

II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DIRECTIVE 93/75/EEC

of 13 September 1993

concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

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

Having regard to the opinion of the European Parliament ⁽²⁾,

Having regard to the opinion of the Economic and Social Committee ⁽³⁾,

Whereas the volume of dangerous or polluting goods carried by sea has been growing unabated, increasing the risk of serious accidents which continue to occur;

Whereas it appears necessary to take all appropriate measures in order to avoid conditions likely to cause accidents of this type and to reduce the resulting damage when such accidents occur; whereas to that end minimum requirements must be observed by vessels bound for or leaving a Community port;

Whereas better information could contribute to prevention and minimization of accidents; whereas better information will also enable the relevant authorities to take the necessary precautions with regard to vessels carrying dangerous or polluting goods bound for or leaving Community ports;

Whereas, in accordance with the Solas and Marpol Conventions, information must be provided to the competent authorities about the nature and the location of the dangerous or polluting goods on board vessels;

Whereas some regular scheduled services may be exempted from providing such information;

Whereas, in order to reduce the accident risk, it is appropriate to stress certain navigation rules;

Whereas IMO Resolution A 648 (16) 'urges Member Governments to ensure that ship reporting systems and reporting requirements comply as closely as possible with the general principles specified in its Annex';

Whereas to that end the competent authorities should, in case of an incident or circumstance at sea posing a threat to their coastline or to related interests, receive from the master of the vessel immediate information as regards the incident and the presence of dangerous or polluting goods on board so as to permit those authorities to take all necessary measures;

Whereas, in addition, this Directive recalls what measures are available to Member States under international law;

Whereas the Solas and Marpol Conventions oblige vessels to inform the other vessels and the coastal authorities of danger for the vessel itself, for other vessels and for maritime navigation, as well as of actual or probable unpermitted or abnormal discharge of polluting goods; whereas it seems appropriate that the relevant authorities shall, as necessary, broadcast the information made available to them;

Whereas each Member State should make the necessary arrangements to use fully such information;

⁽¹⁾ OJ No C 147, 14. 6. 1989, p. 3.
OJ No C 294, 24. 11. 1990, p. 12.

⁽²⁾ OJ C 175, 16. 7. 1990, p. 41.
OJ No C 255, 20. 8. 1993.

⁽³⁾ OJ No C 329, 20. 12. 1989, p. 20.

Whereas such exchange of information imposes an appropriate cooperation between authorities from all over the Community, shippers, operators of vessels, masters and pilots;

Whereas the implementation of the Directive may require some amendments which will be adopted by the Commission assisted by a committee or, in given circumstances, by the Council itself;

Whereas the Commission should produce new proposals to complete the system laid down by this Directive;

Whereas this Directive repeals Council Directive 79/116/EEC of 21 December 1978 concerning minimum requirements for certain tankers entering or leaving Community ports⁽¹⁾;

Whereas this Directive does not affect the right of Member States to impose additional requirements in respect of vessels,

HAS ADOPTED THIS DIRECTIVE:

Article 1

1. Member States take all necessary and appropriate measures to ensure that the masters or operators of vessels bound for or leaving a Community port and carrying dangerous or polluting goods in bulk or in packaged form, as well as shippers of such goods observe the minimum requirements addressed to them under this Directive.

2. This Directive shall not apply to:

- (a) warships and other official ships used for non-commercial purposes;
- (b) bunkers, stores and equipment for use on board ships.

Article 2

For the purpose of this Directive:

- (a) 'operators' includes the owners, charterers, managers or agents of the vessel;
- (b) 'vessel' means any cargo vessel, oil, chemical or gas tanker or passenger vessel bound for or leaving a Community port and carrying dangerous or polluting goods in bulk or in packaged form;

(c) 'dangerous goods' means goods classified in the IMDG Code, in Chapter 17 of the IBC Code and in Chapter 19 of the IGC Code;

(d) 'polluting goods' means:

- oils as defined in Marpol Annex 1,
- noxious liquid substances as defined in Marpol Annex 2,
- harmful substances as defined in Marpol Annex 3;

