treaty (3)

Whereas Council Directive 94/58/EC on the minimum level of training of seafarers (4) in Article 12 paragraph 2 provides that following the adoption of new instruments or protocols to the STCW Convention referred to in Article 4 (v), the Council, acting on a proposal from the Commission, shall decide, taking into account the Member States' parliamentary procedures, as well as the relevant procedures within IMO, on the detailed arrangements for ratifying those new instruments or protocols, while ensuring that they are applied uniformly and simultaneously in the Member States;

Whereas Article 9 paragraph 3 (a) of this Directive provides that a set of criteria for the recognition of types of certificates issued by institutes or administrations of third countries will be defined by the Council, acting in accordance with the conditions of the Treaty;

Whereas in its Communication on Safe Seas the Commission (5) has announced that actions to be taken at Community level in the field of maritime safety and pollution prevention at sea should be, where appropriate, in line with the internationally agreed rules and standards;

Whereas the IMO Conference of 26 June -7 July 1995 adopted the revised Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW Convention) and the Seafarers' Training, Certification and Watchkeeping (STCW) Code;

Whereas the provisions of the revised STCW Convention should be properly reflected in the Directive as soon as possible in order to ensure that Member States act in consistency with their obligations at international level;

Whereas in order to prepare the proposal required under Article 9 paragraph 3 of Council Directive 94/58/EC, it was appropriate to wait for the approval by IMO Conference of 26 June - 7 July 1995 of the revised STCW Convention which , inter alia, introduces provisions dealing with the recognition of certificates at international level;

1)

2)

3)

4) O.J. no L 319/28 of 12.12.1994

5) COM (93) 66 final (2)

Whereas the establishment of the common criteria for the recognition by Member States of certificates issued by institutes or administrations of third countries should be based on the training and certification requirements as agreed in the framework of the revised STCW Convention;

Whereas the common criteria for recognition of certificates for service on board ships flying the flag of a Member State should be based on the capacity of maritime training institute attended by the seafarer; whereas criteria for the approval by Member States of maritime training institutes in third countries and criteria for the approval of maritime education and training programmes and courses of these institutes should be therefore be established;

Whereas for the enhancement of maritime safety and pollution prevention at sea the watchkeeping requirements of the STCW Convention including the provisions on rest periods for watchkeeping personnel should be introduced in the present Directive;

Whereas port State control provisions should be broadened as the revised STCW Convention requires;

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 94/58/EC is hereby amended as follows:

1. The following Article is inserted:

'Article 3a

Certificates and endorsements

1. Certificates shall be in the official language or languages of the issuing Member State. If the language used is not English, the text shall include a translation into that language.

2. In respect of radio operators, Member States may :

- 1) include the additional knowledge required by the relevant regulations in the examination for the issue of a certificate complying with the Radio Regulations;
or
- 2) issue a separate certificate indicating that the holder has the additional knowledge required by the relevant regulations.

3. The endorsement required by article VI of the STCW Convention to attest the issue of a certificate issued by a third country shall only be issued if all the requirements of Article 9 paragraph 3(a) have been complied with.

4. At the discretion of a Member State endorsements may be incorporated in the format of the certificates being issued as provided for in section A-I/2 of the STCW Code. If so incorporated the form used shall be that set forth in section A-I/2, § 1. If issued otherwise, the form of endorsements used shall be that set forth in paragraph 2 of that section.

5. A member State which recognizes a certificate under the procedure of Article 9 paragraph 3(a) shall endorse such certificate to attest its recognition. The form of the endorsement used shall be that set forth in paragraph 3 of section A-I/2 of the STCW Code.

6. The endorsements referred to in paragraphs 3, 4 and 5 :

- 1) may be issued as separate documents;
- 2) shall each be assigned a unique number, except that endorsements attesting the issue of a certificate may be assigned the same number as the certificate concerned, provided that that number is unique; and
- 3) shall expire as soon as the certificate endorsed expires or is withdrawn, suspended or cancelled by the third country which issued it and, in any case, not more than five years after their date of issue.

7. The capacity in which the holder of a certificate is authorized to serve shall be identified in the form of endorsement in terms identical to those used in the applicable safe manning requirements of the Member State.

8. Member States may use a format different from the format given in section A-I/2 of the STCW Code, provided that, as a minimum, the required information is provided in Roman characters and Arabic figures, taking account of the variations permitted under section A-I/2.

9. Any certificate required by the Directive must be kept available in its original form on board the ship on which the holder is serving.'

2. In Article 4:

- paragraph (c) is replaced by the following text:

"(c) 'deck officer' means an officer qualified in accordance with the provisions of chapter II of the Annex. "

- paragraph (d) is replaced by the following text:

"(d) 'chief mate' means the officer next in rank to the master and upon whom the command of the ship will fall in the event of the incapacity of the master.

- paragraph (e) is replaced by the following text:

"(e) 'engineer officer' means an officer qualified in accordance with the provisions of chapter III of the Annex."

-paragraph (f) is replaced by the following text:

"(f) 'chief engineer officer' means the senior engineer officer responsible for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the ship."

-paragraph (g) is replaced by the following text:

"(g) 'second engineer officer' means the engineer officer next in rank to the chief engineer officer and upon whom the responsibility for the mechanical propulsion and the operation and maintenance of the mechanical and electrical installations of the ship will fall in the event of the incapacity of the chief engineer officer."

-paragraph (i) is replaced by the following text:

"(i) 'radio operator' means a person holding an appropriate certificate issued or recognised by the competent authorities under the provisions of the Radio Regulations."

-paragraph (o) is replaced by the following text:

"(o) 'propulsion power' means the total maximum continuous rated output power in kilowatts of all the ship's main propulsion machinery which appears on the ship's certificate of registry or other official document."

-paragraph (q) is replaced by the following text:

"(q) 'chemical tanker' means a ship constructed or adapted and used for the carriage in bulk of any liquid product listed in chapter 17 of the International Bulk Chemical Code as in force at [1997] (6)."

-paragraph (r) is replaced by the following text:

"(r) 'liquefied gas tanker' means a ship constructed or adapted and used for the carriage in bulk of any liquefied gas or other product listed in chapter 19 of the International Gas Carrier Code as in force at [1997] (6)."

(6) Date of entry into force of this Directive.

-paragraph (v) is replaced by the following text:

"(v) 'STCW Convention' means the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers as it applies to the matters concerned taking into account the transitional provisions of article VII and regulation I/15 of the Convention and including, where appropriate, the applicable provisions of the STCW Code, all being applied as in force at [1997] (6)."

-the following paragraphs are inserted:

"(w) 'Radio duties' include, as appropriate, watchkeeping and technical maintenance and repairs conducted in accordance with the Radio Regulations, the International Convention for the Safety of Life at Sea and, at the discretion of each Administration, the relevant recommendations of the Organization;

(x) 'Ro-ro passenger ship' means a passenger ship with ro-ro cargo spaces or special category spaces as defined in the International Convention for the Safety of Life at Sea, 1974, as in force at [1997] (6)";

(y) 'STCW Code' means the Seafarers' Training, Certification and Watchkeeping (STCW) Code as adopted by the IMO Conference resolution 2 of 26 June - 7 July 1995, as in force at [1997] (6)";

(z) 'Function' means a group of tasks, duties and responsibilities, as specified in the STCW Code, necessary for ship operation, safety of life at sea or protection of the marine environment;

(ab) 'Company' means the owner of the ship or any other organization or person such as the manager, or the bareboat charterer, who has assumed the responsibility for operation of the ship from the shipowner and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities imposed on the company by these regulations;

(ac) 'Appropriate certificate' means a certificate issued and endorsed in accordance with the provisions of this Directive and entitling the lawful holder thereof to serve in the capacity and perform the functions involved at the level of responsibility specified therein on a ship of the type, tonnage, power and means of propulsion concerned while engaged on the particular voyage concerned;

(ad) 'Seagoing service' means service on board a ship relevant to the issue of a certificate or other qualification.

(ae) 'Accredited training institute' means a maritime training academy, college, training institute or other entity approved by a Member State for the purpose of providing approved maritime education and training;

(6) Date of entry into force of this directive.

- (af) "Approved" means approved by a Member State as meeting the maritime education and training requirements for service on board ships flying its flag;
- (ag) "Third country" means the country which is not a Member State."

