



COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 11.12.2003  
COM(2003) 767 final

2003/0291 (COD)

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the implementation of the International Safety Management Code within the  
Community**

(presented by the Commission)

## EXPLANATORY MEMORANDUM

### 1. Background

The International Management Code for the Safe Operation of Ships and Pollution Prevention (International Safety management (ISM) Code) was adopted by the International Maritime Organization (IMO) 10 years ago<sup>1</sup> to provide a blueprint for the way shipping companies should manage and operate their fleets and to promote the development of a widespread safety culture and environmental conscience in shipping. By defining the company's responsibility for safety and ensuring that senior management could more easily be held accountable, the code seeks to ensure that safety should be given top priority.

At the time of its adoption it was not mandatory; nevertheless Governments were strongly urged to implement the ISM Code on a national basis, as soon as possible but not later than 1 June 1998. Due to a low response to this request the IMO decided in May 1994 to make the Code mandatory. Compliance with the Code became mandatory for tankers, passenger ships and bulk carriers on 1 July 1998, under the first phase of ISM implementation. Since 1 July 2002 all other vessels covered by the SOLAS Convention, which includes all but the smallest internationally-trading vessels, must comply.

The ISM Code is part of Chapter IX of the International Convention on the Safety of Life at Sea (SOLAS). The ISM Code is mandatory for all types of ships for all the contracting parties to the SOLAS Convention, thus for all Member States and acceding countries, as well as for Norway and Iceland under the EEA Agreement.

In response to the *Estonia* tragedy it was decided at Community level to anticipate the implementation of the ISM Code for ro-ro passenger ferries engaged on international and domestic voyages within the Community. Consequently the Council adopted Regulation (EC) No 3051/95 of 8 December 1995 on the Safety Management of ro-ro passenger ferries (ISM Code), which entered into force on 1 July 1996.

The purpose of Regulation (EC) No 3051/95 is to enhance the safe management, safe operation and pollution prevention of all ro-ro passenger ferries operating to or from ports of the Member States of the Community on a regular service by ensuring that companies operating ro-ro ferries comply with the ISM Code, regardless of whether the ferries operate on domestic journeys or on international voyages.

This Regulation has been amended twice through comitology:

- By Commission Regulation (EC) No 179/98 of 23 January 1998 to introduce rules concerning the issuance of interim documents and certificates and the IMO forms of the ISM documents and certificates. At the same time relevant guidelines for the Administrations have been inserted on the basis of the IMO Guidelines, adopted by Assembly Resolution A. 788 (19) of 23 November 1995. These amendments were introduced in order to ensure a uniform implementation of the ISM Code rules for ferries operating in Europe, coherent with the ISM rules applicable at worldwide level.

---

<sup>1</sup> Adopted on 4 November 1993 by IMO Resolution A.741(18)

- By Commission Regulation (EC) No 1970/2002 to update the provisions of the Regulation, taking account of the amendments to the Code adopted at IMO level. On the one hand amendments to the Code itself, adopted through Resolution MSC.104 (73) on 5 December 2000 by the Maritime Safety Committee (MSC), and on the other hand amendments to the IMO Guidelines adopted through Assembly Resolution A.913 (22) of 29 November 2001. Following these amendments all the ISM certificates have been inserted in the Code, together with some parts of the IMO Guidelines. These amendments came into force on 1 July 2002. The Commission Regulation entered into force on 26 November 2002.

## **2. Justification of the new proposal**

The ISM Code philosophy is based on a global approach and is applicable to all types of ships. The restriction to ro-ro passenger ferries in the EU legislation was justified by historical reasons which are now outdated. It is therefore considered appropriate to expand the scope of Regulation (EC) No 3051/95 through the adoption of a new Regulation and to cover in that Regulation at least the same companies and ships as are covered by Chapter IX of the SOLAS Convention.

As contracting parties to the SOLAS Convention all Member States have accepted the ISM Code and are bound to apply this Code to their ships sailing on international voyages. There are however no justified reasons not to apply the ISM philosophy to ships and companies operating on domestic voyages within the Community.

General guidance to flag States' administrations on the implementation of the ISM Code is provided through Resolution A.788 (19), which has already been incorporated in Regulation (EC) No 3051/95.

Whilst the application of the main part of the ISM Guidelines is mandatory within the EU, for ferries operating on a regular service to and from European ports, the application of the Guidelines to all other ships has entirely been left to the discretion of the national administrations. In addition, for several types of ships, in particular cargo vessels, administrations to a large extent rely upon organisations which they have recognized for the ISM certification. In those cases national administrations seldom check themselves the compliance of their companies and ships with the rules.

When Regulation (EC) No 3051/95 was adopted Member States and the European Parliament stated that the application of the ISM Code to ro-ro passenger ferries was a priority, but also that it was the first of a series of continuing initiatives to improve safety at sea.

One of the main initiatives to be undertaken in this context is the harmonised and effective implementation in the Community of agreed international requirements.

To ensure this, the Commission proposes to adopt a new Regulation of a more general nature, replacing Regulation (EC) No 3051/95. In this context, it is also important to render the relevant IMO guidelines for administration mandatory for all ships flying a flag of a Member State.

A number of advantages flow from including the full ISM Code and a coherent set of provisions related to the certification process in the Community's maritime safety legislation:

- Through the incorporation of the ISM Code in Community legislation a legal basis is created for the monitoring of its implementation.

- In the context of the Paris Memorandum of Understanding on Port State Control (Paris MoU) some importance is placed on implementation of the ISM Code. The Paris MOU has carried out a substantial Concentrated Inspection Campaign (CIC) to monitor the implementation of the Code on board ships. Its conclusions underlined the need to improve the correct implementation of the ISM Code<sup>2</sup>.

- Through its direct reference to the ISM Code, this proposal strengthens the implementation of the ISM Code in the framework of inspections carried out under Council Directive 95/21/EC related to Port State Control, as amended.

- Directive 94/57/EC dealing with the EU recognition of Classification Societies is applicable for all ISM certification tasks undertaken on behalf of flag States. A reference is made directly to this Directive for the purpose of defining the "recognised organisation" and for the criteria which such organisations have to fulfil to carry out ISM audits and certification on behalf of Member States.

The proposed Regulation facilitates the correct, strict and harmonised implementation of the Code in all Member States and acceding countries.

Finally, the proposed Regulation will facilitate the European Maritime Safety Agency's position to undertake technical co-operation activities related to ISM tasks when this Code is part of Community Law.

### **3. Content of the proposal**

The purpose of this Regulation is to enhance the safe management, safe operation and pollution prevention of:

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

- Passenger ships, flying the flag of a Member State, engaged on international voyages;

- Passenger ships engaged on domestic voyages in sea areas of Class A and B, as defined in article 4 of Directive 98/18/EC, regardless of their flag;

- Ro-Ro passenger ferries operating to or from ports of the Member States of the Community on a regular ro-ro passenger ferry service, regardless of their flag.

- Cargo ships, operating to or from ports of the Member States of the Community on a cabotage feeder service, regardless of their flag;

The purpose of this Regulation is to maintain in parallel the existing EU ISM rules applicable to ro-ro ferries, irrespective of their flag and sailing on a regular service to and from European ports.

The scope of the proposed Regulation is based on the provisions of Chapter IX of SOLAS, and applies, with restriction concerning the gross tonnage of the ships concerned, to all ships falling under the scope of the SOLAS Convention and flying the flag of a Member State, even

---

<sup>2</sup> Statistics from Paris MOU and preliminary results of the Concentrated Inspection Campaign on ISM carried out between 1<sup>st</sup> July 2002 and 30 September 2002 indicate that there is a clear need for stricter implementation and enforcement of the Code.

if they operate on domestic voyages. Nevertheless for passenger ships operating on domestic voyages the provisions will only apply to passenger ships operating more than 5 miles from the coastline, but these rules will apply to all flags.

Any Companies operating one or more of the above mentioned ships will have to comply with the Regulation.

For ships flying the flag of a third country, in so far as they do not operate on domestic voyages within the Community and for the Companies operating them which already apply the requirements of Chapter IX of SOLAS, compliance with SOLAS will be checked through the port State control regime set up under Directive 95/21/EC, as amended.

#### **4. Specific considerations**

The articles follow the same logic as Chapter IX of the SOLAS Convention. The ISM Code is reproduced in extenso in Title I of the Annex to the Regulation, whilst for the Guidelines for Administrations the structure introduced through Regulation (EC) No 3051/95, as amended, has been kept and reproduced in Title II of the Annex. At the date of entry into force of this Regulation, Council Regulation (EC) No 3051/95, as amended, will be repealed.

