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SUMMARY REPORT OF THE CONTRIBUTIONS RECEIVED TO THE PUBLIC CONSULTATION ON A REVIEW OF EU PASSENGER SHIP SAFETY LEGISLATION

1. INTRODUCTION

The 2011 White Paper for the future of transport – “Road map to a Single European Transport Area – Towards a competitive and resource efficient transport system” recognizes the need to modernize the current EU passenger ship safety legislation. In 2010 the Commission had already started the process by undertaking a review of the main Directive, 2009/45/EC (hereafter "the Directive"), and initiated a consultation with the Member States competent authorities to identify problems and challenges in its implementation.

Based on this process, the Commission examined the problems raised, to identify the main issues and underlying causes, and from there to reconsider alternative policy options. Currently the Directive sets safety standards for all passenger ships made out of steel engaged in domestic voyages.

A public consultation was held between 13 April and 5 July 2012, available and publicized on the DG MOVE dedicated internet site. In this context, a passenger ship safety stakeholder conference, hosted by Vice-President Kallas was also held in Brussels on 24 April 2012, to publicize and emphasize the importance of the consultation process and to present and discuss topics related to the passenger ship sector, both from a regulatory, industry and passenger point of view.

The aim of this public consultation was to verify the accuracy of the problems identified, and to what extent stakeholders' opinions are in line with and support the objectives and policy measures envisaged. The purpose of this consultation has been to collect views from all interested stakeholders on a revision of the current EU rules on passenger ship safety.

This consultation has allowed the Commission's services to hear what the main challenges, possibilities, or needs were and also to receive suggestions from the stakeholders.

This document seeks to assist stakeholders to get an overview of the contributions made and to present the responses reflecting the major positions of respondents.

Respondents

48 contributions were received by the Commission in the course of this public consultation, mainly from Member State administrations, from organisations/associations representing ship owners, shipbuilders, equipment manufacturers and passengers as well as from individual companies such as ship builders and ship owners as well as concerned citizens.

Respondents were asked to indicate which type of organization they represented. It was possible to choose multiple categories to take into account different practices and responsibilities in the private sector and also in public authorities. The ship owners and ship owner association were the largest participating group (33% of respondents).

Categories	Replies
Ship owner	7
Ship owner association	9
Ship builder	1
Ship building association	5
Equipment producer	2
Equipment producer association	1
Ship operators	2
Port authority	1
National government/administration	4
Tour operators	1
Passenger representative associations	5
Citizen	3
Maritime service industries (e.g. training, naval architects, consultancy, classification society)	7

2. CONSULTATION

The questionnaire was divided into two main sections.

The first set of questions focussed on the primary objective, namely, to identify and address within the current Directive 2009/45/EC on rules and standards for passenger ship safety any provisions that may need to be reviewed or updated and which lead to inefficiencies in the EU internal market for ships or maritime passenger services.

The second set of questions addressed a related issue, for which the Commission's services seek stakeholder opinions, primarily from those with experience in the maritime field. *Following the Costa Concordia cruise ship accident, some concerns have been raised specifically addressing larger passenger ships. The Commission therefore used the opportunity of this consultation as part of the review of the European legislation on passenger ship safety, to obtain stakeholder views on the current safety arrangements.*

The questionnaire was divided into 42 questions with main topics as follows:

- Problems: respondent views

- Views on the proposed measures
- Potential impacts of the measures
- Final considerations

There were references to the background documents explaining the context and the objectives sought by the Commission. Some respondents elaborated the answers and added some technical comments. Some contributions contained suggestions and comments beyond the questionnaire. Comments on issues not covered by the consultation subject have not been included in this overview.

The opinions presented in this note do not reflect the Commission's official position.

3. PRESENTATION OF RESPONSES

3.1. Problems

As stated above, based on the consultation undertaken with the Member State experts, certain problems related to the passenger ship safety legislation have already been identified. The purpose of this section was to get stakeholders' opinions on the problems with the current regulatory setup and identify the underlying causes.

