

Opinion of the Economic and Social Committee on:

- the 'Proposal for a Directive of the European Parliament and of the Council amending Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port state control)',
- the 'Proposal for a Directive of the European Parliament and of the Council amending Council Directive 94/57/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations', and
- the 'Proposal for a Regulation of the European Parliament and of the Council on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers'

(2001/C 14/04)

On 27 April 2000 the Council decided to consult the Economic and Social Committee under Article 80 of the Treaty establishing the European Community, on the above-mentioned proposals.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 28 September 2000. The rapporteur was Mr Retureau and the co-rapporteur was Mrs Bredima-Savopoulou.

At its 376th plenary session of 19 October 2000, the Committee adopted the following opinion with 88 votes in favour and one abstention.

1. Introduction

1.1. The ESC has been asked to issue an opinion on the three abovementioned legislative proposals submitted by the Commission. These proposals address a number of major aspects of maritime safety relating to the transport of petroleum products and the prevention of accidental pollution which may occur as a result.

1.2. These proposals are preceded by a communication from the Commission to the European Parliament and the Council on the safety of the seaborne oil trade (the maritime safety communication); this communication provides an introduction to the legislative proposals and maps out policies in the longer term. The ESC, which had decided to issue an own-initiative opinion on maritime safety, will consider and comment on the communication before examining the texts on which it has been asked to issue an opinion.

2. Maritime safety communication*2.1. The main Commission proposals*

2.1.1. The measures taken at international level to improve safety and reduce accidental pollution have brought about a considerable reduction in accidents and oil pollution. The Commission notes, however, that the maritime safety measures introduced in the mid-1990s have proved inadequate because of: the risks posed by older vessels (as demonstrated, once

again, by the sinking of the *Erika* at the end of December 1999 off the coast of France); the limitations of international rules, which suffer, in particular, from inadequate checks on their implementation; the increased use of flags of convenience and off-shore 'brass-plate' companies; the inadequacies of the system of certification and classification; and, finally, failings in Member States' application of current EU rules.

2.1.2. The Commission proposes a series of short-term measures (two amendments to directives and a proposal for a regulation) and a number of longer-term measures, for which proposals are to be issued by the end of the year.

2.1.3. The main aims of the Commission's proposals for the longer term measures are to:

- improve the current compensation scheme for damage caused by oil spills;
- improve the transparency of safety information in maritime shipping;
- set up a European structure for maritime safety; and
- improve the surveillance of sea traffic in European coastal waters.

2.1.4. The Commission's arguments and assessment may be summarised as follows:

2.1.5. The current lack of transparency is unacceptable; a new EQUASIS database is being set up to keep better track of vessels and to facilitate inspections and the measures to be taken in response to infringements.

2.1.6. There is a need to step up checks on potentially dangerous vessels, and consideration is being given to banning particularly dangerous vessels from the exclusive economic zones (EEZ) of the Member States, a measure which, however, poses legal and technical problems and raises the question of the practical resources needed. The coastal surveillance, notification and mandatory reporting system established in Europe and approved by the IMO will have to be improved. More generally, the introduction of a world-wide reporting system will be a priority for the EU.

2.1.7. Particular problems will be posed by the accession to the EU of some applicant states, such as Malta and Cyprus (which have the world's fourth and fifth largest fleets respectively). The drop in EU maritime safety standards which will occur if these states join the EU and no counter measures are taken, is regarded as unacceptable.

2.1.8. The establishment of a European structure for maritime safety is envisaged but will cause serious problems. The idea of creating a European coastguard along the lines of the US Coast Guard is mooted; this proposal would, however, run into a number of practical problems regarding feasibility, type of equipment and powers.

2.1.9. It is also proposed that the liability of maritime transport players be expanded. The limited liability of ship-owners and non-liability of cargo-owners are a source of problems. The current definition of damage could be extended to cover the full actual extent of the damage. The establishment of a European fund, for providing compensation over and above the current limits is envisaged. A call is made for agreements to be struck with the industry and for sanctions to be introduced.

