



COMMISSION OF THE EUROPEAN COMMUNITIES

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Proposal for 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)

{SEC(2005) 1514}

EXPLANATORY MEMORANDUM

1) CONTEXT OF THE PROPOSAL

- **Grounds for and objectives of the proposal**

For more than ten years the EU has been pursuing a proactive maritime safety policy aimed at improving ship safety, safeguarding human life at sea and protecting the marine environment. However, despite the efforts of all concerned in the maritime transport chain the risk of maritime accidents cannot be ruled out entirely. What is more, the consequences of accidents at sea very often extend beyond the wrecked ship itself and affect all coastal activities. Once the fear of seafarers alone, maritime accidents involving pollution now turn into national or even international emergencies. The “prevention” component of the EU’s maritime safety policy therefore had to be supplemented with a component permitting the operational management of maritime risk at Community level.

This was the Commission’s thinking in presenting the text which became Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system. This Directive requires all the ship monitoring tools now available to be properly organised and coordinated and sets up a system of deployment of resources and coordination between national authorities, to enable Member States to take better preventive action or respond better to dangerous situations.

However, if the measures introduced into Community legislation by Directive 2002/59/EC are to remain effective a very close watch needs to be kept on them to ensure that they keep abreast of operational and technical advances in the maritime world, especially in the area of ship identification and monitoring systems and satellite technology.

Accordingly, in the Commission’s numerous exchanges with the Member States on these matters it has become clear that some of the provisions of Directive 2002/59/EC will have to be amended. In particular this is to take account of the good results obtained by novel equipment such as automatic identification systems or to ensure cohesion between national policies, for example on plans for accommodating ships in distress in places of refuge.

- **General background**

The time limit for implementing national measures pursuant to Directive 2002/59/EC was 5 February 2004, but in view of the particular importance of some of the Directive’s provisions the Member States and the Commission worked together from the time of its adoption in June 2002 to ensure that it was implemented in good time.

Thus, for example, with regard to the “places of refuge” provided for in Article 20 of the Directive the series of inspection visits and meetings organised by the Commission with the assistance of the European Maritime Safety Agency (EMSA) highlighted common criteria and principles for harmonised and effective implementation of the Directive. Similarly, the proposal to introduce an obligation to

carry an automatic identification system (AIS) for fishing vessels of more than 15 metres is a response to the large number of collisions involving fishing vessels which have evidently not been identified by commercial vessels. This measure takes into account the work of the International Maritime Organisation (IMO), which several years ago adopted the principle of the carriage of AIS on board commercial vessels (Class A AIS) to limit the number of accidents.

In addition, the proposed measure takes into consideration current progress in the common fisheries policy with regard to the development of positioning and communication systems to assist in controlling the fishing fleets. It has to be examined, as a joint effort between the Member States and the Commission and with EMSA assistance, to what extent it will be possible to combine AIS functionalities with fisheries monitoring systems, mainly with a view to reducing the amount of equipment on board. Such development work must not compromise the aims and respective requirements of each of these systems, in particular the anti-collision function for AIS and the need to make possible the secure and confidential transmission of fisheries monitoring information.

The installation by the Member States concerned of mechanisms making it possible to inform seafarers as to the ice conditions and the resulting sailing conditions should, incidentally, help to prevent accidents in a particularly hostile environment.

Finally, under the provisions of Directive 2002/59/EC the Member States and the Commission started, in 2002, a project to set up a platform for data exchange between the maritime administrations of the Union, with the name of SafeSeaNet. Today this system, managed by EMSA since October 2004, has to be established expressly as a Community reference system in order to ensure it is fully utilised and legally secure.

- **Provisions in force in the field covered by the proposal**

Directive 2002/59/EC of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC.

- **Coherence with other policies and objectives of the Union**

The enhancement of ship monitoring by means of SafeSeaNet, the laying down of measures concerning navigation in ice conditions and the implementation of a stronger framework for the accommodation of ships in distress in places of refuge will have a direct environmental impact by reducing the risks of accidents and pollution and by improving the action taken by the operational authorities in the event of pollution or a pollution risk.

The measure will also bring economic benefits as a result of the reduced accident and pollution risks. From the social angle, having AIS on board fishing vessels will reduce the risks of accidents and loss of human lives in the fishing industry.

2) CONSULTATION OF INTERESTED PARTIES AND IMPACT ASSESSMENT

• Consultation of the stakeholders

Consultation methods, main sectors targeted and general profile of respondents

In May 2004 and February 2005 the Commission held a double round of consultative meetings with representatives of the Member States and the maritime industry on the basis of a detailed list of questions on the amendments envisaged.

Summary of responses and how they have been taken into account

These consultations and the impact studies carried out confirmed the need to amend Directive 2002/59/EC in order to flesh out in more detail how it is to be implemented. In particular they committed the Commission to take into account developments in international legislation and progress made at the Community level. The parties consulted also wanted to see new safe navigation measures integrated into the Directive, such as the establishment of a regulatory framework for equipment used for navigation in ice conditions.

As regards the carriage of AIS on board fishing vessels, the national administrations showed an interest in the positive effects which AIS on fishing vessels might have on safe navigation but had reservations as to the scope of the measure and in particular the categories of vessels concerned. The Commission had suggested applying the measure to fishing vessels of over 12 metres, raised to 15 metres in the proposal in order especially to take account of the thresholds applied in the common fisheries policy context.

As regards the places of refuge issue especially, with the help of EMSA the Commission arranged three meetings with the Member States and a series of fact-finding missions to national administrations. This work showed how useful it would be to clarify what the obligations are regarding places of refuge. The shipping industry stressed in particular the need to improve the operational procedures designed to respond effectively to emergency situations in which ships may find themselves and the importance of issues concerning guarantees for any economic damage related to the accommodation of ships.

