



21st October 2003

Safer seas: the fight goes on



Update on the *Prestige* accident

On Wednesday 13 November 2002, the *Prestige*, a Bahamas-registered, 26-year-old single-hull tanker owned by a Liberian company and carrying 77 000 tonnes of heavy fuel oil, sprang a leak off the coast of Galicia. It eventually broke apart on 19 November and sank 270 km off the Spanish coast.

Thousands of tonnes of heavy fuel oil spilled into the sea, polluting the Galician coastline. The pollution then spread to the shores of Asturias, Cantabria and the Spanish Basque Country. On 31 December 2002, it reached the French coast and the first lumps of oil were washed up on the beaches of the Landes and the Gironde. A week later, more than 200 km of Atlantic coastline from the Spanish border to L'Île d'Yeu were affected.

To combat the pollution, the Community Civil Protection Mechanism was activated. Resources and equipment from several Member States for mapping oil slicks, and for treating and recovering the oil were mobilised for the clean-up operation.

Apart from the damage to the environment, the *Prestige* oil spill has had a disastrous effect on fishing and shellfish farming. The Commission has expressed its full solidarity with people whose livelihoods have been devastated by the spill, and has adopted special emergency measures. Around €120 million have been made available to help Spanish fishermen cope with the situation, and €8.6 million have been released in the context of the European Solidarity Fund.

The measures already taken by the EU to avoid oil tanker accidents

After the *Erika* disaster on 12 December 1999, the EU considerably reinforced its legislative arsenal to combat flags of convenience and give Europe better protection against the risks of accidental oil spills.

Two sets of legislative proposals were tabled by the Commission, the **Erika I package (March 2000)** and **Erika II package (December 2000)**. Details are given below:

These packages have two objectives:

- firstly, to tighten existing legislation on port State control and the monitoring of classification societies;
- secondly, to propose new measures to speed up the phasing-out of single-hull oil tankers, improve controls on shipping in European waters, establish a European Maritime Safety Agency and create a supplementary fund for compensation for oil pollution damage (COPE Fund).

Except for the proposal on compensating victims of oil spills, where the Member States preferred to pass the dossier to the relevant international body (the IMO: International Maritime Organisation), all the other measures have been adopted by the European Parliament and the Council.

a. The Erika I package

The **Erika I** package addressed the most serious gaps in the EU maritime safety legislation revealed by the December 1999 oil spill:

- Firstly, it strengthened the existing Directive on port State control. Maritime safety is no different from road safety: "fear of the police" is the best means of dissuasion. It was thus imperative to increase the number and intensity of checks in European ports. Under the new measures, some 4 000 "hazardous" ships out of an average of 11 000 inspected every year will undergo rigorous inspection, compared with only 700 at present. In addition, ships which have been inspected and declared substandard on several occasions will be blacklisted and refused access to EU ports.
- Secondly, it strengthened the existing Directive on classification societies, which conduct structural safety checks of ships on behalf of flag States. The quality requirements for classification societies have been raised. Authorisation to operate within the EU will be conditional on meeting these requirements. The performance of classification societies will also be strictly monitored, and failure to meet the standards may result in penalties, i.e. temporary or permanent withdrawal of their Community authorisation.
- Thirdly, it set a timetable for phasing out single-hull oil tankers world-wide. Double-hull tankers offer better protection for the environment in the event of accidents. The IMO had accordingly decided that only double-hull oil tankers should be built as from 1996. However, the gradual replacement of single-hulls by double-hulls was spread over a very long period, ending in 2026. The EU pushed for a speedier phase-out and succeeded in winning international acceptance for its position: in keeping with the new international and Community standards, the last single-hull tankers will be banned from EU waters by 2015.

However, the Commission regrets that the timetable it originally proposed was not accepted, as it could have prevented the *Prestige* accident. Under the Regulation finally adopted by the European Parliament and the Council, the *Prestige* was to have ceased operating by 15 March 2005 at the latest. Had the timetable proposed by the Commission been upheld, the *Prestige* would have had to be taken out of service on 1 September 2002.