2.2. General comments

2.2.1. Subject to the points made in its specific comments, the ESC supports the proposed general approach, which focuses on two key components of maritime safety policy, namely:

- prevention, and
- effective measures to ensure that rules are implemented (inspections and sanctions).

2.2.1.1. As regards the Commission's longer term ideas, the ESC does not reject *a priori* any working hypothesis but rather regards them all as interesting. However, they need to be formalised and clarified, and in-depth consultations will have

to be held within the institutions and with all interested parties. In the ESC's view, however, neither the texts being proposed now nor future projects should be too far-reaching; the approaches pursued should be realistic and pragmatic in order to bring about effective improvements in maritime safety.

2.2.2. In the ESC's view, it is also important to strengthen the generally-applicable multilateral rules and adopt EU rules and measures in fields which are covered only partially — if at all — by provisions laid down by the International Maritime Organisation (IMO) ⁽¹⁾; the ESC strongly urges the Commission and the Member States to pursue these matters, whilst at the same time coordinating their efforts within the IMO on tightening maritime safety standards and providing fuller compensation for victims of pollution caused by ships, which should also include damage to the environment and to biodiversity.

2.2.3. In a global economy in which nine-tenths of the international trade in goods is carried by sea, the maritime sector has become a strategic sector for international trade, on which modern companies are very highly dependent for both their supplies and exports. These companies cannot, therefore, remain indifferent to the conditions governing this vital and constantly expanding area of economic activity.

2.2.4. The number of vessels lost each year has remained constant for many years, even though there has been a steady decline in the tonnage lost; this highlights the limitations of the existing rules and measures applicable to shipping safety and necessitates a fresh approach to the problem of safety.

2.2.5. The measures taken at international level to improve safety and reduce accidental pollution have, however, brought about a considerable drop in the incidence of such pollution. Other measures still have to be taken to tackle deliberate pollution caused by ships, such as the discharge of waste or deballasting whilst at sea; one line of approach is the establishment of appropriate port facilities ⁽²⁾. The ESC recognises that discharges from urban areas and land-based economic activities account for two-thirds of marine pollution along coastlines and in estuaries, and that drastic reductions must be made here, too. Pollution caused by ships is therefore far from being the only source of maritime pollution; however, shipping accidents have a much greater media impact and influence public opinion more.

⁽¹⁾ The International Maritime Organisation (IMO) is a specialised UN body, having its headquarters in London, which has a membership of 157 states.

⁽²⁾ The adoption of the Proposal for a Council Directive on port reception facilities for ship-generated waste and cargo residues (OJ C 271, 31.8.1998, p. 79; ESC opinion: OJ C 138, 18.5.1999, p. 12) should held to reduce this type of pollution.

2.2.6. Under the 1982 Montego Bay Convention, which is now in force, coastal states are granted increased powers of intervention in the waters within their EEZ (the area within a radius of 200 nautical miles from the base lines) to protect the economic resources in that zone which could be seriously affected by accidental or deliberate pollution. These states are thus entitled to take protective measures. The EU is a party to the convention and, for the sake of harmonisation, could consider introducing legislation covering the whole of the EEZ of the Member States, within the limits of the powers granted under the Treaty of Maastricht.

2.2.7. The main conventions governing the safety of oil tankers and the prevention of pollution are the 1974 Convention for the Safety of Life at Sea (SOLAS), and the International Convention for the Prevention of Pollution from Ships (MARPOL Convention) (1973/1978) plus various additional protocols. The EU Member States are signatories to these conventions. Flag states which are parties to these conventions are obliged to penalise infringements. The MARPOL Convention also provides a legal basis for intervention by the port state in the event of potential hazards; it is credited with having made a major contribution to cutting oil pollution caused by maritime activities, as have EU measures in the fields of pollution, safety and inspections introduced on the basis of or in support of the MARPOL Convention.

2.2.8. Compensation — albeit limited — both for victims of damage and for damage to the environment brought about by pollution caused by ships is provided under the CLC Convention and the IOPC Fund⁽¹⁾. A further source of compensation — up to a fixed ceiling — is the insurance which shipowners are required to have.

