

Proposal for a Council Directive on conditions for the operation of regular Ro-Ro Ferry and high speed passenger craft services in the Community

(98/C 108/18)

(Text with EEA relevance)

COM(98) 71 *final* — 98/0064(SYN)

(submitted by the Commission on 18 February 1998)

THE COUNCIL OF THE EUROPEAN UNION,

a common minimum level of safety for ships throughout the Community;

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

Having regard to the proposal from the Commission,

Whereas, in view of the proportionality principle, a Council Directive is the appropriate legal instrument as it provides a framework for the Member States' uniform and compulsory application of safety standards, while leaving each Member State the right to decide which implementation tools best fit its internal system;

Acting in accordance with the procedure referred to in Article 189c of the Treaty,

In cooperation with the European Parliament,

Whereas the safety of ships is the primary responsibility of flag States; whereas Member States can ensure compliance with adequate safety requirements by ferries and high-speed craft flying their flag; whereas the only way to ensure safety of these vessels and craft irrespective of their flag operating or wishing to operate on a regular service to and from their ports is for the Member States to require their effective compliance with safety rules as a condition to operate on a regular service from their ports;

Having regard to the opinion of the Economic and Social Committee,

Whereas within the framework of the common transport policy further measures must be taken to enhance safety in the maritime transport of passengers;

Whereas this Directive addresses the Member States in their capacity of host States; whereas these responsibilities are based upon specific port State responsibilities fully in line with the 1982 United Nations Convention on the Law of the Sea (UNCLOS);

Whereas the Community is seriously concerned by shipping accidents involving ro-ro ferries which have resulted in a massive loss of lives; whereas persons using ro-ro passenger ships and high speed passenger craft throughout the Community have the right to expect, and be able to rely on an appropriate level of safety;

Whereas the Council in its resolution of 22 December 1994 on the safety of roll-on/roll-off passenger ferries⁽¹⁾ invited the Commission to submit proposals for a mandatory survey regime and for the establishment of a control regime for the safety of ro-ro ferries;

Whereas action at Community level is the best way to ensure the mandatory enforcement of some principles agreed upon within the IMO, while avoiding distortion of competition between different Community ports and ro-ro ferries and high speed passenger craft;

Whereas this Directive is in conformity with the right of Member States to impose on passenger ships and craft sailing to or from their ports, certain more stringent requirements than those laid down in the SOLAS Convention;

Whereas in the interest of improving safety and avoiding distortion of competition the common safety requirements should apply to ro-ro ferries and high speed passenger craft providing regular services and engaged both on international and domestic voyages in sea areas where its without doubt practical to apply the Directive, irrespective of the flag they fly, whilst leaving the possibility to the Member States to extend the scope of application to ships sailing in other areas if practicable;

Whereas in view, in particular, of the internal market dimension of maritime passenger transport, action at Community level is the most effective way of establishing

⁽¹⁾ OJ C 379, 31.12.1994, p. 8.

Whereas companies should know in advance all the safety related conditions they have to fulfil to operate their ro-ro ferries and high speed craft in the Community; whereas companies operating ro-ro ferries and high speed passenger craft found in compliance with the requirements of the Directive should not be prevented from operating on a regular service within the Community and should duly be informed thereof;

Whereas this Directive does not interfere with the obligations and the right of a Member State to inspect ships or craft under the provisions of Article 5 of Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control)⁽²⁾;

Whereas Member States should cooperate to exercise their responsibilities as host States;

Whereas it is necessary to identify harmonized requirements for survey and certification by the flag States; whereas Member States might find it necessary to delegate these tasks only to recognized organizations which meet the requirements of Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for relevant activities of marine administrations⁽³⁾;

Whereas all ro-ro ferries operating to and from EC ports should conform, at the building stage and during their entire lifetime, with the relevant classification standards as regards their hull strength, main and auxiliary machinery and electrical and automatic plants and should be fitted with a voyage data recorder complying with the relevant international requirements;

Whereas regional stability requirements should apply without ambiguity to all ro-ro ferries sailing in the region irrespective of their flag or the nature of their voyage;

Whereas it is the responsibility of the companies as a condition to provide a regular service to and from EC ports to provide the evidence of compliance with the requirements of the Directive and to ensure that Member States can fully participate in any accident investigation according to the provisions of the IMO code for the investigation of marine casualties;

Whereas verification of compliance of ro-ro ferries and high speed passenger craft with the requirements is necessary through specific surveys by the host States on the basis of harmonized procedures and detailed guidelines and should be carried out by a qualified team of inspectors prior to the start of a service fulfilling the requirements of this Directive and subsequently at regular intervals;

Whereas to reduce the burden upon companies for the verification of compliance of ships and craft due account should be taken of their operational and maintenance schedule as well as of the confirmation of compliance for operation on similar routes; whereas ships and craft which have been surveyed to the satisfaction of the host State should not be subjected to expanded inspections under Directive 95/21/EC;