(e) 'Marpol' means the International Convention for the prevention of pollution from ships, 1973 and its 1978 Protocol, as it is in force at the time of adoption of this Directive;

(f) 'IMDG Code' means the International Maritime Dangerous Goods Code, as it is in force at the time of adoption of this Directive;

(g) 'IBC Code' means the IMO International Code for construction and equipment of ships carrying dangerous chemicals in bulk, as it is in force at the time of adoption of this Directive;

(h) 'IGC Code' means the IMO International 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;

(i) 'IMO Resolution A 648 (16)' means the International Maritime Organization Resolution 648 (16) adopted by the Assembly at its sixteenth session on 19 October 1989 and entitled 'General principles for ship reporting systems and ship reporting requirements, including guidelines for reporting incidents involving dangerous goods, harmful substances and/or marine pollutants', as it is in force at the time of adoption of this Directive;

(j) 'competent authorities' are the authorities and organizations designated by Member States in accordance with Article 3;

(k) 'shipper' means any person by whom or in whose name or on whose behalf a contract of carriage of goods by sea has been concluded with a carrier.

Article 3

Member States shall designate, and inform the Commission of, the competent authorities to which the information and notifications provided for in this Directive shall be addressed.

The Commission shall publish the list of the competent authorities and their communication links designated by Member States.

⁽¹⁾ OJ No L 33, 8. 2. 1979, p. 33. Directive as amended by Directive 79/1034/EEC (OJ No L 315, 11. 12. 1979, p. 16).

Article 4

No dangerous or polluting goods shall be offered for carriage or taken on board any vessel unless a declaration has been delivered to the master or operator containing the correct technical names of the dangerous or polluting goods, the United Nations (UN) numbers where they exist, the IMO hazard classes in accordance with the IMDG, IBC and IGC Codes, the quantities of such goods and, if in portable tanks or freight containers, their identification marks.

It shall be the duty of the shipper to deliver to the master or operator the declaration required by this Directive and to ensure that the shipment offered for carriage is indeed the one declared in compliance with the first subparagraph.

Article 5

1. Each Member State shall make the necessary arrangements to apply the requirements set out in the following paragraph to any vessel.

2. The operator of a vessel leaving a port in a Member State shall notify before departure of the vessel all information listed in Annex I to the competent authority of that Member State.

3. The operator of a vessel coming from a port located outside the Community and bound for a port located in the Community or an anchorage located in a Member State's territorial waters shall, as a condition for the entry into that port or anchorage, notify on departure from the loading port, all information listed in Annex I to the competent authority of the Member State in which the first port of destination or anchorage is located.

4. Member States may exempt regular scheduled services of less than one hour's crossing time from the application of paragraphs 2 and 3. The Commission may, on request from a Member State, agree to a reasonable extension of this period.

In this case, the information in Annex I must at all times be made available by the operator upon request by the authorities of the Member States of departure or destination.

5. Vessels entering or leaving a port located in a Member State shall in accordance with the national regulations of that State:

- (a) make use of the service provided by the local vessel traffic service (VTS), where they exist;
- (b) make use of pilots.

Article 6

1. Each Member State shall require that, in the case of an incident or circumstance at sea which poses a threat to

its coastline or related interest, the master of the vessel concerned shall at least provide immediate information to the competent authority of the Member State concerned as to the particulars of the incident and the information in Annex I.

The competent authority may consider that the obligation to report the information in Annex I is satisfied if the vessel indicates which competent authority within the Community is holding the information required by Article 5.

2. The notification provided for in paragraph 1 shall be effected in accordance with IMO Resolution A 648 (16) and shall be made at least in all circumstances set out in that Resolution.

3. Annex III sets out what measures are available to Member States under international law.

Article 7

Articles 5 and 6 shall be without prejudice to existing requirements imposed as a result of international conventions or national port notification arrangements.

Article 8

1. The master of the vessels shall complete truly and accurately a check list as reproduced in Annex II to this Directive and make it available to the pilot for his information and to the competent authority, if it so requests.