2.2.9. The Paris Memorandum of Understanding⁽²⁾ on Port State Control was implemented at EU level by Directive 95/21/EC, as amended in 1998. This memorandum lays down specific obligations for port states in respect of inspections on vessels calling at their ports. These inspection obligations, which cover safety, environmental protection and manning conditions, are, however, not being observed to the same

extent everywhere. Sirenac, operated by the Centre Administratif des Affaires Maritimes in Saint-Malo (France), is a database covering all vessels inspected in pursuance of the Paris MOU.

2.2.10. Flag states⁽³⁾ which have ratified international maritime laws have to fulfil precise obligations relating to inspections, safety and crew conditions. However, they fulfil these obligations to a greater or lesser extent for several reasons: the proliferation of sub-standard flags; many flag states' failure to enforce conventions which they have ratified; the constant drive to bring down costs — particularly labour costs; and the use of some second registers which have not ratified ILO Conventions. Because of the IMO's decision-making procedures and limited powers and resources for ensuring that rules are observed by flag states, no sanctions or appropriate deterrents are available for tackling infringements of international standards or other questionable practices. This has led to the increasing delegation of powers and responsibilities to the port states, as provided for under, for example, the Paris MOU, IMO rules and ILO Convention No 147.

2.3. *Specific comments*

2.3.1. The Committee welcomes the Commission's proposals for improving the controls carried out by port states and classification societies under the existing provisions.

2.3.2. Maritime safety depends on a number of factors: adherence to standards and rules in respect of vessels and navigation; effective checks on the observance of these provisions; the competence of inspection staff, pilots and navigation personnel; and the living and working conditions of crews. The qualifications, status, rights and obligations of port staff, captains, officers and seamen are therefore key safety factors. Many accidents occur as a result of human factors, combined more often than not with other causes (technical, meteorological). A large number of these matters are governed by IMO and ILO conventions; regrettably, however, these conventions are not always applied uniformly or properly by the signatory states, or even all the EU Member States, some of which have not ratified all the conventions. The ESC urges the Member States concerned to ratify the ILO maritime conventions, such as the protocol to Convention 147 and

⁽¹⁾ CLC Convention = International Convention on Civil Liability for Oil Pollution; IOPC Fund = International Oil Pollution Compensation Fund.

⁽²⁾ Often referred to as the 'Memorandum of Understanding' or the 'Paris MOU'.

⁽³⁾ Attempts to introduce an EU registration flag have failed because of disagreements between EU Member States.

Convention 180⁽¹⁾, and calls for the provisions of the conventions to be implemented in law and in practice so as not to distort competition and jeopardise safety.

2.3.3. The inadequate implementation or infringement of international standards, in particular standards governing training, occupational safety and working conditions and the observance of operational requirements, have an impact on the performance of crews and expose crews, their vessels and the environment to greater risk. Unacceptable economic pressure on masters and crews who continue to serve on board substandard ships may have a similar impact.

2.3.4. The EU and the USA are together responsible for most oil shipments worldwide. The USA, whose coast guard service (USCG) has extensive powers and resources at its disposal, has introduced the Port State Control Initiative to Target Substandard Ships⁽²⁾, whilst the Asian states, including Japan, the leading importer in Asia, have adopted the Tokyo Memorandum, which has established a system of port state control along the lines of the European system. The measures taken by these three regions are bound to help further international rules as a whole, and it is up to the states concerned to act as a driving force and set an example within the IMO on this matter, rather than helping to bring about the downfall of the multilateral system by adopting divergent approaches and private initiatives, which would render the situation uncontrollable, aggravating disparities and heightening risks.

(1) On 13 December 1999 the Council adopted Directive 1999/95/EC concerning the enforcement of seafarers' hours of work on board ships using Community ports. Article 10 of the Directive provides that the provisions of the directive should be fully implemented from 30 June 2002 onwards. The proper implementation of the directive depends on the ratification of the ILO Convention 180 concerning seafarers' hours of work and the manning of ships and the ratification of the 1996 Protocol to the 1976 Merchant Shipping (minimum standards) Convention.

