

**Amended proposal for a Regulation of the European Parliament and of the Council concerning the Committee on Safe Seas and the Prevention of Pollution from Ships and amending the Regulations on maritime safety and the prevention of pollution from ships <sup>(1)</sup>**

(2002/C 103 E/19)

(Text with EEA relevance)

COM(2001) 788 *final* — 2000/0236(COD)

(Submitted by the Commission on 27 December 2001)

<sup>(1)</sup> OJ C 384 E, 19.12.2000, p. 276.

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INITIAL PROPOSAL

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THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 80(2) thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the Economic and Social Committee,

Having regard to the opinion of the Committee of the Regions,

Acting in accordance with the procedure referred to in Article 251 of the Treaty,

Whereas:

(1) The measures implementing the existing Regulations and Directives in the field of maritime safety were adopted by a regulatory procedure involving the committee set up by Council Directive 93/75/EEC <sup>(1)</sup> and, in certain cases, an *ad hoc* committee. These committees are governed by the rules set out in Council Decision 87/373/EEC of 13 July 1987 laying down the procedures for the exercise of implementing powers conferred on the Commission <sup>(2)</sup>.

(2) By its resolution of 8 June 1993 on a common policy on safe seas, the Council approved in principle the establishment of a Committee on Safe Seas and called on the Commission to present a proposal to set up such a committee.

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Unchanged

(2) By its resolution of 8 June 1993 on a common policy on safe seas, the Council approved in principle the establishment of a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and called on the Commission to present a proposal to set up such a committee.

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<sup>(1)</sup> OJ L 247, 5.10.1993, p. 19. Last amended by Directive 98/74/EC (OJ L 276, 13.10.1998, p. 7).

<sup>(2)</sup> OJ L 197, 18.7.1987, p. 3.

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- (3) The role of the Committee on Safe Seas is to centralise the tasks of the committees set up under the Community legislation on maritime safety, and to assist and advise the Commission on all matters of maritime safety and prevention or reduction of pollution of the environment by shipping activities.
- (4) In keeping with the Council Resolution of 8 June 1993, a Committee on Safe Seas should be set up and assigned the tasks previously devolved to the committees established under the existing Community legislation on maritime safety. All new Community legislation adopted in the field of maritime safety should stipulate recourse to the Committee thereby set up on Safe Seas.
- (5) Decision 87/373/EEC has been replaced by Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>(1)</sup>. The purpose of the latter decision is to define the committee procedures applicable and ensure more comprehensive information to the European Parliament and the public on the work of the committees.
- (6) The pertinent provisions of Decision 1999/468/EC should therefore be applied to the Committee on Safe Seas. As the measures required to implement the legislation in the field of maritime safety, are measures of general scope within the meaning of Article 2 of Decision 1999/468/EC, they should be adopted by the regulatory procedure laid down in Article 5 of the Decision.

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- (3) The role of COSS is to centralise the tasks of the committees set up under the Community legislation on maritime safety, the prevention of pollution from ships and the protection of shipboard living and working conditions and to assist and advise the Commission on all matters of maritime safety and prevention or reduction of pollution of the environment by shipping activities.
- (4) In keeping with the Council Resolution of 8 June 1993, a Committee on Safe Seas and the Prevention of Pollution from Ships should be set up and assigned the tasks previously devolved to the committees established under the existing Community legislation on maritime safety, the prevention of pollution from ships and the protection of shipboard living and working conditions. All new Community legislation adopted in the field of maritime safety should stipulate recourse to the Committee thereby set up.
- Unchanged
- (6) The pertinent provisions of Decision 1999/468/EC should therefore be applied to COSS. As the measures required to implement the legislation in the field of maritime safety, the prevention of pollution from ships and the protection of shipboard living and working conditions are measures of general scope within the meaning of Article 2 of Decision 1999/468/EC, they should be adopted by the regulatory procedure laid down in Article 5 of the Decision, subject to Article 7(3) and Article 8 of the same Decision, which specify the role of the European Parliament. To allow COSS to operate in emergencies, it is appropriate to reduce to one month the period set in Article 5(6) of Decision 1999/468/EC.