##### Article 1

This Article clarifies the objective of the Regulation between the management of safety at sea and the control related to this aim.

##### Article 2

This Article contains the definitions of the key terms used in the Regulation. The definitions are based on the IMO SOLAS Convention (Convention for the Safety of Life at Sea), on Regulation (EC) No 3051/95 as amended and on Directive 97/54/EC, as amended.

##### Article 3

Article 3 defines the application of the Regulation and the exceptions, in particular, passenger ships (with reference to Directive 98/18/EC as amended) and cargo ships.

##### Article 4

This Article introduces the obligation of the companies concerning the safety management requirements.

##### Article 5

This Article refers to obligations imposed on the Member States, addressing in particular the certification process (Documents of Compliance, Safety Management Certificate) and the possible reliance on recognised organisations' obligations, by reference to specific ISM Code mandatory provisions (Title II of the Annex referring to Part B of the ISM Code).

##### Article 6

This Article introduces a process of verification by the Administration.

## Article 7

This Article refers to the already existing safeguard procedure concerning ro-ro passenger ferry services (Council Regulation (EC) No 3051/EC). This Article introduces a suspension procedure when there is a risk to safety, including that of the environment.

## Article 8

This article deals with monitoring the implementation of this Regulation and to the obligation for Member States to establish a system of sanctions.

## Article 9

This Article introduces the reporting requirements.

## Article 10

This Article introduces the right to amend the Regulation in order to take account of international developments at IMO level and amendments of international instruments referred to in Article 2 of the proposed Regulation.

## Article 11

This Article refers to the committee designated to assist the Commission in the interpretation and implementation of the Regulation in accordance with Regulation (EC) No 2099/2002 (COSS)

## Article 12

For the simplification of Community law, this Article repeals Council Regulation (EC) No 3051/EC, amended by Commission Regulation (EC) No 179/98 and Commission Regulation (EC) No 1970/2002. Rather than introducing amendments to the majority of their Articles, it replaces them with the Regulation now proposed. Also under this Article the Documents of compliance and safety management certificates issued before 1 July 1998 by administrations and recognized organisations remain valid until their date of expiry.

## Annex

### Title I

This Title introduces the ISM Code and certificates adopted at IMO Level.

### Title II

This Title introduces the mandatory provisions for the Administration of the Member States concerning the implementation of the ISM Code and the certificates related with specific reference to the ISM Code and provision of the proposed Regulation.

Proposal for a

**REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL**

**on the implementation of the International Safety Management Code within the  
Community**

**(Text with EEA relevance)**

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<sup>3</sup>,

Having regard to the opinion of the European Economic and Social Committee<sup>4</sup>,

Having regard to the opinion of the Committee of the Regions<sup>5</sup>,

Acting in accordance with the procedure laid down in Article 251 of the Treaty<sup>6</sup>,

Whereas:

- (1) The International Safety Management Code providing for the safe operation of ships and for pollution prevention, hereinafter referred to as the “ISM Code”, was adopted by the International Maritime Organisation (IMO) through the Assembly Resolution A.741 (18) of 4 November 1993. This Code became gradually mandatory for most ships sailing on international voyages through the inclusion of Chapter IX “Management for the safe operation of ships” in the International Convention for the Safety of Life at Sea 1974 (SOLAS) , adopted on 24 May 1994
- (2) The ISM Code has been amended by the IMO through Resolution MSC.104 (73), adopted on 5 December 2000
- (3) Guidelines on the implementation of the International Safety Management (ISM) Code by Administrations were adopted by IMO Resolution A.788 (19) on 23 November 1995. These Guidelines were amended by Resolution A.913(22), adopted on 29 November 2001

---

<sup>3</sup> OJ C -, -, p.-.

<sup>4</sup> OJ C -, -, p.-.

<sup>5</sup> OJ C -, -, p.-.

<sup>6</sup> OJ C -, -, p.-.

- (4) Council Regulation (EC) n°3051/95<sup>7</sup> of 8 December 1995 on safety management of roll-on/roll-off passenger ferries (ro-ro ferries) made the ISM Code mandatory at Community level with effect from 1 July 1996 for all ro-ro passenger ferries operating on a regular service to and from ports of the Member States of the Community on a regular service, both on domestic and international voyages and irrespective of their flag. This was a first step to ensure a uniform and coherent implementation of the ISM Code in all Member States
- (5) On 1 July 1998 the ISM Code became mandatory under the provisions of Chapter IX of the SOLAS Convention for companies operating passenger ships, including high speed passenger craft, oil tankers, chemical tankers, gas carriers, bulk carriers and cargo high speed craft of 500 gross tonnage and upwards, on international voyages
- (6) On 1 July 2002 the ISM Code became mandatory for companies operating other cargo ships and mobile offshore drilling units of 500 gross tonnage and upwards, on international voyages;
- (7) Safety of human life at sea and the protection of the environment may be effectively enhanced by applying the ISM Code strictly and on a mandatory basis
- (8) The adoption of a new Regulation with direct applicability, will ensure the enforcement of the ISM Code
- (9) Consequently Regulation (EC) No 3051/95 shall be repealed
- (10) It is necessary to take into account Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations<sup>8</sup>, in order to define the recognized organisations for the purpose of this Regulation, and Council Directive 98/18/EC of 17 March 1998 on safety rules and standards for passenger ships<sup>9</sup>, for the purpose of establishing the scope of application of this Regulation as regards passenger ships engaged on domestic voyages
- (11) It is necessary to take into account Council Directive 95/21/EC on Port State Control, as amended and, as amended;
- (12) The measures necessary for the implementation of this Regulation shall be adopted in accordance with Council Decision 1999/468/EC of 28 June 1999 laying down the procedures for the exercise of implementing powers conferred on the Commission<sup>10</sup>

HAVE ADOPTED THIS REGULATION:

---

<sup>7</sup> OJ L 320, 30.12.1995, p. 14.

<sup>8</sup> OJ L 157, 7.7.1995, p 1.

<sup>9</sup> OJ L 144, 15.5.1998, p;1.

<sup>10</sup> OJ L 184, 17.07.1999, p 26.



*Article 1*  
*Objective*

The purpose of this Regulation is to enhance the safe management, safe operation and pollution prevention of ships flying the flag of a Member State and of all ro-ro passenger ferries operating on a regular service to or from ports of the Member States of the European Union, by ensuring that companies operating those ships comply with the ISM Code through:

- the establishment and proper maintenance of the ship-board and shore based safety management systems by companies, and,
- the control thereof by flag and port State administrations.

*Article 2*  
*Definitions*

For the purpose of this Regulation the following definitions shall apply:

(1) ‘ISM Code’ means the International Management Code for the Safe Operation of Ships and for Pollution Prevention, adopted by the International Maritime Organisation (IMO) through Assembly Resolution A.741 (18) of 4 November 1993, as amended by IMO Resolution MSC.104 (73) of 5 December 2000 and annexed to this Regulation;

(2) ‘Recognized organization’ means a body recognised in accordance with the provisions of Directive 94/57/EC, as amended;

(3) ‘Company’ means the owner of the ship or any other organisation or a person such as the manager or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the shipowner and who on assuming such responsibility has agreed to take over all the duties and responsibility imposed by the ISM Code;

(4) ‘Passenger ship’ means a ship, including a high-speed-craft, carrying more than twelve passengers;

(5) ‘Passenger’ means every person other than:

(a) the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship; and

(b) a child under one year of age;

(6) ‘Cargo ship’ means a ship, including a high-speed-craft, of 500 tons gross tonnage and upwards which is not a passenger ship;

(7) ‘International voyage’ means a voyage from a Member State or any other State to a port outside such State, or conversely

(8) ‘Domestic voyage’ means a voyage in sea areas from a port of a Member State to the same or another port within that Member State;

(9) 'Regular ro-ro passenger ferry service' means a series of ro-ro ferry crossings operated so as to serve traffic between the same two or more points, either:

(a) according to a published timetable; or

(b) with crossings so regular or frequent that they constitute a recognisable systematic series;

(10) 'Ro-ro passenger ferry' shall mean a seagoing passenger vessel with facilities to enable road or rail vehicles to roll on and roll off the vessel, and carrying more than 12 passengers.

### *Article 3* *Application*

1. The Regulation shall apply to:

(a) cargo ships, flying the flag of a Member State, engaged on international and domestic voyages;

(b) passenger ships, flying the flag of a Member State, engaged on international voyages;

(c) passenger ships engaged on domestic voyages in sea areas of Class A and B, as defined in Article 4 of Directive 98/18/EC, regardless of their flag;

(d) ro-ro passenger ferries operating to or from ports of the Member States of the Community on a regular ro-ro passenger ferry service, regardless of their flag;

(e) cargo ships operating to or from ports of the Member States of the Community on a cabotage feeder service, regardless of their flag.