With a view to ensuring that the two conventions are implemented at the same time and in particular in order to help achieve the simultaneous implementation of Directive 1999/95/EC by all Member States, the Commission has also addressed a recommendation to Member States inviting them to ratify Convention 180 and the Protocol to the 1976 Convention.

Under Article 4 of the 1976 Merchant Shipping Convention (147) only a country which has ratified Convention 147, as amended by the 1996 Protocol, can exercise controls for the working hours or rest periods on board ships calling at its ports.

It is appropriate therefore that, in the light of the deadline of 30 June 2002 to transpose into national legislation Directive 1999/95/EC, each Member State must ratify in due time the two ILO instruments in order to avoid inconsistencies with the provisions of Convention 147.

(2) Port State Control initiative to target substandard ships.

2.3.5. The Commission rightly took account of the international dimension of maritime transport in its 1993 communication on a common maritime safety policy. This policy was endorsed by the ESC in earlier opinions and should continue to inspire future EU action. The ESC stated that the root of the problem was not so much the development of international standards as ensuring that they were universally applied.

2.3.6. EU rules on maritime safety and protection of the maritime environment should be based on the following principles:

- they should help to make maritime transport in EU waters as safe as possible;
- they should take account of the fact that EU waters must remain open, without discrimination, to all vessels which meet international standards.

2.3.7. In addition to seeking to amend or supplement EU law, the Commission proposals should also seek to strengthen the market position of enterprises which observe standards. Enterprises and organisations which do not fully meet their safety or environmental responsibility should not be allowed to benefit or profit from this.

2.3.8. 40 % of the world's maritime traffic and most oil shipments in Europe (only 10 % of which are transported through pipelines or by road or canal) pass through the English Channel and the waters off Brittany (a total of some 300 000 vessels per year). The remaining oil shipments pass mainly through the Mediterranean — a particularly vulnerable sea, which has no EEZs — on route from, in particular, the Suez Canal and, in a very few cases, the Black Sea. Most oil tanker disasters concern vessels which are sub-standard or are over 18 years old⁽³⁾, or which run aground. Prevailing winds and currents tend to carry the resultant pollution — be it caused by discharges or accidents — towards the shores of western Europe.

2.3.9. Regrettably, maritime disasters are not completely avoidable and the proposed measures must be realistic, proportionate and targeted at the main causes of such disasters. The ESC deplors the fact that not all EU Member States have yet ratified the International Convention on Oil Pollution Preparedness, Response and Cooperation (OPRC Convention) (1990), under which signatory states are obliged to establish national systems for responding rapidly and effectively to accidental pollution.

(3) Institute of London Underwriters, Statistics for Ships Lost 1989-1998.

2.3.10. The ESC draws attention to the European Parliament resolution of 20 January 2000 highlighting the urgent need to establish optimal conditions for managing crises resulting from oil pollution and deploring the inadequacies of the techniques available for combating pollution caused by heavy fuel oil. In this context the ESC endorses the calls for the introduction of a coastal state scheme which would pinpoint ports of refuge that have the necessary equipment and capability to deal with accidents; the proposed scheme would enable the authorities to provide pro-active assistance to vessels in distress, particularly in cases where the crew or the owner/operator fails to respond adequately and where human lives and the environment are at risk.

2.3.11. The ESC endorses the Commission's legislative proposals which it views as an initial emergency package. The proposed measures will also have to be read and implemented in conjunction with the future framework directive on environmental liability. This directive is to be drawn up in the wake of the white paper on the same subject, on which the ESC is issuing a separate opinion. The draft regulation on double hulls does, however, raise a number of important technical and economic questions which the ESC will address below.

2.3.12. The need for stricter and more effective rules is heightened by the cut-throat competition at the moment in maritime transport in general, and oil transport in particular. Such competition develops where costs are being put under undue pressure and ports are engaging in fierce rivalry; this situation is prejudicial to good practices with regard to vessel safety and manning conditions and furthers bad practices, which are unacceptable from the point of view of both safety and fair competition.

