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A new step forward for maritime safety in Europe



The 3rd set of measures in favour of maritime safety

Continued efforts to improve safety

Following the accidents involving the ERIKA on 12 December 1999 and the PRESTIGE on 13 November 2002, the European Union acted immediately to set up a defensive mechanism aimed at protecting Europe against the dangers of accidents and pollution. These initiatives led to a significant strengthening of the safety requirements throughout Europe, and, in certain cases, a drastic reduction of particular risks, such as those posed by the transportation of heavy fuel oil in single-hull oil tankers.

The determined reaction of the European Commission to the sinking of the PRESTIGE made it possible to introduce stricter rules in the European Union:

- ✚ On 21 October 2003, the Union forbade **single-hull oil tankers** transporting heavy fuel oil to enter or leave European ports and adopted a timetable for the withdrawal of single hull oil tankers by the year 2010. (Thanks to the decisive action of the Commission and the Member States, similar rules have also been adopted at international level.)
- ✚ Since 2003 the Union can call on the **European Maritime Safety Agency**, which is responsible for monitoring the effective implementation of European maritime safety legislation.
- ✚ The Union has strengthened the legislation relating to the **inspection of ships by the port State, classification societies and the traffic monitoring and information systems** aimed at improved traffic monitoring in European waters.

These efforts had to be continued in order to **address enduring weak points in the safety system** and to guarantee competitive, **high quality maritime transport**, more **appropriate to the human and natural environment** and without the problems posed by "dustbin ships".



In its Resolution on strengthening maritime safety, adopted on 27 April 2004 as a result of the work of the temporary committee on the strengthening of maritime safety (MARE), the European Parliament placed the emphasis on a number of concrete measures to encourage all actors in maritime transport and the public maritime safety authorities to be more responsible

The measures contained in the 3rd maritime safety package fill the gaps identified by the European Parliament and seek to restore the conditions of healthy competition for the operators with respect to international rules and with due consideration of sustainability. The efforts, authorised by the European Union, national public authorities and industry, must guarantee the competitiveness of the sector while benefiting only those operators who respect the safety standards. Stricter restrictions must be applied to flags of convenience and owners of substandard ships should no longer be able to slip through the net.

Addressing the weak points of the maritime safety system

The principal aim of this package is not to increase pressure on the whole sector but rather only on sub-standard ships. The most illuminating example is the need to address the lack of **regulation on the responsibilities of the flag State**, which represents a "missing link" in the European legislation to date. This involves ensuring that Member States effectively monitor the application of international rules on board vessels sailing under their flag.

Moreover, the proposed measures will make it possible to relax the pressure where ships are known to be of high quality and, from the opposing angle, increase the pressure of **visits and inspections carried out by the port State** on dubious vessels in order to make sure that they cannot avoid inspection in European Union territory.

The seven measures proposed in this new maritime safety package aim to supplement and strengthen the effectiveness of existing measures to prevent accidents and pollution on the one hand, and to deal with the consequences of accidents on the other.

Major hydrocarbon pollution incidents (Europe only)

Vessel name	Year	Location	Oil lost (tons)
Torrey Canyon	1967	Scilly Isles, UK	119 000
Jakob Maersk	1975	Porto, Portugal	88 000
Urquiola	1976	Galicia, Spain	100 000
Amoco Cadiz	1978	Brittany, Franc	223 000
Independenta	1979	Bosphore, Turkey	95 000
Irenes Serenade	1980	Navarino Bay, Greece	100 000
Haven	1991	Genoa, Italy	144 000
Aegean Sea	1992	Galicia, Spain	74 000
Braer	1993	Shetland Islands, UK	85 000
Sea Empress	1996	Milford Haven, UK	72 000
Erika	1999	Bretagne, France	20 000
Prestige	2002	Galicia, Spain	63 000

Source: International Tanker Owners Pollution Federation, Ltd

The "zero risk" concept unfortunately does not exist in reality, it is therefore essential that every possible measure is implemented in order to avoid and prevent disasters at sea.