2. This Regulation does not apply to:

(a) ships of war and troop ships

(b) pleasure yachts and pleasure craft, unless they are or will be crewed and carrying more than 12 passengers for commercial purposes

(c) fishing vessels.

### *Article 4* *Safety management requirements*

The company and the ship shall comply with the requirements of the ISM Code.

The safety-management system shall be maintained in accordance with the provisions of the ISM Code.

### *Article 5* *Certification*

1. Member States shall comply with the provisions of Part B of the ISM Code and Title II of the Annex to this Regulation.

2. A Document of Compliance shall be issued to every company, which complies with the requirements of the ISM Code. This document shall be issued by the administration of a Member State or by a recognized organization acting on its behalf.
3. The Document of Compliance shall remain valid for five years from the date of its issue, provided that a verification takes place once a year, in order to confirm the proper functioning of the safety management system and to confirm that any modifications introduced since the latest verification satisfy the provisions of the ISM Code.
4. A Member State may only issue Documents of Compliance for companies which have their principal place of business on its own territory. Prior to such issue, the Member States shall consult the administration of the States whose flag each type of that company's ships is entitled to fly, if that administration is not that of the issuing Member State.
5. A copy of the Document of Compliance shall be kept on board the ship in order that the master may produce it on request for verification.
6. A Certificate, called a Safety Management Certificate, shall be issued to every ship by the administration of a Member States or a recognized organisation acting on its behalf. The administration or recognized organisation shall, before issuing the Safety Management Certificate, verify that the company and its shipboard management operate in accordance with the approved safety-management system.
7. The Safety Management Certificate shall remain valid for five years from the date of its issue, provided that an intermediate verification takes place at least every 30 months in order to confirm the proper functioning of the safety management system and that any modifications introduced since the latest verification satisfy the provisions of the ISM Code.
8. For the purposes of this Regulation, and in particular Article 6, each Member State shall accept a Document of Compliance or a Safety Management Certificate issued by the administration of any other Member State or by a recognised organization acting on its behalf.
9. A Member State shall recognise the Documents of Compliance and Safety Management Certificates issued by, or on behalf of, the administrations of third countries if it is satisfied that they demonstrate compliance with the provisions of this Regulation.

Documents of Compliance and Safety Management Certificates issued on behalf of administrations of third countries may only be recognised if they have been issued by a recognised organization.

#### *Article 6* *Verification*

Member States shall satisfy themselves that all companies operating ships falling within the scope of this Regulation comply with the provisions of this Regulation.

The Member State involved in the certification, another Member State at the request of another Member State or a recognized organisation acting on behalf shall periodically verify the proper functioning of the ship's safety-management system.

*Article 7*  
*Safeguard procedure*

Where a Member State considers that notwithstanding the fact that a company holds a Document of Compliance, this company cannot operate a ship falling within the scope of this Regulation on a service to or from Member State's ports on the grounds that there is a risk of serious danger to safety of life, property, or the environment, the operation of such a service may be suspended until such time as the danger is removed.

In those circumstances the following procedure shall apply:

(a) the Member State shall inform the Commission and the other Member States of its decision without delay, giving substantiated reasons therefor;

(b) the Commission shall examine whether the suspension is justified for reasons of serious danger to safety and/or the environment;

(c) it will be decided, in accordance with the procedure referred to in Article 11 (2), whether or not the decision of the Member State to suspend the operation of such service is justified for reasons of serious danger to safety of life or property, or the environment. If the suspension is not justified, the Member State concerned shall be required to withdraw the suspension.

*Article 8*  
*Penalties*

Member States shall lay down the rules on penalties applicable to infringements of the provisions of this Regulation and shall take all the measures necessary ensure that they are implemented. The penalties provided must be effective, proportionate and dissuasive.

*Article 9*  
*Reporting*

Member States shall annually report to the Commission on the implementation of the ISM Code.

The Commission shall establish a harmonised specimen form for such reports.

The Commission shall, with the assistance of European Maritime Safety Agency, within six months after having received reports from Member States prepare a consolidated report concerning the implementation of this Regulation with the proposed measures if appropriate.

*Article 10*  
*Amendments*

In order to take account of developments at international level and, in particular, in the IMO:

(a) the definition of the ISM Code in Article 2;

(b) the periods of validity of the document of compliance and/or the safety management certificate and the frequency of verification relating thereto in Article 5 (3) and (7);

(c) the Annex;

(d) the definition of 'recognised organization' in Article 2;

may be amended, in accordance with the procedure referred to in Article 11 (2), in particular to update the provisions for the administrations concerning the implementation of the ISM Code.

*Article 11*  
*Committee*

1. 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 2099/2002.

2. Where reference is made to this paragraph, Articles 5 and 7 of Council Decision 1999/468/EC of 28 June 1999 laying down the procedure for the exercise of implementing power conferred on the Commission<sup>11</sup> shall apply, having regard to the provisions of Article 8 thereof.

The period laid down in Article 5(6) of Decision 1999/468/EC shall be set at two months.

3. The Committee shall adopt its rules of procedure.

*Article 12*  
*repeal*

Council Regulation (EC) No 3051/95 is repealed with effect [date of entry into force of this Regulation]

Documents of compliance and safety management certificates issued by administrations and recognized organisation before that date shall remain valid.

*Article 13*  
*Entry into force*

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

It shall apply to cargo ships and passenger ships operating exclusively on domestic voyages from one year after the date of entry into force of this Regulation.

---

<sup>11</sup> OJ L 184, 17.7.1999, p23.

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

Done at Brussels,

*For the European Parliament*  
*The President*

*For the Council*  
*The President*

## **ANNEX**

### **1. TITLE I**

### **2. CONTENTS**

#### **International Management Code for the safe operation of ships and for pollution prevention (International Safety Management (ISM) Code)**

## **PART A - IMPLEMENTATION**

### **1. GENERAL**

#### **1.1. DEFINITIONS**

#### **1.2. OBJECTIVES**

#### **1.3. APPLICATION**

#### **1.4. FUNCTIONAL REQUIREMENTS FOR A SAFETY MANAGEMENT SYSTEM (SMS)**

### **2. SAFETY AND ENVIRONMENTAL PROTECTION POLICY**

### **3. COMPANY RESPONSIBILITIES AND AUTHORITY**

### **4. DESIGNATED PERSON(S)**

### **5. MASTER'S RESPONSIBILITY AND AUTHORITY**

### **6. RESOURCES AND PERSONNEL**

### **7. DEVELOPMENT OF PLANS FOR SHIPBOARD OPERATIONS**

### **8. EMERGENCY PREPAREDNESS**

### **9. REPORTS AND ANALYSIS OF NON-CONFORMITIES, ACCIDENTS AND HAZARDOUS OCCURRENCES**

### **10. MAINTENANCE OF THE SHIP AND EQUIPMENT**

### **11. DOCUMENTATION**

### **12. COMPANY VERIFICATION, REVIEW AND EVALUATION**

## **PART B- CERTIFICATION AND VERIFICATION**

### **13. CERTIFICATION AND PERIODICAL VERIFICATION**



## **14. INTERIM CERTIFICATION**

## **15. VERIFICATION**

## **16 FORMS OF CERTIFICATES**

### **Appendix**

#### **1. TITLE II PROVISIONS FOR THE ADMINISTRATION CONCERNING THE IMPLEMENTATION OF THE INTERNATIONAL SAFETY MANAGEMENT (ISM) CODE**

##### **PART A GENERAL PROVISIONS**

##### **PART B CERTIFICATION AND STANDARDS**

1. Acceptance and recognition of an interim document of compliance and interim safety management certificate
2. Certification process
3. Standard of Management
4. Standards of Competence
5. Form of document of compliance and safety management certificate

# TITLE I

## **International Management code for the safe operation of ships and for pollution prevention (International Safety Management (ISM) Code)**

### **PART A -IMPLEMENTATION**

#### **1. GENERAL**

##### **1.1. DEFINITIONS**

The following definitions apply to parts A and B of this Code.

