



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 23.11.2005  
COM(2005) 585 final

**COMMUNICATION FROM THE COMMISSION**

**Third package of legislative measures on maritime safety in the European Union**

{SEC(2005) 1496}

## COMMUNICATION FROM THE COMMISSION

### Third package of legislative measures on maritime safety in the European Union

(Text with EEA relevance)

In the wake of the Prestige accident in November 2002 there was an emotional wave of solidarity throughout Europe, and the institutions and highest authorities of the European Union expressed their firm resolve that the policy of strengthening maritime safety pursued following the Erika accident in December 1999 should be continued and reinforced.

At its meeting in Copenhagen on 12 and 13 December 2002, shortly after the Prestige accident, the European Council acknowledged the determined efforts in the European Community and the International Maritime Organisation (IMO) since the Erika accident to enhance maritime safety and pollution prevention and stated that the Union was determined to take all necessary measures to avoid a repetition of similar disasters.

This determination is also shared by the European Parliament which, in its Resolution on safety at sea adopted on 27 April 2004 based on the work of the Temporary Committee on Improving Safety at Sea (MARE)<sup>1</sup>, confirmed the need to continue the efforts.

That Resolution stresses in particular a number of concrete measures called for by the European Parliament with a view to improving maritime safety at international and European level, in particular by:

- creating a “European maritime safety area”, including the banning of substandard vessels and the introduction of a system of liability covering the entire maritime transport chain and the public authorities responsible for safety at sea;
- establishing an operational framework making it possible to intervene more effectively in the event of accidents and limit their potential consequences, in particular in view of a better use of places of refuge;
- improving the cover for accidental damage, through strengthened requirements concerning compulsory insurance and compensation;
- stepping up cooperation and affirming the principle of independent maritime accident investigations;
- reinforcing ship inspections through rigorous application of port State control and greater monitoring of the activities of classification societies.

The Erika and Prestige accidents have resulted in a significant strengthening of safety rules at European level and, in some cases, a drastic reduction in specific risks, such as those arising from the transport of heavy fuel oil in single-hull tankers.

---

<sup>1</sup> [http://www.europarl.eu.int/comparl/tempcom/mare/default\\_en.htm](http://www.europarl.eu.int/comparl/tempcom/mare/default_en.htm).

These efforts need to be continued and intensified. The response to these requirements must take into account the importance of the shipping industry to Europe's competitiveness.

In this context, the Commission is proposing a third package of legislative measures designed to improve safety at sea, following on from the Erika-I and Erika-II packages<sup>2</sup>, while at the same time strengthening the competitiveness of our flag. This package is fully in line with the Commission's strategic objectives for the period 2005-2009<sup>3</sup>, since, in setting out its vision of "Europe 2010, a partnership for European renewal - Prosperity, solidarity and security", the Commission stressed that an essential aspect of quality of life is a policy which manages and reduces the risks with which people are confronted, such as the risks of accidents at sea. The measures that the Commission is proposing today are in line with this objective.

Lastly, more generally, the third package will help to strengthen the safety aspects of the integrated European maritime policy being developed, the prospects for which will be stressed in the announced "Green Paper on the future Maritime Policy of the Union: a vision for Oceans and Seas" due to be published in the first half of 2006. This integrated policy will strive to achieve a fair balance between the economic, social, environmental, security and safety aspects of shipping activities, ensuring both the conservation of resources and the improvement of competitiveness, long-term growth and employment in the maritime sector.

## **I. EUROPEAN UNION ACTION TO PROMOTE COMPETITIVE, SAFE AND HIGH-QUALITY MARITIME TRANSPORT**

By virtue of the European Union's geography, its history and the growing globalisation of trade, the economic development of the European Union is still very dependent on maritime transport. For example:

- almost 90% of its external trade in goods and more than 40% of its internal trade goes by sea;
- some 1 billion tonnes of oil enter European Union ports or cross the waters surrounding its territory each year;
- shipping companies owned by European Union nationals control nearly 40% of the world fleet, and the bulk of the external trade of the European Union, the world's leading commercial power, involves ships controlled by economic operators originating in the European Union;
- the maritime sector in the broadest sense, i.e. including shipbuilding, ports, fishing and related industries and services (insurance, banking, etc.), employs around 3 million people in the European Union.