2.3.13. The relatively low cost of transporting oil benefits oil companies — which are playing a key role in deregulation — but is detrimental to safety. This is a situation which both public opinion and all responsible shipping-industry professionals can no longer tolerate. Safety costs must be taken out of the competition equation. At present fleets are getting older and if they are to be renewed it is essential to have prices which enable companies to make a profit. Shipping-industry professionals are endeavouring to develop a self-regulation scheme; such a step is vital but it also serves to demonstrate the unsuitability of the current rules and procedures and highlights the need for them to be amended in order to make them more effective and to restore healthy competition. The aim must be to stem and reverse the shift to sub-standard flags and establish, wherever possible, effective rules and inspections which are universally applicable since this is an international industry.

3. Directive on maritime safety: port state controls

3.1. Purpose of and reasons for the revision of Council Directive 95/21/EC

3.1.1. The purpose of the draft directive is to tighten up inspections on vessels visiting EU ports and to introduce tougher measures against 'manifestly sub-standard' vessels.

3.1.2. The directive sets out requirements and uniform inspection procedures for all vessels calling at European (both EU and EEA) ports so as to ensure that they comply with international standards relating to maritime safety, pollution prevention and on-board living conditions (port state control). The aim is to make inspection procedures more effective.

3.1.3. The directive has, however, been unevenly implemented, and there has sometimes been a failure to carry out adequate inspections on vessels posing a serious safety and environmental risk when they call at EU ports:

- several states have failed to comply with the directive's requirement that 25 % of individual vessels must be inspected;
- the system involving 'target factors', as provided for under the Paris MOU and made mandatory by the directive, has not been properly implemented;
- the tougher inspection measures stipulated by the directive are not always implemented with the desired rigour; in particular, vessels having the highest 'target factor' are not being systematically inspected.

3.1.4. In the Commission's view, the sinking of the ERIKA demonstrated shortcomings in the systems of checks since none of the inspections carried out on the vessel managed to detect the defects which are considered to have caused the disaster. These systems of checks cover: checks on the construction of vessels and monitoring of their condition, carried out in accordance with the rules drawn up by the classification societies; regular checks and inspections carried out by classification societies on behalf of others; and additional checks carried out by port states. The Commission is thus putting forward a series of measures to improve and strengthen the inspection arrangements laid down by the directive on port state control.

3.2. Comments by the ESC

3.2.1. The ESC would draw attention to its earlier opinion⁽¹⁾ on Directive 95/21/EC (amended on a number of occasions) concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the

⁽¹⁾ OJ C 393, 31.12.1994, p. 50.

jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port state control). The ESC would reiterate, in particular, its view that the criteria to be observed when inspecting and detaining vessels needed to be sufficiently strict to ensure that all vessels operating in European waters met all aspects of recognised international standards, whilst at the same time not penalising vessels which were properly operated and maintained or imposing excessive burdens on them.

3.2.2. The OECD believes that maritime safety standards have fallen to a critical level. It is estimated that 15 % of oil tankers are sub-standard.

3.2.3. The ESC therefore endorses both the spirit and essence of the proposed amendments. It strongly supports the demand for transparency in order to enable the EU authorities, the various parties concerned and the general public to identify sub-standard registers and 'brass-plate' ship-owning companies and ports which have failed to enforce standards, with a view to stamping out their 'dumping' practices. Greater transparency will also make it possible to identify owners of bulk cargoes who, by chartering sub-standard vessels, engage in unfair competition, endangering the lives of others and jeopardising both economic resources and activities and the environment.

3.2.4. The ESC welcomes the introduction of stricter controls in respect of 'manifestly sub-standard ships' and their possible banning from EU ports, though in its view any ship detained more than twice in the course of the preceding 24 months should be banned. The ESC regards as 'manifestly sub-standard' any vessel banned under Article 7a) — with the deletion of the age criterion of 15 years — which is carrying passengers, dangerous products or potentially polluting products and which should be banned from entering the whole of the exclusive economic zone off the coasts of Europe because of the potential threat to human lives and economic resources in that zone, until such time as the required modifications and repairs have been carried out and inspected. These vessels should be banned for ever if they fail to comply with the requisite standards by set deadlines.