General overview

40% of respondents confirmed they have often experienced the complexity of different regulations making it difficult to comply and 60% rarely or never experienced the need for safety measures above and beyond what is required in the EU legislation. 63% of respondents have rarely or never experienced trade barriers due to differences in regulations on safety between the Member States/EEA countries.

Nevertheless, one contributor underlined problems with selling a small passenger vessel in different EU Member States. Another highlighted the difficulty of applying this legislation to small steel passenger ships. Small passenger vessels (typically below 24m built in materials other than steel) are so far not covered by EU legislation but by national legislation which is different in every country. In addition, those ships may face difficulties when operating in other Member State waters. There is no certainty that their national certificates will be accepted.

Almost one fifth of respondents underlined that the process of updating/amending the directive is often cumbersome when compared with national regulation and is not easy to understand or follow; furthermore, there is a lack of consistent application/interpretation, the transposition of rules is not always consistent and the exemption process is also cumbersome. A group of respondents (10%) regretted that there is no EU legislation regulating safety issues of traditional/historical ships. In some EU countries, traditional/historical ships are used or intended to be used as a passenger ships, and this approach may compromise safety on board if not appropriately regulated. For them, this is considered an important concern to be addressed.

Safety issues

A key objective of the EU regulation on passenger ship safety is to make sure that people using passenger ships and high speed passenger craft throughout the EU should have the right to expect and rely on a high level of safety on board no matter in which Member State waters the passenger is sailing, while taking into account the different areas of operation the ship is sailing in (e.g. coast line, sheltered waters etc). Some differences among the Member States do however still occur as the Directive applies to domestic voyages and only covers certain types of ships.

35% of respondents considered that the limitation of coverage of the Directive to steel ships has led to stakeholders preferring ships made of other materials. Yet this limited coverage of domestic trade did not seem to present a problem in terms of passenger safety.

Up to 65% of stakeholders were not able to determine if sailing ships, tenders, and ships carrying offshore workers are covered by the Directive. They considered that Member States may apply the provisions of Directive or other, e.g. national legislation.

By contrast however, 40% of the contributions were aware that small passengers' ships (below 24m) built in materials other than steel are not covered by the Directive. Member States apply their national legislation to such vessels, and there did not seem to be any safety issues to date. IMO requirements and/or current Directive 2009/45/EC technical requirements were specifically mentioned by 15% of respondents as inappropriate for small passenger ships (below 24m and/or built in other materials than steel) from a safety and technical point of view.

Concerning (the cruise vessel) tenders, several respondents underlined that these vessels are certified by the cruise ship's Flag State in accordance with IMO guidelines. The vast majority of cruise ship tenders are part of the LSA (Life Saving Appliance) complement of the vessel and are designed, constructed and operated in accordance with Flag and coastal state regulations in accordance with IMO guidelines. This creates uniform standards of compliance under an internationally accepted safety regime. In terms of traditional sailing vessels and historic ships, the rigorous application of either SOLAS or the Directive's safety requirements without taking their characteristics into account was considered inappropriate by a group of respondents and would not increase passenger safety.

Internal Market issues

Another key objective of Directive 2009/45/EC is to remove any barriers to trade between the Member States and thereby facilitate the functioning of the internal market. Any new legislation must seek to minimize barriers to trade and the identification of any existing barriers is therefore important.

On the basis of the replies received, few respondents really identified any barrier to trade. Indeed, most of contributions recognized that the shipbuilding market is not generally affected by incoherent regulations. Paradoxically, however, the need to comply with different rules (international, EU and national) was pinpointed by the highest number of contributors as a real problem which contributes to the complexity of the overall legislative picture.

The objective of removing barriers to trade and facilitating the functioning of the internal market was considered commendable by stakeholders. However, for a small group this should be pursued with a risk-based approach, i.e. developing new legislation that matches the safety requirements to the level of risks, and that takes into account the areas of operation of the different passenger ships (distance from the shore and weather conditions - wind and waves). Almost one fifth of respondents also recognised that inconsistent approaches by Member States sometimes entail restrictions on the use of certain types of materials / alternative designs / use of exemptions.