2. Pilots engaged in berthing, unberthing or manoeuvring vessels shall immediately inform the competent authority whenever they learn that there are deficiencies which may prejudice the safe navigation of the vessel.

Article 9

The competent authority of the Member State concerned shall, as necessary, broadcast within the relevant areas any incident notified under Article 6 (1) and information with regard to any vessel which poses a threat to other shipping.

Article 10

The competent authorities holding the information as notified in accordance with Articles 5 and 6 (1) shall make adequate arrangements to provide such information at any time upon request for safety reasons by the competent authority of another Member State.

Any Member State the competent authorities of which have been informed, in accordance with this Directive or in some other way, of facts which involve or increase the risk for another Member State of a hazard being posed to certain maritime and coastal zones, shall take whatever measures are appropriate to inform the Member State concerned thereof as soon as possible.

Each Member State shall make the necessary arrangements to use fully the reports which the vessels are obliged to transmit to them in the event of an incident which may cause very serious damage.

Article 11

This Directive may be amended in accordance with the procedure laid down in Article 12 in order to:

- apply, for the purposes of this Directive, subsequent amendments which have entered into force to the International Convention, Codes and Resolution referred to in Article 2 (e), (f), (g), (h) and (i),
- adapt the implementation of this Directive in the light of scientific and technical progress, without broadening its scope.

Article 12

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.

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 13

1. The Commission shall submit a report to the Council by 31 December 1995, together with proposals as

necessary, concerning the implementation of this Directive.

2. The Commission shall also, as soon as possible and in any case by 31 December 1993, produce new proposals for the introduction of a fuller reporting system for the Community. These proposals may cover vessels transiting along the coasts of Member States and include electronic data interchange systems between vessels and shore-based installations.

Article 14

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive no later than 12 months after adoption of this Directive. They shall forthwith inform the Commission thereof.

2. When Member States adopt these measures, 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 Member States.

3. The obligations deriving from this Directive shall take effect 24 months after adoption of this Directive.

4. Member States shall communicate to the Commission, no later than 12 months after the adoption of this Directive, the texts of the basic provisions of national law which they adopt in the field governed by this Directive.

In addition, these provisions shall be communicated via the national warning and information services to the maritime sector.

Article 15

Directive 79/116/EEC shall be repealed 24 months after the adoption of this Directive.

Article 16

This Directive is addressed to the Member States.

Done at Brussels, 13 September 1993.

For the Council

The President

Ph. MAYSTADT

*ANNEX I***Information on vessels carrying dangerous or polluting goods***(Article 5)*

1. Name and call sign of the vessel
 2. Nationality of the vessel
 3. Length and draught of the vessel
 4. Port of destination
 5. Estimated time of arrival at the port of destination or pilot station, as required by competent authority
 6. Estimated time of departure
 7. Intended route
 8. The correct technical names of the dangerous or polluting goods, the United Nations (UN) numbers where they exist, the IMO hazard classes in accordance with the IMDG, IBC and IGC Codes, the quantities of such goods and their location on board and, if in portable tanks or freight containers, their identification marks.
 9. Confirmation that a list or manifest or appropriate loading plan giving details of the dangerous or polluting goods carried and of their location on the vessel is on board.
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ANNEX II

CHECK LIST FOR VESSELS

(Article 6 (3), Article 8 and Annex III)

A. Vessel identification

Name of vessel :	Owner :	Year built :	
.....	
Flag :	Call sign :	Gross tonnage :	
.....	
Port of registry :	Length overall :		
.....	
Vessel's international call sign, if available :			
.....			
Classification society :			
.....			
Class notation :	Hull :	Machinery :	
.....	
Propulsion machinery :		Output :	
.....		
Agent :			
.....			
Draught :	Forward :	Amidships :	Aft :
.....
Volume/mass of dangerous or polluting cargo :			
.....			