Whereas Member States should ensure that their internal legal system enables them and any other substantially interested Member States to participate or cooperate in accident investigation on the basis of the provisions of the IMO code for the investigation of marine casualties; whereas the outcome of such investigations should be given due publicity, bearing in mind the high public interest which accidents involving passenger traffic attract;

Whereas a set of accompanying measures to be taken by the Member States is suitable for a coherent and efficient implementation of the requirements by both host States and companies;

Whereas the Commission is bound to ensure an adequate monitoring of the implementation of this Directive and that all information related to a ship or craft falling under the scope of this Directive should be accessible to all parties with a vested interest in the operation of these ships and craft through a transparent data base which will be set up by the Commission;

Whereas it is necessary to ensure that all States involved in the traffic to and from EC ports fulfil the same requirements for the safe operation of ro-ro ferries and high-speed passenger craft and for the investigation of marine casualties; whereas these requirements are not in conflict with UNCLOS; whereas third countries involved in the operation of ro-ro ferries and high speed passenger craft falling under the scope of this Directive should be informed by the Member States of the conditions

⁽²⁾ OJ L 157, 7.7.1995, p. 1.

⁽³⁾ OJ L 319, 12.12.1994, p. 20.

imposed under Community legislation to companies to provide regular services to and from EC ports;

Whereas it is necessary for a committee consisting of representatives of the Member States to assist the Commission in the effective application of this Directive; whereas the Committee set up in Article 12 of 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⁽⁴⁾ can assume that function;

Whereas certain provisions of the Directive may be adopted by that committee to take into account future amendments to the SOLAS Convention which have entered into force and to ensure a harmonized implementation of amendments to some IMO resolutions,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Purpose

The purpose of this Directive is to lay down conditions for the safe operation of regular ro-ro ferry and high-speed passenger craft services to or from ports in the Member States of the Community and to provide the right for Member States to conduct, participate in or cooperate with any investigation of maritime casualties or incidents on these services.

Article 2

Definitions

For the purpose of this Directive and its annexes,

- (a) 'ro-ro ferry' shall mean a seagoing passenger vessel with facilities to enable road or rail vehicles to roll on and roll off the vessel, and carrying more than twelve passengers;
- (b) 'high-speed passenger craft' shall mean a high speed craft as defined in Regulation 1 of Chapter X of the 1974 SOLAS Convention, as amended on the date of the adoption of this Directive, which carries more than twelve passengers;
- (c) '1974 SOLAS Convention' shall mean the International Convention for the Safety Of Life At Sea, together, with Protocols and amendments thereto, in force on the date of adoption of this Directive;
- (d) 'High-Speed Craft Code' shall mean the 'International Code for Safety of High-Speed Craft' contained in IMO Maritime Safety Committee resolution MSC 36 (63) of 20 May 1994, as amended on the date of the adoption of this Directive;
- (e) 'regular service' shall mean a series of ro-ro ferry or high-speed passenger craft crossings operated so as to serve traffic between the same two or more ports, either:
 1. according to a published timetable; or
 2. with crossings so regular or frequent that they constitute a recognizable systematic series;
- (f) 'sea area' shall mean any sea area as established in accordance with Article 4.2 of Council Directive 98/.../EC on safety rules and standards for passenger ships;
- (g) 'certificates' shall mean for ro-ro ferries a passenger ship safety certificate, issued either under the provisions of the 1974 SOLAS Convention, or in accordance with Directive 98/.../EC on safety rules and standards for passenger ships, and for high-speed passenger craft a high speed craft safety certificate, and a permit to operate high-speed craft issued in accordance with the provisions of the High-Speed Craft Code; together with the relevant records of equipment and where applicable Exemption Certificates;
- (h) 'exemption certificate' shall mean any certificate issued under the provisions of Regulation I A/12(a)(vi) of the 1974 SOLAS Convention;
- (i) 'administration of the flag State' shall mean the competent authorities of the State whose flag the ro-ro ferry or the high-speed passenger craft is entitled to fly;
- (j) 'host State' shall mean a Member State to or from whose ports a ro-ro ferry or a high-speed passenger craft is engaged on a regular service;
- (k) 'international voyage' shall mean a voyage by sea from a port of a Member State to a port outside that Member State, or conversely;
- (l) 'domestic voyage' shall mean a voyage in sea areas from a port of a Member State to the same or another port within that Member State;
- (m) 'recognized organization' shall mean an organization recognized in conformity with Article 4 of Council Directive 94/57/EC on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations;
- (n) 'company' shall mean a company operating one or more ro-ro ferries to which a document of compliance has been issued in compliance with

⁽⁴⁾ OJ L 247, 5.10.1993, p. 19.

