

Draft

COMMISSION DIRECTIVE/EC

of

**amending Directive 2002/59/EC establishing a Community vessel traffic monitoring
and information system**

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Community,

Having regard to ¹, and in particular Article thereof,

Whereas:

- (1) .
- (2) The measures provided for in this Directive are in accordance with the opinion of the Committee,

HAS ADOPTED THIS DIRECTIVE:

Article 1

Directive 2002/59/EC is amended as follows:

- (1) Article 3 is amended as follows:

In Article 3 of Directive 2002/59/EC, the following points are added:

1. Point (n) is replaced by the following:

'(n) 'coastal station' means any of the following designated by Member States pursuant to this Directive: a vessel traffic service; a shore-based installation responsible for a mandatory reporting system approved by the IMO or adopted by national regulations; an AIS shore-based installation developed by the Member States for receiving and utilising the AIS information transmitted by vessels; or a body responsible for co-ordinating search and rescue operations or operations to tackle pollution at sea.'

2. The following points (r) and (s) are added:

'(r) 'National Competent Authority (NCA)' means an authority or body within a Member State responsible for the management of the national system set up to manage and exchange electronically the information referred to in this Directive. '

'(s) 'UN LOCODE' means the United Nations Code for Ports and Other Locations.'

- (2) Annexes I to IV are replaced by the text in the Annex to this Directive.

¹ OJ L , , p. . [Name of act] as [last]amended by [Name and number of act] (OJ L , , p.).

Article 2
Transposition

1. Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by at the latest. They shall forthwith communicate to the Commission the text of those provisions.

When Member States adopt those provisions, they shall contain a reference to this Directive or be accompanied by such a reference on the occasion of their official publication. Member States shall determine how such reference is to be made.

2. Member States shall communicate to the Commission the text of the main provisions of national law which they adopt in the field covered by this Directive.

Article 3

This Directive shall enter into force on the twentieth day following that of its publication in the *Official Journal of the European Union*.

Article

This Directive is addressed to the Member States.

Done at Brussels,

For the Commission

Member of the Commission

ANNEX
'ANNEX I
NOTIFICATION OF INFORMATION

The information listed in this Annex shall be submitted and exchanged electronically in accordance with the provisions laid down in Annex III concerning the European maritime information and exchange system, SafeSeaNet (SSN).

The master, the owner, the operator or the agent of the ship must forthwith inform the competent authority responsible for the national SafeSeaNet system or the port authority of any change to the information notified pursuant to this Annex.

A. Information resulting from Directive 2002/59/EC

1. Information to be notified in accordance with Article 4 - general information

- (a) ship identification (name, call sign, MMSI number and IMO identification number),
- (b) previous port before port of destination given in UN LOCODE;
- (c) port of destination given in UN LOCODE,
- (d) estimated time of arrival to the port of destination and the pilot, VTS or coastal station areas, as required by the competent authority,
- (e) estimated time of departure from the port ,
- (f) total number of persons on board.

Information in accordance with (a) to (f) shall also be notified by ships at anchor outside port areas. The position of the ship at anchor shall be given in UN Locode when available, or in co-ordinates, latitude and longitude.

2. Information to be notified in accordance with Article 12 - Cargo information

- (a) the correct technical names of the dangerous or polluting goods, the United nations (UN) numbers where they exist, the IMO hazard classes in accordance with the IMDG, IBC Codes and, where appropriate, the class of the ship needed for INF cargoes as defined in Regulation VII/14.2, the quantities of such goods and, if they are being carried in cargo transport units other than tanks, the identification number thereof;
- (b) address from which detailed information on the cargo can be obtained electronically.

3. Information to be notified in accordance with Article 13

A. General information

- (a) ship identification (name, call sign, MMSI number and IMO identification number),
- (b) port of departure given in UN LOCODE and estimated time of departure;

- (c) port of destination given in UN LOCODE,
- (d) estimated time of arrival to the port of destination and the pilot, VTS or coastal station areas, as required by the competent authority,
- (e) estimated time of departure from the port,
- (f) total number of persons onboard.

B. Cargo information

- (a) the correct technical names of the dangerous or polluting goods, the United Nations (UN) numbers where they exist, the IMO hazard classes in accordance with the IMDG, IBC and IGC Codes and, where appropriate, the class of ship as defined by the INF code, the quantities of such goods [and their location onboard] and, if they are being carried in cargo transport units other than tanks, the identification number thereof:
- (b) confirmation that a list or manifest or appropriate loading plan giving details of the dangerous or polluting goods and their location on the ship is onboard
- (c) address from which detailed information on the cargo can be obtained electronically.

