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REPORT

drawn up on behalf of the Committee on Transport

on the proposal from the Commission of the
European Communities to the Council

(Doc. 1-332/80)

for a/directive concerning the enforcement,
in respect of shipping using Community ports,
of international standards for shipping safety
and pollution prevention

Rapporteur: Mr A. CAROSSINO

By letter of 14 July 1980 the President of the Council of the European Communities requested the European Parliament, pursuant to Article 84(2) of the EEC Treaty, to deliver an opinion on the proposal from the Commission of the European Communities to the Council for a directive concerning the enforcement, in respect of shipping using Community ports, of international standards for shipping safety and pollution prevention.

The President of the European Parliament referred this proposal to the Committee on Transport as the committee responsible and to the Committee on Economic and Monetary Affairs and the Committee on the Environment, Public Health and Consumer Protection for their opinions.

On 26 September 1980 the Committee on Transport appointed Mr Carossino rapporteur.

It considered the proposal at its meeting of 4 and 5 December 1980 and unanimously adopted the motion for a resolution and explanatory statement on 5 December 1980.

Present: Mr Seefeld, chairman; Mr Roberts, vice-chairman; Mr De Keersmaeker, vice-chairman; Mr Carossino, vice-chairman and rapporteur; Mr Albers, Mr Baudis, Mr Buttafuoco, Mr Cardia, Mr Cottrell, Lord Harmar-Nicholls, Mr Hoffmann, Mr Janssen van Raay, Mr Klinkenberg, Mr Loo, Mr Moorhouse, Mr Moreland, Mr Nyborg (deputizing for Mr Doublet), Mr Ripa di Meana, Mr Schieler (deputizing for Mr Gabert) and Mr Veronesi (deputizing for Mr Martin).

The opinions of the Committee on Economic and Monetary Affairs and the Committee on the Environment, Public Health and Consumer Protection are attached.

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The Committee on Transport hereby submits to the European Parliament the following motion for a resolution, together with explanatory statement:

MOTION FOR A RESOLUTION

on the proposal from the Commission of the European Communities to the Council for a directive concerning the enforcement, in respect of shipping using Community ports, of international standards for shipping safety and pollution prevention

The European Parliament,

- having regard to the proposal from the Commission of the European Communities to the Council¹,
 - having been consulted by the Council pursuant to Article 84(2) of the EEC Treaty (Doc. 1-332/80),
 - having regard to the report of the Committee on Transport and the opinions of the Committee on Economic and Monetary Affairs and the Committee on the Environment, Public Health and Consumer Protection (Doc. 1-708/80),
 - having regard to its report on the best means of preventing accidents to shipping and consequential marine and coastal pollution and on shipping regulations (Doc. 555/78)²,
1. Regrets that the Community has so far failed to take an initiative commensurate with its role and responsibilities on any of the problems of safety at sea and marine pollution by hydrocarbons;
 2. Points out that the complex nature of the problems and the vast issues involved require international cooperation, with a progressive approach to the necessary measures and solutions; it must also be stressed that the situation with regard to safety at sea and marine pollution is too serious to admit of any further delay;
 3. Observes that these delays are already causing serious damage, since the Community, as the world's principal trading power, possesses a very extensive fleet which, with the accession of Greece, will expand still further, as well as a very long coastline and numerous ports and landing places;

¹ OJ No. C 192, 30.7.1980, p.8

² OJ No. C 67, 12.3.1979, p.22

4. Notes with regret that, notwithstanding the recent signing and implementation of an increasing number of international conventions to ensure safe and environmentally acceptable navigation, the number of accidents at sea with resultant loss of life and marine and coastal pollution has increased over the last two years,
5. Expresses its great displeasure that, as a result of the unjustifiable delay in ratification of international conventions by a large number of governments, the conventions they have signed cannot enter into force,
6. Urges the governments of the Member States concerned to ratify forthwith the international conventions to increase shipping safety and preserve the marine and coastal environment concluded within the framework of the Intergovernmental Maritime Consultative Organization (IMCO) and the International Labour Organization (ILO);
7. At the same time urges the authorities of the Member States concerned to apply the international conventions they have signed immediately, pending completion of the often cumbersome and time-consuming ratification procedures;
8. Lays stress once again on the fact that an effective preventive policy in the sphere of shipping safety and marine pollution can produce favourable results only if strict enforcement and scrupulous application of existing international conventions are guaranteed;
9. In the light of this fact, expresses its satisfaction with this Commission proposal and notes that it satisfies a demand it has repeatedly expressed;
10. Notes that the main feature of this proposal is its conversion into an obligation of the port states' right to identify, inspect and temporarily immobilize substandard vessels;
11. Believes that the Community is thus afforded the opportunity to take effective action against all vessels which do not comply with current international minimum standards in the field of safety and social welfare;
12. Considers it of the utmost importance that the procedure proposed in the draft directive be strictly implemented in all Community ports, to prevent the creation of 'cheap' ports, the diversion of traffic flows and distortions of competition;

13. Stresses the importance of opening negotiations with third countries to extend the geographical area of application of the Community procedure and is convinced that the pressure of external competition can be allayed;
14. Subscribes to the Commission's view that implementation of its proposal will lead indirectly to an improvement in the shipbuilding and ship-repairing sectors which are currently in difficulty;
15. Does not share the Commission's view that no supplementary Community measures are needed and indeed believes that the specific situation in the Member States of the Community calls for more stringent measures;
16. Stresses in particular the opinion of the European Parliament twice given in 1980 that there should be a requirement for pilots on oil tankers in congested EEC waters;
17. Therefore requests the Commission to submit the measures contained in this report to a thorough examination;

EXPLANATORY STATEMENTI. INTRODUCTION

1. At its meeting on 28 March 1980 the Committee on Transport decided to request the Bureau for authorization to produce an own-initiative report on shipping safety and the control of marine pollution. On 30 October 1979 the members of the committee had assessed this as a very important issue in the transport sphere and had consequently included it in a list of the committee's priority tasks (PE 59.680).

