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15 January 1979

DOCUMENT 555/78

Report

drawn up on behalf of the Committee on Regional Policy, Regional Planning and  
Transport

on

- I. the best means of preventing accidents to shipping and consequential marine  
and coastal pollution, and
- II. shipping regulations

Rapporteur: Lord BRUCE of DONINGTON

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On 11 April 1978, motions for resolutions on shipping regulations were tabled by Mr FELLERMAIER, on behalf of the Socialist Group (Doc. 51/78), and by Mr COINTAT, Mr COLIN, Mr BOURDELLES and Mr SPICER on behalf of their respective political groups (Doc. 53/78/rev.).

At its sitting of 14 April 1978, the European Parliament referred these motions for a resolution to the Committee on Regional Policy, Regional Planning and Transport as the committee responsible and to the Committee on the Environment, Public Health and Consumer Protection and the Committee on Economic and Monetary Affairs for their opinion. The Committee on Agriculture was also asked for its opinion on Mr Fellermaier's motion for a resolution (Doc. 51/78).

On 27 April 1978, the Committee on Regional Policy, Regional Planning and Transport was authorised to organise a public hearing on the best means of preventing accidents to shipping and consequential marine and coastal pollution.

The public hearing was held in Paris on 20, 21 and 22 June 1978.

The Committee on Regional Policy, Regional Planning and Transport considered a preliminary draft report by its Chairman, Lord BRUCE of DONINGTON, at its meeting of 27/28 November 1978, and the draft report at its meeting of 19/20 December 1978, when it was adopted unanimously.

Present : Lord Bruce of Donington, chairman and rapporteur ; Mr Brosnan, Mr Delmotte, Mr Buchs, Mr Johnston, Mr Jung, Mrs Kellett-Bowman, Mr Osborn, Mr Seefeld and Mr Starke.

At its meeting of 25 May 1978 the Committee on Economic and Monetary Affairs decided not to deliver an opinion.

The opinions of the Committee on the Environment, Public Health and Consumer Protection and the Committee on Agriculture are attached.

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The Committee on Regional Policy, Regional Planning and Transport hereby submits to the European Parliament the following motion for a resolution together with explanatory statement

MOTION FOR A RESOLUTION

on

I The best means of preventing accidents to shipping and consequential marine and coastal pollution

and

II shipping regulations

The European Parliament,

- having regard to the motions for a resolution on shipping regulations tabled by Mr FELLERMAIER (Doc. 51/78), and by Mr COINTAT, Mr COLIN, Mr BOURDELLES and Mr SPICER (Doc. 53/78/rev.),
- having regard to the report from the Committee on Regional Policy, Regional Planning and Transport and the opinions of the Committee on the Environment, Public Health and Consumer Protection and the Committee on Agriculture (Doc. 555/78),
- taking into full account the evidence given at the public hearing organised by the Committee on Regional Policy, Regional Planning and Transport into the best means of preventing accidents to shipping and consequential marine and coastal pollution,
- reaffirming its profound anxiety about accidents to shipping, such as the 'Amoco Cadiz' incident, and the severe damage to the marine and coastal environment which can result from such incidents,
- aware that without concerted action by the Member States, further accidents to shipping with what may be disastrous consequences, will certainly occur in Community waters,

