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Contents

I *Acts whose publication is obligatory*

- ★ Council Regulation (EC) No 2978/94 of 21 November 1994 on the implementation of IMO Resolution A.747(18) on the application of tonnage measurement of ballast spaces in segregated ballast oil tankers ..... 1
- ★ Council Directive 94/55/EC of 21 November 1994 on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road ..... 7
- ★ Council Directive 94/56/EC of 21 November 1994 establishing the fundamental principles governing the investigation of civil aviation accidents and incidents ..... 14
- ★ Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations ..... 20
- ★ Council Directive 94/58/EC of 22 November 1994 on the minimum level of training of seafarers ..... 28

2

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Acts whose titles are printed in light type are those relating to day-to-day management of agricultural matters, and are generally valid for a limited period.

The titles of all other Acts are printed in bold type and preceded by an asterisk.

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## I

*(Acts whose publication is obligatory)*

## COUNCIL REGULATION (EC) No 2978/94

of 21 November 1994

on the implementation of IMO Resolution A.747(18) on the application of tonnage measurement of ballast spaces in segregated ballast oil tankers

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 84 (2) thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the Economic and Social Committee (2),

Acting in accordance with the procedure referred to in Article 189c of the Treaty (3),

Whereas operational and accidental pollution by sea-going oil tankers is still occurring and the transport of oil by tankers of conventional oil tank design poses a continuous threat to the marine environment;

Whereas internationally agreed rules for the design and operation of environmentally-friendly oil tankers were established under the auspices of the International Maritime Organization (IMO);

Whereas the operation of environmentally-friendly oil tankers benefits both coastal States and the industry;

Whereas international conventions contain requirements for the certification of oil tankers; whereas the method of measuring the tonnage of segregated ballast tanks in oil tankers has been developed further by the IMO;

Whereas all but one of the Member States have ratified and implemented the International Convention for the Prevention of Pollution from Ships, 1973 and the Protocol of 1978 related thereto (Marpol 73/78); whereas all Member States have ratified and implemented the International Convention on Tonnage Measurement of Ships, 1969;

Whereas Resolution A.722(17) adopted by the Assembly of IMO on 6 November 1991 and its successor, Resolution A.747(18) on the application of tonnage measurement of segregated ballast tanks in oil tankers, adopted by the Assembly of IMO on 4 November 1993, express a general desire to encourage the design of environmentally-friendly tankers and the use of segregated ballast tanks in oil tankers;

Whereas in Resolution A.747(18) the IMO Assembly (i) invited Governments to advise the port and harbour authorities to apply its recommendation of deducting the tonnage of the segregated ballast tanks when assessing the fees based on the gross tonnage for all tankers with segregated ballast capacity in accordance with Regulation 13 of Annex I of Marpol 73/78 and (ii) invited Governments also to advise pilotage authorities to take action in accordance with the recommendation;

Whereas the Council recognized the need for intensified action, as appropriate, at Community or national level to ensure an adequate response to the requirements of maritime safety and the prevention of marine pollution; whereas it is desirable to promote the use of double hull oil tankers or oil tankers of an alternative design fulfilling the requirements of Regulation 13F of Annex I of Marpol 73/78 as amended on 6 March 1992, as well as segregated ballast oil tankers;

Whereas double hull oil tankers and oil tankers of an alternative design should be treated for the purpose of

(1) OJ No C 5, 7. 1. 1994, p. 4.

(2) OJ No C 295, 22. 10. 1994, p. 26.

(3) Opinion of the European Parliament of 3 May 1994, Council common position of 19 September 1994 (OJ No C 301, 27. 10. 1994, p. 34) and Decision of the European Parliament of 16 November 1994 (not yet published in the Official Journal).

this Regulation as if their segregated ballast tanks complied with Regulation 13 of Annex I of Marpol 73/78;

Whereas it is inappropriate to penalize shipowners and operators for using oil tankers which are environmentally-friendly in design and operation;

Whereas, in particular, the charging of dues on the tonnage of segregated ballast tanks of oil tankers, where those tanks are not used for the carriage of cargo, constitutes a financial disadvantage for those who have taken an important step towards a cleaner environment;

Whereas, for economic reasons, individual harbour authorities are reluctant to be placed at a disadvantage by being the only ones to implement the IMO Resolution;

Whereas IMO Resolutions A.722(17) and A.747(18) have been agreed, but not implemented by all Member States;

Whereas for the purpose of protecting the marine environment from pollution by oil tankers of a conventional design, there should be unified implementation in the Community of internationally agreed rules concerning the charging of levies on oil tankers by port and harbour authorities and pilotage authorities;

Whereas, in order to avoid distortion of competition within the Community and to reach efficient and cost-effective solutions, concerted action for unified implementation of the internationally agreed rules, in accordance with the principle of subsidiarity, can best be established by means of a Regulation;

Whereas the flag State or other bodies issuing the International Oil Pollution Prevention Certificate and the International Tonnage Certificate (1969), as well as the shipowners and persons who charge levies on oil tankers must work together in implementing IMO Resolution A.747(18) in order to enhance protection of the marine environment;

Whereas systems have already been established in some Member States for reducing levies on environmentally-friendly vessels on a basis other than IMO Resolution A.747(18); whereas in accordance with the spirit of that Resolution, an alternative scheme for tonnage-based fees should be provided for consisting in a percentage differential from the normal tariff, so that the average difference will be at least the same as that which is envisaged by the Resolution; whereas it should furthermore be ensured that segregated ballast oil tankers are always given no less favourable treatment even where fees are not calculated on the basis of tonnage,

HAS ADOPTED THIS REGULATION:

### Article 1

Port and harbour authorities and pilotage authorities within the Community shall, in accordance with the provisions of this Regulation:

- (a) implement within the Community IMO Resolution A.747(18) on the application of tonnage measurements of segregated ballast tanks in oil tankers, adopted by the Assembly of the International Maritime Organization (IMO) on 4 November 1993, whose Annex is contained in Annex I to this Regulation, in order to encourage the use of oil tankers with segregated ballast tanks, including double hull oil tankers and oil tankers of an alternative design; or
- (b) apply reduction schemes for levies charged on segregated ballast oil tankers different from, but in the spirit of, IMO Resolution A.747(18).

### Article 2

This Regulation shall apply to oil tankers which:

- can carry segregated ballast in specially appointed tanks,
- are designed, built adapted, equipped and operated as segregated ballast oil tankers including double hull oil tankers and oil tankers of an alternative design,
- meet the requirements of the International Convention on Tonnage Measurement of Ships 1969, and
- hold the International Tonnage Certificate, (1969).

### Article 3

1. For the purpose of this Regulation:

- (a) 'oil tanker' means a ship which complies with the definition of an oil tanker in Regulation 1 (4) of Annex I to Marpol 73/78;
- (b) 'segregated ballast' means the ballast which complies with the definition of segregated ballast in Regulation 1 (17) in Annex I to Marpol 73/78;
- (c) 'segregated ballast tank' means a tank exclusively used for the carriage of segregated ballast;
- (d) 'segregated ballast oil tanker' means an oil tanker provided with segregated ballast tanks and certified by the government of the flag State or by other bodies entitled to do so on its behalf as an oil tanker

provided with segregated ballast tanks. This compliance must be clearly stated by such authority in the relevant paragraph of the supplement to the International Oil Pollution Prevention Certificate;

- (e) 'double hull oil tanker' means a segregated ballast oil tanker built in accordance with the requirements laid down in Regulation 13F (3) of Annex I to Marpol 73/78;
- (f) 'oil tanker of an alternative design' means a segregated ballast oil tanker built in accordance with the requirements laid down in Regulation 13 F (4) and (5) of Annex I to Marpol 73/78;
- (g) 'Marpol 73/78' means the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto together with the amendments thereto in force at the date of adoption of this Regulation;
- (h) 'port and harbour authority' is a public or private person which charges fees to ships for providing facilities and services to shipping;
- (i) 'pilotage authority' is a public or private person entitled to render pilotage services to shipping;
- (j) 'gross tonnage' means the measure of the overall size of a ship determined in accordance with the provisions of the International Convention on Tonnage Measurement of Ships, 1969;
- (k) 'reduced gross tonnage' is the gross tonnage of an oil tanker arrived at when the gross tonnage of the segregated ballast tanks, as determined in accordance with the formula given in paragraph 4 of Annex I to this Regulation is deducted from the entire gross tonnage of the vessel.

2. Annex II contains the definitions given by Marpol 73/78 to the terms in paragraph 1 (a), (b), (e) and (f).

#### Article 4

When issuing the International Tonnage Certificate (1969) for a segregated ballast oil tanker, which has been measured in accordance with the rules of the International Convention on Tonnage Measurement of Ships, 1969, the competent body shall insert, for the purpose of this Regulation, under the heading 'Remarks' a statement conforming to paragraph 3 of Annex I to this Regulation and specifying:

- (i) the tonnage of the segregated ballast tanks of the ship; this tonnage shall be calculated in accordance with the method and the procedure set out in paragraph 4 of Annex I to this Regulation; and
- (ii) the reduced gross tonnage of the vessel.

#### Article 5

1. When assessing fees for oil tankers fully or partly based on the figure of gross tonnage (GT) of the vessel, port and harbour authorities and pilotage authorities shall exclude the tonnage of the segregated ballast tanks of an oil tanker, so as to base their calculations on the reduced gross tonnage indicated under the heading 'Remarks' of the International Tonnage Certificate (1969) of the vessel.

2. Alternatively, port and harbour authorities and pilotage authorities shall ensure that the fee for an oil tanker falling within the scope of this Regulation as provided for in Article 2 is at least 17 % lower than the fee for a tanker without segregated ballast tanks of the same gross tonnage.

Port and harbour authorities and pilotage authorities already applying, on 13 June 1994, a flat rate system as provided for in the first subparagraph, but based on a lower percentage, shall apply the figure of 17 % as a minimum not later than 1 January 1997.

3. Where the fees are assessed other than on the basis of gross tonnage, port and harbour authorities as well as pilotage authorities shall ensure that segregated ballast oil tankers receive treatment no less favourable than when fees are calculated in accordance with paragraphs 1 or 2.

4. Port and harbour authorities and pilotage authorities shall apply, for all segregated ballast oil tankers, only one of the systems mentioned in paragraphs 1, 2 and 3.

#### Article 6

Annex I to this Regulation may be amended in accordance with the procedure laid down in Article 7 in order to take into account amendments to Resolution A.747(18) of the IMO and to relevant international Conventions which have entered into force.

#### Article 7

1. The Commission shall be assisted by a committee composed of the representatives of the Member States and chaired by the representative of the Commission. This committee shall be called by the Commission whenever it is necessary for the application of this Regulation.

2. The committee shall draw up its rules of procedure.

3. The following procedure shall apply to matters covered by Article 6:

- (a) The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down

according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

- (b) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.
- (c) If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall without delay submit to the Council a proposal relating to the measure to be taken. The Council shall act by a qualified majority. If, within three months from the date of referral to it, the Council has not acted, the proposed measure shall be adopted by the Commission.

#### Article 8

1. Member States shall, in due time, but before 31 December 1995, adopt such laws, regulations or administrative provisions as may be necessary for the implementation of this Regulation.

Such measures shall cover, *inter alia*, the organization, procedure and means of control.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 21 November 1994.

2. The Member States shall send to the Commission annually all available information concerning the application of this Regulation, including breaches committed by their port and harbour authorities and pilotage authorities.

3. When Member States adopt measures as referred to in paragraph 1, they shall contain a reference to this Regulation or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

4. The Member States shall immediately communicate to the Commission all provisions of domestic law which they adopt in the field governed by this Regulation. The Commission shall inform the other Member States thereof.

#### Article 9

1. The Commission shall review the implementation of this Regulation annually after receiving reports from Member States as prescribed in Article 8.

2. The Commission shall present an evaluation report on the operation of the system as provided for in Article 5 (2) to the European Parliament and the Council by 31 December 1998.

#### Article 10

This Regulation shall into force on 1 January 1996.

*For the Council*

*The President*

M. WISSMANN

## ANNEX I

## Tonnage measurement of segregated ballast tanks in oil tankers

In order to use a unified base for the application of tonnage measurement of segregated ballast tanks in oil tankers, administrations, bodies recognized to issue international certificates and persons who charge levies on oil tankers shall accept the following principles:

1. The ship is certified as a segregated ballast oil tanker as stated in paragraph 5 of the supplement to the International Oil Pollution Prevention Certificate and the location of the segregated ballast tanks is indicated under paragraph 5.2 of the supplement.
2. Segregated ballast tanks are those tanks exclusively used for the carriage of segregated water ballast, as defined in Regulation 1 (17) of Annex I of Marpol 73/78. The segregated ballast tanks should have a separate ballast pumping and piping system arranged for the intake and discharge of ballast water from and to the sea only. There should be no piping connections from segregated ballast tanks to the fresh water system. No segregated ballast tank should be used for the carriage of any cargo or for storage of ship's stores or material.
3. In the International Tonnage Certificate (1969) under 'Remarks' an entry is made for the tonnage of segregated ballast tanks in oil tankers as follows:

'The segregated ballast tanks comply with Regulation 13 of Annex I of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto, and the total tonnage of such tanks exclusively used for the carriage of segregated water ballast is... .

The reduced gross tonnage which should be used for the calculation of tonnage based fees is ... .'

4. The tonnage of segregated ballast tanks mentioned above shall be calculated according to the following formula:

$$K_1 \times V_b$$

where:

$K_1 = 0,2 + 0,02 \log_{10} V$  (or as tabulated in Appendix 2 of the International Convention on Tonnage Measurement of Ships, 1969).

$V$  = the total volume of all enclosed spaces of the ship in cubic metres as defined in Regulation 3 of the International Convention on Tonnage Measurement of Ships, 1969.

$V_b$  = the total volume of segregated ballast tanks in cubic metres measured in accordance with Regulation 6 of the International Convention on Tonnage Measurement of Ships, 1969.

## ANNEX II

## Definitions given by Marpol 73/78 to the terms in Article 3 (1) (a), (b), (e) and (f)

*Re paragraph 1 (a):*

'Oil tankers' means a ship constructed or adapted primarily to carry oil in bulk in its cargo spaces and includes combination carriers and any 'chemical tanker' as defined in Annex II of the present Convention, when it is carrying a cargo or part cargo of oil in bulk.

'Combination carrier' means a ship designed to carry either oil or solid cargoes in bulk.

'Chemical tanker' means a ship constructed or adapted primarily to carry a cargo of noxious liquid substances in bulk and includes an 'oil tanker' as defined in Annex I of the present Convention when carrying a cargo or part cargo of noxious liquid substances in bulk.

*Re paragraph 1 (b):*

'Segregated ballast' means the ballast water introduced into a tank which is completely separated from the cargo oil and oil fuel system and which is permanently allocated to the carriage of ballast or to the carriage of ballast or cargoes other than oil or noxious substances as variously defined in the Annexes of the present Convention.

*Re paragraph 1 (e):*

'Double hull oil tanker' means an oil tanker of which the entire cargo tank length shall be protected by ballast tanks or spaces other than cargo and fuel oil tanks.

*Re paragraph 1 (f):*

'Oil tanker of an alternative design' means:

- an oil tanker, the design of which is such that the cargo and vapour pressure exerted on the bottom shell plating forming a single boundary between the cargo and the sea does not exceed the external hydrostatic water pressure,
- an oil tanker which is designed according to methods that ensure at least the same level of protection against oil pollution in the event of collision or stranding and are approved in principle by the Marine Environment Protection Committee based on guidelines developed by the International Maritime Organization.

## COUNCIL DIRECTIVE 94/55/EC

of 21 November 1994

on the approximation of the laws of the Member States with regard to the transport of dangerous goods by road

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 75 thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the Economic and Social Committee (2),

Acting in accordance with the procedure laid down in Article 189c of the Treaty (3),

- (1) Whereas, over the years, both the national and the international transport of dangerous goods by road have significantly increased, adding to the dangers in the event of an accident;
- (2) Whereas all Member States except Ireland are Contracting Parties to the European Agreement concerning the International Carriage of Dangerous Goods by Road (ADR), the geographical scope of which extends beyond the Community and which lays down uniform rules for the safe international transport of dangerous goods by road; whereas it is consequently desirable that such rules be extended to cover national traffic in order to harmonize across the Community the conditions under which dangerous goods are transported by road;
- (3) Whereas no Community legislation embraces the full range of measures required to ensure the safe transport of dangerous goods and the relevant national measures vary from one Member State to another; whereas those divergences are an obstacle to the free provision of transport services and, moreover, to the free movement of vehicles and

transport equipment; whereas in order to overcome that obstacle uniform rules applicable to all intra-Community transport should be defined;

- (4) Whereas an action of this nature must be carried out at Community level to ensure consistency with other Community legislation, to ensure a satisfactory degree of harmonization to facilitate the free movement of goods and services and to ensure a high level of safety for national and international transport operations;
- (5) Whereas the provisions of this Directive are without prejudice to the commitment entered into by the Community and its Member States, in accordance with the goals set under Agenda 21, Chapter 19, at the UnCED conference of June 1992 in Rio de Janeiro, to strive for the future harmonization of systems for the classification of dangerous substances;
- (6) Whereas no specific Community legislation yet governs the safety conditions under which biological agents and genetically modified micro-organisms, regulated under Council Directives 90/219/EEC (4), 90/220/EEC (5) and 90/679/EEC (6), should be transported;
- (7) Whereas this Directive takes account of other Community policies in the fields of worker safety, vehicle construction and environmental protection;
- (8) Whereas the Member States remain free to regulate any operation for the transport of dangerous goods carried out within their territory by a vehicle not covered by the Directive regardless of where the vehicle is registered;
- (9) Whereas the Member States must be able to apply specific road-traffic regulations to the transport of dangerous goods within their territories;

(1) OJ No C 17, 20. 1. 1994, p. 6.