It is therefore vital for the European Union to have a competitive fleet and maritime sector which can ensure its economic future and strengthen its capacity for action at international

---

<sup>2</sup> COM(2000) 142 and COM(2000) 802. The Erika-I and Erika-II packages are intended to strengthen the existing legislation, on port State control in particular, but also contain new measures concerning, for example, the accelerated phasing-out of single-hull vessels, traffic monitoring, pollution-damage compensation, and the setting-up of a European Maritime Safety Agency to assist the Commission and the Member States with the implementation of Community legislation.

<sup>3</sup> COM(2005) 12, 26.1.2005.

level. The European Union has, for many years, been pursuing an active policy in support of the competitiveness of its fleet, by means of:

- regulation, e.g. the framework for State aid for the maritime sector, with the Community guidelines revised in 2004 which are intended to promote, in particular, European re-flagging to guarantee greater quality and safety,
- agreements, such as bilateral and international maritime agreements to promote free and non-discriminatory access for European Union operators to the international maritime transport services market,
- aid, in particular in the context of the trans-European transport network, through the establishment of port infrastructure and port access, the promotion of innovative services through the Marco Polo programme, and the development of research in the shipping sector.

The quality of the maritime services offered by operators themselves is also one of the major aspects of competitiveness in the sector. The measures proposed by the Commission in the light of the tragic oil tanker accidents in recent years should therefore be seen as part of the process of strengthening a high-quality maritime sector and seized upon as an opportunity by the best operators to assert their competitiveness on the international market.

Through the third maritime safety package, the Commission contributes to the operation of a transparent shipping sector, leading at Community and international level to the gradual creation of a fair market (level playing field) for maritime transport for the benefit of European operators. It will monitor the strict implementation of existing rules and will continue to promote the cross-fertilisation process initiated between the international regulatory framework and the Community legislation which also contributes to the establishment of fair competition at world level, a fundamental pre-requisite for maintaining the current quality of European flags, through the following measures.

- Rigorous monitoring of the transposition and application of Community legislation on safety at sea. To get the Member States to comply with the obligations, the Commission uses the means available to it under the Treaty and has initiated infringement procedures against Member States which fail in their requirements. These procedures have already resulted in rulings being given against the Member States concerned by the Court of Justice.
- Reinforcing the presence and active participation of the Community in international forums.

The Commission intends to continue and step up the uniform and rigorous application of the international rules adopted under the auspices of the IMO. A similar approach will be pursued concerning the rules of the International Labour Organisation (ILO), in the context of the current recasting of the conventions adopted under the auspices of that organisation. In this process, excellent cooperation with the social partners has made it possible to achieve major progress on the new convention which the Commission intends to transpose into Community law.

In addition, in drawing up the third legislative package on maritime safety, the Commission wanted to contribute to the achievement of the objectives of the Lisbon Strategy through the improvement and simplification of the existing legislative texts, such as the Directive on port

State control and the Directive on classification societies, which have been amended several times. The objective is, in particular, to improve the legibility and effectiveness of the Community regulatory environment, primarily for the benefit of European citizens and maritime transport operators.

Implementation of the measures contained in this package will, where appropriate, involve the European Maritime Safety Agency set up by Regulation (EC) No 1406/2002 of the European Parliament and of the Council<sup>4</sup>. Some of the measures are already provided for in that Regulation. The others will be the subject of a proposal to amend the Regulation setting up the Agency which the Commission intends to submit in the coming months.

To conclude, consolidation of legislation, improvement of the efficiency of maritime administrations, targeting of inspections on ships with a high risk profile and reduction of controls for ships with a good risk profile will contribute significantly to improving the competitiveness of our industry. Safety cannot be dissociated from competitiveness.

## **II. EFFORTS ARE NEEDED TO ENFORCE EXISTING RULES**

The Member States are responsible for implementing Community Directives and Regulations.