2. This own-initiative report was to be based on an earlier own-initiative report dating from January 1979, up-dated to take account of recent developments. Following the Amoco Cadiz disaster on 16 March 1978, the then Committee on Regional Policy, Regional Planning and Transport organized a public hearing on 20, 21 and 22 June 1978 in Paris on the best means of preventing accidents in Community waters and consequential marine and coastal pollution. The findings of the hearing appeared in the basic report by Lord Bruce of Donington (Doc. 555/78) on this subject, to which there will be repeated references in this report.

3. In the meantime, in June 1980, the Commission submitted two concrete proposals on this subject to the Council, namely the present proposal and a 'proposal for a Council Decision establishing a Community Information System for the prevention and combating of oil pollution of the sea' (Doc. 1-333/80).

As the Committee on Transport is delivering an opinion on the second proposal to the Committee on the Environment, Public Health and Consumer Protection and the reports on both proposals are to be considered together in plenary sitting, your committee deemed it unnecessary to produce a new own-initiative report on the subject.

4. Within the context of this report your rapporteur will not, however, restrict his remarks to the draft directive as such, but will consider shipping safety in broader terms, linking up with the results of the hearing referred to above and the conclusions and recommendations contained in the report by Lord Bruce of Donington.

II. REQUIREMENTS FOR A COMMUNITY SEA TRANSPORT POLICY - BACKGROUND

5. The Community has so far failed to come to grips either with the manifold problems of safety at sea or with the problems of marine pollution primarily because it lacks a common shipping policy. The formulation of such a policy is, however, no easy task because of the vagueness, the complexity and the shortcomings of the standards laid down by international maritime law.

6. The Commission nevertheless deserves credit for having made some progress in this field before the appalling maritime disasters that attracted worldwide public attention had occurred. In 1977 the Commission submitted two communications, one on measures to control and reduce marine pollution, the other on the rationalization of the shipbuilding industry.

7. However, the Council of Ministers declined to adopt firm decisions on the Commission proposals submitted to it at the Copenhagen Summit, preferring merely to approve two recommendations stipulating that the prevention of and the campaign against marine pollution, especially pollution caused by hydrocarbons, were important objectives of Council policy.

Without going beyond this limited commitment, the Copenhagen Summit nonetheless marked a positive shift in Council policy, insofar as it recognized the need for stricter controls on vessels that fail to conform to international standards.

8. Parliament has frequently debated the problems at issue and has done much in the way of recommending solutions and stimulating action, particularly via the reports presented by Lord Bruce of Donington, with the aim of inducing the Community to assume an active role in the shipping sector and to pay particular attention to matters of safety.

9. It has to be pointed out, however, that, despite the various measures taken, the Community has not yet managed to formulate policies commensurate with its role and responsibilities, even though the Treaty of Rome lists among the Community's aims the implementation of a common transport policy - a policy which, by placing a restrictive interpretation on Article 84 of the Treaty, the Council has signally failed to elaborate.

10. A constructive approach based on a thorough revision of existing guidelines is essential since, without a positive political commitment to the development of the transport sector, the already laborious progress towards European integration will be further hindered by new and ever more complicated difficulties.

11. The dilatoriness on the part of the Community is already creating serious difficulties since, even though it is the world's leading trading power, possesses a large fleet that will be greatly expanded with the accession of Greece, has a very extensive coastline and possesses many ports and landing facilities, it still lacks a shipping policy.

12. Shipping must be counted among those sectors in which international cooperation is not merely important, but crucial and imperative. The problems of the campaign against pollution and of the safety of shipping have for some time been the subject of international agreements. This is why the Commission addresses itself to these particular problems in its proposal for a directive

laying down the procedures on the basis of which proposed Member States will be required to identify sub-standard vessels calling at their ports, inspect them and detain them until the deficiencies are rectified.

III GENERAL OBSERVATIONS ON SHIPPING SAFETY

13. When considering shipping safety one has to make two disturbing observations:

- (i) serious accidents have to take place with far-reaching environmental consequences, before any effective national, international and Community measures are taken;
- (ii) notwithstanding the growing number of national, international and Community provisions, the number of accidents in recent years has increased.

14. To illustrate the first point, it should be recalled that the 'Torrey Canyon' had to break up on the Cornish cliffs in 1967 before international action in this field got under way.

However, many of the measures agreed on after this disaster were not in fact implemented until there was a much more serious shipping disaster eleven years later. The destruction of the 'Amoco Cadiz' and the resulting devastation of the coast of Brittany gave new impetus to the fight against shipping accidents and marine and coastal pollution.

This new impetus found expression in the final ratification of international agreements which had been signed several years before, the conclusion of additional and more stringent conventions, the enactment of national protective measures in some countries, in particular France, and the adoption of Community measures.

15. Whilst there are insufficient statistics on shipping accidents which have occurred since the 'Amoco Cadiz' (March 1978) and the approval of the own-initiative report by Lord Bruce of Donington (January 1979), the accuracy of the second observation made in paragraph 13 cannot be denied.¹

However, it will be sufficient to recall the most dramatic or striking accidents from this long series of shipping disasters, such as for example:

- the 'Christos Bitas' off the Pembrokeshire coast (Irish Sea) in October 1978;
- the fire, explosion and sinking of the oil tanker 'Betelguese' in Bantry Bay in January 1979, when 51 people lost their lives²;

¹ 1979 was considered a record year for shipping accidents: there were 279 accidents, with a loss of 177 lives and approximately 2.25 million gross registered tonnes

² See also the Oral Question by Mr Brosnan and others (Doc. 568/68) and the debate on this subject held on 16 January 1979

- the loss of the tanker 'Tanio', again off the coast of Brittany, in March 1980¹;
- the breaking in two of the Liberian supertanker 'Energy Concentration' in Rotterdam harbour in July 1980, when fortunately it was just possible to prevent serious damage.

16. This deplorable state of affairs can be attributed to the two following main factors:

- (i) the large number of dangerous sub-standard ships;
- (ii) inadequate observance of international regulations.