- further aware that even if all possible measures are taken there remains a minimum unavoidable risk of accidents occurring which makes it necessary to ensure that co-ordinated efforts are made to find effective means of combatting marine and coastal pollution,
1. Congratulates the Commission, not only on the proposals it has put forward concerning shipping safety and oil pollution since the 'Amoco Cadiz' incident but also for proposals it had made previous to this incident, but which were not acted on by the Council of Ministers;
  2. Endorses the Commission's action programme contained in its Communication to the Council of 27 April 1978 concerning marine pollution arising from the carriage of oil<sup>1</sup>;
  3. Regrets the fact that while the European Council decided at its meeting in Copenhagen of 7 and 8 April 1978 that the Community should make the prevention and combatting of marine pollution, particularly by hydrocarbons, a major objective the Council of Ministers has in some cases either rejected or weakened Commission proposals which were designed to make it possible for the Member States to adopt common attitudes and to take common measures;
  4. Calls, therefore, on the Council of Ministers to accept present and future proposals by the Commission for the mandatory enforcement by the Member States of the appropriate provisions of International Conventions relating to maritime safety, shipping standards and oil pollution, and in particular the proposals for decisions concerning the Barcelona and Bonn Agreements which cover cooperation in dealing with the pollution by oil of the Mediterranean and the North Sea respectively;
  5. Points out that it is only by coordinated action, leading to the effective enforcement of International Conventions that the Community will be able to protect itself from the dangers and risks that arise from sub-standard shipping whether sailing under flags of convenience or indeed under the flag of any nation.
  6. Requests the Commission in addition to continuing their work of enforcing existing Conventions to:-
    - (a) institute, in cooperation with the relevant national and international expert bodies, an immediate study into the possibility of instituting a system of Ship Traffic Control in appropriate Community waters;
    - (b) to draft proposals for the institution of an escort system for large oil tankers and other vessels carrying dangerous cargoes by means of an advanced coastal radar system common to all the ports concerned on the Atlantic, the English Channel and the North Sea;

<sup>1</sup>Doc. 121/78

- (c) institute, in cooperation with the relevant experts, research into the possibility of installing a marine equivalent of the aviation "black box" on all vessels over a certain tonnage using areas of particular difficulty to shipping, whether by reason of density of traffic, of navigational difficulty or both within Community waters;
  - (d) provide assistance for research into (i) mechanical means of recovering spilt oil, and (ii) the development of biologically acceptable dispersants;
  - (e) examine means of establishing common Community classification standards which would have to be complied with by owners before Community insurance companies would insure a vessel;
  - (f) make proposals whereby a number of "ports of refuge" could be established within the Community, if necessary with Community financial assistance, where disabled vessels could be taken and their cargoes unloaded safely;
7. Calls on ship owners to ensure that all VLCC's and other ships carrying dangerous cargoes using Community ports should be provided with a trained team capable of operating a standardised "emergency organisation" system;
8. Calls on the insurance companies, in consultation with IMCO and the interested parties, to make the necessary revisions to the "Open Form" of salvage contract in order to ensure that no delay should take place in agreeing the terms for salvaging ships carrying oil or dangerous substances while at the same time ensuring that unreasonable legal liabilities are not placed on the salvage operators or the shipowners;
9. Considers that insurers should be prepared to give inducements encouraging the safety of ships either in the form of reduced premiums or by implied or expressed warranties; if necessary, Community law should be harmonised in order to ensure that breaches of expressed warranties would void insurance policies;
10. Does not feel that it is necessary to set up special Community emergency teams, either on shore or at sea, to deal with accidents or their consequences but does consider that the Commission should actively pursue its own suggestions concerning the cooperation between, and the effectiveness of, emergency teams which have been or which are to be set up in the Member States and also to examine the adequacy of present resources available for the towing of vessels in distress. When and

if any Community surveillance system is set up in connection with fishery protection, such a system should, as far as possible, play a role in contributing to general shipping safety in Community waters;

11. In this connection, requests the Commission to consider the best means by which a standardised procedure could be introduced, once an incident has occurred, for setting up an emergency command post at the most appropriate location. Such command posts, which would include representatives of all interested parties, should, however, be empowered to override any particular interest or interests in the light of possible environmental damage;
12. Once more urges upon the Council of Ministers and on the governments of the Member States that it is only by coordinated action and effective enforcement of International Conventions that marine safety can be improved in Community waters;
13. Instructs its President to forward this resolution to the Council and Commission of the European Communities and, for information to the national Parliaments, IMCO and other interested bodies.