The Commission initially proposed that Category 1 single-hull tankers (see Annex) such as the *Erika* or the *Prestige* should be phased out at the age of 23. Had this provision been in force, the *Prestige* would have been prohibited from entering a European Union port after 1 September 2002 (application date of the Regulation as finally adopted), as it was over 23 years old on that date.

It should be stressed, however, that the Community Regulation bans such ships only from entering Member States' ports, but cannot prevent them from navigating off Europe's shores under current international law.

Timetable for implementation of the Erika I package

These three measures were adopted by the European Parliament and the Council in December 2001.

The Nice European Council of December 2000 urged the Member States to implement the Erika package sooner. The Commission therefore expects the Member States to complete the work of adopting legislative and administrative transposition measures without delay and to start recruiting the ship inspectors needed to apply the new provisions.

By 22 July 2003, the time limit for incorporating into national law the new measures concerning port state control and classification of societies, only a small number of Member States had informed the Commission of their national implementing measures. Consequently, on 23 July, the Commission decided to initiate procedures vis-à-vis the ten Member States concerned.

b. The Erika II package

The **Erika II** package comprises three additional measures designed to bring about a radical improvement in maritime safety in European Union waters:

- The creation of a **European Maritime Safety Agency** charged with improving the enforcement of EU maritime safety rules. Member States and candidate countries are under increasing pressure to apply a number of new safety requirements and to harmonise their inspection and control procedures. The new Agency will support their efforts by collecting information, maintaining a maritime safety database, auditing classification societies and organising port State control inspections in the Member States. It will also facilitate exchanges of good practice between Member States and provide technical assistance to the Commission in all fields relating to maritime safety and the prevention of marine pollution. Pending a decision by the European Council on the location of the Agency, the Commission will provisionally host it in its own premises in Brussels.
- The establishment of an information system to improve the **monitoring of traffic** in European waters. Member States will be given increased powers to intervene in the event of an accident or pollution risk. Ships sailing in EU waters will be required to fit identification systems that automatically communicate with the coastal authorities, as well as voyage data recorders (black boxes) to facilitate accident investigation. The Directive will improve procedures for the sharing of data on dangerous cargoes and allow the competent authorities to prevent the departure of ships in very bad weather. It will also require each maritime Member State to draw up emergency plans for hosting ships in distress in places of refuge.

- Thirdly, the Commission proposed a mechanism to improve **compensation for victims of oil spills (COPE Fund)**, and in particular the raising of the upper limits on the amounts payable in the event of major oil spills in European waters to EUR 1 billion from the current ceiling of EUR 200 million). The Council of Ministers preferred to refer the discussion to the IMO in order to obtain a similar agreement applicable world-wide. A protocol to the FIPOL Convention, modelled on the European COPE Fund, was established and adopted at the London Diplomatic Conference held from 12 to 16 May 2003. It should be ratified by the Member States as soon as possible with a view to entering into force before the end of 2003.

Timetable for implementation of the Erika II package

The first two measures were adopted by the Parliament and the Council in June 2002. The Regulation setting up the European Maritime Safety Agency entered into force in August 2002 and the Commission has already put in place the appropriate administrative mechanisms for the Agency to be operational in 2003. Pending a decision on its final location, the Agency will be provisionally located in Brussels. The Directive on the monitoring of maritime traffic has to be implemented by the Member States by February 2004. However, the Council has not adopted the proposal on compensation for victims of oil spills

The Commission's reaction to the sinking of the *Prestige*

- a. The Commission reacted speedily and with determination to the sinking of the *Prestige*.**

General measures taken on 3 December 2002

The Commission reacted speedily, adopting a Communication on improving safety at sea in response to the *Prestige* accident on 3 December 2002, the main points of which are as follows:

- it published an indicative "black list" of ships which would have been banned from European ports if the new Community maritime safety measures had been in force during the period in question. The publication of this list is intended as a warning to the parties concerned (shipowners and flag States) to remedy the identified shortcomings before the new provisions of the Port State Control Directive enter into force. This first list was followed on 25 July 2003 by a second list identifying the ships likely to be banned from European ports if they are immobilised.
- it started developing the Community telematics network for monitoring shipping, in application of the Erika II package, through the implementation of the SafeSeaNet project which will offer the Member States the possibility of exchanging from February 2003 information about movement of ships and their cargoes and ultimately facilitate the identification of ships "at risk" once they enter the waters of the EU.
- it brought together in January and then in May 2003 the Member States with a view to accelerating the preparation of the plans to accommodate ships in distress in places of refuge in accordance with the commitment given at the 6 December 2002 Transport Council to draw up plans for 1 July 2003 at the latest. Since then, the Commission has received information from most Member States, with the exception of Spain and Belgium. The information received is being analysed.
- it mobilised all its forces to enable the European Maritime Safety Agency to begin work 6 months earlier than planned (see Annex). In addition, the tasks of the Agency should be extended, on a Commission proposal, to include three new tasks.

More tasks for the Agency

- Action to combat ship-related pollution. The Agency will provide technical and scientific assistance to the Member States in the field of action to combat pollution. It may, for example, charter ships and specialised depollution equipment in addition to the means already committed by the Member States.
- Maritime security. In order to cope with the threats related to terrorism, the Agency should contribute to the application of the future regulation, which is at present being discussed in the Council and in Parliament on ship and port facility security. The Agency should in this way assist the Commission in the context of the arrangements for inspections proposed with a view to verifying the effectiveness of the procedures for monitoring the application of the different national regimes.
- Training of seafarers. A proposal for a Directive adopted in January 2003 by the Commission provides for the establishment of a procedure for the Community-wide recognition of third countries which comply with the requirements of the international STCW Convention. The Agency should assist the Commission with monitoring the application by those countries of the provisions of the STCW Convention

Measures concerning single-hull ships proposed on 20 December 2002. In addition, the Commission sent to the European Parliament and the Council on 20 December 2002 a proposal for a regulation with a view to speed up the timetable for the withdrawal of single-hull oil tankers adopted in the context of ERIKA-I and to ban the transport of heavy fuel oil in single-hull oil carriers to and from EU ports.

Timetable for the implementation of the regulation on single-hull oil tankers

At the Commission's request, the Council and the European Parliament examined this text as a matter of urgency. The Transport Council reached political agreement on 27 March 2003 and Parliament gave the go-ahead for the adoption of the regulation on first reading at its meeting on 4 June 2003.

The new regulation will enter into force on 21 October 2003, twenty days after its publication in the Official Journal.

Amendment of the International Convention for the prevention of marine pollution.

In parallel with the adoption of this Community regulation, the 15 EU Member States and the Commission submitted to the IMO's Marine Environment Protection Committee a proposal to amend the international convention for the prevention of marine pollution (MARPOL) to ensure that similar measures apply world-wide. The EU proposal was examined at the 49th session of the Marine Environment Protection Committee which met during the week of 14 to 18 July 2003. The majority of the delegation present accepted in principle the EU recommendations concerning the accelerated withdrawal of single-hull oil tankers, the reinforcement of the condition assessment scheme (CAS) and the banning of the carriage of heavy fuel oil in single-hull tankers. Nevertheless, no final decision has been taken and the negotiations on the final version of the amendments to the MARPOL Convention will continue in the margins of the IMO General Assembly during an extraordinary session of the Committee in December 2003.

Action to combat polluting discharges. In addition, on 5 March the Commission adopted a proposal for a European Parliament and Council Directive concerning two separate measures (see Annex):

- the first introduces into Community law international rules concerning polluting discharges from oil tankers and other vessels. It also regulates the application of these rules in detail, including illegal discharges on the high seas;
- the second lays down that infringements to the rules concerning discharges will be criminal infringements, and provides indications about the penalties to be imposed. These provisions apply to all persons, i.e. not just shipowners but also the owner of the cargo, the classification society and any other person concerned by reason of grave negligence.

