

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(91) 552 final - SYN 278

Brussels, 20 December 1991

Re-examined proposal for a

COUNCIL DIRECTIVE

ON THE MINIMUM SAFETY AND HEALTH REQUIREMENTS

FOR IMPROVED MEDICAL TREATMENT

ON BOARD VESSELS

(presented by the Commission pursuant to Article 149.2(d)
of the EEC treaty)

The initial proposal for this Directive was forwarded to the Council by the Commission on 20 July 1990⁽¹⁾.

This proposal for a Council Directive, based on Article 118a of the EEC Treaty, seeks to improve medical treatment on board vessels by laying down minimum requirements in respect of the medical supplies appropriate to various categories of vessel. These minimum requirements apply particularly to the presence of antidotes on vessels carrying dangerous substances and to medical training for the captain and other crew members. The proposal also provides for inspection arrangements.

The European Parliament (first reading) and the Economic and Social Committee gave their opinions on 24 January 1991 and 20 September 1990 respectively.

The Commission forwarded an amended proposal to the Council on 28 February 1991⁽²⁾.

The Council common position of 1 October 1991 was examined by the European Parliament (second reading) on 20 November 1991 and adopted subject to 20 amendments.

Of these 20 amendments, the Commission has agreed to incorporate seven, in full or in part, into its re-examined proposal. As regards amendments No 3 and No 8, only the part corresponding to the proposal put forward in amendment No 2 has been adopted, with the rest of the text being rejected.

It has rejected 13 amendments, namely Nos 1, 4, 9, 10, 11, 12, 13, 14, 17, 18, 19, 20 and 21.

The Commission's comments on the amendments which it has not adopted are as follows:

(1) COM(90) 272 final

(The numbering corresponds to that adopted for the plenary sitting of 20 November)

Amendment No 1: (Fifth recital a)

This makes provision for the Member States to be asked to ratify ILO Convention No 164.

Comments: This form of recital cannot be justified, since the present proposal for a Directive is not a suitable instrument for calling for ratification of an ILO Convention. This amendment had already been rejected at the first reading.

Amendment No 3: (Article 2 (1) (a))

The part of this amendment embracing the concept of "vessels registered in a Member State" has been accepted (same purpose as amendment No 2). This amendment also calls for revision of the lists of medical supplies following harmonisation of various elements, particularly pharmaceutical standards.

Comments: The procedures for adapting the annexes of the Directive are covered in overall terms and more satisfactorily by the provisions of Article 8.

Amendment No 4: (Article 2 (1) (b))

This calls for quantities of medical supplies to be determined on the basis of data supplied by the competent national authorities.

Comments: The competent authorities cannot possibly take account of the various parameters specified in paragraph 1 (b) of this Article.

Amendment No 8: (Article 3 (1))

The part of this amendment embracing the concept of "vessels registered in a Member State" has been accepted (same purpose as amendment No 2). The other part of this amendment requires the captain to be kept informed of dangerous substances loaded on board the vessel.

Comments: This general requirement is excessive and difficult to apply, particularly where ferries are concerned.

Amendment No 9: (Article 3 (2a))

This sets out requirements in respect of the transport of dangerous substances.

Comments: The checks envisaged by this provision are excessive, largely impractical and entail too much red tape.

Amendment No 10: (Article 4 (2a))

This gives seafarers the right to medical examination at ports of call.

Comments: This provision would be of little practical value and would, in many cases, be unfeasible. Moreover, the emergency factor is already taken into account in other provisions of the Directive, particularly Article 4 (3).

Amendment No 11: (Article 5 (3))

This relates to information and training programmes for the captain and other persons as regards both the provision of medical treatment and preventive aspects.

Comments: These elements are already covered by the wording of Article 5 (3) of the common position, the content of Annex V and the principles laid down in Council Directive 89/391/EEC (OJ No L 183 of 29 June 1989, p. 1).

Amendment No 12: (Article 7 (2))

This makes reference to ILO Convention No 164 and reinforces the checks to be carried out on medical supplies on life-rafts.

Comments: Firstly, the ILO Convention in question does not cover life-rafts in the terms of the present Directive; secondly, checks of medical supplies on life-rafts as envisaged by the amendment are inappropriate.

Amendment No 13: (Article 8 (3))

This modifies the procedure involving the committee responsible for adaptation of the annexes of the Directive.

Comments: The regulatory committee procedure should be retained in accordance with established practice.

Amendment No 14: (Article 8 (3) new)

This provides for consultation of the Joint Committee on Maritime Transport.

Comments: Such consultation is already provided for in Commission Decision 87/467/EEC of 31 July 1987 (OJ L 253 of 4 September 1987, p. 20).

Amendment No 17: (Annex II, Section I (2) (c))

This extends the availability of laxatives to category B vessels.

Comments: Little medical justification for this amendment.

Amendment No 18: (Annex II, Section II (1))

This extends the availability of oxygen to category C vessels.

Comments: There is little medical justification for this amendment; moreover, many vessels in category C do not have industrial oxygen on board.

Amendment No 19: (Annex IIIa)

This amendment introduces a list of dangerous wastes.