• Collection and use of expertise

Scientific/expertise domains concerned

Maritime safety, vessel traffic monitoring, anti-collision devices and navigation in ice conditions.

Methodology used

With regard to this issue, the Commission's proposal was prepared on the basis of:

- the technical analysis supplied following the 2 expert groups and the workshop organised by the Commission and EMSA for the development of the SafeSeaNet system;
- the study report on liability and compensation in connection with the accommodation of ships in places of refuge ordered by EMSA from Oslo University at the Commission's request.

Main organisations/experts consulted

- Work undertaken by the European Parliament's Temporary Committee on Improving Safety at Sea following the sinking of the Prestige oil tanker in 2002 (conclusions of the MARE Committee).
- Results of the evaluation exercise on places of refuge conducted in the national administrations by the Commission with the help of EMSA;
- Work undertaken by the IMO (in particular the resolutions adopted by that organisation on the "places of refuge" issue).

Summary of advice received and used

According to the opinions received, the following problems justify the amendments made to the Directive:

The Directive does not adequately reflect the technological developments that have taken place since its adoption. Since its implementation, the description of the system, the detailed responsibilities of the Member States and the technicalities of data exchange via the network have been defined but have not been incorporated in the Directive in force.

Fishing is one of the most dangerous activities in the maritime world, as can be seen from the many accidents in the industry. One of the main causes of collisions with other vessels stems from poor positioning and identification of fishing vessels, in particular by the commercial vessels crossing their path.

Directive 2002/59/EC introduced provisions requiring the Member States to draw up plans to accommodate ships in distress in places of refuge. The experience gained with implementing the Directive has revealed differences of understanding and implementation by the Member States as regards the content of the plans and the responsibilities of the authorities concerned, which have to be remedied by making the existing provisions clearer and more focused.

Certain sea areas of the European Union, in particular the Baltic Sea, are ice-covered for several winter months, entailing greater risks of accidents and pollution and potentially disastrous consequences for the environment. The trend observed for a number of years, of a steady increase in the transport of oil products in the Baltic, calls for more stringent protection and surveillance measures.

Means used to make the expert advice publicly available

The data gathered and the detailed conclusions of the study are contained in the annexed document SEC .../..., which is summarised below:

- **Impact analysis**

Option 1 – Do nothing at this stage: this option would allow fundamental differences of interpretation to persist with regard to certain provisions of the Directive, in particular as regards the extent of Member States’ obligations concerning places of refuge.

Option 2 – Let the Member States act through regional cooperation bodies (such as Helcom for the Baltic or the Bonn Agreement for the North Sea). This would mean giving up the principle of harmonised application of the Directive between the different maritime regions of the European Union. For some measures this solution would create appreciable differences of treatment between ships without justification.

Option 3 – Completely recast the Directive to take into account the results of the work done to set up the Community maritime safety information exchange system SafeSeaNet, and to merge in particular certain report messages. However, considering the state of progress with transposing Directive 2002/59/EC and the opinion of most of the Member States, such a drastic review seems premature at this stage.

Option 4 – Carry out a specifically targeted amendment of the Directive.

After a detailed analysis of the situation taking into account the impact of the proposed measures and in particular the urgent need for harmonisation of the Member States’ different “places of refuge” procedures, a targeted amendment of Directive 2002/59/EC would seem to be the best way to make sure that it is implemented properly.

This impact analysis is part of the Commission’s Legislative and Work Programme and is available on the Commission’s Internet website: http://europa.eu.int/comm/secretariat_general/impact/index_en.htm.

3) **LEGAL ELEMENTS OF THE PROPOSAL**

- **Summary of the proposed action**

This amendment is intended to:

- incorporate in Directive 2002/59/EC additional measures for better ship safety and environmental protection;
- harmonise the implementation of the “places of refuge” plans to ensure they are applied uniformly in the different Member States, which will help in

preventing serious pollution. There is a need, in particular, to clarify the rules for applying these principles;

- integrate in the Directive the principles defined in the work done by the Member States and the Commission to set up the Community maritime safety information exchange system SafeSeaNet. In particular, the principles have to be established on the one hand for the systematic exchange of maritime safety information at Community level via the SafeSeaNet system and on the other hand for cooperation between the Member States on monitoring and developing the system. All national systems will have to be compatible with SafeSeaNet and any information of Community interest will have to be presented in a harmonised manner;
- prepare the Community legal framework for future technological developments, especially the space applications such as ship monitoring beacons, imaging systems or Galileo. This progress has to make it possible to extend surveillance of maritime traffic into European waters and, in particular, provide better coverage of the open sea.

- **Legal basis**

Article 80(2) of the Treaty.

- **The principle of subsidiarity**

The subsidiarity principle applies since the proposal does not affect an area of sole Community competence.

The proposal's objectives cannot be attained satisfactorily by Member State action for the following reasons:

- the proposed action seeks to bolster the Community vessel traffic monitoring system with a scheme requiring close cooperation on the exchange of information, in particular on the nature of ships' cargoes or the management of places of refuge;
- insufficient coordination and piecemeal management of ship information increase the risks of accidents and pollution. To allow differences to persist in the implementation of "places of refuge" plans would be detrimental to the safety of human life at sea or the protection of the environment.

The proposal's objectives can be best achieved by Community action for the following reasons:

- the specific function of the proposed measures is to allow Member States access to accurate knowledge of the vessels in the waters under their jurisdiction, enabling them to take more effective action to prevent the potential risks where necessary. Sharing the information will help improve the quality of the data and make processing easier;
- implementing the "places of refuge" plans will make a decisive contribution to raising the present level of maritime safety in the European Union;

- reducing the number of collisions involving fishing vessels, which are not currently required to be fitted with an AIS, will make possible better protection of fishermen;
- the new harmonised rules for winter navigation in the Baltic are necessary for reducing the very high accident risk in that area;
- improving the exchange of information on dangerous goods being carried by ships will enable all Member States to improve their ability to anticipate and prevent risks.

