Oil pollution: Fund for damage compensation, 2003 protocol to the IOPC Convention

2003/0209(AVC) - 08/09/2003 - Initial legislative proposal

PURPOSE : to authorise the Member States to ratify the Supplementary Fund Protocol and to authorise Austria and Luxembourg to accede to the underlying instruments. CONTENT : The Protocol to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 ('the Supplementary Fund Protocol') is aimed at ensuring adequate, prompt, and effective compensation of persons who suffer damage caused by oil spills caused by tankers. By significantly raising the limits of compensation available in the present international system, the Supplementary Fund Protocol addresses one of the most significant shortcomings in the international regulation of oil pollution liability. The maximum limits of compensation by the Supplementary Fund have been established at 750 million SDR, which at the time of adoption corresponded to some 920 million EUR or 1,000 million USD. Articles 7 and 8 of the Supplementary Fund Protocol affect Community legislation on jurisdiction and the recognition and enforcement of judgements, as laid down in Council Regulation 44/2001/EC on jurisdiction and the recognition and enforcement of judgements in civil and commercial matters. The Community and the Member States share competence for subject areas covered by the Supplementary Fund Protocol. The Community has exclusive competence in relation to Articles 7 and 8. Only sovereign States may be party to the Supplementary Fund Protocol. It is not therefore possible for the Community to ratify or accede to the Protocol, nor is there a prospect that it will be able to do so in the near future. The Council should therefore authorise the Member States to sign and conclude the Supplementary Fund Protocol in the interest of the Community, under certain conditions: - Member States must inform the Secretary-General of the International Maritime Organisation in writing that signature, ratification or accession has taken place; - Member States will take the necessary steps to sign before the end of 2003; - Member States must use their best endeavours to ensure that the Supplementary Fund Protocol, and the underlying instruments, are amended in order to allow the Community to become a Contracting Party to them. Only Contracting Parties to the underlying instruments may become Contracting Parties to the Supplementary Fund Protocol. Austria and Luxembourg are not currently parties to the underlying instrument but since the underlying instruments contain provisions affecting Regulation 44/2001/EC, Austria and Luxembourg are also authorised to accede to these instruments before 31/12/05; - Denmark is not taking part in the adoption of this Decision; The text of the Supplementary Fund Protocol is attached in Annex 1 of the Decision.