(2) OJ No C 195, 18. 7. 1994, p. 15.

(3) European Parliament opinion of 3 May 1994 (OJ No C 205, 25. 7. 1994, p. 54), Council common position of 19 September 1994 (OJ No C 301, 27. 10. 1994, p. 25) and European Parliament decision of 17 November 1994 (not yet published in the Official Journal).

(4) OJ No L 117, 8. 5. 1990, p. 1.

(5) OJ No L 117, 8. 5. 1990, p. 15.

(6) OJ No L 374, 31. 12. 1990, p. 1.



- (10) Whereas the Member States must be able to maintain their quality-control requirements as regards certain national transport operations until the Commission reports to the Council on these matters;
- (11) Whereas the provisions of the ADR authorize the conclusion of agreements derogating therefrom, and whereas the large number of agreements concluded bilaterally between Member States impedes the free provisions of dangerous-goods transport services; whereas including the necessary provisions in the Annexes to this Directive should overcome the need for such derogations; whereas provision should be made for a transitional period during which the Member States may continue to apply existing agreements amongst themselves;
- (12) Whereas it is necessary to transpose into Community law the provisions of the ADR, including the requirements concerning the construction of vehicles transporting dangerous goods; whereas, in this context, provision should be made for a transitional period so that the Member States may temporarily maintain certain specific national provisions on construction requirements for nationally registered vehicles;
- (13) Whereas existing information procedures in the field of related national legislative proposals must be used in order to increase transparency for all economical operators;
- (14) Whereas as regards national transport, the Member States must retain the right to apply rules complying with the United Nations multimodal Recommendations on the Transport of Dangerous Goods, in so far as the ADR is not yet harmonized with those rules, the purpose of which is to facilitate the inter-modal transport of dangerous goods;
- (15) Whereas the Member States must be able to regulate or prohibit the transport by road of certain dangerous goods within their territories, but only for reasons other than transport safety; whereas in this context the Member States may retain the right in the case of certain transports of very dangerous substances to impose the use of transport by rail or inland waterway or may maintain very specific packaging for certain very dangerous substances;
- (16) Whereas for the purposes of this Directive the Member States must be able to apply more stringent or more lenient rules to certain transport operations performed within their territories by means of vehicles registered there;
- (17) Whereas the harmonization of conditions should take account of specific national circumstances and therefore this Directive must be sufficiently flexible in providing the Member States with the possibility of granting certain derogations; whereas the application of new technological and industrial developments must not be impeded and provision must therefore be made for temporary derogations;
- (18) Whereas vehicles registered in non-member countries must be allowed to perform international transport within the territories of Member States if they comply with the ADR;
- (19) Whereas it must be possible to adapt this Directive rapidly to technical progress, in order to take account of new provisions incorporated in the ADR and to decide upon the application and implementation of emergency measures in the event of accidents or incidents; whereas a committee should be created for that purpose and a procedure should be established for close cooperation between the Member States and the Commission within that committee;
- (20) Whereas the Annexes to this Directive contain provisions covering the vocational training of certain drivers of vehicles transporting dangerous goods by road; whereas, therefore, Council Directive 89/684/EEC of 21 December 1994 on vocational training for certain drivers of vehicles carrying dangerous goods by road <sup>(1)</sup> should be repealed,

HAS ADOPTED THIS DIRECTIVE:

#### CHAPTER I

#### Scope, definitions and general provisions

##### *Article 1*

1. This Directive shall apply to the transport of dangerous goods by road within or between Member

<sup>(1)</sup> OJ No L 398, 30. 12. 1989, p. 33.

States. It shall not apply to the transport of dangerous goods by vehicles belonging to or under the responsibility of the armed forces.

2. This Directive shall not, however, affect the Member States' right, with due regard to Community law, to lay down requirements as regards:

- (a) the national and international transport of dangerous goods within their territories performed by vehicles not covered by this Directive,
- (b) road-traffic regulations specific to the national and international transport of dangerous goods;
- (c) quality controls on undertakings, in accordance with ISO standards 9001 and 9002, where they carry out national transport operations involving:
  - (i) explosive substances and article in Class 1, where the quantity of explosive substance contained per transport unit exceeds:
    - 1 000 kg for division 1.1, or
    - 3 000 kg for division 1.2, or
    - 5 000 kg for divisions 1.3 and 1.5;
  - (ii) the following very dangerous substances in tanks or in tank-containers of a total capacity exceeding 3 000 litres:
    - substances of Class 2
      - gas classified under (at)
      - (bt)
      - (b)
      - (ct)
      - (c)
    - deeply refrigerated liquified gases of 7° (b) and 8° (b),
    - substances of Classes 3, 4.1, 4.2, 4.3, 5.1, 5.2, 6.1 and 8
    - not listed under (b) or (c) in those classes, or
    - listed therein but having a hazard code with three or more significant digits (not including any zero);
  - (iii) the following packages of Class 7 (radioactive materials): packages of fissile materials, packages of type B (U), packages of type B (M).

The scope of the national provisions concerning these requirements may not be extended.

The provisions in question shall cease to apply if similar measures are made obligatory under Community provisions.

Before 31 December 1998 the Commission shall submit to the Council a report assessing the safety aspects covered by this provision together with an appropriate proposal for its continuation or repeal.

## Article 2

For the purposes of this Directive:

- 'ADR' shall mean the European Agreement concerning the International Carriage of Dangerous Goods by Road, concluded at Geneva on 30 September 1957, as amended,
- 'vehicle' shall mean any motor vehicle intended for use on the road, being complete or incomplete, having at least four wheels and a maximum design speed exceeding 25 km/h, and its trailers, with the exception of vehicles which run on rails, and of agricultural and forestry tractors and all mobile machinery,
- 'dangerous goods' shall mean those substances and articles the transport of which by road is prohibited or authorized only in certain circumstances by Annexes A and B to this Directive,
- 'transport' shall mean any road transport operation performed by a vehicle wholly or partly on public roads within the territory of a Member State, including the activity of loading and unloading, covered by Annexes A and B, without prejudice to the arrangements laid down by the laws of the Member States, concerning liability in respect of such operations.

It shall not include transport wholly performed within the perimeter of an enclosed area.

## Article 3

1. Without prejudice to Article 6, dangerous goods the transport of which is prohibited by Annexes A and B to this Directive shall not be transported by road.

2. Save as otherwise provided in this Directive, the transport of other dangerous goods listed in Annex A shall be authorized subject to compliance with the conditions imposed in Annexes A and B, in particular as regards:

- (a) the packaging and labelling of the goods in question; and
- (b) the construction, equipment and proper operation of the vehicle carrying the goods in question.

## CHAPTER II

## Derogations, restrictions and exemptions

*Article 4*

Solely for the purposes of national transport operations performed by vehicles registered within its territory each Member State may retain provisions of its national law on the transport of dangerous goods by road which are consistent with the UN Recommendations on the Transport of Dangerous Goods until Annexes A and B to this Directive are revised to reflect those recommendations. The Member States concerned shall inform the Commission accordingly.

*Article 5*

1. Without prejudice to other Community legislation, in particular that on market access, each Member State shall retain the right, strictly for reasons other than safety during transport, such as reasons of national security or environmental protection, to regulate or prohibit the transport of certain dangerous goods within its territory.

2. Any rules imposed by a Member State on vehicles performing international transport through its territory and authorized by Marginal 10 599 of Annex B shall be limited in scope locally, shall apply to both national and international transport and may not result in any discrimination.

3. (a) Each Member State may apply more stringent provisions concerning transport, with the exception of construction requirements, performed by vehicles registered or put into circulation within its territory.

(b) The Member States may, however, maintain specific national provisions on the centres of gravity of tank-vehicles registered within their territories until the amendment, if any, of Marginal 211 128 of Annex B to this Directive, but not, in any event, after 31 December 1998.

4. If a Member State considers that the safety provisions applicable have been found to be insufficient, on the occasion of an accident or an incident, to limit the hazards involved in transport and if there is an urgent need to take action, it shall notify the Commission, at the planning stage, of the measures which it proposes to take. Acting in accordance with the procedure laid down in Article 9, the Commission shall decide whether the implementation of those measures should be authorized and determine their duration.

5. The Member States may maintain any national provisions applicable on 31 December 1996 with regard to:

- the transport of Class 1.1 substances,
- the transport of toxic, unstable and/or flammable gases of Class 2,
- the transport of substances containing dioxins or furans,
- the transport in tanks or tank-containers of more than 3 000 litres of liquids of Classes 3, 4.2, 4.3, 5.1, 6.1 or 8 which do not appear under (b) or (c) in these classes.

Such provisions may concern only:

- the prohibition of such transport operations by road where it is possible for them to be carried out by rail or by inland waterway,
- a requirement to follow certain preferred routes,
- any other provisions concerning the packaging of substances containing dioxins or furans.

These provisions may not be extended or made more stringent. The Member States shall communicate these national provisions to the Commission, which shall inform the other Member States accordingly.

*Article 6*

1. Each Member State may authorize the transport by road within its territory of dangerous goods classified, packaged and labelled in accordance with the international requirements for maritime or air transport whenever the transport operation involves a sea or air voyage.

2. Any provisions in Annexes A and B concerning the use of languages in relevant marking or documentation shall not apply to transport operations confined to the territory of a single Member State. Member States may authorize the use of languages other than those provided for in the Annexes for transport operations performed within their territories.

3. Within its territory each Member State may authorize the use of vehicles constructed before 1 January 1997 which do not comply with this Directive but were constructed in accordance with the national requirements in force on 31 December 1996 provided that such vehicles are maintained to the required safety levels.

4. Each Member State may maintain provisions of national legislation in force on 31 December 1996 relating to the construction, use and conditions of

carriage of new receptacles within the meaning of Marginal 2 212 of Annex A and new tanks which do not comply with Annexes A and B, until references to standards for the construction and use of tanks and receptacles with the same binding force as the provisions of this Directive are added to Annexes A and B and in any event no later than 31 December 1998. Receptacles and tanks constructed before 1 January 1999 and maintained to the required safety levels may continue to be used under the original conditions.

5. Each Member State may maintain national provisions other than those set out in Annexes A and B with regard to the reference temperature for the transport within its territory of liquified gases or mixtures of liquified gases until provisions relating to appropriate reference temperatures for designated climatic areas are incorporated into European standards and references to those standards are added to Annexes A and B.

6. Each Member State may allow the use, for transport within its territory, of packagings constructed but not certified in accordance with the ADR before 1 January 1997 provided that such packaging shows the date of manufacture and is capable of passing the tests laid down in national legislation in force on 31 December 1996 and provided that all such packagings are maintained to the relevant safety levels (including testing and inspection where required), in accordance with the following scheme: intermediate metal bulk containers and metal drums exceeding 50 litres in capacity, for up to 15 years after their date of manufacture; other metal packagings and all plastics packagings, for up to five years after their date of manufacture; other metal packagings and all plastics packagings, for up to five years after their date of manufacture but not after 31 December 1998.

7. Each Member State may allow the transport within its territory of certain dangerous goods packaged before 1 January 1997 until 31 December 1998, provided that the goods are classified, packaged and labelled in accordance with the requirements of national legislation in force before 1 January 1997.

8. Each Member State may maintain provisions of national legislation in force on 31 December 1996 relating to the display of an emergency action code in place of the hazard identification number provided for in Annex B for transport operations performed within its territory by vehicles registered within that territory.

9. Each Member State may, after consulting the Commission, maintain provisions less stringent than those set out in Annexes A and B to this Directive for the transport within its territory of small quantities of certain dangerous goods, with the exception of substances having a medium or high level of radioactivity.

10. Provided that safety is not compromised, the Member States may grant temporary derogations from Annexes A and B for the purpose of carrying out within their territories the trials necessary before the amendment of those Annexes to adapt them to technological and industrial developments. The Commission shall be informed thereof and shall inform the other Member States accordingly.

A temporary derogation agreed on between Member States' competent authorities on the basis of Marginals 2 010 and 10 602 of Annexes A and B shall take the form of a multilateral agreement proposed to all Member States' competent authorities by the authority taking the initiative in respect of the agreement. The Commission shall be informed accordingly.

Any derogation such as referred to in the first and second subparagraphs shall be applied without discrimination on grounds of the nationality or the place of establishment of the consignor, haulier or consignee; they may last for up to five years and shall not be renewable.

11. Each Member State may authorize single transports of dangerous goods which are either prohibited by Annexes A and B or performed under conditions different from those laid down in Annexes A and B.

12. Without prejudice to paragraph 2, each Member State may until 31 December 1998 at the latest apply existing agreements with other Member States that comply with the ADR, without discrimination on grounds of the nationality or the place of establishment of the consignor, haulier or consignee. Any other derogation authorized by Marginals 2 010 and 10 602 of Annexes A and B shall comply with paragraph 10.

#### *Article 7*

Subject to national or Community provisions on market access, vehicles registered or put into circulation in non-member countries shall be authorized to perform the international transport of dangerous goods within the Community if the transport in question complies with the ADR.

### CHAPTER III

#### Final provisions

#### *Article 8*

The amendments necessary to adapt Annexes A and B to scientific and technical progress in the fields covered by

this Directive in order to take account of amendments to the Annexes to the ADR shall be adopted in accordance with the procedure laid down in Article 9.

#### *Article 9*

1. The Commission shall be assisted by a committee on the transport of dangerous goods, hereinafter referred to as 'the Committee', which shall consist of representatives of the Member States and be chaired by a representative of the Commission.

2. The Commission representative shall submit to the Committee a draft of the measures to be taken. The Committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the Committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt the measures envisaged if they are in accordance with the Committee's opinion.

(b) If the measures envisaged are not in accordance with the Committee's opinion or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

If the Council does not act within three months of the date of referral to the Council the Commission shall adopt the proposed measures.

#### *Article 10*

1. The Member States shall bring into force the laws, regulations and administrative provisions necessary for them to comply with this Directive before 1 January 1997. They shall forthwith inform the Commission thereof.

When the Member States adopt those measures they shall include references or shall accompany them with such references on their official publication. The Member States shall lay down the manner in which such references shall be made.

2. The Member States shall communicate to the Commission the texts of the main provisions of national law which they adopt in the field governed by this Directive.

#### *Article 11*

1. Directive 89/684/EEC is hereby repealed as from the deadline for the transposition of this Directive into national legislation.

2. Provisional certificates issued by the Member States in accordance with Article 4 (2) of that Directive for national transport only shall remain valid until 31 December 1996. Certificates issued in accordance with Article 4 (4) of that Directive may continue to be used until the end of their period of validity, but not later than 1 July 1997 for dangerous goods transported in tanks or for explosives and not later than 1 January 2000 for other dangerous goods.

#### *Article 12*

This Directive is addressed to the Member States.

Done at Brussels, 21 November 1994.

*For the Council*

*The President*

M. WISSMANN

*ANNEX A*

Marginals 2 000 to 3 999 of Annex A to the European Agreement on the International Carriage of Dangerous Goods by Road (ADR), as effective on 1 January 1995, 'Member State' being substituted for 'Contracting Party'.

*NB:* Versions in all the official languages of the Community will be published as soon as a consolidated text has been prepared and translations have been completed.

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*ANNEX B*

Marginals 10 000 to 260 000 of Annex B to the European Agreement on the International Carriage of Dangerous Goods by Road (ADR), as effective on 1 January 1995, 'Member State' being substituted for 'Contracting Party'.

*NB:* Versions in all the official languages of the Community will be published as soon as a consolidated text has been prepared and translations have been completed.

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## COUNCIL DIRECTIVE 94/56/EC

of 21 November 1994

establishing the fundamental principles governing the investigation of civil aviation accidents and incidents

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 84 (2) thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the Economic and Social Committee (2),

Acting in accordance with the procedure referred to in Article 189c of the Treaty (3),

Whereas a high general level of safety should be maintained in civil aviation in Europe and all efforts should be made to reduce the number of accidents and incidents;

Whereas the expeditious holding of technical investigations of civil aviation accidents and incidents improves air safety in helping to prevent the occurrence of such accidents and incidents;

Whereas account should be taken of the Convention on International Civil Aviation, signed in Chicago on 7 December 1944, which provides for implementation of the measures necessary to ensure the safe operation of aircraft; whereas particular account should be taken of Annex 13 to this Convention which lays down recommended international standards and practices for aircraft accident investigation;

Whereas, according to the international standards in Annex 13, the investigation of accidents is to be carried out under the responsibility of the State where the accident occurs;

Whereas if, in the case of serious incidents, investigation is not carried out by the State where the incident occurs, such investigation should be conducted by the State of registry;

Whereas investigation of serious incidents should be carried out in a similar way to investigation of accidents;

Whereas the scope of investigations must depend on the lessons which can be drawn from them for the improvement of safety;

Whereas air safety requires investigations to be carried out in the shortest possible time,

Whereas investigators should be able to accomplish their tasks unhindered;

Whereas the Member States must, in compliance with the legislation in force as regards the powers of the authorities responsible for the judicial inquiry and, where appropriate, in close collaboration with those authorities, ensure that those responsible for the technical inquiry are allowed to carry out their tasks in the best possible conditions;

Whereas investigation of accidents and incidents which have occurred in civil aviation should be carried out by or under the control of an independent body or entity in order to avoid any conflict of interest and any possible involvement in the causes of the occurrences being investigated;

Whereas the body or entity should be suitably equipped and its tasks could include prevention activities;

Whereas Member States should take measures to ensure mutual assistance, if required, in carrying out investigations;

Whereas a Member State must be able to delegate the task of carrying out an investigation to another Member State;

Whereas it is important for accident prevention to make public the findings of accident investigations in the shortest time possible;

Whereas the particular nature of incidents should be taken into account when circulating the findings of investigations into them;

Whereas the safety recommendations resulting from an accident or incident investigation should be duly taken into account by the Member States;

(1) OJ No C 257, 22. 9. 1993, p. 8, OJ No C 109, 19. 4. 1994, p. 14.

