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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.6.2008
COM(2008) 310 final

2005/0239 (COD)

**COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN
PARLIAMENT**

pursuant to the second subparagraph of Article 251(2) of the EC Treaty

concerning the

**common position adopted by the Council with a view to the adoption of a Directive of
the European Parliament and of the Council amending Directive 2002/59/EC
establishing a Community vessel traffic monitoring and information system**

(presented by the Commission)

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1. BACKGROUND

Date when the proposal was sent to the European Parliament and the Council: [document COM(2005)589 final – 2005/0239 COD)]	9.1.2006
Date of the opinion of the Committee of the Regions:	15.6.2006
Date of the opinion of the European Economic and Social Committee:	13.9.2006
Date of the opinion of the European Parliament, first reading:	25.4.2007
Date of adoption of the common position:	6.6.2008

2. PURPOSE OF THE COMMISSION PROPOSAL

The proposal for a Directive amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system is one of a series of measures aimed at strengthening and supplementing the existing legislation on maritime safety.

The proposal is designed to supplement, strengthen and clarify the existing Directive 2002/59/EC on the following points:

- Clarification and strengthening of the provisions in the present Directive on the accommodation of vessels in distress in places of refuge. The objective is to establish the principle of accommodating vessels in distress in places of refuge, except where an assessment of the situation leads to a different conclusion. The aim is also to ensure that the independent authorities responsible for designating the most appropriate places of refuge are clearly identified and have the necessary information to take a rapid decision, including precise information on the coastal areas available for use as places of refuge.
- A requirement to install equipment (AIS – Automatic Identification Systems) for the automatic identification of fishing vessels with a length of more than

15 metres. This equipment will improve the identification and location of fishing vessels, in particular by merchant vessels, thus reducing the risk of accidents.

- Widespread use of the SafeSeaNet telematic data exchange network. This system, developed by the Commission and operated by the European Maritime Safety Agency, will enable maritime authorities to precisely monitor the movements of vessels and their cargo.
- A requirement for shippers to provide masters with detailed information on the cargo, in particular to improve dealing with pollution as a result of a greater knowledge of the physical and chemical characteristics of the products involved.
- Provisions enabling coastal states to take appropriate measures to reduce the potential danger to shipping from ice formation in certain northern sea areas of the European Union. This issue is particularly important given the increased risk resulting from the greater volumes of oil transported in the Baltic.

3. COMMENTS ON THE COMMON POSITION

The Council departs significantly from one substantial point in the Commission's proposal, i.e. the question of places of refuge, which the Commission cannot accept. This is because the Council has considerably reduced the scope of the Commission's proposal by deleting, firstly, the principle that vessels in distress must be accommodated in places of refuge, subject to the results of an assessment of the situation, and secondly the requirement for the Member States to set up an independent authority to assess the situation and take a decision.

However, the Commission takes the view that such independence is essential to ensure that the most appropriate decision is taken in good time, free from local political pressure, to make vessels in major difficulties safe or contain pollution where it cannot be avoided and thus reduce its impact, also on neighbouring countries.

The Commission therefore takes note of the Council's common position adopted unanimously but stresses its differing view on the key issue of places of refuge.

On the other hand the Commission notes that the Council backs other aspects of its proposal, in particular by accepting that fishing vessels with a length of more than 15 metres should be equipped with automatic identification systems – AIS – to reduce the risk of collisions, and by recognising the need to ensure that SafeSeaNet, i.e. the Community data exchange network for vessels and their movements and cargo, operates continuously, i.e. 24 hours a day, seven days a week.

4. DETAILED COMMISSION COMMENTS

4.1. Amendments accepted by the Commission and incorporated in full or in part in the common position

Amendments 17, 20 and 22 provide useful clarifications of the Commission's proposal, in particular as regards the definition of the LRIT system and the addition of the international reference text (amendment 17).

4.2. Amendments accepted by the Commission but not incorporated in the common position

In the Commission's view amendments 1, 4, 12, 16, 18, 25, 26, 27, 28, 30, 36, 42, 43 and 48 provide useful clarifications of and/or additions to its proposal.

Amendments 5, 31 and 33 relating to the setting up of competent authorities which have the required expertise and are independent in that they have the power to take decisions on their own initiative on the accommodation of vessels in distress in places of refuge are fully supported by the Commission.

The same applies to amendments 8, 34, 39 and 40 relating to the principle of accommodation in places of refuge.

The Commission also supports amendments 13, 14 and 24 on establishing an LRIT European data centre.

4.3. Amendments rejected by the Commission and not incorporated in the common position

Amendments 2, 45 and 46, the effect of which is to delay the installation of the AIS on board fishing vessels, are incompatible with the overall objective of the Commission's proposal, since the AIS is an important measure in helping to save lives.

Amendment 3 on the creation of a budget line outside the Financial Instrument for Fisheries Guidance for equipping the existing fleet with AIS is not supported by the Commission. It points out that the instrument applicable at Community level to financial support for the installation of safety equipment such as AIS is the European Fisheries Fund.

Amendment 6 on vessels in need of assistance is outside the scope of the Directive, since routine intervention in the case of vessels in need of assistance must remain at Member-State level under the principle of subsidiarity. The Commission's proposal relates to places of refuge for vessels in distress.

Amendment 11 providing for a ban on the entry into the Member States' territorial waters of vessels not having a financial guarantee conflicts with international law and therefore cannot be accepted by the Commission.

Amendments 21, 50, 51, 52, 53 and 54 relating to the installation of AIS equipment only on fishing vessels of more than 24 m (as against 15 m in the Commission's proposal) reduce the scope of the Commission's proposal and are therefore unacceptable. This is because the smallest vessels (less than 24 m) are also the most vulnerable to the risk of collision.

5. CONCLUSIONS

The Commission takes note of the Council's common position, which was unanimously adopted, but points out its differing view on the key issue of places of refuge (the principle of accommodating vessels in distress in places of refuge and the requirement for Member States to set up an independent authority).