

EN

EN

EN



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 26.11.2008
COM(2008) 829 final

2005/0239 (COD)

COMMISSION OPINION

**pursuant to Article 251(2), third subparagraph, point (c) of the EC Treaty
on the European Parliament's amendments
to the Council Common Position regarding the
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**

AMENDING THE PROPOSAL OF THE COMMISSION pursuant to Article 250 (2) of the
EC Treaty

COMMISSION OPINION

**pursuant to Article 251(2), third subparagraph, point (c) of the EC Treaty
on the European Parliament's amendments
to the Council Common Position regarding the
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**

(Text with EEA relevance)

1. INTRODUCTION

Article 251(2), third subparagraph, point (c) of the EC Treaty requires the Commission to give an opinion on the amendments proposed by the European Parliament at second reading. The Commission sets out its opinion below on the amendments proposed by Parliament.

2. BACKGROUND

Date of transmission of the proposal to the European Parliament and to the Council	9.1.2006
Date of the opinion of the European Economic and Social Committee	13.9.2006
Date of the opinion of the Committee of the Regions	15.6.2006
Date of the opinion of the European Parliament, first reading	25.4.2007
Date of adoption of the common position (by unanimity)	6.6.2008
Date of the opinion of the European Parliament, second reading	24.9.2008

3. PURPOSE OF THE PROPOSAL

The purpose of the proposal, which forms part of the Third Maritime Safety Package, is to supplement, strengthen and clarify Directive 2002/59/EC as regards the following aspects:

- Clarification and strengthening of the provisions in the present Directive on the accommodation of vessels in distress in places of refuge. The objective is to establish the principle of accommodating vessels in distress in places of refuge, except where an assessment of the situation leads to a different conclusion. The aim is also to ensure that the independent authorities responsible for designating the most appropriate places of

refuge are clearly identified and have the necessary information to take a rapid decision, including precise information on the coastal areas available for use as places of refuge.

- A requirement to install equipment (AIS – Automatic Identification Systems) for the automatic identification of fishing vessels with a length of more than 15 metres. This equipment will improve the identification and location of fishing vessels, in particular by merchant vessels, thus reducing the risk of accidents.
- Widespread use of the SafeSeaNet telematic data exchange network. This system, developed by the Commission and operated by the European Maritime Safety Agency, will enable maritime authorities to precisely monitor the movements of vessels and their cargo.
- A requirement for shippers to provide masters with detailed information on the cargo, in particular to improve dealing with pollution as a result of a greater knowledge of the physical and chemical characteristics of the products involved.
- Provisions enabling coastal states to take appropriate measures to reduce the potential danger to shipping from ice formation in certain northern sea areas of the European Union. This issue is particularly important given the increased risk resulting from the greater volumes of oil transported in the Baltic.

4. THE COMMISSION'S OPINION ON THE EUROPEAN PARLIAMENT'S AMENDMENTS

4.1. Amendments accepted by the Commission

4.1.1. Amendments accepted in full

The amendments accepted in full by the Commission are as follows:

- the amendments which improve the Commission proposal on the question of places of refuge, as regards the plans for accommodating vessels in places of refuge (amendments 8, 41 and 42) and insurance (amendment 52);
- amendments relating to the establishment of the LRIT European Data Centre for the long-distance tracking of vessels (amendment 13), the SafeSeaNet maritime data exchange network (amendments 11 and 55), fair treatment of seafarers (amendments 6 and 24), navigation in ice conditions (amendment 37), and requirements concerning the shipment of dangerous goods (amendment 34);
- amendments relating to comitology, correlation tables and the entry into force of the Directive (amendments 16, 57 and 59);
- amendments 17, 19, 20, 22, 23, 25, 27, 44, 45, 46, 48, 49, 50 and 51 incorporating elements of the proposal for a directive on civil liability and insurance for shipowners, another part of the Third Package which on the date of the second reading by the European Parliament had not yet been approved by the Council. The Commission notes that political agreement for that proposal was given by the Council of 9 October 2008.

4.1.2. Amendments partially accepted

The amendments partially accepted by the Commission are as follows:

- Amendments 10 and 53 on the compensation for economic losses suffered by ports which accommodate vessels in distress. The Commission fully supports one of the objectives, which is to stress how important it is that the Member States ratify and/or implement international conventions on compensation for pollution damage. However, the obligation on Member States to reimburse all the costs and compensate for the damage resulting from a decision to accommodate a vessel is excessive and poses legal and practical problems. In the view of the Commission, it is desirable that Member States have a legal framework in place that allows for compensation for such damage whenever necessary.
- Amendment 38 is intended to oblige the Member States to comply with the IMO guidelines on fair treatment of seafarers. In the view of the Commission, Member States should take the guidelines into consideration, but it would be difficult to envisage making them compulsory in Community law, given that they relate essentially to questions of judicial and criminal procedure, and are not directly connected to the objectives of the Directive.
- The Commission has no objections to the objectives of amendment 15 on the scope of the comitology procedure. However, the amendment in question is largely redundant given the content of Articles 27 and 28 of Directive 2002/59/EC and should therefore be considered in the context of those articles.

4.1.3. Amendments accepted in principle and/or subject to rewording

- Amendment 2 on incorporating AIS systems for short-distance monitoring of vessels into VMS systems used for fisheries control.
- Amendments 5, 7, 9, 26, 39 and 43 concerning in particular the decision-making process for the accommodation of vessels in places of refuge and 'place of refuge' plans.
- Amendments 12, 28 and 30 on the establishment of the LRIT European Data Centre for the long-distance tracking of vessels flying the flag of an EU Member State and operating off the EU coast.
- Amendments 1, 3, 14, 35 and 56 on the confidentiality of information obtained under the Directive, whether relating to information sent by vessels using AIS or LRIT systems, or information circulated among Member States using the SafeSeaNet maritime data exchange network.
- Amendment 54 enabling development of the constituent parts of the SafeSeaNet maritime data exchange network within the content of Annex III to the Directive.
- Amendment 18 on the use of information obtained under the Directive for the purposes of maritime safety.
- Amendment 4 strengthening checks on compliance with building and maintenance requirements for navigation in ice filled waters.
- Amendment 21, intended to oblige vessels to inform the coastal authorities of the quantity of bunker fuel, irrespective of the volume on board.

- Amendments 31, 32 and 33 strengthening the provisions of the Directive relating to the information to be provided by the shipper when dangerous or polluting goods are offered for carriage.
- Amendment 29, intended to alleviate the burden on scheduled services using Community ports to provide notifications of entry into port.

4.2. Amendments not accepted by the Commission

No amendments were rejected.

5. CONCLUSION

Under Article 250(2) of the EC Treaty, the Commission is amending its proposal in accordance with the above.