Administrative costs

Over one quarter of respondents indicated that the different layers of regulatory framework (e.g. SOLAS, Directive 2009/45/EC, national legislation) and overlapping inspection regimes (e.g. SOLAS versus Directive 2009/45/EC) create unnecessary administrative costs.

Simplification of procedures is one way of reducing the administrative costs. 73% of stakeholders strongly supported that surveys required by the different EU legislative instruments should be simplified in order to reduce those administrative costs. For small passenger ships, the requirements for surveys and inspections are usually limited in the various national legislations. Applying an international (IMO) level of inspections and surveys as set out in the Directive would create a disproportionate burden for the shipbuilder but also the customer, in terms of time spent, costs involved and complexity of procedures. The requirements for survey and inspections should be proportionate to the existing risks related to a given ship, its number of passengers, its area of navigation and the availability of rescue services from the coast.

Furthermore, procedures for attaining the Passenger Ship Safety Certificate, High Speed Craft Safety Certificate, Permit to Operate High Speed Craft should be to some extent simplified according to several respondents. One respondent called for one EU legislative instrument with different requirements for different types of ship to remove the complexity of applicable legislation, another for a central database of requirements for transparency.

3.2. Objectives

Based on the consultation of Member States, the Commission drafted a number of preliminary objectives for the revised EU legislation on passenger safety. In this section of the public consultation, the Commission aimed to identify the degree to which stakeholders agree with these objectives and to identify other objectives that may be taken into consideration.

As result of the consultation (taking into account the scores 1 and 2 levels of importance), stakeholders prioritised the identified objectives when revising EU legislation as follows (from the most to the least important objective):

1. Ensure maritime passenger transport safety
2. Establish harmonised safety standards so that ships can be transferred within Europe without any problems related to differences in the safety standards
3. Establish harmonised safety standards so that shipyards can construct ships in Europe applying the same standards
4. Establish harmonised safety standards so that ships can trade between Member States / EEA countries

5. Establish harmonised safety standards so that ships flagged Member State A can trade within Member State B
6. Ensure flexibility in order to facilitate technical updates of legislation in the light of international standards
7. Simplify the legislative framework by establishing requirements on a more global level instead of inclusion of many detailed requirements
8. Reduce administrative burdens
9. Improve consistency in the legislative framework, as regards e.g. coverage of different safety related Directives and definitions in EU and international regulations
10. Simplify legislative framework by including more references to international accepted regulations like SOLAS (where appropriate and proportionate)
11. Simplify the legislative framework by targeted technical requirements for specific types of ships
12. Simplify the legislative framework by combining EU legislative instruments.

While the objectives above are globally supported, those respondents either as associations or individuals representing the small boat industry and traditional ship interests voiced their concern about the means and the approach which will be developed to ensure the objectives are met. They underlined that an additional objective of the revised directive should be to adequately take into account the specificities of the segments such as small passenger ships (below 24m) and passenger ships built in other materials than steel and to strengthen the position and status of historical and sailing vessels. If these categories were to be included (possibly in a new and dedicated directive) their interaction with other conventions and directives would have to be taken into consideration. Those representing small ships considered that it is of utmost importance to first understand whether outlined objectives fit with these new segments and be ready to adapt the legislation to the needs and specificities of these segments, which were to date operating well within a national legislative framework.

Furthermore, a few contributions underlined that for ships trading internationally, particularly cruise ships, the objective should be to abolish separate EU regulations and simply apply the internationally agreed standards. EU legislation should restrict itself to enforcement and monitoring to ensure a level playing field. If improvements are needed to safety legislation the EU Member States should take these to the IMO.

In addition, several stakeholders wished to emphasize as an objective of the revision to take into account issues relating to the security and safety of passengers with disabilities using maritime transport. This issue relates not only to physical access on board, but also problems such as the lack of accessible information and alarm systems for the diversity of impairment groups existing among disabled people.

