

PRESENTATION OF THE REVIEW OF THE EUROPEAN DIRECTIVES ON SHIPPING : SURFRIDER FOUNDATION EUROPE'S REACTION

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On Thursday 1st June, [the European Commission presented the revision of 5 directives](#). The vision ? "To modernise EU rules on maritime safety and prevent water pollution from ships.". Surfrider Foundation Europe, an NGO dedicated to the protection of the Ocean and that monitors the impact of maritime transport, wishes to react to this presentation.

5 texts proposed

As Surfrider Foundation Europe had hoped, 5 texts have been revised at once: **Flag State Directive** 2009/21/EC, **Port State Control Directive** 2009/16/EC, **Accident Investigation** Directive. 2009/18/EC. The last 3 were adopted in April 2009, and are known as **the Erika III package**.

2 revisions have also been presented: The Directive on **ship-source pollution** 2005/35/EC, and the **Regulation on the mandate of EMSA** (European Maritime Safety Agency) 1406/2002.

Surfrider Foundation Europe's recommendations not widely followed

On 23 May, in anticipation of the revision of these texts, [Surfrider Foundation Europe virtually submitted its white paper on maritime safety to Adina Valean](#), the European Commissioner responsible for the Directorate-General for Mobility and Transport.

[Click here for the full white paper](#)

Surfrider Foundation Europe was hoping for strong and ambitious measures enabling Europe to be a forerunner in the adoption of international texts. However, **this has not happened**, a fact deplored by the NGO, which has been fighting for more than 20 years to make the maritime transport industry more respectful of the ocean, particularly in relation to the loss of containers at sea.

Directive on ship-source pollution: a change of title that worries

In its presentation of the revision of **Directive 2005/35/EC**, the European Union explains that it wants to change the name of the directive "by adding the

element 'application of international standards'. This change is intended to clarify the fact that the purpose of the directive is not to introduce new substantive standards for ship-source pollution, but to transpose and apply international standards that have already been adopted".

For Surfrider Foundation Europe, which has always urged the European Commission to adopt a more ambitious legislation, **this is a very poor choice** that will not lead to a proactive policy to put an end to pollution from ships. This directive will simply transpose the MARPOL international conventions, without adding any further ambition.

This is a major blow for Surfrider Foundation Europe, which has been pressing for specific measures to prevent and report the loss of containers at sea and to prevent underwater noise.

For the NGO, **the European Commission is losing a very important opportunity to put an end to this pollution**, which is very harmful to the ocean and to biodiversity.

Surfrider Foundation Europe also deplores the time lost by not including clauses that would allow any changes to MARPOL regulations to be automatically transposed into Directive 2005/35/EC. Each time there is a new international regulation, it will have to be transposed into European law, **wasting a considerable amount of time**.

Flag State Directive: a missed opportunity to improve environmental safety

Surfrider Foundation Europe notes an improvement in the area of inspections. The NGO considers the inspection criteria to be more pragmatic: they should enable better monitoring of the most dangerous vessels. **The sharing of electronic data should be improved: this is a good thing.**

However, **Surfrider Foundation Europe deeply regrets that the proposed revision of Directive 2009/21/EC does not oblige EU flag states to comply with a certain number of standards.** Surfrider Foundation Europe would especially have liked the directive to **oblige States to include more information on the condition of ships**, their seaworthiness and crew training, in order to better prevent the risks of marine pollution from maritime transport. However, there are no measures in the text. This means that States such as Malta and Cyprus, for example, will be able to continue not to ratify certain conventions and to be flags that are not optimal in terms of environmental safety.

Directive on port State control: beneficial additions

Surfrider Foundation Europe is delighted that **the BWM and Nairobi Conventions**, which deal with ballast water and wreck removal respectively, have been added to the scope of port state control (Article 1). This was not one of the NGO's express requests, but **any extension of port state control is a good thing**, as it means that ships that do not comply with the standards of these conventions can be refused, even if they fly the flag of a non-EU member state. Surfrider Foundation Europe would nevertheless have liked to see ship dismantling included in this port state control, as the dismantling regulation (1257/2013) is also due to be revised soon (Surfrider Foundation Europe answered the public consultation on this subject).

Surfrider Foundation Europe is also **pleased that its criteria for prioritising the vessels to be inspected have been slightly modified** in Article 6 of the proposal, thus allowing the inspection of vessels deemed to be the most dangerous.

Marine Accident Investigation Directive : a worrying signal

While Surfrider Foundation Europe deplores the fact that there are no measures concerning the loss of containers or collisions between cetaceans and ships, it notes that this directive is more a text for harmonising investigation procedures than an environmental text in the strict sense of the term.

However, Surfrider Foundation Europe would like to focus on one specific point: the proposed revision aims to insert an amendment to article 1: *"Investigations pursuant to this Directive shall not have the aim of determining liability or apportioning blame. However, Member States shall ensure that the marine safety investigation Authority (hereinafter referred to as the 'investigation authority') does not refrain from fully reporting the causes of a marine casualty or incident because fault or liability may be inferred from the findings."*

In other words, investigation reports, such as those of the BEA Mer, will no longer have to guide possible legal proceedings. For Surfrider Foundation Europe, this is a **worrying signal**, as these reports are useful in shedding light on a shipowner's liability in the event of marine pollution.

EMSA mandate regulation: addition of environmental missions

Surfrider Foundation Europe notes a step forward which demonstrates **a certain willingness to fight against pollution**: via the revision of articles 2, 5 and 6, EMSA is explicitly given an environmental mission, which Surfrider Foundation Europe considers to be a real asset in enabling an effective fight against marine pollution.

Surfrider Foundation Europe expresses dissatisfaction with loss of containers

The loss of containers at sea is a particularly crucial issue: at present, European legislation only requires the declaration of container losses in the event of a shipwreck or accident. For Surfrider Foundation Europe, this is a missed opportunity to take better account of these losses. This is why the ocean protection NGO is expressing its dissatisfaction on Twitter to the European Commissioner, who could have seized this opportunity to go further. The Surfrider community in Europe is invited to relay this dissatisfaction.



We remain at the disposal of journalists for any requests for information or interviews.

About Surfrider Foundation Europe

Surfrider Foundation Europe is a not-for-profit organisation dedicated to protecting, safeguarding, enhancing and sustainably managing the world's oceans, coastlines, waves and beaches for all those who enjoy them. Founded in 1990 in Biarritz, France, by surfers, the NGO is now present in 12 European countries. For over 30 years, Surfrider has been active in three areas of expertise: marine litter, water quality and climate. Know more about Surfrider : <https://surfrider.eu/en> or [via this video](#)

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