(2) OJ No C 34, 2. 2. 1994, p. 18.

(3) Opinion of the European Parliament of 9 March 1994 (OJ No C 91, 28. 3. 1994, p. 123), Council common position of 16 May 1994 (OJ No C 172, 24. 6. 1994, p. 46) and Decision of the European Parliament of 26 October 1994 (OJ No C 323, 21. 11. 1994).

Whereas the sole aim of the technical investigation is to draw lessons which could prevent future accidents and incidents and whereas therefore the analysis of the occurrence, the conclusions and the safety recommendations are not designed to apportion blame or liability,

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

##### **Objective**

The purpose of this Directive is to improve air safety by facilitating the expeditious holding of investigations, the sole objective of which is the prevention of future accidents and incidents.

#### *Article 2*

##### **Scope**

1. This Directive shall apply to investigations into civil aviation accidents and incidents which have occurred in the territory of the Community taking into account the international obligations of the Member States.

2. This Directive shall also apply outside the territory of the Community to:

- (i) investigations into accidents involving aircraft registered in a Member State, when such investigations are not carried out by another State;
- (ii) investigations into serious incidents involving aircraft registered in a Member State or operated by an undertaking established in a Member State, when such investigations are not carried out by another State.

#### *Article 3*

##### **Definitions**

For the purposes of this Directive:

(a) 'accident' means an occurrence associated with the operation of an aircraft which takes place between the time any person boards the aircraft with the intention of flight until such time as all such persons have disembarked, in which:

- 1. a person is fatally or seriously injured as a result of:

- being in the aircraft, or
- direct contact with any part of the aircraft, including parts which have become detached from the aircraft, or
- direct exposure to jet blast,

except when the injuries are from natural causes, self-inflicted or inflicted by other persons, or when the injuries are to stowaways hiding outside the areas normally available to the passengers and crew; or

- 2. the aircraft sustains damage or structural failure which:

- adversely affects the structural strength, performance or flight characteristics of the aircraft, and
- would normally require major repair or replacement of the affected component,

except for engine failure or damage, when the damage is limited to the engine, its cowlings or accessories; or for damage limited to propellers, wing tips, antennas, tyres, brakes, fairings, small dents or puncture holes in the aircraft skin;

- 3. the aircraft is missing or is completely inaccessible;

(b) 'serious injury' means an injury which is sustained by a person in an accident and which:

- 1. requires hospitalization for more than 48 hours, commencing within seven days from the date the injury was received; or
- 2. results in a fracture of any bone (except simple fractures of fingers, toes, or nose); or
- 3. involves lacerations which cause severe haemorrhage, nerve, muscle or tendon damage; or
- 4. involves injury to any internal organ; or
- 5. involves second or third degree burns, or any burns affecting more than 5% of the body surface; or

- 6. involves verified exposure to infectious substances or harmful radiation;

(c) 'fatal injury' means an injury which is sustained by a person in an accident and which results in his/her death within 30 days of the date of the accident;



- (d) 'causes' means actions, omissions, events or conditions, or a combination thereof, which led to the accident or incident;
- (e) 'investigation' means a process conducted for the purpose of accident and incident prevention which includes the gathering and analysis of information, the drawing of conclusions, including the determination of cause(s) and, when appropriate, the making of safety recommendations;
- (f) 'investigator-in-charge' means a person charged, on the basis of his qualifications, with responsibility for the organization, conduct and control of an investigation;
- (g) 'flight recorder' means any type of recorder installed in the aircraft for the purpose of facilitating accident/incident investigations;
- (h) 'undertaking' means any natural person, any legal person, whether profit-making or not, or any official body whether having its own legal personality or not;
- (i) 'operator' means any person, body or undertaking operating or proposing to operate one or more aircraft;
- (j) 'incident' means an occurrence, other than an accident, associated with the operation of an aircraft which affects or would affect the safety of operation;
- (k) 'serious incident' means an incident involving circumstances indicating that an accident nearly occurred (a list of examples of serious incidents can be found in the Annex);
- (l) 'safety recommendation' means any proposal by the investigating body of the State conducting the technical investigation, based on information derived from that investigation, made with the intention of preventing accidents and incidents.

#### Article 4

##### Obligation to investigate

1. Every accident or serious incident shall be the subject of an investigation.

However, Member States may take measures to enable incidents not covered by the first subparagraph to be investigated when the investigating body may expect to draw air safety lessons from it.

2. The extent of investigations and the procedure to be followed in carrying out such investigations shall be determined by the investigating body, taking into account

the principles and the objective of this Directive and depending on the lessons it expects to draw from the accident or serious incident for the improvement of safety.

3. The investigations referred to in paragraph 1 shall in no case be concerned with apportioning blame or liability.

#### Article 5

##### Status of investigation

1. Member States shall define, in the framework of their respective internal legal systems, a legal status of the investigation that will enable the investigators-in-charge to carry out their task in the most efficient way and within the shortest time.

2. In accordance with the legislation in force in the Member States and, where appropriate, in cooperation with the authorities responsible for the judicial inquiry, the investigators shall be authorized *inter alia* to:

- (a) have free access to the site of the accident or incident as well as to the aircraft, its contents or its wreckage;
- (b) ensure an immediate listing of evidence and controlled removal of debris, or components for examination or analysis purposes;
- (c) have immediate access to and use of the contents of the flight recorders and any other recordings;
- (d) have access to the results of examination of the bodies of victims or of tests made on samples taken from the bodies of victims;
- (e) have immediate access to the results of examinations of the people involved in the operation of the aircraft or of tests made on samples taken from such people;
- (f) examine witnesses;
- (g) have free access to any relevant information or records held by the owner, the operator or the manufacturer of the aircraft and by the authorities responsible for civil aviation or airport operation.

#### Article 6

##### Investigating body or entity

1. Each Member State shall ensure that technical investigations are conducted or supervised by a permanent civil aviation body or entity. The body or entity concerned shall be functionally independent in particular of the national aviation authorities responsible for airworthiness, certification, flight operation, maintenance, licensing, air traffic control or airport

operation and, in general, of any other party whose interests could conflict with the task entrusted to the investigating body or entity.

2. Notwithstanding paragraph 1, the activities entrusted to this body or entity may be extended to the gathering and analysis of air safety related data, in particular for prevention purposes, in so far as these activities do not affect its independence and entail no responsibility in regulatory, administrative or standards matters.

3. The body or entity referred to in paragraph 1 shall be given the means required to carry out its responsibilities independently of the authorities referred to in paragraph 1 and should be able to obtain sufficient resources to do so. Its investigators shall be afforded status giving them the necessary guarantees of independence. It shall comprise at least one investigator able to perform the function of investigator-in-charge in the event of an aircraft accident or serious incident.

4. If necessary, the body or entity may request the assistance of bodies or entities from other Member States to supply:

(a) installations, facilities and equipment for:

- the technical investigation of wreckage and aircraft equipment and other objects relevant to the investigation,
- the evaluation of information from flight recorders, and
- the computer storage and evaluation of air accident data.

(b) accident investigation experts to undertake specific tasks but only when an investigation is opened following a major accident.

When available, such assistance should, as far as possible, be free of charge.

5. A Member State may delegate the task of carrying out an investigation into an accident or incident to another Member State.

#### *Article 7*

##### **Accident report**

1. Any investigation into an accident shall be the subject of a report in a form appropriate to the type and

seriousness of the accident. The report shall state the sole objective of the investigation as referred to in Article 1 and contain, where appropriate, safety recommendations.

2. The investigating body or entity shall make public the final accident report in the shortest possible time, and if possible within 12 months of the date of the accident.

#### *Article 8*

##### **Incident report**

1. Any investigation into an incident shall be the subject of a report in a form appropriate to the type and seriousness of the incident. The report shall, where appropriate, contain relevant safety recommendations. The report shall protect the anonymity of the persons involved in the incident.

2. The incident report shall be circulated to the parties likely to benefit from its findings with regard to safety.

#### *Article 9*

##### **Safety recommendations**

The reports and the safety recommendations referred to in Articles 7 and 8 shall be communicated to the undertakings or national aviation authorities concerned and copies forwarded to the Commission.

Member States shall take the necessary measures to ensure that the safety recommendations made by the investigating bodies or entities are duly taken into consideration, and, where appropriate, acted upon without prejudice to Community law.

#### *Article 10*

A safety recommendation shall in no case create a presumption of blame or liability for an accident or incident.

#### *Article 11*

Council Directive 80/1266/EEC of 16 December 1980 on future cooperation and mutual assistance between the Member States in the field of air accident investigation <sup>(1)</sup> is hereby repealed.

<sup>(1)</sup> OJ No L 375, 31. 12. 1980, p. 32.

*Article 12*

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 21 November 1994. They shall forthwith inform the Commission thereof.

2. When Member States adopt these provisions, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

*Article 13*

This Directive is addressed to the Member States.

Done at Brussels, 21 November 1994.

*For the Council*

*The President*

M. WISSMANN

## ANNEX

## LIST OF EXAMPLES OF SERIOUS INCIDENTS

The incidents listed below are typical examples of serious incidents. The list is not exhaustive and only serves as a guide to the definition of 'serious incident'.

- A near collision requiring an avoidance manoeuvre or when an avoiding manoeuvre would have been appropriate to avoid a collision or an unsafe situation.
  - Controlled flight into terrain (CFIT) only marginally avoided.
  - An aborted take-off on a closed or engaged runway, or a take-off from such runway with marginal separation from obstacle(s).
  - A landing or attempted landing on a closed or engaged runway.
  - Gross failure to achieve predicted performance during take-off or initial climb.
  - All fires and smoke in the passenger compartment or in cargo compartments, or engine fires, even though such fires are extinguished with extinguishing agents.
  - Any events which required the emergency use of oxygen by the flight crew.
  - Aircraft structural failure or engine disintegration which is not classified as an accident.
  - Multiple malfunctions of one or more aircraft systems that seriously affect the operation of the aircraft.
  - Any case of flight crew incapacitation in flight.
  - Any fuel state which would require the declaration of an emergency by the pilot.
  - Take-off or landing incidents, such as undershooting, overrunning or running off the side of runways.
  - System failures, weather phenomena, operation outside the approved flight envelope or other occurrences which could have caused difficulties controlling the aircraft.
  - Failure of more than one system in a redundancy system which is mandatory for flight guidance and navigation.
-

## COUNCIL DIRECTIVE 94/57/EC

of 22 November 1994

on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations

THE COUNCIL OF THE EUROPEAN UNION,

for under conventions such as Solas 74, Load Lines 66 and Marpol 73/78, and for the implementation of the provisions thereof;

Having regard to the Treaty establishing the European Community and in particular Article 84 (2) thereof,

Whereas in compliance with such conventions all Member States may authorize to a various extent technical organizations for the certification of such compliance and may delegate the issue of the relevant safety certificates;

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the Economic and Social Committee (2),

Whereas worldwide a large number of the existing classification societies do not ensure either adequate implementation of the rules or reliability when acting on behalf of national administrations as they do not have adequate structures and experience to be relied upon and to enable them to carry out their duties in a highly professional manner;

Acting in accordance with the procedure referred to in Article 189c of the Treaty (3),

Whereas in its resolution of 8 June 1993 on a common policy on safe seas, the Council has set the objective of removing all substandard vessels from Community waters and has given priority to Community action to secure the effective and uniform implementation of international rules by elaborating common standards for classification societies (4);

Whereas the objective of submitting classification societies to adequate standards cannot be sufficiently achieved by the Member States acting individually and can be better achieved by the Community;

Whereas safety and pollution prevention at sea may be effectively enhanced by strictly applying international conventions, codes and resolutions while furthering the objective of freedom to provide services;

Whereas the appropriate way to act is by means of a Council Directive laying down minimum criteria for recognition of organizations, while leaving recognition itself, the means of enforcement, and the implementation of the Directive to the Member States;

Whereas the control of compliance of ships with the uniform international standards for safety and prevention of pollution of the seas is the responsibility of flag and port States;

Whereas EN 45004 and EN 29001 standards combined with International Association of Classification Societies (IACS) standards constitute an adequate guarantee of performance quality of organizations;

Whereas Member States are responsible for the issuing of international certificates for safety and pollution provided

Whereas the issue of the Cargo Ship Safety Radio Certificate may be entrusted to private bodies having sufficient expertise and qualified personnel;

(1) OJ No C 167, 18. 6. 1993, p. 13.

(2) OJ No C 34, 2. 2. 1994, p. 14.

(3) Opinion of the European Parliament of 9 March 1994 (OJ No C 91, 28. 3. 1994, p. 9), Council common position of 19 September 1994 (OJ No C 301, 27. 10. 1994, p. 75) and Decision of the European Parliament of 16 November 1994 (not yet published in the Official Journal).

(4) OJ No C 271, 7. 10. 1993, p. 1.

Whereas organizations wishing to be recognized for the purpose of this Directive must submit to the Member States complete information and evidence of their compliance with the minimum criteria, and the Member States must notify to the Commission and to the other Member States the organizations they have recognized;

Whereas a three-year recognition may be granted by the Commission for organizations which do not meet the criteria fixing the minimum number and tonnage of classed vessels and minimum number of exclusive surveyors laid down in the Annex but meet all the other criteria; whereas such organizations should be granted an extension of recognition after the period of three years provided they continue to meet the same criteria; whereas the effects of the three-year recognition should be limited to the requesting Member States, for that period only;

Whereas the establishment of the internal market involves free circulation of services so that organizations meeting a set of common criteria which guarantee their professionalism and reliability cannot be prevented from supplying their services within the Community provided a Member State has decided to delegate such statutory duties; whereas such a Member State may nevertheless restrict the number of organizations it authorizes in accordance with its needs based on objective and transparent grounds, subject to control exercised by the Commission through the comitology procedures;

Whereas the implementation of the principle of freedom to provide ship inspection and survey services could be gradual, but not beyond prescribed time limits;

Whereas a tighter involvement of the national administrations in ship surveys and in the issue of the related certificates is necessary to ensure full compliance with the international safety rules even if the Member States rely upon organizations outside their administration for carrying out statutory duties; whereas it is appropriate, therefore, to establish a close working relationship between the administrations and the organizations, which may require that the organization has a local representation on the territory of the Member State on behalf of which it performs its duties;

Whereas a committee of a regulatory nature should be established in order to assist the Commission in its effort to ensure effective application of the existing maritime safety and environmental standards while taking account of the national ratification procedures;

Whereas the Commission must act according to the procedure laid down in Article 13 in order to take due account of progress in international fora and to update the minimum criteria;

Whereas on the basis of the information provided in accordance with Article 11 by the Member States about the performance of the organizations working on their

behalf, the Commission will decide whether it will request Member States to withdraw the recognition of recognized organizations which no longer fulfil the set of common minimum criteria, acting in accordance with the procedure of Article 13;

Whereas Member States must nevertheless be left the possibility of suspending their authorization to an organization for reasons of serious danger to safety or environment; whereas the Commission must rapidly decide in accordance with the procedure referred to above whether it is necessary to overrule such national measure;

Whereas each Member State should periodically assess the performance of the organizations working on its behalf and provide the Commission and all the other Member States with precise information related to such performance;

Whereas Member States, as port authorities, are required to enhance safety and prevention of pollution in Community waters through priority inspection of vessels carrying certificates of organizations which do not fulfil the common criteria, thereby ensuring no more favourable treatment to vessels flying the flag of a third State;

Whereas the procedure by which the committee will decide should be Procedure III A of Article 2 of Council Decision 87/373/EEC of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission (1);

Whereas classification societies must update and enforce their technical standards in order to harmonize safety rules and ensure uniform implementation of international rules within the Community;

Whereas at present there are not uniform international standards to which all ships must conform at the building stage and during their entire life, as regards hull, machinery and electrical and control installations; whereas such standards may be fixed according to the rules of recognized classification societies or to equivalent standards to be decided by the national administrations in accordance with the procedure laid down in Council Directive 83/189/EEC of 28 March 1983 laying down a procedure for the provision of information in the field of technical standards and regulations (2),

(1) OJ No L 197, 18. 7. 1987, p. 33.

(2) OJ No L 109, 26. 4. 1983, p. 8. Directive as last amended by Directive 94/10/EC (OJ No L 100, 19. 4. 1994, p. 30).

HAS ADOPTED THIS DIRECTIVE:

### Article 1

This Directive establishes measures to be followed by the Member States and organizations concerned with the inspection, survey and certification of ships for compliance with the international conventions on safety at sea and prevention of marine pollution, while furthering the objective of freedom to provide services. This process includes the development and implementation of safety requirements for hull, machinery and electrical and control installations of ships falling under the scope of the international conventions.