These two aspects of the problem of marine safety will be dealt with briefly below.

(i) The large number of dangerous, sub-standard ships

17. The term 'sub-standard ships' is understood to mean: vessels which do not meet the minimum standards required by safety and social welfare provisions and can therefore be characterized as unsound ships from the point of view of safety and welfare.

18. This should not be confused with the concept of ships sailing under 'flags of convenience', i.e. vessels flying the flags of countries with open shipping registers. This is the case in particular of ships registered in countries such as Liberia, Panama, Singapore and Cyprus, so that the owners may enjoy a number of advantages, including fiscal and financial facilities, less stringent welfare provisions or regulations on insurance, registration etc.

19. So, although these concepts are not synonymous, it is hard to deny that, in addition to modern vessels, their fleets also have a number of 'floating coffins', on which - as the chairman of the Committee on Transport said in his report on sea transport problems - 'the owners can only make a profit by collecting the insurance money after an accident! It is indeed an established fact that tankers sailing under flags of convenience are, for example, involved in four times more accidents than other tankers.'²

20. Thus, while countries operating flags of convenience do present a real problem for shipping safety, it would be wrong to stop at protective or even retaliatory measures against these countries. For it must not be forgotten that many owners of dangerous ships sailing under flags of convenience

¹ The 'Tanio' disaster prompted an Oral Question by Mrs Ewing (Doc. 1-59/80) and an extensive debate on 17 April 1980.

² Report by Mr Seefeld on sea transport problems in the Community Doc. 5/77, paragraph 53 of the explanatory statement

are based in the Community and that there are also numerous merchant vessels registered in a Community Member State which do not meet minimum welfare and safety regulations or are hopelessly antiquated and therefore a constant threat to safety at sea.

21. Nevertheless, your rapporteur considers that the problems of flags of convenience, flag discrimination and flag changing deserve the greatest attention and should be made the subject of a separate and thorough study.

(ii) Inadequate observance of international regulations

22. It is clear that the utility of international regulations and thus international agreements is directly dependent on:

- their ratification;
- effective implementation;
- surveillance of implementation; and
- punishment of any infringement.

With this as our basic premise, it must unfortunately be concluded that all too often these conditions are not satisfied.

23. As already stated, the entry into force of numerous international conventions or protocols is postponed indefinitely because the requisite number of ratifications are lacking. Annex II shows that the interval between signature of an international treaty and entry into force is generally four to five years, which is obviously far too long. Moreover, all too often only a limited number of countries ratify a treaty they have signed, which obviously limits its geographical area of application.

24. It is therefore not surprising that in four recommendations the Council has urged Member States to ratify a number of particularly important conventions as quickly as possible.

25. However, your rapporteur regrets that the Council has seen fit to restrict itself to recommendations instead of using a more binding legal formula, as advocated by the Commission and the European Parliament. This legal option is even more regrettable when one considers that international conventions without the requisite number of ratifications to enter into force are 'worth little more than the paper on which they are written' as Lord Bruce of Donington said in his report.

¹ Recommendations of, respectively, 26 June 1978 (OJ No. L 194, 19.9.1978, p. 17), 21 December 1978 (OJ No. L 33, 8.2.1979, p. 31), 15 May 1979 (OJ No. L 125, 22.5.1979, p. 18) and 23 September 1980 (OJ No. L 259, 2.10.1980, p. 29). For a complete list of Community provisions since the Amoco Cadiz disaster, see Annex I.

² Doc. 555/78, paragraph 14 of the explanatory statement

26. It is reasonable to ask why, despite the existence of so many international regulations, so little has been done actually to apply them. This is doubtless in part attributable to the ineffectiveness of some of the rules and to the slowness of the ratification procedure¹, but the main reason must be the lack of international cooperation in detecting cases of infringement of the standards laid down by the conventions.

27. There is, however, encouraging evidence of cooperation at regional level under the Bonn North Sea Agreement and the 1976 Barcelona Agreement on Cooperation in the Mediterranean, the practical benefits of which are rightly acknowledged in the Commission's proposal for a directive.

28. There continue, however, to be serious obstacles to the achievement of greater international cooperation of the kind anticipated in these two Agreements and in the proposal for a directive itself. These obstacles, which need to be carefully examined, are as follows:

- (a) the practice of making the flag state responsible for establishing whether the rules have been violated;
- (b) the fear of individual States that the imposition of controls and penalties may provoke distortions of trade (use of ports of convenience) or retaliatory measures by the countries to which the offending vessels belong;
- (c) concern that the exercise of too extensive powers by third countries may create difficulties for the free movement of shipping;
- (d) the increase in chartering costs and in the price of oil.

29. These are some of the reasons why various States that have ratified the above mentioned conventions do not in fact apply them, thus creating serious distortions in the shipping sector. Other States impose fines that are so small that offenders prefer simply to pay them without taking the necessary remedial action.

30. The complexity of the problem and the vast interests involved call for effective cooperation at international level, as well as the gradual adoption of measures and solutions at that level. It should also be stressed, however, that the situation as regards safety at sea and marine pollution has become so serious that further delays cannot be permitted.

31. This applies particularly to the Community which has quite special responsibilities in view of the fact that the Community area covers extremely hazardous shipping zones such as the English Channel and seas such as the Mediterranean and the North Sea that are especially vulnerable to pollution from hydrocarbons.

32. The slowness of the Community to adopt suitable measures becomes all the more surprising when it is realized that supervisory measures similar to those recommended in the Commission's proposal for a directive have already been implemented, apparently with satisfactory results, by the United States.

¹ For the up-to-date situation with regard to ratification (October 1980) see Annex II

33. Consequently, in paragraph 6 of the motion for a resolution the Committee on Transport urges the governments of the Member States to ratify forthwith all international conventions that could play a useful part in increasing the safety of sea transport and preventing marine and coastal pollution.

34. It must again be emphasized that ratification of agreements constitutes the basis of any attempt to tackle this increasingly disturbing problem and is, as it were, a sine qua non if international provisions are to be complied with.