Comments: Annex III refers to a version of the International Maritime Dangerous Goods Code which contains all the necessary details.

Amendments No 20 and 21: (Annex IV)

These amend the content of the captain's training and make reference to the guidance document published by the ILO and IMO.

Comments: These aspects of training are already mentioned in the text of the common position; moreover, it is inappropriate to make a direct reference to the IMO/ILO guide, since the Community has no control over its content.

DIRECTIVE ON MEDICAL TREATMENT

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Revised Commission proposal in
accordance with Article 149(2)(d)

Common position adopted by the Council on
1/10/91

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

(Where there is no entry in this
column, the common position
remains unchanged.)

Having regard to the Treaty establishing
the European Economic Community and in
particular Article 118a thereof,

Having regard to the proposal from the
Commission⁽¹⁾, drawn up after
consultation with the Advisory Committee
on Safety, Hygiene and Health Protection
at Work,

In co-operation with the European
Parliament⁽²⁾,

Having regard to the Opinion of the
Economic and Social Committee⁽³⁾,

Whereas the Commission communication on
its programme concerning safety, hygiene
and health at work⁽⁴⁾ envisages measures
to ensure medical treatment at sea;

Whereas the safety and health of workers
on board a vessel, which constitutes a
workplace involving a wide range of risks,
bearing in mind, inter alia, its
geographical isolation, where appropriate,
require special attention;

Whereas vessels should have adequate
medical supplies, kept in good order and
checked at regular intervals, so that
workers can obtain the necessary medical
treatment at sea;

Whereas, in order to ensure appropriate
medical treatment at sea, training and
information of seafarers should be
encouraged as regards the use of medical
supplies;

Whereas the use of long-distance medical-
consultation methods constitutes an
efficient way of contributing to the
protection of the safety and health of
workers,

HAS ADOPTED THIS DIRECTIVE:

(1) OJ No C 183, 24.7.1990, p.6 and OJ
No C 74, 20.3.1991, p. 11.

(2) OJ No C 48, 25.2.1991, p.154 and
Decision of (not yet published in
the Official Journal).

Article 1Definitions

For the purposes of this Directive the following terms shall have the following meanings:

- a) vessel: any vessel flying the flag of a Member State, seagoing or estuary-fishing, publicly or privately owned, excluding:
- inland navigation vessels;
 - warships;
 - pleasure boats used for non-commercial purposes and not manned by professional crews;
 - tugs operating in harbour areas.
- a) vessel: any vessel flying the flag of a Member State or registered in a Member State, seagoing or estuary-fishing, publicly or privately owned, excluding:

Vessels shall be classed in three categories in accordance with Annex I;

- b) worker: any person carrying out an occupation on board a vessel, including trainees and apprentices, but excluding port pilots and shore personnel carrying out work on board a vessel at the quayside.
- c) owner: the registered owner of a vessel unless that vessel has been chartered by demise or is managed, either wholly or in part, by a natural or legal person other than the registered owner under the terms of a management agreement; in that case the owner shall be construed as the demise charterer or natural or legal person managing the vessel as appropriate;
- d) medical supplies: medicines, medical equipment and antidotes, a non-exhaustive list of which is given in Annex II.
- e) antidote: a substance used to prevent or treat a harmful effect or effects, direct or indirect, of one or more substances on the list of dangerous substances in Annex III.

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Article 2

Medicines and medical equipment
Sick-bay - Doctor

Each Member State shall take the measures necessary to ensure that:

- 1)(a) every vessel flying its flag always carries on board medical supplies which meet at least, in terms of quality, the specifications of Annex II sections I and II for the category of vessel to which it belongs;
 - (b) the quantities of medicinal products and medical equipment to be carried depend on the nature of the voyage - in particular ports of call, destination, duration - the type or types of work to be carried out during the voyage, the nature of the cargo and the number of workers;
 - (c) the content of the medicines and medical equipment included in the medical supplies shall be detailed on a checklist corresponding at least to the general framework laid down in Annex IV, sections A, B and C II 1 and II 2;
 - 2)(a) for each of its life-rafts and life-boats, every vessel flying its flag carries a watertight medicine chest at least containing the medical supplies specified in Annex II, sections I and II, for category C vessels;
 - (b) the content of these chests is also detailed on the checklist referred to in paragraph 1(c);
 - 3) every vessel flying its flag of more than 500 gross registered tonnes, with a crew of 15 or more workers, engaged on a voyage of more than three days, has a sick-bay in which medical
- 1)(a) every vessel flying its flag or registered under its jurisdiction always carries on board medical supplies which meet, at least in terms of quality, the specifications of Annex II sections I and II for the category of vessel to which it belongs;
 - 3) every vessel flying its flag or registered under its jurisdiction of more than 500 gross registered tonnes, with a crew of 15 or more workers, engaged on a voyage of more than three days,

treatment can be administered under satisfactory material and hygienic conditions;

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has a sick-bay in which medical treatment can be administered under satisfactory material and hygienic conditions;

4) every vessel flying its flag with a crew of 100 or more workers, engaged on an international voyage of more than three days, has a doctor on board.