The principle of subsidiarity is maintained since the proposal complements existing Community measures so as to guarantee that they are put into effect in a harmonised way.

The proposal is therefore consistent with the subsidiarity principle.

- **The principle of proportionality**

The proposal complies with the principle of proportionality for the following reasons:

- in fleshing out the existing provisions in more detail the proposal is in line with the proportionality principle. Accordingly, the Member States have for the most part already committed the resources and expenditure necessary for implementing measures under Directive 2002/59/EC or international instruments which they have themselves ratified within the IMO;
- the proposal does not involve financial and/or administrative burdens for economic operators (e.g. certain adaptations will be necessary for certain vessels sailing in the Baltic in winter). At the level of the national administrations, the infrastructure necessary for implementing the new measures is (or should be) already in place due to the existing legislation.

- **Choice of instruments**

Proposed instrument(s): directive.

Other instruments would not have been appropriate for the following reasons:

- the proposal is for an amendment to an existing directive.

4) **BUDGETARY IMPACT**

The proposal has no implications for the Community budget.

5) **ADDITIONAL INFORMATION**

- **Simulation, pilot phase and transition period**

The proposal has been, or will be, the subject of a transition period.

- **Review/revision/sunset clause**

The proposal includes a revision clause.

- **Correlation table**

The Member States are required to communicate to the Commission the text of national provisions transposing the Directive as well as a correlation table between those provisions and this Directive.

- **European Economic Area**

This draft instrument concerns an area covered by the EEA Agreement and must therefore be extended to the European Economic Area.

Proposal for a

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of [...]

amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission¹,

Having regard to the opinion of the European Economic and Social Committee²,

Having regard to the opinion of the Committee of the Regions³,

Acting in accordance with the procedure laid down in Article 251 of the Treaty⁴,

Whereas:

- (1) With the adoption of Directive 2002/59/EC of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC⁵, the European Union reinforced its capacity for preventing situations posing a threat to the safety of human life at sea and the protection of the marine environment.
- (2) Under this Directive Member States, as coastal States, should be able to exchange information which they gather in the course of maritime traffic monitoring missions which they carry out in their areas of competence. The Community information exchange system SafeSeaNet, developed by the Commission in agreement with the Member States, comprises, on the one hand, a data exchange network and, on the other hand, a standardisation of the main information available on ships and their cargo (advance notice and reporting). It thus makes it possible to locate at source and communicate to any authority accurate and up-to-date information on ships in

¹ OJ C [...], [...], p. [...].

² OJ C [...], [...], p. [...].

³ OJ C [...], [...], p. [...].

⁴ OJ C [...], [...], p. [...].

⁵ OJ L 208, 5.8.2002, p. 10.

European waters, their movements and their dangerous or polluting cargoes, as well as marine incidents.

- (3) Accordingly, in order to guarantee operational use of the information gathered in this way, it is essential that the infrastructure necessary for the data collection and exchange referred to in this Directive and implemented by the national administrations be integrated into the Community information exchange system SafeSeaNet.
- (4) Of the information notified and exchanged pursuant to Directive 2002/59/EC, that concerning the precise characteristics of dangerous or polluting goods carried by sea is particularly important. Accordingly, and in the light of recent maritime accidents, the coastal authorities should be allowed easier access to the characteristics of the hydrocarbons being carried by sea, an essential factor in choosing the most suitable control techniques, and, in an emergency, provided with a direct link with those operators who have the best knowledge of the goods being carried.
- (5) The automatic ship identification systems (AIS – Automatic Identification System) referred to in the SOLAS Convention make it possible not only to improve the possibilities of monitoring these ships but above all to make them safer in close navigation situations. They have accordingly been integrated into the enacting terms of Directive 2002/59/EC. Considering the large number of collisions involving fishing vessels that have clearly not been seen by merchant ships or which have not seen the merchant ships around them, extension of this measure to include fishing vessels with a length of more than 15 metres is very much to be desired.
- (6) It would be useful to study what synergies might be possible between AIS and the positioning and communication systems used in the context of the common fisheries policy, such as the satellite-based vessel monitoring system (VMS). Investigation of the possibilities of integrating these systems should take account of the needs and requirements of controlling fishing fleets, particularly as regards the security and confidentiality of the data transmitted.
- (7) Article 16 of Directive 2002/59/EC provides that Member States are to adopt special measures in respect of ships posing a potential hazard due to their behaviour or condition. It therefore seems desirable to add to the list of these ships those which do not have satisfactory insurance cover or financial guarantees or which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation or create a risk for the environment.
- (8) In accordance with Article 18 of Directive 2002/59/EC concerning the risks posed by exceptionally bad weather, it seems necessary to take into account the potential danger to shipping from ice formation. Therefore, where a competent authority designated by a Member State considers, on the basis of an ice forecast provided by a qualified information service, that the sailing conditions are creating a serious threat to the safety of human life or of pollution, it should inform the masters of the ships present in its area of competence or intending to enter or leave the port or ports in the area concerned. The authority concerned should be able to take any appropriate steps to ensure the safety of human life at sea and to protect the environment.
- (9) Article 20 of Directive 2002/59/EC provides in particular that the Member States must draw up plans to accommodate, if the situation so requires, ships in distress in their

ports or in any other protected place in the best possible conditions, in order to limit the consequences of accidents at sea.