In its Resolution of 27 April 2004, the European Parliament stressed that “in response to the Erika and Prestige disasters, important legislative measures have been taken to make shipping safer in European waters and that priority must therefore be given to the rapid and complete introduction and strict enforcement of the European rules by the Member States.”

The Commission is determined to assign priority to the proper implementation by the Member States of the Community legislation on maritime safety. With the assistance of the European Maritime Security Agency, it has launched a specific programme to monitor the conformity and application of the maritime security legislation (2005-2007). Implementation of this programme has already resulted in an increase in the number of infringement procedures brought against Member States. On 30 September 2005, 68 maritime safety procedures, including cases of non-communication and complaints were in progress.

The situation regarding the communication of national measures transposing the Directives adopted in the framework of the “Erika” packages has considerably improved (only three cases before the Court of Justice at present). On the other hand, the situation with the more recent texts is not yet satisfactory (31 procedures initiated). In addition, the Commission remains concerned about the quality of certain national texts, in particular those transposing the Directives on port State control and waste reception facilities for which 12 procedures are in progress. Where those Directives are concerned, 19 cases concerning poor application of the national texts in several Member States are at present at various stages.

## **III. NEED TO STRENGTHEN MARITIME SAFETY AND PREVENT POLLUTION BY SHIPS.**

Following the Erika and Prestige accidents, the European Union acted urgently in order to establish a defensive mechanism designed to protect Europe against the risk of accidents and pollution. The European Union has at times been reproached for having a calmer attitude than

---

<sup>4</sup> OJ L 208, 5.8.2002, p. 1.

the United States which, through OPA 90 (Oil Pollution Act), reacted unilaterally to the Exxon Valdez accident<sup>5</sup>. This disregards the fact that Europe is not in a comparable situation to that of the United States. Europe's basic problem is transit traffic, outside the jurisdiction of the Member States, involving high-risk vessels flying the flag of third countries: some 200 million tonnes of crude oil and petroleum products<sup>6</sup> are moved each year off our coasts without control being possible in a European Union port.

However, the lack of safety at sea is deep-rooted, and is bound up with the inherent features of maritime transport and how it operates. Only a more proactive policy will really make it possible to change the situation and restore, on a lasting basis, healthy competition for operators who comply with international rules.

Strengthening maritime safety rules at international and regional level remains of a fundamental importance for several reasons.

- All the existing data indicate that substandard ships and flags of convenience continue to prosper. According to recent OECD data, 10 to 15% of the world fleet, i.e. between 5 000 and 7 500 ships, fail to comply with international safety standards.
- In addition, Paris Memorandum statistics<sup>7</sup> indicate an increase in the number of shortcomings found during ship inspections<sup>8</sup> concerning, in particular, human aspects and ship management<sup>9</sup>. These figures underline the fact that the legitimate concerns about environmental risks should not allow us to forget the heavy price paid by seafarers for lack of safety at sea.
- Objective reasons to do with the significance and development of maritime traffic in European Union waters: extra-European Union trade in goods by sea has increased in the last five years both in terms of volume and in terms of the value of goods traded. Europe continues to have the biggest volume of maritime traffic, even if the proportion of transit vessels has fallen with enlargement. New traffic routes have been created: Russia, for example, has built large oil terminals which are resulting in a spectacular and rapid increase in maritime traffic in the Gulf of Finland. In 2000, some 40 million tonnes of crude oil and petroleum products were carried in the Gulf of Finland. According to estimates, this figure could reach 100 to 120 million tonnes by 2010.
- Similarly, the protection of the Mediterranean against the risks of pollution by ships from the Black Sea remains a source of concern. In 2002, 122 million tonnes of oil crossed the Bosphorus, on board 7 400 oil tankers. The risk of pollution is likely to increase with the growth in oil production in the Caspian Sea region: assuming that all the oil pipeline expansion or construction projects are completed, the average oil export capacity from the Caspian to the Black Sea terminals would be 2.4 million barrels/day in 2015. These trends, which concern the countries of northern Europe and the Mediterranean, demonstrate the

---

<sup>5</sup> The grounding of the American oil tanker Exxon Valdez on 24 March 1989 caused an oil spill of 40 000 tonnes of crude oil off Alaska.