EXPLANATORY STATEMENTI. INTRODUCTORY

1. At the moment of preparing this report, it seems certain that some time, in the near rather than the distant future perhaps, a further shipping accident involving a large tanker will occur with consequences similar to those which have arisen in a series of incidents from that of the "Torrey Canyon" in 1967 to that of the "Amoco Cadiz" in 1978.<sup>1</sup>
2. It was as a result of the impetus provided by the "Amoco Cadiz" that the European Council and the Council of Ministers were spurred to take Community action, though in fact such action had been suggested earlier by the Commission but had been ignored by the Council of Ministers<sup>2</sup>.
3. The "Amoco Cadiz" disaster also provided the immediate impetus for the organization by the Committee on Regional Policy, Regional Planning and Transport of the public hearing on the most effective means of preventing accidents to shipping in Community waters and the avoidance of consequential marine and coastal pollution which was held in Paris between 20 and 22 June 1978.
4. It is in the light of that hearing that the present report has been drafted, and it contains not only a restatement of the Committee's view on the Commission's proposals on which interim reports have already been made, but also it sets out recommendations for other action which should be taken whether at national, international, Community or bilateral level.

<sup>1</sup> Since this paragraph was written the "Christos Bitas" was holed on the rocks off the Pembrokeshire coast in the Irish Sea, causing extensive oil pollution.

<sup>2</sup> Commission Communication to the Council of 6 June 1977 following the EKOFISK incident.

5. It was not possible, within the necessary time constrictions of a brief hearing of two days, to pursue questions of detail with the thoroughness appropriate to an enquiry extending over several weeks and it must therefore be immediately reiterated - as was indeed made clear from the outset - that the enquiry's main purpose was to bring the principal issues involved into sharper focus for the greater convenience of our European Parliamentary colleagues to whom the whole question of the prevention of accidents at sea and the avoidance of consequential pollution is of some importance.
6. If the first paragraph of this report began with the pessimistic statement that another major incident involving oil pollution is sooner or later inevitable, it became clear to the Committee during the course of the hearing that it was inevitable only under present conditions, and that the chances of avoiding such an occurrence could be very greatly increased (a) by the ratification and effective enforcement of present international conventions, and (b) by the introduction of certain other measures which will be examined later in this report.
7. The means of avoiding the accidents exist. What appears to be lacking is a real sense of urgency on the part of Member States who alone can take the necessary measures concerning ratification and who, acting together within the Community, can then enforce them effectively at Community level.

## II. THE PUBLIC HEARING

8. Annexed to this report is (a) a list of the participants who contributed to the discussions; and (b) the Chairman's questionnaire which was circulated to all attending. As far as the list of participants is concerned, your rapporteur would hope that it will make it clear that the Committee endeavoured to gather the views of as many interests as possible, though inevitably it was necessary to turn away some organizations who asked to be represented because of the limited time available. The list of participants taken in conjunction with the annexed questionnaire should show something of the work method which the Committee pursued during the course of the hearing. A verbatim report of the public hearing has been produced in the language of each speaker (PE 54.206), and reference to this will be made in this report. Unfortunately it has been impossible to produce a translation of this verbatim report into all Community languages in time for the consideration of the present report.

9. At the hearing itself the proceedings began on the first day with introductory statements by the expert witnesses. On the second day the questionnaire was considered in four parts:

- (a) Those questions relating to ship design, qualifications of master and crew, working conditions etc.;
- (b) Those questions relating to shipping lanes, communications, surveillance, enforcement of, and penalties for, infringement of rules etc.;
- (c) Those questions relating to incidents and their consequences - insurance, salvage, prevention of consequential pollution; damage to the environment etc.;
- (d) Those questions relating to the ratification of international agreements, Community action and other measures to be taken.

At this stage of the hearing, questions and comments were invited from members of the Committee as well as from the experts.

10. The last day of the hearing, Thursday, 22 June 1978, was taken up with conclusions drawn by both experts and members of the Committee.

### III. ACCIDENTS TO SHIPPING - THE GENERAL PROBLEMS

11. Since this question was being considered essentially as a Community matter, it was inevitable that much of the Committee's attention at the hearing was focussed on problems arising at the approaches to and in the English Channel which is not only the most crowded shipping lane in the world, but which is also an area where a succession of incidents have had severe repercussions on the marine and coastal environment. But even if the Committee concentrated a good deal of its work on a limited geographical area, a number of questions of general importance were raised, and it is hoped a number of solutions of general importance have been suggested.