<sup>(1)</sup> OJ L 184, 17.7.1999, p. 23.

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- (7) The existing maritime safety legislation should also be amended to substitute the Committee on Safe Seas for the committee set up by Directive 93/75/EEC or, where appropriate, for the *ad hoc* committee established under the particular piece of legislation. This Regulation should in particular amend the relevant provisions of Council Regulation (EEC) No 613/91 <sup>(1)</sup>, (EC) No 2978/94 <sup>(2)</sup> and (EC) No 3051/95 <sup>(3)</sup>, in order to insert a reference to the Committee on Safe Seas and to stipulate the regulatory procedure laid down in Article 5 of Decision 1999/468/EC.
- (8) Moreover, the existing Community legislation on maritime safety, is based on the application of rules resulting from international conventions, codes and resolutions in force at the date of adoption of the Community act in question, or at the date specified by the latter. As a consequence, Member States cannot apply the subsequent amendments to these international instruments until the Community directives or regulations have been amended. This has major disadvantages owing to the difficulty of getting the date of entry into force of the amendment at the international level to coincide with that of the regulation integrating this amendment into Community law, not least the delayed application within the Community of the most recent and most stringent international safety standards.
- (9) However, it is necessary to make a distinction between the provisions of a Community act making reference, for the purposes of their application, to an international instrument and Community provisions reproducing an international instrument in full or in part. In the latter case, the most recent amendments to the international instruments cannot in any case be rendered applicable until the Community provisions concerned have been amended.
- (10) Member States should therefore be permitted to apply the most recent provisions of international conventions, with the exception of those explicitly incorporated in a Community act. This can be done by stating that the version of the international convention applicable for the purposes of the directive or regulation concerned is that 'in force', without mentioning the date.
- (7) The existing legislation on maritime safety, the prevention of pollution from ships and the protection of shipboard living and working conditions should also be amended to substitute COSS for the committee set up by Directive 93/75/EEC or, where appropriate, for the *ad hoc* committee established under the particular piece of legislation. This Regulation should in particular amend the relevant provisions of Council Regulations (EEC) No 613/91 <sup>(1)</sup>, (EC) No 2978/94 <sup>(2)</sup> and (EC) No 3051/95 <sup>(3)</sup>, in order to insert a reference to COSS and to stipulate the regulatory procedure laid down in Article 5 of Decision 1999/468/EC.
- (8) Moreover, the existing Community legislation on maritime safety, the prevention of pollution from ships and the protection of shipboard living and working conditions is based on the application of rules resulting from international conventions, codes and resolutions in force at the date of adoption of the Community act in question, or at the date specified by the latter. As a consequence, Member States cannot apply the subsequent amendments to these international instruments until the Community directives or regulations have been amended. This has major disadvantages owing to the difficulty of getting the date of entry into force of the amendment at the international level to coincide with that of the regulation integrating this amendment into Community law, not least the delayed application within the Community of the most recent and most stringent international safety standards.
- Unchanged

<sup>(1)</sup> OJ L 68, 15.3.1991, p. 1.

<sup>(2)</sup> OJ L 319, 12.12.1994, p. 1.

<sup>(3)</sup> OJ L 320, 30.12.1995, p. 14. Amended by Regulation (EC) No 179/98, 23.1.1998, p. 35.

<sup>(1)</sup> OJ L 68, 15.3.1991, p. 1.

<sup>(2)</sup> OJ L 319, 12.12.1994, p. 1.

<sup>(3)</sup> OJ L 320, 30.12.1995, p. 14. Amended by Regulation (EC) No 179/98, 23.1.1998, p. 35.

