



**COUNCIL OF
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COVER NOTE

from: Presidency
to: Permanent Representatives Committee

No. prev. doc.: 15891/08 MAR 218 ENV 845 CODEC 1577
No. Cion prop.: 6436/06 MAR 16 ENV 97 CODEC 155

Subject : Proposal for a Directive of the European Parliament and of the Council
establishing the fundamental principles governing the investigation of accidents in
the maritime transport sector and amending Directives 1999/35/EC and
2002/59/EC

Veillez trouver ci-joint les textes de compromis proposés par le rapporteur, Monsieur Kohlíček.

ACCIDENT INVESTIGATIONS

1. INVESTIGATIONS FOR SERIOUS ACCIDENTS

Article 5, paragraph 2

“In addition, in the case of a serious accident the investigative body shall carry out a preliminary examination in order to decide whether or not to undertake a safety investigation. Where the investigative body decides not to undertake a safety investigation, the reasons for that decision shall be recorded and shall be included in the marine casualty or incident notification data referred to in Annex II.

In the case of any other marine casualty, the investigative body shall decide whether or not a safety investigation will be undertaken.

In the decisions referred to in the first and second subparagraphs, the investigative body shall take into account the seriousness of the casualty or incident, the type of vessel and/or cargo involved, and the potential for the findings of the safety investigation to lead to the prevention of future casualties and incidents. »

Annex II add new number 32a)

*Brief description of the reasons not to undertake a safety investigation
(AM 28 is maintained)*

2 COMMON METHODOLOGY

Article 5, paragraph 4, 1st subparagraph

« When carrying out safety investigations, the investigative body shall follow the common methodology for investigating marine casualties and incidents developed pursuant to Article 2(e) of Regulation (EC) No 1406/2002. Investigators may exceptionally depart from the methodology in specific cases when this can be justified as necessary, in their professional judgment, and if indispensable to achieve the aims of the investigation.

The Commission shall adopt or modify this methodology for the purposes of this Directive, taking into account any relevant lessons drawn from safety investigations. »

3 MULTIPLE INVESTIGATIONS

Article 7 paragraph 1

« In principle, each marine casualty or incident shall be subject to only one investigation carried out by a Member State or a leading Member State with the participation of any other substantially interested Member States. In cases of safety investigations involving two or more Member States, the Member States concerned shall therefore cooperate with a view to rapidly agreeing which of them is to be the lead investigating Member State. They shall make every effort to agree on the procedures to investigate. In the framework of this agreement, other substantially interested States shall have equal rights and access to witnesses and evidence as the Member State conducting the safety investigation. They shall also have the right to see their point of view taken into consideration by the lead investigating Member State.

Conducting parallel safety investigations into the same marine casualty or incident shall be strictly limited to exceptional cases. In such a case, Member States shall, notify to the Commission the reasons for conducting such parallel investigations. Member States conducting parallel safety investigations shall cooperate with each other. In particular, the investigative bodies involved shall exchange any pertinent information gathered in the course of their respective investigations. If nevertheless diverging conclusions are reached, the report referred to in Article 14(1) shall outline the reasons therefor.

Member States shall abstain from any measure which could unduly preclude, suspend or delay the conduct of a safety investigation falling within the scope of this Directive.

(new recital 14a proposed by the Council remains unchanged)