Amendment 1
Draft Council regulation
Article 11A a (new)

Article 11A a
Reporting

The Commission shall submit by the end of every six-month period, and for the first time by the end of the first six-month period of 2009, a progress report to the European Parliament and the Council concerning the development of SIS II and migration from the Schengen Information System (SIS 1+) to the second generation Schengen Information System (SIS II).

Amendment 2
Draft Council regulation
Article 12 — paragraph 1

This Regulation shall enter into force on the third day following its publication in the Official Journal of the European Union. It shall expire on the date to be fixed by the Council, acting in accordance with Article 55(2) of Regulation (EC) No 1987/2006, and in any event no later than on 30 June 2010.

Community vessel traffic monitoring and information system ***II
P6_TA(2008)0443


(2010/C 8 E/39)

(Codecision procedure: second reading)

The European Parliament,
— having regard to the Council common position (5719/3/2008 — C6-0225/2008) (1),
— having regard to its position at first reading (2) on the Commission proposal to Parliament and the Council (COM(2005)0589),
— having regard to Article 251(2) of the EC Treaty,
— having regard to Rule 62 of its Rules of Procedure,
— having regard to the recommendation for second reading of the Committee on Transport and Tourism (A6-0334/2008),

1. Approves the common position as amended;

2. Instructs its President to forward its position to the Council and Commission.

P6_TC2-COD(2005)0239


(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 Commission,

Having regard to the opinion of the European Economic and Social Committee (1),

Having regard to the opinion of the Committee of the Regions (2),

Acting in accordance with the procedure laid down in Article 251 of the Treaty (3),

Whereas:

(1) With the adoption of Directive 2002/59/EC (4), the European Union reinforced its capacity for preventing situations posing a threat to the safety of human life at sea and to the protection of the marine environment.

(2) Since this Directive concerns the amendment of Directive 2002/59/EC, most of the obligations it contains will not be applicable to Member States without sea shores and sea ports. Consequently, the only obligations which will be applicable to Austria, the Czech Republic, Hungary, Luxembourg or Slovakia are those obligations concerning ships flying the flag of those Member States, without prejudice to Member States' duty of cooperation to ensure continuity between maritime and other modal traffic management services, in particular river information services.

(3) Under this Directive Member States that are 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 maritime information exchange system SafeSeaNet ('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 European waters, their movements and their dangerous or polluting cargoes, as well as marine incidents.
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 SafeSeaNet.

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, 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.

The automatic ship identification systems (AIS — Automatic Identification System) referred to in the International Convention for the Safety of Life at Sea of 1 November 1974 (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. AIS 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 that measure to include fishing vessels with a length of more than 15 metres is very much to be desired. In the framework of the European Fisheries Fund, financial assistance may be provided for the fitting on board of fishing vessels of safety equipment such as AIS. The International Maritime Organisation (IMO) has recognised that the publication for commercial purposes on the Internet or elsewhere of AIS data transmitted by ships could be detrimental to the safety and security of ships and port facilities, and has urged its member governments, subject to the provisions of their national laws, to discourage those who make AIS data available to others for publication on the Internet or elsewhere from doing so. In addition, the availability of AIS information on ships’ routes and cargoes should not be detrimental to fair competition between actors in the shipping industry.

The obligation to fit AIS should be understood also to require that AIS be maintained in operation at all times except where international rules or standards provide for the protection of navigational information.

From surveys carried out on behalf of the Commission, it clearly emerges that it is neither useful nor feasible to incorporate AIS in the positioning and communications systems used for the purposes of the common fisheries policy.

Under Directive 2002/59/EC, a Member State which so requests is entitled to seek information from another Member State regarding a ship and the hazardous or pollutant cargo carried by it. It should be pointed out that this does not refer to systematic requests by one Member State to another, but rather means that such information can only be requested for reasons of maritime safety or security or the protection of the maritime environment.

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 apparent anomalies which may prejudice their safe navigation or create a risk for the environment.

