



European Maritime Safety Agency

Workshop Report

**Update of the Directive 98/18/EC
on safety rules and standards for
passenger ships**

Lisbon, 27 - 28 May 2008

Report

EMSA Expert group meeting to discuss the updating of Directive 98/18/EC on safety rules and standards for passenger ships in accordance with Article 10 of the Directive

Lisbon, 27-28 May 2008

Background

In accordance with the objectives and tasks as laid down in its founding Regulation (EC) 1406/2002 (as amended), as well as under a specific request agreed with DG TREN, EMSA has been providing technical assistance to the European Commission on the revision of the Directive 98/18/EC on safety rules and standards for passenger ships as follow:

- In a note from COM (TREN/G.1/RCM D(2006)214029), dated 13 July 2006, EMSA was asked to draft an update of Directive 98/18/EC in accordance with Article 10 of the directive, reflecting the update of the 1974 International Convention for the Safety of Life at Sea (SOLAS 74) as from MSC 76 and up to MSC 82 (at later stage extended to MSC 83), to bring the directive in line with the IMO regime.
- A draft was submitted to COM 7 September 2006. The draft was discussed at the COSS working group on passenger ship safety, 30 October 2006, and Member states were requested to submit comments to the draft, for consolidation and consideration by EMSA.
- A draft reflecting the comments from Member states was submitted to COM 12 July 2007 (NoteD/SEL/KAO/2007/1015) including a summary of the MSs comments also commented by EMSA and in addition a draft for an update of the certificate form.
- Following the COSS 9 meeting held 13 – 14 December 2007, EMSA was asked by COM, TREN/G1, (Note TREN/G1/JBC D(2008 400132) dated 10-01-2008) to host a Working seminar to review the current draft submitted by EMSA, to exchange views among Member states experts and to try to come to a conclusion on various technical issues related to the Articles and the annexes of the directive and the proposed draft amendments.
- A meeting was scheduled to be held 27 – 28 May at the EMSA premises in Lisbon.

- On 22 April 2008 a formal invitation to the meeting was sent out by EMSA to the appointed experts. The following documents, prepared by EMSA, were included in the invitation:
 - Annex 1, EMSA Summary document,
 - Annex 2, Summary of types of MSs comments,
 - Annex 3, Summary of MSs comments with comments and actions taken by EMSA,
 - Annex 4, Master copy (98/18/EC) with all MS-EMSA comments,
 - Annex 5, Passenger ship safety certificate and
 - Annex 6, Radio class D.
 - And in addition from COM a summary document and a draft agenda (Prior to the meeting an agenda was produced by EMSA)

Attendance

The Workshop was attended by representatives from the following Member states:

Denmark, Estonia, Finland, France, Germany, Greece, Ireland, Italy, Malta, Netherlands, Poland, Portugal, Romania, Spain, Sweden, United Kingdom and EEA: Norway.

The European Commission was represented by Mr Richard Mason, Policy Officer (DG TREN G1) and EMSA was represented by Mr Staffan Eliasson, Project officer, Mr Alexander van Hoeylandt, Project Officer and Mr Mikael Vartio Project, Officer, all Unit E.1, today Unit B.2.

Workshop Objectives

The objectives of the Expert group meeting were to:

- Consider the draft amendments to the Directive in Articles and Annexes, based on amendments to international conventions, comments from the Member states and consolidations and editorial changes proposed by EMSA,
- Consider the comments provided by the Member states commented by EMSA and the action taken by EMSA following the comments made,
- Find a conclusion on various issues requested by Member states,
- Consider the draft proposed for Annex II (Certificate form) and Annex XX (Radio equipment for class D ships),
- Have a general discussion on various complex issues related to the Directive in general such as the scope and the application to “small” passenger ships etc.

Workshop Programme

The Workshop was divided into two sessions:

The first session, held on 27 May 2008, was opened by Mr Mason. The meeting was jointly chaired by Mr Mason and Mr Eliasson. Mr Vartio and Mr van Hoeylandt assisted and gave additional input when required. 29 representatives from 18 Member states and Norway participated.

- The procedures how to update the directive was explained by Mr Mason i.e. by comitology in accordance with Article 10 of the Directive.
- The Articles and Annex 1 of the Directive was reviewed page by page (220 pages) all the draft amendments were considered, leaving the editorial amendments aside. Comments were made by Member state experts, Mr Mason and EMSA staff. In many cases a consensus was reached and a proposal for a draft text could be made. Consensus could not always be reached, partly due to varying views and different MSs interpretations, reflecting the complexity of the Directive. In several cases proposals by MSs on amendments could not be carried forward due to procedural reasons i.e. comitology. In some cases it was concluded that the problem discussed actually was a flag state issue. Proposals to, for various reasons, actually delete certain provisions were expressed. Other MSs commented that the directive actually was implemented 1 July 1998 and that their ships were complying with the above mentioned provisions.
- This item took the full day and the meeting was closed at approximately 1900 hrs and it was agreed to start the second day 0900 hrs.

The second session, held on 28 May 2008, had the same setup and participation as the first session.