4. Information to be notified in accordance with Article 5

- A. ship identification (name, call sign, MMSI number and IMO identification number),
- B. date and time,
- C or D. position in latitude and longitude or, true bearing and distance in nautical miles from a clearly identified landmark,
- E. course,
- F. speed,
- I. port or anchorage of destination and estimated time of arrival,
- P. cargo and, if dangerous cargo onboard, quantity and IMO class, and address from which detailed information on the cargo can be obtained electronically
- W. total number of persons on board,
- X. various information:
 - characteristics and estimated quantity of bunker fuel, for ships carrying more than 5000 tons of bunker fuel,
 - navigational status.

B. Information resulting from other maritime safety legislation, (in accordance with Annex III)

1. Information notified in accordance with Directive 2000/59/EC

The Commission shall ensure that the central SafeSeaNet database is capable of receiving and transmitting the following information in electronic form:

(a) "Waste Alert Message"

When in accordance with Article 11, paragraph 2 (d) of Directive 2000/59/EC, a Member State informs, through the SafeSeaNet system, the competent authority of the next port of call that a ship has proceeded to sea without having complied with Articles 7 or 10 of Directive 2000/59/EC, the following information shall be included:

- (i) ship identification (name, call sign, MMSI number and IMO identification number),
- (ii) description of non-compliance with the waste delivery requirements, indicating at least the name of the port where the delivery was due, the time/date where the ship left the port and reasons why the ship should be inspected in the next port of call,
- (iii) if an inspection was carried out, any relevant information concerning the inspection, with the indication of deficiencies found and action taken.

(b) Notification in accordance with Article 6 of Directive 2000/59/EC

The SafeSeaNet system shall be capable of handling the notification referred to in Article 6 of Directive 2000/59/EC in electronic form. When they transmit such information through SafeSeaNet, Member States shall ensure that the following information is provided:

1. Name, call sign and, where appropriate, IMO identification number of the ship,
2. Flag State,
3. Estimated time of arrival (ETA),
4. Estimated time of departure (ETD),
5. Previous port call,
6. Next port of call,
7. Last port and date when ship-generated waste was delivered,
8. Indication whether the master intends to deliver all, some or none of the ship's waste into a port reception facilities,
9. Type and amount of waste and residues to be delivered and/or remaining on board, and percentage of maximum storage capacity:

(a) Types of waste:

- Waste oils (sludge, bilge water or others (to be specified),
 - Sewage
 - Garbage (food waste, plastic or other),
 - Cargo-associated waste (to be specified),
 - Cargo Residues (to be specified),
- (b) Information to be provided for each item mentioned in (a):
- Amount of waste to be delivered (m³),
 - Maximum dedicated storage capacity (m³),
 - Amount of waste retained on board (m³),
 - Port at which remaining waste will be delivered,
 - Estimated amount of waste to be generated between notification and next port of call (m³).

The amounts of cargo-associated waste and cargo residues may be estimates

2. Information to be notified in accordance with Article 6 of (EC) Regulation No. 725/2004

In accordance with Article 6 of (EC) Regulation No. 725/2004 concerning the provision of security information prior to entry into port, Member States shall require that the following information, listed in IMO MSC Circular N° 1130 and based on SOLAS Regulation XI-2/9.2.1, is sent through SafeSeaNet to the national competent authority for security designated by the Member State, unless an exemption has been granted under Article 7 thereof:

- (a) Particulars of the ship and contact details
- Ship identification (name, call sign, IMO identification number and, if available, Inmarsat call numbers);
 - Flag State;
 - Port of registry;
 - Type of ship;
 - Gross tonnage;
 - Name of Company;
 - Name and 24-hour contact details of the Company Security Officer (CSO).

(b) Port and port facility information

- Port of arrival,
- Port facility of arrival (if known),
- Expected date and time of arrival of the ship in port (ETA)
- Primary purpose of call.