Improvement of the quality of European flags

The aim of this measure is to ensure that all Member States verify the application of international rules on the ships sailing under their flag.

The enlargement of the Europe Union to include 25 Member States, and in particular the arrival of Malta and Cyprus, has made the Union a **major maritime power** accounting for 25% of the world fleet. In this context, Europe has to guarantee that all the Member States effectively verify that international standards are upheld by ships sailing under their flag and that all Member States have maritime administrations at their disposal to undertake monitoring according to uniform quality standards.

By incorporating the **rules of international maritime law** into European law, including the Code of the International Maritime Organisation on the responsibilities of flag States, the audit plan of the States and certification of the quality of national maritime administrations, the proposal will permit:

- ✚ Strengthening the application of international rules of maritime safety;
- ✚ Establishing powerful and high-quality maritime administrations and an effective audit system for flag States;
- ✚ Harmonisation of the application of international conventions between Member States;
- ✚ Increased cooperation with third countries and the possibility to offer third country flags the same advantages as European flags (relaxing controls for high-quality flags);
- ✚ Improving the image of the European fleet and to make it attractive to professionals.

Black List of Flags set up by the Paris Memorandum

As published in the Paris MOU annual report (2005). Effective from July 1st 2006:

VERY HIGH RISK	KOREA, DEMOCRATIC P. REP. ALBANIA TONGA HONDURAS COMOROS GEORGIA SLOVAKIA BOLIVIA
HIGH	SYRIAN ARAB REPUBLIC CAMBODIA ALGERIA LEBANON
MEDIUM TO HIGH	ST. VINCENT & GRENADINES TURKEY
MEDIUM	BRAZIL EGYPT UKRAINE TAIWAN



Review of the legislation on port State control

The aim of this measure is to simplify and improve the quality and effectiveness of visits and inspections carried out by the port State, while concentrating on the more dubious ships.

The proposal aims to undertake a thorough reform of the port State control system, by requiring an inspection of all ships making a stopover in European ports. These inspections would vary in frequency depending on the risk they pose: the most dangerous ships will thus be inspected every 6 months, while quality ships will be subject to less frequent inspections.

The Commission also proposes strengthening the banning arrangements, by extending them to all categories of ships, inserting a minimum time limit for a ban and introducing a permanent ban for those ships, which continue to flout the rules.

This proposition responds to the expectations expressed by the European Parliament and the Council as a result of the PRESTIGE accident for **strengthening of port State control**. The objective is to **render the Community system more discouraging**, particularly with respect to those ships posing the greatest risk, while relieving the owners of good quality ships of potentially excessive controls which could possibly damage their competitiveness.

Finally the adoption of a common text will make it possible to bring more clarity and consistency into the legislation which, since 1995, has undergone successive changes to strengthen controls and to extend the fields covered by the inspections.

Amendment of the Directive on 'Traffic Monitoring'

The aim of this measure is to define a clear and precise legal framework on refuge zones in order to guarantee the identification of the authority responsible for the designation of refuge zones and that the authorities possess the necessary elements for decision-making.

This proposal also aims to **continue the development of SafeSeaNet**, which is a data exchange platform between the maritime administrations of the Member States, and thus to obtain a complete overview of the movements of dangerous or polluting cargoes on ships sailing in European waters. To this end, the proposal aims to guarantee that all the Member States will be interconnected via SafeSeaNet.

This Commission proposal also responds to the requests of the European Parliament which, in its MARE resolution, stressed the importance of clarifying and reinforcing the provisions of the 2002 Directive on refuge zones and the development of the European data exchange platform SafeSeaNet.

Finally, to **improve the safety of fisherman at sea**, it is proposed that a system of automatic identification (AIS) be extended to fishing vessels over 15 metres, as is already the case for passenger vessels and merchant ships, in order to reduce the risk of collisions at sea. It is also proposed to examine the possible synergies with the monitoring systems of fishing fleets.



Improve the rules in force regarding classification societies

The aim of this measure is to bring about a radical improvement in the quality of the work undertaken by those bodies responsible for inspection, visiting and certification tasks onboard ships on behalf of the Member States, known as “classification societies”.

