COMMISSION DIRECTIVE 1999/97/EC

of 13 December 1999

amending Council Directive 95/21/EC concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)

(Text with EEA relevance)

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) [1], as last amended by Directive 98/42/EC3 [2], and in particular Article 19 thereof,

(1) Whereas it is necessary to take account of amendments which have entered into force to the conventions, protocols, codes and resolutions of the International Maritime Organisation (IMO), and developments within the Paris Memorandum of Understanding (Paris MOU);

(2) Whereas publication of information concerning ships detained in Community ports according to Directive 95/21/EC may be an incentive to their owners to take corrective action without being compelled to do so, and may raise the safety awareness in the shipping industry;

(3) Whereas to this end, the list of information to be published should be expanded, notably in order to include more detailed information on the ship involved, the detention and the action taken, as well as information on ships which have been refused access to Community ports; whereas it should be more clearly established where deficiencies which led to the detention of the vessel lie within the survey responsibilities of classification societies; whereas the efficiency of such measure should be enhanced through a more frequent publication of information, on a monthly basis;

(4) Whereas a better transparency on the data related to inspections of vessels is a necessary and important element for the promotion of quality in shipping both within the Community and worldwide; whereas the methods for making such information more widely and timely available should be defined in cooperation between the Member States and the Commission;

(5) Whereas Member States should take all necessary measures to remove any legal obstacle to the publication of the list of ships inspected, detained or being refused access to any port of the Community, in particular through the modification, where appropriate, of their national legislation concerning the protection of data;

(6) Whereas the overall targeting factor described in Annex I, Part II, to Directive 95/21lEC needs to be improved in the light of experience gained in its implementation; whereas the target factor value may be frequently adjusted within the framework of the Paris MOU and subsequently incorporated into the Sirenac system; whereas it is sufficient to consult the Sirenac database to know the value of the target factor of a vessel; whereas it appears consequently unnecessary to incorporate this value into Directive 95/21/EC;

(7) Whereas the list of certificates and documents referred to in Annex II to Directive 95/21/EC should be modified in order to take into account amendments which have entered into force to international legislation;

(8) Whereas the measures provided for in this Directive are in accordance with the opinion of the Committee set up pursuant to Article 12 of Council Directive 93/75/EEC [3], as last amended by Commission Directive 98/74/EC [4],

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 95/21/EC is amended as follows:

1. Article 2 shall be amended as follows:

   (a) in point 1, the words 'in force on 1 July 1998' shall be replaced by 'in force on 1 July 1999';

   (b) in point 2, the words 'as it stands on 14 January 1998' shall be replaced by 'as it stands on 1 July 1999'.

2. Article 15 is replaced by the following:

'*Article 15*

Release of information

1. The competent authority of each Member State shall take necessary measures in order to ensure that information listed in Annex VIII, Part I, concerning ships which have been detained in, or which are subject to refusal of access to, a port of this Member State during the previous month, is published at least every month.

[1] OJ L 157, 7.7.1995, p. 1.
[2] OJ L 184, 27.6.1998, p. 40.
[3] OJ L 247, 5.10.1993, p. 19.
[4] OJ L 276, 13.10.1998, p. 7.

2. The information available in the Sirenac system concerning ships inspected in ports of the Member States, referred to in Annex VIII, Part I and Part II, shall be made public, through appropriate technical arrangements, as soon as possible after the inspection has been completed, or the detention has been lifted.

3. Member States and the Commission shall cooperate in order to establish the appropriate technical arrangements referred to in paragraph 2.

4. Where appropriate, the Sirenac information system is amended in order to implement the abovementioned requirements.'

3. Annex I is amended as provided for in the Annex to this Directive.

4. Annex II is amended as follows:

(a) Item 2, seventh indent, is replaced by the following:

'— Exemption certificate, including, where appropriate, the list of cargoes.'

(b) The following is inserted after Item 28:

'29. Garbage management plan and garbage record book.

30. Decision support system for masters of passenger ships.

31. SAR cooperation plan for passenger ships trading on fixed routes.

32. List of operational limitations for passenger ships.

33. Bulk carrier booklet.

34. Loading and unloading plan for bulk carners.'

5. A new Annex VIII is added as provided for in the Annex to this Directive.

Article 2

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 12 months after the adoption of this Directive. They shall immediately inform the Commission thereof.

When these provisions are adopted by Member States, they shall contain a reference to this Directive or shall be accompanied by such a reference at the time of their official publication. The procedure for making such a reference shall be laid down by Member States.

2. Member States shall communicate to the Commission the provisions of national law, which they adopt in the field covered by this Directive.

Article 3

The Directive shall enter into force on the seventh day following its publication in the *Official Journal of the European Communities*.

Article 4

The Directive is addressed to the Member States.

Done at Brussels, 13 December 1999.

For the Commission

Loyola DE PALACIO

Vice-President