12. A truism which became increasingly evident throughout the hearing is that shipping is by its very nature an international activity, though the consequences of accidents to shipping may very well be a matter of national concern.

13. It is because of the international nature of shipping problems that the Inter-Governmental Maritime Consultative Organisation (IMCO) was originally formed, and warm tribute must be paid to the work of this body in drawing up conventions and protocols to those conventions which if ratified and enforced would undoubtedly provide a major element in the battle against accidents to shipping and all that they entail.

14. Unfortunately, as became clear from the unanimity of the experts at the hearing, the failure to ratify and/or enforce these conventions - notably The International Convention for the Safety of Life at Sea, 1974 (SOLAS), The International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL) and International Labour Office (ILO) Convention 147 - currently makes them worth little more than the paper on which they are written. This is a point which will be returned to later in this report.

#### IV. THE COURSE OF AN INCIDENT

15. In this section the course of an incident will be followed in the same way as it was on the second day of the public hearing (see para. 9 above), and a brief description will be given of the problems identified at each stage and of the solutions that emerged to these problems.
16. The Committee began their detailed investigation on Wednesday, 21 June with a consideration of the basic problems which arise for a ship of any flag, sailing in any waters of the world; that is to say questions relating to ship design, qualifications of master and crew and working conditions (Questions 2, 3 8 and 17 of the Chairman's Questionnaire). Consideration was not limited to these specific questions, and members of the Committee and experts were invited to consider and discuss all aspects falling within this area.
17. As far as the actual design of ships is concerned, this is a complex matter involving as it does the Shipbuilder, the Ship owner, the Classification societies, IMCO and the legislation of the nation states. It would be out of place here to go into too great a technical detail concerning the various proposals which are under active consideration and experimentation for improving ship design, particularly the design of very large crude oil carriers (VLCC's). These include such matters as the question of twin screws and twin rudders, and combinations of single screw twin rudder and vice versa, the need for better braking systems and to improve the manoeuvrability of large vessels going at slow speeds. Here the Committee were satisfied that all sides of the industry were actively engaged in the pursuit of design safety, though it was pointed out by one expert (Captain Long) that safety in ship design almost by definition never has so integral a role as it must have in aircraft design.
18. Inspection
- Evidence was given to the Committee, and was not rebutted, of the case of a ship passed by the Lloyds Register at Grimsby two years ago and given a safety certificate, yet setting out 17 days later with rotter lifejackets, and rusting bulkheads and which experienced compass, radio, auxiliary engine and rudder failure during the subsequent voyage. While such incidents may not be frequent or

widespread it is clear that they contribute to the greater likelihood of accidents, some of them with loss of human life, occurring. It also emerged on evidence on this aspect that although non-governmental organisations such as Lloyds Register have "codes of conduct" applicable to their inspectorate there are no means of enforcing such codes, which must therefore be considered as guidelines rather than enforceable disciplines of conduct. Moreover the coverage of the inspectorate is far from adequate.

'19 Control of design specifications

Though a number of witnesses emphasised the poor showing by the "flag of convenience" states in the question of maintenance of standards (as in the various other matters falling within this first heading) there was considerable agreement among the experts that the real problem was the sub-standard ship (or crew) and that the only effective means of control was through enforcement of international agreements and through greater powers for the port states.

This indeed was to be one of the main points that emerged, and was stressed at every stage of the Hearing.

20 Maximum Tanker size and size of crew

On this question there was little agreement among the experts and the disagreement fell into lines which could be anticipated. Broadly speaking representatives of owners and users were in favour of VLCC's while representatives of master and crew were in favour of limiting the ultimate size of VLCC's. Thus the representative of the International Federation of Ships' Masters Associations (IFSMA) would like to see a limit of 100,000 tdw for tankers generally and of 80,000 tdw for vessels using the English Channel. He suggested that ships of over 300,000 tdw in a condition of total breakdown were not capable of being towed in heavy seas. On the other hand it was argued by a representative of Oil Companies International Marine Forum (OCIMF) that the larger the ship the less danger it represented environmentally since it implies a reduction of total traffic movements in congested waters.