- 1.1.1. 'International Safety Management (ISM) Code' means the International Management Code for the Safe Operation of Ships and for Pollution Prevention as adopted by the Assembly, as may be amended by the Organisation.
- 1.1.2. 'Company' means the owner of the ship or any other organisation or person such as the manager or the bareboat charterer, who has assumed the responsibility for the operation of the ship from the shipowner and who on assuming such responsibility has agreed to take over all the duties and responsibility imposed by the Code.
- 1.1.3. 'Administration' means the government of the State whose flag the ship is entitled to fly.
- 1.1.4. 'Safety Management System' means a structured and documented system enabling Company personnel to implement effectively the Company safety and environmental protection policy.
- 1.1.5. 'Document of Compliance' means a document issued to a Company which complies with the requirements of this Code.
- 1.1.6. 'Safety Management Certificate' means a document issued to a ship which signifies that the Company and its shipboard management operate in accordance with the approved safety management system.
- 1.1.7. 'Objective evidence' means quantitative or qualitative information, records or statements of fact pertaining to safety or to the existence and implementation of an safety management system element, which is based on observation, measurement or test and which can be verified.
- 1.1.8. 'Observation' means a statement of fact made during a safety management audit and substantiated by objective evidence.
- 1.1.9. 'Non-conformity' means an observed situation where objective evidence indicates the non-fulfillment of a specified requirement.
- 1.1.10. 'Major non-conformity' means an identifiable deviation that poses a serious threat to the safety of personnel or the ship or a serious risk to the environment that requires immediate corrective action and includes the lack of effective and systematic implementation of a requirement of this Code.

1.1.11 'Anniversary date' means the day and month of each year that corresponds to the date of expiry of the relevant document or certificate.

1.1.12 'Convention' means the International Convention for the Safety of Life at Sea, 1974 as amended.

## 1.2. Objectives

1.2.1. The objectives of the Code are to ensure safety at sea, prevention of human injury or loss of life, and avoidance of damage to the environment, in particular, to the marine environment, and to property.

1.2.2. Safety management objectives of the Company should, inter alia:

1.2.2.1. provide for safe practices in ship operation and a safe working environment;

1.2.2.2. establish safeguards against all identified risks; and

1.2.2.3. continuously improve safety management skills of personnel ashore and aboard ships, including preparing for emergencies related both to safety and environmental protection.

1.2.3. The safety management system should ensure:

1.2.3.1. compliance with mandatory rules and regulations; and

1.2.3.2. that applicable codes, guidelines and standards recommended by the Organization, administrations, classification societies and maritime industry organizations are taken into account.

## 1.3. Application

The requirements of this Code may be applied to all ships.

## 1.4. Functional requirements for a safety management system (SMS)

Every company should develop, implement and maintain a safety management system (SMS) which includes the following functional requirements:

1.4.1. a safety and environmental protection policy;

1.4.2. instructions and procedures to ensure safe operation of ships and protection of the environment in compliance with relevant international and flag State legislation;

1.4.3. defined levels of authority and lines of communication between, and amongst, shore and shipboard personnel;

1.4.4. procedures for reporting accidents and non-conformities with the provisions of this Code;

1.4.5. procedures to prepare for and respond to emergency situations; and

1.4.6. procedures for internal audits and management reviews.

## **2. SAFETY AND ENVIRONMENTAL PROTECTION POLICY**

- 2.1. The company should establish a safety and environmental protection policy which describes how the objectives, given in paragraph 1.2, will be achieved.
- 2.2. The Company should ensure that the policy is implemented and maintained at all levels of the organization both ship-based as well as shore-based.

## **3. COMPANY RESPONSIBILITIES AND AUTHORITY**

- 3.1. If the entity who is responsible for the operation of the ship is other than the owner, the owner must report the full name and details of such entity to the administration.
- 3.2. The company should define and document the responsibility, authority and interrelation of all personnel who manage, perform and verify work relating to and affecting safety and pollution prevention.
- 3.3. The company is responsible for ensuring that adequate resources and shore-based support are provided to enable the designated person or persons to carry out their functions.

## **4. DESIGNATED PERSON(S)**

To ensure the safe operation of each ship and to provide a link between the company and those on board, every company, as appropriate, should designate a person or persons ashore having direct access to the highest level of management. The responsibility and authority of the designated person or persons should include monitoring the safety and pollution prevention aspects of the operation of each ship and to ensure that adequate resources and shore-based support are applied, as required.

## **5. MASTER'S RESPONSIBILITY AND AUTHORITY**

- 5.1. The company should clearly define and document the master's responsibility with regard to:
  - 5.1.1. implementing the safety and environmental protection policy of the company;
  - 5.1.2. motivating the crew in the observance of that policy;
  - 5.1.3. issuing appropriate orders and instructions in a clear and simple manner;
  - 5.1.4. verifying that specified requirements are observed; and
  - 5.1.5. reviewing the SMS and reporting its deficiencies to the shore-based management.
- 5.2. The company should ensure that the SMS operating on board the ship contains a clear statement emphasizing the master's authority. The company should establish in the SMS that the master has the overriding authority and the responsibility to make decisions with respect to safety and pollution prevention and to request the company's assistance as may be necessary.

## **6. RESOURCES AND PERSONNEL**

- 6.1. The company should ensure that the master is:
  - 6.1.1. properly qualified for command;
  - 6.1.2. fully conversant with the company's SMS; and
  - 6.1.3. given the necessary support so that the master's duties can be safely performed.
- 6.2. The company should ensure that each ship is manned with qualified, certificated and medically fit seafarers in accordance with national and international requirements.
- 6.3. The company should establish procedures to ensure that new personnel and personnel transferred to new assignments related to safety and protection of the environment are given proper familiarization with their duties.

Instructions, which are essential to be provided prior to sailing should be identified, documented and given.

- 6.4. The company should ensure that all personnel involved in the company's SMS have an adequate understanding of relevant rules, regulations, codes and guidelines.
- 6.5. The company should establish and maintain procedures for identifying any training which may be required in support of the SMS and ensure that such training is provided for all personnel concerned.
- 6.6. The company should establish procedures by which the ship's personnel receive relevant information on the SMS in a working language or languages understood by them.
- 6.7. The company should ensure that the ship's personnel are able to communicate effectively in the execution of their duties related to the SMS.

## **7 DEVELOPMENT OF PLANS FOR SHIPBOARD OPERATIONS**

The Company should establish procedures for the preparation of plans and instructions, including checklists as appropriate, for key shipboard operations concerning the safety of the ship and the prevention of pollution. The various tasks involved should be defined and assigned to qualified personnel.

## **8. EMERGENCY PREPAREDNESS**

- 8.1. The company should establish procedures to identify, describe and respond to potential emergency shipboard situations.
- 8.2. The company should establish programmes for drills and exercises to prepare for emergency actions.
- 8.3. The SMS should provide for measures ensuring that the company's organization can respond at any time to hazards, accidents and emergency situations involving its ships.

## **9. REPORTS AND ANALYSIS OF NON-CONFORMITIES, ACCIDENTS AND HAZARDOUS OCCURRENCES**

- 9.1. The SMS should include procedures ensuring that non-conformities, accidents and hazardous situations are reported to the company, investigated and analysed with the objective of improving safety and pollution prevention.
- 9.2. The company should establish procedures for the implementation of corrective action.

## **10. MAINTENANCE OF THE SHIP AND EQUIPMENT**

- 10.1. The company should establish procedures to ensure that the ship is maintained in conformity with the provisions of the relevant rules and regulations and with any additional requirements which may be established by the company.
- 10.2. In meeting these requirements the company should ensure that:
  - 10.2.1. inspections are held at appropriate intervals;
  - 10.2.2. any non-conformity is reported with its possible cause, if known;
  - 10.2.3. appropriate corrective action is taken; and
  - 10.2.4. records of these activities are maintained.
- 10.3. The company should establish procedures in the SMS to identify equipment and technical systems the sudden operational failure of which may result in hazardous situations. The SMS should provide for specific measures aimed at promoting the reliability of such equipment or systems. These measures should include the regular testing of stand-by arrangements and equipment or technical systems that are not in continuous use.
- 10.4. The inspections mentioned in 10.2 as well as the measures referred to in 10.3 should be integrated in the ship's operational maintenance/routine.

## **11. DOCUMENTATION**

- 11.1. The company should establish and maintain procedures to control all documents and data, which are relevant to the SMS.
- 11.2. The company should ensure that:
  - 11.2.1. valid documents are available at all relevant locations;
  - 11.2.2. changes to documents are reviewed and approved by authorized personnel; and
  - 11.2.3. obsolete documents are promptly removed.
- 11.3. The documents used to describe and implement the SMS may be referred to as the 'safety management manual'. Documentation should be kept in a form that the

company considers most effective. Each ship should carry on board all documentation relevant to that ship.