3. The following Articles are inserted:

Article 5a

Principles governing near-coastal voyages

1. Member States may introduce standards of education and training lower than those provided in this Directive in respect of near-coastal voyages. In so doing they shall not impose training, experience or certification requirements on the seafarers serving on board the ships entitled to fly the flag of another Member State and engaged on such voyages in a manner resulting in more stringent requirements for such seafarers than for seafarers serving on board ships entitled to fly its own flag. In no case Member States shall impose requirements in respect of seafarers serving on board ships flying the flag of another Member State in excess of those of the Directive in respect of ships not engaged on near-coastal voyages.

2. With respect to ships entitled to fly the flag of a Member State regularly engaged on near-coastal voyages off the coast of another Member State, the Member State whose flag the ship is entitled to fly shall prescribe training, experience and certification requirements for seafarers serving on such ships at least equal to those of the Member State off whose coast the ship is engaged, provided that they do not exceed the requirements of the Directive in respect of ships not engaged on near-coastal voyages. Seafarers serving on a ship which extends its voyage beyond what is defined as a near-coastal voyage by a Member State and enters waters not covered by that definition shall fulfil the appropriate requirements of the Directive.

3. A Member State may afford a ship which is entitled to fly its flag the benefits of the near-coastal voyage provisions of the Directive when it is regularly engaged off the coast of a non-Party to the STCW Convention on near-coastal voyages as defined by the Member State.

4. Member States before deciding on the definition of near-coastal voyages and the conditions of education and training required thereof in accordance with the requirements of this Article shall communicate to the Commission the details of the provisions intended to be adopted. Such conditions may only be adopted by Member States if they are approved in accordance with the procedure laid down in Article 13.

Article 5b

Penalties or disciplinary measures

1. Member States shall establish processes and procedures for the impartial investigation of any reported incompetency, act or omission, that may pose a direct threat to safety of life or property at sea or to the marine environment, by the holders of certificates or endorsements issued by that Member State in connection with their performance of duties related to their certificates and for the withdrawal, suspension and cancellation of such certificates for such cause and for the prevention of fraud.

2. Each Member State shall prescribe penalties or disciplinary measures for cases in which the provisions of its national legislation giving effect to the Directive are not complied with in respect of ships entitled to fly its flag or of seafarers duly certificated by that Member State.

3. In particular, such penalties or disciplinary measures shall be prescribed and enforced in cases in which :

- 1) a company or a master has engaged a person not holding a certificate as required by the Directive.
- 2) a master has allowed any function or service in any capacity required by the Directive to be performed by a person holding an appropriate certificate, to be performed by a person not holding the required certificate, a valid dispensation or having the documentary proof required by Article 9, paragraph 3(a), or
- 3) a person has obtained by fraud or forged documents an engagement to perform any function or serve in any capacity required by the Directive to be performed or filled by a person holding a certificate or dispensation.

4. Member States within whose jurisdiction there is located any company which, or any person who, is believed on clear grounds to have been responsible for or to have knowledge of, any apparent non-compliance with the Directive specified in paragraph 3, shall extend co-operation to any Member State or, subject to reciprocity, third country which advises them of its intention to initiate proceedings under its jurisdiction.'

'Article 5c

Quality standards

1. Member States shall ensure that :

- 1) all training, assessment of competence, certification, endorsement and revalidation activities carried out by non-governmental agencies or entities under their authority are continuously monitored through a quality standards system to ensure achievement of defined objectives, including those concerning the qualifications and experience of instructors and assessors; and

- 2) where governmental agencies or entities perform such activities, there shall be a quality standards system.
- 3) the education and training objectives and related standards of competence to be achieved are clearly defined and identify the levels of knowledge, understanding and skills appropriate to the examinations and assessments required under the STCW Convention. The objectives and related quality standards may be specified separately for different courses and training programmes and shall cover the administration of the certification system.
- 4) the field of application of the quality standards shall cover the administration of the certification system, all training courses and programmes, examinations and assessments carried out by or under the authority of the Member State and the qualifications and experience required of instructors and assessors; having regard to the policies, systems, controls and internal quality assurance reviews established to ensure achievement of the defined objectives.

2. Member States shall also ensure that an independent evaluation of the knowledges, understanding, skills and competence acquisition and assessment activities, and of the administration of the certification system, is conducted at intervals of not more than five years by qualified persons who are not themselves involved in the activities concerned in order to verify that :

- 1) all internal management control and monitoring measures and follow-up actions comply with planned arrangements and documented procedures and are effective in ensuring achievement of the defined objectives;
- 2) the results of each independent evaluation are documented and brought to the attention of those responsible for the area evaluated; and
- 3) timely action is taken to correct deficiencies.

3. A report relating to the evaluation required by paragraph 2 shall be communicated by Member States to the Commission within 6 months from the date the evaluation has been carried out.'

4. In applying the provisions of this Article, Member States shall take into account the provisions of section B-I/8 of the STCW Code.

'Article 5d

Medical Standards - Issue and registration of certificates

1. Member States shall establish standards of medical fitness for seafarers, particularly regarding eyesight and hearing.
2. Member States shall ensure that certificates are issued only to candidates who comply with the requirements of this Article.

3. Candidates for certification shall provide satisfactory proof.

- 1) of their identity
- 2) that their age is not less than that prescribed in the regulation of the Annex to this Directive relevant to the certificate applied for.
- 3) that they meet the standards of medical fitness, particularly regarding eyesight and hearing, established by the Member State and hold a valid document attesting to their medical fitness, issued by a duly qualified medical practitioner recognized by the competent authorities of Member States.
- 4) of having completed the seagoing service and any related compulsory training required by the regulations of the Annex to this Directive for the certificate applied for; and
- 5) that they meet the standards of competence prescribed by the regulations of the Annex for the capacities, functions and levels that are to be identified in the endorsement to the certificate.

4. Member States undertake to :

- 1) maintain an electronic register or registers of all certificates and endorsements for masters and officers and, as appropriate, ratings, which are issued, have expired or have been revalidated, suspended, cancelled or reported lost or destroyed and of dispensations issued; and
- 2) make available information on the status of such certificates, endorsements and dispensations to other Member States or, subject to reciprocity, third countries and companies which request verification of the authenticity and validity of certificates produced to them by seafarers seeking recognition of their certificates under the provisions of Article 9 or employment on board ship.'

5. Member States in applying the provisions of this Article shall take into account the recommended guidance given in section B-1/9 of the STCW Code.

'Article 5e'

Revalidation of certificates

1. Every master, officer and radio operator holding a certificate issued or recognized under any chapter of the Annex other than chapter VI who is serving at sea or intends to return to sea after a period ashore shall, in order to continue to qualify for seagoing service, be required at intervals not exceeding five years to:

- 1) meet the standards of medical fitness prescribed by Article 5d and
- 2) establish continued professional competence in accordance with section A-I/11 of the STCW Code.

2. Every master, officer and radio operator shall, for continuing seagoing service on board ships for which special training requirements have been internationally agreed upon, successfully complete approved relevant training.

3. Member States shall compare the standards of competence which they required of candidates for certificates issued before 1 February 2002 with those specified for the appropriate certificate in part A of the STCW Code, and shall determine the need for requiring the holders of such certificates to undergo appropriate refresher and updating training or assessment.

The refresher and updating courses shall be approved and include changes in relevant national and international regulations concerning the safety of life at sea and the protection of the marine environment and take account of any updating of the standard of competence concerned.

4. Member States shall, in consultation with those concerned, formulate or promote the formulation of a structure of refresher and updating courses as provided for in section A-I/11 of the STCW Code.

5. For the purpose of updating the knowledge of masters, officers and radio operators, Member States shall ensure that the texts of recent changes in national and international regulations concerning the safety of life at sea and the protection of the marine environment are made available to ships entitled to fly their flag.'

'Article 5f'

Use of simulators

1. The performance standards and other provisions set forth in section A-I/12 of the STCW Code and such other requirements as are prescribed in part A of the STCW Code for any certificate concerned shall be complied with in respect of.

- 1) all mandatory simulator-based training;
- 2) any assessment of competency required by part A of the STCW Code which is carried out by means of a simulator; and
- 3) any demonstration, by means of a simulator, of continued proficiency required by part A of the STCW Code.