In accordance with Directive 2002/59/EC, it seems necessary, in relation to the risks posed by exceptionally bad weather, 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 meteorological information service, that the sailing conditions are creating a serious threat to the safety of human life or a serious threat of pollution, it should so 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. In accordance with Regulation 3.1 of Part A-1 of Chapter II-1 of the SOLAS Convention, Member States are responsible for ensuring that ships flying their flag are designed, constructed and maintained in compliance with the structural, mechanical and electrical requirements of classification societies recognised by their administrations. Therefore, Member States should establish requirements for navigation on ice filled waters in accordance with those of organisations recognised under Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations (1) or equivalent national standards. Member States should be able to verify that the necessary documentation on board provides evidence that the ship complies with strength and power requirements commensurate with the ice situation in the area concerned.

(12) Directive 2002/59/EC provides that Member States are to 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. However, taking into account the Guidelines on Places of Refuge for Ships in Need of Assistance annexed to Resolution A.949(23) of the International Maritime Organisation of 13 December 2003 (IMO Resolution A.949(23)), which were adopted subsequently to Directive 2002/59/EC and refer to ships in need of assistance, rather than to ships in distress, that Directive should be amended accordingly. This Directive does not depart from the rules applicable to rescue operations, such as those laid down by the International Convention on Maritime Search and Rescue of 1979, where the safety of human life is at stake. That Convention hence continues to apply in full.

(13) On the basis of IMO Resolution A.949(23) and following the work carried out jointly by the Commission, the European Maritime Safety Agency (the 'Agency') and the Member States, it is necessary to lay down the basic provisions that plans for accommodating ships in need of assistance should contain in order to ensure a harmonised and effective implementation of this measure and clarify the scope of obligations incumbent on the Member States.

(14) IMO Resolution A.949(23) is to form the basis of any plans prepared by Member States in order to respond effectively to threats posed by ships in need of assistance. However, when assessing the risks associated with such threats, Member States may, in view of their special circumstances, take into consideration other factors, such as the use of sea water for the production of potable water as well as the generation of electricity.

(15) In order to obtain the full cooperation and trust of ships' masters and crew, it is necessary to ensure that masters and crew from a ship in need of assistance can rely on good and fair treatment from the competent authorities of the Member State concerned. To that end, it is desirable that Member States, in accordance with their national legislation, apply the relevant provisions of the IMO guidelines on fair treatment of seafarers in the event of a maritime accident.

(16) When a ship is in need of assistance, a decision may have to be taken as regards the accommodation of that ship in a place of refuge. This is particularly important in the event of a situation of distress at sea, that is to say a situation that could give rise to the loss of a vessel or an environmental or navigational hazard. In all such cases, it is necessary to be able to call on an independent authority in each Member State or region, depending on the internal structure of the Member State, with the necessary powers and expertise to take any necessary decisions and to assist the ship in need of assistance with a view to protecting human life and the environment and minimising economic loss. It is desirable that the competent authorities should be permanent in nature. In particular, the authority should be empowered to take an independent decision as regards the accommodation of a ship in need of assistance in a place of refuge. To this end, it should make a preliminary evaluation of the situation on the basis of the information contained in the relevant plan for accommodation of ships in a place of refuge.

Plans for accommodating ships in need of assistance 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 an appropriate decision can be taken quickly on the basis of specific maritime expertise in handling incidents where serious harmful consequences can be expected and adequate information available to the competent authority.

When drawing up the plans, Member States should gather information on 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 need of assistance. This relevant information should contain a description of certain characteristics of the sites under consideration and the equipment and installations available to make it easier to accommodate ships in need of assistance or deal with the consequences of an accident or pollution.

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. It may also prove useful for the parties involved in a maritime assistance operation, including assistance and towing companies, and the authorities of neighbouring Member States likely to be affected by an emergency at sea, to have access to relevant information.

The absence of financial guarantees or insurance does not exonerate a Member State from its obligation to assist a ship in need of assistance and to accommodate it in a place of refuge if by doing so it can reduce risks to the crew and the environment. Though the competent authorities may verify whether the ship is covered by insurance or some other financial guarantee permitting appropriate compensation for costs and damages associated with its accommodation in a place of refuge, the act of requesting this information must not delay the rescue operation.

