Oil pollution: fund for damage compensation in European waters, package Erika II

2000/0326(COD) - 12/06/2002 - Modified legislative proposal

The Commission agrees to a number of amendments which would or clarify the text or the scope of the regulation or otherwise constitute editorial improvements. Similarly, several amendments would provide useful additions to the text. This concerns clarification of the nature and activities of the COPE fund, its link to the IOPC Fund, the facility to provide advance payment and the preparation of a progress report on the developments in maritime liability and compensation at the international level. The Commission can however not accept: - the amendments seeking to extend the scope of the COPE Fund to cover other forms of pollution than oil pollution by tankers. While the improvement of the compensation regime for pollution damage caused by hazardous and noxious substances in itself is an objective which is supported, the Commission considers that the present regulation is inappropriate to serve that function. The purpose of the COPE Fund is to place an additional compensation layer on the existing international compensation regime, and in this way to ensure compensation for expensive accidents in EU waters. It complements and builds upon the international regime by creating a third layer which is closely linked to the two existing ones (CLC and IOPC Fund). The Commission does, however, agree that there is a need to put in place a regime ensuring proper compensation for marine pollution caused by other substances than oil as soon as possible. - the amendments aiming at introducing an obligation for shipowners to pay at part of the compensation. These amendments raise problems of international law. The existing international legal regime (the CLC convention) does not allow additional compensation claims to be placed on the shipowner. While the Commission agrees with the longer term aim that owners should make a more substantial contribution in the payment, in particular if the accident is due to his gross negligence (the Commission has proposed to address this issue at the revision of the international system), requiring shipowners to participate in the compensation of damage would be in conflict with the international rules as they stand at present. In order to make shipowners more responsible and subject to penalties in case of negligence, the Commission's proposal includes a financial penalty to be placed on any party which has caused or contributed to the accident by gross negligence. - the amendments proposing to increase the participation and role of the local representatives of the polluted region in the procedures of the COPE Fund Committee, which is a Management Committee under Decision 1999/468/EC. Advisors or prior hearing of non-committee members are not foreseen in a management committee under the decision, which is composed of representatives of Member States exclusively. - the amendment aiming at extending compensation of environmental damage. - the amendment proposing to limit the period of collection of the funds to the COPE Fund from one year to six months. - the amendment defining the term 'bunker oil'. The term 'bunker oil' is not used in the regulation and such a definition is therefore unnecessary.