

Procedure file

Basic information	
COD - Ordinary legislative procedure (ex-codecision procedure) Regulation	2003/0089(COD) Procedure completed
Maritime transport: ship and port facility security	
Subject 3.20.03 Maritime transport: passengers and freight 3.20.03.01 Maritime safety 3.20.09 Ports policy	

Key players			
European Parliament	Committee responsible	Rapporteur	Appointed
	RETT Regional Policy, Transport and Tourism		21/05/2003
		PSE MIGUÉLEZ RAMOS Rosa	
	Committee for opinion	Rapporteur for opinion	Appointed
	LIBE Citizens' Freedoms and Rights, Justice and Home Affairs		
	ITRE Industry, External Trade, Research, Energy		11/06/2003
		PPE-DE FOLIAS Christos	
Council of the European Union	Council configuration	Meeting	Date
	Agriculture and Fisheries	2573	22/03/2004
	Transport, Telecommunications and Energy	2531	09/10/2003
	Transport, Telecommunications and Energy	2515	05/06/2003
European Commission	Commission DG	Commissioner	
	Energy and Transport		

Key events			
02/05/2003	Legislative proposal published	COM(2003)0229	Summary
02/06/2003	Committee referral announced in Parliament, 1st reading		
05/06/2003	Debate in Council	2515	Summary
09/10/2003	Debate in Council	2531	
04/11/2003	Vote in committee, 1st reading		Summary
04/11/2003	Committee report tabled for plenary, 1st reading	A5-0385/2003	

18/11/2003	Debate in Parliament		
19/11/2003	Decision by Parliament, 1st reading	T5-0499/2003	Summary
22/03/2004	Act adopted by Council after Parliament's 1st reading		
31/03/2004	Final act signed		
31/03/2004	End of procedure in Parliament		
29/04/2004	Final act published in Official Journal		

Technical information

Procedure reference	2003/0089(COD)
Procedure type	COD - Ordinary legislative procedure (ex-codecision procedure)
Procedure subtype	Legislation
Legislative instrument	Regulation
Legal basis	EC Treaty (after Amsterdam) EC 080-p2
Stage reached in procedure	Procedure completed

Documentation gateway

Legislative proposal	COM(2003)0229	02/05/2003	EC	Summary
Economic and Social Committee: opinion, report	CES1387/2003 OJ C 032 05.02.2004, p. 0021-0027	29/10/2003	ESC	
Committee report tabled for plenary, 1st reading/single reading	A5-0385/2003	04/11/2003	EP	
Text adopted by Parliament, 1st reading/single reading	T5-0499/2003 OJ C 087 07.04.2004, p. 0073-0150 E	19/11/2003	EP	Summary
Implementing legislative act	32005R0884 OJ L 148 11.06.2005, p. 0025-0029	10/06/2005	EU	Summary

Additional information

European Commission	EUR-Lex
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Final act

Regulation 2004/725 OJ L 129 29.04.2004, p. 0006-0091 Summary
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Maritime transport: ship and port facility security

OBJECTIVE: To enhance ship and port facility security. **CONTENT:** The European Union must develop all necessary means of dealing with the terrorist threat. However, despite a number of warnings, the shipping world has only very recently shown an interest in its security. The International Maritime Organisation (IMO) adopted two international instruments laying the foundations for a global system of maritime security at one of its diplomatic conferences on 12 December 2002: an amendment of the International Convention for the Safety of Life at Sea (SOLAS) and the International Ship and Port Facility Security (ISPS) Code. These instruments apply from 1 July 2004 and require harmonised implementation within the Community. A Community regulation is therefore necessary to: - provide the Member States with the best possible conditions for the timely implementation of the new maritime security instruments adopted by the IMO Diplomatic Conference on 12 December