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- (11) A specific conformity checking procedure should, however, be set up to enable the Commission, after consulting the Committee on Safe Seas, to take whatever measures may be necessary to exclude the risk of amendments to the international instruments being incompatible with the Community legislation or Community policy on in force. Such a procedure must also prevent international amendments from lowering the standard of maritime safety achieved in the Community.
- (12) The conformity checking procedure will only be fully effective if the planned measures are adopted as speedily as possible, but at all events before the expiry of the deadline for the effective entry into force of the international amendment. Consequently, the time available to the Council to act on the proposed measures in accordance with Article 5(6) of Decision 1999/468/EC should be reduced to one month,

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- (11) A specific conformity checking procedure should, however, be set up to enable the Commission, after consulting COSS, to take whatever measures may be necessary to exclude the risk of amendments to the international instruments being incompatible with the Community legislation or Community policy on maritime safety, the prevention of pollution from ships and the protection of shipboard living and working conditions in force. Such a procedure must also prevent international amendments from lowering the standard of maritime safety achieved in the Community.

Unchanged

HAVE ADOPTED THIS REGULATION:

*Article 1***Objective**

The objective of this Regulation is to improve the implementation of the Community legislation on maritime safety, protection of the marine environment and shipboard living and working conditions:

- (a) by centralising the tasks of the committees set up under the pertinent Community legislation by creating a single Committee, to be known as the Committee on Safe Seas;
- (b) by facilitating the process of amending the pertinent Community legislation in the light of developments in the international instruments applicable, protection of the marine environment and shipboard living and working conditions.

The objective of this Regulation is to improve the implementation of the Community legislation referred to in Article 2(2) on maritime safety, the prevention of pollution from ships and shipboard living and working conditions:

- (a) by centralising the tasks of the committees set up under the Community maritime legislation and disbanded by this Regulation by creating a single Committee on Safe Seas and the Prevention of Pollution from Ships, to be known as COSS;
- (b) by facilitating subsequent amendment of the Community maritime legislation in the light of developments in the international instruments applicable to maritime safety, by deleting the references to the date of entry into force of the abovementioned international instruments.

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## Article 2

Unchanged

**Definitions**

For the purposes of this Regulation, the following definitions apply:

1. 'international instruments': the conventions, protocols, resolutions, codes, compendia of rules, circulars, standards and provisions adopted by an international conference, the International Maritime Organisation (IMO), the International Labour Organisation (ILO), the parties to a memorandum of understanding or an international standards body in the field of maritime safety, prevention of pollution from ships and shipboard living and working conditions.

1. 'international instruments': the conventions, protocols, resolutions, codes, compendia of rules, circulars, standards and provisions adopted by an international conference, the International Maritime Organisation (IMO), the International Labour Organisation (ILO), the parties to a memorandum of understanding or an international standards body referred to in the provisions of the Community maritime legislation in force,

2. 'Community maritime legislation': the Community acts in force listed below:

Unchanged

(a) Council Regulation (EEC) No 613/91 of 4 March 1991 on the transfer of ships from one register to another within the Community,

(b) Council Directive 93/75/EEC of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods,

(c) Council Regulation (EC) No 2978/94 of 21 November 1994 on the implementation of IMO Resolution A.747(18) on the application of tonnage measurement of ballast spaces in segregated ballast oil tankers,

(d) Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations <sup>(1)</sup>,

(e) Council Directive 94/58/EC of 22 November 1994 on the minimum level of training of seafarers <sup>(2)</sup>,

Deleted

(f) Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) <sup>(3)</sup>,

(e) Council Directive 95/21/EC of 19 June 1995 concerning the enforcement, in respect of shipping using Community ports and sailing in the waters under the jurisdiction of the Member States, of international standards for ship safety, pollution prevention and shipboard living and working conditions (port State control) <sup>(2)</sup>,

<sup>(1)</sup> OJ L 319, 12.12.1994, p. 20. Amended by Directive 97/58/EC (OJ L 274, 7.10.1997, p. 8).