- (10) However, in the light of the guidelines on places of refuge adopted by the IMO after Directive 2002/59/EC was adopted and following the work carried out jointly by the Commission, the European Maritime Safety Agency and the Member States, it seems necessary to lay down precisely the basic provisions that the “place of refuge” plans must contain in order to ensure a harmonised and effective implementation of this measure and clarify the scope of obligations incumbent on the Member States.
- (11) In the event of a situation of distress at sea, that is to say, a situation that could give rise to loss of a vessel or an environmental or navigational hazard, a decision may have to be taken as regards the accommodation of a ship in distress in a place of refuge. To this end, the authority concerned should make a preliminary evaluation of the situation on the basis of the information contained in the relevant “place of refuge” plan.
- (12) Plans for accommodating ships in distress should describe precisely the decision-making chain with regard to alerting and dealing with the situations in question. The authorities concerned and their remits should be clearly described, as should the means of communication between the parties involved. The applicable procedures should ensure that decisions can be taken quickly on the basis of specific maritime expertise. To this end, the competent authority responsible for determining the appropriate place of refuge for accommodating a ship in distress should offer the necessary guarantees of independence and be fully capable of enforcing its decisions.
- (13) When drawing up the plans the Member States should also make an inventory of potential places of refuge on the coast so as to allow the competent authority, in the event of an accident or incident at sea, to identify clearly and quickly the most suitable areas for accommodating ships in distress. Such an inventory should contain all the relevant information in particular on the physical, environmental and economic characteristics of the sites under consideration and the equipment and installations available to make it easier to accommodate ships in distress or deal with the consequences of an accident or pollution.
- (14) It is important for the list of competent authorities responsible for deciding whether to accommodate a ship in a place of refuge, and the list of authorities responsible for receiving and handling alerts, to be published appropriately. The Member States should give the Commission an inventory of potential places of refuge. It may also prove useful for the parties involved in a maritime assistance operation and the authorities of neighbouring Member States likely to be affected by an emergency at sea to have access to appropriate information on the plans and places of refuge.
- (15) The accommodation of a ship in distress can cause substantial damage to goods, persons and the environment. Accordingly, before taking a decision the authorities concerned should be able to verify whether the ship is covered by insurance or some other financial guarantee permitting appropriate compensation for costs and damage associated with its accommodation in a place of refuge. Even where there is no such insurance or financial guarantee, the authorities should make an assessment of the factors and risks attached to accommodating or refusing to accommodate the ship.

- (16) The specific function of the vessel traffic monitoring and ship's routing measures is to allow Member States to obtain a true knowledge of the ships using the waters under their jurisdiction and thus enable them to take more effective action against potential risks if necessary. Sharing the information gathered helps to improve its quality and makes it easier to process.
- (17) In accordance with Directive 2002/59/EC the Member States and the Commission have made substantial progress towards harmonising electronic data exchange, in particular as regards the transport of dangerous or polluting goods. The Community information exchange system SafeSeaNet, in development since 2002, should now be established as the reference network at Community level.
- (18) The progress made in the new technologies and in particular in their space applications, such as beacon-based ship monitoring systems, imaging systems or Galileo, now makes it possible to extend traffic monitoring further offshore and thereby to ensure better coverage of European waters. Furthermore, discussions are going on now in the International Maritime Organisation on the development of long-range traffic monitoring systems. There will have to be full cooperation within the Community on this work if these tools are to become an integral part of the maritime traffic monitoring system established by Directive 2002/59/EC.
- (19) In order to guarantee the best possible use, harmonised at Community level, of the information gathered under this Directive or other instruments concerning maritime safety, the Commission should be able, if necessary, to process and use these data and disseminate them to the authorities designated by the Member States.
- (20) In this context, the development of the "Equasis" system has shown how important it is to encourage a "safe seas" culture, especially in maritime transport operators. The Commission should be able to contribute to the dissemination, particularly via this system, of any information of maritime interest gathered by the various public or private bodies involved in maritime safety.
- (21) Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS)⁶ centralises the tasks of the committees set up under the relevant Community legislation on maritime safety, prevention of pollution from ships and protection of living and working conditions on board. The existing committee should therefore be replaced by the COSS.
- (22) The amendments to the international instruments referred to should also be taken into account.
- (23) The European Maritime Safety Agency established by Regulation (EC) No 1406/2002 of the European Parliament and of the Council⁷ should provide the necessary support to ensure the convergent and effective implementation of this Directive.

⁶ OJ L 324, 29.11.2002, p. 1. Regulation as amended by Commission Regulation (EC) No 415/2004 (OJ L 68, 6.3.2004, p. 10).

⁷ OJ L 208, 5.8.2002, p. 1. Regulation as last amended by Regulation (EC) No 724/2004 (OJ L 129, 29.4.2004, p. 1).

(24) Directive 2002/59/EC should therefore be amended accordingly,

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Directive 2002/59/EC is amended as follows:

- (1) In Article 2(2), the introductory wording “This Directive shall not apply to:” is replaced by the words “Unless otherwise provided, this Directive shall not apply to:”
- (2) Article 3 is amended as follows:
 - (a) Point (a) is amended as follows:
 - (i) in the first sentence, the introductory wording “the following instruments” is replaced by the words “the following instruments, in their up-to-date version:”
 - (ii) the following indents are added:
 - IMO Resolution A.949(23) means International Maritime Organisation Resolution 949(23) entitled “Guidelines on places of refuge for ships in need of assistance”;
 - IMO Resolution A.950(23) means International Maritime Organisation Resolution 950(23) entitled “Maritime assistance services (MAS)”;
 - (b) The following point (s), (t) and (u) are added:

“(s) ‘SafeSeaNet’ means the Community maritime information exchange system developed by the Commission in cooperation with the Member States to ensure the implementation of Community legislation;

(t) ‘regular service’ means a series of ship crossings operated so as to serve traffic between the same two or more ports, either according to a published timetable or with crossings so regular or frequent that they constitute a recognizable systematic series;

(u) ‘fishing vessel’ means any vessel equipped or used commercially for catching fish or other living resources of the sea.”
- (3) The following Article 6a is inserted:

“Article 6a

Use of automatic identification systems (AIS) by fishing vessels

Any fishing vessel with a length of more than 15 metres overall and sailing in waters under the jurisdiction of a Member State must, in accordance with the timetable set

out in Annex II, part I(3), be fitted with an AIS which meets the performance standards drawn up by the IMO.”

