Regulation (EC) No 2099/2002 of the European Parliament and of the Council of 5 November 2002 establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships

REGULATION (EC) No 2099/2002 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 5 November 2002

establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS) and amending the Regulations on maritime safety and the prevention of pollution from ships

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[(1)],

Having regard to the opinion of the Economic and Social Committee[(2)],

Having regard to the opinion of the Committee of the Regions[(3)],

Acting in accordance with the procedure referred to in Article 251 of the Treaty[(4)],

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 of 13 September 1993 concerning minimum requirements for vessels bound for or leaving Community ports and carrying dangerous or polluting goods[(5)] and, in certain cases, an ad hoc committee. These committees were 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[(6)].

(2) By its Resolution of 8 June 1993 on a common policy on safe seas[(7)], 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.

(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 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

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previously devolved to the committees established under the aforesaid legislation. All new Community legislation adopted in the field of maritime safety should stipulate recourse to the Committee thereby set up.

(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[8], the provisions of which should therefore be applied to COSS. 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 measures required to implement the aforesaid legislation should be adopted in accordance with Decision 1999/468/EC.

(7) The aforesaid legislation 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 any particular act. This Regulation should in particular amend the relevant provisions of Council Regulations (EEC) No 613/91 of 4 March 1991 on the transfer of ships from one register to another within the Community[9], (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[10], (EC) No 3051/95 of 8 December 1995 on the safety management of roll-on/roll-off passenger ferries (ro-ro ferries)[11] and Regulation (EC) No 417/2002 of the European Parliament and of the Council of 18 February 2002 on the accelerated phasing-in of double hull or equivalent design requirements for single hull oil tankers and repealing Council Regulation (EC) No 2978/94[12], 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 aforesaid legislation is based on the application of rules resulting from international instruments 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 ensuring that the date of entry into force of the amendment at international level coincides 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 draw 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 instruments, with the exception of those explicitly incorporated in a Community act. This can be done by stating that the international convention applicable

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for the purposes of the Directive or Regulation concerned is that 'in its up-to-date version', without mentioning the date.

(11) For reasons of transparency, the relevant amendments to international instruments that are integrated in Community maritime legislation should be made public in the Community through their publication in the *Official Journal of the European Communities*.

(12) 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 aforesaid legislation or Community policy on maritime safety, the prevention of pollution from ships and the protection of shipboard living and working conditions in force or with the objectives pursued by that legislation. Such a procedure should also prevent international amendments from lowering the standard of maritime safety achieved in the Community.

(13) 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 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 one month,

HAVE ADOPTED THIS REGULATION:

Article 1

Purpose

The purpose 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 Community maritime legislation and replaced by this Regulation by establishing a single Committee on Safe Seas and the Prevention of Pollution from Ships, to be known as COSS;

(b) by accelerating the update of, and facilitating subsequent amendments to, Community maritime legislation in the light of developments in the international instruments referred to in Article 2(1).

Article 2

Definitions

For the purposes of this Regulation:

1. 'international instruments' shall mean 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

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Organisation (ILO) or the parties to a memorandum of understanding referred to in the provisions of the Community maritime legislation in force;

2. [F1'Community maritime legislation' shall mean the following acts:

(a) 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[13];

(b) Council Directive 96/98/EC of 20 December 1996 on marine equipment[14];

(c) 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[15];

(d) 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[16];

(e) Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC[17] for the purpose of implementation of its Article 4(d)(2);

(f) 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[18];

(g) 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[19];

(h) Directive 2001/96/EC of the European Parliament and of the Council of 4 December 2001 establishing harmonised requirements and procedures for the safe loading and unloading of bulk carriers[20];

(i) Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC[21];

(j) Regulation (EC) No 782/2003 of the European Parliament and of the Council of 14 April 2003 on the prohibition of organotin compounds on ships[22];

(k) Directive 2003/25/EC of the European Parliament and of the Council of 14 April 2003 on specific stability requirements for ro-ro passenger ships[23];

(l) Regulation (EC) No 789/2004 of the European Parliament and of the Council of 21 April 2004 on the transfer of cargo and passenger ships between registers within the Community and repealing Council Regulation (EEC) No 613/91[24];

(m) Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties, including criminal penalties, for pollution offences[25];

(n) Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the implementation of the International Safety Management Code within the Community and repealing Council Regulation (EC) No 3051/95[26];

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(o) Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers[27];

(p) Directive 2009/15/EC of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations and for the relevant activities of maritime administrations[28];

(q) Directive 2009/16/EC of the European Parliament and of the Council of 23 April 2009 on port State control[29];

(r) Directive 2009/18/EC of the European Parliament and of the Council of 23 April 2009 establishing the fundamental principles governing the investigation of accidents in the maritime transport sector and amending Council Directive 1999/35/EC and Directive 2002/59/EC of the European Parliament and of the Council[30];

(s) Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements[31];

(t) Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations[32];

(u) Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents[33];

(v) Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships[34];

(w) Regulation (EU) No 530/2012 of the European Parliament and of the Council of 13 June 2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers[35];

(x) Commission Regulation (EU) No 788/2014 of 18 July 2014 laying down detailed rules for the imposition of fines and periodic penalty payments and the withdrawal of recognition of ship inspection and survey organisations pursuant to Articles 6 and 7 of Regulation (EC) No 391/2009 of the European Parliament and of the Council[36];

(y) Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC[37].**]**

Textual Amendments

F1 Substituted by Commission Regulation (EU) 2016/103 of 27 January 2016 amending Regulation (EC) No 2099/2002 of the European Parliament and of the Council establishing a Committee on Safe Seas and the Prevention of Pollution from Ships (COSS).