3.2.5. The obligation to provide guarantees or to take out liability insurance for damage to the environment should be extended to all vessels carrying dangerous or polluting products irrespective of their tonnage, in order to maintain consistency with the provisions laid down in respect of the safety of vessels and prevention of pollution. With this aim in view, EU Member States should ratify the international convention for the carriage of hazardous, noxious substances

(HNS Convention) and the IMO guidelines on liability insurance should be put into effect.

3.2.6. The number of inspectors should be raised to an adequate level commensurate with both the number and type of vessels using the respective ports; it is also absolutely essential to appoint specialised inspectors to carry out structural and technical inspections and other specialised inspections with regard to manning conditions and labour standards.

3.2.7. The ESC notes the disparities in the performances of the Member States in meeting their obligations under the port state control directive and, in particular, in achieving the target of inspecting at least 25 % of vessels entering their ports. Even where the 25 % target per Member State is met, that may not in itself be sufficient — if, for example, the inspections have been concentrated on the best operated ships where deficiencies are unlikely to be encountered. The ESC therefore welcomes the provisions proposed, within the framework of the Paris MOU, to remedy the situation by introducing an improved, more effective method of targeting manifestly sub-standard vessels and by dispensing with the need for high-standard vessels to undergo unjustified inspections. The new provisions must not, however, provide an excuse for halting all efforts to ensure that adequate human resources are made available. Failure to meet the quality requirements for inspections and failure to provide an adequate number of qualified inspectors in the various fields should, at all events, constitute grounds on which the Commission can instigate proceedings against port states for failing to meet their obligations.

3.2.8. With a view to the proposed introduction of a wider range of inspections, measures to enhance the operating capacity of authorised ship-inspection bodies should be considered.

3.2.9. Specific measures also need to be taken to bring the number of ship inspectors into line with requirements and to provide more basic training courses and specialist courses in this field, in order to ensure adequate technical capacity, operational continuity and uniform operating procedures.

4. Directive on the classification of vessels

4.1. Objectives of the draft directive and reasons for its introduction

4.1.1. The draft directive amends Council Directive 94/57/EC on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations.

4.1.2. The following amendments are proposed:

- EU recognition to be required for classification societies, particularly as regards inspections and sanctions;
- more stringent requirements to be met by the recognised organisations.

4.2. *General comments*

4.2.1. There are about 60 private classification societies in the world, some ten of which are members of the International Association of Classification Societies (IACS). These societies class vessels at the request of ship-owners — a private activity — and issue certificates on behalf of the flag states. The latter have delegated this public service task to the classification societies because of their technical expertise. The classification societies carry out all or part of the technical inspections and exercise powers under the authority of the state in which the vessel is registered. The societies are generally entitled to issue or withdraw certificates of conformity for the vessels which they are charged with verifying. The inspections carried out when the vessel is first commissioned and periodically thereafter cover technical standards, safety rules and environmental protection rules.

4.2.2. Flag states are responsible for drawing up the various safety and other certificates, defining the inspection procedures to be followed and specifying the bodies to carry out the inspections, either on the basis of multilateral conventions to which they are signatories or unilaterally. Apart from ensuring compliance in this way with national and international standards, classification societies apply their own rules when classing vessels.

4.2.3. The ESC endorses the proposed measures which are designed to improve the inspections by providing for: stricter checks on classification societies and their work; more stringent criteria governing the recognition of classification societies; and transparency in this sector of activity, which plays a vital role in the safety field. In its opinion on the Commission's communication on maritime safety⁽¹⁾, the ESC supported both the general objective of the Commission and its overall approach in incorporating international provisions in EU instruments.

4.2.4. The ESC thinks that the classification societies must lose no time in reviewing their work and making the necessary changes, in consultation with the authorities and the industry, with a view to ensuring that they are in a position to furnish a credible professional service at all times. In order to improve transparency, the classification societies should be obliged to provide all relevant information to third parties on matters such as the transferring of vessels to different classes, change of ownership, the extension of certificates and appropriate technical information. The rules governing inspections, the integrity and resistance of hulls to corrosion and the transfer

of class from one recognised organisation to another need to be given special attention by the classification societies and also by the IMO and the Commission.