At the plenary sitting of 17 April 1980, Commissioner Davignon too pointed out on behalf of the Commission that ratification of conventions was the essential problem and that, without a legal basis, it was impossible to take action.

35. The Committee on Transport reiterates the recommendation to Member States made in Lord Bruce of Donington's report, where they are urged to implement the international agreements they have signed and not to wait until the occasionally time-consuming and cumbersome ratification procedures have been completed.

36. It is not, of course, sufficient to formally sign an international agreement and ratify it; all care must be taken to have it scrupulously and strictly implemented.

Here, too, actual practice leaves a lot to be desired: all too often international conventions are only partially or sporadically implemented or even not implemented at all.

There is no disputing the fact that if more countries had ratified more international conventions and implemented them effectively, a great number of the shipping disasters in past years could have been avoided.

37. It follows that regular and effective surveillance of the observance of international obligations and the application of current international regulations are of the utmost importance.

38. Furthermore, your rapporteur considers it equally important that any infringements or contraventions should be strictly and systematically punished. Unrelenting imposition of sanctions would undoubtedly ensure that dangerous sub-standard ships were taken out of commission. It is indeed quite clear that in the long term no preventive system will bear fruit unless infringements are curbed.

39. The Committee on Transport is absolutely convinced that one of the European Community's foremost tasks is to shoulder its responsibilities in this area and to take purposeful and consistent action to increase the safety of sea transport and to prevent and control marine and coastal pollution by guaranteeing respect of the international safety standards in force.

IV. COMMENTS ON THE DRAFT DIRECTIVE

40. In the light of the observations made in the previous chapter, the Committee on Transport of course welcomes this proposal from the Commission to the Council for a directive concerning the enforcement, in respect of shipping using Community ports, of international standards for shipping safety and pollution prevention.

41. Moreover, the draft directive undeniably meets the wishes of the members of the previous Committee on Regional Policy, Regional Planning and Transport, as set out in the report by Lord Bruce of Donington (Doc. 555/78), and the requests of several Members of the directly elected European Parliament.

Some examples of the latter are the Written Question by Mrs Ewing which advocates denial of access to Community ports for ships which do not comply with Community regulations¹ and the question by Mr Klinkenborg in which the Commission is requested to give its opinion on the imposition of the same penalties in all Community ports 'in the event of failure to comply with shipbuilding or crew regulations'².

In a motion for a resolution by Mr Cottrell and 26 other signatories on the code of conduct for oil tankers and vessels carrying noxious substances (Doc. 1-117/80) adopted during the plenary sitting of 18 April 1980, the Commission was requested in paragraph 2 to submit proposals dealing, inter alia, with denial of access to Community ports for ships sailing under the flag of countries which have not ratified the basic conventions on shipping safety and protection of the environment.

42. It is furthermore striking that at the beginning of 1977, exactly one year before the 'Amoco Cadiz' disaster, the present chairman of the Committee on Transport, Mr Seefeld wrote in his basic report on shipping in the Community that the Community must act against sub-standard ships, 'firstly by harmonizing the regulations of the Community countries and then applying a common procedure for the control of ships calling at Community ports. Substandard vessels might be blacklisted and banned from entering Community ports or charged certain fees.'³

43. Consequently, the proposed directive, the aim and content of which are explained in more detail below and subjected to a critical examination, satisfies quite well the wishes of the European Parliament.

¹ Written Question No. 1335/79 by Mrs Ewing to the Commission, OJ No. C 86, 8.4.1980, p. 38

² Written Question No. 949/79 by Mr Klinkenborg to the Commission, OJ No. C 110, 5.5.1980, p. 17

³ Report by Mr Seefeld on sea transport problems in the Community, Doc. 5/77, paragraph 53 of the explanatory statement

A. Purpose and contents of the draft directive

44. The purpose of this proposal for a Council directive is to introduce a Community procedure for the enforcement of existing international legislation on shipping safety and the prevention of marine pollution by compulsory identification, inspection and, if necessary, temporary immobilization in Community ports of all ships which do not satisfy the requires minimum standards.

45. With regard to the contents of the draft directive, attention should be drawn to the following points:

- (i) the Member States are required to identify and inspect substandard ships visiting their ports and, where necessary, to detain them until deficiencies have been remedied (Article 1);
- (ii) the draft directive covers all ships sailing under a flag other than that of the country in which the port is situated and which do not satisfy the requirements of the international treaties ratified by their country and which are in force. Article 2 includes a list of all the relevant IMCO and ILO Conventions;
- (iii) by virtue of a Council decision the directive can apply to conventions which have not yet entered into force (Article 2, paragraphs 3 and 4);
- (iv) Article 3 stipulates that a ship shall not be treated more favourably by reason of the fact that the country of registry has not ratified a relevant convention;
- (v) on entry into a port, declarations must be made to the competent port authorities indicating that the ship meets the relevant standards for construction, equipment and the crew (Article 4, paragraph 1);¹
- (vi) if there are repeated visits to the same port, the declaration need only be submitted at appropriate intervals and, if several ports are visited during the same voyage, the declaration need only be made at the first port visited (Article 4, paragraph 2);
- (vii) Article 4, paragraph 4, lays down that special attention must be paid to certain categories of ships, i.e. passenger ships, oil, gas and chemical tankers, 10 years old or above, and dry cargo ships 15 years old or above;

¹ Annex I of the proposal gives a specimen of the declaration and the information which must be provided

- (viii) under Article 5(a), all deficiencies or incidents which could cause danger must be reported and, under Article 5(b), a pilot must also report these;
- (ix) Article 6 requires the port authorities to make an inspection if the required certificates are missing or are invalid if there are clear grounds for believing that the ship does not comply with international standards (by way of illustration a list of examples is given in Annex II);
- (x) if deficiencies are observed which constitute a serious threat to safety or the environment, the ship is to be detained in port until these have been remedied (Article 7);
- (xi) Article 8 provides for the establishment of an automated Community information system in respect of ships visiting Community ports, more specifically for general information, certificates, inspections, deficiencies, etc. Pending a definite proposal on this, provision is made for interim procedures, including notification of the port authorities of other Member States of deficiencies;
- (xii) Article 9 deals with fees for inspection of sub-standard ships and specifies further that the penalties for violations must be adequate to discourage such violations;
- (xiii) Article 10, paragraph 1, requires Member States to adopt, before 1 January 1982, the legal and administrative provisions necessary to implement the directive;
- (xiv) Article 10, paragraph 2, establishes arrangements for making maximum use of the recognized classification societies and paragraph 3 requires Member States to assist one another and to report on the provisions adopted for enforcement so that the directive can be reviewed regularly;
- (xv) Article 11 deals with the opening of negotiations with third countries to widen the area of application of the directive.