<sup>(2)</sup> OJ L 319, 12.12.1994, p. 28. Amended by Directive 98/35/EC (OJ L 172, 17.6.1998, p. 1).

<sup>(3)</sup> OJ L 157, 7.7.1995, p. 1. Last amended by Directive 1999/97/EC (OJ L 331, 23.12.1999, p. 67).

<sup>(2)</sup> OJ L 157, 7.7.1995, p. 1. Last amended by Directive 1999/97/EC (OJ L 331, 23.12.1999, p. 67).

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- (g) Council Regulation (EC) No 3051/95 of 8 December 1995 on the safety management of roll-on/roll-off passenger ferries,
- (h) Council Directive 96/98/EC of 20 December 1996 on marine equipment <sup>(1)</sup>,
- (i) Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over <sup>(2)</sup>,
- (j) Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships <sup>(3)</sup>,
- (k) Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community <sup>(4)</sup>,
- (l) Council Directive 1999/35/EC of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high speed passenger craft services <sup>(5)</sup>.

## Article 3

**Establishment of the Committee on Safe Seas**

1. The Commission shall be assisted by a regulatory committee, hereinafter called, the Committee on Safe Seas, composed of representatives of the Member States and chaired by the representative of the Commission.

<sup>(1)</sup> OJ L 46, 17.2.1997, p. 25. Amended by Directive 98/85/EC (OJ L 315, 11.11.1998, p. 14).

<sup>(2)</sup> OJ L 34, 9.2.1998, p. 1. Amended by Directive 1999/19/EC (OJ L 83, 27.3.1999, p. 48).

<sup>(3)</sup> OJ L 144, 15.5.1998, p. 1.

<sup>(4)</sup> OJ L 188, 2.7.1998, p. 35.

<sup>(5)</sup> OJ L 138, 1.6.1999, p. 1.

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- (f) Council Regulation (EC) No 3051/95 of 8 December 1995 on the safety management of roll-on/roll-off passenger ferries,
- (g) Council Directive 96/98/EC of 20 December 1996 on marine equipment <sup>(1)</sup>,
- (h) Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over <sup>(2)</sup>,
- (i) Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships <sup>(3)</sup>,
- (j) Council Directive 98/41/EC of 18 June 1998 on the registration of persons sailing on board passenger ships operating to or from ports of the Member States of the Community <sup>(4)</sup>,
- (k) Council Directive 1999/35/EC of 29 April 1999 on a system of mandatory surveys for the safe operation of regular ro-ro ferry and high speed passenger craft services <sup>(5)</sup>,
- (l) Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues <sup>(6)</sup>,
- (m) Directive 2001/25/EC of the European Parliament and of the Council of 4 April 2001 on the minimum level of training of seafarers <sup>(7)</sup>.

## Unchanged

**Establishment of the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS)**

1. The Commission shall be assisted by a regulatory committee, hereinafter called COSS, composed of representatives of the Member States and chaired by the representative of the Commission.

<sup>(1)</sup> OJ L 46, 17.2.1997, p. 25. Amended by Directive 98/85/EC (OJ L 315, 11.11.1998, p. 14).

<sup>(2)</sup> OJ L 34, 9.2.1998, p. 1. Amended by Directive 1999/19/EC (OJ L 83, 27.3.1999, p. 48).

<sup>(3)</sup> OJ L 144, 15.5.1998, p. 1.

<sup>(4)</sup> OJ L 188, 2.7.1998, p. 35.

<sup>(5)</sup> OJ L 138, 1.6.1999, p. 1.

<sup>(6)</sup> OJ L 332, 28.12.2000, p. 81.

<sup>(7)</sup> OJ L 136, 18.5.2001, p. 17.

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2. Whenever reference is made to this Article, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, subject to the provisions of Article 7(3) and of Article 8 of the Decision.

3. For the purposes of this Regulation, the period referred to in Article 5(6) of Decision 1999/468/EC shall be one month.