4.2.5. Classification societies are responsible for the safety of shipping and the environment to a high degree. It follows that they should also accept legal responsibility for inadequate performance. The Committee therefore calls for the introduction of appropriate contractual liability of classification societies towards their clients and appropriate legal liability towards third parties, thus making them answerable for any errors. Inasmuch as classification societies have acted under the sovereign authority of a flag state, provision should be made for a government liability clause under the relevant legal regime.

5. **Regulation concerning double hulls**

5.1. *Objectives of the draft regulation and reasons for its introduction*

5.1.1. The aim of this regulation is to speed up the replacement of single hulled tankers by vessels with double hulls or an equivalent construction, a process which has been taking place since 1996. Tankers of the latter type are safer in the event of collision or grounding.

5.1.2. The draft regulation is largely comparable with the US authorities' unilateral provisions requiring tankers to have double hulls (these provisions will come into effect in 2005, 2010 or 2015, depending on the tonnage of the vessel). The Commission takes the view that, were the EU to fail to pursue a similar policy, there would be a strong likelihood that, from 2005, vessels banned from operating in US waters would switch to European waters, thereby increasing the level of risk at a time when the world's tanker fleet is generally ageing. In the face of the US initiative, the IMO has adopted provisions for the replacement of single hulled tankers, albeit with longer deadlines. The IMO's alternative involving hydrostatic balance loading would no longer be accepted. As an additional measure to accelerate the replacement of single-hulled tankers, the Commission proposes the application of a differential port and pilotage dues charging system penalising such ships.

5.2. *Comments by the ESC*

5.2.1. The ESC thinks that technical arguments need to be put forward in support of the Commission's proposal. Serious consideration should be given to the implications of the proposal. Double hulls do not constitute a panacea; although they may be effective in the case of minor collisions and groundings, they are not an effective remedy in the event of major accidents. There must be sufficient space between the two hulls to enable inspections to be carried out without risk to the personnel involved.

⁽¹⁾ See OJ C 34, 2.2.1994, p. 14.

5.2.2. The regime for phasing out single hull tankers was agreed internationally in IMO in 1992 within the framework of the MARPOL Convention, and the ESC believes that a review of the provisions should take place in IMO as soon as possible. Therefore, the ESC urges the Commission to coordinate the position of Member States within IMO with a view to achieving the revision of the MARPOL Convention so as to introduce a realistic and practicable acceleration of the current phasing-out schedule prescribed in regulation 13G of Annex 1 of the Convention. The ESC realises that should such an agreement be unattainable in IMO in a reasonable delay, a regional EU solution would be unavoidable and necessary.

5.2.3. The ESC also realises that single hulled tankers are bound to be phased out by market forces, such as the preference for double hulled or newer single hulled tankers, earlier than anticipated under the MARPOL Convention. Therefore, the ESC takes the view that the proposed system of differential charges would be both of limited influence in practical terms and unfair since until their withdrawal dates, single hulled tankers will be deemed to comply with the applicable international regulations.

5.2.4. The ESC firmly believes that specific conditions and procedures need to be laid down for persistent, heavy fuel oils, given that the current techniques for dealing with them are inadequate.

5.2.5. The Commission recognises the economic and social impact which its proposal will have on the industry and states, and it intends to give more detailed consideration to this impact. The ESC believes that the nature and importance of the proposal is such that prior consideration should be given to its impact before a realistic timetable is set out. Accelerated replacement of the tanker fleet should not have an effect on continuity of supply.

5.2.6. The ESC urges that the renewal of the tanker fleet should also go hand-in-hand with the installation of state-of-the-art onboard navigational instruments, including satellite navigation receivers⁽¹⁾, and a state-of-the-art ship-identification system, the provision of adequate crew training and compliance with ILO maritime standards. In particular, the EU should require its Member States and the applicant states to ratify the six most recent standards adopted by the International Labour Conference at its maritime sessions and all of the main ILO and IMO maritime standards.