## **12. COMPANY VERIFICATION, REVIEW AND EVALUATION**

- 12.1. The company should carry out internal safety audits to verify whether safety and pollution prevention activities comply with the SMS.
- 12.2. The company should periodically evaluate the efficiency and when needed review the SMS in accordance with procedures established by the company.
- 12.3. The audits and possible corrective actions should be carried out in accordance with documented procedures.
- 12.4. Personnel carrying out audits should be independent of the areas being audited unless this is impracticable due to the size and the nature of the company.
- 12.5. The results of the audits and reviews should be brought to the attention of all personnel having responsibility in the area involved.
- 12.6. The management personnel responsible for the area involved should take timely corrective action on deficiencies found.

## **PART B - CERTIFICATION AND VERIFICATION**

### **13 CERTIFICATION AND PERIODICAL VERIFICATION**

- 13.1 The ship should be operated by a Company which has been issued with a Document of Compliance or with an Interim Document of Compliance in accordance with paragraph 14.1, relevant to that ship.
- 13.2 The Document of Compliance should be issued by the Administration, by an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government to the Convention to any Company complying with the requirements of this Code for a period specified by the Administration which should not exceed five years. Such a document should be accepted as evidence that the Company is capable of complying with the requirements of this Code.
- 13.3 The Document of Compliance is only valid for the ship types explicitly indicated in the document. Such indication should be based on the types of ships on which the initial verification was based. Other ship types should only be added after verification of the Company's capability to comply with the requirements of this Code applicable to such ship types. In this context, ship types are those referred to in regulation IX/1 of the Convention.
- 13.4 The validity of a Document of Compliance should be subject to annual verification by the Administration or by an organization recognized by the Administration or, at the request of the Administration by another Contracting Government within three months before or after the anniversary date.

- 13.5 The Document of Compliance should be withdrawn by the Administration or, at its request, by the Contracting Government which issued the document, when the annual verification required in paragraph 13.4 is not requested or if there is evidence of major non-conformities with this Code.
- 13.5.1 All associated Safety Management Certificates and/or Interim Safety Management Certificates should also be withdrawn if the Document of Compliance is withdrawn.
- 13.6 A copy of the Document of Compliance should be placed on board in order that the master of the ship, if so requested, may produce it for verification by the Administration or by an organization recognized by the Administration or for the purposes of the control referred to in regulation IX/6.2 of the Convention. The copy of the document is not required to be authenticated or certified.
- 13.7 The Safety Management Certificate should be issued to a ship for a period which should not exceed five years by the Administration or an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government. The Safety Management Certificate should be issued after verifying that the Company and its shipboard management operate in accordance with the approved safety management system. Such a certificate should be accepted as evidence that the ship is complying with the requirements of this Code.
- 13.8 The validity of the Safety Management Certificate should be subject to at least one intermediate verification by the Administration or an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government. If only one intermediate verification is to be carried out and the period of validity of the Safety Management Certificate is five years, it should take place between the second and third anniversary date of the Safety Management Certificate.
- 13.9 In addition to the requirements of paragraph 13.5.1, the Safety Management Certificate should be withdrawn by the Administration or, at the request of the Administration, by the Contracting Government which has issued it when the intermediate verification required in paragraph 13.8 is not requested or if there is evidence of major non-conformity with this Code.
- 13.10 Notwithstanding the requirements of paragraphs 13.2 and 13.7, when the renewal verification is completed within three months before the expiry date of the existing Document of Compliance or Safety Management Certificate, the new Document of Compliance or the new Safety Management Certificate should be valid from the date of completion of the renewal verification for a period not exceeding five years from the date of expiry of the existing Document of Compliance or Safety Management Certificate.
- 13.11 When the renewal verification is completed more than three months before the expiry date of the existing Document of Compliance or Safety Management Certificate, the new Document of Compliance or the new Safety Management Certificate should be valid from the date of completion of the renewal verification for a period not exceeding five years from the date of completion of the renewal verification.



## **14. INTERIM CERTIFICATION**

14.1 An Interim Document of Compliance may be issued to facilitate initial implementation of this Code when:

- 1 a Company is newly established; or
- 2 new ship types are to be added to an existing Document of Compliance,

following verification that the Company has a safety management system that meets the objectives of paragraph 1.2.3 of this Code, provided the Company demonstrates plans to implement a safety management system meeting the full requirements of this Code within the period of validity of the Interim Document of Compliance. Such an Interim Document of Compliance should be issued for a period not exceeding 12 months by the Administration or by an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government. A copy of the Interim Document of Compliance should be placed on board in order that the master of the ship, if so requested, may produce it for verification by the Administration or by an organization recognized by the Administration or for the purposes of the control referred to in regulation IX/6.2 of the Convention. The copy of the document is not required to be authenticated or certified.

14.2 An Interim Safety Management Certificate may be issued:

- 1 to new ships on delivery;
- 2 when a Company takes on responsibility for the operation of a ship which is new to the Company; or
- 3 when a ship changes flag.

Such an Interim Safety Management Certificate should be issued for a period not exceeding 6 months by the Administration or an organization recognized by the Administration or, at the request of the Administration, by another Contracting Government.

14.3 An Administration or, at the request of the Administration, another Contracting Government may, in special cases, extend the validity of an Interim Safety Management Certificate for a further period which should not exceed 6 months from the date of expiry.

14.4 An Interim Safety Management Certificate may be issued following verification that:

- 1 the Document of Compliance, or the Interim Document of Compliance, is relevant to the ship concerned;
- 2 the Safety management system provided by the Company for the ship concerned includes key elements of this Code and has been assessed during the audit for issuance of the Document of Compliance or demonstrated for issuance of the Interim Document of Compliance;
- 3 the Company has planned the audit of the ship within three months;

- 4 the master and officers are familiar with the safety management system and the planned arrangements for its implementation;
- 5 instructions, which have been identified as being essential, are provided prior to sailing; and
- 6 relevant information on the safety management system has been given in a working language or languages understood by the ship's personnel.

## **15 VERIFICATION**

- 15.1 All verifications required by the provisions of this Code should be carried out in accordance with procedures acceptable to the Administration, taking into account the guidelines developed by the Organization<sup>12</sup>.

## **16 FORMS OF CERTIFICATES**

- 16.1 The Document of Compliance, the Safety Management Certificate, the Interim Document of Compliance and the Interim Safety Management Certificate should be drawn up in a form corresponding to the models given in the appendix to this Code. If the language used is neither English nor French, the text should include a translation into one of these languages.
- 16.2 In addition to the requirements of paragraph 13.3 the ship types indicated on the Document of Compliance and the Interim Document of Compliance may be endorsed to reflect any limitations in the operations of the ships described in the safety management system.

---

<sup>12</sup> Refer to the Guidelines on Implementation of the International Safety Management (ISM) Code by Administrations adopted by the Organization by resolution A. 913(22).

APPENDIX

Forms of the Document of Compliance, the Safety Management Certificate, the Interim Document of Compliance and the Interim Safety Management Certificate

DOCUMENT OF COMPLIANCE

*(Official seal)*            *(State)*

Certificate No.

Issued under the provisions of the INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, as amended

Under the authority of the Government of \_\_\_\_\_

(name of the State)

by \_\_\_\_\_

(person or organization authorized)

Name and address of the Company:

\_\_\_\_\_  
\_\_\_\_\_

(see paragraph 1.1.2 of the ISM Code)

THIS IS TO CERTIFY THAT the safety management system of the Company has been audited and that it complies with the requirements of the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code) for the types of ships listed below (delete as appropriate):

Passenger ship

Passenger high-speed craft

Cargo high-speed craft

Bulk carrier

Oil tanker

Chemical tanker

Gas carrier

Mobile offshore drilling unit

Other cargo ship

This Document of Compliance is valid until .....subject to periodical verification.

Issued at.....

(place of issue of the document)

Date of issue.....

.....  
(Signature of the duly authorized official issuing the document)

(Seal or stamp of issuing authority, as appropriate)

Certificate No.

**ENDORSEMENT FOR ANNUAL VERIFICATION**

THIS IS TO CERTIFY THAT, at the periodical verification in accordance with regulation IX/6.1 of the Convention and paragraph 13.4 of the ISM Code, the safety management system was found to comply with the requirements of the ISM Code.

**1<sup>st</sup> ANNUAL  
VERIFICATION**

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

**2<sup>nd</sup> ANNUAL  
VERIFICATION**

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

**3<sup>rd</sup> ANNUAL  
VERIFICATION**

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

**4<sup>th</sup> ANNUAL  
VERIFICATION**

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

SAFETY MANAGEMENT CERTIFICATE

*(Official seal)*

*(State)*

Certificate No.

Issued under the provisions of the

INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, as amended

Under the authority of the Government of \_\_\_\_\_  
(name of the State)

by \_\_\_\_\_  
(person or organization authorized)

Name of ship:

Distinctive number or letters:

Port of registry:

Type of ship<sup>13</sup>.