Article 5.2 of Council Regulation (EC) No 3051/95 or a company operating high-speed passenger craft, to whom a document of compliance has been issued in accordance with Regulation IX/4 of the 1974 SOLAS Convention, as amended on the date of adoption of this Directive;

- (o) 'Code for the investigation of marine casualties' shall mean the code for the investigation of marine casualties and incidents adopted by the IMO through Assembly resolution A.849(20) of 27 November 1997;
- (p) 'specific survey' shall mean a survey by the host State as specified in Article 7;
- (q) 'qualified inspector' shall mean a public-sector employee or other person, duly authorized by the competent authority of a Member State to carry out surveys and inspections related to the certificates and fulfilling the criteria of qualification and independence specified in Annex VI;
- (r) 'deficiency' shall mean a condition found not to be in compliance with the requirements of this Directive.

Article 3

Scope

1. This Directive shall apply to all ro-ro ferries and high-speed passenger craft operating to or from a port of a Member State on a regular service, regardless of their flag, when engaged on international voyages or on domestic voyages in sea areas of Class A.

2. A Member State may, as far as practicable, apply this Directive to ro-ro ferries and high-speed craft engaged on domestic voyages in other sea areas than those referred to in paragraph 1. In those circumstances the relevant rules shall be applied to all ro-ro ferries or high speed passenger craft operating under the same conditions, without discrimination in respect of flag, nationality or place of establishment of the company.

Article 4

Application

1. Each host State shall ensure, as a requirement for ro-ro ferries and high-speed passenger craft to provide a regular service to or from one or more of its ports, that companies which operate or intend to operate such ship or craft comply with the provisions of Article 6 and that their ships or craft fulfil the requirements of Article 5.

2. The host State which, after verification in accordance with the provisions of Article 7.1, is satisfied that the requirements of paragraph 1 are complied with shall confirm this in writing to the company and shall not prevent, for reasons arising from this Directive, the company from operating its ship or craft on that regular service.

3. A host State shall prevent a company from operating a ro-ro ferry or a high-speed passenger craft on a regular service to or from one or more of its ports:

- when the conditions referred to in Articles 5 and 6 are not fulfilled, or
- whenever it has not been consulted by the flag State on the suitability of exemptions granted, as referred to in Article 10.1, or
- whenever the deficiencies found at the occasion of one of the specific surveys referred to in Article 7 are not rectified to its satisfaction in accordance with the provisions of Article 8.6,
- or for reasons listed in Annex II.

4. Whenever they have decided to prevent that company from operating a ship or craft in accordance with the provisions of paragraph 3 host States shall by a reasoned decision inform the company thereof as well as of its right of appeal. An appeal shall not cause the decision to be automatically suspended.

5. Host States involved in the same regular service shall liaise with each other when applying the provisions of this Article.

Article 5

Provisions to be fulfilled by ro-ro ferries and high-speed passenger craft

1. Ro-ro ferries and high speed passenger craft shall:
 - (a) carry valid certificates, issued by the administration of the flag State or by a recognized organization acting on its behalf;
 - (b) be surveyed for the issue of certificates in accordance with the relevant procedures and guidelines annexed to IMO Assembly resolution A.746(18) on Survey Guidelines under the harmonized system of survey and certification, as they are at the time of adoption of this Directive or with procedures designed to achieve the same goal.
2. Ro-ro ferries and high-speed passenger craft shall:

- (a) comply with the standards specified for classification by the rules of a recognized organization, or rules accepted as equivalent by the administration of the flag State for the construction and maintenance of their hull, machinery and electrical and control installation;
- (b) be fitted with a voyage data recorder (VDR) for the purpose of providing information for the benefit of a possible casualty investigation. The VDR shall meet the performance standards of IMO Assembly resolution A.861(20) of 27 November 1997 and comply with the testing standards laid down in IEC standard No 61996. However, for VDR to be placed on board ro-ro ferries or high-speed passenger craft built before the adoption of this Directive, exemptions for compliance with some of the requirements may be granted. These exemptions and the conditions under which they can be granted shall be adopted in accordance with the procedure laid down in Article 12.
3. Ro-ro ferries shall fulfil the specific stability requirements adopted at regional level and notified to the Commission in accordance with Council Directive 83/189/EEC together with the common interpretations which may be adopted in accordance with the procedure laid down in Article 12, when operating in the region covered by such regional rules.

Article 6

Provisions to be fulfilled by companies

1. Companies shall take the necessary measures to ensure that the specific requirements laid down in Annex 1 of this Directive are applied and shall provide in accordance with the procedures referred to in Article 10.5, the evidence of compliance with this paragraph and with Article 5 to the host States involved in the regular service.
2. Companies shall not prevent host States or any substantially interested Member State from conducting, participating fully in, or cooperating with any investigation of a marine casualty or incident as defined in the code for the investigation of marine casualties, nor deny them access to the information retrieved from the VDR of their ferry or craft involved in such a casualty or incident.
3. Companies shall inform the host States that for ships or craft, flying a flag other than that of a Member State, the administration of that flag State has accepted the company's commitment to fulfil the requirements imposed by the host States as a condition to provide a regular service to or from one or more of their ports.