Ports which accommodate a ship in need of assistance must be able to rely on prompt compensation in respect of costs and any damage associated with the operation. To that end, it is important that not only Directive 2008/…/EC of the European Parliament and of the Council of … [on the civil liability and financial guarantees of ship-owners] (1) and regulations of the International Oil Pollution Compensation Funds, but also the 1996 International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea, the 2001 International Convention on Civil Liability for Bunker Oil Pollution Damage, and the 2007 Wreck Removal Convention, be applied. Member States should therefore ratify those Conventions as soon as possible. In exceptional cases, Member States should ensure the compensation of costs and economic loss suffered by a port as a result of accommodating a ship in a place of refuge, particularly if such costs and economic loss are not covered by the financial guarantees of the ship-owners and other existing compensation mechanisms.

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.

In accordance with Directive 2002/59/EC, 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. SafeSeaNet, in development since 2002, should now be established as the reference network at Community level. It is important to ensure that SafeSeaNet does not result in increased administrative burdens or costs for industry, that there is harmonisation with international rules and that confidentiality in relation to any possible commercial implication is taken into account.

(1) OJ L ...
(24) The progress made in the new technologies and in particular in their space applications, such as satellite-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, the IMO has amended the SOLAS Convention to take account of developments in maritime safety and security and the maritime environment with a view to developing a system for global long-range identification and tracking of ships (LRIT). In accordance with the architecture approved by the IMO and providing for the possibility of setting up regional LRIT Data Centres, and taking into account experience gained from SafeSeaNet, an LRIT European Data Centre should be set up for the collection and management of LRIT information. In order to retrieve LRIT data, Member States will need to be connected to the LRIT European Data Centre.

(25) In order to enable cost savings and to avoid unnecessary fitting of equipment on board ships sailing in maritime areas within the coverage of AIS monitoring stations, AIS data should be integrated into the LRIT system. To this end, Member States and the Commission should take any appropriate initiatives, in particular within the IMO.

(26) In order to guarantee the best possible use, harmonised at Community level, of information gathered under Directive 2002/59/EC concerning maritime safety, the Commission should be able, if necessary, to process and use these data and disseminate them to the authorities designated by Member States.

(27) 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 in relation to maritime safety.

(28) Information gathered pursuant to this Directive may only be disseminated and used to prevent situations which threaten the safety of human life at sea and the protection of the marine environment. It is therefore desirable that the Commission investigate how to tackle any network and information security problems.

(29) 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) (1) 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.

(30) Amendments to the international instruments referred to should also be taken into account.

(31) The measures necessary for the implementation of this Directive should be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred to the Commission (2).

(32) In particular, the Commission should be empowered to amend Directive 2002/59/EC in order to apply subsequent amendments to the international conventions, protocols, codes and resolutions related thereto. to amend Annexes I, III and IV in the light of experience gained, to lay down requirements regarding the fitting of LRIT equipment on board ships sailing within the coverage of AIS fixed-based stations of Member States, to lay down policy rules and principles governing access to information held in the LRIT European Data Centre, and to amend the definitions, references or annexes so as to bring them into line with Community or international law. Since those measures are of general scope and are designed to amend non-essential elements of that Directive, inter alia by supplementing it with new non-essential elements, they must be adopted in accordance with the regulatory procedure with scrutiny provided for in Article 5a of Decision 1999/468/EC.


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

HAVE ADOPTED THIS DIRECTIVE:

Article 1

Amendments

Directive 2002/59/EC is hereby amended as follows:

1) the title shall be replaced by the following:


2) Article 1 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

‘The purpose of this Directive is to establish in the Community a vessel traffic monitoring and information system with a view to enhancing the safety and efficiency of maritime traffic, enhancing port and maritime security, improving the response of authorities to incidents, accidents or potentially dangerous situations at sea, including search and rescue operations, and contributing to better prevention and detection of pollution by ships.’

(b) the following paragraph shall be inserted:

‘This Directive shall also lay down rules applicable to certain aspects of the obligations on operators in the maritime transport chain as regards civil liability, and shall introduce suitable financial protection for seafarers in the event of abandonment.’

3) Article 2 shall be amended as follows:

(a) paragraph 1 shall be replaced by the following:

‘1. This Directive shall apply:

— to ships of 300 gross tonnage and upwards, unless stated otherwise, and
— pursuant to international law, to maritime areas under Member States’ jurisdiction.’

(b) paragraph 2 shall be amended as follows:

(i) the introductory wording shall be replaced by the following:

‘Unless otherwise provided, this Directive shall not apply to:

(ii) point (c) shall be replaced by the following:

‘(c) ships’ stores and equipment for use on board ships.’