Gross tonnage:

IMO Number:

Name and address of Company:

(see paragraph 1.1.2 of the ISM Code)

THIS IS TO CERTIFY THAT the safety management system of the ship has been audited and that it complies with the requirements of the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code), following verification that the Document of Compliance for the Company is applicable to this type of ship.

This Safety Management Certificate is valid until ....., subject to periodical verification and the Document of Compliance remaining valid.

Issued at.....  
(place of issue of the document)

Date of issue .....  
.....

(Signature of the duly authorized official issuing the certificate)

(Seal or stamp of issuing authority, as appropriate)

<sup>13</sup> Insert the type of ship from among the following: passenger ship; passenger high-speed craft; cargo high-speed craft; bulk carrier; oil tanker; chemical tanker; gas carrier; mobile offshore drilling unit; other cargo ship.

Certificate No.

**ENDORSEMENT FOR INTERMEDIATE VERIFICATION AND  
ADDITIONAL VERIFICATION (IF REQUIRED)**

THIS IS TO CERTIFY THAT, at the periodical verification in accordance with regulation IX/6.1 of the Convention and paragraph 13.8 of the ISM Code, the safety management system was found to comply with the requirements of the ISM Code.

**INTERMEDIATE  
VERIFICATION** (to be  
completed between the  
**second** and **third** anniversary  
date)

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

**ADDITIONAL  
VERIFICATION\***

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

**ADDITIONAL  
VERIFICATION\***

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

**ADDITIONAL  
VERIFICATION\***

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

\* If applicable. Reference is made to paragraph 3.2.3 of the Guidelines on Implementation of the International Safety Management (ISM) Code by Administrations (resolution A.913 (22)).



INTERIM DOCUMENT OF COMPLIANCE

*(Official seal)*

*(State)*

Certificate No.

Issued under the provisions of the

INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974,  
as amended

Under the authority of the Government of \_\_\_\_\_  
(name of the State)

by \_\_\_\_\_  
(person or organization authorized)

Name and address of the Company: \_\_\_\_\_  
(see paragraph 1.1.2 of the ISM Code)

THIS IS TO CERTIFY THAT the safety management system of the Company has been recognized as meeting the objectives of paragraph 1.2.3 of the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code), for the type(s) of ships listed below (delete as appropriate):

- Passenger ship
- Passenger high-speed craft
- Cargo high-speed craft
- Bulk carrier
- Oil tanker
- Chemical tanker
- Gas carrier
- Mobile offshore drilling unit
- Other cargo ship

This Interim Document of Compliance is valid until:

Issued at: \_\_\_\_\_

(Place of issue of the document)

Date of issue: \_\_\_\_\_

(Signature of the duly authorized official issuing the document)

(Seal or stamp of issuing authority, as appropriate)

INTERIM SAFETY MANAGEMENT CERTIFICATE

(Official seal)

(State)

Certificate No.

Issued under the provisions of the

INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974,  
as amended

Under the authority of the Government of

\_\_\_\_\_

(name of the State)

by \_\_\_\_\_

(person or organization authorized)

Name of ship: .....

Distinctive number or letters: .....

Port of registry: .....

Type of ship\*: .....

Gross tonnage: .....

IMO Number: .....

Name and address of Company:.....

.....

(see paragraph 1.1.2 of the ISM Code)

THIS IS TO CERTIFY THAT the requirements of paragraph 14.4 of the ISM Code  
have been met and that the Document of Compliance / Interim Document of  
Compliance\*\* of the Company is relevant to this ship.

This Interim Safety Management Certificate is valid until .....

subject to the Document of Compliance / Interim Document of Compliance\*\*  
remaining valid.

Issued at.....

(place of issue of the document)

Date of issue:.....

(Signature of the duly authorized official issuing the certificate)

(Seal or stamp of issuing authority, as appropriate)

Certificate No.

The validity of this Interim Safety Management Certificate is extended to:

.....

Date of extension: .....

(Signature of the duly authorized official extending the validity)

(Seal or stamp of issuing authority, as appropriate)

\_\_\_\_\_

\* Insert the type of ship from among the following: passenger ship; passenger high-speed craft; cargo high-speed craft; bulk carrier; oil tanker; chemical tanker; gas carrier; mobile offshore drilling unit; other cargo ship.

\*\* Delete as appropriate.

## TITLE II

### **Provisions for the Administration concerning the implementation of the International Safety Management (ISM) Code**

#### **PART A - GENERAL PROVISIONS**

- 1.1 When carrying out verifications and certification tasks required by the provisions of the ISM Code for ships falling within the scope of this Regulation, Member States shall comply with the requirements and standards laid down in Part B of this Title.
- 1.2 In addition Member States shall take due account of the provisions of the Revised Guidelines on the Implementation of the International Safety Management (ISM) Code by Administrations, adopted by the IMO through Resolution A.913 (22) of 29 November 2001, as far as they are not covered under Part B of this Title.

#### **PART B - CERTIFICATION AND STANDARDS**

##### **1. ACCEPTANCE AND RECOGNITION OF AN INTERIM DOCUMENT OF COMPLIANCE AND INTERIM SAFETY MANAGEMENT CERTIFICATE**

- 1.1. An interim document of compliance and an interim safety management certificate complying with the provisions of this Regulation and issued by the administration of a Member State or by a recognised organisation acting on its behalf shall be accepted by another Member State.
- 1.2. An interim document of compliance and an interim safety management certificate issued by, or on behalf of, the administrations of third countries shall be recognised by a Member State if it is satisfied that they demonstrate compliance with the provisions of this Regulation.

##### **2. CERTIFICATION PROCESS**

- 2.1. The certification process relevant for the issuance of a document of compliance for a company and a safety management certificate to each ship shall be performed taking account of the provisions set out below.
- 2.2. The certification process shall normally involve the following steps:
  1. initial verification;
  2. annual or intermediate verification;
  3. renewal verification; and,
  4. additional verification.

These verifications are carried out at the request of the company to the administration or to the recognised organisation when acting on behalf of the administration.

- 2.3. The verifications shall include a safety management audit.
- 2.4. A lead auditor and, if relevant, an audit team, shall be nominated to perform the audit.
- 2.5. The nominated lead auditor shall liaise with the company and produce an audit plan.
- 2.6. An audit report shall be prepared under the direction of the lead auditor, who is responsible for its accuracy and completeness.
- 2.7. The audit report shall include the audit plan, identification of audit team members, dates and identification of the company, records of any observations and non-

conformities and observations on the effectiveness of the safety management system in meeting the specified objectives.

### **3. STANDARD OF MANAGEMENT**

- 3.1. Auditors or the audit team managing verification of compliance with the ISM Code shall have competence in relation to:
  1. ensuring compliance with the rules and regulations including certification of seafarers, for each type of ship operated by the company;
  2. approval, survey and certification activities relevant for the maritime certificates;
  3. the terms of reference that must be taken into account under the safety management system as required by the ISM Code; and
  4. practical experience of ship operation.
- 3.2. In performing verification of compliance with the provisions of the ISM Code it shall be ensured that independence exists between the personnel providing consultancy services and those involved in the certification procedure.

### **4. STANDARDS OF COMPETENCE**

- 4.1. Basic competence for performing verification
  - 4.1.1. Personnel who are to participate in the verification of compliance with the requirements of the ISM Code shall fulfil the minimum criteria for inspectors as laid down in section 2 of Annex VII to Directive 95/21/EC<sup>14</sup>.
  - 4.1.2. They shall have undergone training to ensure adequate competence and skills for performing verification of compliance with the requirements of the ISM Code, particularly with regard to:
    1. knowledge and understanding of the ISM Code;
    2. mandatory rules and regulations;
    3. the terms of reference which the ISM Code requires that companies should take into account;
    4. assessment techniques of examining, questioning, evaluating and reporting;
    5. technical or operational aspects of safety management;
    6. basic knowledge of shipping and shipboard operations; and
    7. participation in at least one marine related management system audit.
- 4.2. Competence for initial verification and renewal verification
  - 4.2.1. In order to assess fully whether the company or each type of ship complies with the requirements of the ISM Code, in addition to the basic competence stated above, personnel who are to perform initial verifications or renewal verifications for a document of compliance and a safety management certificate, must possess the competence to:
    1. determine whether the SMS elements conform or do not conform to the requirements of the ISM Code;

---

<sup>14</sup> OJ L 157, 7. 7. 1995, p. 1

2. determine the effectiveness of the company's SMS, or that of each type of ship, to ensure compliance with rules and regulations as evidenced by the statutory and classification survey records;
  3. assess the effectiveness of the SMS in ensuring compliance with other rules and regulations which are not covered by statutory and classification surveys and enabling verification of compliance with these rules and regulations; and
  4. assess whether the safe practices recommended by the IMO, administrations, classification societies and maritime industry organizations have been taken into account.
- 4.2.2. This competence can be accomplished by teams, which together possess the total competence required.