*Article 4***Conformity checking procedure**

1. The Community Regulations and Directives listed in Article 2(2) may be amended, in accordance with the procedure laid down in Article 3, in order to exclude from the scope of the Regulation or the Directive concerned any amendment to the international instruments defined in Article 2(1) and to which reference is made in the Regulation or Directive.

Such amendment to the Community legislation shall be possible only if there is a manifest risk that the international amendment will lower the standard of maritime safety or protection of the marine environment established by the Community legislation on marine safety, or be incompatible with the latter, or if it is likely to compromise the achievement of the Community's objectives in the field of maritime safety.

2. For a period of six months from the adoption at international level of an amendment to an international instrument, referred to in Article 2(1), Member States party to this instrument shall refrain from any initiative intended to accept or apply the amendment, in order to enable the Commission to consult the Committee referred to in Article 3(1) on a draft Commission regulation or directive designed, in application of the first paragraph, to exclude the amendment in question from a Community text. If the Committee is consulted within the six months' period, the above standstill period shall continue until the adoption of appropriate measures.

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2. Whenever reference is made to this paragraph, the regulatory procedure laid down in Article 5 of Decision 1999/468/EC shall apply, subject to the provisions of Article 7 and of Article 8 of the Decision.

Unchanged

1. With a view to reducing the risks of conflict between the Community maritime legislation and the international instruments referred to in Article 2(1), the Community Regulations and Directives listed in Article 2(2) may be amended, in accordance with the procedure referred to in Article 3(2), in order to exclude from the scope of the Regulation or the Directive concerned any amendment to the international instruments defined in Article 2(1) and to which reference is made in the Regulation or Directive. The conformity checking procedure may be used solely to make amendments to the Community maritime legislation in the fields expressly covered by the regulatory procedure and strictly within the framework of exercise of implementing powers conferred on the Commission.

Such amendment to the Community legislation shall be possible only if there is a manifest risk that the international amendment will lower the standard of maritime safety, of prevention of pollution from ships or of protection of shipboard living and working conditions established by the Community maritime legislation, or be incompatible with the latter, or if it is likely to compromise the achievement of the Community's objectives in the field of maritime safety, prevention of pollution from ships or of protection of shipboard living and working conditions.

The conformity checking procedure shall be initiated by the Commission, which, where appropriate, may act at the request of a Member State.

2. For a period of six months from the adoption at international level of an amendment to an international instrument, Member States party to this instrument shall refrain from any initiative intended to accept or apply the amendment, in order to enable the Commission to consult the Committee referred to in Article 3(1) on a draft Commission regulation or directive designed, in application of paragraph 1 of this Article, to exclude the amendment in question from a Community text. If the Committee is consulted within the six months' period, the above standstill period shall continue until the adoption of appropriate measures.

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3. Where the amendment to the international instrument is subject to a tacit acceptance procedure, the Commission regulation or directive excluding the new amendment from being incorporated into Community law for the reasons set out in the first paragraph shall be adopted in good time to enable the Member States concerned to lodge an objection to the amendment in question at the international level.

*Article 5***Powers of the Committee on Safe Seas**

The Committee on Safe Seas shall exercise the powers conferred on it by virtue of the Community legislation in force.

Article 2(2) of the Regulation may be amended by the procedure set out in Article 3 in order to include a reference to the Community acts that have entered into force following the adoption of this Regulation.

*Article 6***Amendment of Regulation (EEC) No 613/91**

Regulation (EEC) No 613/91 is amended as follows:

## 1. Article 1(a) is amended as follows:

‘(a) In the first subparagraph, the words “at the date of adoption of this Regulation” are deleted and the following words added “without prejudice to any measures taken in application of Article 4 of Regulation (EC) No .../2000 of the European Parliament and of the Council.”’