Voluntary agreements with the oil industry. Lastly, the Commission has initiated discussions with the representatives of the oil industry with a view to concluding voluntary agreements aimed in particular at no longer carrying heavy fuel oil in single-hull oil tankers and no longer chartering single-hull oil tankers over 23 years old. However, the results of these first exchanges of views have not made it possible to indicate that the industry really wants to commit itself to such agreements.

b. The Commission also expects the Member States to show the same determination to improve maritime safety, in accordance with the conclusions of the Transport Council of 6 December 2002.

Member States must in particular devote sufficient resources to port State control of ships, in application of the measures decided in the Erika I package. The Commission urges Member States to ensure that sufficiently rigorous inspections are carried out in all their ports and anchorage areas to prevent them from becoming veritable "ports of convenience". It also calls on Member States to recruit a sufficient number of inspectors to check at least 25% of ships, as required under the current European rules (see Annex). The Commission will be extremely vigilant in this respect. Proceedings for repeated failure to comply with their obligations in this area have already been initiated in two cases, against France and Ireland. In addition, measures will be proposed to enhance the role of pilots in early detection of substandard ships entering ports or in transit off Member States' coastlines.

The Commission had, in fact, asked the Member States in its communication of 3 December 2002 to work with determination within the IMO with a view to the rapid implementation by the FIPOL of an additional compensation scheme for the victims of oil spills up to a ceiling of €1 billion instead of €200 million¹. This effort resulted, at the London Diplomatic Conference of 12 to 16 May 2003 in the establishment of a new protocol to the FIPOL Convention establishing a new fund with 750 million DTS/SDR (approximately **€920 million**). The Commission is satisfied about the creation of this new fund which will improve the capacity for compensating for pollution victims. In order to make it operational before the end of the year, the Member States will need to ratify this text as soon as possible, in accordance with the commitments entered into at the European Summits in December and March.

c. The European Union's vital interests need to be better defended and represented at international level.

Europe's coasts, in particular the Atlantic and Mediterranean seaboard, are extremely vulnerable to the risks of major pollution incidents. The principle of freedom of the seas and impunity of the flag State still hold sway in international maritime transport. The Commission considers that robust maritime safety measures should be adopted at the international level, in the form of stricter navigation rules for ships carrying pollutant goods and more stringent controls on flag States. At the same time, a thorough study should be made of the extent to which international law, and in particular the United Nations Convention on the Law of the Sea dating from 1982, is suited to deal with the growing risks inherent in the carriage of pollutant substances by ships that are occasionally substandard. Civil society quite rightly appears to be increasingly less willing to accept the enormous economic and environmental costs of pollution on the scale caused by the Erika and the Prestige in the name of freedom of the seas, and the principles in question should therefore be re-examined with a view to better protecting the legitimate interests of coastal States.

Several Member States have taken the initiative, within the IMO, with the support of the European Commission, to designate a vast **Particularly Vulnerable Maritime Area** corresponding to most of the EU's Atlantic area. A preliminary examination in the IMO in July 2003 made it possible to give support in principle to this proposal.

¹ In the context of the 1990 Oil Pollution Act (OPA 1990), the USA set up their own arrangement, comprising a compensation fund of \$1 billion, and decided not to get involved in the international arrangement. In the event of the failure of its proposals at international level, it is clear that, like the USA, the EU will have to address the question of whether or not it will stay within the FIPOL regime.

To defend the Union's interests at international level, the Community needs to **be able to make its voice properly heard in the relevant international bodies**, in particular the **International Maritime Organisation (IMO)**. The EU merely has **observer** status in this institution, which in no way reflects the extent of its powers in the field of maritime safety nor its role as a driving force within the IMO.

It is essential that this driving force be fully recognised in future and that the EU become a full member of the IMO. The enlarged Union, with 25 members, will thus bring its effective weight to bear on the organisation's decisions, avoiding dissipation of effort. The Commission recently asked the Council for a negotiating mandate to this end, and hopes that the Member States will understand how important this accession will be in enabling the EU to steer the IMO towards greater safety and better prevention of marine pollution.