6. Conclusions

6.1. The Committee trusts that — unlike in the past — an overall maritime safety policy will now be properly

implemented for all vessels sailing in European waters and using European ports; such a policy will be an effective way of averting the risks of maritime catastrophes with their very grave consequences in terms of human and material losses and damage to the environment and biodiversity resulting from marine and coastal pollution.

6.2. The Committee believes that all conventional maritime law governing vessel safety and manning conditions and involving flag states, port states and coastal states should be fully implemented. It also believes that the European Commission should shortly draw up new legislative proposals covering the transport by sea of dangerous or potentially polluting products. These proposals should apply to all states and other players.

6.3. Application of the 'polluter pays' principle should render liable not only the owner of the vessel but also the owner of the dangerous cargo. The flag state should also be rendered liable under appropriate forms and procedures governed by international law, which needs to be expanded in this field. Furthermore, coastal states should have the right not to recognise certificates of ships issued by or on behalf of sub-standard flags or classification societies, categorised as such under an IMO procedure.

6.4. The Committee is particularly concerned about the sizeable and growing number of vessels — registered not only under well-known flags of convenience but also under the flags of countries moving towards a market economy and applicant states — which are detained in European ports following inspections.

6.5. Particular attention should therefore be paid to maritime safety in the accession negotiations and to the exemptions granted by the second registers of the EU and EEA Member States; European flag states — just like port states — should meet their obligations in full under the international instruments of the UN, IMO and ILO.

6.6. Public opinion and maritime-industry and tourism-industry professionals are entitled to information and transparency as regards the preventive safety measures implemented and, in the event of disasters, as regards the risks posed by polluting products discharged into the sea and onto coastlines and the immediate and longer-term risks posed to public health, food, the environment and biodiversity. There is a need to reexamine the issue of compensation so as to take account of the full catalogue of damage caused, including long-term damage and the cost of restoration work.

⁽¹⁾ See the Communication entitled 'Involving Europe in a New Generation of Satellite Services — Galileo'.

6.7. Prevention policy should include: technical and legal measures to enable vessels sailing in EU waters to be identified and tracked; sanctions of a deterrent nature in the event of deliberate pollution (degassing); and the exclusion from the EEZ of sub-standard vessels.

6.8. An ambitious maritime safety policy — for which the current proposals represent merely a start — should rehabilitate the maritime transport environment and ensure that safety benefits not only maritime-industry professionals but also shipbuilders and equipment-manufacturers in terms of the

work and skilled jobs it creates. Working conditions and terms of employment on board vessels should be such that vessels can operate with maximum safety. There should also be sufficient qualified inspectors to carry out onboard inspections of vessel structures, safety equipment, modern navigation instruments and crew conditions.

6.9. The adoption of tougher rules clearly requires a real political commitment on the part of Member States and the earmarking of appropriate funding, so as to ensure that these rules are properly implemented as soon as possible.

Brussels, 19 October 2000.

The President
of the Economic and Social Committee
Göke FRERICHS

Opinion of the Economic and Social Committee on the 'Communication from the Commission to the Council, the European Parliament, the Economic and Social Committee and the Committee of the Regions: Priorities in EU road safety — progress report and ranking of actions'

(2001/C 14/05)

On 20 March 2000 the Commission decided to consult the Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the above-mentioned communication.

The Section for Transport, Energy, Infrastructure and the Information Society, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 28 September 2000. The rapporteur was Mr Ghigonis.

At its 376th plenary session on 19 October 2000 the Committee adopted the following opinion unanimously.

1. Introduction

1.1. In this new Communication on road safety, the Commission assesses the progress made since the Communication of April 1997⁽¹⁾. It points out that the decline in the number of road accident victims is levelling off and proposes, with a view to further promotion of road safety:

— six short and medium-term priorities for action:

- continue to work with and develop the European New Car Assessment Programme (EuroNCAP);
- campaigns and legislation on seat belts and child restraints;
- recommendation to the Member States on maximum blood/alcohol levels in traffic;
- legislation on speed limiters for light commercial vehicles;

⁽¹⁾ Promoting road safety in the EU, COM(1997) 131 final; ESC opinion — OJ C 73, 9.3.1998, p. 66.