Article 7

Verification of evidence of compliance

1. Each host State shall verify the validity of the evidence provided in accordance with Article 5 and 6.1 and carry out an initial specific survey in accordance with the guidelines laid down in Annex III, to satisfy itself that the ro-ro ferry or high speed passenger craft fulfils all the conditions to operate a regular service to or from one or more of its ports.
2. The verification of the validity of the evidence of compliance with Articles 5 and 6.1 and the initial specific survey referred to in paragraph 1 shall be carried out either prior to the entry into operation of the ship or craft on such a regular service, or no later than 12 months after the date mentioned in Article 15.1, if the ship or craft is already operating on regular services to or from ports of the Member States on that date.

Whenever a ro-ro passenger ferry or high-speed passenger craft operating on a regular service for which the involved host States have confirmed to the company that it complies with the requirements to operate on that regular service, is to be engaged on another regular service involving another host State, this host State shall take the utmost account of the confirmations previously issued for that ship or craft. Provided that this other host State is satisfied with these previous confirmations and that the operational conditions of the regular services are the same, it may dispense that ship or craft from an initial specific survey prior to its entry into operation on that other regular service.

3. Host States shall also carry out a specific survey in accordance with the guidelines for an initial specific survey as laid down in Annex III each time the ro-ro ferry or high-speed passenger craft undergoes repairs, alterations and modifications of a major character, or when there is a change in management or flag, or a transfer of class.
4. In addition to the initial surveys, two unscheduled specific surveys shall be carried out in accordance with the guidelines laid down in Annex III during the period of validity of the certificates. At least one of these unscheduled surveys shall take place during a regular crossing of the ro-ro ferry or high-speed passenger craft.
5. Ro-ro ferries and high-speed passenger craft that have been subject to the specific surveys to the satisfaction of the involved host State(s) are to be exempted by these host State(s) from expanded inspections as mentioned in Article 7.4 of Council Directive 95/21/EC and from expanded inspections based upon the clear grounds that they belong to the category

of passenger ships as mentioned in Annex V.3 and referred to in article 7.1 of Council Directive 95/21/EC.

Article 8

Procedures related to specific surveys

1. Administrations of two or more host States involved in a specific survey of the same ship or craft shall cooperate with each other. The specific surveys shall be carried out by a team composed of qualified inspectors of the involved host State(s). For a specific initial survey the team shall also include a surveyor of a recognized organization. This team shall assess the compliance of the ro-ro ferry or high-speed passenger craft with the requirements of Articles 5 and 6.1 on the basis of their professional judgement and taking into account the guidelines set out in Annex V. They shall report deficiencies to the administrations of the host States.

2. Host States, when required by companies, shall invite the administration of the flag State which is not a host State to be represented in any specific survey under the provisions of this Directive.

3. Host States, in planning an initial survey, shall take due account of the operational and maintenance schedule of the ship or craft.

4. The findings of the specific surveys shall be recorded in a report of which the format shall be established in accordance with the procedure laid down in Article 12.

5. In case of persistent disagreement between host States on the fulfilment of the requirements of Articles 5 and 6.1, the Administration of any host State involved in a specific initial survey shall immediately notify to the Commission the reasons of the disagreement.

Unless the Commission is informed of an agreement between the host States concerned within one month it shall initiate proceedings in order to take a decision in accordance with the procedure laid down in Article 12.

6. In the case where deficiencies are established host States shall require the company to take the necessary measures for their prompt rectification or within a well-defined and reasonable period of time if they do not pose an immediate danger to the safety of the ship or craft, its crew and passengers. After rectification of the deficiencies the concerned host States shall verify that the rectification has been carried out to their full satisfaction,

and if this is not the case, they shall prevent the ferry or craft from operating as provided under Article 4.3.

Article 9

Accident investigation

1. Member States shall define, in the framework of their respective internal legal systems, a legal status that will enable them and any other substantially interested Member State to conduct, to participate in, or to cooperate in any maritime casualty or incident investigation involving any ro-ro ferry and high-speed passenger craft engaged on a regular service to or from their ports for which they bear responsibilities under this Directive.

2. Member States conducting, cooperating with or participating in such investigations shall ensure that the investigation is concluded in the most efficient way and within the shortest possible time taking into account the code for the investigation of marine casualties.

3. Reports resulting from such an investigation shall be made public and notified to the Commission.

Article 10

Accompanying measures

1. Member States issuing or recognizing an exemption certificate shall work together with the involved host State or administration of the flag State to resolve any disagreement concerning the suitability of the exemptions prior to the initial specific survey.

2. Member States shall establish the appropriate shore based navigational guidance systems and other information schemes to assist ro-ro ferries and high-speed passenger craft in the safe conduct of the regular service, or part of it, for which they bear responsibility.

3. Ro-ro ferries and high-speed passenger craft which operate on a regular service to or from ports of the Member States shall be provided with an identification number in accordance with the IMO ship identification number scheme adopted by IMO resolution A.600(15).

4. Each Member State shall regularly provide the Commission with updated data as listed in Annex IV for all ro-ro ferries and high-speed passenger craft which operate on a regular service to or from its ports. If two or more host States are involved in the regular service, the data may be provided by one of these host States.