2002, - guarantee and monitor at Community level the achievement of the main objective of these international instruments, i.e. enhancing the security of ships and port facilities, - ensure uniform conditions throughout the European Union for access to and control of markets and activities associated with the maritime sector. In order to achieve these objectives, the proposed regulation, which essentially contains preventive measures, transposes Chapter XI-2 of the IMO SOLAS Convention and the ISPS Code, providing a basis for their harmonised interpretation and implementation, as well as Community monitoring, and extends some of their provisions to domestic maritime traffic. The regulation goes beyond the measures adopted by the IMO in that it: - makes mandatory certain provisions which have the status of recommendations, in order to raise the level of security sought and to avoid variations in interpretation between Member States; - details the arrangements to be made by Member States for ports only occasionally serving international traffic; - establishes the system of security checks prior to the entry of ships of whatever origin into a Community port, as well as that of security checks in the port; - calls for the nomination of a single national authority responsible for the security of ships and port facilities, and the adoption, for some arrangements under the regulation, of a timetable for early implementation compared with the dates laid down by the IMO agreement; - provides for a process of inspections, supervised by the Commission, to check the arrangements for monitoring and the implementation of national plans adopted pursuant to the regulation; - entrusts to the European Maritime Safety Agency (EMSA) the role of assisting the Commission in the performance of its tasks; - adapts various terms adopted in the IMO framework to the benefit of the national maritime traffic within Member States; - extends all the provisions of Chapter XI-2 of the SOLAS Convention and of Part A of the ISPS Code to include passenger ships engaged on domestic voyages during which they are required to be more than 20 nautical miles from the coast; - extends to other ships sailing nationally the requirements of the texts relating to undertaking safety evaluations, establishing safety plans, and designating safety agents for companies and for ships; it provides for adaptation of the procedures for ships on regular services; - provides for possible exemption, under strict conditions, for ships engaged on a scheduled service within a Member State or between two or more Member States. In the months to come, the Commission will: - present a proposal for a directive defining the complementary measures to be put in place in EU ports; - support, in conjunction with Member States, the work of the International Labour Organisation (ILO) concerning increasing security in identifying mariners, and will take, as necessary, a legislative initiative in the matter, following the adoption of a new text by the ILO, planned for June 2003. Alongside this proposal, the Commission submitted a communication stressing the need to enhance the security of the entire maritime transport chain, from the supplier to the consumer. The communication goes further than the framework of ship and port installations security treated by the IMO, and opens the debate on the entirety of maritime transport. In particular it addresses port zones as a whole, the identification of seamen, and also the security of the whole intermodal transport chain. The Commission stresses the need for Member States to apply effectively the measures adopted by the international authorities in order to encourage third countries to recognise our levels of security and provide for similar measures.?

Maritime transport: ship and port facility security

The Council held a policy debate on a proposal for a Regulation aimed at enhancing security on board ships and in ship/port areas in the light of increased security risks following the terrorist attacks on 11 September 2001. It requested the Permanent Representatives Committee to proceed rapidly with the examination of the proposal, in the light of the positions expressed by delegations, with a view to enabling the Council to reach agreement preferably at its meeting on 9 and 10 October. The Commission's proposal, presented in May, is aimed at incorporating into Community legislation measures to suppress and prevent acts of terrorism against ships adopted last December by the International Maritime Organisation (IMO). The Council supported the objective of transposing the IMO measures by means of a Regulation. Concerns were however expressed that the ambitious scope proposed by the Commission could jeopardise implementation. Amongst ideas expressed by delegations to overcome this, that of extending the scope of the Regulation for domestic shipping to certain vessels and port facilities presenting higher risks, such as A-class passenger ships and cargo ships transporting oil or dangerous goods, met with broad support, as well as the idea of allowing more time for implementing these measures. The Council recognised the need for notification and examination by the Commission of bilateral and multilateral agreements on alternative security agreements. Concerns were however expressed that the procedure proposed would jeopardise implementation of the measures by 1 July 2004. The possibility of giving guidance by means of a model agreement identifying minimum security requirements, to be agreed at Community level, was also mentioned. A majority of delegations favoured the idea of a control mechanism. However some expressed concerns at having Commission inspections in fields related to public and national security. The precedent of inspections provided for in Regulation 2320/2002 on civil aviation security was noted as a possible basis for an agreement, bearing in mind also the particular characteristics of the maritime sector. The Council considered that the proposed Regulation is not the appropriate legal instrument for enlarging the functions of the European Maritime Safety Agency or the EU's Committee on Safe Seas and the Prevention of Pollution from Ships. Most delegations expressed doubts on the appropriateness of considering at this stage an extension of EMSA's role when it has barely existed for three months and is not yet fully operational. Regarding committee procedures, several delegations expressed a preference for a specific committee dealing with security matters, as in the aviation sector. Some even suggested merging these two committees into a single transport security committee. The need for rapid agreement was moreover emphasised, given the implementation date of 1 July 2004 agreed by the IMO.?