B. Comments on the draft directive

46. It is desirable to examine briefly a number of specific features and aspects of the procedure proposed in the draft directive.

47. The most striking feature of the proposed Community procedure is definitely the compulsory nature of the checks to be carried out in the ports on implementation of valid international provisions.

As the Commission stressed in the explanatory memorandum to its proposal, under existing international conventions port states are already 'entitled to identify sub-standard ships of any flag and require them to put themselves in order' (paragraph 7 c). If this proposal is approved by the Council, this right will become an obligation.

It should incidentally be noted that the United States has already introduced the use of a similar system.

48. Given that checks on a specific ship have traditionally been made by the authorities of the country where that ship is registered, it is absolutely clear that for effective implementation of international standards it will be a noticeable improvement if the obligation to perform this function falls on port states.

It is quite obvious that in many cases surveillance by flag states is grossly defective, if carried out at all. This may be the result of practical difficulties (distance, lack of qualified staff) or that certain countries have no interest in taking severe action, in particular countries with flags of convenience.

Mr Seefeld's abovementioned report on sea transport states in this respect that 'as long as the punishment of infringements and violations remains the exclusive prerogative of the flag state, the parties to an agreement are powerless to act against ships flying the flag of a country that has not acceded to that agreement'.¹

49. Surveillance of the maintenance of standards and the taking of action in the case of infringements by the competent authorities of the port where a ship anchors is, moreover, particularly important when one considers that in the sphere of sea transport not a single organization possesses executive powers.

As the name suggests, IMCO (Intergovernmental Maritime Consultative Organization) has advisory powers only. Implementation and checks on the implementation of its conventions are left to the good will of the competent authorities of the parties to these conventions, and that is clearly insufficient.

50. Your rapporteur is fully aware that in certain circles (port, shipping and commercial undertakings) it is feared that effective implementation of the directive could result in a diversion of traffic, to the detriment of the Community and its ports. He believes, however, that this risk is negligible, seeing that, as the Commission rightly states in its document,

¹ Seefeld Report, Doc. 5/77, paragraph 133

ships from all parts of the world dock at Community ports because of the important position of the Community in international trade (paragraph 5 of the explanatory memorandum).

51. Moreover, next year Greece with its enormous fleet (37.3 million tons capacity, which is 9.04% of world tonnage, i.e. the largest merchant fleet in the world after Liberia and Japan) will join the Community and thus considerably increase the Community's power.¹

Mr Fikioris, Greek Minister for Mercantile Marine, recently said in an interview that his country had ratified all IMCO conventions or would be ratifying them in the near future, that it would soon be introducing special inspection procedures and imposing an upper age-limit for the registration of ships in Greece.²

52. Further, Article 11 of the draft directive provides for the possibility of the Commission entering into negotiations with third countries, 'aimed at their adopting equivalent port state enforcement procedures'. The Commission has particularly in mind Norway and Sweden and also, of course, future Member States: Spain and Portugal.

The Committee on Transport welcomes this Commission initiative as this considerably widens the geographical area in which the proposed legislation can be applied and therefore reduces the risks referred to above.

53. However, it is of vital importance that the procedure proposed be applied strictly in all Community ports; otherwise, unfair competition will develop and 'cheap' ports come into being. Community port interests would then suffer not only from the plague of cheap flags but also from that of cheap ports.

Several Members of the European Parliament pointed specifically to this very real danger during the debate of 17 April 1980 on the code of conduct for ships carrying dangerous goods. As Mrs Weber said, distortions of competitions between seaports must be avoided at all costs lest in that way the directive's provisions should be evaded. Mr Josselin rightly gave a warning that the existence of cheap ports could also lead to a diversion of goods transport traffic by road.

To avoid this danger, governments in the Member States should give the competent authorities unequivocal instructions and the Commission would have to monitor enforcement measures in the various Community ports very carefully. Compulsory regular reporting on the enforcement measures adopted, as provided for in Article 10, paragraph 3, would prove a useful instrument.

¹ For further details on Greece, see the own-initiative report by Mr Cottrell on relations between the Community and Greece in the field of transport and in particular Chapter VI 'Maritime Sector' (PE 67.501).

² 'Agence Europe' of 13.9.1980

54. A weakness in the draft directive resides in the fact that some of the relevant international conventions and protocols listed in Article 2, paragraph 1, either have not yet entered into force or have not yet been ratified by certain Member States. It is highly desirable for the authorities concerned to ratify these agreements promptly and, pending this, to apply their provisions.

55. According to the Commission, application of the procedure it has proposed should have the further advantage of making the operation of sub-standard ships less attractive, and reducing the imbalance between supply and demand of shipping capacity to the consequent benefit of the shipbuilding and ship-repair sector (paragraph 7(d) of the explanatory memorandum).

In view of the present crisis in the shipping sector, this is an advantage that ought not to be underestimated.

56. To summarize, the proposed directive is a constructive and valuable basis for progress towards greater safety in sea transport in Community waters and better protection of the Community's seas and coastlines against pollution by hydrocarbons.

The Committee on Transport hopes, then, that the Council will approve the draft directive at its next meeting.

