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OPINION OF THE CPMR

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THE THIRD PACKAGE OF EU MARITIME SAFETY MEASURES “ERIKA 3 PACKAGE”

1. At the end of 2005, the European Commission drafted seven proposed directives on maritime safety, which it submitted to the Council, Parliament, Economic and Social Council and Committee of the Regions for examination. These proposals focus respectively on:

- Compliance with flag State obligations;
- Amendment to the directive on classification societies;
- Amendment to the directive on port State control;
- Amendment to the directive regarding the introduction of an EU vessel traffic monitoring and information system;
- A proposed directive on accident investigation;
- A proposed directive on shipowners' civil liability and financial guarantees;
- A proposed regulation on the liability of companies transporting passengers by sea or waterway in the event of an accident.

2. This raft of proposals completes the existing measures known as Erika 1 and Erika 2 and focuses on two main aspects: i) stepping up the prevention of accidents and pollution; and ii) ensuring a more effective response to accidents.

These proposals also provide a response to the findings of the Temporary Committee of the European Parliament on improving maritime safety (MARE), to which the CPMR contributed in 2004.

3. **Regarding** the measures set out in the Erika 3 package, the CPMR considers that they make undeniable progress on two points identified as being the main causes of breakdowns in the maritime safety system. Firstly, the application of the rules in force, and secondly the accountability of players involved in the maritime transport sector. In this regard, the CPMR very much welcomes these major steps forward.

4. These proposals fall within a wider context marked by the Commission's initiative to strengthen the European Union's maritime dimension. The Green Paper on the EU's maritime dimension currently in preparation should help to enhance maritime assets and take on board the specific interests of this sector. This is in line with the wishes of the CPMR, which has always supported the idea of a link between the level of interest Europe shows in maritime affairs and compliance with safety regulations. The greater the interest shown, the better the rules will be applied. The CPMR therefore hopes that the Green Paper will help to highlight this link and provide the opportunity to step up measures allowing for cooperation between the different EU policies related to maritime safety.

5. Regarding the human dimension of this question, the CPMR regrets that there are no proposals that explicitly cover this aspect. The draft directive on port State control is the only one to address the social dimension, but simply proposing minimum standards. The CPMR wishes to draw attention to the issue of crew qualifications and particularly the need to introduce measures to ensure the conformity of training certificates that may be presented together with improvement of working conditions on board vessels.

6. Regarding the role of regional and local authorities, particularly the maritime regions, the CPMR acknowledges that competences lie mainly with international bodies and central governments, and does not intend to lay claim to a place in designing legislation. Nonetheless, on account of the risks to their economies and territories and the contribution they make in the event of accidents, maritime regions do have a legitimate right to be involved in this policy and be considered as fully-fledged partners in its implementation.

One such case is the provisions set out in the directive on the EU traffic monitoring system amending Article 20 of the existing directive (2002/59) on places of refuge. Coastal authorities have no say in, nor are they informed of these provisions, even though it is their territories which are directly concerned. It would therefore be appropriate for the proposed regulatory measures to be accompanied by a new partnership-based approach to the way they are governed, which would acknowledge the role of these authorities in their contribution towards maritime safety.

7. **Similarly** the same should apply to measures on the obligation to draw up emergency response plans as proposed in the draft directive on the EU traffic monitoring system. This provision may be considered as an initial response to the coastal authorities' request on the obligation to equip places of refuge. As underlined by Brittany Region and the Committee of the Regions: *"another request had been put forward by these authorities when the first text on the issue was adopted in 2000: by agreeing to take in a vessel within a place of refuge, the coastal authorities concerned should be eligible for compensation. This request had been rejected by the Commission and the Council. The new provision on the obligation to provide financial guarantees may be seen as some form of response to the demand made by these authorities. It is nevertheless a limited one, since there is a big difference between full compensation and a capped financial guarantee."*

8. The **regional** authorities have a role to play partly through transnational cooperation actions within the different sea areas. In this respect, the CPMR recalls that it led a fact-finding mission on transnational cooperation and maritime safety under the Interreg IIIB Atlantic Area programme. This mission identified the eleven priority actions in this field to be addressed over the next programming period 2007-2013. The CPMR requests that these priorities be taken into account.

