

Investigation of accidents in the maritime transport sector

2005/0240(COD) - 11/06/2008 - Commission communication on Council's position

The common position, which was adopted unanimously, does not require any changes to the original proposal which the Commission could not accept.

The Commission expressed regret regarding the addition to Article 8(1) of provisions for landlocked Member States without a fleet, but it should be noted that the local contact point which these States have to designate must be independent.

The Commission therefore recognises that the common position alters neither the aims nor the spirit of the proposal and is therefore able to accept it.

Amendments accepted by the Commission and incorporated in full or in part in the common position: the Commission is of the opinion that the amendment stating that the investigations provided for by the proposal are not aimed at determining liability or apportioning blame is acceptable. However, the Commission believes that it should be reworded so that the proposal preserves the principle whereby the authority responsible for the investigation should not refrain from disclosing all the causes by claiming that liability could be inferred from those findings. This is precisely what the new wording adopted by the Council suggests.

Amendments accepted by the Commission but not incorporated in the common position: they:

- state that the guidelines on the fair treatment of seafarers, adopted on 27/04/2006 by the IMO Legal Committee, should be taken into account;
- set out to further protect the confidentiality of evidence obtained during an investigation through cooperation with other Member States;
- specify the period within which the investigation must start and set out to guarantee the independence of the investigative bodies vis-à-vis the authorities responsible for judicial inquiries.

Amendments rejected by the Commission and not incorporated in the common position: these aim to:

- put the emphasis on the investigative bodies' resources but do away with their permanent nature;
- incorporate recommendations for preventing further accidents into the common methodology, which has to be adopted through the comitology procedure;
- explain the background to the recommendations which the Commission might make, state that EMSA is to provide assistance;
- introduce an unnecessary mechanism which is difficult to implement, to resolve conflicts between Member States when they are unable to agree which of them should be the lead investigating State;
- remove the possibility for the judicial authorities of Member States to be sent certain – in principle, strictly confidential – information (and in particular witness interviews) collected in the course of an investigation;
- oblige the Commission to report to the Parliament every 3 years on the state of implementation of the Directive.