ANNEXES

I. Early establishment of the European Maritime Safety Agency

Without waiting for the European Council to decide where to locate the European Maritime Safety Agency, the European Commission has taken every possible step to get the Agency up and running more quickly. The mission of the new Agency, set up in the wake of the Erika disaster, is to provide the Member States and the Commission with requisite technical and scientific assistance for raising the level of maritime safety standards, seeing that they are applied uniformly in Europe and promoting their spread around the world.

The new European Maritime Safety Agency should help improve the whole of the EU's maritime safety system and reduce the risk of maritime accidents, marine pollution and loss of human life at sea.

The Agency will provide support for action by the Commission and the Member States, as well as the candidate countries, and will assess the effectiveness of the maritime safety measures which are put in place.

Its tasks will include:

- collecting information and operating maritime safety databases
- assessing and auditing classification societies,
- coordination among Member States (maritime traffic management, ports of refuge, etc.).

It will also assist the exchange of good practice between Member States and provide technical assistance to the Commission in all areas relating to maritime safety and the prevention of marine pollution.

Operational establishment

The European Maritime Safety Agency was set up by Regulation (EC) No 1406/2002 of the European Parliament and of the Council of 27 June 2002.

Until such time as the European Council decides where to locate the Agency, the Commission will give it temporary accommodation in its own premises in Brussels.

The Agency's Administrative Board comprises one representative of each Member State, four representatives of the Commission and four representatives of the professional sectors concerned.

Mr de Ruiter was appointed Executive Director of the Agency at the beginning of 2003. He is responsible for setting and achieving the Agency's strategic objectives, setting up permanent cooperation with the competent Commission departments and the Member State bodies responsible for implementing EU maritime safety legislation, and administering the Agency's staff and budget.

II. Measures concerning single-hull tankers

If the Council and Parliament adopt the Commission's proposal of 20 December 2002, no single-hull tanker will be allowed to carry heavy fuel oil in EU waters. Moreover, single-hull tankers of the Erika and Prestige type aged over 23 years will be banned from the Union's ports. Lastly, during the phasing-out period, tankers aged 15 years or more will be subjected to more stringent safety checks.

1. *The situation prior to the ERIKA accident*

In tankers of "single-hull" design, the oil is separated from the sea only by a bottom and a side plate. In the event of collision or grounding, the content of the cargo tanks risks spilling into the sea and causing major pollution. An effective way of avoiding this risk is to surround the cargo tanks with a second internal plate at a sufficient distance from the external plate. This design, known as a "double hull", protects cargo tanks from damage and thus reduces the risk of pollution, especially in the event of minor collision or grounding.

Following the Exxon Valdez accident in 1989, the United States, dissatisfied with the weakness of international standards on the prevention of pollution from ships, adopted the 1990 Oil Pollution Act (OPA 90), unilaterally imposing double hull requirements both for new tankers and for existing tankers, in the form of age limits (as of 2005, between 23 and 30 years) and cut-off dates (2010 and 2015) for abandoning single hull tankers.

In the face of the unilateral American measure, the IMO had to follow suit and in 1992 it introduced double hull rules into the international Convention for the Prevention of Pollution from Ships (Marpol). The Convention requires all tankers delivered as of July 1996 to be built with a double hull. Accordingly, no single hull tankers have been built since that date. The Convention also introduced a timetable for phasing out single hull tankers by 2026.