- The outcome of the first session was reviewed.
- The document, on Annex 2, containing the MSs comments (29 pages, 111 comments) was reviewed, comment by comment. Conclusions on some comments had already been reached when the text of the Directive was reviewed during the previous session.
- Several MSs had comments and questions regarding exemptions and how to deal with these. There was a general request that all exemptions issued and reported to COM (Article 9) should by some means be made available for all MSs. This will be dealt with, by COM.
- The draft for a Passenger ships safety certificate form was reviewed and discussed. Various comments from MSs will be reflected and some points in the form will be redrafted.

- The draft proposing an option to the carriage requirements in SOLAS chapter IV for radio equipment (based on comments from FI) for class D ships was reviewed and commented. It can be noted that a similar requirement has been notified by at least two MSs. No consensus was made as it was questioned if Article 6.1(b) could be amended as proposed by EMSA. This will be further investigated by COM.

Under the Agenda item "Any other business" various issues were discussed.

- The difficulty to apply certain provisions to "small" ships (ships of a length of less than 24 metres) and what is small ship (definition). It was suggested that EMSA, based on the comments from the MSs, should add to chapter I (General provisions) a list of regulations in the annex, whose provisions are difficult to apply to small ships. A draft text to the list should be added regarding the application i.e. as an optional solution.
- EMSA mentioned that the word halon could be found in two regulations (not as a carriage requirement) and it was concluded that halon as a fire extinguish medium was totally banned within the EU. EMSA will redraft the text regarding this subject.
- Sweden had a comment regarding portable fire extinguishers in the engine room. A draft text to amend the regulation will be submitted by SE.
- Greece presented a paper regarding the provisions in regulation II-1/B/6.1.4 "Means of escape" The concern from Greece is that as the Directive is written today, a class A / SOLAS ship, constructed before 1 October 1994, cannot trade in Sea area B without fundamental conversions of the accommodation (length of the corridors). A draft text to amend the regulation was included in the paper submitted by Greece. In addition the wordings of Article 4.1 regarding class A ships can be interpreted as providing that class A ships cannot trade in Sea areas other than class A. Article 4.1 cannot be amended through comitology.
- Ireland had some comments regarding catamarans: The directive is applicable to catamarans in domestic trading although the provisions in the directive are by origin and nature adapted for mono hull ships and are in many ways not suitable for catamarans. Many comments were made on this issue related to fire equipment, stability and the inclining experiment etc. The inclining experiment, which was a question from the United Kingdom, is mandatory in the Directive where the High Speed Craft Code on the same issue takes a more flexible approach on the same issue. Another perplexity on this is that catamarans built for domestic service not always are High Speed Crafts by definition.
- Norway has ships engaged in whale safari. Most of these ships are certified for sea area C, but to see the whale they have to sail in sea area B. Norway asked for advice and experience regarding the MSs

policy of the issuing of exemptions within sea area B when operation conditions like day light, good visibility, smaller significant wave height etc are present. Reference was given to Article 7.3 while the general opinion of the meeting was that the issuing of exemptions should not be to "generous" especially not when it comes to important safety rules like stability or fire extinction. In addition, when reviewing the document with the MSs comments, Norway had an issue regarding "open sea effect" where they had an interpretation problem and had proposed to remove the "open sea effect" criterion. This cannot be done through comitology. Norway also asked if other MSs considered a risk factor in determining this criterion. Following a general discussion a MS replied that they could communicate the issue bilaterally with Norway.

- During the meeting the issue of life jacket lights had been mentioned. According to the actual provisions life jacket lights are only required to be carried on ro-ro passenger ships. EMSA came back on this issue as life jackets lights has been a requirement on passenger ships on international voyages since 1 July 1998. It was proposed to add this requirement to the provisions in Annex I, Chapter III, with a reasonable time frame for the implementation.
- It was agreed that EMSA will consolidate and consider the input received and redraft a text for circulation to the MSs for comments. Provided that the ongoing work will continue as planned, the draft will be submitted to COM for putting to the COSS in October 2008.
- The meeting was closed at 1330 hrs.

Workshop Conclusions

General conclusions

- The general impression of the meeting was very positive. Constructive input was added by the participants with the aim to come to an agreement and to a conclusion on a number of issues and questions.
- Opinions were expressed that this kind of meeting should be held once a year and that it could be compared with the discussions held in an IMO Sub-committee meeting.
- A number of issues could not be addressed due to procedural matters. These issues are mainly related to the scope of the directive and the difficulty to apply the Directive to small ships. These issues have to be addressed in the future at the relevant fora.
- Several MSs reported that there is trend that passenger ships for domestic service are being constructed in aluminium, FRP (Fibre Reinforced Plastic) and wood and hence not falling under the scope of the Directive; Article 3.2 (a). As a result MSs have to apply national legislation, or in the absence of such legislation, adopt new rules for these ships.
- In all, there was a mutual understanding that the Directive 98/18/EC on safety rules and standards on passenger ships is an extremely complex document of legislation.

Annexes:

1. Agenda
2. List of Participants