V. THE NEED FOR ADDITIONAL COMMUNITY MEASURES TO INCREASE SHIPPING SAFETY AND TO PREVENT MARINE AND COASTAL POLLUTION

57. Although the Commission assumes that 'what is required is not so much new, tougher standards as the adequate enforcement of the international standards which exist already'¹, the Committee on Transport nevertheless considers that the seriousness of the problem of shipping safety and the often dramatic consequences for the Community's coastlines and waters require specific and supplementary, in the sense of more stringent, measures.

58. True, when contemplating additional Community provisions proper consideration must be given to the legitimate interests of Community ship-owners and, more specifically, to the consequences of these standards for their competitiveness on the world shipping market.

59. The Committee on Transport considers it useful for the Community to maintain its own stricter standards in this sphere because:

- none of the world's coastlines are as seriously affected as the coast of Brittany and certain parts of the coast in the United Kingdom and Ireland;
- the Mediterranean, where at present two and soon three Member States are coastal states, is an enclosed sea where it is difficult to clean up pollution;
- the North Sea, and in particular the Channel, are among the world's busiest shipping routes;²
- the population of a large part of the Community's coastal area is dependent on fishing and/or tourism.

60. In Lord Bruce of Donington's basic report (Doc. 555/78) a whole series of concrete measures to prevent shipping accidents and consequential coastal and marine pollution are recommended, based on the results of the public hearing on this subject.

A number of recommendations were adopted by the Commission and some have already entered into force or will do so shortly. This applies in particular to the draft directive in respect of which this report has been drawn up.

¹ See explanatory memorandum to the proposal, paragraph 7(c)

² For example: on average 800 ships pass through the Channel daily and about 500 million tonnes of oil are transported annually, which prompted Mr Cottrell, on 17 April 1980, to call the Channel 'Europe's E 1 for shipping'

61. It was never intended that this whole complex problem should be gone over again in detail here. Nonetheless the rapporteur wishes to underline the most important conclusions of Lord Bruce of Donington's report and to make a few new suggestions.

62. The Committee on Transport requests the Commission, in cooperation with the relevant national and international authorities and with a view to putting suitable Community provisions into operation, to subject the following points to a thorough examination:

(i) the desirability of introducing:

- a sea traffic control system for vessels in busy Community waters (with appropriate radio and telecommunications installations);
- an escort system for giant tankers and vessels carrying particularly dangerous or noxious goods;
- a code of conduct for oil tankers and ships carrying dangerous goods;¹
- a Community coastguard system with patrol aircraft and vessels;
- a specialized Community salvage service.

(ii) in the social field:

- a well-conceived policy for training seafarers;
- the issue and mutual recognition of certificates of competency for captains, seamen and mechanics;
- a general, future-oriented, improvement in living and working conditions on board;
- strict measures against smuggling, non-compliance with existing welfare standards and inhuman living and working conditions on board ship;²
- regulations to ensure an adequate crew for each category of ship.

¹ Further to the oral question on this subject by Mrs Ewing to the Commission (Doc. 1-59/80), most speakers at the subsequent debate on 17 April 1980 were clearly in favour of the compulsory introduction of such a code. Indeed, at the conclusion of the debate two motions for resolutions were adopted which added extra weight to this demand:

- the motion for a resolution by Mrs Le Roux, Mrs De March, Mrs Poirier, Mr Würtz and Mr Damette (Doc. 1-115/80) and
- the motion for a resolution by Mr Cottrell and others on behalf of the European Democratic Group; Mr Calvez, Mr Haagerup and Mr Gøurtsen on behalf of the Liberal and Democratic Group; and Mr Janssen van Raay and Mr Hoffman on behalf of the Group of the European People's Party (Doc. 1-117/80).

² See Mr Key's motion for a resolution on concessionaire labour on European-registered vessels (Doc. 1-321/80)

- (iii) improvements in the construction and equipment of vessels (such as separate ballast tanks, dual steering gear for certain types of vessels, etc.)
- (iv) coastal and marine pollution: encouragement of scientific research into mechanical means of recovering spilt oil and the development of biologically acceptable dispersants;
- (v) the suitable fitting-out of 'ports of refuge' in the Community where dangerously damaged vessels could berth;
- (vi) the possibility of improving the existing insurance and guarantee systems for shipping;
- (vii) the desirability of making use of a pilot compulsory in very busy waters.

63. This list is not, of course, exhaustive, but the points raised deserve thorough consideration to establish what is useful and desirable for implementation at Community level.

64. While it is clearly impossible to expect everything to be done at once, it is nonetheless reasonable to urge the Commission to produce as quickly as possible and submit to the Council an action programme on the basis of these suggestions indicating the priorities for increasing shipping safety standards and protecting the Community's marine environment. In that context the European Parliament and its competent committees would of course examine the soundness of the various proposed Community measures.

65. It goes without saying that an ambitious Community programme of activities to prevent shipping accidents and pollution will cost the Community a great deal of money. Nevertheless, the Committee on Transport considers that, however high the price of an effective preventive programme, it will still be considerably lower than the costs resulting from shipping disasters like that of the 'Amoco Cadiz'.¹

66. Lastly, the Committee on Transport stresses that the Community must have the necessary political will and readiness to put into operation as quickly as possible a sound and coherent programme with priorities for increasing safety at sea and preventing marine and coastal pollution.

¹ According to the monthly '30 Jours d'Europe' of September 1980, the cost of cleaning up the 'Amoco Cadiz' catastrophe was FF 550 million and claims for compensation amounted to virtually FF 70,000 million.

VI. CONCLUSIONS

67. In his report on the draft directive the rapporteur has not been concerned with this document alone, but has instead attempted to place the Commission's proposal within the general framework of shipping safety and the prevention of marine and coastal pollution.

In particular he has stressed the absolute necessity of ratifying the relevant international conventions so that effective action can be taken against sub-standard ships which increasingly threaten in disturbing fashion precisely our waters and coastlines.

68. With regard to the proposed directive itself, the Committee on Transport points out that the Commission's initiative satisfied a wish repeatedly expressed by the European Parliament.