5. Member States shall establish and maintain appropriate procedures in accordance with their national legislation for:

- an expeditious verification of the evidence and organisation of the initial survey mentioned in Article 7,
- preventing companies to operate ro-ro ferries and high-speed passenger craft on regular services to or from one or more of its ports, in accordance with Article 4.3,
- the right of appeal for companies, in accordance with the provisions of Article 4.4.

6. Member States shall ensure that companies operating ro-ro ferries or high-speed passenger craft on regular services to or from their ports are able to maintain and implement an integrated system of contingency planning for shipboard emergencies. To this end they shall make use of the framework provided by IMO Assembly resolution A.852(20) on guidelines for a structure of an integrated system of contingency. If two or more Member States are involved as host States in the regular service they shall jointly establish a plan for the different routes.

7. Member States shall ensure that they have been fully involved in their capacity as host State by the administration of the flag State, before the issuance of the permit to operate high-speed craft, in accordance with the provisions of paragraph 1.9.3 of the High Speed Craft Code. They shall ensure that operational restrictions required by local situations, necessary to protect life, natural resources and coastal activities are established or maintained and they shall take measures to ensure the effective enforcement of these restrictions.

Article 11

Supporting measures

1. The Commission shall set up and maintain a data base containing all the data provided by Member States in accordance with the provisions of Article 10.4. The data shall be accessible to all concerned flag State administrations and host States. The company responsible for a ro-ro ferry or high-speed passenger craft falling under the scope of this Directive, as well as other parties with a vested interest in the operation of the ro-ro ferry or high-speed passenger craft shall also have access to the data under the conditions to be determined in accordance with the procedure laid down in Article 12.

2. The Member States shall inform third countries which bear either flag State responsibilities or responsibilities similar to those of a host State for ro-ro ferries and high-speed passenger craft falling under the scope of this Directive and operating between a port of a Member State and a port of a third State of the requirements imposed by this Directive on any company providing a regular service to or from a port of the Community.

Article 12

Regulatory Committee

The Commission shall be assisted by the Committee set up pursuant to Article 12 paragraph 1 of Directive 93/75/EEC. The Committee shall operate in accordance with the procedure laid down in paragraphs 2 and 3 of that Article.

Article 13

Amendment procedure

This Directive may be amended in accordance with the procedure laid down in Article 12, in order to adapt its Annexes to take into account relevant amendments of Conventions and Community instruments mentioned in this Directive, the coming into force of new Community instruments as well as any IMO resolution recognized important for the establishment or improvement of the regime established by this Directive.

Article 14

Penalties

Member States shall lay down the system of penalties for breaching the national provisions adopted pursuant to this directive and shall take all the measures necessary to ensure that those penalties are applied. The penalties thus provided for shall be effective, proportionate and dissuasive.

Article 15

Implementation

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive not later than 1 January 2000 and forthwith inform the Commission thereof.

The provisions of Article 5.2.b shall be applied no later than [30] months after the publication date of IEC

standard No 61996 [or by 1 January 2002, whichever of these dates comes later].

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 reference shall be laid down by the Member States.

3. The Member States shall immediately notify to the Commission all provisions of domestic law which they adopt in the field governed by this Directive. The Commission shall inform the other Member States thereof.

Article 16

Entry into force

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

Article 17

Addressees

This Directive is addressed to the Member States and the Commission.

ANNEX I

SPECIFIC REQUIREMENTS TO BE FULFILLED BY COMPANIES

(as referred to in Article 6.1)

Companies shall ensure that on board of their ro-ro ferries and high-speed passenger craft:

- the master is provided with appropriate information on the availability of shorebased navigational guidance systems and other information schemes to assist him in the safe conduct of the voyages, before the ship or craft begins to sail, and that he participates in the navigational guidance and information schemes set up by the Member States;
- the relevant provisions of paragraphs 2 to 6 of MSC/Circular 699 — revised guidelines for passenger safety instructions are applied;
- a table with the shipboard working arrangements is posted in an easily accessible place, and contains at least:
 - a) the schedule of service at sea and service in port; and
 - b) the maximum hours of work or the minimum hours of rest required;
- the master is not constrained from taking any decision, which in his professional judgement is necessary for safe navigation and operation, in particular in severe weather and in heavy seas;
- the master keeps a record of navigational activities and incidents which are of importance to safety of navigation;
- any damage to, or permanent deflection of shell doors and associated hull plating that may affect the integrity of the ferry or craft, and any deficiencies in the securing arrangements of such doors, are promptly reported to both the flag State administration and the host State and are promptly repaired to their satisfaction;
- an up-to-date voyage plan is available before the departure of the ro-ro ferry or high-speed passenger craft on its voyage. In preparing the voyage plan the guidelines set out in MSC resolution . . . (70) on guidelines on voyage planning shall be taken fully into account;
- general information about the services and assistance available to elderly and disabled persons on board is made known to the passengers and is made available in formats suitable for people with impaired sight.