3.3. Options

The Commission has elaborated a number of options for the revision of Directive 2009/45/EC, and this section of the consultation aimed to obtain the stakeholders' opinions on which option would be the most suitable when revising the existing EU legislative framework. According to the outcome of the consultation (taking into account the scores 1, 2 and 3 levels of appropriateness), the seven policy options are prioritized and set out below as follows (starting from the most appropriate to the least appropriate option):

1. Option 4: International safety legislation. Passenger ship safety legislation will comply with IMO legislation for all or for the main selected market segments/ship types. Several respondents considered that legislation should apply to all passenger ship types; some underlined only large passenger ships/cruise ships.
2. Option 5: Tailored common EU safety rules. Tailoring the EU legislation to pursue high safety standards for the main market segments/ship types.
3. Option 1: No policy change
4. Option 7: Extension of the scope of the Directive from domestic voyages to voyages between EU Member States (in combination with option 5).
5. Option 3: Elimination of Directive 2009/45/EC and reliance on national law
6. Option 2: Soft law. Explanatory guidelines on interpretation of provisions in the Directives. Promoting establishment of sufficient national requirements to vessels made of materials other than steel.
7. Option 6: National safety legislation. Passenger ship safety will mainly rely on national legislation (if all = Option 3) - i.e. only tailored common EU safety rules for a few selected market segments/ship types.

On the basis of this stakeholder consultation, half of all respondents favoured option 4 (International safety legislation applicable to domestic passenger ships for all or for the main selected market segments/ship types). The next most popular option, with 46% of respondents finding it appropriate, was option 5 (Tailored common EU safety rules). In terms of identifying those options considered less appropriate, 63% chose option 6 (national safety legislation) with 54% opting for abolition of the directive.

As mentioned above, for cruise passenger ships several respondents underlined that the option of abolishing separate EU regulations and simply apply the internationally agreed standards. Any possible safety improvements should be taken by the EU Member States to the IMO. In addition, some respondents explicitly mentioned that extending the Directive to those ships constructed out of materials other than steel may incur increased costs to replace a ship, whereas, up until now such vessels have not been covered by the Directive and they have been considered under national regulations. This is supported also by the fact that no significant safety problems have been recorded so far in EU.

The Commission also asked which rules (e.g. IMO convention, IMO guidelines, updated Directive 2009/45/EC, High Speed Craft Code, national legislation) should be applied to the different types of ships (ships in domestic or intra-EU trade, cruise ship tenders, historical, sailing ships and off-shore worker ships). To this end, a separate table was made available for completion and uploading in the consultation; only 6 stakeholders filled the table with divergent views. For this reason, it is difficult to draw any conclusion or suggestions on this topic.

3.4. Impacts

This section aimed to collect the stakeholders' views on possible impacts from certain changes to the legislation and will contribute to the overall assessment of impacts related to different policy options. Directive 2009/45/EC only covers certain ships, and the

current discussion focusses on whether to broaden the coverage of the Directive. The questions in this section aimed to identify the impacts if the Directive were to be extended to cover:

- Ships made from materials other than steel
- Historic/sailing ships
- Tenders
- Vessels carrying off shore workers

These ships are currently not covered by EU legislation, unless made of steel or equivalent. Instead, in domestic trade national rules apply. Moreover, the last question addressed the impact of extending the scope of the Directive to also cover voyages between EU Member States, which are currently mostly regulated by international law. The current directive only covers domestic voyages within the Member State/EEA Country's waters.

Ships made from materials other than steel

Concerning the possible impact if ships made from materials other than steel are included in the scope of EU safety rules, the majority of respondents were not able to provide a view; however a third of respondents underlined as a potential impact a high increase in administrative costs for public authorities, compliance costs for shipbuilders and for ship operators.