4) Article 3 shall be amended as follows:

(a) point (a) shall be amended as follows:

(i) the introductory wording shall be replaced by the following:

“Relevant international instruments” means the following instruments, in their up-to-date versions:

(ii) the following indent shall be inserted after the fourth indent:

"1996 Convention" means the recapitulative text of the 1976 Convention on Limitation of Liability for Maritime Claims, adopted by the IMO, as amended by the 1996 protocol;

(iii) the following indents shall be added:

"IMO Resolution A.917(22)" means International Maritime Organisation Resolution 917(22) entitled "Guidelines for the onboard use of AIS", as amended by IMO Resolution A.956(23);

"IMO Resolution A.930(22)" means the resolution of the IMO and the International Labour Office's Governing Body entitled "Guidelines on provision of financial security in case of abandonment of seafarers";

"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)"

"IMO guidelines on fair treatment of seafarers in the event of a maritime accident" means the guidelines annexed to Resolution LEG.3(91) of the IMO Legal Committee and the Governing Body of the International Labour Organisation of 27 April 2006;

(b) point (k) shall be replaced by the following:

'(k) “competent authorities” means the authorities and organisations designated by Member States to perform functions under this Directive.'

(c) the following point shall be inserted:

'(ka) “ship-owner” means the owner of the ship or any other organisation or person, such as the manager, agent or bareboat charterer, on whom the ship-owner has conferred responsibility for operation of the ship and who, on assuming such responsibility, has agreed to take over all the duties and responsibilities involved;

(d) the following points shall be 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;

'(i) “scheduled 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 recognisable systematic series;

'(u) “fishing vessel” means any vessel equipped for commercial exploitation of living aquatic resources;

'(v) “ship in need of assistance” means a ship in a situation that could give rise to loss of the ship or an environmental or navigational hazard. The rescue of persons on board is, where necessary, governed by the SAR Convention, which takes precedence over the provisions of this Directive;
(w) “civil liability” for the purposes of the 1996 Convention means the liability by virtue of which a third party to the maritime transport operation responsible for the damage caused is entitled to make a claim subject to limitation under Article 2 of that Convention, with the exception of claims covered by Regulation (EC) No …/2008 of the European Parliament and of the Council [on the liability of carriers of passengers by sea in the event of an accident] (*);

(x) “LRIT” means a system that automatically transmits long-range identification and tracking information in accordance with Regulation 19 of Chapter V of the SOLAS Convention for maritime safety and security and maritime environmental purposes.

(*) Of L …'

5) the following Article shall be inserted:

‘Article 4a
Exemptions
1. Member States may exempt scheduled services performed between ports located on their territory from the requirements of Article 4, provided that the following conditions are met:

(a) the company operating the scheduled services keeps and updates a list of the ships concerned and sends that list to the competent authority concerned;

(b) for each voyage performed, the information listed in Annex I(1) is kept available for the competent authority upon request. The company shall establish an internal system to ensure that, upon request 24 hours a day and without delay, such information can be sent to the competent authority electronically, in accordance with Article 4(1);

(c) any deviations from the estimated time of arrival at the port of destination or pilot station of six hours or more are notified to the port of arrival in accordance with Article 4;

(d) exemptions are only granted to individual vessels on a specific service;

(e) a service is not regarded as a scheduled service unless it is intended to be operated for a minimum of one month;

(f) exemptions from the requirements of Article 4 are limited to voyages of up to 12 hours’ scheduled duration.

2. When an international scheduled service is operated between two or more States, of which at least one is a Member State, any of the Member States involved may request the other Member States to grant an exemption for that service. All Member States involved, including the coastal States concerned, shall collaborate in granting an exemption for the service concerned in accordance with the conditions set out in paragraph 1.

3. Member States shall periodically check that the conditions set out in paragraphs 1 and 2 are being met. Where at least one of those conditions is no longer being met, Member States shall immediately withdraw the exemption from the company concerned.