<sup>6</sup> Or the equivalent of one-quarter of European imports by sea. The latter amount to 800 million tonnes and on their own represent 90% of imports.

<sup>7</sup> <http://www.parismou.org>.

<sup>8</sup> Nearly 72 000 in 2003 compared with less than 58 000 in 1998.

<sup>9</sup> Between 2001 and 2003 there was a 152% increase in the number of shortcomings concerning seafarer training and certification and 186% for security management systems (ISM).

need to develop and intensify the maritime safety component of the dialogue between the Community and its neighbours, particularly in the context of the establishment of the common economic area between the European Union and Russia and through the dialogue established by the European neighbourhood policy<sup>10</sup> which establishes a framework for relations between the enlarged Europe and its neighbours. Under this strategy, action plans have been concluded with the partner countries of the Black Sea and the Mediterranean and entail several measures intended to strengthen cooperation concerning maritime safety policies and improve the efficiency of the implementation of standards for port and flag States.

- Audits carried out by the Commission of the European Union recognised classification societies have shown that the approach must be strengthened to ensure that ship safety is at all times controlled to the highest standards.
- Lastly, international conventions provide to ships' operators the benefit of a limited liability. Such privilege, which is rare in other industrial sectors, may lead to an erosion of the sense of responsibility in the transport chain. Efforts made to raise the ceilings of compensation levels for victims are not sufficient even though the raising, on the initiative of the Commission, of the ceiling of the IOPC Fund<sup>11</sup> from approximately EUR 240 million to 900 million constitutes a significant improvement.

#### **IV. GOOD COOPERATION BETWEEN THE COMMUNITY AND THE INTERNATIONAL ORGANISATIONS**

The Commission fully recognises the added value of international action in respect of maritime safety, which is generally preferable to regional action when it makes it possible to achieve sufficiently high levels of protection. Unfortunately, despite enlargement, the European Union's influence at international level is not commensurate with the size of its fleet and its maritime interests. This situation is due to the fact that the European Union does not have legal status within the IMO. Consequently, the Commission fully agrees with the wish expressed by the European Parliament in its MARE Resolution that the Council should request the Community's accession to the IMO, as it already proposed in 2002.

#### Conclusions

The Third Maritime Safety Package rests on a coherent series of measures with many interdependent aspects. It puts into practice the requests made by the European Parliament, the European Council and the ministers meeting within the Transport Council and the Vancouver Interministerial Conference of November 2004 on port State control of ships.

These requests go beyond simply reacting to a particular accident. They seek to bring about a thorough reform of current maritime transport practices and, in the words of the European Parliament in its Resolution of 27 April 2004, they highlight the need for "a comprehensive and cohesive European maritime policy, which would have as its objective the creation of a European maritime safety area". In addition, this new legislative package, like the earlier

---

<sup>10</sup> COM(2004) 373, 12.5.2004.

<sup>11</sup> 1992 International Convention establishing an International Oil Pollution Compensation Fund (<http://en.iopcfund.org/>).

packages, will contribute towards achieving the objectives of the Thematic Strategy for the protection of the marine environment required by the Sixth Environment Action Programme.

The measures contained in the third package will contribute to this objective, as part of a comprehensive policy aimed at ensuring efficient, high-quality maritime transport which respects the environment and human beings. The efforts made by the European Union, the national public authorities and the industry to promote a sustainable and economically-viable maritime transport sector will benefit operators which comply with safety standards. The Third Maritime Safety Package sets the level playing field which will fully benefit our maritime industry which contributes to growth and prosperity in Europe.

At a time when the European Union is developing an ambitious policy for the development of motorways of the sea<sup>12</sup>, a clear and foreseeable legal framework is needed which enables the investments that are necessary to its development.

---

<sup>12</sup> The Commission White Paper “European transport policy to 2010: time to decide” - COM(2001) 370 - proposes to develop motorways of the sea linking European ports as a genuine competitive alternative to inland transport.