2. Simulators installed or brought into use prior to 1 February 2002 may be exempted from full compliance with the performance standards referred to in paragraph 1, at the discretion of the Member States.'

'Article 5g'

Responsibilities of companies

1. Member States shall, in accordance with the provisions of paragraphs 2 and 3 hold companies responsible for the assignment of seafarers for service in their ships in accordance with the provisions of the present Directive, and shall require every such company to ensure that :

- 1) each seafarer assigned to any of its ships holds an appropriate certificate in accordance with the provisions of the Directive;
- 2) its ships are manned in compliance with the applicable safe manning requirements of their Administration;
- 3) documentation and data relevant to all seafarers employed on their ships are maintained and readily accessible, and include, without being limited to, documentation and data on their experience, training, medical fitness and competency in assigned duties;
- 4) seafarers on being assigned to any of its ships are familiarized with their specific duties and with all ship arrangements, installations, equipment, procedures and ship characteristics that are relevant to their routine or emergency duties, and
- 5) the ship's complement can effectively co-ordinate their activities in an emergency situation and in performing functions vital to safety or to the prevention or mitigation of pollution.

2. Companies, masters and crew members each have responsibility for ensuring that the obligations set out in this Article are given full and complete effect and that such other measures as may be necessary are taken to ensure that each crew member can make a knowledgeable and informed contribution to the safe operation of the ship.

3. The company shall provide written instructions to the master of each ship to which the Directive applies, setting forth the policies and the procedures to be followed to ensure that all seafarers who are newly employed on board the ship are given a reasonable opportunity to become familiar with the shipboard equipment, operating procedures and other arrangements needed for the proper performance of their duties, before being assigned to those duties. Such policies and procedures shall include :

- 1) allocation of a reasonable period of time during which each newly employed seafarer will have an opportunity to become acquainted with :
 - 1.1. the specific equipment the seafarer will be using or operating, and
 - 1.2. ship specific watchkeeping, safety, environmental protection and emergency procedures and arrangements the seafarer needs to know to perform the assigned duties properly; and

- 2) designation of a knowledgeable crew member who will be responsible for ensuring that an opportunity is provided to each newly employed seafarer to receive essential information in a language the seafarer understands.'

'Article 5h

Transitional provisions

1. Until 1 February 2002, Member States may continue to issue, recognize and endorse certificates in accordance with the provisions which applied prior to the date for transposal into national law of the provisions of Directive 97/- (7) in respect of those seafarers who commenced approved seagoing service, and approved education and training programme or an approved training course before 1 August 1998.
2. Until 1 February 2002, Member States may continue to renew and revalidate certificates and endorsements in accordance with the provisions which applied prior to the date for transposal into national law of the provisions of Directive 97/- (7).
3. Where a Member State, pursuant to Article 5e reissues or extends the validity of certificates originally issued by it under the provisions which applied prior to the date for transposal into national law of the provisions of Directive 97/- (7), the Member State may, at its discretion, replace tonnage limitations appearing on the original certificates as follows:
 - 1) "200 gross registered tons" may be replaced by "500 gross tonnage"; and
 - 2) "1.600 gross registered tons" may be replaced by "3.000 gross tonnage".'

'Article 5i

Fitness for duty

1. Member States shall, for the purpose of preventing fatigue establish and enforce rest periods for watchkeeping personnel and require that watch systems are so arranged that the efficiency of all watchkeeping personnel is not impaired by fatigue and that duties are so organized that the first watch at the commencement of a voyage and subsequent relieving watches are sufficiently rested and otherwise fit for duty.
2. All persons who are assigned duty as officer in charge of a watch or as a rating forming part of a watch shall be provided a minimum of 10 hours of rest in any 24-hour period.
3. The hours of rest may be divided into no more than two periods, one of which shall be at least 6 hours in length.
4. The requirements for rest periods laid down in paragraphs 1 and 2 need not be maintained in the case of an emergency or drill or in other overriding operational conditions.

(7) This amending Directive.

5. Notwithstanding the provisions of paragraphs 2 and 3, the minimum period of ten hours may be reduced to not less than 6 consecutive hours provided that any such reduction shall not extend beyond two days and not less than 70 hours of rest are provided each seven day period.

6. Member States shall require that watch schedules be posted where they are easily accessible.'

7. In applying the provisions of this Article, Member States shall take into account the provisions referred to in section B-VIII/1 of the STCW Code.

4. In Article 7 :

- the existing text should be described as paragraph 1,
- in the second indent of paragraph 1 the words "Member States shall ensure that all examiners are properly qualified" shall be deleted,
- the following paragraph shall be added:

"2. Member State shall ensure the following :

Training and assessment

a) All training and assessment of seafarers is:

- 1) structured in accordance with the written programmes, including such methods and media of delivery, procedures and course material as are necessary to achieve the prescribed standard of competence; and
- 2) conducted, monitored, evaluated and supported by persons qualified in accordance with paragraphs (d), (e) and (f).

b) Persons conducting in-service training or assessment on board ship shall only do so when such training or assessment will not adversely affect the normal operation of the ship and they can dedicate their time and attention to training or assessment.

Qualifications of instructors, supervisors and assessors

c) Instructors, supervisors and assessors are appropriately qualified for the particular types and levels of training or assessment of competence of seafarers either on board or ashore.

In - service training

d) Any person conducting in-service training of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification under the Directive shall :

- 1) have an appreciation of the training programme and an understanding of the specific training objectives for the particular type of training being conducted;
- 2) be qualified in the task for which training is being conducted; and
- 3) if conducting training using a simulator:
 - 3.1 have received appropriate guidance in instructional techniques involving the use of simulators, and
 - 3.2 have gained practical operational experience on the particular type of simulator being used;

e) Any person responsible for the supervision of in-service training of a seafarer intended to be used in qualifying for certification shall have a full understanding of the training programme and the specific objectives for each type of training being conducted.

Assessment of competence

f) Any person conducting in-service assessment of competence of a seafarer, either on board or ashore, which is intended to be used in qualifying for certification shall :

- 1) have an appropriate level of knowledge and understanding of the competence to be assessed;
- 2) be qualified in the task for which the assessment is being made;
- 3) have received appropriate guidance in assessment methods and practice;
- 4) have gained practical assessment experience; and
- 5) if conducting assessment involving the use of simulators, have gained practical assessment experience on the particular type of simulator under the supervision and to the satisfaction of an experienced assessor.

Training and assessment within an institution

g) When a Member State recognizes a course of a training institution, or a qualification granted by a training institution, as part of its requirements for the issue of a certificate, the qualifications and experience of instructors and assessors are covered in the application of the quality standard provisions of Article 5e. Such qualification, experience and application of quality standards shall incorporate appropriate training in instructional techniques, and training and assessment methods and practice and comply with all applicable requirements of paragraphs (b) to (f)."

5. Article 9 (3)(a) is replaced by the following :

'(a) A Member States may only recognise seafarers' certificates issued by third countries for service on board ships flying its flag if all of the following conditions are fulfilled:

1) A certificate must :

1.1 have been issued by a Party to the STCW Convention that:

1.1.1 has communicated information before 1 August 1998 on the implementation of the STCW Convention to the Secretary General of the International Maritime Organisation which has, within a fixed period of time to be decided under the procedure of Article 13, been identified by the Maritime Safety Committee of the International Maritime Organisation as having given full and complete effect to the provisions of the STCW Convention.