It therefore approves this proposal because it is convinced that opportunities will thereby be created for enforcing the relevant international provisions with a reasonable chance of success.

69. Because of the specific situation of Community waters, through which pass some of the most intensively used shipping routes in the world, and the fact that certain of the Community's coasts have suffered in the past more than anywhere else in the world and are still under greater threat than others, the Committee on Transport further considers that there must be supplementary and more stringent Community measures in this field.

70. Lastly, the Commission and the Council of the European Communities and the competent shipping authorities in the Member States are urged to do everything in their power to realize these objectives.

71. In the last chapter of this report your rapporteur has listed the measures to be examined and implemented, with the request that the Commission should make a thorough study of these priority matters.

SURVEY OF THE MEASURES ADOPTED AT COMMUNITY LEVEL IN RESPECT OF SAFETY
AT SEA AND MARINE AND COASTAL POLLUTION¹

1. Directive 79/116/EEC of 21 December 1978 concerning minimum requirements for certain tankers entering or leaving Community ports;² this deals with tankers carrying oil, gas or chemicals;
2. Council Directive of 6 December 1979 modifying Directive 79/116/EEC;
3. Directive 79/115/EEC of 21 December 1978 concerning pilotage of vessels by deep-sea pilots in the North Sea and English Channel³;
4. Recommendation 78/584/EEC of 26 June 1978 on the ratification of conventions on safety in shipping.⁴ The conventions in question are the SOLAS Convention (1974), the MARPOL Convention (1973) and the IMCO London Protocols (1978) and the ILO's 1976 Convention on minimum standards for merchant shipping;
5. Recommendation of 21 December 1978 on the ratification of the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers⁵.
6. Recommendation of 15 May 1979 on the ratification of the International Convention for Safe Containers (CSC)⁶.
7. Recommendation of 23 September 1980 on the ratification of the Torremolinos International Convention for the Safety of Fishing Vessels⁷.

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The Council is considering the draft decision on the rendering mandatory of the vessel inspection procedures on which IMCO resolutions have been passed. On 19 January 1979 the European Parliament approved this proposal submitted by the Commission to the Council on 13 November 1978⁸ on the basis of the report by Lord Bruce of Donington (Doc. 555/78).

¹ OJ No. C 110, 5.5.1980, p. 18

² OJ No. L 33, 8.2.1979, p. 33

³ OJ No. L 33, 8.2.1979, p. 32

⁴ OJ No. L 194, 19.7.1978, p. 17

⁵ OJ No. L 33, 8.2.1979, p. 31

⁶ OJ No. L 125, 22.5.1979, p. 18

⁷ OJ No. L 259, 2.10.1980, p. 29

⁸ OJ No. C 284, 28.11.1978, p. 3

SURVEY OF THE RATIFICATION AND ENTRY INTO FORCE OF INTERNATIONAL IMCO CONVENTIONS¹

1. The SOLAS Convention (Safety of Life at Sea), signed in 1974, entered into force on 25 May 1980. 43 countries have ratified it; this includes all Community Member States and Greece.

The supplementary protocol of February 1978 was ratified by 13 countries, including Belgium, the Federal Republic of Germany, France, the Netherlands and the United Kingdom.

2. The International Convention on civil liability for Oil Pollution damage of 1969 entered into force in 1975. 44 countries have ratified this convention.
3. The Brussels Convention of 29 November 1969 covering action at sea in the event of an accident causing pollution by hydrocarbons entered into force in 1975. 39 countries have ratified the convention, including all Member States.
4. The International Fund for Oil Pollution Damage of 1971 entered into force in 1978. 21 countries have ratified the convention, including Denmark, the Federal Republic of Germany, France, Italy and the United Kingdom.
5. The MARPOL Convention of 1973 on the prevention of pollution of the sea by hydrocarbons has only been ratified by 8 countries. Within the Community only the United Kingdom has proceeded to ratification. The same applies to the supplementary protocol of 17 February 1978.

¹Position as at 1 October 1980

OPINION OF THE COMMITTEE ON ECONOMIC AND MONETARY AFFAIRS

Letter from the Committee on Economic and Monetary Affairs to Mr SEEFELD, chairman of the Committee on Transport.

At its meeting of 29 October 1980 the Committee on Economic and Monetary Affairs¹ considered the Commission's proposal for a directive concerning the enforcement, in respect of shipping using Community ports, of international standards for shipping safety and pollution prevention (doc. 1-332/80).

The Committee on Economic and Monetary Affairs supports the Commission's proposal, as the introduction of common rules will help establish competition on equal terms and thus reduce artificial deflections of traffic. The Committee has no amendments to put to the text of the proposed directive, but wishes to draw the attention of the Transport Committee to the need for additional measures, notably the requirement for pilots on oil tankers in congested EEC waters, as already twice proposed in opinions of the European Parliament during 1980.

Please regard this letter as the opinion of the Committee on Economic and Monetary Affairs on the Commission's proposal.

Yours sincerely,

(sgd.) Gerd WALTER
Draftsman

¹ Present: Mr Delors, Chairman; Mr Walter, Draftsman; Mr Beumer, Mr von Bismarck, Mr Caborn, Mr I. Friedrich, Mr Hopper, Mr Seal (deputising for Mr Rogers), Mr Turner (deputising for Mr de Ferranti), Mr von Wogau

31.10.1980

OPINION OF THE COMMITTEE ON THE ENVIRONMENT, PUBLIC HEALTH AND CONSUMER
PROTECTION

Draftsman: Mrs A. SPAAK

On 15 September 1980 the Committee on the Environment, Public Health and Consumer Protection appointed Mrs Spaak draftsman.

It considered the draft opinion at its meetings of 22 October, 27 November and 4 December 1980 and adopted it unanimously at the last of these meetings.