### Article 2

For the purpose of this Directive:

- (a) 'ship' means a ship falling within the scope of the international conventions;
- (b) 'ship flying the flag of a Member State' means a ship registered in and flying the flag of a Member State in accordance with its legislation, including ships registered in Euros once that register is approved by the Council. Ships not corresponding to this definition are assimilated to ships flying the flag of a third country;
- (c) 'inspections and surveys' means inspections and surveys made mandatory by the international conventions;
- (d) 'international conventions' means the 1974 International Convention for the Safety of Life at Sea, the 1966 International Convention on Load Lines and the 1973/78 International Convention for the Prevention of Pollution from Ships, together with the protocols and amendments thereto, and related codes of mandatory status in all Member States, in force at the date of adoption of this Directive;
- (e) 'organization' means a classification society or other private body carrying out safety assessment work for an administration;
- (f) 'recognized organization' means an organization recognized in conformity with Article 4;
- (g) 'authorization' means an act whereby a Member State grants an authorization or delegates powers to a recognized organization;
- (h) 'certificate' means a certificate issued by or on behalf of a Member State in accordance with the international conventions;
- (i) 'class certificate' means a document issued by a classification society certifying the structural and mechanical fitness of a ship for a particular use or service in accordance with its rules and regulations;
- (j) 'cargo ship safety radio certificate' means the certificate introduced by the amended Solas 74/78 Radio Regulations, adopted by the IMO and includes, during a transitional period ending on 1 February 1999, the Cargo Ship Safety Radiotelegraphy Certificate and the Cargo Ship Safety Radiotelephony Certificate;
- (k) 'location' refers to the place of the registered office, central administration or principal place of business of an organization.

### Article 3

1. In assuming their responsibilities and obligations under the international conventions, Member States shall ensure that their competent administrations can assure an appropriate enforcement of the provisions of the international conventions, in particular with regard to the inspection and survey of ships and the issue of certificates and exemption certificates.

2. Where for the purpose of paragraph 1 a Member State decides with respect to ships flying its flag:

- (i) to authorize organizations to undertake fully or in part inspections and surveys related to certificates including those for the assessment of compliance with Article 14 and, where appropriate, to issue or renew the related certificates; or
- (ii) to rely upon organizations to undertake fully or in part the inspections and surveys referred to in subparagraph (i);

it shall entrust these duties only to recognized organizations.

The competent administration shall in all cases approve the first issue of the exemption certificates.

However for the cargo ship safety radio certificate these duties may be entrusted to a private body recognized by a competent administration and having sufficient expertise and qualified personnel to carry out specified safety assessment work on radio-communication on its behalf.

3. This Article does not concern the certification of specific items of marine equipment.

### Article 4

1. Member States may only recognize such organizations which fulfil the criteria set out in the Annex. The

organizations shall submit to the Member States from which recognition has been requested complete information concerning, and evidence of, compliance with these criteria. The Member States will notify the organizations in an appropriate manner of their recognition.

2. Each Member State shall notify to the Commission and the other Member States those organizations it has recognized.

3. Member States may submit to the Commission a request for a recognition of three years for organizations which meet all the criteria of the Annex other than those set out under paragraph 2 and 3 of the section 'General' of the Annex.

Such recognition shall be granted in accordance with the procedure laid down in Article 13. The effects of this recognition shall be limited to the Member States which have submitted a request for such recognition.

4. All the organizations which are granted recognition shall be closely monitored by the committee set up under Article 7, also in view of deciding about extension of the recognition of organizations referred to in paragraph 3. A decision on the extension of such recognition shall not take into account the criteria set out under paragraphs 2 and 3 of the section 'General' of the Annex. The limitation of the effects of the recognition provided for in paragraph 3 shall no longer apply.

5. The Commission shall draw up and update a list of the organizations notified by the Member States in compliance with paragraphs 1, 3 and 4. The list shall be published in the *Official Journal of the European Communities*.

#### Article 5

1. In applying Article 3 (2) (i), Member States shall in principle not refuse to authorize any of the recognized organizations located in the Community to undertake such functions, subject to the provisions of Articles 6 and 11. However, they may restrict the number of organizations they authorize in accordance with their needs provided there are transparent and objective grounds for so doing. At the request of a Member State, the Commission shall, in accordance with the procedure laid down in Article 13, adopt appropriate measures.

2. By way of derogation, Member States may be temporarily exempted by the Commission from the implementation of the provisions of paragraph 1 until 31 December 1997.

3. In order for a Member State to accept that an organization located in a third State is to carry out the duties mentioned in Article 3 or part of them it may request that the said third State grant a reciprocal recognition for those recognized organizations which are located in the Community.

#### Article 6

1. Member States which decide to act as described in Article 3 (2), shall set out a working relationship between their competent administration and the organizations acting on their behalf.

2. The working relationship shall be regulated by a formalized written and non-discriminatory agreement or equivalent legal arrangements setting out the specific duties and functions assumed by the organizations and including at least:

- the provisions set out in Appendix II of IMO Resolution A.739 (18) on guidelines for the authorization of organizations acting on behalf of the administration as it stands at the date of adoption of this Directive,
- provisions for a periodical audit by the administration or by an impartial external body appointed by the administration into the duties the organizations are undertaking on its behalf,
- the possibility for random and detailed inspections of ships,
- provisions for reporting essential information about their classed fleet, changes of class or declassing of vessels.

3. The agreement or equivalent legal arrangement may set the requirement that the recognized organization has a local representation on the territory of the Member State on behalf of which it performs the duties referred to in Article 3. A local representation of a legal nature ensuring legal personality under the law of the Member State and the competence of its national courts may satisfy such requirement.

4. Each Member State shall provide the Commission with precise information on the working relationship established in accordance with this Article. The Commission shall subsequently inform the other Member States.

#### Article 7

A committee composed of the representatives of the Member States and chaired by the representative of the Commission is hereby instituted to assist the Commission. This committee shall be called by the Commission at least once a year and whenever required in the case of suspension of authorization of an organization by a Member State under the provisions of Article 10.

The Committee shall draw up its rules of procedure.

#### Article 8

1. This Directive may be amended in accordance with the procedure laid down in Article 13, in order to:



- apply, for the purposes of this Directive, subsequent amendments to the international codes and resolution mentioned in Articles 2 (d) and 6 (2), which have entered into force,
- update the criteria in the Annex taking into account, in particular, the relevant decisions of the IMO.

2. Following the adoption of new instruments or protocols to the conventions referred to in Article 2 (d), the Council, acting on a proposal from the Commission, shall decide, taking into account the Member States parliamentary procedures as well as the relevant procedures within IMO, on the detailed arrangements for ratifying those new instruments or protocols, while ensuring that they are applied uniformly and simultaneously in the Member States.

#### Article 9

1. Each Member State may be requested, in accordance with the procedure laid down in Article 13, to withdraw the recognition of recognized organizations referred to in Article 4 which no longer fulfil the criteria set out in the Annex, where applicable.

2. In preparing drafts for a decision relating to the matters referred to in paragraph 1, the Commission shall take into account the reports and information mentioned in Articles 11 and 12. In preparing such draft measures, the Commission shall pay particular attention to the safety and pollution prevention performance records of the organizations. Draft decisions relating to the matters referred to in paragraph 1 shall also be submitted to the committee by the Commission upon its own initiative or at the request of a Member State.

#### Article 10

Notwithstanding the criteria specified in the Annex, where a Member State considers that a recognized organization can no longer be authorized to carry out on its behalf the tasks specified in Article 3 it may suspend such authorization.

In the above circumstances the following procedure shall apply:

- (a) the Member State shall inform the Commission and the other Member States of its decision without delay, giving substantiated reasons therefore;
- (b) the Commission shall examine whether the suspension is justified for reasons of serious danger to safety or environment;
- (c) acting in accordance with the procedure laid down in Article 13, the Commission shall inform the Member State whether or not its decision to suspend the authorization is justified for reasons of serious danger to safety or environment and, if it is not justified,

request the Member State to withdraw the suspension.

#### Article 11

1. Each Member State must satisfy itself that the recognized organizations acting on its behalf for the purpose of Article 3 (2), effectively carry out the functions referred to in that Article to the satisfaction of its competent administration and that such organizations fulfil the criteria specified in the Annex. It may do so by having the recognized organizations directly monitored by its competent administration or, in the case of organizations located in another Member State, by relying upon the corresponding monitoring of such organizations by the administration of another Member State.

2. Each Member State shall carry out this task on a biennial basis and shall provide the other Member States and the Commission with a report of the results of this monitoring at the latest by 31 March of each year following the years for which compliance has been assessed.

3. Where a Member State chooses, for the purpose of carrying out this task, to rely upon monitoring by another Member State, its report shall be provided at the latest by 30 June of each year following the year for which compliance has been assessed.

4. Member States shall forward to the Commission and the other Member States any information relevant to the assessment of the performance of organizations.

#### Article 12

1. In exercising their inspection rights and obligations as port states:

- (a) Member States shall ensure that ships flying a third State flag are not treated more favourably than ships entitled to fly the flag of a Member State. To this end the fact that the ship certificates and the class certificate are known to have been delivered by an organization which does not fulfil the criteria of the Annex, with the exception of organizations recognized in accordance with Article 4 (3) and (4), shall be taken as one of the primary criteria for selecting ships for inspection.
- (b) Member States shall take appropriate measures when ships do not meet the internationally agreed standards and shall report to the Commission and the Secretariat of the Memorandum of Understanding on Port State Control the discovery of any issue of valid certificates by organizations acting on behalf of a flag State to a ship which does not fulfil the relevant requirements of the international conventions, or any failure of a ship carrying a valid class certificate and relating to items covered by that certificate.

2. Each Member State shall establish a performance record of the organizations acting on behalf of flag States. This performance record shall be updated yearly and distributed to the other Member States and the Commission.

#### Article 13

The following procedure shall apply for matters covered by Article 4 (3) and (4), Article 5 (1) and Articles 8, 9, 10 and Article 14 (2):

- (a) The representative of the Commission shall submit to the committee referred to in Article 7 a draft of the measures to be taken.
- (b) The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.
- (c) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.
- (d) If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measure to be taken. The Council shall act by a qualified majority. If, within three months from the date of referral to it, the Council has not acted, the proposed measure shall be adopted by the Commission.

#### Article 14

1. Each Member State shall ensure that ships flying its flag shall be constructed and maintained in accordance with the hull, machinery and electrical and control installation requirements of a recognized organization.

2. A Member State may decide to use rules it considers equivalent to those of a recognized organization only on the proviso that it immediately notified them to the Commission in conformity with the procedure of Directive 83/189/EEC and to the other Member States and they are not objected to by another Member State or the Commission and found through the procedure of Article 13 not to be equivalent.

#### Article 15

1. The recognized organizations shall consult with each other periodically with a view to maintaining equivalence of their technical standards and the implementation thereof. They shall provide the Commission with periodic reports on fundamental progress in standards.

2. The recognized organizations shall demonstrate willingness to cooperate with port State control administrations when a ship of their class is concerned, in particular, in order to facilitate the rectification of reported deficiencies or other discrepancies.

3. The recognized organizations shall provide all relevant information to the administration about changes of class or declassing of vessels.

4. The recognized organizations shall not issue certificates to a ship declassified or changing class for safety reasons before consulting the competent administration of the flag State to determine whether a full inspection is necessary.

#### Article 16

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the Directive no later than 31 December 1995.

2. When Member States adopt these provisions, they shall contain a reference to this Directive or shall be accompanied by such reference on the occasion of their official publication. The methods of making such a reference shall be laid down by the Member States.

3. The Member States shall immediately communicate to the Commission the text of all the provisions of domestic law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

#### Article 17

This Directive is addressed to the Member States.

Done at Brussels, 22 November 1994.

*For the Council*

*The President*

M. WISSMANN

## ANNEX

## MINIMUM CRITERIA FOR ORGANIZATIONS REFERRED TO IN ARTICLE 3

## A. GENERAL

1. The recognized organization must be able to document extensive experience in assessing the design and construction of merchant ships.
2. The organization should have in its class a fleet of at least 1 000 ocean-going vessels (over 100 GRT) totalling no less than 5 million GRT.
3. The organization must employ a technical staff commensurate with the number of vessels classed. As a minimum, 100 exclusive surveyors would be needed to meet the requirements in paragraph 2.
4. The organization should have comprehensive rules and regulations for the design, construction and periodic survey of merchant ships, published and continually upgraded and improved through research and development programmes.
5. The organization should have its register of vessels published on an annual basis.
6. The organization should not be controlled by shipowners or shipbuilders, or by others engaged commercially in the manufacture, equipping, repair or operation of ships. The organization should not be substantially dependent on a single commercial enterprise for its revenue.

## B. SPECIFIC

1. The organization is established with:
  - (a) a significant technical, managerial, support and research staff commensurate to the tasks and to the vessels classed, catering also for capability — developing and upholding rules and regulations;
  - (b) world-wide coverage by its exclusive technical staff or through exclusive technical staff of other recognized organizations.
2. The organization is governed by a code of ethics.
3. The organization is managed and administered in such a way as to ensure the confidentiality of information required by the administration.
4. The organization is prepared to provide relevant information to the administration.
5. The organization's management has defined and documented its policy and objectives for, and commitment to, quality and has ensured that this policy is understood, implemented and maintained at all levels in the organization.
6. The organization has developed, implemented and maintains an effective internal quality system based on appropriate parts of internationally recognized quality standards and in compliance with EN 45004 (inspection bodies) and with EN 29001, as interpreted by the IACS Quality System Certification Scheme Requirements, and which, *inter alia*, ensures that:
  - (a) the organization's rules and regulations are established and maintained in a systematic manner;
  - (b) the organization's rules and regulations are complied with;
  - (c) the requirements of the statutory work for which the organization is authorized are satisfied;

- (d) the responsibilities, authorities and interrelation of personnel whose work affects the quality of the organization's services are defined and documented;
  - (e) all work is carried out under controlled conditions;
  - (f) a supervisory system is in place which monitors the actions and work carried out by surveyors and technical and administrative staff employed directly by the organization;
  - (g) the requirements of major statutory work for which the organization is authorized are only carried out or directly supervised by its exclusive surveyors or through exclusive surveyors of other recognized organizations;
  - (h) a system for qualification of surveyors and continuous updating of their knowledge is implemented;
  - (i) records are maintained, demonstrating achievement of the required standards in the items covered by the services performed, as well as the effective operation of the quality system; and
  - (j) a comprehensive system of planned and documented internal audits of the quality related activities in all locations.
7. The organization must demonstrate ability:
- (a) to develop and keep updated a full and adequate set of own rules and regulations on hull, machinery and electrical and control equipment having the quality of internationally recognized technical standards on the basis of which Solas Convention and Passenger Ship Safety Certificates (as regards adequacy of ship structure and essential shipboard machinery systems) and Load Line Certificates (as regards adequacy of ship strength) can be issued;
  - (b) to carry out all inspections and surveys required by the international conventions for the issue of certificates, including the means of assessing, through the use of qualified professional staff, the application and maintenance of the safety management system, both shore-based and on board ships, intended to be covered in the certification.
8. The organization is subject to certification of its quality system by an independent body of auditors recognized by the administration of the State in which it is located.
9. The organization should allow participation in the development of its rules and/or regulations by representatives of the administration and other parties concerned.
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## COUNCIL DIRECTIVE 94/58/EC

of 22 November 1994

on the minimum level of training of seafarers

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 84 (2) thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the Economic and Social Committee (2),

Acting in accordance with the procedure referred to in Article 189c of the Treaty (3),

Whereas in its conclusions of 25 January 1993 on maritime safety and pollution prevention in the Community, the Council noted the importance of the human element in the safe operation of ships;

Whereas in its resolution of 8 June 1993 on a common policy on safe seas (4), the Council set the objective of removing substandard crews and gave priority to Community action aiming at enhancing training and education by developing common standards for minimum training levels of key personnel, including the question of a common language on board Community vessels;

Whereas the standards of training for the award of vocational competency certificates to seafarers vary from one Member State to another; whereas such a diversity of national laws in the area of training covered by this Directive does not ensure the consistent level of training required in the interests of maritime safety;

Whereas Council Directive 89/48/EEC (5) and 92/51/EEC (6) on the general systems for the recognition of professional education and training apply to maritime

occupations covered by this Directive; whereas they will help promote compliance with the obligations laid down in the Treaty abolishing obstacles to the free movement of persons and services between Member States;

Whereas the mutual recognition of diplomas and certificates provided for under the general systems Directives does not always ensure a standardized level of training for all seafarers serving on board vessels flying the flag of a Member State including ships registered in Euros once that register is approved by the Council; whereas this is, however, vital from the viewpoint of maritime safety;

Whereas it is therefore essential to define a minimum level of training for seafarers in the Community; whereas it is appropriate that the action in this field should be based on the standards of training already agreed at international level, namely the IMO Convention on Standards of Training, certification and Watchkeeping for Seafarers, 1978, (STCW Convention); whereas all Member States are parties to that Convention;

Whereas the amendment to STCW of 22 May 1991 (Resolution MSC 21 (59)) introduces the function of radio operator in order to conform to the GMDSS-requirements;

Whereas in order to enhance maritime safety and prevent loss of human life and maritime pollution, communication among crew members on board ships sailing in Community waters should be improved;

Whereas personnel on board passenger ships nominated to assist passengers in emergency situations should be able to communicate with the passengers; whereas in this context, all relevant provisions of IMO Resolution A.770 (18) on minimum training requirements for personnel nominated to assist passengers in emergency situations on passenger ships should be taken into account;

(1) OJ No C 212, 5. 8. 1993, p. 1.

(2) OJ No C 34, 2. 2. 1994, p. 10.

(3) Opinion of the European Parliament of 9 March 1993 (OJ No C 91, 28. 3. 1994, p. 120), Council common position of 19 September 1994 (OJ No C 301, 27. 10. 1994, p. 41) and Decision of the European Parliament of 16 November 1994 (not yet published in the Official Journal).