1.1.2. within each five year period following 1 August 1998, has been identified by the Maritime Safety Committee of the International Maritime Organisation as having complied with STCW Convention requirements for periodic independent evaluation of the quality standards it applies to all training, assessment of competence, certification, endorsement and revalidation activities carried out or performed under the Convention and has provided a satisfactory report thereon,

1.1.3. has been recognized through the procedure of Article 13 as complying fully with all STCW Convention requirements concerning standards of competence, the issue and endorsement of certificates and record keeping, and

1.1.4. has undertaken to give prompt notification to the Member State concerned of any significant change made in its arrangements for STCW Convention related training and certification;

1.2. bear, be accompanied by, or incorporate in its wording an endorsement attesting its issue by the above Party;

1.3. be suitable for service on ships engaged on voyages extending beyond near-coastal voyages as may be defined by the above Party;

1.4. have a remaining validity, including that of the endorsement attesting its issue, of not less than one calendar year; and

1.5. be accompanied by documentary evidence that demonstrates the holder has :

1.5.1. completed maritime education and training conducted at a training institute complying with the conditions set out in sub-subparagraphs 2 and 3,

- 1.5.2. completed an approved radar simulator course,
- 1.5.3. completed an approved Automatic Radar Plotting Aid (ARPA) simulator course, if the endorsement attesting recognition is to be valid for service on ARPA equipped ships,
- 1.5.4. completed such refresher and updating training or assessment, additional to the above, as has been determined to be necessary by the issuing Party, if the certificate was issued under provisions of the STCW Convention in force at any time prior to 1 February 1997 under the provisions of regulation 1/15 of the STCW Convention as amended,
- 1.5.5. the ability to communicate orally and to understand written and oral instructions, orders and advice relevant to the functions that he or she is to be authorized to perform, and
- 1.5.6. appropriate knowledge of the maritime legislation of the Member State relevant to the functions at the management level that he or she is to be permitted to perform.

2) Criteria for approval of maritime training institutes.

For approval as a maritime training institute authorized to conduct education and training programmes and courses accepted by a Member State as meeting the requirements for service on board ships flying its flag, a maritime training institute must :

2.1. be provided with :

- 2.1.1. accommodation and facilities which establish a teaching, study and learning environment suited to the conduct of approved maritime education and training programmes and courses,
- 2.1.2. all equipment and such control engineering, electrical, electronic, hydraulic, navigational aid, pneumatic and radiocommunication laboratory and workshop facilities and teaching aids as are identified in the written programmes of the maritime education and training or courses to be conducted, and
- 2.1.3. indexed up-to-date reference material in adequate variety and sufficiency of copies, covering all subjects incorporated in the approved maritime education and training programmes or courses which the training institute is to be accredited to conduct;

2.2. have appointed instructors, in sufficient numbers to adequately serve the approved training programmes and courses to be conducted, who have received appropriate training in instructional techniques and training and assessment methods and practice and :

- 2.2.1. have an appreciation of the training programme and an understanding of the specific training objectives for the particular type of training to be conducted,
- 2.2.2. are qualified in the task for which the training is to be conducted,
- 2.2.3. if using a simulator :
 - 2.2.3.1. have received appropriate guidance in instructional techniques involving the use of simulators, and
 - 2.2.3.2. have gained practical operational experience on the particular type of simulator to be used;
- 2.3. have appointed training supervisors, appropriate to the approved training programmes and courses to be conducted at the institute, who have a full understanding of each approved training programme and course they are to supervise including its specific objectives.
- 2.4. have appointed assessors who have received appropriate training in assessment methods and practice and :
 - 2.4.1. have an appropriate level of knowledge and understanding of the competence to be assessed,
 - 2.4.2. are qualified in the task for which the assessment is to be made,
 - 2.4.3. have received appropriate guidance in assessment methods and practice,
 - 2.4.4. have gained practical assessment experience, and
 - 2.4.5. if they are to conduct assessment involving the use of simulators, have gained practical assessment experience on the particular type of simulator that is to be employed, under the supervision and to the satisfaction of an experienced assessor;
- 2.5. maintain records of all students who complete their maritime education or training at the institute, incorporating details of the education and training received, the dates concerned, their training record books as completed and the diploma granted, together with their full name and date and place of birth;
- 2.6. provide the Member State with a computerized copy of the above records covering the maritime education and training programmes and courses previously conducted by the institute that are to be recognized as meeting the requirements for service on board ships flying its flag and a sample or samples of the formats of the diplomas and certificates of attendance granted;

- 2.7. update the above records at appropriate and mutually agreed intervals by providing a computerized copy of similar information on recently graduated students;
- 2.8. continuously monitor its training and assessment activities through a quality standards system to ensure achievement of its defined objectives including those concerning the qualifications and experience of its instructors and assessors; and
- 2.9. undergo evaluation at intervals of not more than five years, by suitably qualified persons who are not themselves involved in the training or assessment activities concerned, so as to verify that the administrative and operational procedures at all levels within the institute are managed, organized, undertaken, supervised and monitored internally in order to ensure their fitness for purpose and achievement of stated objectives.

3) Criteria for approval of maritime education and training programmes and courses.

For approval as meeting the maritime education and training requirements for service on board ships flying the flag of a Member State, a training programme or course must :

- 3.1. be structured in accordance with written programmes which :
 - 3.1.1. follow the format used in the relevant IMO model courses or provide equivalent detail of the course structure and the training objectives or outcomes,
 - 3.1.2. take full account of the guidance given in the IMO document "Guidance on the Implementation of IMO Model Courses" (8), and
 - 3.1.3. include such methods and media of delivery, procedures, and course material as are necessary to achieve the prescribed standard of competence;
- 3.2. be conducted, monitored, evaluated and supported by persons qualified in accordance with paragraphs 2.2., 2.3. and 2.4.;
- 3.3. incorporate the education and training objectives and the competence, knowledge, understanding and proficiency specified in STCW 95 for the functions and levels of responsibility concerned or the tasks, duties and responsibilities involved;
- 3.4. provide in a structured teaching sequence, the detailed syllabus or syllabi to be followed in conducting the training programme or course, written in learning objective or training outcome format;
- 3.5. identify the textbooks, documents, technical material and other publications to be used in association with the training programme or course;

(8) London-IMO - 1988 - 096/88.

- 3.6. indicate the time allocated to the delivery of each subject area to be covered and a planned timetable for the guidance of instructors and students; and
- 3.7. if conducted at a training institute prior to the date of its approval, have provided a level of maritime education and training considered by the Member State as equivalent to education and training provided in accordance with the above criteria.

4) Certificates and endorsements issued by a Member State under the provisions of this Article in recognition of, or attesting the recognition of, a certificate issued by a third country, may not be used as the basis for further recognition by another Member State.

5) Notwithstanding the provisions of paragraph 5 of Article 3a a Member State may, if circumstances require, allow a seafarer to serve in a capacity, other than radio officer or radio operator, except as provided by the Radio Regulations, for a period not exceeding three months on board a ship flying its flag, while holding an appropriate and valid certificate issued and endorsed as required by a third country but which has not yet been endorsed for recognition so as to render it appropriate for service on board a ship flying its flag. Documentary proof shall be readily available that application for an endorsement has been submitted to the competent authorities.'

6. The following Articles are inserted:

'Article 10a

Port State control

1. The priority control provisions of Article 10 shall, inter alia, cover inspections of the following :

- seafarers who are required to be certificated in accordance with STCW 95 hold an appropriate certificate or a valid dispensation, or provide documentary proof that an application for an endorsement attesting recognition has been submitted to the authorities of the country whose flag the ship flies.
- verification that the numbers and certificates for the seafarers are in conformity with the safe manning requirements.

2. Priority controls, as described in Article 10, shall also provide that the seafarer demonstrates his related competency at the place of duty. Such demonstration may include verification that operational requirements in respect of watchkeeping standards have been met and that there is a proper response to emergency situations within the seafarer's level of competence.

In the assessment, the methods for demonstrating competence together with the criteria for its evaluation and the scope of the standards given in part A of the STCW Code shall be used.

3. Assessment of the ability of the seafarers as described in paragraph 2 shall also take place if any of the following have occurred :

- the ship has been involved in a collision, grounding or stranding, or
- there has been a discharge of substances from the ship when underway, at anchor or at berth which is illegal under any international convention, or
- the ship has been manoeuvred in an erratic or unsafe manner whereby routing measures or safe navigation practices and procedures have not been followed, or
- the ship is otherwise being operated in such a manner as to pose a danger to persons, property or the environment.'

'Article 11a

Detention of the ship shall, inter alia, take place in cases of :

- failure of seafarers to hold an appropriate certificate, to have a valid dispensation or to provide documentary proof that an application for an endorsement has been submitted to the authorities of the country whose flag the ship flies.
- failure to comply with the applicable safe manning requirements.
- failure of navigational or engineering watch arrangements to conform to the requirements specified for the ship.
- absence in a watch of a person qualified to operate equipment essential to safe navigation, safety radiocommunications or the prevention of marine pollution; and
- inability to provide for the first watch at the commencement of a voyage and for subsequent relieving watches persons who are sufficiently rested and otherwise fit for duty.'