(c) Information based on SOLAS regulation XI-2/9.2.1

- Confirmation that the ship possesses a valid International Ship Security Certificate (ISSC), or an Interim ISSC, the name of the issuing authority and its expiry date; if there is no valid Certificate, explain why;
- Whether the ship has an approved Ship Security Plan (SSP) on board;
- The security level at which the ship is currently operating,
- The last ten port facilities called at, their UN LOCODES, the dates of arrival and departure, and the security level at which the ship was operating,
- Whether or not any special or additional security measures not in the approved SSP were taken during any of the last 10 calls at port facilities and if so details of the measures taken,
- A list and the location (latitude and longitude) of all ship-to-ship activities carried out during the period of the last ten calls at port facilities,
- Whether the appropriate ship security procedures in the SSP were maintained during the ship to ship activity listed above and if not details of the security measures applied instead,
- Location of the ship at the time this report is made,
- General description of the cargo aboard the ship,
- Whether the ship is carrying any dangerous substances as cargo covered by any of Classes 1, 2.1, 2.3, 3, 4.1, 5.1, 6.1, 6.2, 7 or 8 of the IMDG Code and if so include the Dangerous Goods Manifest (IMO FAL Form 7) (or relevant extract, i.e. a Hazmat notification in accordance with Article 13 of Directive 2002/59) or a link to it;
- Copy of ship's crew list (IMO FAL Form 5) or a link to it,
- Copy of the ship's passenger list (IMO FAL Form 6) or a link to it.

(d) Other security related information

- any security-related matter you wish to report, including details thereof

(e) Name and contact details (telephone number) of the agent of the ship at intended port of arrival.

(f) Identification of person providing the information

- Name and title or position: Master / Ship Security officer (SSO) / Company Security Officer (CSO) / Ship's agent (as above),
- Date/Time/Place of completion of report.

ANNEX II

REQUIREMENTS APPLICABLE TO ON-BOARD EQUIPMENT

I. Ships engaged on international voyages

Ships engaged on international voyages which call at a port of a Member State of the Community shall be fitted with an automatic identification system (AIS) and a voyage data recorder (VDR) in accordance with the technical and performance standards laid down in Chapter V of SOLAS.

II. Ships engaged on domestic voyages

1. Automatic identification systems (AIS)

Ships engaged on a domestic voyage within a Member State shall be fitted with an automatic identification system (AIS) which complies with the technical and performance standards developed in accordance with Chapter V of SOLAS as follows:

- (a) Passenger ships, irrespective of size, and other ships of 300 gross tonnage and upwards built on or after 1 July 2002;
- (b) Passenger ships, irrespective of size, tankers of 300 gross tonnage and upwards and other ships of 3000 gross tonnage and upwards built before 1 July 2002;
- (b) Ships, other than passenger ships and tankers, of 300 gross tonnage and upwards but less than 3 000 gross tonnage built before 1 July 2002: not later than 1 July 2007.

2. Voyage Data Recorder (VDR) systems

(a) Ships engaged on a domestic voyage within a Member State shall be fitted with a voyage data recorder (VDR) which complies with the technical and performance standards developed in accordance with Chapter V of SOLAS as follows:

- .1 passenger ships constructed on or after 1 July 2002;
- .2 ro-ro passenger ships constructed before 1 July 2002;
- .3 passenger ships other than ro-ro passenger ships, constructed before 1 July 2002; and
- .4 ships, other than passenger ships, of 3000 gross tonnage and upwards constructed on or after 1 July 2002.

(b) Ships engaged on a domestic voyage within a Member State shall be fitted with a simplified voyage data recorder (S-VDR) which complies with the technical and performance standards developed in accordance with Chapter V of SOLAS as follows:

- (i) in the case of cargo ships of 20 000 gross tonnage and upwards constructed before 1 July 2002 at the first scheduled dry-docking after 1 July 2006 but not later than 1 July 2009;
- (ii) in the case of cargo ships of 3000 gross tonnage and upwards but less than 20 000 gross tonnage constructed before 1 July 2002, at the first scheduled dry-docking after 1 July 2007 but not later than 1 July 2010;

IV. Exemptions

1. Exemptions from the requirement to carry AIS on board

(a) Member States may exempt passenger ships below 15 metres or 300 gross tonnage engaged in domestic trade from the application of the requirements concerning AIS laid down in this Annex.

(b) Member States may exempt passenger ships of 300 gross tonnage and upwards but less than 500 gross tonnage sailing exclusively within the internal waters of a Member State and outside routes normally used by other ships fitted with AIS, from the carriage requirements for AIS laid down in this Directive. The duration of the trip shall not exceed 15 minutes and the number of passenger shall not be higher than 50.

2. Exemptions from the requirement to carry a VDR or S-VDR on board

Member States may grant exemptions from the requirement to be fitted with a VDR or a S-VDR as follows:

- Passenger ships only on voyages in sea areas other than those covered by Class A, as referred to in Article 4 of Council Directive 98/18/EC of 17 1998 on safety rules and standards for passenger ships² may be exempted from the requirement to be fitted with a VDR,

- Ships, other than ro-ro passenger ships, constructed before 1 July 2002 may be exempted from the requirement to be fitted with a VDR or a S-VDR where it can be demonstrated that interfacing a VDR or a S-VDR with the existing equipment on the ship is unreasonable and impracticable,

- Cargo ships constructed before 1 July 2002 may be exempted from the requirement to be fitted with a S-VDR when such ships will be taken permanently out of service within two years after the implementation date specified in Paragraph II.2 (b) (i) and (ii) above.