Four respondents also underlined that the whole business model in coastal areas where passengers, mainly tourists, are carried by such ships (typically from coast to islands and mostly in small passenger ships) would be affected. The impact was thought to be highly negative for all stakeholders (shipbuilders, users-tourists, and ship and tourism operators, tourism destinations). It was also added that environmental impacts should be analysed as well. Manufacturing such ships included raw materials sourcing, transportation, casting and metal forming, building, welding, painting, testing, maintenance, which all brings significant costs, absorbs huge amounts of energy and produces substantial exhaust gasses.

Historic/sailing ships and cruise ship tenders

Similar conclusions could be drawn, were historic ships/sailing ships and tenders to be included in the scope of Directive. Most stakeholders were not able to provide their opinion; however over a third of respondents stressed, especially for tenders, the high increase of administrative costs for public authorities, for shipbuilders, for ship operators, compliance costs for shipbuilders and for ship operators. Three contributions also underlined the need to have a clear definition of tender. The purpose of tenders is to transport passengers between a “mother ship”, typically a cruise ship, and a port over a very short distance in sheltered waters. IMO has developed guidance on the use of and requirements for ship tenders. One respondent emphasized that it does not make any sense to include tenders in a passenger ship safety directive.

Offshore worker vessels

Almost all respondents were not able to assess the impacts should the Directive cover vessels carrying off shore workers and if it were to be extended from domestic voyages

to voyages between Member States; some stakeholders indicated that in any case voyages between two EU Member States qualify as international voyages which are already covered by SOLAS, and any duplication of legislation should be avoided.

Other comments

Over half the stakeholders considered they were not able to assess the possible impacts.

In terms of general comments, several respondents pointed out that passenger ship safety should be subject to a continuous improvement approach, with any required changes being a result of rigorous technical analysis and then applied internationally to maintain and raise the overall global level of safety performance. Four contributions underlined the need to involve stakeholders, particularly ship building organisations to develop a risk appropriate set of rules rather than a 'one size fits all'. Three respondents advocated clear rules for historic and traditional sailing ships. One contributor underlined that there was no internal market for small ships, rather it was a local market catering for local conditions.

4. GENERAL QUESTIONS ON PASSENGER SHIP SAFETY

This section covers the second set of questions, for which the Commission sought stakeholder opinions, primarily from those with experience on board passenger ships. Following the Costa Concordia cruise ship accident, some issues had been raised specifically addressing larger passenger ships. The Commission aimed to use the opportunity of this consultation already planned as part of the review of the European legislation on passenger ship safety, to obtain stakeholder views on current arrangements. All but one respondent contributed to this section, providing comprehensive answers.

4.1. Evacuation

Historically, escape routes and evacuation on board ships have been addressed by the prescriptive regulations set out in the SOLAS Convention. These regulations cover the specific structural design requirements of the escape routes for ships. For ro-ro passenger ships constructed on or after 1 July 1999, it is mandatory under the SOLAS Convention to evaluate escape routes by an evacuation analysis. SOLAS also stipulates that all survival craft must be capable of being launched with their full complement of persons and equipment within thirty minutes of the abandon ship alarm being given. Directive 2009/45/EC mirrors these requirements. In addition to these requirements, passenger ships will have their own evacuation procedures. This section of questions dealt with such procedures.

Concerning the evacuation procedures as implemented today, specifically taking into account the increased size of passenger ships, nine respondents confirmed that current evacuation procedures are robust and effective. The cruise industry is, however, re-evaluating these procedures as part of its operational safety review to ensure that the standards are as high as possible. In the view of respondents, larger ships do not pose any additional evacuation challenges; large cruise ships offer different options for evacuation (including more exits and a larger platform from which to conduct the exercise) and must keep to the same timeframes as all other ships for evacuation. It was also highlighted that the MSC 90 Draft Resolution recommends that passenger ship companies conduct a review of operational safety measures on a voluntary basis. However, the need for additional requirements to ensure mobility inside the ship was

also stressed: in particular in an emergency situation when disabled persons and persons with reduced mobility must have easy access from their on-board accommodation to the disembarkation points. Five respondents agreed that if these procedures should be improved, it is necessary to work at an international level, at IMO, and not only in EU.