(4) OJ No C 271, 7. 10. 1993, p. 1

(5) OJ No L 19, 24. 1. 1989, p. 16

(6) OJ No L 209, 24. 7. 1992, p. 25

Whereas crews serving on board tankers carrying noxious or polluting cargo should be capable of coping efficiently with accident prevention and emergency situations; whereas it is paramount that a proper communication link between the master, officers and ratings is established, covering the requirements provided for in Article 8;

Whereas Article 8 (3) is necessitated by the fact that the relevant standards, to be established through an amendment to the 1978 STCW Convention, have not yet been agreed in the IMO;

Whereas measures should be taken to ensure that seafarers holding certificates issued by third countries have a level of competence commensurate with that required by the STCW Convention;

Whereas in order to attain this objective, common criteria should be defined for the recognition of foreign certificates in the Community; whereas for this purpose, the Council should decide on the common criteria acting in accordance with the conditions of the Treaty;

Whereas a committee should be established to assist the Commission in carrying out the tasks related to the exercise of the recognition of certificates issued by training institutes or administrations of third countries;

Whereas measures should be taken for allowing seafarers serving on board ships flying the flag of a Member State, including ships registered in Euros once that register is approved by the Council, and holding certificates not issued according to this Directive, to continue their work during a transitional period up to and beyond the adoption of the common criteria;

Whereas Member States, as port authorities, are required to enhance safety and prevention of pollution in Community waters through priority inspection of vessels flying the flag of a third country which has not ratified the STCW Convention, or which have crews holding certificates which have not been recognized under the provisions of this Directive, thereby ensuring no more favourable treatment to vessels flying the flag of a third State;

Whereas it is necessary to provide for procedures for adapting the Directive to changes in international conventions and codes,

HAS ADOPTED THIS DIRECTIVE:

#### *Article 1*

This Directive shall apply to seafarers as mentioned in this Directive serving on board seagoing ships flying the flag of a Member State with the exception of:

- warships, naval auxiliaries or other ships owned or operated by a Member State and engaged only on government non-commercial service,
- fishing vessels,
- pleasure yachts not engaged in trade,
- wooden ships of primitive build.

#### *Article 2*

Member States shall take the measures necessary to ensure that masters, officers, ratings forming part of the navigational watch or the engine room watch and lifeboatmen, serving on a ship referred to in Article 1, are trained as a minimum in compliance with the requirements of the STCW Convention, as laid down in the Annex to this Directive, and hold a certificate as defined in Article 3.

#### *Article 3*

A certificate shall be a valid document by whatever name it may be known, issued by or under the authority of the competent authority of a Member State, authorizing the holder to serve as stated in that document or as authorized by national regulations.

#### *Article 4*

For the purpose of this Directive:

- (a) 'master' means the person having command of a ship;
- (b) 'officer' means a member of the crew, other than the master, designated as such by national law or regulations or, in the absence of such designation, by collective agreement or custom;
- (c) 'deck officer' means a qualified officer in the deck department;
- (d) 'chief mate' means the deck officer next in rank to the master and upon whom the command of a ship will fall in the event of the incapacity of the master;

- (e) 'engineer officer' means a qualified officer in the engine department;
- (f) 'chief engineer officer' means the senior engineer officer responsible for the mechanical propulsion of the ship;
- (g) 'second engineer officer' means the engineer officer next in rank to the chief engineer officer and upon whom the responsibility for the mechanical propulsion of the ship will fall in the event of the incapacity of the chief engineer officer;
- (h) 'assistant engineer officer' means a person under training to become an engineer officer and designated as such by national law or regulations;
- (i) 'radio operator' means a person holding an appropriate certificate related to the global maritime distress and safety system issued or recognized by the competent authority or body designated by a Member State under the provisions of the Radio Regulations;
- (j) 'rating' means a member of the ship's crew other than the master or an officer;
- (k) 'lifeboatman' means a Member of the ship's crew holding a certificate of proficiency in survival craft and rescue boats issued as a separate document or as included in his certificate of competency;
- (l) 'sea-going ship' means a ship other than those which navigate exclusively in inland waters or in waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;
- (m) 'ship flying the flag of a Member State' means a ship registered in and flying the flag of a Member State in accordance with its legislation, including ships registered in Euro once that Register is approved by the Council. Ships not corresponding to this definition are assimilated to ships flying the flag of a third country;
- (n) 'near-coastal voyages' means voyages in the vicinity of a Member State as defined by that Member State;
- (o) 'propulsion power' means the power in kilowatts which appears on a ship's Certificate of Registry or other official document;
- (p) 'oil tanker' means a ship constructed and used for the carriage of petroleum and petroleum products in bulk;
- (q) 'chemical tanker' means a ship constructed and used for the carriage in bulk of any liquid chemical listed in the 'Code for the Construction and Equipment of Ships carrying Dangerous Chemicals in Bulk' as it is in force at the time of adoption of this Directive;
- (r) 'liquefied gas tanker' means a ship constructed and used for the carriage in bulk of any liquefied gas listed in the 'Code for the Construction and Equipment of Ships carrying Liquefied Gases in Bulk' as it is in force at the time of adoption of this Directive;
- (s) 'Radio Regulations' means the revised radio regulations, adopted by the World Administrative Radio Conference for the Mobile Service;
- (t) 'passenger ship' means a sea-going ship which carries more than 12 passengers;
- (u) 'fishing vessel' means a vessel used for catching fish, whales, seals, walrus or other living resources of the sea;
- (v) 'STCW Convention' means the IMO International Convention on Standards of Training Certification and Watchkeeping for Seafarers, 1978, as it is in force at the time of adoption of this Directive.

#### Article 5

The training required by Article 2 shall be in a form appropriate to the theoretical knowledge and practical skills required by the Annex to this Directive, in particular the use of life saving and firefighting equipment, and approved by the competent authority or body designated by each Member State.

#### Article 6

1. In circumstances of exceptional necessity, competent authorities may, if in their opinion this does not cause danger to persons, property or the environment, issue a dispensation permitting a specified seafarer to serve in a specified ship for a specified period not exceeding six months in a capacity, other than that of the radio operator, except as provided by the relevant Radio Regulations, for which he does not hold the appropriate certificate, provided that the person to whom the dispensation is issued shall be adequately qualified to fill the vacant post in a safe manner to the satisfaction of the competent authorities. However, dispensations shall not be granted to a master or chief engineer officer, except in circumstances of *force majeure* and then only for the shortest possible period.

2. Any dispensation granted for a post shall be granted only to a person properly certificated to fill the post immediately below. Where certification of the post below is not required, a dispensation may be issued to a person whose qualification and experience are, in the opinion of the competent authorities, of a clear equivalence to the requirements for the post to be filled, provided that, if such a person holds no appropriate certificate, he or she shall be required to pass a test accepted by the competent authorities as demonstrating that such a dispensation may safely be issued. In addition, competent authorities shall ensure that the post in question is filled by the holder of an appropriate certificate as soon as possible.

#### Article 7

Member States shall designate the authorities or bodies which shall:

- give the training referred to in Article 5,
- organize and/or supervise the examinations where required. The Member State shall ensure that all examiners are properly qualified,
- issue the certificate of competence,
- grant the dispensations provided for in Article 6.

#### Article 8

Member States shall ensure that:

1. on board all ships flying the flag of a Member State and on all passenger ships starting and/or finishing a voyage in a Member State port, there are at any time means in place for effective oral communication related to the safety between all members of the ship's company particularly with regard to the correct and timely reception and understanding of messages and instructions. Furthermore, there should be adequate means for communication between the ship and the shore-based authorities, either in a common language or in the language of those authorities;
2. on board passenger ships, personnel nominated on muster lists to assist passengers in emergency situations are readily identifiable and have communication skills that are sufficient for that purpose, taking into account an appropriate and adequate combination of any of the following criteria:
  - (a) the language or languages appropriate to the principal nationalities of passengers carried on a particular route;
  - (b) the likelihood that an ability to use elementary English vocabulary for basic instructions can provide a means of communicating with a

passenger in need of assistance whether or not the passenger and crew member share a common language;

- (c) the possible need to communicate during an emergency by some other means (e.g. by demonstration, or hand signals, or calling attention to the location of instructions, muster stations, life-saving devices or evacuation routes when verbal communication is impractical;
  - (d) the extent to which complete safety instructions have been provided to passengers in their native language or languages; and
  - (e) the languages in which emergency announcements may be broadcast during an emergency or drill to convey critical guidance to passengers and to facilitate crew members in assisting passengers;
3. on board oil tankers, chemical tankers and liquefied gas tankers flying the flag of a Member State, the master, officers and ratings are able to communicate with each other in (a) common working language(s). Furthermore, there should be adequate means for communication between the ship and the shore-based authorities either in a common language or in the language of those authorities;
  4. when carrying out a ship inspection in their capacity of State of the port, Member States shall check that ships flying the flag of a State other than a Member State also comply with this Article.

#### Article 9

1. Mutual recognition among Member States of certificates referred to in Article 3 held by seafarers who are nationals of Member States shall be subject to the provisions of Directives 89/48/EEC and 92/51/EEC.
2. Mutual recognition among Member States of certificates referred to in Article 3 held by seafarers who are not nationals of Member States shall also be subject to the provisions of Directives 89/48/EEC and 92/51/EEC.
3. Seafarers who do not possess the certificate provided for in Article 3, may be allowed to serve on ships flying the flag of a Member State provided a decision on the recognition of their type of certificate has been adopted through the procedure set out below:
  - (a) A set of criteria for the recognition of types of certificates issued by institutes or administrations will be defined by the Council before 1 July 1995, acting in accordance with the conditions of the Treaty.



(b) Member States shall notify the Commission and the other Member States of the types of certificates they have recognized or intend to recognize in compliance with the criteria mentioned under (a).

(c) If, within a period of three months following that notification, an objection is raised by a Member State or the Commission on the basis of the criteria referred to in (a), the matter shall be submitted by the Commission to the procedure in Article 13. The Member State concerned shall take the appropriate measures to implement the decisions taken in accordance with the procedure in that Article.

(d) The Commission shall draw up and update a list of the certificates notified by the Member States. The list shall be published in the *Official Journal of the European Communities*.

4. Seafarers who do not possess the certificates provided for in Article 3 but who are serving on a ship flying the flag of a Member State may be allowed to continue to serve on ships flying the flag of that Member State until two years after the common criteria provided for in paragraph 3 (a) have been fixed. After that date they shall possess either a type of certificate provided for in Article 3 or a type of certificate recognized in accordance with the procedure mentioned in paragraph 3 above.

#### Article 10

Member States shall take the measures necessary to ensure that ships flying the flag of a third country which has not ratified the STCW Convention, or which have a master, officers and ratings holding certificates which have not been recognized under the provisions of Article 9, are inspected, as a matter of priority, by the competent authority of the port State to check whether the level of vocational training and competence of their crews meet the standards laid down in the STCW Convention and in Article 8.

#### Article 11

Member States shall take appropriate steps, including the possible detention of a ship, if the competent authorities of the port State discover in the course of an inspection that crews are unable to provide proof of professional proficiency for the duties assigned to them for the safety of the ship and the prevention of pollution.

#### Article 12

1. This Directive may be amended in accordance with the procedure laid down in Article 13, in order to apply, for the purposes of this Directive, subsequent amendments to the international codes referred to in Article 4 (q), (r) and (s) which have entered into force.

2. Following the adoption of new instruments or protocols to the STCW Convention referred to in Article 4 (v), the Council, acting on a proposal from the Commission, shall decide, taking into account the Member States' parliamentary procedures, as well as the relevant procedures within IMO on the detailed arrangements for ratifying those new instruments or protocols, while ensuring that they are applied uniformly and simultaneously in the Member States.

#### Article 13

1. The Commission shall be assisted by a committee composed of representatives of the Member States and chaired by the representative of the Commission.

2. The representative of the Commission shall submit to the committee a draft of the measures to be taken. The committee shall deliver its opinion on the draft within a time limit which the chairman may lay down according to the urgency of the matter. The opinion shall be delivered by the majority laid down in Article 148 (2) of the Treaty in the case of decisions which the Council is required to adopt on a proposal from the Commission. The votes of the representatives of the Member States within the committee shall be weighted in the manner set out in that Article. The chairman shall not vote.

3. (a) The Commission shall adopt the measures envisaged if they are in accordance with the opinion of the committee.

(b) If the measures envisaged are not in accordance with the opinion of the committee, or if no opinion is delivered, the Commission shall, without delay, submit to the Council a proposal relating to the measures to be taken. The Council shall act by a qualified majority.

(c) If, on the expiry of eight weeks from the date of referral to the Council, the Council has not acted, the proposed measures shall be adopted by the Commission.

#### Article 14

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive no later than 31 December 1995.

2. When Member States adopt these provisions they shall contain a reference to this Directive or shall be announced by such reference at the time of their official publication. The methods of making such a reference shall be laid down by the Member States

3. The Member States shall immediately communicate to the Commission the texts of all the provisions which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

*Article 15*

This Directive is addressed to the Member States.

Done at Brussels, 22 November 1994.

*For the Council*

*The President*

M. WISSMANN

## ANNEX

TRAINING REQUIREMENTS OF THE STCW CONVENTION, REFERRED TO IN  
ARTICLE 2 OF THE DIRECTIVE

## CHAPTER II

## MASTER — DECK DEPARTMENT

## REGULATION II/2

Mandatory minimum requirements for certification of masters and chief mates of ships of 200 gross register  
tons (GRT) or more

## Master and chief mate of ships of 1 600 GRT or more

1. Every master and chief mate of a sea-going ship of 1 600 GRT or more shall hold an appropriate certificate.
2. Every candidate for certification shall:
  - (a) satisfy the Administration as to medical fitness, particularly regarding eyesight and hearing;
  - (b) meet the requirements for certification as an officer in charge of a navigational watch on ships of 200 GRT or more and have approved sea-going service in that capacity:
    - (i) for certification as chief mate, not less than 18 months; however, this period may be reduced to not less than 12 months if the Administration requires special training which it considers to be equivalent to at least six months' service as officer in charge of a navigational watch;
    - (ii) for certification as master, not less than 36 months; however, this period may be reduced to not less than 24 months if not less than 12 months of such sea-going service has been served as chief mate, or if the Administration requires special training which it considers to be equivalent to such service;
  - (c) have passed appropriate examination to the satisfaction of the Administration. Such examination shall include the material set out in the Appendix to this Regulation, except that the Administration may vary these examination requirements for masters and chief mates of ships of limited size engaged on near-coastal voyages, as it considers necessary, bearing in mind the effect on the safety of all ships which may be operating in the same waters.

## Master and chief mate of ships of between 200 and 1 600 GRT

3. Every master and chief mate of a sea-going ship of between 200 and 1 600 GRT shall hold an appropriate certificate.
4. Every candidate for certification shall:
  - (a) satisfy the Administration as to medical fitness, particularly regarding eyesight and hearing;
  - (b) (i) for certification as chief mate, meet the requirements of an officer in charge of a navigational watch on ships of 200 GRT or more;
  - (ii) for certification as master, meet the requirements of an officer in charge of a navigational watch on ships of 200 GRT or more and have approved sea-going service in that capacity of not less than 36 months; however, this period may be reduced to not less than 24 months if not less than 12 months of such sea-going service has been served as chief mate, or if the Administration requires special training which it considers to be equivalent to such service;

- (c) have passed appropriate examination to the satisfaction of the Administration. Such examination shall include the material set out in the Appendix, except that the Administration may vary these examination requirements for masters and chief mates of ships engaged on near-coastal voyages, as it considers appropriate, to exclude such material as is not applicable to the waters or ships concerned, bearing in mind the effect on the safety of all ships which may be operating in the same waters.

#### General

5. The level of knowledge required under the different headings of the Appendix may be varied according to whether the certificate is being issued at master or chief mate level, and according to whether the certificate or certificates is applicable to ships of 1 600 gross register tons or more, or to ships of between 200 and 1 600 gross register tons.

### APPENDIX TO REGULATION II/2

#### Minimum knowledge required for certification of masters and chief mates of ships of 200 GRT or more

1. The syllabus given below is compiled for examination of candidates for certification as master or chief mate of ships of 200 GRT or more. It is intended to expand and extend in depth the subjects contained in Regulation II/4 — 'Mandatory minimum requirements for certification of officers in charge of a navigational watch on ships of 200 GRT or more'. Bearing in mind that a master has ultimate responsibility for the safety of the ship, its passengers, crew and cargo, and that a chief mate shall be in a position to assume that responsibility at any time, examination in these subjects shall be designed to test their ability to assimilate all available information that affects the safety of the ship.
2. *Navigation and position determination*
  - (a) Voyage planning and navigation for all conditions:
    - (i) by acceptable methods of plotting ocean tracks;
    - (ii) within restricted waters;
    - (iii) in ice;
    - (iv) in restricted visibility;
    - (v) in traffic separation schemes;
    - (vi) in areas of extensive tidal effects.
  - (b) Position determination:
    - (i) by celestial observations, including the use of sun, stars, moon and planets;
    - (ii) by terrestrial observations, including the ability to use bearings from landmarks and aids to navigation such as lighthouses, beacons and buoys in conjunction with appropriate charts, notices to mariners and other publications to assess the accuracy of the resulting position fix;
    - (iii) using all modern ship electronic navigational aids to the satisfaction of the Administration, with specific knowledge of their operating principles, limitations, sources of error, detection of misrepresentation of information and methods of correction to obtain accurate position fixing.
3. *Watchkeeping*
  - (a) Demonstrate thorough knowledge of content, application and intent of the International Regulations for Preventing Collisions at Sea, including those Annexes concerned with safe navigation.
  - (b) Demonstrate knowledge of Regulation II/1 'Basic principles to be observed in keeping a navigational watch'.