ANNEX II

ADDITIONAL REASONS FOR PREVENTING A COMPANY FROM OPERATING A RO-RO FERRY AND HIGH SPEED PASSENGER CRAFT

(as referred to in Article 4.3)

Established failure to comply with the obligations laid down in:

- Council Directive 93/75/EEC, as amended, or
- Council Directive 94/58/EC, as amended, or
- Council Regulation (EC) 3051/95, as amended.

ANNEX III

GUIDELINES FOR SPECIFIC SURVEYS

(as referred to in Article 7)

1. The initial specific survey shall ensure that statutory requirements, in particular those for loading, stability, fire protection, maximum number of passengers, life saving appliances and the carriage of dangerous goods are fulfilled and shall for that purpose, and whenever applicable at least include:
 - the starting of the emergency generator,
 - an inspection of emergency lighting,
 - an inspection of the emergency source of power for radio-installations,
 - a test of the public address system,
 - a fire drill, including a demonstration of the ability to use firemen's outfits,
 - the operation of the emergency fire-pump with two firehoses connected to the fire main line in operation,
 - the testing of the remote emergency stop controls for fuel supply to boilers, main and auxiliary engines, and for ventilation fans,
 - the testing of remote and local controls for the closing of fire dampers,
 - the testing of fire detection and alarm systems,
 - the testing of proper closing of fire doors,
 - the operation of bilge pumps,
 - the closing of watertight bulkhead doors; both from the local and remote control positions,
 - a demonstration that shows that key crew members are acquainted with the damage control plan,
 - the lowering of at least one rescue boat and one lifeboat to the water, starting and testing their propulsion and steering system, and recovering them from the water into their stowed position on board,
 - the checking of the inventory of all lifeboats and rescue boats,
 - the testing of the ship's or craft's steering gear and auxiliary steering gear.

The initial specific surveys shall include a verification that the construction and maintenance of the ship's or craft's hull, machinery, electrical and control installation comply with the standards specified for classification by the rules of a recognized organization. Any subsequent specific survey shall verify the maintenance of this condition.

2. Any specific survey shall whenever appropriate include the tests mentioned in paragraph 1 and shall include the verification of the planned maintenance system on board.

Any specific survey shall focus on the familiarisation of crew members with, and their effectiveness in, safety procedures, emergency procedures, maintenance, safe manning, working practices, passenger safety, bridge procedures and cargo and vehicle-related operations. Seafarers' ability to understand and, where appropriate, give orders and instructions and report back in the common working language, as recorded in the ship's logbook shall be checked. The documented evidence that crew members have successfully followed a special training shall be checked, in particular with regard to:

- crowd management training;
- familiarisation training;
- safety training for personnel providing direct safety assistance to passengers in passenger spaces, and in particular to elderly and disabled persons in an emergency, and;
- crisis management and human behaviour training.

The specific survey shall include an assessment of fatigue and an assessment as to whether rostering patterns are causing unreasonable fatigue particularly for watch-keeping personnel. For this purpose the watch-keeping schedules, which have to be posted shall be used to check whether the minimum rest periods are respected.

3. When checking the certificates of competence of the crew members, certificates issued by third States shall only be recognised when they comply with Article 9 paragraph 3 of Council Directive 94/58/EC as amended and if these States are mentioned on the IMO white list.
4. Annex V contains a list of guidelines for qualified inspectors when carrying out specific surveys.

ANNEX IV

INFORMATION TO BE COMMUNICATED TO THE COMMISSION

(as referred to in Article 10.4)

Ship's name

Flag

Ownership

Company

IMO identification number

Classification symbols, marks and notations and number of entry in the society's register book

Information on statutory certificates (dates, validity, exemptions)

Survey reports by flag State and classification societies

Specific survey reports

Crew qualification

Operational limitations

Reports on deficiencies and detentions under Council Directive 95/21/EC

ANNEX V

GUIDELINES FOR QUALIFIED INSPECTORS WHEN CARRYING OUT SPECIFIC SURVEYS

(as referred to in Article 8.1)

1. Passenger information.

The means used to ensure that the passenger number for which the ship is certified is not exceeded. That the system for registration of passenger information complies with the regulations and is effective. How the information on the total number of passengers is passed to the master and, if appropriate, how passengers doing a double crossing without going ashore are included in the total for the return voyage.

2. Loading and stability information.

That, when applicable, reliable draught gauges are fitted and are in use. That measures are taken to ensure that the ship is not overloaded and the appropriate sub-division load line is not submerged. That the loading and stability assessment, is carried out as required. That goods vehicles and other cargo are weighed where required and the figures passed to the ship for use in the loading and stability assessment. That damage control plans are permanently exhibited and that booklets containing damage control information are provided for the ship's officers.

3. Security for sea.

The procedure to ensure that the ship is secured for sea before leaving the berth, which should include a positive reporting procedure that all the shell watertight and weather-tight doors are closed. That all the vehicle deck doors are closed before the ship leaves the berth or remain open long enough only to enable the bow visor to be closed, the closing arrangements for the bow, stern and side doors, and the provision of indicator lights and TV surveillance to show their status on the navigating bridge. Any difficulties with the operation of the indicator lights, particularly the switches at the doors, should be ascertained and reported.