Three categories of single-hull tanker can therefore be identified:

- **Category 1:** (or pre-Marpol): single hull tankers with a deadweight tonnage of 20 000 tonnes or more (crude carriers) or 30 000 tonnes or more (refined oil products), **without protective ballast tanks** around the cargo tanks. These tankers were generally built before 1982.
- **Category 2:** single hull tankers with the same deadweight tonnage as Category 1 tankers but whose **cargo tank area is partially protected by segregated ballast tanks**. These tankers were generally built between 1982 and 1996.
- **Category 3:** single hull tankers **below the "Marpol" size limit**. These smaller tankers are often used in regional traffic

2. *Measures adopted following the ERIKA accident (March 2000 and February 2002).*

Given the differences between the American arrangements and the Marpol Convention, there was a major risk that, as of 2005, single hull tankers banned from American waters on account of their age would operate in EU waters, bringing an increased risk of pollution..

- The Commission therefore **proposed** to speed up, in the Community, the replacement of single-hull tankers by double-hull tankers. This measure would also serve to reverse the tendency towards the ageing of the tanker fleet, with new double-hull tonnage replacing old single-hull tonnage

For Category 1, the proposal was for a single age limit of 23 years and a cut-off date of 2005. For Category 2, the age limit was 28 years and the cut-off date 1 January 2010. Lastly, for Category 3, the age limit was 30 years and the cut-off date 1 January 2015.

- Following the Council's decision to negotiate the Commission's proposal within the IMO with a view to amending the Marpol Convention, **Regulation (EC) No 417/2002** finally adopted by the European Parliament and the Council on 18 February 2002 contained a **timetable different** from the Commission's original proposal.

The single-hull tanker phase-out programme introduced under the Regulation involved the following cut-off dates for the operation of tankers entering ports or sea terminals coming under the jurisdiction of a Member State and tankers flying the flag of a Member State: **2007** for **Category 1** tankers and **2015** for **Category 2** and **Category 3** tankers. In addition, the Regulation imposed age limits for the various categories of single-hull tankers according to their category and year of construction. These **age limits** are generally **between 26 and 30 years**.

3. *Measures adopted following the Prestige accident (December 2002)*

The loss of the *Prestige* has highlighted the urgent need to phase-out single hull tankers, as well as the specific problem posed by heavy fuel oil, which is generally carried on board old tankers of "single hull" design, more vulnerable to the risk of an accident. Accordingly, on 20 December 2002 the Commission decided to propose **three amendments** to the existing Regulation. In June 2003 the Commission proposal was basically approved by the European Parliament and the Council. It will enter into force on 21st October 2003. The amendments concern three aspects:

1. **Carriage of heavy fuel oil in single-hull oil tankers is now banned**

Heavy fuel oil is among the most polluting types of oil. In view of its relatively low commercial value and comparatively small risk of fire or explosion, it is regularly carried in older tankers nearing the end of their economic lives, i.e. ships posing the greatest safety risks. The Commission **has therefore proposed banning the transport of heavy oils in single hull tankers bound for or leaving the ports of EU Member States.**

The categories of heavy oil concerned are heavy fuel oil, heavy crude oil, waste oils, bitumen and tar.

2. **The programme for the gradual withdrawal of single-hull tankers is to be speeded up**

Category 1 tankers are the oldest and most vulnerable, and should be withdrawn as soon as possible. The cut-off date for operating these tankers would thus move from 2007 to **2005** with an age limit of **23 years**.

Category 2 tankers – "Marpol" tankers – provide better protection against the risks of grounding and collision. In line with the American 1990 Oil Pollution Act, the Commission had proposed a cut-off date of **2010** and an **age limit of 28 years**. It is thus returning to its original proposal, while retaining those provisions of Regulation (EC) No 417/2002 which are more stringent.

For the smaller **Category 3** tankers (below 20 000/30 000 tonnes deadweight), the rules laid down by Regulation No 417/2002 differ only slightly from those of the initial Erika-I proposal. It is nonetheless proposed that for these ships the age limit should in no case exceed **28 years**, i.e. the same as for Category 2.

3. The special inspection regime for oil tankers to assess the structural condition of single-hull oil tankers over fifteen years of age is to be implemented early. All the single-hull oil tankers, including the smaller ones which initially were put out of the equation, will now be subject to the Condition Assessment Scheme (CAS) from the age of fifteen. The CAS is an additional reinforced inspection regime specially drawn up to detect the structural weaknesses of single-hull oil tankers. The tankers themselves, even if they are relatively recent, which do not satisfy the tests of the evaluation system may not be allowed to enter the ports of the EU and fly the flag of an EU country.