#### 4. *Radar equipment*

Demonstrate in conjunction with the use of radar simulator or, when not available, manoeuvring board, knowledge of the fundamentals of radar and ability in the operation and use of radar, and in the interpretation and analysis of information obtained from this equipment, including:

- (a) factors affecting performance and accuracy;
- (b) setting-up and maintaining displays;
- (c) detection of misrepresentation of information, false echoes, sea return, etc.;
- (d) range and bearing;
- (e) identification of critical echoes;
- (f) course and speed of other ships;
- (g) time and distance of closest approach of crossing, meeting or overtaking ships;
- (h) detecting course and speed changes of other ships;
- (i) effect of changes in own ship's course or speed or both;
- (j) application of the International Regulation for preventing collisions at sea.

#### 5. *Compasses — magnetic and gyro*

Ability to determine and correct the errors of the magnetic and gyro-compasses and knowledge of the means for correcting such errors.

#### 6. *Meteorology and oceanography*

- (a) Demonstrate the ability to understand and interpret a synoptic chart and to forecast area weather, taking into account local weather conditions.
- (b) Knowledge of the characteristics of various weather systems, including tropical revolving storms and avoidance of storm centres and the dangerous quadrants.
- (c) Knowledge of ocean current systems.
- (d) Ability to use all appropriate navigational publications on tides and currents, including those in the English language.
- (e) Ability to calculate tidal conditions.

#### 7. *Ship manoeuvring and handling*

Manoeuvring and handling of a ship in all conditions, including the following:

- (a) manoeuvres when approaching pilot vessels or stations with due regard to weather, tide headreach and stopping distances;
- (b) handling a ship in rivers, estuaries, etc., having regard to the effects of current, wind and restricted water on the response to the helm;
- (c) manoeuvring in shallow water, including the reduction in keel clearance due to the effect of squat <sup>(1)</sup>, rolling and pitching;
- (d) interaction between passing ships and between own ship and nearby banks (canal effect);
- (e) berthing and unberthing under various conditions of wind and tide with and without tugs;
- (f) choice of anchorage; anchoring with one or two anchors in limited anchorages and factors involved in determining the length of anchor cable to be used;

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<sup>(1)</sup> Squat: the decrease in clearance beneath a ship which occurs when the ship moves through the water and is caused both by bodily sinkage and by change of trim. The effect is accentuated in shallow water and is reduced with a reduction in ship's speed.

- (g) dragging; clearing fouled anchors;
- (h) dry-docking, both with and without damage;
- (i) management and handling of ships in heavy weather, including assisting a ship or aircraft in distress, towing operations, means of keeping an unmanageable ship out of a sea trough, lessening drift and use of oil;
- (j) precautions in manoeuvring for launching rescue boats or survival craft in bad weather;
- (k) methods of taking on board survivors from rescue boats or survival craft;
- (l) ability to determine the manoeuvring and engine characteristics of major types of ships with special reference to stopping distances and turning circles at various draughts and speeds;
- (m) the importance of navigating at reduced speed to avoid damage caused by own ship's bow or stern wave;
- (n) practical measures to be taken when navigating in ice or conditions of ice accumulation on board;
- (o) the use of, and manoeuvring in, traffic separation schemes.

8. *Ship stability (1), construction and damage control*

- (a) Understanding fundamental principles of ship construction and the theories and factors affecting trim and stability and measures necessary to preserve safe trim and stability.
- (b) Knowledge of the effect on trim and stability of a ship in the event of damage to and consequent flooding of a compartment and countermeasures to be taken.
- (c) Demonstrate use of stability, trim and stress tables, diagrams and stress calculating equipment, including knowledge of loading cargoes and ballasting in order to keep hull stresses within acceptable limits.
- (d) General knowledge of the principal structural members of a ship and the proper names of the various parts.
- (e) Knowledge of the recommendations of the organization concerning ship stability.

9. *Ship power plants*

- (a) Operating principles of marine power plants.
- (b) Ships' auxiliary machinery.
- (c) General knowledge of marine engineering terms.

10. *Cargo handling and stowage*

- (a) The stowage and securing of cargoes on board ships, including cargo gear.
- (b) Loading and discharging operations, with special regard to loading and discharging of heavy weights.
- (c) International regulations and recommendations relating to the carriage of cargoes, in particular the International Maritime Dangerous Goods Code (IMDG).
- (d) Carriage of dangerous goods; precautions to be taken during loading and discharging operations and the care of dangerous goods during a voyage.
- (e) Working knowledge of contents and application of current relevant tanker safety guides.
- (f) Working knowledge of commonly used cargo piping and pumping arrangements.

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(1) Masters and chief mates serving on small ships should be fully acquainted with the basic stability requirements of such ships.

- (g) Terms and definitions used to describe properties of common oil cargoes, such as crude oil, middle distillates, naphtha.
- (h) Pollution regulations; ballasting, tank cleaning and gas freeing operations.
- (i) Load-on-top procedures.

11. *Fire prevention and fire-fighting appliances*

- (a) Organization of fire drills.
- (b) Classes and chemistry of fire.
- (c) Fire-fighting systems.
- (d) Attendance at an approved fire-fighting course.
- (e) Knowledge of regulations concerning fire-fighting equipment.

12. *Emergency procedures*

- (a) Precautions when beaching a ship.
- (b) Action to be taken prior to, and after, grounding.
- (c) Floating a grounded ship, with and without assistance.
- (d) Action to be taken following a collision.
- (e) Temporary plugging of leaks.
- (f) Measures for the protection and safety of passengers and crew in emergencies.
- (g) Limiting damage and salvaging the ship following a fire or explosion.
- (h) Abandoning ship.
- (i) Emergency steering, rigging and use of jury steering and the means of rigging a jury rudder, where practicable.
- (j) Rescuing persons from a ship in distress or from a wreck.
- (k) Man-overboard procedures.

13. *Medical care*

A thorough knowledge of the use of the contents of the following publications:

- (a) International Medical Guide for Ships or equivalent national publications;
- (b) Medical section of the International Code of Signals;
- (c) Medical First Aid Guide for Use in Accidents Involving Dangerous Goods.

14. *Maritime law*

- (a) A knowledge of international maritime law as embodied in international agreements and conventions as they affect the specific obligations and responsibilities of the master, particularly those concerning safety and the protection of the marine environment. Regard shall be paid especially to the following subjects:
  - (i) certificates and other documents required to be carried on board ships by international conventions, how they may be obtained and the period of their legal validity;
  - (ii) responsibilities under the relevant requirements of the International Convention on Load Lines;
  - (iii) responsibilities under the relevant requirements of the International Convention for the Safety of Life at Sea;

- (iv) responsibilities under international conventions for the prevention of pollution from ships;
  - (v) maritime declarations of health; the requirements of the International Health Regulations;
  - (vi) responsibilities under the Convention on the International Regulations for Preventing Collisions at Sea;
  - (vii) responsibilities under other international instruments affecting the safety of the ship, passengers, crew and cargo.
- (b) The extent of knowledge of national maritime legislation is left to the discretion of the Administration but shall include national arrangements for implementing international agreements and conventions.
15. *Personnel management and training responsibilities*
- A knowledge of personnel management, organization and training aboard ships.
16. *Radiocommunications and visual signalling*
- (a) Ability to transmit and receive messages by morse light and to use the International Code of Signals; where the Administration has examined candidates in these subjects at the lower levels of certification, they may have the option of not re-examining in these subjects for certification as master.
  - (b) Knowledge of procedures used in radio communications and ability to use radio equipment for distress, urgency, safety and navigational messages.
  - (c) A knowledge of the procedures for emergency distress signals as prescribed in the Radio Regulations.
17. *Life-saving*
- A thorough knowledge of life-saving appliance regulations (International Convention for the Safety of Life at Sea), organization of abandon ship drills, survival craft, rescue boats and other life-saving equipment.
18. *Search and rescue*
- A thorough knowledge of the Merchant Ship Search and Rescue Manual (Mersar).
19. *Methods for demonstration of proficiency*
- (a) Navigation
    - Demonstrate the use of sextant, pelorus, azimuth mirror and ability to plot position, course, bearings.
  - (b) International Regulations for Preventing Collisions at Sea
    - (i) use of small models displaying proper signals or lights, or navigation light simulator;
    - (ii) manoeuvring board or radar simulator.
  - (c) Radar
    - (i) radar simulator; or
    - (ii) manoeuvring boards.
  - (d) Fire-fighting
    - Attendance at an approved fire-fighting course.
  - (e) Communications
    - Visual and vocal practical test.
  - (f) Life-saving
    - Launching and handling of survival craft, rescue boats and other life-saving appliances, including the donning of life-jackets.



## REGULATION II/3

**Mandatory minimum requirements for certification of officers in charge of a navigational watch and of masters of ships of less than 200 GRT**1. *Ships not engaged on near-coastal voyages*

- (a) Every master serving on a sea-going ship of less than 200 GRT not engaged on near-coastal voyages shall hold a certificate recognized by the Administration for service as master of ships of between 200 and 1 600 GRT.
- (b) Every officer in charge of a navigational watch serving on a sea-going ship of less than 200 GRT not engaged on near-coastal voyages shall hold an appropriate certificate for ships of 200 GRT or more.

2. *Ships engaged on near-coastal voyages*

## (a) Master

- (i) Every master serving in a sea-going ship of less than 200 GRT engaged on near-coastal voyages shall hold an appropriate certificate.
- (ii) Every candidate for certification shall:
  - (1) be not less than 20 years of age;
  - (2) have approved sea-going service of not less than 12 months as officer in charge of a navigational watch;
  - (3) satisfy the Administration that he possesses adequate knowledge appropriate to his duties on the ships concerned which shall include the subjects contained in the Appendix to this Regulation.

## (b) Officer in charge of a navigational watch

- (i) Every officer in charge of a navigational watch on a sea-going ship of less than 200 GRT engaged on near coastal voyages shall hold an appropriate certificate.
- (ii) Every candidate for certification shall:
  - (1) be not less than 18 years of age;
  - (2) satisfy the Administration as to medical fitness, particularly regarding eyesight and hearing;
  - (3) satisfy the Administration that he has:
    - successfully undergone special training, including an adequate period of appropriate sea-going services as required by the Administration, or
    - completed approved sea-going service in the deck department of not less than three years;
  - (4) satisfy the Administration that he possesses adequate knowledge appropriate to his duties on the ships concerned, which shall include the subjects contained in the Appendix.

3. *Training*

Training to achieve the necessary knowledge and practical experience shall be based on Regulation II/1 'Basic principles to be observed in keeping a navigational watch' and relevant international regulations and recommendations.

4. *Exemptions*

The Administration, if it considers that a ship's size and the conditions of its voyage are such as to render the application of the full requirements of this Regulation and its Appendix unreasonable or impracticable, may to that extent exempt the master and the officer in charge of a navigational watch on such a ship or class of ships from some of the requirements, bearing in mind the safety of all ships which may be operating in the same waters.

## APPENDIX TO REGULATION II/3

**Minimum knowledge required for certification of officers in charge of a navigational watch and of masters of ships of less than 200 GRT**

## 1. (a) Knowledge of the following:

- (i) coastal navigation and, to the extent required, celestial navigation;
- (ii) International Regulations for Preventing Collisions at Sea;

- (iii) International Maritime Dangerous Goods Code (IMDG);
  - (iv) magnetic compass;
  - (v) radiotelephony and visual signalling;
  - (vi) fire prevention and fire-fighting appliances;
  - (vii) life-saving;
  - (viii) emergency procedures;
  - (ix) ship manoeuvring;
  - (x) ship stability;
  - (xi) meteorology;
  - (xii) small ship power plants;
  - (xiii) first aid;
  - (xiv) search and rescue;
  - (xv) prevention of pollution of the marine environment.
- (b) In addition to the requirements of subparagraph (a), sufficient knowledge to operate safely all navigational aids and equipment fitted aboard the ships concerned.
- (c) The level of knowledge to be required in the subjects specified in subparagraphs (a) and (b) shall be sufficient for the officer of the watch to carry out his duties safely.
2. Every master serving on a sea-going ship of less than 200 GRT shall, in addition to the requirements of paragraph 1 above, satisfy the Administration that he possesses the knowledge to carry out all the duties of such a master safely.

#### REGULATION II/4

##### Mandatory minimum requirements for certification of officers in charge of a navigational watch on ships of 200 GRT or more

1. Every officer in charge of a navigational watch serving on a sea-going ship of 200 GRT or more shall hold an appropriate certificate.
2. Every candidate for certification shall:
  - (a) be not less than 18 years of age;
  - (b) satisfy the Administration as to medical fitness, particularly regarding eyesight and hearing;
  - (c) have approved sea-going service in the deck department of not less than three years which shall include at least six months of bridge watchkeeping duties under the supervision of a qualified officer; however, an Administration may allow the substitution of a period of special training for not more than two years of this approved sea-going service, provided the Administration is satisfied that such training is at least equivalent in value to the period of sea-going service it replaces;
  - (d) satisfy the Administration by passing an appropriate examination that he possesses adequate theoretical and practical knowledge appropriate to his duties.

##### 3. *Certificates for service without restriction*

For issue of certificates for service without restriction as to area of operation, the examination shall test the adequacy of the candidate's theoretical and practical knowledge in the subjects shown in the Appendix to this Regulation.

##### 4. *Restricted certificates*

For issue of restricted certificates for service on near-coastal voyages, the Administration may omit the following subjects from those shown in the Appendix, bearing in mind the effect on the safety of all ships which may be operating in the same waters:

- (a) celestial navigation;
- (b) electronic systems of position fixing and navigation for waters not covered by such systems.

### 5. *Level of knowledge*

- (a) The level of knowledge to be required in the subjects shown in the Appendix shall be sufficient for the officer of the watch to carry out his watchkeeping duties safely. In determining the appropriate level of knowledge the Administration shall take into account the remarks under each subject in the Appendix.
- (b) Training to achieve the necessary theoretical knowledge and practical experience shall be based on Regulation II/1 'Basic principles to be observed in keeping a navigational watch' and relevant international regulations and recommendations.

## APPENDIX TO REGULATION II/4

### Minimum knowledge required for certification of officers in charge of a navigational watch on ships of 200 GRT or more

#### 1. *Celestial navigation*

Ability to use celestial bodies to determine the ship's position and compass errors.

#### 2. *Terrestrial and coastal navigation*

- (a) Ability to determine the ship's position by the use of:
  - (i) landmarks;
  - (ii) aids to navigation, including lighthouses, beacons and buoys;
  - (iii) dead reckoning, taking into account winds, tides, currents and speed by propeller revolutions per minute and by log.
- (b) Thorough knowledge of and ability to use navigational charts and publications, such as sailing directions, tide tables, notices to mariners, radio navigational warnings and ships' routing information.

#### 3. *Radar navigation*

Knowledge of the fundamentals of radar and ability in the operation and use of radar and ability to interpret and analyse information obtained by use of radar including the following:

- (a) factors affecting performance and accuracy;
- (b) setting up and maintaining displays;
- (c) detection of misrepresentation of information, false echoes, sea return, etc.;
- (d) range and bearing;
- (e) identification of critical echoes;
- (f) course and speed of other ships;
- (g) time and distance of closest approach of crossing, meeting or overtaking ships;
- (h) detecting course and speed changes of other ships;
- (i) effect of changes in own ship's course or speed or both;
- (j) application of the International Regulations for Preventing Collisions at Sea.

#### 4. *Watchkeeping*

- (a) Demonstrate thorough knowledge of content, application and intent of the International Regulations for Preventing Collisions at Sea, including those Annexes concerned with safe navigation.
- (b) Demonstrate knowledge of content of 'Basic principles to be observed in keeping a navigational watch'.

#### 5. *Electronic systems of position fixing and navigation*

Ability to determine the ship's position by the use of electronic navigational aids to the satisfaction of the Administration.

#### 6. *Radio direction-finders and echo-sounders*

Ability to operate the equipment and apply the information correctly.

7. *Meteorology*

Knowledge of shipborne meteorological instruments and their application. Knowledge of the characteristics of various weather systems, reporting procedures and recording systems and the ability to apply the meteorological information available.

8. *Compasses — magnetic and gyro*

Knowledge of the principles of magnetic and gyro-compasses including errors and corrections. With regard to gyro-compasses, an understanding of the systems under the control of the master gyro and a knowledge of the operation and care of the main types of gyro-compasses.

9. *Automatic pilot*

Knowledge of automatic pilot systems and procedures.

10. *Radiocommunications and visual signalling*

(a) Ability to transmit and receive messages by morse light.

(b) Ability to use the International Code of Signals.

(c) Knowledge of procedures used in radiocommunications and ability to use radio equipment for distress, urgency, safety and navigational messages.

11. *Fire prevention and fire-fighting appliances*

(a) Ability to organize fire drills.

(b) Knowledge of classes and chemistry of fire.

(c) Knowledge of fire-fighting systems.

(d) Attendance at an approved fire-fighting course.

12. *Life-saving*

Ability to organize abandon ship drills and knowledge of the operation of survival craft and rescue boats, their launching appliances and arrangements and their equipment including radio life-saving appliances, satellite emergency position-indicating radio beacons (EPIRBs), immersion-suits and thermal protective aids. Knowledge of survival at sea techniques.

13. *Emergency procedures*

Knowledge of the items listed in the appropriate appendix of the current edition of the ILO/IMO 'Document for Guidance'.

14. *Ship manoeuvring and handling*

Knowledge of:

(a) the effects of various deadweights, draughts, trim, speed and under keel clearance on turning circles and stopping distances;

(b) effects of wind and current on ship handling;

(c) manoeuvres for the rescue of man-overboard;

(d) squat, shallow water and similar effects;

(e) proper procedures for anchoring and mooring.