² OJ L 144, 15.5.1998, p.1.

ANNEX III

European maritime information and exchange system, SafeSeaNet, (SSN)

1. Member States and the Commission shall in accordance with article 14 of Directive 2002/59/EC develop and maintain a European maritime information and exchange system, SafeSeaNet (SSN). The system shall enable the receipt, storage, retrieval and exchange of information related to maritime safety, maritime security, the marine environment and the efficiency of maritime traffic and maritime transport.
2. The system shall use open standards and be capable of interacting with public and private systems used to create, provide or use information within SSN.
3. The Commission shall develop and maintain in consultation with the Member States an “Interface and Functionalities Control Document”, IFCD, which describes in detail the information scenarios, the information functions and the relations between information. The operative functions of the information or automatically generated sources of information shall be described to a common basic standard to be incorporated in the national SSN system of Member States and other systems for tracking, information, management and traffic and situation imaging that constitutes the national Vessel Traffic Monitoring and Information (VTMIS) systems. The timing and performance requirements shall be detailed as well as data interchange, protocols and parameters. The ICFD shall include rules for provider and user access rights and data security for the transmission and exchange as well as the short and long term storage of the information.
4. SSN shall include the information exchange requirements and functionalities obligations in accordance with other maritime safety and security Community legislation such as:
 - Directive 95/21/EC on port State control of shipping,
 - Directive 2000/59/EC on port reception facilities for ship-generated waste and cargo residues,
 - Regulation (EC) No. 725/2004 on enhancing ship and port facility security,
 - Directive 2002/6/EC of the European Parliament and the Council on reporting formalities for ships arriving in and/or departing from ports of the Member States of the Community.
5. In order to provide the appropriate technical expertise needed for the development and management of SSN, the Commission shall be assisted by a group of operational and technical experts from the Member States. The Commission may establish intersessional task forces in order to prepare the work of the group.
6. The Commission shall bring matters of a principal nature to the Committee set up under this Directive and if appropriate to the Committee set up under Regulation (EC) No. 725/2004.
7. The SSN system shall enable the connection of all relevant authorities (ports, coastal stations and others) and of the main shipping actors (shipowners, agents, masters, shippers and others) in all Member States through a central point of contact. National

systems shall be connected into a network which shall enable the users and data providers to perform their functions in accordance with the relevant reporting requirements or operational activities.

8. The functionality of the national systems shall be developed in such a way as to enable the data providers, including masters, owners, agents, operators, shippers and relevant authorities to submit the information only once. The information submitted shall be available for use in all relevant reporting, notification and VTMIS systems.

The information received in accordance with this Directive, including the information on dangerous or polluting goods concerning scheduled services to which an exemption has been granted in accordance with Article 15, shall be stored and made available by the national SSN systems at least six months after the end of the voyage.

9. The national SafeSeaNet system shall be implemented by a National Competent Authority (NCA).

10. The management of the national network by the NCA shall include the national co-ordination of data users and data providers, the establishment and maintenance of the necessary national IT infrastructure and of the procedures as described in the IFCD.

11. The national systems shall be linked into the European network through the central database, the SSN Cluster.

ANNEX IV

Measures available to Member States in the event of a threat to maritime safety and the protection of the environment

(pursuant to Article 19(1))

Where, following an incident or circumstance of the type described in Article 17 affecting a ship, the competent authority of the Member State concerned, deems, within the framework of international law, that it is necessary to avert, lessen or remove a serious and imminent threat to its coastline or related interests, the safety of other ships and their crews and passengers or of persons on shore, or to protect the marine environment, that authority may, inter alia:

- (a) restrict the movement of the ship or direct it to follow a specific course. This requirement does not affect the master's responsibility for the safe handling of his ship;
- (b) give official notice to the master of the ship to put an end to the threat to the environment or maritime safety;
- (c) send an evaluation team aboard the ship to assess the degree of risk, help the master to remedy the situation and keep the competent coastal station informed thereof;
- (d) instruct the master or the assistance and towage companies involved to put in at a place of refuge in the event of imminent peril, or cause the ship to be piloted or towed.

In the case of a ship which is towed under a towage or salvage agreement, the measures taken by the competent authority of a Member State under paragraph (a) and (d) above may be also addressed to the assistance, salvage and towage companies involved.'