The requirements for evacuation prescribe that information on what to do in case of emergency for which an evacuation is required shall be supplied to the passengers. Some stakeholders confirmed that current information as regards evacuation and lifesaving appliances is currently robust and effective. The cruise industry is, however, re-evaluating these procedures as part of its operational safety review to ensure that the standards are as high as possible. In case deficiencies are found, the cruise industry asserted that immediate action is taken to remedy them. Any possible changes to these requirements should be discussed and approved at international level by the IMO. Some respondents wished to underline that the provision of adequate information appears to run into difficulty when there are many passengers with different mother tongues. Recent accidents have pointed to the need to study this aspect further and it is suggested that work on this aspect could start by creating an "international symbol"- led evacuation process.

The requirements for evacuation further prescribe that specific instructions (e.g. on the use of life jackets) related to evacuation should be given to the passengers. 75% of all respondents agreed that the present instructions given to passengers are sufficient to prepare them to evacuate.

Concerning the current requirements on the weekly abandon ship drill, the majority of stakeholders recognised that such drills are effective in training the crew so that they are prepared for an evacuation and the crew is in practice familiar with the assigned duties in cases of emergency.

As mentioned above, some respondents recognised that language could form a barrier in an evacuation process; it might be necessary to provide information in the maximum number of languages possible especially for international cruise lines. A few respondents also suggested that this language obstacle should be handled the same way as in the aviation sector via videos, pictograms etc. Furthermore, it should be borne in mind that people under stress may act irrationally and language barriers would be a greater problem.

4.2. Other issues

Concerning the existing procedures for establishing passenger lists and the reporting of this information, as already required in the SOLAS Convention and Directive 98/41/EC on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community, 68% of respondents agreed that there is no need to re-examine them, as the current practices are robust and effective. The current system is recognised as well established and functioning well.

In terms of a review of the fire detection and extinguishing arrangements on the vehicle deck of ro-ro (passenger) ships especially in the light of the recent accidents where fire on the vehicle deck of a ro-ro (passenger) ship could have very severe consequences, diverging opinions arose among the respondents. However, three stakeholders highlighted that there may be the need for investigative studies in this area, the goal being better early detection and more effective fire fighting systems. Almost all stakeholders considered this issue should be addressed at IMO level.

Similarly concerning the Bridge Resource Management procedures in place to ensure the most effective use of available resources, especially in critical situations, no conclusions could be drawn on the stakeholders' opinion on the need to re-evaluate them, specifically on the larger passenger ships, also in critical situations. Diverging opinions were noted; some respondents agreed that current practices are robust and effective and therefore no need for a review; others underlined the need for a review at IMO level.

Half of the respondents were aware of the recently adopted IMO guidelines on watertight doors (IMO Circular MSC.1/Circ.1380), which give guidance on when such doors have to be closed and when they may be open. Those responding considered that these guidelines provide for a proper balance between safety and operations on board the ship, especially as any exemptions granted by flag states are subject to robust oversight.

5. FINAL CONSIDERATIONS

Respondents were asked to raise any other suggestion and/or issue to take into account in the review process of the passenger ship safety legislation. The following comments were recorded.

One comment emphasized awareness of the human factor, which is fundamental in encouraging the best performance from seafarers. More focus on improving the human element would be necessary.

Other comments included the need for more emphasis to be given to a more thorough inspection of fire and security requirements and the fitting of best available technology in this field to enhance overall safety levels in the maritime sector, specifically passenger ships. The objectives of the Marine Equipment Directive to harmonize the marine safety levels across the EU were welcomed and supported.

Technical environmental tools should also be included in reviewing the existing legislation. As passenger evacuation requires permanent on-board equipment and procedures, pollutant recovery should also benefit from permanent on-board equipment and procedures. Accidental pollution is no longer a routinely acceptable occurrence, but a technical issue already served by available existing solutions. Reducing the severity of the human and environmental consequences of an accident should be governed at EU level.