The Committee were struck by the evidence they heard concerning the reduction of the size of the crew on VLCC's. In recent years it would seem that the crew for a vessel of 250,000 tdw is being reduced from about 35 to 24 or 25 and that some years ago there was discussion of the possibility of having vessels of 1 million tdw so automated that they could be manned by a crew of 9 persons.

The Committee believe that the actual or potential reduction in the size of crews represents a very real hazard, involving as it does the practical impossibility of major repairs being undertaken on board ship in emergencies and under bad weather conditions. The question of minimum manning provisions is one which should be kept under very close and careful consideration by the International Labour Office (ILO) by IMCO and by the Commission.

As far as the maximum size of VLCC's is concerned, the Committee note that it was impossible for agreement to be reached in IMCO concerning this, though in 1971 it was possible to reach agreement on the maximum size of individual oil tanks. The Committee have no particular recommendation to make concerning a specific maximum size, but they consider that the Commission should study, as a matter of urgency, in consultation with the riverain States concerned, the question of what should be the maximum limited tonnage for ships using crowded or difficult areas in Community waters (notably the Channel).

#### 21 Training and Certification

It became clear almost at once that this was an area where a great deal needs to be done. Currently there is virtually no provision for any standard minimum level of training for ship's crew, and there is evidence that Masters and other ships' officers certificates can be, or were until recently, obtainable from certain states on a straightforward cash basis.

This is an intolerable state of affairs and made even more so when it is taken in conjunction with the reduction in the size of crew referred to in the preceding paragraph. Fortunately, however, this whole question has been under very active consideration in IMCO and the Convention on Training and Watchkeeping was concluded in July 1978. The Committee consider that this Convention is of vital importance, but must point out that unless it is rapidly ratified and then effectively enforced, it will be worth no more than the paper on which it is written.

(See para. 46 below)

#### 22 Working conditions

There was some conflicting evidence in this field, but it seemed to the Committee that considerable improvements could be made (a) by ratification and enforcement of the appropriate Conventions, notably ILO Convention 147, (b) by increasing crew size, particularly on the Bridge, (c) by rigorous enforcement at the hands of Belgium, Denmark, France, Germany, the Netherlands, Sweden and the UK of the agreement signed by them at the Hague on 2 March 1978 (The Memorandum of Understanding).

23. Emergency training

It was suggested in evidence, and accepted by the experts present, that it would be highly desirable to introduce on all VLCC's a "Safety Officer" who would be responsible (under the Master) for ensuring that the various legal safety provisions were complied with and who would also have under him a small team trained in emergency procedures. Though this system, which is employed by all the navies of NATO, is not in general use in mercantile fleets, the Committee believe it should become standard practice on VLCC's. They refer the question of whether it should be compulsory or not to IMCO and the Commission, but while it remains voluntary they would point out that the marine insurance companies can play a positive role in the form of offering reduced premiums to owners operating this system.

They urge the Commission to study this question with a view to drawing up appropriate standards and norms for Safety Officers and the teams working under them.

24. Flags of convenience

As defined by the OECD Maritime Transport Committee, flags of convenience are "flags of such countries whose law allows - and indeed make it easy for - ships owned by foreign nationals or companies to fly those flags in contrast to the practice of the maritime countries, where the right to fly the national flag is subject to stringent rules and involves far-reaching obligations". The principal flag states - Liberia, Panama, Singapore, Somalia, Honduras, Costa Rica and the Lebanon - have neither the power nor the administrative machinery for enforcing national or international rules, nor do they have a desire or the power to keep a check on the shipping companies themselves. Those either find that there are significant tax advantages in registration with a "flag" state - whose income tax is either low or non-existent - and that such registration makes it far easier to evade collective agreements, manning rules, certification requirements, safety regulations and inspection standards. While therefore not all flag of convenience ships are sub-standard and not all ships carrying national flags are up to standard it emerged from the evidence given that "convenience" was the sole justification for "flags of convenience" and that their continued and massive use was a significant factor in giving rise to circumstances where accidents at sea were more likely to occur.