- (4) Article 12 is replaced by the following:

“Article 12
Obligations on the shipper

No dangerous or polluting goods shall be offered for carriage or taken on board any ship, irrespective of its size, in a port of a Member State unless a declaration has been delivered to the master or operator containing the following information:

- (a) the information listed in Annex I(2);
- (b) for the substances referred to in Annex I to the Marpol Convention, the safety data sheet detailing the physico-chemical characteristics of the products, including their viscosity expressed in cSt at 50°C and their density at 15°C;
- (c) the emergency numbers of the shipper or any other person or body in possession of information on the physico-chemical characteristics of the products and on the action to be taken in an emergency.

It shall be the duty of the shipper to deliver to the master or operator such declaration and to ensure that the shipment offered for carriage is indeed the one declared in accordance with the first paragraph.”

- (5) In Article 16(1) the following points (d) and (e) are added:

- (d) “ships which have failed to notify or do not have insurance certificates or financial guarantees pursuant to Directive XX/XXXX/EC [on the civil liability and financial guarantees of shipowners];
- (e) ships which have been reported by pilots or port authorities as having deficiencies which may prejudice their safe navigation or create a risk for the environment.”

- (6) The following Article 18a is inserted:

“Article 18a
Measures in the event of risks posed by the presence of ice

1. Where the competent authorities designated by Member States consider, in view of the ice conditions, that there is a serious threat to the safety of human life at sea or to the protection of their shipping areas or coastal zones, or of the shipping areas or coastal zones of other States:
 - (a) they shall supply the master of a ship which is in their area of competence, or intends to enter or leave one of their ports, with appropriate information on the ice conditions, the recommended routes and the icebreaking services in their area of competence;

- (b) they may request that a ship which is in the area concerned, and intends to enter or leave a port or terminal or to leave an anchorage area, satisfy the strength and power requirements commensurate with the ice situation in the area concerned.
 - 2. The measures taken pursuant to paragraph 1 shall be based, as regards the data concerning the ice conditions, upon ice and weather forecasts provided by a qualified meteorological information service recognised by the Member State.”
- (7) In Article 19(2) the following subparagraph is added:
- “To this end they shall communicate to the competent national authorities, on request, the information referred to in Article 12.”
- (8) Article 20 is replaced by the following:

“Article 20

Accommodation of ships in distress in places of refuge

- 1. Member States shall ensure that, subject to the results of the assessment of the situation carried out on the basis of the plan referred to in Article 20a, ships in distress are admitted to a place of refuge which makes it possible to limit the threat posed by their situation.
 - 2. The accommodation of a ship in distress in a place of refuge shall be the subject of a prior assessment of the situation and a decision taken by an independent competent authority designated by the Member State.
 - 3. The authorities referred to in paragraph 2 shall meet regularly to exchange their expertise and improve the measures taken pursuant to this Article. They may meet at any time, on account of specific circumstances, at the initiative of one of them or of the Commission.”
- (9) The following Article 20a is inserted:

“Article 20a

Plans for the accommodation of ships in distress

- 1. Member States shall draw up plans for responding to threats presented by ships in distress in the waters under their jurisdiction.
- 2. The plans referred to in paragraph 1 shall be prepared after consultation of the parties concerned, taking into account the relevant IMO guidelines referred to in Article 3(a), and shall contain at least the following:
 - (a) the identity of the authority or authorities responsible for receiving and handling alerts;

- (b) the identity of the authority responsible for assessing the situation, selecting a suitable place of refuge and taking a decision on accommodating a ship in distress in the place of refuge selected;
 - (c) the inventory of potential places of refuge, recapitulating those elements which are conducive to speedy assessment and decision-making, including descriptions of the environmental and social factors and the natural conditions of the potential places considered;
 - (d) the assessment procedures for selecting the place of refuge on the basis of the potential places listed on the inventory;
 - (e) the resources and installations suitable for assistance, rescue and combating pollution;
 - (f) any international coordination and decision-making mechanisms that may be applicable;
 - (g) the financial guarantee and liability procedures in place for ships accommodated in a place of refuge.
3. Member States shall publish the name of the competent authority referred to in Article 20(2) and the list of appropriate contact points for receiving and handling alerts. They shall communicate to the Commission the inventory of potential places of refuge. They shall also communicate the relevant information concerning the plans and places of refuge to the neighbouring Member States.

In implementing the procedures provided for in the plans for accommodating ships in distress, they shall ensure that all relevant information concerning the plans and places of refuge is made available to the parties involved in the operations, including assistance and towing companies.”

- (10) The following Article 20b is inserted:

“Article 20b
Financial guarantees

1. Prior to accommodating a ship in distress in a place of refuge, the Member State may request the ship’s operator, agent or master to present an insurance certificate or a financial guarantee, within the meaning of Article X of Directive XX/XXXX/EC [on the civil liability and financial guarantees of shipowners], covering his liability for damage caused by the ship.
2. The absence of an insurance certificate or financial guarantee shall not exonerate the Member States from the prior assessment and decision referred to in Article 20.”