4. Member States shall communicate to the Commission a list of companies and ships granted an exemption under this Article, as well as any updating of that list.’
6) the following Articles shall be inserted:

‘Article 6a

Use of automatic identification systems (AIS) by fishing vessels

Any fishing vessel with an overall length of more than 15 metres and flying the flag of a Member State and registered in the Community, or operating in the internal waters or territorial sea of a Member State, or landing its catch in the port of a Member State shall, in accordance with the timetable set out in Annex II, part I(3), be fitted with an AIS (Class A) which meets the performance standards drawn up by the IMO.

Fishing vessels equipped with AIS shall maintain it in operation at all times. In exceptional circumstances, AIS may be switched off where the master considers this necessary in the interest of the safety or security of his vessel.

Article 6b

Use of long-range identification and tracking of ships (LRIT)

1. Any ship engaged in international voyages calling at a port of a Member State shall be fitted with an LRIT system in accordance with Regulation 19 of Chapter V of the SOLAS Convention and the performance standards and functional requirements adopted by the IMO.

The Commission shall lay down, acting in accordance with the regulatory procedure with scrutiny referred to in Article 28(2) and in cooperation with the Member States, the modalities and requirements for the fitting of LRIT equipment on board ships sailing in waters within the coverage of AIS fixed-based stations of Member States, and submit to the IMO any appropriate measures.

2. The Member States and the Commission shall cooperate to establish an LRIT European Data Centre in charge of processing long-range identification and tracking information.

The LRIT European Data Centre shall be a component of the European maritime information and exchange system SafeSeaNet. Costs related to modifications of national elements of SafeSeaNet so as to include LRIT information shall be borne by Member States.

Member States shall establish and maintain a connection to the LRIT European Data Centre.

3. The Commission shall determine the policy and principles for access to information held in the LRIT European Data Centre in accordance with the regulatory procedure with scrutiny referred to in Article 28(2).’

7) Article 12 shall be replaced by the following:

‘Article 12

Obligations on the shipper

1. Shippers offering dangerous or polluting goods for carriage in the port of a Member State shall deliver to the master or operator of the ship irrespective of its size before the goods are taken on board a declaration 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 (where applicable), including their viscosity expressed in cSt at 50 °C and their density at 15 °C and the other data contained in the safety data sheet in accordance with IMO Resolution MSC.150(77);

(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.

2. Vessels coming from a port outside the Community and heading for a port of a Member State or an anchorage in the territorial waters of a Member State which have dangerous or polluting goods on board shall be in possession of a declaration by the shipper containing the following information:

(a) the information listed in Section 3 of Annex I;

(b) the information required under paragraph 1(b) and (c) of this Article.

3. It shall be the duty and responsibility of the shipper to ensure that the shipment offered for carriage is the one declared in accordance with paragraphs 1 and 2.

8) in the second paragraph of Article 14, point (c) shall be replaced by the following:

'(c) each Member State shall be able, upon request, to send SafeSeaNet information on the ship and on the dangerous or polluting goods on board without delay to the national and local competent authorities of another Member State if strictly needed for reasons of maritime safety or security or the protection of the maritime environment.'

9) the following points shall be added to Article 16(1):

'(d) ships which have failed to notify, or do not have, insurance certificates or financial guarantees pursuant to this Directive and international rules;

(e) ships which have been reported by pilots or port authorities as having apparent anomalies which may prejudice their safe navigation or create a risk for the environment.'

10) the following Article shall be inserted:

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

1. Where the competent authorities consider, in view of 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, without prejudice to the duty of assistance to ships in need of assistance and other obligations flowing from relevant international rules, 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 document that it satisfies 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.’

11) Article 19 shall be amended as follows:

(a) the following subparagraph shall be added to paragraph 2:

‘To this end they shall communicate to the competent national authorities, on request, the information referred to in Article 12.’

(b) the following paragraph shall be added:

‘3a. In accordance with their national law, Member States shall comply with the relevant provisions of the IMO guidelines on fair treatment of seafarers in the event of a maritime accident, in particular regarding the master and crew of a ship in need of assistance in the waters under their jurisdiction.’

12) the following Article shall be inserted:

‘Article 19a

Competent authority for accommodation of ships in need of assistance

1. Each Member State shall designate a competent authority which has the required expertise and is independent in that it has the power, at the time of the rescue operation, to take decisions on its own initiative concerning the accommodation of ships with a view to:

— the protection of human life,

— coastal protection,

— the protection of the marine environment,

— safety at sea,

— minimising economic loss.