On the basis of this agreement, the EU has submitted a formal proposal to the International Maritime Organisation to ensure that stricter safety standards are applied to the entire world fleet. The IMO's preliminary examination took place in the week from 14 to 18 July 2003. The final decision, i.e. an amendment to Annex I to the MARPOL Convention 73/78, should be taken at the extraordinary session of the Marine Environment Protection Committee in December 2003 in London.

III. Criminal sanctions in the event of pollution violations

In addition, the measures adopted in December were supplemented in March 2003 by a proposal for a Directive concerning pollution caused by vessels and the introduction of penalties, and in particular criminal penalties, in the event of pollution violations.

The provisions of this proposal fill a major legal vacuum since at present, where discharges from ships are concerned, maritime law is not now dissuasive enough to avoid dangerous or illegal practices concerning the transport of polluting substances, including chemicals.

1. Field of application

1. The first innovative element of this proposal is its scope of application, and in particular the vessel typology, the violation typology, the subject of the sanction and the geographical zone.

- The definition of the ship is broad, incorporating all types of sea-going vessels. Thanks to the establishment of the cooperation and information exchange mechanisms, vessels in transit in coastal zones alongside Community waters will also be covered by the proposed measures.
- Those who may be subject to sanctions constitute a very broad spectrum and include in particular natural and legal persons: the shipowner the owner of the cargo, the classification society, etc.
- Discharges will be considered illegal once they exceed the standards fixed by the MARPOL Convention 73/78 which, in practice, is generally equivalent to any discharge of oil effectively visible in the water.
- The proposal covers illegal discharges carried out in Community coastal waters, but will also go beyond this by including the high seas.

2. The sanctions

The second innovative element concerns the sanctions. These will be imposed if one of the persons concerned is recognised as being guilty of having caused an illegal act covered by the provisions of the proposal, as having contributed thereto or as having intentionally or by gross negligence given rise to it. The illegal acts concerned are not only intentional discharges in violation of the Marpol Convention, but also pollution resulting from damage to the vessel. The sanctions will probably often take the form of financial penalties, but where individuals are concerned they may include, in the most serious cases, imprisonment.

At all events, they should be appropriate as regards their dissuasive nature and be applied throughout the Community. They must also be justified. Lastly, they must not be insurable, which is far from being the case at present because in the practices of the P&Is (Protection and Indemnity Clubs) financial penalties linked to pollution violations are often covered.

3. Accompanying measures

Practical application measures will need to be adopted in order to guarantee the effectiveness of the scheme. These should include the sharing of information between Member States, common procedures for the monitoring and rapid identification of vessels discharging polluting substances, technological instruments for recording discharges and a warning system for on-board and on-shore staff. The Commission should be periodically informed.

IV. Inspections by EU/EEA Member States in the context of port state control

| Year 2001 | | | |
|--------------|-------------------------|-----------------------|--------------|
| Member State | Ships calling into port | Number of inspections | Inspection % |
| Belgium | 5551 | 1444 | 26.01% |
| Denmark | 2400 | 602 | 25.08% |
| Finland | 1311 | 516 | 39.36% |
| France | 5792 | 963 | 16.63% |
| Germany | 6745 | 1761 | 26.11% |
| Greece | 2670 | 894 | 33.48% |
| Iceland | 323 | 85 | 26.32% |
| Ireland | 1330 | 280 | 21.05% |
| Italy | 5850 | 2442 | 41.74% |
| Netherlands | 5645 | 1394 | 24.69% |
| Norway | 1800 | 459 | 25.50% |
| Portugal | 2830 | 813 | 28.73% |
| Spain | 5594 | 1795 | 32.09% |
| Sweden | 2850 | 769 | 26.98% |
| UK | 6457 | 1760 | 27.26% |