25. Conclusion

As far as this section of the enquiry is concerned (and it is true too of the other sections), it is quite clear that "human fallibility", or error, whether defined as incompetent failure or competent failure is responsible for the greater part of accidents to shipping. Many studies over recent years have attributed at least 85% of navigation accidents and 75% of all accidents to human fallibility. Thus the enforcement of the appropriate Conventions and the introduction of effective training is a prerequisite in reducing accidents to shipping, but it is being seriously inhibited by the continued and massive use of Flags of Convenience.

26. The Committee then considered questions relating to shipping lanes, communications, surveillance, enforcement of the penalties for infringement of rules (Questions 4, 5, 6, 7, 9 and 19 of the Chairman's Questionnaire).

27. Enforcement and penalties

At the risk of anticipating some later comments in this report, it must be emphasised that it became clear to the Committee from the outset that effective enforcement of the provisions of various Conventions - notably SOLAS, MARPOL, ILO 147 and the International Convention on Training and Watchkeeping (TW 1978), adopted in July 1978, under the auspices of IMCO, would go a long way towards solving one of the most important problems, namely the prevention of accidents to shipping. This would not necessarily be a complete solution, other matters such as shipping lanes will be discussed below, but such enforcement would represent a very big step forward.

The actual state of ratification of these Conventions and steps that could be taken to enforce their provisions before their ratification if necessary will be discussed in detail in Section V below, but what can be said now is that it became increasingly clear to the Committee, and it was generally agreed among the experts, that Port State Control will have to be increased. We also gave careful consideration to marine "policing", that is to say to patrol vessels, operating, possibly on a Community basis, which could identify ships in Community waters in breach of existing regulations. It is quite possible that there is a useful Community role to be played here, preferably in conjunction with any Community system of air and sea surveillance in connection with fishery and fish conservation; but on the whole it seemed clear that the most effective measures would



ccnsist of port inspection and powers to detain ships (or possibly to expel them from Community waters) until breached regulations were complied with and fines paid.

This however should not preclude careful consideration being given to a Community coastguard system, nor to the eventual setting up, once sufficient data are obtainable, of a "black list" of vessels which will not be admitted to Community ports.

## 28. Shipping Lanes and Routing

The Committee here entered into consideration of a problem which essentially centres around the North West coast of France and the English Channel, one of the most crowded shipping lanes in the world, and one through which 1 million tons of crude oil pass daily. Currently there is in operation a shipping lane system for the Casquets and also traffic control arrangements for the narrowest point, the Dover Straits. The Committee's enquiries, however, led them less into examining existing schemes than into what might be developed in this particular area - and in comparable areas in Community waters.

Put simply the question is one of the feasibility of introducing a form of Ship Traffic Control (initially in the Channel) analagous to present systems of air traffic control. Under such a scheme ships would be identified by traffic control centres and then given specific routes and instructions to which they would have to adhere. Attractive though this idea is, it raises certain problems.

It was suggested that such a system might be incompatible with the final authority which should be vested in the Master. But against this is (a) the possibility that the Master's authority in an age of wireless communication has in fact been considerably weakened by instructions from the owners - and in fact needs to be strenghtened; (b) that on the analogy with air traffic control final authority in an emergency would rest with the Master, though not perhaps final liability if he could show he was acting on erroneous instructions from a Ship Traffic Control centre. On the technical side, the points were made that ships, unlike aircraft, operate in two dimensions. In one sense this is totally true - the use of a third dimension in sea transport must be one of last resort! - undoubtedly the lack of a third dimension inhibits such systems as the "stacking" of ships in certain areas; but the Committee do not find that this should be regarded as preventing the setting up of a different, but comparable, system for ship routing.