7. In Article 12 (1) the words "and (s)" are replaced by the words "(s) and (y)".

8. The Annex is replaced by the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than {1 June 1997}.

2. When Member States adopt these provisions they shall contain a reference to this Directive or shall be announced by such reference at the time of their official publication. The methods of making such a reference shall be laid down by the Member States.

3. Member States shall lay down the system of penalties for breaching the national provisions adopted pursuant to this Directive and shall take all the measures necessary to ensure that those penalties are applied. The penalties thus provided for shall be effective, proportionate and dissuasive.

4. The Member States shall immediately communicate to the Commission the texts of all the provisions which they adopt in the field governed by this Directive. The Commission shall inform the other member States thereof.

Article 3

This Directive is addressed to the Member States.

Article 4

This Directive shall enter into force on the day of its publication in the Official Journal of the European Communities.

Done at Brussels,

For the Council

The President

ANNEX

CHAPTER I

GENERAL PROVISIONS

1. The regulations referred to in this Annex are supplemented by the mandatory provisions contained in part A of the STCW Code as adopted by the IMO Conference of 26 June-7 July 1995 as in force at [1997] (6).

- 1) any reference to a requirement in a regulation also constitutes a reference to the corresponding section of part A of the STCW Code;
- 2) in applying the regulations, the related guidance and explanatory material contained in part B of the STCW Code shall be taken into account to the greatest degree possible in order to achieve a more uniform implementation of the Directive provisions.

2. The part A of the STCW Code contains standards of competence required to be demonstrated by candidates for the issue and revalidation of certificates of competency under the provisions of the STCW Convention. To clarify the linkage between the alternative certification provisions of chapter VII and the certification provisions of chapters II, III and IV, the abilities specified in the standards of competence are grouped as appropriate under the following seven functions:

- 1) Navigation
- 2) Cargo handling and stowage
- 3) Controlling the operation of the ship and care for persons on board
- 4) Marine engineering
- 5) Electrical, electronic and control engineering
- 6) Maintenance and repair
- 7) Radiocommunications

at the following levels of responsibility :

- 1) Management level
- 2) Operational level
- 3) Support level.

Functions and levels of responsibility are identified by subtitle in the tables of standards of competence given in chapters II, III and IV of the part A of the STCW Code.

(6) Date of entry into force of this Directive.

CHAPTER II

MASTER AND DECK DEPARTMENT

Regulation II/1

Mandatory minimum requirements for certification of officers in charge of a navigational watch on ships of 500 gross tonnage or more.

1. Every officer in charge of a navigational watch serving on a seagoing ship of 500 gross tonnage or more shall hold an appropriate certificate.
2. Every candidate for certification shall :
 - .1 be not less than 18 years of age;
 - .2 have approved seagoing service of not less than one year as part of an approved training programme which includes on-board training which meets the requirements of section A-II/1 of the STCW Code and is documented in an approved training record book, or otherwise have approved seagoing service of not less than three years;
 - .3 have performed, during the required seagoing service, bridge watchkeeping duties under the supervision of the master or a qualified officer for a period of not less than six months;
 - .4 meet the applicable requirements of the regulations in chapter IV, as appropriate, for performing designated radio duties in accordance with the Radio Regulations; and
 - .5 have completed approved education and training and meet the standard of competence specified in section A-II/1 of the STCW Code.

Regulation II/2

Mandatory minimum requirements for certification of masters and chief mates on ships of 500 gross tonnage or more

Master and chief mate on ships of 3,000 gross tonnage or more

1. Every master and chief mate on a seagoing ship of 3,000 gross tonnage or more shall hold an appropriate certificate.
2. Every candidate for certification shall :
 - .1 meet the requirements for certification as an officer in charge of a navigational watch on ships of 500 gross tonnage or more and have approved seagoing service in that capacity:
 - .1.1 for certification as chief mate, not less than 12 months, and

- .1.2 for certification as master, not less than 36 months; however, this period may be reduced to not less than 24 months if not less than 12 months of such seagoing service has been served as chief mate; and
- .2 have completed approved education and training and meet the standard of competence specified in section A-II/2 of the STCW Code for masters and chief mates on ships of 3,000 gross tonnage or more.

Master and chief mate on ships of between 500 and 3,000 gross tonnage

3. Every master and chief mate on a seagoing ship of between 500 and 3,000 gross tonnage shall hold an appropriate certificate.

4. Every candidate for certification shall :

- .1 for certification as chief mate, meet the requirements of an officer in charge of a navigational watch on ships of 500 gross tonnage or more;
- .2 for certification as master, meet the requirements of an officer in charge of a navigational watch on ships of 500 gross tonnage or more and have approved seagoing service of not less than 36 months in that capacity; however, this period may be reduced to not less than 24 months if not less than 12 months of such seagoing service has been served as chief mate, and
- .3 have completed approved training and meet the standard of competence specified in section A-II/2 of the STCW Code for masters and chief mates on ships of between 500 and 3,000 gross tonnage.

Regulation II/3

Mandatory minimum requirements for certification of officers in charge of a navigational watch and of masters on ships of less than 500 gross tonnage

Ships not engaged on near-coastal voyages

- 1. Every officer in charge of a navigational watch serving on a seagoing ship of less than 500 gross tonnage not engaged on near-coastal voyages shall hold an appropriate certificate for ships of 500 gross tonnage or more.
- 2. Every master serving on a seagoing ship of less than 500 gross tonnage not engaged on near-coastal voyages shall hold an appropriate certificate for service as master on ships of between 500 and 3,000 gross tonnage.

Ships engaged on near-coastal voyages

Officer in charge of a navigational watch

3. Every officer in charge of a navigational watch on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall hold an appropriate certificate.

4. Every candidate for certification as officer in charge of a navigational watch on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall ;

- .1 be not less than 18 years of age;
- .2 have completed;
 - .2.1 special training, including an adequate period of appropriate seagoing service as required by the Administration, or
 - .2.2 approved seagoing service in the deck department of not less than three years;
- .3 meet the applicable requirements of the regulations in chapter IV, as appropriate, for performing designated radio duties in accordance with the Radio Regulations; and
- .4 have completed approved education and training and meet the standard of competence specified in section A-II/3 of the STCW Code for officers in charge of a navigational watch on ships of less than 500 gross tonnage engaged on near-coastal voyages.

Master

5. Every master serving on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall hold an appropriate certificate.

6. Every candidate for certification as master on a seagoing ship of less than 500 gross tonnage engaged on near-coastal voyages shall :

- .1 be not less than 20 years of age;
- .2 have approved seagoing service of not less than 12 months as officer in charge of a navigational watch; and
- .3 have completed approved education and training and meet the standard of competence specified in section A-II/3 of the STCW Code for masters on ships of less than 500 gross tonnage engaged on near-coastal voyages.

7. Exemptions

The Administration, if it considers that a ship's size and the conditions of its voyage are such as to render the application of the full requirements of this regulation and section A-II/3 of the STCW Code unreasonable or impracticable, may to that extent exempt the master and the officer in charge of a navigational watch on such a ship or class of ships from some of the requirements, bearing in mind the safety of all ships which may be operating in the same waters.

Regulation II/4
Mandatory minimum requirements for certification of ratings forming part of a navigational watch

1. Every rating forming part of a navigational watch on a seagoing ship of 500 gross tonnage or more, other than ratings under training and ratings whose duties while on watch are of an unskilled nature, shall be duly certificated to perform such duties.
2. Every candidate for certification shall :
 - .1 be not less than 16 years of age;
 - .2 have completed :
 - .2.1 approved seagoing service including not less than six months training and experience, or
 - .2.2 special training, either pre-sea or on board ship, including an approved period of seagoing service which shall not be less than two months; and
 - .3 meet the standard of competence specified in section A-II/4 of the STCW Code.
3. The seagoing service, training and experience required by sub-paragraphs 2.2.1 and 2.2.2 shall be associated with navigational watchkeeping functions and involve the performance of duties carried out under the direct supervision of the master, the officer in charge of the navigational watch or a qualified rating.
4. Seafarers may be considered by a Member State to have met the requirements of this regulation if they have served in a relevant capacity in the deck department for a period of not less than one year within the last five preceding the entry into force of the STCW Convention for that Member State.