**5. FORM OF DOCUMENTS OF COMPLIANCE AND SAFETY MANAGEMENT CERTIFICATES**

When ships operate only in a Member State, Member States shall either use the forms attached to the ISM Code or the Document of Compliance, the Safety Management Certificate, the Interim Document of Compliance and the Interim Safety Management Certificate drawn up in the form set out below.

DOCUMENT OF COMPLIANCE

*(Official seal)*

*(State)*

Certificate No.

Issued under the provisions of [the INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, as amended and (\*)by the present Council Regulation on the implementation of the ISM Code within the Community

Under the authority of the Government of \_\_\_\_\_

(Name of the State)

by \_\_\_\_\_

(person or organization authorized)

Name and address of the Company

\_\_\_\_\_

(see paragraph 1.1.2 of the ISM Code)

THIS IS TO CERTIFY THAT the safety management system of the Company has been audited and that it complies with the requirements of the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code) for the types of ships listed below (delete as appropriate):

- Passenger ship
- Passenger high-speed craft
- Cargo high-speed craft
- Bulk carrier
- Oil tanker
- Chemical tanker
- Gas carrier
- Mobile offshore drilling unit
- Other cargo ship
- Ro-Ro passenger ship (ro-ro ferry)

This Document of Compliance is valid until....., subject to periodical verification.

---

\* May be deleted for ships engaged only on voyages within one Member State.

Issued at .....  
(place of issue of the document)

Date of issue .....  
.....

(Signature of the duly authorized official issuing the document)

(Seal or stamp of issuing authority, as appropriate)



Certificate No

ENDORSEMENT FOR ANNUAL VERIFICATION

THIS IS TO CERTIFY THAT, at the periodical verification in accordance with [regulation IX/6.1 of the Convention and paragraph 13.4 of the ISM Code and (\*)Article 5.3 of the present Council Regulation on the implementation of the ISM Code within the Community

**1st ANNUAL  
VERIFICATION**

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

**2nd ANNUAL  
VERIFICATION**

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

**3rd ANNUAL  
VERIFICATION**

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

**4th ANNUAL  
VERIFICATION**

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

---

\* May be deleted for ships engaged only on voyages within one Member State.

SAFETY MANAGEMENT CERTIFICATE

(Official seal)

(State)

Certificate No.

Issued under the provisions of [the INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, as amended and (\*)by the present Council Regulation on the implementation of the ISM Code within the Community

Under the authority of the Government of \_\_\_\_\_

(name of the State)

by \_\_\_\_\_

(person or organization authorized)

Name of ship:

.....

Distinctive number or letters:

.....

Port of registry:

.....

Type of ship\*\*

.....

Gross tonnage:

.....

IMO Number:

.....

Name and address of Company: .....

(see paragraph 1.1.2 of the ISM Code)

THIS IS TO CERTIFY THAT the safety management system of the ship has been audited and that it complies with the requirements of the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code), following verification that the Document of Compliance for the Company is applicable to this type of ship.

\* May be deleted for ships engaged only on voyages within one Member State.

\*\* Insert the type of ship from among the following: passenger ship; passenger high-speed craft; cargo high-speed craft; bulk carrier; oil tanker; chemical tanker; gas carrier; mobile offshore drilling unit; other cargo ship; ro-ro passenger ship(ro-ro ferry).

This Safety Management Certificate is valid until....., subject to periodical verification and the Document of Compliance remaining valid.

Issued at.....

(place of issue of the document)

Date of issue.....

.....

(Signature of the duly authorized official issuing the certificate)

(Seal or stamp of issuing authority, as appropriate)

Certificate No.

ENDORSEMENT FOR INTERMEDIATE VERIFICATION  
AND ADDITIONAL VERIFICATION (IF REQUIRED)

THIS IS TO CERTIFY THAT, at the periodical verification in accordance with [regulation IX/6.1 of the Convention and paragraph 13.8 of the ISM Code and(\*) Article 5.1 of the present Council Regulation on the implementation of the ISM Code within the Community

INTERMEDIATE<sup>15</sup>VERIFIC  
ATION (to be completed  
between the **second** and **third**  
anniversary date)

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

**ADDITIONAL  
VERIFICATION\***

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

**ADDITIONAL  
VERIFICATION\***

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

---

\* May be deleted for ships engaged only on voyages within one Member State.  
\*\* If applicable. Reference is made to paragraph 13.8 of the ISM Code.

**ADDITIONAL  
VERIFICATION\***

Signed: \_\_\_\_\_

(Signature of authorized official)

Place: \_\_\_\_\_

Date: \_\_\_\_\_

INTERIM DOCUMENT OF COMPLIANCE

(Official seal)

(State)

Certificate No.

Issued under the provisions of [the INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, as amended and (\*) by the present Council Regulation on the implementation of the ISM Code within the Community

Under the authority of the Government of \_\_\_\_\_

(name of the State)

by \_\_\_\_\_

(person or organization authorized)

Name and address of the Company

\_\_\_\_\_

(see paragraph 1.1.2 of the ISM Code)

THIS IS TO CERTIFY THAT the safety management system of the Company has been recognised as meeting the objectives of paragraph 1.2.3 of the International Management Code for the Safe Operation of Ships and for Pollution Prevention (ISM Code), for the type(s) of ships listed below (delete as appropriate):

- Passenger ship
- Passenger high-speed craft
- Cargo high-speed craft
- Bulk carrier
- Oil tanker
- Chemical tanker
- Gas carrier
- Mobile offshore drilling unit
- Other cargo ship
- Ro-Ro passenger ship (ro-ro ferry)

This Interim Document of Compliance is valid until .....

Issued at: .....

(place of issue of the document)

\_\_\_\_\_

\* May be deleted for ships engaged only on voyages within one Member State.

Date of issue: .....

(Signature of the duly authorized official issuing the document)

(Seal or stamp of issuing authority, as appropriate)

INTERIM SAFETY MANAGEMENT CERTIFICATE

(Official seal)

(State)

Certificate No.

Issued under the provisions of [the INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, as amended and (\*) by the present Council Regulation on the implementation of the ISM Code within the Community

Under the authority of the Government of \_\_\_\_\_

(name of the State)

by \_\_\_\_\_

(person or organization authorized)

Name and address of the Company

\_\_\_\_\_

(see paragraph 1.1.2 of the ISM Code)

Name of ship:.....

Distinctive number or letters:.....

Port of registry: .....

Type of ship\*\*:.....

Gross tonnage: .....

IMO

Number:.....

Name and address of Company:

.....

(see paragraph 1.1.2 of the ISM Code)

THIS IS TO CERTIFY THAT the requirements of paragraph 14.4 of the ISM Code have been met and that the Document of Compliance / Interim Document of Compliance\*\*\* of the Company is relevant to this ship.

This Interim Safety Management Certificate is valid until subject to the Document of Compliance / Interim Document of Compliance\*\*\* remaining valid.

\* May be deleted for ships engaged only on voyages within one Member State.

\*\* Insert the type of ship from among the following: passenger ship; passenger high-speed craft; cargo high-speed craft; bulk carrier; oil tanker; chemical tanker; gas carrier; mobile offshore drilling unit; other cargo ship; ro-ro passenger ship (ro-ro ferry)

\*\*\* Delete as appropriate



Issued at:

(place of issue of the document)

Date \_\_\_\_\_ of  
issue:.....

(Signature of the duly authorized official issuing the certificate)

(Seal or stamp of issuing authority, as appropriate)

Certificate No.

The validity of this Interim Safety Management Certificate is extended to:

Date of extension:.....