15. *Ship stability*

(a) Working knowledge and application of stability, trim and stress tables, diagrams and stress calculating equipment.

(b) Understanding of fundamental actions to be taken in the event of partial loss of intact buoyancy.

16. *English language*

Adequate knowledge of the English language enabling the officer to use charts and other nautical publications, to understand meteorological information and messages concerning ship's safety and operation and to express himself clearly in his communications with other ships or coast stations. Ability to understand and use the Standard Marine Navigational Vocabulary.

17. *Ship construction*

General knowledge of the principal structural members of a ship and the proper names of the various parts.

18. *Cargo handling and stowage*

Knowledge of safe handling and stowage of cargoes and the effect of these factors on the safety of the ship.

19. *Medical aid*

Practical application of medical guides and advice by radio, including the ability to take effective action based on such knowledge in the case of accidents or illnesses that are likely to occur on board ship.

20. *Search and rescue*

Knowledge of the Merchant Ship Search and Rescue Manual (Mersar).

21. *Prevention of pollution of the marine environment*

Knowledge of the precautions to be observed to prevent pollution of the marine environment.

## REGULATION II/5

**Mandatory minimum requirements to ensure the continued proficiency and updating of knowledge for masters and deck officers**

1. Every master and every deck officer holding a certificate who is serving at sea or intends to return to sea after a period ashore shall, in order to continue to qualify for sea-going service, be required at regular intervals not exceeding five years to satisfy the Administration as to:
  - (a) medical fitness, particularly regarding eyesight and hearing; and
  - (b) professional competence:
    - (i) by approved sea-going service as master or deck officer of at least one year during the preceding five years; or
    - (ii) by virtue of having performed functions relating to the duties appropriate to the grade of certificate held which are considered to be at least equivalent to the sea-going service required in paragraph 1 (b) (i); or
    - (iii) by one of the following:
      - passing an approved test, or
      - successfully completing an approved course or courses, or
      - having completed approved sea-going service as a deck officer for a period of not less than three months in a supernumerary capacity immediately prior to taking up the rank to which he is entitled by virtue of his certificate.
2. The Administration shall, in consultation with those concerned, formulate or promote the formulation of a structure of refresher and updating courses, either voluntary or mandatory, as appropriate, for masters and deck officers who are serving at sea, especially for re-entrants to sea-going service. The Administration shall ensure that arrangements are made to enable all persons concerned to attend such courses as appropriate to their experience and duties. Such courses shall be approved by the Administration and include changes in marine technology and relevant international regulations and recommendations concerning the safety of life at sea and the protection of the marine environment.

3. Every master and deck officer shall, for continuing sea-going service on board ships for which special training requirements have been internationally agreed upon, successfully complete an approved relevant training.
4. The Administration shall ensure that the texts of recent changes in international regulations concerning the safety of life at sea and the protection of the marine environment are made available to ships under its jurisdiction.

#### REGULATION II/6

##### Mandatory minimum requirements for ratings forming part of a navigational watch

1. The minimum requirements for a rating forming part of a navigational watch on a sea-going ship of 200 GRT or more are set out in paragraph 2. These requirements are not those for certification of able seamen <sup>(1)</sup>, nor, except for ships of limited size, are they minimum requirements for a rating who is to be the sole rating of a navigational watch. Administrations may require additional training and qualifications for a rating who is to be the sole rating of a navigational watch.
2. Every rating forming part of a navigational watch on a sea-going ship of 200 GRT or more shall:
  - (a) be not less than 16 years of age;
  - (b) satisfy the Administration as to medical fitness, particularly regarding eyesight and hearing;
  - (c) satisfy the Administration that he has:
    - (i) completed approved sea-going service, including not less than six months' sea experience associated, in particular, with navigational watchkeeping duties; or
    - (ii) successfully undergone special training, either pre-sea or aboard ship, including an adequate period of sea-going service as required by the Administration which shall be not less than two months;
  - (d) have experience or training which includes:
    - (i) basic principles of fire-fighting, first aid, personal survival techniques, health hazards and personal safety;
    - (ii) ability to understand orders and make himself understood by the officer of the watch in matters relevant to his duties;
    - (iii) ability to steer and comply with helm orders, together with sufficient knowledge of magnetic and gyro-compasses for performance of these duties;
    - (iv) ability to keep a proper look-out by sight and hearing and report the approximate bearing of a sound signal, light or other object in degrees or points;
    - (v) familiarity with the change-over from automatic pilot to hand steering and vice versa;
    - (vi) knowledge of the use of appropriate internal communication and alarm systems;
    - (vii) knowledge of rocket parachute flares, hand flares and buoyant smoke signals;
    - (viii) knowledge of his emergency duties;
    - (ix) knowledge of shipboard terms and definitions appropriate to his duties.
3. The experience, service or training required by paragraph 2 (c) and (d) may be acquired through performance of duties associated with navigational watchkeeping, but only if such duties are carried out under the direct supervision of the master, officer in charge of the navigational watch or a qualified rating.
4. Administrations shall ensure that an authorized document is issued to every seafarer who by experience or training is qualified in accordance with this Regulation to serve as a rating forming part of a navigational watch, or that his existing document is duly endorsed.

<sup>(1)</sup> Reference is made to ILO Certification of Able Seamen Convention, 1946 or any successive convention.

5. A seafarer may be considered by the Administration to have met the requirements of this Regulation if he has served in a relevant capacity in the deck department for a period of not less than one year within the last five years preceding the entry into force of the STCW Convention for that Administration.

### CHAPTER III

#### ENGINE DEPARTMENT

#### REGULATION III/2

##### **Mandatory minimum requirements for certification of chief engineer officers and second engineer officers of ships powered by main propulsion machinery of 3 000 kW propulsion power or more**

1. Every chief engineer officer and second engineer officer of a sea-going ship powered by main propulsion machinery of 3 000 kW propulsion power or more shall hold an appropriate certificate.
2. Every candidate for certification shall:
  - (a) satisfy the Administration as to medical fitness, including eyesight and hearing;
  - (b) meet the requirements for certification as an engineer officer in charge of a watch; and
    - (i) for certification as second engineer officer, have not less than 12 months' approved sea-going service as assistant engineer officer or engineer officer;
    - (ii) for certification as chief engineer officer, have not less than 36 months' approved sea-going service of which not less than 12 months shall be served as an engineer officer in a position of responsibility while qualified to serve as second engineer officer;
  - (c) have attended an approved practical fire-fighting course;
  - (d) have passed appropriate examination to the satisfaction of the Administration. Such examination shall include the material set out in the Appendix to this Regulation, except that the Administration may vary these examination requirements for officers of ships with limited propulsion power that are engaged on near-coastal voyages, as it considers necessary, bearing in mind the effect on the safety of all ships which may be operating in the same waters.
3. Training to achieve the necessary theoretical knowledge and practical experience shall take into account relevant international regulations and recommendations.
4. The level of knowledge required under the different paragraphs of the appendix may be varied according to whether the certificate is being issued at chief engineer officer or second engineer officer level.

#### APPENDIX TO REGULATION III/2

##### **Minimum knowledge required for certification of chief engineer officers and second engineer officers of ships powered by main propulsion machinery of 3 000 kW propulsion power or more**

1. The syllabus given below is compiled for examination of candidates for certification as chief engineer officer or second engineer officer of ships powered by main propulsion machinery of 3 000 kW propulsion power or more. Bearing in mind that a second engineer officer shall be in a position to assume the responsibilities of a chief engineer officer at any time, examination in these subjects shall be designed to test the candidate's ability to assimilate all available information that affects the safe operation of the ship's machinery.

2. With respect to paragraph 4 (a) below, the Administration may omit knowledge requirements for types of propulsion machinery other than those machinery installations for which the certificate to be awarded shall be valid. A certificate awarded on such a basis shall not be valid for any category of machinery installation which has been omitted until the engineer officer proves to be competent in these items to the satisfaction of the Administration. Any such limitation shall be stated in the certificate.
3. Every candidate shall possess theoretical knowledge in the following subjects:
  - (a) thermodynamics and heat transmission;
  - (b) mechanics and hydromechanics;
  - (c) operational principles of ships' power installations (diesel, steam and gas turbine) and refrigeration;
  - (d) physical and chemical properties of fuels and lubricants;
  - (e) technology of materials;
  - (f) chemistry and physics of fire and extinguishing agents;
  - (g) marine electrotechnology, electronics and electrical equipment;
  - (h) fundamentals of automation, instrumentation and control systems;
  - (i) naval architecture and ship construction, including damage control.
4. Every candidate shall possess adequate practical knowledge in at least the following subjects:
  - (a) operation and maintenance of:
    - (i) marine diesel engines;
    - (ii) marine steam propulsion plant;
    - (iii) marine gas turbines;
  - (b) operation and maintenance of auxiliary machinery, including pumping and piping systems, auxiliary boiler plant and steering gear systems;
  - (c) operation, testing and maintenance of electrical and control equipment;
  - (d) operation and maintenance of cargo handling equipment and deck machinery;
  - (e) detection of machinery malfunction, location of faults and action to prevent damage;
  - (f) organization of safe maintenance and repair procedures;
  - (g) methods of, and aids for, fire prevention, detection and extinction;
  - (h) methods and aids to prevent pollution of the environment by ships;
  - (i) regulations to be observed to prevent pollution of the marine environment;
  - (j) effects of marine pollution on the environment;
  - (k) first aid related to injuries which might be expected in machinery spaces and use of first aid equipment;
  - (l) functions and use of life-saving appliances;
  - (m) methods of damage control;
  - (n) safe working practices.
5. Every candidate shall possess a knowledge of international maritime law embodied in international agreements and conventions as they affect the specific obligations and responsibilities of the engine department, particularly those concerning safety and the protection of the marine environment. The extent of knowledge of national maritime legislation is left to the discretion of the Administration but shall include national arrangements for implementing international agreements and conventions.
6. Every candidate shall possess a knowledge of personnel management, organization and training aboard ships.



## REGULATION III/3

**Mandatory minimum requirements of certification of chief engineer officers and second engineer officers of ships powered by main propulsion machinery between 750 kW and 3 000 kW propulsion power**

1. Every chief engineer officer and second engineer officer of a sea-going ship powered by main propulsion machinery of between 750 and 3 000 kW propulsion power shall hold an appropriate certificate.
2. Every candidate for certification shall:
  - (a) satisfy the Administration as to medical fitness, including eyesight and hearing;
  - (b) meet the requirements for certification as an engineer officer in charge of a watch; and
    - (i) for certification as second engineer officer, have not less than 12 months' approved sea-going service as assistant engineer officer or engineer officer;
    - (ii) for certification as chief engineer officer, have not less than 24 months' approved sea-going service of which not less than 12 months shall be served while qualified to serve as second engineer officer;
  - (c) have attended an approved practical fire-fighting course;
  - (d) have passed appropriate examination to the satisfaction of the Administration. Such examination shall include the material set out in the Appendix to this Regulation, except that the Administration may vary the requirements for examination and sea-going service for officers of ships engaged on near-coastal voyages, bearing in mind the types of automatic and remotely operated controls with which such ships are fitted and the effect on the safety of all ships which may be operating in the same waters.
3. Training to achieve the necessary theoretical knowledge and practical experience shall take into account relevant international regulations and recommendations.
4. The level of knowledge required under the different paragraphs of the Appendix may be varied according to whether the certificate is being issued at chief engineer officer or second engineer officer level.
5. Every engineer officer who is qualified to serve as second engineer officer of ships powered by main propulsion machinery of 3 000 kW propulsion power or more, may serve as chief engineer officer of ships powered by main propulsion machinery of less than 3 000 kW propulsion power provided that not less than 12 months' approved sea-going service shall have been served as an engineer officer in a position of responsibility.

## APPENDIX TO REGULATION III/3

**Minimum knowledge required for certification of chief engineer officers and second engineer officers of ships powered by main propulsion machinery of between 750 kW and 3 000 kW propulsion power**

1. The syllabus given below is compiled for examination of candidates for certification as chief engineer officer or second engineer officer of ships powered by main propulsion machinery of between 750 kW and 3 000 kW propulsion power. Bearing in mind that a second engineer officer shall be in a position to assume the responsibilities of the chief engineer officer at any time, examination in these subjects shall be designed to test the candidate's ability to assimilate all available information that affects the safe operation of the ship's machinery.
2. With respect to paragraphs 3 (d) and 4 (a) below, the Administration may omit knowledge requirements for types of propulsion machinery other than those machinery installations for which the certificate to be awarded shall be valid. A certificate awarded on such a basis shall not be valid for any category of machinery installation which has been omitted until the engineer officer proves to be competent in these items to the satisfaction of the Administration. Any such limitation shall be stated in the certificate.

3. Every candidate shall possess sufficient elementary theoretical knowledge to understand the basic principles involved in the following subjects:
  - (a) combustion processes;
  - (b) heat transmission;
  - (c) mechanics and hydromechanics;
  - (d) (i) marine diesel engines;  
(ii) marine steam propulsion plant;  
(iii) marine gas turbines;
  - (e) steering gear systems;
  - (f) properties of fuels and lubricants;
  - (g) properties of materials;
  - (h) fire-extinguishing agents;
  - (i) marine electrical equipment;
  - (j) automation, instrumentation and control systems;
  - (k) ship construction, including damage control;
  - (l) auxiliary systems.
  
4. Every candidate shall possess adequate practical knowledge, in at least the following subjects:
  - (a) operation and maintenance of:
    - (i) marine diesel engines;
    - (ii) marine steam propulsion plant;
    - (iii) marine gas turbines;
  - (b) operation and maintenance of auxiliary machinery systems, including steering gear systems;
  - (c) operation, testing and maintenance of electrical and control equipment;
  - (d) operation and maintenance of cargo handling equipment and deck machinery;
  - (e) detection of machinery malfunction, location of faults and action to prevent damage;
  - (f) organization of safe maintenance and repair procedures;
  - (g) methods of, and aids for, fire prevention, detection and extinction;
  - (h) regulations to be observed regarding pollution of the marine environment and methods and aids to prevent such pollution;
  - (i) first aid related to injuries which might be expected in machinery spaces and use of first aid equipment;
  - (j) functions and use of life-saving appliances;
  - (k) methods of damage control with specific reference to action to be taken in the event of flooding of sea water into the engine room;
  - (l) safe working practices.
  
5. Every candidate shall possess a knowledge of international maritime law as embodied in international agreements and conventions as they affect the specific obligations and responsibilities of the engine department, particularly those concerning safety and the protection of the marine environment. The extent of knowledge of national maritime legislation is left to the discretion of the Administration but shall include national arrangements for implementing international agreements and conventions.
  
6. Every candidate shall possess a knowledge of personnel management, organization and training aboard ship.

## REGULATION III/4

**Mandatory minimum requirements for certification of engineer officers in charge of a watch in a traditionally manned engine room or designated duty engineer officers in a periodically unmanned engine room**

1. Every engineer officer in charge of a watch in a traditionally manned engine room or the designated duty engineer officer in a periodically unmanned engine room on a sea-going ship powered by main propulsion machinery of 750 kW propulsion power or more shall hold an appropriate certificate.
2. Every candidate for certification shall:
  - (a) be not less than 18 years of age;
  - (b) satisfy the Administration as to medical fitness, including eyesight and hearing;
  - (c) have not less than a total of three years approved education or training, relevant to the duties of a marine engineer;
  - (d) have completed an adequate period of sea-going service which may have been included within the period of three years stated in subparagraph (c);
  - (e) satisfy the Administration that he has the theoretical and practical knowledge of the operation and maintenance of marine machinery appropriate to the duties of an engineer officer;
  - (f) have attended an approved practical fire-fighting course;
  - (g) have knowledge of safe working practices.

The Administration may vary the requirement of subparagraphs (c) and (d) for engineer officers of ships powered by main propulsion machinery of less than 3 000 kW propulsion power engaged on near-coastal voyages, bearing in mind the effect on the safety of all ships which may be operating in the same waters.

3. Every candidate shall have knowledge of the operation and maintenance of main and auxiliary machinery, which shall include knowledge of relevant regulatory requirements and also knowledge of at least the following specific items:
  - (a) Watchkeeping routines
    - (i) duties associated with taking over and accepting a watch;
    - (ii) routine duties undertaken during a watch;
    - (iii) maintenance of the machinery space logbook and the significance of readings taken;
    - (iv) duties associated with handing over a watch.
  - (b) Main and auxiliary machinery
    - (i) assisting in the preparation of main machinery and preparation of auxiliary machinery for operation;
    - (ii) operation of steam boilers, including combustion system;
    - (iii) methods of checking water level in steam boilers and action necessary if water level is abnormal;
    - (iv) location of common faults of machinery and plant in engine and boiler rooms and action necessary to prevent damage.
  - (c) Pumping systems
    - (i) routine pumping operations;
    - (ii) operation of bilge, ballast and cargo pumping systems.
  - (d) Generating plant  
Preparing, starting, coupling and changing over alternators or generators.
  - (e) Safety and emergency procedures
    - (i) safety precautions to be observed during a watch and immediate actions to be taken in the event of a fire or accident, with particular reference to oil systems;
    - (ii) safe isolation of electrical and other types of plant and equipment required before personnel are permitted to work on such plant and equipment.

(f) Anti-pollution procedures

The precautions to be observed to prevent pollution of the environment by oil, cargo residue, sewage, smoke or other pollutants. The use of pollution prevention equipment, including oily water separators, sludge tank systems and sewage disposal plant.

(g) First aid

Basic first aid related to injuries which might be expected in machinery spaces.