CHAPTER III

ENGINE DEPARTMENT

Regulation III/1

Mandatory minimum requirements for certification of officers in charge of an engineering watch in a manned engine-room or designated duty engineers in a periodically unmanned engine-room

1. Every officer in charge of an engineering watch in a manned engine-room or designated duty engineer officer in a periodically unmanned engine-room on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more shall hold an appropriate certificate.
2. Every candidate for certification shall :
 - .1 be not less than 18 years of age;
 - .2 have completed not less than six months seagoing service in the engine department in accordance with section A-III/1 of the STCW Code; and
 - .3 have completed approved education and training of at least 30 months which includes on board training documented in an approved training record book and meet the standards of competence in section A-III/1 of the STCW Code.

Regulation III/2

Mandatory minimum requirements for certification of chief engineer officers and second engineer officers *on* ships powered by main propulsion machinery of 3,000 kW propulsion power or more

1. Every chief engineer officer and second engineer officer on a seagoing ship powered by main propulsion machinery of 3,000 kW propulsion power or more shall hold an appropriate certificate.
2. Every candidate for certification shall :
 - .1 meet the requirements for certification as an officer in charge of an engineering watch and :
 - .1.1 for certification as a second engineer officer, shall have not less than 12 months approved seagoing service as assistant engineer officer or engineer officer, and
 - .1.2 for certification as chief engineer officer, shall have not less than 36 months' approved seagoing service of which not less than 12 months shall have

been served as an engineer officer in a position of responsibility while qualified to serve as second engineer officer; and

- .2 have completed approved education and training and meet the standard of competence specified in section A-III/2 of the STCW Code.

Regulation III/3

Mandatory minimum requirements for certification of chief engineer officers and second engineer officers on ships powered by main propulsion machinery of between 750 kW and 3,000 kW propulsion power

1. Every chief engineer officer and second engineer officer on a sea-going ship powered by main propulsion machinery of between 750 and 3,000 kW propulsion power shall hold an appropriate certificate.

2. Every candidate for certification shall :

- .1 meet the requirements for certification as an officer in charge of an engineering watch and :

- .1.1 for certification as second engineer officer, shall have not less than 12 months' approved seagoing service as assistant engineer officer or engineer or engineer officer, and

- .1.2 for certification as chief engineer officer, shall have not less than 24 months' approved seagoing service of which not less than 12 months shall be served while qualified to serve a second engineer officer; and

- .2 have completed approved education and training and meet the standard of competence specified in section A-III/3 of the STCW Code.

3. Every engineer officer who is qualified to serve as second engineer officer on ships powered by main propulsion machinery of 3,000 kW propulsion power or more, may serve as chief engineer officer on ships powered by main propulsion machinery of less than 3,000 kW propulsion power, provided that not less than 12 months' approved seagoing service shall have been served as an engineer officer in a position of responsibility and the certificate is so endorsed.

Regulation III/4

Mandatory minimum requirements for certification of ratings forming part of a watch in a manned engine-room or designated to perform duties in a periodically unmanned engine-room

1. Every rating forming part of an engine-room watch or designated to perform duties in a periodically unmanned engine-room on a seagoing ship powered by main propulsion machinery of 750 kW propulsion power or more, other than ratings under training and ratings whose duties are of an unskilled nature, shall be duly certificated to perform such duties.

2. Every candidate for certification shall :

.1 be not less than 16 years of age;

.2 have completed :

.2.1 approved seagoing service including not less than six months training and experience,

.2.2 special training, either pre-sea or on board ship, including an approved period of seagoing service which shall not be less than two months; and

.3 meet the standard of competence specified in section A-III/4 of the STCW Code.

3. The seagoing service, training and experience required by sub-paragraphs 2.2.1 and 2.2.2 shall be associated with engine-room watchkeeping functions and involve the performance of duties carried out under the direct supervision of a qualified engineer officer or a qualified rating.

4. Seafarers may be considered by a Member State to have met the requirements of this regulation if they have served in a relevant capacity in the engine department for a period of not less than one year within the last five years preceding the entry into force of the STCW Convention for that Member State.

CHAPTER IV

RADIOCOMMUNICATION AND RADIO PERSONNEL

Explanatory note

Mandatory provisions relating to radio watchkeeping are set forth in the Radio Regulations and in the International Convention for the Safety of Life at Sea, 1974, as amended. Provisions for radio maintenance are set forth in the International Convention for the Safety of Life at Sea, 1974, as amended, and the guidelines adopted by the International Maritime Organization.

Regulation IV/1

Application

1. Except as provided in paragraph 3, the provisions of this chapter apply to radio personnel on ships operating in the global maritime distress and safety system (GMDSS) as prescribed by the International Convention for the Safety of Life at Sea, 1974, as amended.
2. Until 1 February 1999, radio personnel on ships complying with the provisions of the International Convention for the Safety of Life at Sea, 1974, in force immediately prior to 1 February 1992 shall comply with the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, in force prior to 1 December 1992.
3. Radio personnel on ships not required to comply with the provisions of the GMDSS in chapter IV of the SOLAS Convention are not required to meet the provisions of this chapter. Radio personnel on these ships are, nevertheless, required to comply with the Radio Regulations. The Administration shall ensure that the appropriate certificates as prescribed by the Radio Regulations are issued to or recognized in respect of such radio personnel.

Regulation IV/2

Mandatory minimum requirements for certification of GMDSS radio personnel

1. Every person in charge of or performing, radio duties on a ship required to participate in the GMDSS shall hold an appropriate certificate related to the GMDSS, issued or recognized by the Administration under the provisions of the Radio Regulations.
2. In addition, every candidate for certification under this regulation for service on a ship which is required by the International Convention for the Safety of Life at Sea, 1974, as amended, to have a radio installation shall :
 1. be not less than 18 years of age, and
 2. have completed approved education and training and meet the standard of competence specified in section A-IV/2 of the STCW Code.

CHAPTER V

SPECIAL TRAINING REQUIREMENTS FOR PERSONNEL ON CERTAIN TYPES OF SHIPS

Regulation V/1

Mandatory minimum requirements for the training and qualification of masters, officers and ratings on tankers

1. Officers and ratings assigned specific duties and responsibilities related to cargo or cargo equipment on tankers shall have completed an approved shore-based fire-fighting course in addition to the training required by regulation VI/1 and shall have completed:

- .1 at least three months of approved seagoing service on tankers in order to acquire adequate knowledge of safe operational practices; or
- .2 an approved tanker familiarization course covering at least the syllabus given for that course in section A-V/1 of the STCW Code.

so however that, the Administration may accept a period of supervised seagoing service shorter than that prescribed by sub-paragraph 1, provided :

- .3 the period so accepted is not less than one month;
- .4 the tanker is of less than 3,000 gross tonnage;
- .5 the duration of each voyage on which the tanker is engaged during the period does not exceed 72 hours; and
- .6 the operational characteristics of the tanker and the number of voyages and loading and discharging operations completed during the period, allow the same level of knowledge and experience to be acquired.

2. Masters, chief engineer officers, chief mates, second engineer officers and any person with immediate responsibility for loading, discharging and care in transit or handling of cargo shall, in addition to meeting the requirements of sub-paragraphs 1.1 or 1.2, have :

1. Experience appropriate to their duties on the type of tanker on which they serve; and
2. completed an approved specialized training programme which at least covers the subjects set out in section A-V/1 of the STCW Code that are appropriate to their duties on the oil tanker, chemical tanker or liquefied gas tanker on which they serve.

3. Within two years after the entry into force of the STCW Convention for a Member State, seafarers may be considered to have met the requirements of sub-paragraph 2.2 if they have served in a relevant capacity on board the type of tanker concerned for a period of not less than one year within the preceding five years.

4. Administration shall ensure that an appropriate certificate is issued to masters and officers, who are qualified in accordance with paragraphs 1 or 2 as appropriate, or that an existing certificate is duly endorsed. Every rating who is so qualified shall be duly certificated.

Regulation V/2

Mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on ro-ro passenger ships

1. This regulation applies to masters, officers, ratings and other personnel serving on board ro-ro passenger engaged on international voyages. Administrations shall determine the applicability of these requirements to personnel serving on ro-ro passenger ships engaged on domestic voyages.

2. Prior to being assigned shipboard duties on board ro-ro passenger ships, seafarers shall have completed the training required by paragraphs 4 to 8 below in accordance with their capacities, duties and responsibilities.