2. The authority referred to in paragraph 1 shall assume responsibility for the execution of the plans referred to in Article 20a.

3. The authority referred to in paragraph 1 may, inter alia,

(a) restrict the movement of the ship or direct it to follow a specific course. This requirement shall not affect the master’s responsibility for the safe handling of the ship;

(b) give official notice to the master of the ship to put an end to the threat to the environment or maritime safety;

(c) come aboard or send an evaluation team aboard the ship to assess the damage to the ship and the degree of risk, help the master to remedy the situation and keep the competent coastal station informed;

(d) call on and deploy rescue workers where necessary;

(e) cause the ship to be piloted or towed.’
13) Article 20 shall be replaced by the following:

‘Article 20

Accommodation of ships in need of assistance in places of refuge

1. The authority referred to in Article 19a shall decide on the acceptance of a ship in a place of refuge. That authority shall ensure that ships in emergency situations are the subject of a prior assessment of the situation carried out on the basis of the plans referred to in Article 20a and are admitted to a place of refuge in cases where this makes it possible to reduce or avoid associated risks.

2. The authorities referred to in paragraph 1 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.’

14) the following Articles shall be inserted:

‘Article 20a

Plans for the accommodation of ships in need of assistance

1. Member States shall draw up plans for responding to threats presented by ships in need of assistance in the waters under their jurisdiction and for securing the accommodation of ships and the protection of human life.

2. The plans referred to in paragraph 1 shall be prepared after consultation of the parties concerned and on the basis of IMO Resolutions A.949(23) and A.950(23), 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 competent authority for assessing the situation and taking a decision on acceptance or refusal of a ship in need of assistance in the place of refuge selected;

(c) information on the coastline of Member States and all elements facilitating a swift assessment and a rapid decision regarding the choice of place of refuge for a ship in need of assistance, including the description of environmental, economic and social factors and natural conditions;

(d) the assessment procedures for acceptance or refusal of a ship in need of assistance in a place of refuge;

(e) the resources and installations suitable for assistance, rescue and combating pollution;

(f) procedures for international coordination and decision-making;

(g) the financial guarantee and liability procedures in place for ships accommodated in a place of refuge.

3. Member States shall publish the names of the competent authority referred to in Article 19a and the authorities appointed for receiving and handling alerts, as well as their contact addresses.

Member States shall communicate on request the relevant information concerning the plans to the neighbouring Member States.'
In implementing the procedures provided for in the plans for accommodating ships in need of assistance, Member States shall ensure that relevant information is made available to the parties involved in the operations.

If requested by Member States, those receiving information in accordance with the second and third subparagraphs shall be bound by an obligation of confidentiality.

4. Member States shall inform the Commission by ... (*) of the measures taken in application of this Article.

Article 20b

Liability and financial guarantee regime

1. Member States shall determine the regime of civil liability for ship-owners and shall ensure that the right of ship-owners to limit their liability is governed by all provisions of the 1996 Convention.

2. Member States shall take the necessary measures to ensure that every owner of a ship flying their flag provides a financial guarantee for civil liability in accordance with the ceiling laid down in the 1996 Convention.

3. Member States shall take the necessary measures to ensure that every owner of a ship flying the flag of a third country provides a financial guarantee in accordance with paragraph 2 as soon as that ship enters their exclusive economic area or equivalent area. That financial guarantee shall be valid for at least three months from the date it is required.

Article 20c

Financial guarantee in case of abandonment of seafarers

1. Member States shall take the necessary measures to ensure that every owner of a ship flying their flag provides a financial guarantee to protect seafarers employed or engaged on board the ship in case of abandonment, in accordance with IMO Resolution A.930(22).

2. Member States shall take the necessary measures to ensure that every owner of a ship flying the flag of a third country provides a financial guarantee in accordance with paragraph 1 as soon as that ship enters a port or an offshore terminal under their jurisdiction or drops anchor in an area under their jurisdiction.

3. Member States shall ensure that the system of financial guarantee in case of abandonment of seafarers is accessible, in accordance with IMO Resolution A.930(22).

Article 20d

Financial guarantee certificates

1. The existence of the financial guarantee referred to in Articles 20b and 20c and the validity thereof shall be proved by one or more certificates.