9. The CPMR is aware of the difficulties and the risks that would be incurred if the international community were to review international maritime law. It does however question whether such an examination can be put off for much longer, especially with regard to the sensitive areas that are territorial waters, as well as EEZ (exclusive economic zones). The CPMR draws attention to the fact that no significant progress may be made unless this kind of action is taken, and that the current advances in stepping up maritime safety are a result of improvements to the existing system, but fail to take into account the need to adapt to current ship traffic conditions and how this traffic is set to develop in the future.

It is important that discussions in this area take on board new uses of the sea, the increasing number of flags of convenience, and the emergence of new problems particularly those related to sea pollution and maintaining biodiversity. This should at least lead the EU to start looking at introducing mechanisms for interpreting international maritime law.

10. Now that the CPMR has a raft of tougher legislation at its disposal with the three "Erika Packages", it proposes to organise a "Forum of Maritime Regions" at the end of 2006, as agreed at the Nantes seminar in October 2003. This event will aim to assess what progress has been made and how these measures are applied and delivered, and identify from the point of view of the regions what further steps still need to be taken.

In respect of this final point, the CPMR proposes to begin looking as soon as possible at two particular issues in greater detail, the objectives of which are set out in the annex:

- Stepping up safety rules for container ships (annex 1);
- Setting up a ship dismantling industry (annex 2).

Annex 1

STEPPING UP SAFETY RULES FOR CONTAINER SHIPS

On the sidelines of the Europe of the Sea seminar that took place in Brest on 17 February, CPMR members were notified by the Maritime Prefect responsible for the area of serious risks caused by the conduct of certain container ships.

Either as a result of an excessive number of containers loaded on deck, or poor stowage conditions, it is frequent that in rough weather these ships lose part of the cargo at sea.

This entails three types of risk:

- for navigation, especially in very busy shipping lanes;
- for the marine environment, depending on the content of the containers;
- for coastal populations when hazardous or toxic cargo is washed ashore.

Unfortunately some maritime authorities are not equipped to cope with this situation as, contrary to the case of oil tankers for instance, there is no legal instrument available to them that allows them to take court action against shipowners or ships' captains who, through negligence or carelessness, put persons, goods and the environment at risk.

The CPMR is especially concerned by the potential effects of this type of situation on coastal populations, and consequently urges the European Commission, Council and European Parliament:

- to look at the possibility of introducing such instruments,
- to submit these proposals to the Council of Ministers so that action may be undertaken with the relevant international bodies to effectively remedy this situation.



Annex 2

A EUROPEAN SHIP DISMANTLING INDUSTRY

With a growing number of ships in their fleet reaching the end of their life, EU Member States face the tricky question of how to dispose of these vessels in compliance with environmental standards, while at the same time bearing the high cost of this kind of operation.

So far, three solutions have been used:

1. Exportation of vessels in their current state to third countries;
2. Scuttling, i.e. the deliberate sinking of a vessel at sea according to the provisions laid down in the Marpol Convention;
3. Dismantling in adapted infrastructures located within EU territory and operating in line with stringent environmental standards.

Whereas:

- The first is unacceptable in the light of legal provisions banning the export to third countries of EU waste of an extremely hazardous nature;
- The second, which consists in considering sea beds as dustbins, is highly questionable and fails to fit in with the image of the European Union as a custodian of the environmental heritage of the seas and oceans;
- The third implies high costs that are difficult to bear by a single Member State.

The CPMR considers that the solution to this problem requires an EU-wide approach, by setting up a European ship dismantling industry benefiting from EU support.

It requests the EU authorities to plan to introduce adapted measures as part of the actions to be taken following the publication of the Green Paper on the maritime dimension.