3. Seafarers who are required to be trained in accordance with paragraphs 4, 7 and 8 below shall at intervals not exceeding five years, undertake appropriate refresher training.

4. Master, officers and other personnel designated on muster lists to assist passengers in emergency situations on board ro-ro passenger ships shall have completed training in crowd management as specified in section A-V/2, paragraph 1 of the STCW Code.

5. Masters, officers and other personnel assigned specific duties and responsibilities on board ro-ro passenger ships shall have completed the familiarization training specified in section A-V/2, paragraph 2 of the STCW Code.

6. Personnel providing direct service to passengers in passenger spaces on board ro-ro passenger ships shall have completed the safety training specified in section A-V/2, paragraph 3 of the STCW Code.

7. Masters, chief mates, chief engineer officers, second engineer officers and every person assigned immediate responsibility for embarking and disembarking passengers, loading, discharging or securing cargo, or closing hull openings on board ro-ro passenger ships shall have completed approved training in passenger safety, cargo safety and hull integrity as specified in section A-V/2, paragraph 4 of the STCW Code.

8. Masters, chief mates, chief engineer officers, second engineer officers and any person having responsibility for the safety of passengers in emergency situations on board ro-ro passenger ships shall, have completed approved training in crisis management and human behaviour as specified in section A-V/2, paragraph 5 of the STCW Code.

9. Administrations shall ensure that documentary evidence of the training which has been completed is issued to every person found qualified under the provisions of this regulation.

CHAPTER VI
EMERGENCY, OCCUPATIONAL SAFETY, MEDICAL CARE
AND SURVIVAL FUNCTIONS

Regulation VI/1

**Mandatory minimum requirements for familiarization,
basic safety training and instruction for all seafarers**

Seafarers shall receive familiarization and basic safety training or instruction in accordance with section A-VI/1 of the STCW Code and shall meet the appropriate standard of competence specified therein.

Regulation VI/2

**Mandatory minimum requirements for the issue of certificates of proficiency in
survival craft, rescue boats and fast rescue boats**

1. Every candidate for a certificate of proficiency in survival craft and rescue boats other than fast rescue boats shall :

- .1 be not less than 18 years of age
- .2 have approved seagoing service of not less than 12 months or have attended an approved training course and have approved seagoing service of not less than six months; and
- .3 meet the standard of competence for certificates of proficiency in survival craft and rescue boats set out in section A-VI/2, paragraphs 1 to 4 of the STCW Code.

2. Every candidate for a certificate of proficiency in fast rescue boats shall :

- .1 be the holder of a certificate of proficiency in survival craft and rescue boats other than fast rescue boats;
- .2 have attended an approved training course; and
- .3 meet the standard of competence for certificates of proficiency in fast rescue boats set out in section A-VI/2, paragraphs 5 to 8 of the STCW Code.

Regulation VI/3

Mandatory minimum requirements for training in advanced fire-fighting

1. Seafarers designated to control fire-fighting operations shall have successfully completed advanced training in techniques for fighting fire with particular emphasis on organization, tactics and command in accordance with the provisions of section A-VI/3 of the STCW Code and shall meet the standard of competence specified therein.
2. Where training in advanced fire-fighting is not included in the qualifications for the certificate to be issued, a special certificate or documentary evidence, as appropriate, shall be issued indicating that the holder has attended a course of training in advanced fire-fighting.

Regulation VI/4

Mandatory minimum requirements relating to medical first aid and medical care

1. Seafarers designated to provide medical first aid on board ship shall meet the standard of competence in medical first aid specified in section A-VI/4, paragraphs 1 to 3 of the STCW Code.
2. Seafarers designated to take charge of medical care on board ship shall meet the standard of competence in medical care on board ships specified in section A-VI/4, paragraphs 4 to 6 of the STCW Code.
3. Where training in medical first aid or medical care is not included in the qualifications for the certificate to be issued, a special certificate or documentary evidence, as appropriate, shall be issued indicating that the holder has attended a course of training in medical first aid or in medical care.

CHAPTER VII

ALTERNATIVE CERTIFICATION

Regulation VII/I

Issue of alternative certificates

1. Notwithstanding the requirements for certification laid down in chapters II and III of this Annex, Member States may elect to issue or authorize the issue of certificates other than those mentioned in the regulations of those chapters, provided that :

- .1 the associated functions and levels of responsibility to be stated on the certificates and in the endorsements are selected from and identical to those appearing in sections A-II/1, A-II/2, A-II/3, A-II/4, A-III/1, A-III/2, A-III/3, A-III/4 and A-IV/2 of the STCW Code;
- .2 the candidates have completed approved education and training and meet the requirements for standards of competence, prescribed in the relevant sections of the STCW Code and as set forth in section A-VII/1 of this Code, for the functions and levels that are to be stated on the certificates and in the endorsements;
- .3 the candidates have completed approved seagoing service appropriate to the performance of the functions and levels that are to be stated on the certificate. The minimum duration of seagoing service shall be equivalent to the duration of seagoing service prescribed in chapters II and III of this Annex. However, the minimum duration of seagoing service shall be not less than as prescribed in section A-VII/2 of the STCW Code;
- .4 the candidates for certification who are to perform the function of navigation at the operational level shall meet the applicable requirements of the regulations in chapter IV, as appropriate, for performing designated radio duties in accordance with the Radio Regulations; and
- .5 the certificates are issued in accordance with the requirements of Article 5e and the provisions set forth in chapter VII of the STCW Code.

2. No certificate shall be issued under this chapter unless the Member State has communicated the information required by the STCW Convention to the Commission .

Regulation VII/2

Certification of seafarers

1. Every seafarer who performs any function or group of functions specified in tables A-II/1, A-II/2, A-II/3 or A-II/4 of chapter II or in tables A-III/1, A-III/2, A-III/4 of chapter III or A-IV/2 of chapter IV of the STCW Code, shall hold an appropriate certificate.

Regulation VII/3

Principles governing the issue of alternative certificates

1. A Member State which elects to issue or authorize the issue of alternative certificates shall ensure that the following principles are observed :
 - .1 no alternative certification system shall be implemented unless it ensures a degree of safety at sea and has a preventive effects as regards pollution at least equivalent to that provided by the other chapters; and
 - .2 any arrangement for alternative certification issued under this chapter shall provide for the interchangeability of certificates with those issued under the other chapters.
2. The principle of interchangeability in § 1 shall ensure that :
 - .1 seafarers certificated under the arrangements of chapters II and/or III and those certificated under chapter VII are able to serve on ships which have either traditional or other forms of shipboard organization; and
 - .2 seafarers are not trained for specific shipboard arrangements in such a way as would impair their ability to take their skills elsewhere.
3. In issuing any certificate under the provisions of this chapter the following principles shall be taken into account :
 - .1 the issue of alternative certificates shall not be used in itself :
 - .1 to reduce the number of crew on board,
 - .2 to lower the integrity of the profession or "de-skill" seafarers, or
 - .3 to justify the assignment of the combined duties of the engine and deck watchkeeping officers to a single certificate holder during any particular watch; and
 - .2 the person in command shall be designated as the master; and the legal position and authority of the master and others shall not be adversely affected by the implementation of any arrangement for alternative certification.
4. The principles contained in paragraphs 1 and 2 of this regulation shall ensure that the competency of both deck and engineer officers is maintained.

CHAPTER VIII
WATCHKEEPING

Regulation VIII/1

Watchkeeping arrangements and principles to be observed

1. Administrations shall direct the attention of companies, masters, chief engineer officers and all watchkeeping personnel to the requirements, principles and guidance set out in the STCW Code which shall be observed to ensure that a safe continuous watch or watches appropriate to the prevailing circumstances and conditions are maintained in all seagoing ships at all times.
 2. Administrations shall require the master of every ship to ensure that watchkeeping arrangements are adequate for maintaining a safe watch or watches, taking into account the prevailing circumstances and conditions and that, under the master's general direction:
 - 1) officers in charge of the navigational watch are responsible for navigating the ship safely during their periods of duty, when they shall be physically present on the navigating bridge or in a directly associated location such as the chart room or bridge control room at all times;
 - 2) radio operators are responsible for maintaining a continuous radio watch on appropriate frequencies during their periods of duty;
 - 3) officers in charge of an engineering watch, as defined in the STCW Code and under the direction of the chief engineer officer, shall be immediately available and on call to attend the machinery spaces and, when required, shall be physically present in the machinery space during their periods of responsibility; and
 - 4) an appropriate and effective watch or watches are maintained for the purpose of safety at all times, while the ship is at anchor or moored and, if the ship is carrying hazardous cargo, the organization of such watch or watches takes full account of the nature, quantity, packing and stowage of the hazardous cargo and of any special conditions prevailing on board, afloat or ashore.
-

FINANCIAL STATEMENT

1. TITLE OF OPERATION

Proposal for a Council Directive amending Directive 94/58 on the minimum level of training at seafarers.