The proposal aims to introduce a new independent system of quality control for the certification tasks carried out by those classification societies recognised by the Commission. This is to be achieved by harmonising and strengthening the existing structure, put in place by the ten largest recognised organisations.

In addition, the proposal will reinforce the obligations for technical transparency and cooperation between the recognised organisations. Lastly, a reform of the current system of sanctions is envisaged which only allows for either suspension or withdrawal of approval: the evaluation of the organisations recognised by the Commission may now allow the imposition of financial sanctions.

Proposed Directive on enquiries following accidents

The aim of this measure is to set up a common European Union framework in order to guarantee the effectiveness, objectivity and transparency of enquiries following maritime accidents.

The proposal will make it possible to identify in good time the information to be included in recommendations in order to prevent similar disasters in the future and to reduce or eliminate maritime transport-related risks to persons, assets and the environment of the Member States.

This concerns the harmonisation of **technical enquiry** procedures which will be carried out according to a common methodology, in accordance with that envisaged by international conventions and which will be carried out **independently of the judicial enquiries** intended to establish the civil and penal liabilities. The support of the Maritime Safety Agency will allow for, amongst other things, the **adoption of an information and analysis system on accidents at sea.**

Regulation on responsibility and compensation to passengers in the event of an accident

The aim of this measure is to incorporate the international provisions of the Athens Convention of 2002 into a European regulation on the responsibility and compensation for damages suffered by passengers in the event of an accident.

This involves providing a guarantee to all passengers travelling on ships, whatever their journey, just as to the carriers, that in the event of accident they can take advantage of a harmonised legal framework determining their rights and obligations. The ambitious level at which this harmonisation is set, in terms of liability should be sufficiently high in order to ensure not only fairer compensation for damages but also to act as a better incentive towards accident prevention.



From this point of view, the arrangements established by the protocol of 2002 in the Athens Convention of 1974 concerning the transport by sea of passengers and of their luggage ("the Athens Convention of 2002") will serve as a reference. The Athens Convention of 2002 is a model text which clearly specifies the rights and obligations of both passengers and carriers. For certain types of loss it provides a liability arrangement without imputing professional misconduct of the carrier, fixes sufficiently high compensation ceilings, requires all the carriers to subscribe to an insurance policy and enables the complainant to contact the insurer directly to obtain compensation.

Directive on the civil liability of ship owners

The aim of this measure is to make ship owners more responsible in order to ensure improved prevention of accidents and pollution incidents.

The aim of this measure is to fix a minimum set of rules, which are common to all the Member States as regards civil liability and insurance of ship owners. This involves defining rules which make it possible to prevent the accidents and to compensate for losses.

The Commission intends to put an end to the current system which enables ship owners to limit their liability to a certain ceiling when they are guilty of serious professional misconduct resulting in major pollution. To achieve this result, the Commission proposes a two-phase strategy. As a first step, the 1996 Convention on the civil liability of ship owners should be implemented within the EU. Subsequently, the Commission will ask for a mandate to launch a revision of this Convention at the IMO, following consultations with the partners concerned and an economic analysis of the sector.

In order to better respond to the interests of the victims of accidents and to contribute to the fight against substandard shipping, the Commission also considers it necessary to supplement the mechanism as regards liability by creating an obligatory financial guarantee scheme for the ship owners.

State of progress of the discussions in the Council of Ministers and in the European Parliament on the 3rd package

Both institutions started to examine the 3rd package in 2006. Progress was made in 2006 at the level of the Council, under the Austrian and Finnish Presidencies, in particular on the proposal concerning traffic monitoring and on the proposal on port State control. Discussions continue today under the German Presidency, in particular on the proposals concerning passenger compensation in the event of an accident as well as the proposal covering inspections after accidents. The European Parliament also made good progress in examining the 7 proposals and generally supports the guidelines proposed by the Commission. It is due to have given its opinion on the 7 proposals by the end of April. The Commission hopes that the 3rd package will be adopted, at the latest under the French Presidency in the second half of 2008.