4) every vessel flying its flag or registered under its jurisdiction with a crew of 100 or more workers, engaged on an international voyage of more than three days, has a doctor on board responsible for the medical care of the workers;

5) when, in accordance with Annex I, category B is extended to cover longer trips, the helicopter rescue services provided for are available and operational and the captains of the vessels concerned are informed regularly of their availability.

Article 3 Antidotes

Each Member State shall take the measures necessary to ensure that:

1) any vessel flying its flag and carrying any of the dangerous substances listed in Annex III carries on board medical supplies including at least the antidotes listed in Section III of Annex II;

1) any vessel flying its flag or registered under its jurisdiction and carrying any of the dangerous substances listed in Annex III carries on board medical supplies including at least the antidotes listed in Section II of Annex II;

2) any ferry-type vessels flying its flag whose conditions of operation do not always allow them to know well enough in advance the nature of the dangerous substances being transported has on board medical supplies including at least the antidotes listed in Section III of Annex II.

However, on a regular route where the crossing is due to last less than two hours, the antidotes may be limited to those which have to be administered in cases of extreme emergency within a period of time not exceeding the normal duration of the crossing;

- 3) the contents of the medical supplies, as regards antidotes, shall be detailed on a check list corresponding at least to the general framework laid down in Annex IV, sections A, B and C, II 3.

Article 4

Allocation of responsibilities

Each Member State shall take the measures necessary to ensure that:

- 1)(a) the provision and replenishment of the medical supplies of any vessel flying its flag are undertaken on the exclusive responsibility of the owner, without any expense to the workers;
- (b) the management of the medical supplies is placed under the responsibility of the captain of the vessel; he may, without prejudice to this responsibility, delegate the use and maintenance of the medical supplies to one or more workers specially designated by reason of their competence;
- 2) the medical supplies are maintained in good condition and replenished and/or replaced as soon as possible, and in every case as a priority part of normal revictualling procedures;
- 3) in an emergency established by the captain as far as possible after having obtained a medical opinion, the required medicines, medical equipment and antidotes which are not available on board are made available as soon as possible.

Article 5

Information and training

Each Member State shall take the measures necessary to ensure that:

- 1) medical supplies are accompanied by one or more guides to their use, including instructions for use of at least the antidotes required in Annex II section III;

- 2) all persons receiving professional maritime training and intending to work on board ship have been given basic training in the medical and emergency measures to be taken immediately in the event of an accident or serious medical emergency;
- 3) the captain and any worker or workers to whom he delegates the use of the medical supplies under Article 4(1)(b) have received special training updated periodically, at least every five years, taking into account the specific risks and needs connected with the different categories of vessel and in accordance with the general guidelines set out in Annex V.

Article 6

Medical consultations by radio

- 1) To ensure better emergency treatment for workers, each Member State shall take the measures necessary to ensure that:
 - (a) one or more centres are designated to provide workers with free medical advice by radio;
 - (b) some of the doctors providing their services for the radio consultation centres have been trained in the special conditions prevailing on board ship.
- 2) In order to optimise the advice given, the radio consultation centres may keep personal medical records, with the agreement of the workers concerned.

Such records shall remain confidential.

Article 7

Inspection

- 1) Each Member State shall take the measures necessary to ensure that a competent person or a competent authority carries out an annual inspection to check that on board all vessels flying its flag:

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- the medical supplies meet the minimum requirements of this Directive;
 - the checklist provided for in Article 2(1)(c) confirms that the medical supplies comply with those minimum requirements;
 - the medical supplies are correctly stored;
 - any expiry dates have been respected.
- 2) Inspections of the medical supplies stored on life-rafts shall be carried out in the course of those life-rafts' annual maintenance.

Those inspections may exceptionally be postponed for up to five months.

Article 8

Committee

1. With a view to the strictly technical adaptation of the Annexes to this Directive in the light of technical progress or changes in international regulations or specifications and new findings in this field, the Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission.
2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft, within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148(2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The Chairman shall not vote.

- 3) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If, on the expiry of a period of three months from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

Article 9

Final provisions

- 1) Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 1995. They shall forthwith inform the Commission thereof.

When Member States adopt these measures, such measures shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

- 2) Member States shall communicate to the Commission the texts of the provisions of national law which they have already adopted or which they adopt in the field governed by this Directive.

- 1) Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this directive by 31 December 1992. They shall forthwith inform the Commission thereof.

- 3) Member States shall report to the Commission every four years on the implementation of the provisions of this Directive, and in particular of Article 2(5), giving the views of the two sides of industry.

The Commission shall inform the European Parliament, the Council, the Economic and Social Committee and the Advisory Committee for Safety, Hygiene and Health at Work.

- 4) The Commission shall report periodically to the European Parliament, the Council and the Economic and Social Committee on the implementation of this Directive, taking into account paragraphs 1, 2 and 3.

Article 10

This Directive is addressed to the Member States.

Done at Brussels,

For the Council

The President

Annexes: (unchanged)

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DOCUMENTS

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