4. Safety announcements.

The form of routine safety announcements and the posting of instructions and guidance on emergency procedures in the appropriate language(s). That the routine safety announcement takes place at the commencement of the voyage and can be heard in all public spaces, including open decks, to which passengers have access.

5. Log book entries.

An examination of the log book to ensure that the entries are being made regarding the closing of the bow, stern and other watertight and weather-tight doors, drills for sub-division watertight doors, testing of steering gears, etc. Also that draughts, freeboard and stability are being recorded as well as the common working language for the crew.

6. Dangerous goods.

That any cargo of dangerous or polluting goods is carried in accordance with the relevant regulations and, in particular: that a declaration concerning dangerous and polluting goods is provided together with a manifest or stowage plan to show their location on board, that the carriage of the particular cargo is permitted on passenger ships, and that the dangerous and polluting goods are properly marked, labelled, stowed, secured and segregated.

That vehicles carrying dangerous and polluting goods are properly placarded and secured. That, when dangerous and polluting goods are carried, a copy of the relevant manifest or stowage plan is available ashore. That the master is aware of the notification requirements under Directive 93/75/EEC, as amended, and of the instructions on the emergency procedures to be followed and the rendering of first aid should there be an incident involving the dangerous goods or marine pollutants. That the means of ventilating the vehicle decks is in use at all times, is increased when the engines of the vehicles are running and that there is some form of indication on the bridge to show that the vehicle deck ventilation is in operation.

7. Securing freight vehicles.

How freight vehicles are secured, for example, whether block stow or individual lashings. Whether sufficient strong points are available. The arrangements for securing freight vehicles when adverse weather is experienced or expected. The method of securing coaches and motor cycles, if any. That the ship has a Cargo Securing Manual.

8. Vehicle decks.

Whether special category and ro-ro cargo spaces are being continuously patrolled or monitored by a TV surveillance system so that the movement of vehicles in adverse weather and the unauthorised entry of passengers may be observed. That fire doors and entrances are kept shut and that notices are posted to keep passengers off the vehicle decks whilst the ship is at sea.

9. Closure of watertight doors.

That the policy laid down in the ship's Operational Instructions for the sub-division watertight doors is being followed. That the required drills are being carried out. That the bridge control for the watertight doors is kept, when possible, on 'local' control. That the doors are being kept closed in restricted visibility and any hazardous situation. That crews are instructed in the correct way to operate the doors and are aware of the dangers of their misuse.

10. Fire patrols.

It should be confirmed that an efficient patrol is being maintained so that any outbreak of fire may be readily detected. This should include special category spaces where a fixed fire detection and alarm system is not fitted noting that these spaces may be patrolled as indicated in paragraph 8.

11(a). Communications in an emergency.

That there are sufficient crew members in accordance with the Muster List to assist passengers in an emergency and that they are readily identifiable and able to communicate with the passengers in an emergency, taking into account an appropriate and adequate combination of any of the following factors:

- (a) the language or languages appropriate to the principal nationalities of passengers carried on a particular route;
- (b) the likelihood that an ability to use elementary English vocabulary for basic instructions can provide a means of communicating with a passenger in need of assistance whether or not the passenger and crew member share a common language;
- (c) the possible need to communicate during an emergency by some other means (e.g. by demonstration, hand signals, or calling attention to the location of instructions, muster stations, life-saving devices or evacuation routes when verbal communication is impractical);
- (d) the extent to which complete safety instructions have been provided to passengers in their native language or languages;
- (e) the languages in which emergency announcements may be broadcast during an emergency or drill to convey critical guidance to passengers and to facilitate crew members in assisting passengers.

11(b). Common working language between crew members.

Verify that a working language is established to ensure effective crew performance in safety matters and that this working language is recorded in the ship's logbook.

12. Safety equipment.

That the life-saving and fire appliances, including the fire doors and other items of the structural fire protection that may be readily inspected, are being maintained. That fire control plans are permanently exhibited or booklets containing the equivalent information are provided for the information of the ship's officers. That the stowage of the lifejackets is appropriate and that the stowage of children's lifejackets may be readily identified. That the loading of vehicles does not prevent the operation of the fire controls, emergency shut-offs, controls for the storm valves etc., that may be located on the vehicle decks.

13. Navigational and radio equipment.

That the navigational and radio communications equipment, including EPIRBs, are operational.

14. **Supplementary emergency lighting.**

That supplementary emergency lighting is fitted, when required by the regulations, and that a record of deficiencies is being kept.

15. **Means of escape.**

Marking, in accordance with the applicable requirements, and the illumination, from both the main and emergency sources of power, of the means of escape. The measures taken to keep vehicles clear of escape routes where the means of escape cross or pass through vehicle decks. That exits, particularly exits from duty free shops, which have been found to be blocked by an excess of goods, are kept clear.