4. Where steam boilers do not form part of a ship's machinery, the Administration may omit the knowledge requirements of paragraphs 3 (b) (ii) and (iii). A certificate awarded on such a basis shall not be valid for service on ships in which steam boilers form part of a ship's machinery until the engineer officer proves to be competent in the omitted items to the satisfaction of the Administration. Any such limitations shall be stated in the certificate.
5. The training to achieve the necessary theoretical knowledge and practical experience shall take into account relevant international regulations and recommendations.

#### REGULATION III/5

##### **Mandatory minimum requirements to ensure the continued proficiency and updating of knowledge for engineer officers**

1. Every engineer officer holding a certificate who is serving at sea or intends to return to sea after a period ashore shall, in order to continue to qualify for sea-going service in the rank appropriate to his certificate, be required at regular intervals not exceeding five years to satisfy the Administration as to:
  - (a) medical fitness, including eyesight and hearing; and
  - (b) professional competence:
    - (i) by approved service as an engineer officer of at least one year during the preceding five years; or
    - (ii) by virtue of having performed functions relating to the duties appropriate to the grade of certificate held which is considered to be at least equivalent to the sea-going service required in paragraph 1 (b) (i); or
    - (iii) by one of the following:
      - passing an approved test, or
      - successfully completing an approved course or courses, or
      - having completed approved sea-going service as an engineer officer for a period of not less than three months in a supernumerary capacity, or in a lower rank than that for which he holds the certificate, immediately prior to taking up the rank to which he is entitled by virtue of his certificate.
2. The course or courses referred to in paragraph 1 (b) (iii) shall include, in particular, changes in the relevant international regulations and recommendations concerning the safety of life at sea and the protection of the marine environment.
3. The Administration shall ensure that the texts of recent changes in international regulations concerning the safety of life at sea and the protection of the marine environment are made available to ships under its jurisdiction.

#### REGULATION III/6

##### **Mandatory minimum requirements for ratings forming part of an engine room watch**

1. The minimum requirements for a rating if forming part of an engine room watch shall be as set out in paragraph 2. These requirements are not for:

- (a) a rating nominated as the assistant to the engineer officer in charge of the watch <sup>(1)</sup>;
  - (b) a rating who is under training;
  - (d) a rating whose duties while on watch are of an unskilled nature.
2. Every rating forming part of an engine room watch shall:
- (a) be not less than 16 years of age;
  - (b) satisfy the Administration as to medical fitness, including eyesight and hearing;
  - (c) satisfy the Administration as to:
    - (i) experience or training regarding fire-fighting, basic first aid, personal survival techniques, health hazards and personal safety;
    - (ii) ability to understand orders, and make himself understood in matters relevant to his duties;
  - (d) satisfy the Administration that he has:
    - (i) shore experience relevant to his sea-going duties supplemented by an adequate period of sea-going service as required by the Administration; or
    - (ii) undergone special training either pre-sea or on board ship, including an adequate period of sea-going service as required by the Administration; or
    - (iii) approved sea-going service of at least six months.
3. Every such rating shall have knowledge of:
- (a) engine room watchkeeping procedures and the ability to carry out a watch routine appropriate to his duties;
  - (b) safe working practices as related to engine room operations;
  - (c) terms used in machinery spaces and names of machinery and equipment relative to his duties;
  - (d) basic environmental protection procedures.
4. Every rating required to keep a boiler watch shall have knowledge of the safe operation of boilers, and shall have the ability to maintain the correct water levels and steam pressures.
5. Every rating forming part of an engine room watch shall be familiar with his watchkeeping duties in the machinery spaces on the ship on which he is to serve. In particular, with respect to that ship the rating shall have:
- (a) knowledge of the use of appropriate internal communication systems;
  - (b) knowledge of escape routes from machinery spaces;
  - (c) knowledge of engine room alarm systems and ability to distinguish between the various alarms with special reference to fire extinguishing gas alarms;
  - (d) familiarity with the location and use of fire-fighting equipment in the machinery spaces.
6. A seafarer may be considered by the Administration to have met the requirements of this Regulation if he has served in a relevant capacity in the engine department for a period of not less than one year within the last five years preceding the entry into force of the STCW Convention for that Administration.

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<sup>(1)</sup> Reference is made to Resolution 9 — 'Recommendation on minimum requirements for a rating nominated as the assistant to the engineer officer in charge of the watch' adopted by the International conference on training and certification of seafarers, 1978.

CHAPTER IV  
RADIO PERSONNEL

Explanatory note:

Mandatory provisions relating to radio watchkeeping are set forth in the Radio Regulations and in the International Convention for the Safety of Life at Sea, 1974, as amended. Provisions for radio maintenance are set forth in the International Convention for the Safety of Life at Sea, 1974, as amended, and the guidelines adopted by the Organization <sup>(1)</sup>.

REGULATION IV/1

Application

1. The provisions of this chapter shall apply to radio personnel in a ship operating in the Global Maritime Distress and Safety System (GMDSS) as prescribed by the International Convention for the Safety of Life at Sea, 1974, as amended.
2. Until 1 February 1999, radio personnel on a ship complying with the provisions of the International Convention for the Safety of Life at Sea, 1974, in force prior to 1 February 1992, shall comply with the provisions of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, in force prior to 1 December 1992.

REGULATION IV/2

Mandatory minimum requirements for certification of GMDSS radio personnel

1. Every radio operator in charge of, or performing, radio communication duties on a ship shall hold an appropriate certificate or certificates issued or recognized by the Administration under the provisions of the Radio Regulations.
2. In addition, a radio operator on a ship which is required by the International Convention for the Safety of Life at Sea, 1974, as amended, to have a radio installation shall:
  - (a) be not less than 18 years of age;
  - (b) satisfy the Administration as to medical fitness, particularly regarding eyesight, hearing and speech;
  - (c) meet the requirements of the Appendix to this Regulation.
3. Every candidate for a certificate shall be required to pass an examination or examinations to the satisfaction of the Administration concerned.
4. The level of knowledge required for certification shall be sufficient for radio operators to carry out their radiocommunication duties safely and efficiently. The knowledge required for obtaining each type of certificate defined in the Radio Regulations shall be in accordance with those Regulations. In addition, for all types of certificates defined in the Radio Regulations, the required knowledge and training shall include the subjects listed in the Appendix to this Regulation. In determining the appropriate level of knowledge and the training, the Administration shall take into account the relevant recommendations of the Organization <sup>(2)</sup>.

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<sup>(1)</sup> Reference is made to the Radio maintenance guidelines for the Global Maritime Distress and Safety System (GMDSS) related to sea areas A3 and A4 adopted by the Organization by Resolution A.702 (17).

<sup>(2)</sup> Reference is made to the recommendations on training of radio personnel in the Global Maritime Distress and Safety System (GMDSS) adopted by the Organization by Resolution A. 703 (17).

## APPENDIX TO REGULATION IV/2

**Minimum additional knowledge and training requirements for radio personnel**

1. In addition to satisfying the requirements for the issue of a certificate in compliance with the Radio Regulations, radio operators shall have knowledge and training, including practical training, in the following:
  - (a) the provision of radio services in emergencies, including:
    - (i) abandon ship;
    - (ii) fire aboard ship;
    - (iii) partial or full breakdown of the radio installations;
  - (b) the operation of survival craft and rescue boats and their equipment, with special reference to radio life-saving appliances;
  - (c) survival at sea;
  - (d) first aid;
  - (e) fire prevention and fire-fighting, with particular reference to the radio installations;
  - (f) preventive measures for the safety of ship and personnel in connection with hazards related to radio equipment, including electrical radiation, chemical and mechanical hazards;
  - (g) the use of the Merchant Ship Search and Rescue Manual (Mersar) with particular reference to radiocommunications;
  - (h) ship position-reporting systems and procedures;
  - (i) the use of the International Code of Signals and the Standard Marine Navigational Vocabulary;
  - (j) radio medical systems and procedures.
2. The Administration may vary, as appropriate, the knowledge and training acquired by paragraph 1 for issue of a radio operator's certificate to a holder of a certificate issued under the provisions of Chapters II, III or IV, provided the Administration is satisfied that the standard of training or level of knowledge for issue of the certificate held is adequate.

## REGULATION IV/3

**Mandatory minimum requirements to ensure the continued proficiency and updating of knowledge for GMDSS radio personnel**

1. Every radio operator holding a certificate or certificates issued or recognized by the Administration shall, in order to continue to qualify for sea-going service, be required to satisfy the Administration as to the following:
  - (a) medical fitness, particularly regarding eyesight, hearing and speech, at regular intervals not exceeding five years; and
  - (b) professional competence;
    - (i) by performing radio service in a sea-going ship with no single interruption of service exceeding five years; or
    - (ii) by virtue of having performed functions relating to the duties appropriate to the grade of certificate held which are considered to be at least equivalent to the sea-going service required in paragraph 1 (b) (1); or
    - (iii) by passing an approved test or successfully completing an approved training course or courses at sea or ashore, which shall include elements which are of direct relevance to the safety of life at sea, and which are applicable for the certificate that the person is holding, in accordance with the requirements of the International Convention for the Safety of Life at Sea, 1974, as amended, and the Radio Regulations.

2. When new modes, equipment or practices are becoming mandatory aboard ships entitled to fly the flag of a Party, the Administration may require radio operators to pass an approved test or successfully complete an appropriate training course or courses, at sea or ashore, with particular reference to safety duties.
3. Every radio operator, in order to continue to qualify for sea-going service on board particular types of ships for which special training requirements have been internationally agreed upon, shall successfully complete approved relevant training or examinations which shall take into account relevant international regulations and recommendations.
4. The Administration shall ensure that the texts of recent changes in international regulations relating to radiocommunications and relevant to the safety of life at sea are available to ships entitled to fly its flag.
5. Administrations are encouraged, in consultation with those concerned, to formulate or promote the formulation of a structure of refresher and updating courses, either voluntary or mandatory, as appropriate, at sea or ashore, for radio operators who are serving at sea and especially for re-entrants to sea-going service. The course or courses should include elements that are of direct relevance to radio duties and include changes in marine radiocommunication technology and relevant international regulations and recommendations concerning the safety of life at sea.

## CHAPTER V

### SPECIAL REQUIREMENTS FOR TANKERS

#### REGULATION V/1

##### **Mandatory minimum requirements for the training and qualifications of masters, officers and ratings of oil tankers**

1. Officers and ratings who are to have specific duties, and responsibilities related to those duties, in connection with cargo and cargo equipment on oil tankers and who have not served on board an oil tanker as part of the regular complement, before carrying out such duties shall have completed an appropriate shore-based fire-fighting course; and
  - (a) an appropriate period of supervised shipboard service in order to acquire adequate knowledge of safe operational practices; or
  - (b) an approved oil tanker familiarization course which includes basic safety and pollution prevention precautions and procedures, layouts of different types of oil tankers, type of cargo, their hazard and their handling, equipment, general operational sequence and oil tanker terminology.
2. Masters, chief engineer officers, chief mates, second engineer officers and, if other than the foregoing, any person with the immediate responsibility for loading, discharging and care in transit or handling of cargo, in addition to the provisions of paragraph I, shall have:
  - (a) relevant experience appropriate to their duties on oil tankers; and
  - (b) completed a specialized training programme appropriate to their duties, including oil tanker safety, fire safety measures and systems, pollution prevention and control, operational practice and obligations under applicable laws and regulations.
3. Within two years after the entry into force of the STCW Convention for a Party, a seafarer may be considered to have met the requirements of paragraph 2 (b) if he has served in a relevant capacity on board oil tankers for a period of not less than one year within the preceding five years.



## REGULATION V/2

**Mandatory minimum requirements for the training and qualification of masters, officers and ratings of chemical tankers**

1. Officers and ratings who are to have specific duties, and responsibilities related to those duties, in connection with cargo and cargo equipment on chemical tankers and who have not served on board a chemical tanker as part of the regular complement, before carrying out such duties shall have completed an appropriate shore-based fire-fighting course; and
  - (a) an appropriate period of supervised shipboard service in order to acquire adequate knowledge of safe operational practices; or
  - (b) an approved chemical tanker familiarization course which includes basic safety and pollution prevention precautions and procedures, layouts of different types of chemical tankers, types of cargo, their hazards and their handling equipment, general operational sequence and chemical tanker terminology.
2. Masters, chief engineer officers, chief mates, second engineer officers and, if other than the foregoing, any person with the immediate responsibility for loading, discharging and care in transit or handling of cargo, in addition to the provisions of paragraph 1, shall have:
  - (a) relevant experience appropriate to their duties on chemical tankers; and
  - (b) completed a specialized training programme appropriate to their duties including chemical tanker safety, fire safety measures and systems, pollution prevention and control, operational practice and obligations under applicable laws and regulations.
3. Within two years after the entry into force of the 1978 STCW Convention for a Party, a seafarer may be considered to have met the requirements of paragraph 2 (b) if he has served in a relevant capacity on board chemical tankers for a period of not less than one year within the preceding five years.

## REGULATION V/3

**Mandatory minimum requirements for the training and qualifications of masters, officers and ratings of liquefied gas tankers**

1. Officers and ratings who are to have specific duties, and responsibilities related to those duties, in connection with cargo and cargo equipment on liquefied gas tankers and who have not served on board a liquefied gas tanker as part of the regular complement, before carrying out such duties shall have completed an appropriate shore-based fire-fighting course; and
  - (a) an appropriate period of supervised shipboard service in order to acquire adequate knowledge of safe operational practices; or
  - (b) an approved liquefied gas tanker familiarization course which includes basic safety and pollution prevention precautions and procedures, layouts of different types of liquefied gas tankers, types of cargo, their hazard and their handling equipment, general operational sequence and liquefied gas tanker terminology.
2. Masters, chief engineer officers, chief mates, second engineer officers and, if other than the foregoing, any person with the immediate responsibility for loading, discharging and care in transit or handling of cargo, in addition to the provisions of paragraph 1, shall have:
  - (a) relevant experience appropriate to their duties on liquefied gas tankers; and
  - (b) completed a specialized training programme appropriate to their duties including liquefied gas tanker safety, fire safety measures and systems, pollution prevention and control, operational practice and obligations under applicable laws and regulations.

3. Within two years after the entry into force of the 1978 STCW Convention for a Party, a seafarer may be considered to have met the requirements of paragraph 2 (b) if he has served in a relevant capacity on board liquefied gas tankers for a period of not less than one year within the preceding five years.

## CHAPTER VI

### PROFICIENCY IN SURVIVAL CRAFT

#### REGULATION VI/1

##### Mandatory minimum requirements for the issue of certificates of proficiency in survival craft and rescue boats

Every seafarer to be issued with a certificate of proficiency in survival craft shall:

- (a) be not less than 17,5 years of age;
- (b) satisfy the Administration as to medical fitness;
- (c) have approved sea-going service of not less than 12 months or have attended an approved training course and have approved sea-going service of not less than nine months;
- (d) satisfy the Administration by examination or by continuous assessment during an approved training course that he possesses knowledge of the contents of the Appendix to this Regulation;
- (e) demonstrate to the satisfaction of the Administration by examination or by continuous assessment during an approved training course that he possesses the ability to:
  - (i) don a life-jacket correctly; safely jump from a height into the water; board a survival craft from the water while wearing a life-jacket;
  - (ii) right an inverted liferaft while wearing a life-jacket;
  - (iii) interpret the markings on survival craft and rescue boats with respect to the number of persons they are permitted to carry;
  - (iv) make the correct commands required for launching and boarding the survival craft and rescue boats, clearing the ship and handling and disembarking from the survival craft or rescue boats;
  - (v) prepare and launch survival craft and rescue boats safely into the water and clear the ship's side quickly;
  - (vi) deal with injured persons both during and after abandonment;
  - (vii) row and steer, erect a mast, set the sails, manage a boat under sail and steer a boat by compass;
  - (viii) use signalling equipment, including rocket parachute flares, hand flares and buoyant smoke signals;
  - (ix) use radio life-saving appliances;
  - (x) don and use an immersion suit; use a thermal protective aid.

#### APPENDIX TO REGULATION VI/1

##### Minimum knowledge required for the issue of certificates of proficiency in survival craft

1. Types of emergency situations which may occur, such as collisions, fire, foundering.
2. Principles of survival including:
  - (a) value of training and drills;
  - (b) need to be ready for any emergency;

- (c) actions to be taken when called to survival craft and rescue boat stations;
  - (d) actions to be taken when required to abandon ship;
  - (e) actions to be taken when in the water;
  - (f) actions to be taken when aboard a survival craft or a rescue boat;
  - (g) main dangers to survivors.
3. Special duties assigned to each crew member as indicated in the muster list, including the differences between the signals calling all crew to survival craft and to fire stations.
  4. Types of life-saving appliances normally carried on board ships.
  5. Construction and outfit of survival craft, rescue boats and individual items of their equipment.
  6. Particular characteristics and facilities of survival craft and rescue boats.
  7. Various types of devices used for launching survival craft and rescue boats.
  8. Methods of launching survival craft and rescue boats into a rough sea.
  9. Action to be taken after leaving the ship.
  10. Handling survival craft and rescue boats in rough weather.
  11. Use of painter, sea anchor and all other equipment.
  12. Apportionment of food and water in survival craft.
  13. Methods of helicopter rescue.
  14. Use of the first aid kit and resuscitation techniques.
  15. Radio life-saving appliances carried in survival craft and rescue boats, including satellite emergency position indicating radio beacons.
  16. Effects of hypothermia and its prevention; use of protective covers and protective garments including immersion suits and thermal protective aids.
  17. Methods of starting and operating a survival craft or rescue boats engine and its accessories together with the use of fire extinguisher provided.
  18. Use of rescue boats and lifeboats for marshalling liferafts and rescue of survivors and persons in the sea.
  19. Beaching survival craft and rescue boats.
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