2. Certificates shall be issued by the competent authorities of the Member States once they are sure that the ship-owner complies with the requirements of this Directive. When issuing certificates, the competent authorities shall also consider whether a guarantor has business operations in the EU.

(*) 18 months from the date of entry into force of this Directive.
When a ship is registered in a Member State, certificates shall be issued or certified by the competent authority of the State in which the ship is registered.

When a ship is registered in a third country, certificates may be issued or certified by the competent authority of any Member State.

3. The conditions for the issue and the validity of certificates, in particular the criteria and conditions for issue, as well as the measures concerning the providers of financial guarantees, shall be determined by the Commission. Those measures, designed to amend non-essential elements of this Directive, inter alia by supplementing it, shall be adopted in accordance with the regulatory procedure with scrutiny referred to in Article 28(2).

4 Certificates shall include the following information:

(a) the name of the ship and the registry port;

(b) the ship-owner’s name and principal place of business;

(c) the type of guarantee;

(d) the name and principal place of business of the insurer or other person granting the guarantee and, where appropriate, the place of business where the insurance or guarantee is established;

(e) the period of validity of the certificate, which shall not exceed the period of validity of the insurance or guarantee.

5. Certificates shall be drawn up in the official language or languages of the issuing Member State. If the language used is not English or French, the text shall include a translation into one of those languages.

Article 20e
Notification of the financial guarantee certificate

1. The certificate shall be carried on board the ship and a copy shall be deposited with the authority which keeps the record of the ship’s registry or, if the ship is not registered in a Member State, with the authority of the State which issued or certified the certificate. The authority concerned shall forward a copy of the certification file to the Community Office provided for in Article 20i, so that the latter includes it in the register.

2. The operator, agent or captain of a ship entering the exclusive economic area or equivalent area of a Member State in the cases set out in Article 20b shall notify the authorities of that Member State that a financial guarantee certificate is being carried on board.

3. The operator, agent or captain of a ship bound for a port or offshore terminal under the jurisdiction of a Member State or which wishes to drop anchor in an area under the jurisdiction of a Member State in the cases set out in Article 20c shall notify the authorities of that Member State that a financial guarantee certificate is being carried on board.

4. The competent authorities of the Member States shall be able to share the information provided for in paragraph 1 through SafeSeaNet.
Article 20f

Penalties

Member States shall ensure compliance with the rules set out in this Directive and shall lay down penalties for infringement of those rules. The penalties shall be effective, proportionate and dissuasive.

Article 20g

Mutual recognition by Member States of financial guarantee certificates

Member States shall recognise certificates issued or certified by another Member State under Article 20d for the purposes of this Directive and shall consider them as having the same value as certificates which they issued or certified themselves, even when the ship concerned is not registered in a Member State.

A Member State may at any time request an exchange of views with the issuing or certifying State, should it believe that the insurer or guarantor named on the certificate is not financially capable of meeting the obligations imposed by this Directive.

Article 20h

Direct action against the provider of the financial guarantee for civil liability

Any request for compensation for damage caused by a ship may be addressed directly to the provider of the financial guarantee for civil liability covering the ship-owner’s civil liability.

The provider of the financial guarantee may rely on any defence which the ship-owner himself would be entitled to raise, with the exception of those based on the ship-owner’s bankruptcy or liquidation.

The provider of the financial guarantee may also rely on the fact that the loss or damage was the result of an act or omission of the ship-owner committed intentionally. However, it may not rely on any defence which it could have raised in an action brought against it by the ship-owner.

The provider of the financial guarantee may, in all cases, require the ship-owner to be joined in the proceedings.

Article 20i

Community Office

A Community Office shall be established which shall be responsible for keeping a full register of certificates issued, monitoring and updating their validity, and checking the existence of financial guarantees registered by third countries.

Article 20j

Financial guarantee and compensation

1. The absence of an insurance certificate or financial guarantee shall not exonerate Member States from the obligation to make a preliminary assessment and take a decision under Article 20(1), and shall not in itself be sufficient reason for a Member State to refuse to accommodate a ship in a place of refuge.
2. Without prejudice to paragraph 1, when accommodating a ship in a place of refuge, a Member State may request the ship’s operator, agent or master to present an insurance certificate or financial guarantee within the meaning of this Directive which covers the liability of such operator, agent or master for damage caused by the ship. The act of requesting the certificate shall not lead to a delay in accommodating a ship in need of assistance.