Present: Mr Collins, chairman; Mrs Spaak, draftsman; Mr Adam (deputizing for Mrs Roudy), Mr Ceravolo (deputizing for Mr Segre), Mr Combe, Mr Forth (deputizing for Sir Peter Vanneck), Mrs Fullet, Mr Ghergo, Mrs Krouwel-Vlam, Mrs Maij-Weggen, Mr Mertens, Mrs Schleicher, Mrs Scrivener, Mrs Seibel-Emmerling, Mr Sherlock, Mrs Squarcialupi and Mr Verroken.

A. INTRODUCTION

The European Parliament, in adopting the report and the resolution by Lord Bruce of Donington on the best means of preventing accidents to shipping and consequential marine and coastal pollution and shipping regulations¹

- pointed out in particular that the most important step in prevention was the ratification and enforcement of the international convention relating to all aspects of safety and working conditions at sea,
- and called upon the Council to adopt the present and future proposals by the Commission for the enforcement by the Member States of the appropriate provisions of international conventions.

The Committee must therefore welcome this proposal for a directive by the Commission concerning the enforcement, in respect of shipping using Community ports, of international standards for shipping safety and pollution prevention.

It wishes, however, to make the following comments and reservations on a number of points.

B.1. Scope of the directive

Attention must be drawn to the unfortunate delay by certain Member States in complying with the Council Recommendation of 26 June 1978, on the ratification of Conventions on safety in shipping² and that of 21 December 1978 on the ratification of the International Convention on standards of training, certification and watchkeeping for seafarers³.

The fact that the proposal for a directive lays down that the conventions in Article 2 which are not yet applicable will become applicable as soon as they enter into force, even if certain Member States have not yet ratified them, is a very important point.

¹Doc. 555/78, O.J. C 67/22, Debates of the E.P. 13.8.79

²O.J. L 194/17, 19.7.78

³O.J. L 33/31, 8.2.79

Nevertheless, if all the Member States have ratified one of these conventions, use should be made of Article 2 (3), which allows the Council to decide that any one of these conventions may become applicable even before its entry into force.

Article 3 of the proposal for a directive should be drafted more clearly to make it apparent that the relevant conventions apply to vessels entering Community ports, even if the country of registry has not ratified those conventions, though it may have ratified a previous convention.

2. Inspection of documents on board ship

The proposal for a directive introduces compulsory uniform procedures for enforcing these conventions in order to remove 'any danger of transfers of traffic from those Member States where enforcement is more vigorous to those where it is less so'¹. The rather general wording of Article 4(3) runs counter to this aim. 'The extent' to which 'this is necessary in the interests of shipping safety and pollution prevention' should be specified in greater detail (Article 4(3)). Article 4(4) applies to the whole of the directive. It should form a separate article.

3. 'Clear grounds' for inspecting the ship or examining the crewing and watchkeeping arrangements

The list of examples of clear grounds for believing that the condition of the ship or of its equipment or the crewing arrangements do not correspond substantially with the particulars of a certificate or the requirements of a relevant convention is extremely important, because these grounds (together with the absence or invalidity of a certificate) make it compulsory for the competent authorities of a Member State to inspect the ship or examine the crewing and watch-keeping arrangements.

However, if it is to be of value, it must be more specific, particularly as regards the seaworthiness (point b(ii) of Annex 2) and the manoeuvrability of the ship (point b(iii) of Annex 2).

¹ See point 7 of the explanatory memorandum to the proposal for a directive.

4. Detention

Paragraph 1 of Article 7 should stop at the word 'detention'. The rest of the sentence only repeats the formulas generally used in the conventions which this proposal for a directive wishes to make binding.

Paragraph 2 of Article 7 should be retained since it specifies examples of deficiencies which justify detaining a ship, and which are never defined in the conventions. The examples, particularly point (f) should, however, be more specific if they are to be of real use.

5. Penalties in the legislation of the Member States

Article 9(2) is liable to create distortions in the implementation of conventions by the Member States unless there is some control and coordination by the Commission on these penalties.

6. Assistance of classification societies

If, as is provided for in Article 10, arrangements are made with classification societies, these should all be able to operate on the basis of the same regulations to discourage any tendency to favour classification societies with less strict criteria.

7. Oil-tanker files

It is astonishing that this proposal for a directive is not linked in any way with the proposal for a communication concerning a plan to combat oil pollution of the sea¹. This communication provides for an oil-tanker file containing among other things information on the international conventions to which a tanker is subject.

In the United States, coastguards are linked to a central computer. Every ship must announce its arrival 24 hours in advance to allow the computer to be consulted on the state of the ship in question.

A link of this kind between the two proposals would be highly desirable. The links should be developed to produce a proper 'health certificate' for each ship.

¹Doc. 1-333/80

C. CONCLUSION

The committee welcomes the Commission's proposal for a directive. It feels, however, that a number of clarifications should be made.

It therefore calls upon the Committee on Transport, as the committee responsible, to include the following points in its motion for a resolution:

1. Parliament welcomes the Commission's proposal but regrets that four important international conventions are not yet applicable.
2. Parliament asks the Commission to redraft Article 3 to make it clear that the relevant conventions apply to ships entering Community ports, even if the country of registry has not ratified those conventions and even though it may have ratified a previous convention.
3. Parliament feels that if the Commission wishes to prevent distortions between Member States in the enforcement of these conventions, it should:
 - specify the cases in which the interests of shipping safety and pollution prevention make it necessary to inspect documents on board the ship (Article 4(3))
 - specify the clear grounds set out in point (b) of Annex 2
 - specify the examples of deficiencies justifying detention of the ship (Article 7(2))
 - supervise and coordinate the severity of the penalties provided in the legislation of the Member States for violations of the provisions of the relevant conventions (Article 9(2)).
4. Parliament asks the Commission to draw up rules on which the classification societies with which arrangements are made pursuant to Article 10 can base their activities to discourage recourse to classification societies with less strict criteria.
5. Parliament believes that a link should be established between this proposal for a directive and the oil-tanker file in the proposal for a communication concerning a plan to combat oil pollution of the sea (Doc.1-333/80) and that, in the near future, this file should provide a proper health certificate for each ship.