(Signature of the duly authorized official extending the validity)

(Seal or stamp of issuing authority, as appropriate)

## LEGISLATIVE FINANCIAL STATEMENT

**Policy area(s): maritime safety**

**Activit(y/ies):. implementation of the International Safety Management Code within the Community**

**TITLE OF ACTION: REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL ON THE IMPLEMENTATION OF THE INTERNATIONAL SAFETY MANAGEMENT CODE WITHIN THE COMMUNITY**

**THE PROPOSED MEASURE HAS NO FINANCIAL IMPLICATIONS FOR THE COMMUNITY BUDGET**

**1. BUDGET LINE(S) + HEADING(S)**

NOT APPLICABLE

**2. OVERALL FIGURES**

**2.1. TOTAL ALLOCATION FOR ACTION (PART B): € MILLION FOR COMMITMENT**

NOT APPLICABLE

**2.2. Period of application:**

NOT APPLICABLE

**2.3. Overall multiannual estimate of expenditure:**

NOT APPLICABLE

(a) Schedule of commitment appropriations/payment appropriations (financial intervention) *(see point 6.1.1)*

€ million *(to three decimal places)*

	Year [n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5 and subs. Years]	Total
Commitments							
Payments							

(b) Technical and administrative assistance and support expenditure *(see point 6.1.2)*

Commitments							
Payments							

Subtotal a+b							
Commitments							
Payments							

(c) Overall financial impact of human resources and other administrative expenditure  
(see points 7.2 and 7.3)

Commitments/ payments							
--------------------------	--	--	--	--	--	--	--

TOTAL a+b+c							
Commitments							
Payments							

**2.4. Compatibility with financial programming and financial perspective**

Proposal is compatible with existing financial programming.

Proposal will entail reprogramming of the relevant heading in the financial perspective.

Proposal may require application of the provisions of the Interinstitutional Agreement.

**2.5. Financial impact on revenue:<sup>16</sup>**

Proposal has no financial implications (involves technical aspects regarding implementation of a measure)

OR

Proposal has financial impact – the effect on revenue is as follows:

*(NB All details and observations relating to the method of calculating the effect on revenue should be shown in a separate annex.)*

---

<sup>16</sup> For further information, see separate explanatory note.

(€ million to one decimal place)

		Prior to action [Year n-1]	Situation following action					
Budget line	Revenue		[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5]
	a) Revenue in absolute terms							
	b) Change in revenue	$\Delta$						

*(Please specify each budget line involved, adding the appropriate number of rows to the table if there is an effect on more than one budget line.)*

### 3. BUDGET CHARACTERISTICS

NOT APPLICABLE

Type of expenditure		New	EFTA contribution	Contributions from applicant countries	Heading in financial perspective
Comp/ Non-comp.	Diff/ Non-diff.	YES/ NO	YES/NO	YES/NO	No

### 4. LEGAL BASIS

Art. 80(2) of the Treaty.

### 5. DESCRIPTION AND GROUNDS

#### 5.1. Need for Community intervention <sup>17</sup>

##### 5.1.1. Objectives pursued

**The inclusion of the full ISM Code and of a coherent set of provisions related to the certification process in the Community's maritime safety legislation will increase the safety of maritime transport and environment and seafarer.**

##### 5.1.2. Measures taken in connection with ex ante evaluation

**Not applicable**

##### 5.1.3. Measures taken following ex post evaluation

**Not applicable**

<sup>17</sup> For further information, see separate explanatory note.

## 5.2. Action envisaged and budget intervention arrangements

Not applicable

## 5.3. Methods of implementation

Direct management by the Commission using regular staff (already existing)

## 6. FINANCIAL IMPACT

### 6.1. Total financial impact on Part B - (over the entire programming period)

NO FINANCIAL IMPACT - Points 6.1.1. to 6.2: Not applicable.

#### 6.1.1. Financial intervention

Commitments (in € million to three decimal places)

Breakdown	[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5 and subs. Years]	Total
Action 1							
Action 2							
etc.							
<b>TOTAL</b>							

#### 6.1.2. Technical and administrative assistance, support expenditure and IT expenditure (commitment appropriations)

	[Year n]	[n+1]	[n+2]	[n+3]	[n+4]	[n+5 and subs. years]	Total
1) Technical and administrative assistance							
a) Technical assistance offices							
b) Other technical and administrative assistance: - intra muros: - extra muros: <i>of which for construction and maintenance of computerised management systems</i>							
Subtotal 1							

2) Support expenditure							
a) Studies							
b) Meetings of experts							
c) Information and publications							
Subtotal 2							
<b>TOTAL</b>							

## 6.2. Calculation of costs by measure envisaged in Part B (over the entire programming period)<sup>18</sup>

(Where there is more than one action, give sufficient detail of the specific measures to be taken for each one to allow the volume and costs of the outputs to be estimated.)

Commitments (in € million to three decimal places)

Breakdown	Type of outputs (projects, files )	Number of outputs (total for years 1...n)	Average unit cost	Total cost (total for years 1...n)
	1	2	3	4=(2X3)
<u>Action 1</u>				
- Measure 1				
- Measure 2				
<u>Action 2</u>				
- Measure 1				
- Measure 2				
- Measure 3				
etc.				
TOTAL COST				

*If necessary explain the method of calculation*

## 7. IMPACT ON STAFF AND ADMINISTRATIVE EXPENDITURE

No impact on staff expenditure. Management by existing staff. 7.1 and 7.2 not applicable.

No specific impact on administrative expenditure. 7.3.: not applicable.

<sup>18</sup> For further information, see separate explanatory note.

### 7.1. Impact on human resources

Types of post		Staff to be assigned to management of the action using existing and/or additional resources		Total	Description of tasks deriving from the action
		Number of permanent posts	Number of temporary posts		
Officials or temporary staff	A				<i>Tasks delegated to European Maritime Safety Agency</i> <i>If necessary, a fuller description of the tasks may be annexed.</i>
	B				
	C				
Other human resources					
Total					

### 7.2. Overall financial impact of human resources

Type of human resources	Amount (€)	Method of calculation *
Officials		
Temporary staff		
Other human resources (specify budget line)		
Total		

The amounts are total expenditure for twelve months.

### 7.3. Other administrative expenditure deriving from the action

Budget line (number and heading)	Amount €	Method of calculation
<b>Overall allocation (Title A7)</b>		
A0701 – Missions		
A07030 – Meetings		
A07031 – Compulsory committees <sup>1</sup>		
A07032 – Non-compulsory committees <sup>1</sup>		
A07040 – Conferences		
A0705 – Studies and consultations		
Other expenditure (specify)		
<b>Information systems (A-5001/A-4300)</b>		
<b>Other expenditure - Part A (specify)</b>		
Total		

The amounts are total expenditure for twelve months.

<sup>1</sup> Specify the type of committee and the group to which it belongs.



I.	Annual total (7.2 + 7.3)	€
II.	Duration of action	years
III.	Total cost of action (I x II)	€

## **8. FOLLOW-UP AND EVALUATION**

### **8.1. Follow-up arrangements**

**and**

### **8.2. Arrangements and schedule for the planned evaluation**

Member States should transmit the Commission "yearly succinct reports" (Art. 10).

## **9. ANTI-FRAUD MEASURES**

Not applicable.

## **IMPACT ASSESSMENT FORM**

### **THE IMPACT OF THE PROPOSAL ON BUSINESS WITH SPECIAL REFERENCE TO SMALL AND MEDIUM-SIZED ENTERPRISES (SMEs)**

#### **TITLE OF PROPOSAL**

Regulation of the European Parliament and of the Council on the implementation of the International Safety Management Code within the Community

#### **DOCUMENT REFERENCE NUMBER**

COM(2003)XXXXX

#### **THE PROPOSAL**

1. Taking account of the principle of subsidiarity, why is Community legislation necessary in this area and what are its main aims?

The purpose of this Regulation is to enhance the safe management, safe operation and pollution prevention of each type of ship engaged in international voyages in the light of the experience gathered with its implementation of Regulation (EC) No 3051/95 for ro-ro passengers. Regulation (EC) No 3051/95 is repealed and replaced by a new text. The Regulation aims at introducing the ISM Code amendments that complete the provisions concerning the validity of conformity certificates, interim certificates and the form of the certificates

#### **THE IMPACT ON BUSINESS**

2. Who will be affected by the proposal?
  - which sectors of business
  - Shipping companies operating ships covered by ISM code engaged on an international and domestic transport.
  - which sizes of business (what is the concentration of small and medium-sized firms)
  - A variety of sizes of companies will be affected, from companies owning one ship only to owners of much larger fleets.
  - are there particular geographical areas of the Community where these businesses are found
  - In all EU Member States, as all national administrations are affected in their role as flag States.
3. What will business have to do to comply with the proposal?

No particular measures are required. The Regulation is designed to improve safety at sea and to prevent seafarer accident and marine pollution within the Community

4. What economic effects is the proposal likely to have?

No applicable.

5. Does the proposal contain measures to take account of the specific situation of small and medium-sized firms (reduced or different requirements etc)?

No.

#### **CONSULTATION**

6. List the organisations, which have been consulted about the proposal and outline their main views.

The following organisations were invited and attended the consultation meeting:

- European Community Shipowners Association (ECSA)
- European Transport Workers' Federation (ETF)
- International Association of Classification Societies (IACS).