3. Member States shall ensure the compensation of costs and potential economic loss suffered by a port as a result of a decision taken pursuant to Article 20(1) if such costs or economic loss are not compensated within a reasonable time by the owner or operator of the ship pursuant to this Directive and existing financial compensation mechanisms.

15) the following Article shall be inserted:

‘Article 22a
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. The systems set up pursuant to paragraph 1 shall allow the information gathered to be used operationally and shall satisfy, in particular, the conditions laid down in Article 14.

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 SafeSeaNet. The Commission shall ensure that SafeSeaNet is operational on a 24 hours-a-day basis. The basic principles of SafeSeaNet are laid down in Annex III.

4. When operating in the framework of regional agreements or cross-border interregional or transnational projects, Member States shall ensure that information systems or networks developed comply with the requirements of this Directive and are compatible and connected to SafeSeaNet.

16) Article 23 shall be amended as follows:

(a) point (c) shall be 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, 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 identification and tracking systems;’

(b) the following point shall be added:

‘(e) ensuring the interconnection and interoperability of the national systems used for managing the information referred to in Annex I, and developing and updating SafeSeaNet.’
17) the following Article shall be 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.

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.’

18) in Article 24, the following paragraphs shall be added:

‘Member States shall, in accordance with their national legislation, verify that the publication of AIS and LRIT data transmitted by ships does not create a risk to safety or security or the protection of the environment or affect competition between ship operators. In particular, they shall not authorise the public dissemination of information concerning the details of the cargo or persons on board, unless the master or the operator of the vessel has agreed to such use.

The Commission shall investigate possible network and information security problems which may be associated with the measures provided for under this Directive, and in particular Articles 6, 6a, 14 and 22a thereof, and propose any appropriate amendment to Annex III in order to improve the security of the network.’

19) Articles 27 and 28 shall be replaced by the following:

‘Article 27
Amendment procedure
1. The definitions in Article 3, the references to Community and IMO instruments and the Annexes may be amended in accordance with the regulatory procedure with scrutiny referred to in Article 28(2) in order to bring them into line with Community or international law which have been adopted, amended or brought into force, in so far as such amendments do not broaden the scope of this Directive.

2. In addition, Annexes I, III and IV may be amended in accordance with the regulatory procedure with scrutiny referred to in Article 28(2) in the light of experience gained with this Directive, in so far as such amendments do not broaden the scope of this Directive.

Article 28
Committee procedure
1. The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSSEE) established by Regulation (EC) No 2099/2002 of the European Parliament and of the Council (*).

2. Where reference is made to this paragraph, Article 5a(1) to (4) and Article 7 of Decision 1999/468/EC shall apply, having regard to the provisions of Article 8 thereof.

20) in point 4 of Annex I, indent X shall be replaced by the following:

‘— X. miscellaneous:
— characteristics and estimated quantity of bunker fuel for all vessels carrying it,
— navigational status’

21) the following point shall be added to Annex II(I):

‘3. Fishing vessels

Fishing vessels with a length of more than 15 metres overall are subject to the carrying requirement laid down in Article 6a according to the following timetable:

— fishing vessels of overall length 24 metres and upwards but less than 45 metres: not later than … (*);
— fishing vessels of overall length 18 metres and upwards but less than 24 metres: not later than … (**);
— fishing vessels of overall length exceeding 15 metres but less than 18 metres: not later than … (***)..

New built fishing vessels of overall length exceeding 15 metres are subject to the carrying requirement laid down in Article 6a as from … (****).

(*) 3 years from the entry into force of this Directive.
(**) 4 years from the entry into force of this Directive.
(***) 5 years from the entry into force of this Directive.
(****) 18 months from the entry into force of this Directive.’

Article 2

Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by … (*). They shall communicate to the Commission the text of those measures and a correlation table between them and this Directive.

When Member States adopt those measures, they shall contain a reference to this Directive or be accompanied by such 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

Entry into force

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

Article 4

Addressees

This Directive is addressed to the Member States.

Done at …, on …

For the European Parliament

For the Council

The President

The President

(*) 12 months from the date of entry into force of this Directive.