Maritime transport: ship and port facility security

The committee adopted the report by Rosa MIGUÉLEZ RAMOS (PES, E) amending the proposal under the 1st reading of the codecision procedure. It said that the emphasis should be on preventive measures and amended the Commission's proposed definition of "maritime security" to reflect this. It also amended the Commission's definition of the "single national authority" responsible for the security of ships and port facilities, and instead proposed a "focal point for maritime security", meaning the body "designated by each Member State to serve as a contact point for the Commission and other Member States and to facilitate, follow up and inform on" the application of the maritime security measures laid down in the regulation. A number of amendments also sought to reflect the fact that administrative structures and the allocation of internal tasks differ widely from one Member State to the next. As regards the proposed deadlines, the committee said that the deadline of 1 July 2004 set by the IMO should apply to measures involving international shipping but that Member States should have until 1 July 2005 to apply the special security measures for Class A passenger ships in domestic traffic. Moreover, although the Commission had proposed extending the IMO's security regime to domestic ships that are not Class A passenger ships, and to their associated port facilities, MEPs felt that this decision should be left to individual Member States. They accordingly proposed that, after a mandatory security risk assessment, Member States should decide the extent to which they apply, by 1 July 2007, the provisions of the regulation to other categories of domestic ships, their companies and the port facilities serving them. The Member States should notify such decisions when adopted to the Commission and should review them at least every 5 years. The committee also extended to domestic maritime traffic the exemptions for certain ships that the IMO applies to international maritime traffic (such as warships, troopships, cargo ships of less than 500 gross tonnage, etc.). In other

amendments, the committee deleted the provision allowing for inspections to be unannounced and introduced new articles referring to the rules on confidentiality and the dissemination of information in connection with security inspections, the inspection reports and the answers of the Member States. ?

Maritime transport: ship and port facility security

The European Parliament adopted a resolution drafted by Rosa MIGUELEZ RAMOS (PES, Spain), making many amendments to the Commission's proposal. (Please see the summary dated 04/11/03). In the debate, Members were concerned about the financial consequences for the maritime sector. They argued that the effective and standard application of measures under this policy raised important questions in relation to its funding. Funding certain additional measures ought not to give rise to distortion of competition. Commissioner Loyola de PALACIO accepted Parliament's demand that the Commission should immediately undertake a study, intended to address in particular the way financing is shared between the public authorities and the operators. An amendment was also adopted stating that the Member States should, after a mandatory security risk assessment, decide to which extent they will apply, by 1 July 2007, the provisions of the regulation to different categories of ships operating certain domestic services, their companies and the port facilities serving them. In addition : - the term "malicious act" was deleted and a definition adopted for the substitute term "intentional unlawful act." - Member States must ensure, when ship security plans and port facility security plans are approved, that the plans contain appropriate provisions to ensure that the security of ships to which the regulation applies is not compromised by any ship or port interface or ship-to-ship activity with any ship which is not part of the Regulation. - Parliament deleted the provision stating that the European Maritime Agency will assist the Commission. Finally, a great number of more technical amendments were also adopted.?