2. BUDGET HEADING INVOLVED

Part A (see also § 10)

3. LEGAL BASIS

Achievements to Safety on Maritime Transport: Article 84(2) of the Treaty linked with Article 75(1)(C).

4. DESCRIPTION OF OPERATION

4.1. General objective

The adaptation of the training and certification rules of Directive 94/58 in the light of the revised STCW Convention. Introduction of common criteria for the recognition in the EU of certificates issued by third countries.

4.2. Period covered and arrangements for renewal

Indefinite.

5. CLASSIFICATION OF EXPENDITURE OF REVENUE

5.1. Non-compulsory expenditure

5.2. Non-differentiated appropriations.

6. TYPE OF EXPENDITURE OR REVENUE

Administrative expenses.

FINANCIAL IMPACT ON PART B (Operational Appropriations):

None.

8. FRAUD PREVENTION MEASURES

Application of the procedures for inviting¹ Member States' experts.

9. ELEMENTS OF COST-EFFECTIVENESS ANALYSIS

9.1. Specific and quantified objectives; target population

Enhancement of the protection of human live of European citizens and marine environmental protection by measures reducing the risks by improving the human element performance on board vessels.

9.2. Monitoring and evaluation of the operation

Monitoring and evaluation of the operation will be done by the meetings of the Committee established under Article 13 of the Directive.

10. ADMINISTRATIVE EXPENDITURE (SECTION III, PART A OF THE BUDGET)

Actual mobilization of the necessary administrative resources will depend on the Commission's annual decision on the allocation of resources, taking into account the number of staff and additional amounts authorized by the budgetary authority.

10.1. Effect on the number of posts

Type of post		Staff to be assigned to managing the operation		Source		Duration
		Permanent posts	Temporary posts	Existing resources in the DG or department concerned	Additional resources	
Officials or temporary staff	A	1		2		indefinite
	B	1		2		
	C	-		-		
Other resources		XXXXXXXX				
Total		2		4		

If additional resources are required, indicate the pace at which they will have to be made available.

10.2. Overall financial impact of additional human resources

ECU

	Amounts	Method of calculation
Officials Temporary staff Other resources (indicate budget heading)		
Total		

N.B. : The annual cost of the existing resources is estimated to 200.000 ECU (2 x 100.000) for Titles A/1, A/2, A/4 and A/5.

10.3. Increase in other administrative expenditure as a result of the operation

ECU

Budget heading	Amounts	Method of calculation
A 2510	20,850 ECU *	2 meetings (1 day)/year 2x695 (average cost) x 15 participants
Total rounded figure	21,000 ECU *	

* The Committee of Maritime Security is already meeting for issues related to other EC Directives dealing with maritime safety. In 1997 and 1998, two additional 1-day meeting/year are valued necessary to discuss particular issues related to this proposal(travel expenses valued at 21,000 ECU).

IMPACT ASSESSMENT FORM

THE IMPACT OF THE PROPOSAL ON BUSINESS with special reference to small and medium-sized enterprises

TITLE OF PROPOSAL :

Proposal for a Council Directive amending Directive 94/58 on the minimum level of training of seafarers.

The proposal

1. Taking into account of the principle of subsidiarity, why is Community legislation necessary in this area and what are its main aims ?

In the context of the common policy on safe seas and based on Article 84 (2) on maritime transport linked with Article 75 (1) (c) on transport safety, the Council adopted in 1994 a Directive on the minimum training requirement for seafarers recognising therefore the need for common EU maritime training standards in view of improving maritime safety and prevention of sea pollution.

Directive 94/58 is based on the internationally agreed standards of training as contained in the IMO STCW 1978 Convention.

In July 1995 the Convention was revised and from 1 February 1997 the new STCW 1995 Convention will enter into force. In accordance with Article 12 of Directive 94/58 the Commission should present a proposal on the necessary amendments to the Directive in the light of the revised STCW provisions.

The proposal deals with two main issues. To update education and training requirements as STCW 1995 provides and develop common criteria for the recognition in the EU of seafarers' certificates issued by Administrations or institutes of third countries.

The impact on business

2. Who will be affected by the proposal ?
 - which sector of business ?
 - which sizes of business ?
 - are there particular geographical areas of the Community where there businesses are found ?

The business sector which will be involved by this proposal are all shipping companies operating under the flag of a Member State irrespective of the trade and the traffic they are involved.

The companies are both large and small and medium-sized enterprises.

3. What will businesses have to do to comply with the proposal ?

Shipping companies should take care that :

- each seafarer assigned to any of its ships holds an appropriate certificate in accordance with the provisions of the Directive,
- they maintain documentation and data on experience, training, medical fitness and competency relevant to all seafarers employed on their ships,
- seafarers on being assigned to any of their ships, receive adequate familiarisation with their duties on board; masters should be provided with written instructions,
- when they intend to employ seafarers holding certificates issued by a third country they should ensure that such certificates are duly recognised by the competent authorities.

4. What economic impact is the proposal likely to have ?

- on employment,
- on investment and the creation of new businesses,
- on the competitive position of businesses.

The proposal is likely to have a favourable impact on the employment of E.U. seafarers to the extent that the recruitment of foreign seafarers mainly those coming from the labour supplying countries will have to respond to a series of criteria relating to the quality of training they have received and ensure they are fully qualified as the STCW Convention requires.

Depending on the degree to which the common criteria will discourage the employment on board EU flagged vessels of low quality foreign seafarers and the positive impact on the cost of shipping insurances from engaging crews of high standards, the competitive position of business may improve.

Concerning investment and creation of new businesses the proposal does not seem to have an important impact.

5. Does the proposal contain measures to take account of the specific situation of small and medium sized firms (reduced or different requirements) ?

The proposal as explained in point 2 does not make any difference for small and medium sized enterprises. The provisions are to apply indiscriminately to all shipping companies.

Consultation

6. List of the organisations which have been consulted about the proposal and outline of their main views.

See enclosed list on organisations consulted. The shipowners expressed mainly their view that the common criteria for the recognition of certificates issued by third countries should not be regulated at E.U. level but entrust the IMO procedure for recognition under the revised STCW 1995.

The unions have given their agreement that the E.U. establishes common criteria for Member States when they intend to recognise certificates of seafarers, for service on board EU flagged vessels, issued by third countries.

LIST INDUSTRY

EUROPEAN COMMUNITY SHIPOWNERS' ASSOCIATION (ECSA)

Attn. Mr. Marking
rue Ducale 45
B-1000 BRUXELLES

COMITE SYNDICAL DES TRANSPORTS DANS LA COMMUNAUTE EUROPEENNE

Attn. Mr. de Villèle
rue Pascale 22b
B-1040 BRUXELLES

UNION OF GREEK SHIPOWNERS

Attn. Mr. Kolstidopoulos
Akti Miaouli 45
GR-PIRAEUS

DANISH SHIPOWNERS ASSOCIATION

Attn. Mr. Nielsen

B-.... BRUXELLES

INTERNATIONAL TRANSPORT WORKERS' FEDERATION

Attn. Mr. Whitlow

GB-..... LONDON

In the framework of the consultations with ECSA and CSTCE (Trade Unions) which took place under the Joint Maritime Committee' Rules on the basis of a detailed questionnaire drafted by DG VII and DG V (eight week time was given to the partners) around 10 to 11 national organisations of shipping companies and seafarers were consulted on the Commission's proposal.

ISSN 0254-1475

COM(96) 470 final

DOCUMENTS

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07 16 11

Catalogue number : CB-CO-96-481-EN-C

ISBN 92-78-09311-4

Office for Official Publications of the European Communities

L-2985 Luxembourg