(11) The following Article 22a is inserted:

“Article 22a

European maritime information exchange system SafeSeaNet

1. Member States shall establish maritime information management systems, at national or local level, to process the information referred to in this Directive.
2. Communication systems set up pursuant to paragraph 1 must allow the information gathered to be used operationally and must satisfy, in particular, the conditions laid down in Article 14 of this Directive.
3. To guarantee an effective exchange of the information referred to in this Directive, Member States shall ensure that the national or local systems set up to gather, process and preserve that information can be interconnected with the Community maritime information exchange system SafeSeaNet.”

(12) Article 23 is amended as follows:

(a) Paragraph (c) is replaced by the following:

“(c) extending the cover of the Community vessel traffic monitoring and information system, and/or updating it, with a view to enhanced identification and monitoring of ships, taking into account developments in information and communication technologies. To this end, the Member States and the Commission shall work together to put in place, where necessary, mandatory reporting systems, mandatory maritime traffic services and appropriate ship’s routing systems, with a view to submitting them to the IMO for approval. They shall also collaborate, within the regional or international bodies concerned, on developing long-range maritime traffic monitoring systems;”

(b) the following points (e) and (f) are added:

“(e) ensuring the interconnection and interoperability of the national systems used for managing the information referred to in the Annex, and developing and updating the SafeSeaNet system;

(f) studying the feasibility and determining the detailed rules for integrating automatic identification systems (AIS) with the positioning and communication systems used in the context of the common fisheries policy.”

(13) The following Article 23a is inserted:

“Article 23a

Processing and management of maritime safety information

1. The Commission shall ensure, where necessary, the processing, use and dissemination to the authorities designated by the Member States, of the

information gathered under this Directive or gathered by any public or private bodies in the pursuance of their respective missions.

2. Where appropriate, the Commission shall contribute to the development and operation of systems for collecting and disseminating data relating to maritime safety, in particular through the 'Equasis' system or any other equivalent public system."

(14) Article 28 is replaced by the following:

"Article 28
Committee

1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) established by Article 3 of Regulation (EC) No 2099/2002 of the European Parliament and of the Council*.
2. Where reference is made to this paragraph, Articles 5 and 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at three months.

3. The Committee shall adopt its Rules of Procedure.

* OJ L 324, 29.11.2002, p. 1."

(15) In Annex II(I) the following point 3 is added:

"3. Fishing vessels

Any fishing vessel with a length of more than 15 metres overall is subject to the carrying requirement laid down in Article 6a according to the following timetable:

- fishing vessel of overall length 24 metres and upwards but less than 45 metres: not later than 1 January 2008;
- fishing vessel of overall length 18 metres and upwards but less than 24 metres: not later than 1 January 2009;
- fishing vessel of overall length exceeding 15 metres but less than 18 metres: not later than 1 January 2010."

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by [...] at the latest [12 months

after the entry into force of this Directive]. They shall forthwith communicate to the Commission the text of those provisions and a correlation table between those provisions and this Directive.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

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

Article 4

This Directive is addressed to the Member States.

Done at Brussels, [...]

For the European Parliament
The President
[...]

For the Council
The President
[...]

LEGISLATIVE FINANCIAL STATEMENT

1. NAME OF THE PROPOSAL:

Proposal for a Directive of the European Parliament and of the Council amending Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system.

2. ABM / ABB FRAMEWORK

Policy area: Energy and transport.

Activities: Maritime and inland waterway transport, intermodality.

3. BUDGET LINES

3.1. Budget lines (operational lines and related technical and administrative assistance lines (ex-B.A. lines)) including headings: not applicable

3.2. Duration of the action and of the financial impact: not applicable

3.3. Budgetary characteristics (*add rows if necessary*): not applicable

Budget line	Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
	Comp/ Non-comp	Diff ¹ / Non-diff ²	YES/NO	YES/NO	YES/NO	No
	Comp/ Non-comp	Diff/ Non-diff	YES/NO	YES/NO	YES/NO	No

¹ Differentiated appropriations.

² Non-differentiated appropriations.

4. SUMMARY OF RESOURCES

4.1. Financial resources

4.1.1. Summary of commitment appropriations (CA) and payment appropriations (PA)

EUR million (to 3 decimal places)

Expenditure type	Section no.		Year n	n +1	n + 2	n +3	n +4	n+5 and later	Total
------------------	-------------	--	--------	------	-------	------	------	---------------	-------

Operational expenditure³

Commitment appropriations (CA)	8.1	a	<u>0</u>						
Payment appropriations (PA)		b	<u>0</u>						

Administrative expenditure within reference amount⁴

Technical & administrative assistance (NDA)	8.2.4	c	<u>0</u>						
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TOTAL REFERENCE AMOUNT

<u>Commitment appropriations</u>		<u>a+c</u>	<u>0</u>						
<u>Payment appropriations</u>		<u>b+c</u>	<u>0</u>						

Administrative expenditure not included in reference amount⁵

Human resources and associated expenditure (NDA)	8.2.5	d	<u>0.054</u>	<u>0.054</u>	<u>0.054</u>	<u>0.054</u>	<u>0.054</u>	<u>0.054</u>	<u>0.324</u>
Administrative costs, other than human resources and associated costs, not included in reference amount (NDA)	8.2.6	e	<u>0</u>						

Total indicative financial cost of intervention

<u>TOTAL CA including cost of human resources</u>		<u>a+c+d+e</u>	<u>0.054</u>	<u>0.054</u>	<u>0.054</u>	<u>0.054</u>	<u>0.054</u>	<u>0.054</u>	<u>0.324</u>
<u>TOTAL PA including cost of human resources</u>		<u>b+c+d+e</u>	<u>0.054</u>	<u>0.054</u>	<u>0.054</u>	<u>0.054</u>	<u>0.054</u>	<u>0.054</u>	<u>0.324</u>

³ Expenditure that does not fall under Chapter xx 01 of the Title xx concerned.