Maritime transport: ship and port facility security

PURPOSE : to introduce Community measures aimed at enhancing the security of ships used in international trade and domestic shipping and associated port facilities in the face of threats of intentional unlawful acts. LEGISLATIVE ACT : Regulation 725/2004/EC of the European Parliament and of the Council on enhancing ship and port facility security. CONTENT : the security of European Community shipping and of citizens using it and of the environment in the face of threats of intentional unlawful acts such as acts of terrorism, acts of piracy or similar, need to be ensured at all times. This Regulation is intended to enhance ship and port security. It is also to provide a basis for the harmonised interpretation and implementation and Community monitoring of the special measures to enhance maritime security adopted by the Diplomatic Conference of the IMO on 12 December 2002, which amended the 1974 International Convention for the Safety of Life at Sea (SOLAS Convention) and established the International Ship and Port Facility Security Code (ISPS Code). The main points are as follows: - Part B of the ISPS Code comprises a number of recommendations which are made mandatory within the Community; - In order to contribute to the objective of promoting intra-Community short-sea traffic, the Member States are asked to conclude, in the light of the SOLAS Convention, the agreements on security arrangements for scheduled maritime traffic within the Community on fixed routes using dedicated port facilities, without this compromising the general standard of security sought; - Permanently applying all the security rules provided for in this Regulation to port facilities situated in ports which only occasionally serve international shipping would be disproportionate. Accordingly, Member States will determine, on the basis of the security assessments which they are to conduct, which ports are concerned and which alternative measures provide an adequate level of protection; - Member States must vigorously monitor compliance with the security rules by ships intending to enter a Community port, whatever their origin. The Member State concerned must appoint a "competent authority for maritime security" responsible for coordinating, implementing and monitoring the application of the security measures laid down in the Regulation as they apply to ships and port facilities. This authority will require each ship intending to enter the port to provide in advance information concerning its international ship security certificate and the levels of safety at which it operates and has previously operated, and any other practical information concerning security; - Member States are permitted to grant exemptions from the systematic requirement to provide this information in the case of intra-Community or domestic scheduled shipping services, provided the companies operating such services are able to provide such information at any time on request by the competent authorities of the Member States; - Security checks in the port may be carried out by the competent authorities for maritime security of the Member States, but also, as regards the international ship security certificate, by inspectors acting in the framework of port State control, as provided for in Council Directive 95/21/EC. Where different authorities are concerned, provision must therefore be made for them to complement each other; - In view of the number of parties involved in the implementation of security measures, each Member State will appoint a single competent authority responsible for coordinating and monitoring the application of shipping security measures at national level; - The effective application of measures raises important questions in relation to its funding. Funding certain additional security measures ought not to give rise to distortions of competition. To this end, the Commission must immediately undertake a study (intended to address in particular the way financing is shared between the public authorities and the operators, without prejudice to the distribution of competences between the Member States and the European Community) and to submit the results and, if appropriate, any proposals to the European Parliament and the Council. ENTRY INTO FORCE : 19/05/04. DATE OF APPLICATION : 01/07/04. ?

Maritime transport: ship and port facility security

LEGISLATIVE ACT: Commission Regulation 884/2005/EC.

CONTENT: This Regulation lays down procedures for conducting Commission inspections to monitor the application of Regulation 725/2004/EC at the level of each Member State and of individual port facilities and relevant companies.

Without prejudice to Commission responsibilities, Member States shall cooperate with the Commission in the accomplishment of its inspection tasks. The cooperation shall be effective during the preparatory, control and reporting phases.

Member States shall endeavour to make available to the Commission national inspectors able to participate in Commission inspections, including the related preparatory and reporting phases.

A national inspector shall not participate in Commission inspections in the Member State where he is employed. Each Member State shall provide the Commission with a list of national inspectors on whom the Commission may call to participate in a Commission inspection. That

list shall be updated, at least by the end of June each year, and for the first time within eight weeks of the entry into force of this Regulation.

In providing the Commission with technical assistance, the European Maritime Safety Agency shall make technical experts available to participate in Commission inspections, including the related preparatory and reporting phases.

The Regulation contains provisions regarding qualification criteria and training for Commission inspectors, as well detailed procedures for the conduct of Commission inspections (notice of inspections, preparation of inspections, conduct of inspections, the inspection report, response from the Member State and the action that can be taken by the Commission).

The Commission may take any of the following steps in the event of non-conformity or major non-conformity with Regulation 725/2004/EC and following receipt of the response of the Member State:

- submit comments to the Member State or request further explanation to clarify all or part of the response;
- conduct a follow-up inspection to check the implementation of corrective actions, the minimum notice for such a follow-up inspection being two weeks;
- initiate an infringement procedure in respect of the Member State concerned.

If an inspection discloses major non-conformity with Regulation 725/2004/EC which is deemed to have a significant impact on the overall level of maritime security in the Community, the Commission shall inform the other Member States immediately after communicating the inspection report to the Member State concerned.

For the first time by 31 December 2006 and regularly thereafter, the Commission shall review its system of inspections and in particular the effectiveness of that system.

ENTRY INTO FORCE: 01/07/2005.