Implementation of the International Safety Management Code within the Community

2003/0291(COD) - 15/02/2006 - Final act

PURPOSE: to enhance the safety management, operation and pollution prevention of ships flying the flag of a Member Sate.

LEGISLATIVE ACT: Regulation 336/2006/EC of the European Parliament and of the Council on the implementation of the International Safety Management Code within the Community and repealing Council Regulation 3051/95/EC.

CONTENT: the Regulation has as its objective the safe management and operation of ships at sea as well as the prevention of pollution from ships. For these objectives to be realised the Regulation specifies that companies operating ships listed in the Regulation must comply with the "International Management Code for the Safe Operation of Ships and for Pollution Prevention Control", otherwise referred to as the ISM Code. In applying the code companies will be obliged to establish, implement and guarantee proper maintenance of the shipboard and shore-based safety management systems. Flag and port State control administrations will need to complement these measures by controlling the Regulation's application.

The Regulation specifies and establishes a number of definitions relating to the application of the Regulation's provisions. They include, *inter alia*, the following terms: ISM Code, recognised organisation, company, passenger ship, passenger, high speed craft, cargo ship, international voyage, domestic voyage, regular shipping service, ro-ro passenger ferry, passenger submersible craft, mobile offshore drilling unit and gross tonnage. As far the Regulation's scope is concerned it is stated that the provisions set out in the Regulation will only apply to:

- cargo ships and passenger ships, flying the flag of a Member State, engaged on international voyages;

- cargo ships and passenger ships engaged exclusively and domestic voyages, regardless of their flag;

- cargo ships and passenger ships operating to or from ports of the Member States, on a regular shipping service, regardless of their flag; and

- mobile offshore drilling units operating under the authority of a Member State.

The Regulation does not apply to the following category of ships: ships of war and troopships, ships not propelled by mechanical means such as wooden ships, fishing vessels, cargo ships and mobile offshore drilling units of less than 500 gross tonnage, passenger ships and lastly other ro-ro passenger ferries operating in sea areas of Class C and D.

Safety management requirements and certification/verification must be done in accordance with provisions spelt out in the ISM Code. There are derogations foreseen and Member States, who consider it too difficult for companies to comply with the provisions of this Regulation may wholly or partly derogate. This, however, is conditional upon those measures having equivalent achievement to those of the ISM Code. In cases where a Member State wishes to derogate from the Regulation is must inform the Commission.

In other specifications: the Document of Compliance will be valid for up to five years from the date of its issue. Member States are responsible for laying down the rules on penalties applicable to infringements, the Commission will report every two years on the Regulation's implementation and lastly, any amendments to the ISM Code may be excluded from the scope of this Regulation. In adopting this Regulation, Regulation 3051/95 is repealed with effect form 24 March 2006.

ENTRY INTO FORCE: 24 March 2006. As concerns cargo and passenger ships, which are not already required to comply with the ISM Code, this Regulation shall apply as from 24 March 2008.