⁴ Expenditure within Article xx 01 04 of Title xx.

⁵ Expenditure within Chapter xx 01 other than Articles xx 01 04 and xx 01 05.

Co-financing details

The legislative proposal does not involve co-financing by Member States

EUR million (to 3 decimal places)

<u>Co-financing body</u>		<u>Year</u> <u>n</u>	<u>n + 1</u>	<u>n + 2</u>	<u>n + 3</u>	<u>n + 4</u>	<u>n+5</u> <u>and</u> <u>later</u>	<u>Total</u>
.....	<u>f</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
TOTAL CA including co-financing	<u>a+c+</u> <u>d+e+f</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

4.1.2. Compatibility with financial programming

- Proposal is compatible with existing financial programming.
- Proposal will entail reprogramming of the relevant heading in the financial perspective.
- Proposal may require application of the provisions of the interinstitutional agreement⁶ (i.e. flexibility instrument or revision of the financial perspective).

4.1.3. Financial impact on revenue

- Proposal has no financial implications on revenue
- Proposal has financial impact – the effect on revenue is as follows:

Note: all details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.

EUR million (to one decimal place)

<u>Budget line</u>	<u>Revenue</u>	<u>Prior to action</u> <u>[Year n-1]</u>	<u>Situation following action</u>							
			<u>[Year n]</u>	<u>[n+1]</u>	<u>[n+2]</u>	<u>[n+3]</u>	<u>[n+4]</u>	<u>[n+5]</u> ⁷		
	<u>a) Revenue in absolute terms</u>		<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>
	<u>b) Change in revenue</u>	<u>Δ</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>	<u>0</u>

⁶ See points 19 and 24 of the Interinstitutional Agreement.

⁷ Additional columns should be added if necessary, i.e. if the duration of the action exceeds 6 years.

4.2. Human resources FTE (including officials, temporary and external staff) – see detail under point 8.2.1.

No impact on personnel costs. Management by existing staff.

<u>Annual requirements</u>	<u>Year n</u> <u>(2007*)</u>	<u>n + 1</u>	<u>n + 2</u>	<u>n + 3</u>	<u>n + 4</u>	<u>n+5 and</u> <u>later</u>
<u>Total number of human resources</u>	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>	<u>0.5</u>

5. CHARACTERISTICS AND OBJECTIVES

5.1. Need to be met in the short or long term

Directive 2002/59/EC of 27 June 2002 puts forward the principle of regrouping and organising all of the vessel traffic management and monitoring tools available today.

It integrates measures for improving the safety of ships, safeguarding human life at sea and protecting the marine environment, such as the introduction of transponders (AIS) and the creation of places of refuge.

In order to bring the measures introduced by Directive 2002/59/EC as far as possible into line with the operational, legal and technical requirements, and on the basis of cooperation with the Member States, it seems necessary to make a number of amendments.

5.2. Value-added of Community involvement and coherence of the proposal with other financial instruments and possible synergy

The purpose of amending the Directive is essentially technical. The proposal therefore consists of some very precise measures which, while not altering the general scheme of Directive 2002/59/EC, complement its regulatory framework and ensure that it is fully effective.

5.3. Objectives, expected results and related indicators of the proposal in the context of the ABM framework

The proposal for amendment of Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system comprises the following measures (expected results):

- by implementing a clear and precise legal framework at the places of refuge it will be possible to ensure that the authorities responsible for designating a place of refuge will be clearly identified and have at their disposal whatever elements are necessary for taking their decision, including an accurate inventory of potential places of refuge along the coast,
- some of the results of the SafeSeaNet project for an electronic system of information exchange on movements of ships and dangerous cargoes in Community waters will be integrated in Directive 2002/59/EC,

- automatic identification systems (AIS) will be installed on board fishing vessels with a length of more than 15 metres,
- there will be specific measures allowing coastal States to take appropriate measures to limit the potential threat to navigation from ice formation in certain northern sea areas of the European Union.

5.4. Method of implementation (indicative)

Show below the method(s)⁸ chosen for the implementation of the action.

Centralised management

Directly by the Commission

Indirectly by delegation to:

executive agencies,

bodies set up by the Communities as referred to in Art. 185 of the Financial Regulation,

national public-sector bodies/bodies with public-service mission.

Shared or decentralised management

with Member States

with third countries

Joint management with international organisations (please specify)

Relevant comments:

6. MONITORING AND EVALUATION

The draft Directive contains a provision requiring the Member States to notify the Commission of any national implementing measures to be adopted with a view to transposing the Directives into national law.

In the event of failure to notify these national implementing measures (or in the event of incomplete notification), the infringement procedures will automatically be launched in accordance with Article 226 of the Treaty.

The European Maritime Safety Agency will contribute to the monitoring of implementation of the Directive by the Member States.

⁸ If more than one method is indicated please provide additional details in the “Relevant comments” section of this point.

6.1. Evaluation:

6.1.1. Ex ante evaluation

The potential impact of the action is as follows:

“Places of refuge” measures

The measure will have a qualitative rather than a quantitative impact. It clarifies existing procedures and obligations and offers a more complete and reliable legal framework for decision-making and for the respective situations of the parties involved in an emergency. The impact will therefore be a positive one for all the parties concerned: coastal States, operators and masters of ships in distress and port authorities.