(b) The final subparagraph is deleted

## 2. Articles 6 and 7 are replaced by the following:

*‘Article 6*

The Commission shall be assisted by the Committee on Safe Seas created by Article 3 of Regulation (EC) No .../2000.

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3. Where the amendment to the international instrument is subject to a tacit acceptance procedure, the Commission regulation or directive excluding the new amendment from being incorporated into Community law for the reasons set out in paragraph 1 shall be adopted in good time to enable the Member States concerned to lodge an objection to the amendment in question at the international level.

Unchanged

**Powers of COSS**

COSS shall exercise the powers conferred on it by virtue of the Community legislation in force.

Article 2(2) may be amended by the procedure set out in Article 3(2) in order to include a reference to the Community acts that have entered into force following the adoption of this Regulation.

Unchanged

‘(a) In the first subparagraph, the words “at the date of adoption of this Regulation” are deleted.’

(b) The final subparagraph is replaced by the following:

‘The amendments to the international instruments referred to in the previous subparagraph may be excluded from the scope of this Regulation, pursuant to Article 4 of Regulation (EC) No .../2001 of the European Parliament and of the Council.’

Unchanged

*‘Article 6*

The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) created by Article 3 of Regulation (EC) No .../2001.



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*Article 7*

## Unchanged

Where reference is made to this Article, the regulatory procedure laid down in Article 3 of Regulation (EC) No .../2000 shall apply.'

Where reference is made to this Article, the regulatory procedure laid down in Article 3 of Regulation (EC) No .../2001 shall apply.

The amendments to the international instruments referred to in Article 3 may be excluded from the scope of this Regulation, pursuant to Article 4 of Regulation (EC) No .../2001.'

*Article 7*

## Unchanged

**Amendment of Regulation (EC) No 2978/94**

Regulation (EC) No 2978/94 is amended as follows:

## 1. Article 3(g) is replaced by the following:

'(g) "Marpol 73/78" means the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 relating thereto together with the amendments thereto in force, without prejudice to any measures taken in application of Article 4 of Regulation (EC) No .../2000 of the European Parliament and of the Council'.

## 1. Article 3(g) is replaced by the following:

'(g) "Marpol 73/78" means the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 relating thereto together with the amendments thereto in force'.

## 2. The following paragraph is added to Article 6:

'The amendments to the international instruments referred to in Article 3 may be excluded from the scope of this Regulation, pursuant to Article 4 of Regulation (EC) No .../2001 of the European Parliament and of the Council.'

## 2. Article 7 is replaced by the following:

*'Article 7*

The Commission shall be assisted by the Committee on Safe Seas in accordance with the procedure laid down in Article 3 of Regulation (EC) No .../2000.'

## 3. Article 7 is replaced by the following:

*'Article 7*

The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS), in accordance with the procedure referred to in Article 3(2) of Regulation (EC) No .../2001.'

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## Article 8

**Amendment of Regulation (EC) No 3051/95**

Regulation (EC) No 3051/95 is amended as follows:

1. Article 9 the words 'Article 10(2)' are replaced by the words 'Article 10'.

2. Article 10 is replaced by the following:

*'Article 10*

The Commission shall be assisted by the Committee on Safe Seas in accordance with the procedure laid down in Article 3 of Regulation (EC) No .../2000.'

## Article 9

**Entry into force**

This Regulation shall enter into force on the twentieth day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

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Unchanged

1. Article 9 is amended as follows:

(a) The words 'Article 10(2)' are replaced by the words 'Article 10'.

(b) The following subparagraph is added:

'The amendments to the international instruments referred to in Article 3 may be excluded from the scope of this Regulation, pursuant to Article 4 of Regulation (EC) No .../2001 of the European Parliament and of the Council.'

2. Article 10 is replaced by the following:

*'Article 10*

The Commission shall be assisted by the Committee on Safe Seas and the Prevention of Pollution from Ships (COSS), in accordance with the procedure referred to in Article 3(2) of Regulation (EC) No .../2001.'

Unchanged