16. **Operations book.**

That copies of the operations book are provided for the master and each senior officer and that other copies are available for all members of the crew. Also that there are check lists to cover the preparation for sea and other operations.

17. **Engine Room Cleanliness.**

That the engine room is maintained in a clean condition with regard to maintenance procedures.

18. **Garbage disposal.**

That the arrangements for the handling and disposal of garbage are satisfactory.

19. **Planned maintenance.**

All companies should have specific standing orders, with a planned maintenance system, for all safety related areas including bow and stern doors and side openings, together with their closing arrangements, but also covering engine room maintenance and safety equipment. Plans should be in place for periodically checking all items so as to maintain safety standards at the highest level. Procedures should be in place for recording deficiencies and confirming they have been properly rectified so that the Master and the designated person ashore within the company management structure are aware of the deficiencies and are notified when they have been rectified within a time specified. Periodic checking of the operation of the inner and outer bow door closing arrangements should include the indicators, surveillance equipment and any scuppers in the spaces between of bow visor and the inner door and especially the closing mechanisms and their associated hydraulic systems.

20. **Making a voyage.**

When making a voyage the opportunity should be taken to check overcrowding, including the availability of seats and the blocking of passageways, stairs and emergency exits by baggage and by passengers unable to find seats. That the vehicle deck is vacated by passengers before the ship sails and that they do not again have access until immediately prior to docking should also be checked.

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ANNEX VI

CRITERIA OF QUALIFICATION AND INDEPENDENCE FOR QUALIFIED INSPECTORS

(as referred to in Article 2(q))

1. The qualified inspector must be authorised to carry out the specific surveys referred to in article 7 by the competent authority of the Member State.
 2. Either:
 - The qualified inspector must have completed a minimum of one year's service with the competent authority of a Member State as a flag-State inspector dealing with surveys and certification in accordance with the 1974 SOLAS Convention,
 - and be in possession of:
 - (a) a certificate of competency as master, enabling that person to take command of a ship of 1 600 GT or more (see STCW, Regulation II/2); or
 - (b) a certificate of competency as chief engineer enabling him to take up that task on board a ship whose main power plant has a power equal or superior to 3 000 kW, (see STCW, Regulation III/2); or
 - (c) have passed in a Member State an examination as a naval architect, mechanical engineer or an engineer related to the maritime fields and worked in that capacity for at least five years,
 - The qualified inspectors mentioned under (a) and (b) must have served for a period of not less than five years at sea as officer in the deck- or engine-department respectively.
 - Or:

The qualified inspector must:

 - hold a relevant university degree or an equivalent training in a Member State, and
 - have been trained and qualified at a school for ship safety inspectors in a Member State, and
 - have served at least two years with the competent authority of a Member State as a flag-State inspector dealing with surveys and certification in accordance with the 1974 SOLAS Convention.
 3. Qualified inspectors shall have the ability to communicate orally and writing with seafarers in the language most commonly spoken at sea.
 4. Qualified inspectors shall have an appropriate knowledge of the provisions of the 1974 SOLAS Convention and of the relevant procedures of this Directive.
 5. The qualified inspectors carrying out specific surveys shall have no commercial interest either in the company concerned or any other company operating on a regular service to and from the involved host State or in the ro-ro ferries or high-speed passenger craft inspected, nor shall the qualified inspectors be employed by or undertake work on behalf of non-governmental organizations which carry out statutory or classification surveys of ships or issue certificates for that purpose.
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DECISION OF THE EEA JOINT COMMITTEE

of ...

amending Annex XIII (Transport) to the EEA Agreement

THE EEA JOINT COMMITTEE,

Having regard to the Agreement on the European Economic Area, as adjusted by the Protocol Adjusting the Agreement on the European Economic Area, hereinafter referred to as the Agreement, and in particular Article 98 thereof.

Whereas Annex XIII to the Agreement was amended by Decision of the EEA Joint Committee No 8/96⁽¹⁾;

Whereas Council Directive (98/.../EC) of (... .. 1998) on conditions for the operation of regular ro-ro ferry and high speed passenger craft services in the Community⁽²⁾ is to be incorporated into the Agreement,

HAD DECIDED AS FOLLOWS:

Article 1

The following point shall be inserted after point 56c (Council Regulation (EC) No 3051/95):

‘56.d 395 L ...: Council Directive (98/.../EC) of (... .. 1998) on conditions for the operation of regular ro-ro ferry and high speed passenger craft services in the Community (OJ No L ..., 1998, p. ...)’

Article 2

The texts of Directive 98/.../EC in the Icelandic and Norwegian languages, which are annexed to the respective language versions of this Decision, are authentic.

Article 3

This Decision shall enter into force on .../.../19... , provided that all the notifications under Article 103 (1) of the Agreement have been made to the EEA Joint Committee.

Article 4

This Decision shall be published in the EEA Section of, and in the EEA Supplement to, the *Official Journal of the European Communities*.

⁽¹⁾ OJ L 102, 25.4.1996, p. 51.

⁽²⁾ OJ L ...