Integration of SafeSeaNet

The proposal takes note of the obvious success of the principle of cooperation between the Member States and the Commission called for by Article 23 of Directive 2002/59/EC. It relies on mass participation by the Member States even beyond the requirements of the Directive to guarantee maximum use of SafeSeaNet.

Fitting fishing vessels with AIS

The measure will make it possible to reduce the number of collisions involving fishing vessels. As with the installation of all equipment, installing AIS transponders on fishing vessels will entail an economic cost for the operators. The total estimated cost to the fishing fleet concerned (ships with a length of more than 15 metres) is around EUR 23 million.

Navigation in areas of winter ice

The measure should lead to a reduction in the number of accidents in the areas considered (of about 100 incidents studied by a Finnish research institute, 30% involved structural failure due to ice). This measure should not generate new costs for the administrations concerned, since all Member States affected by the problems presented by winter ice already have specialised information and emergency response services suited to their environment.

6.1.2. Measures taken following an intermediate/ex post evaluation (lessons learned from similar experiences in the past)

Not applicable

6.1.3. *Terms and frequency of future evaluation*

The Commission will prepare a report based on the monthly reports from the Member States.

7. **ANTI-FRAUD MEASURES**

Not applicable

8. DETAILS OF RESOURCES

8.1. Objectives of the proposal in terms of their financial cost: not applicable

Commitment appropriations in EUR million (to 3 decimal places)

(Headings of objectives, actions and outputs should be provided)	Type of output	Av. cost	Year n		Year n+1		Year n+2		Year n+3		Year n+4		Year n+5 and later		TOTAL	
			No. outputs	Total cost	No. outputs	Total cost	No. outputs	Total cost								
OPERATIONAL OBJECTIVE No. 1 ⁹ ...																
Action 1.....																
- Output 1																
- Output 2																
Action 2.....																
- Output 1																
Sub-total Objective 1																
OPERATIONAL OBJECTIVE No. 2...																
Action 1.....																
- Output 1																
Sub-total Objective 2																
OPERATIONAL OBJECTIVE No. n																
Sub-total Objective n																
TOTAL COST																

⁹ As described under Section 5.3.

8.2. Administrative expenditure

8.2.1. Number and type of human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources (number of posts/FTEs)					
		Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5
Officials or temporary staff ¹⁰ (06 01 01)	A*/AD	0.5	0.5	0.5	0.5	0.5	0.5
	B*, C*/AST	0	0	0	0	0	0
Staff financed ¹¹ by Art. XX 01 02		0	0	0	0	0	0
Other staff financed ¹² by Art. XX 01 04/05		0	0	0	0	0	0
TOTAL		0.50	0.5	0.5	0.5	0.5	0.5

8.2.2. Description of tasks deriving from the action: tasks

Modification of the Community vessel traffic monitoring system extends Community competence in the maritime safety field. An increase in human resources – by an estimated one or two A-grade officials – is necessary for monitoring implementation of the Directive properly.

8.2.3. Sources of human resources (statutory)

- Posts currently allocated to the management of the programme to be replaced or extended
- Posts pre-allocated within the APS/PDB exercise for year n
- Posts to be requested in the next APS/APB procedure
- Posts to be redeployed using existing resources within the managing service (internal redeployment)
- Posts required for year n although not foreseen in the APS/PDB exercise of the year in question

¹⁰ Cost of which is NOT covered by the reference amount.

¹¹ Cost of which is NOT covered by the reference amount.

¹² Cost of which is included within the reference amount.

8.2.4. *Other administrative expenditure included in reference amount (XX 01 04/05 – Expenditure on administrative management)*

EUR million (to 3 decimal places)

Budget line (number and heading)	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
1. Technical and administrative assistance (including related staff costs)							0
Executive agencies ¹³							0
Other technical and administrative assistance							0
- <i>intra muros</i>							0
- <i>extra muros</i>							0
Total technical and administrative assistance							0

8.2.5. *Financial cost of human resources and associated costs not included in the reference amount*

EUR million (to 3 decimal places)

Type of human resources	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later
Officials and temporary staff (06 01 01)	0.054	0.054	0.054	0.054	0.054	0.324
Staff financed by Art. XX 01 02 (auxiliary, END, contract staff, etc.) (specify budget line)	0	0	0	0	0	0
Total cost of human resources and associated costs (NOT in reference amount)	0.054	0.054	0.054	0.054	0.054	0.324

Calculation – *Officials and temporary agents*

$$(\text{€}108\,000 \times 0.5 = \text{€}54\,000)$$

Calculation – *Staff financed under Art. XX 01 02*

Not applicable

¹³ Reference should be made to the specific legislative financial statement for the executive agency/agencies concerned.

8.2.6. *Other administrative expenditure not included in reference amount*

EUR million (to 3 decimal places)

	Year n	Year n+1	Year n+2	Year n+3	Year n+4	Year n+5 and later	TOTAL
XX 01 02 11 01 – Missions	0	0	0	0	0	0	0*
XX 01 02 11 02 – Meetings and conferences	0	0	0	0	0	0	0
XX 01 02 11 03 - Committees ¹⁴	0	0	0	0	0	0	0
XX 01 02 11 04 - Studies and consultations	0	0	0	0	0	0	0
XX 01 02 11 05 – Information systems	0	0	0	0	0	0	0
2. Total other management expenditure (XX 01 02 11)	0	0	0	0	0	0	0
3. Other expenditure of an administrative nature (specify including reference to budget line)	0	0	0	0	0	0	0
Total administrative expenditure, other than human resources and associated costs (NOT included in reference amount)	0	0	0	0	0	0	0

* without impact on current missions budget

Calculation - *Other administrative expenditure not included in reference amount*

Not applicable

¹⁴ Specify the type of committee and the group to which it belongs.