B. Safety installations aboard

	In good working order		Deficiencies
	Yes	No	
1. Construction and technical equipment			
Main and auxiliary engines	<input type="checkbox"/>	<input type="checkbox"/>
Main steering gear	<input type="checkbox"/>	<input type="checkbox"/>
Auxiliary steering gear	<input type="checkbox"/>	<input type="checkbox"/>
Anchor gear	<input type="checkbox"/>	<input type="checkbox"/>
Fixed fire-extinguishing system	<input type="checkbox"/>	<input type="checkbox"/>
Inert gas system (if applicable)	<input type="checkbox"/>	<input type="checkbox"/>

In good
working order

Yes

No

Deficiencies

2. Navigational equipment

Manœuvring characteristics available

☐☐

.....

First radar installation

☐☐

.....

Second radar installation

☐☐

.....

Gyro compass

☐☐

.....

Standard magnetic compass

☐☐

.....

Radio direction-finding apparatus

☐☐

.....

Echo-sounding device

☐☐

.....

Other electronic position-fixing aids

☐☐

.....

3. Radio equipment

Radiotelegraphy installation

☐☐

.....

Radiotelephony installation (VHF)

☐☐

.....

C. DocumentsCertificates/documents
valid on board

Yes

No

Cargo ship safety construction certificate

☐☐

Cargo ship safety equipment certificate

☐☐

Cargo ship safety radio telegraphy certificate

☐☐

Cargo ship safety radio telephony certificate

☐☐

Load line certificate

☐☐

Classification certificate

☐☐

Pollution risk insurance certificate

☐☐

Solas dangerous goods certificate

☐☐

Passenger safety certificate

☐☐

Oil/cargo record book filled in

☐☐(International) certificate of fitness for the carriage of dangerous
chemicals in bulk☐☐(International) certificate of fitness for the carriage of liquefied in
bulk☐☐

International oil pollution prevention certificate (IOPP certificate)

☐☐International pollution prevention certificate for the carriage of
noxious liquid substances in bulk☐☐

D. Officers and ratings

			Certificate of competency (detailed description and serial number)	Issued by (issuing authority)	At (place/country)
	Yes	No			
Master	<input type="checkbox"/>	<input type="checkbox"/>
Chief mate	<input type="checkbox"/>	<input type="checkbox"/>
Second mate	<input type="checkbox"/>	<input type="checkbox"/>
Third mate	<input type="checkbox"/>	<input type="checkbox"/>
Chief engineer	<input type="checkbox"/>	<input type="checkbox"/>
First engineer officer	<input type="checkbox"/>	<input type="checkbox"/>
Second engineer officer	<input type="checkbox"/>	<input type="checkbox"/>
Third engineer officer	<input type="checkbox"/>	<input type="checkbox"/>
Radio officer	<input type="checkbox"/>	<input type="checkbox"/>
Total number of ratings			Deck	Engine room	
		
Deep-sea pilot taken aboard	<input type="checkbox"/>	<input type="checkbox"/>

.....
Date.....
Signature of the master or, if he is indisposed, of the deputy

*ANNEX III***Measures available to Member States under international law***(Article 6 (3))*

Where, following upon an incident or circumstance of the type described under Article 6 (1) and (2) in regard to a vessel falling within the scope of this Directive, the competent authority of the Member State concerned considers, in the framework of international law⁽¹⁾, that it is necessary to prevent, mitigate or eliminate a serious and imminent danger to its coastline or related interests, the safety of other ships, the safety of crews, passengers or people ashore or to protect the marine environment such authority may, in particular :

- restrict the movement of the vessel or direct it to follow a certain course. This requirement shall not override the master's responsibility for the safe conduct of his vessel,
 - request the master to provide the relevant information from the check list in Annex II of this Directive and confirm that a copy of the list or manifest or appropriate loading plan referred to under paragraph 9 of Annex I is available on board.
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⁽¹⁾ — United Nations Convention on the Law of the Sea (Unclos) (1983, Article 221),
— International Convention relating to intervention on the high seas in cases of oil pollution casualties, 1969, Articles I, II, III and V,
— Protocol relating to intervention on the high seas in cases of pollution by substances other than oil, 1973, Articles I and II.