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From: General Secretariat of the Council

To: Delegations

Subject: 100th session of the IMO Maritime Safety Committee (London, 3-7 December 2018)

– Non-paper from the Commission drafted to facilitate EU co-ordination

DOCUMENT PARTIALLY ACCESSIBLE TO THE PUBLIC (14.01.2019)

In view of the Shipping Working Party/IMO experts meeting on 23 November 2018, delegations will find attached a non-paper from the Commission drafted to facilitate co-ordination between the EU Member States and the Commission in respect of the subject mentioned above.

NON PAPER

**DRAFTED TO FACILITATE CO-ORDINATION BETWEEN
THE EU MEMBER STATES AND THE COMMISSION¹ FOR THE
100TH SESSION OF THE
IMO MARITIME SAFETY COMMITTEE
(LONDON, 03-07 DECEMBER 2018)**

Non-restrictive list of items for which EU, common or coordinated positions could be agreed upon.

This document lists all received documents². The Commission suggests focussing the discussion on the proposed positions and on the consideration of support to submissions by another EU or EEA State as fellow EU/EEA Member State. This does not exclude the discussion of any other item on the agenda, if explicitly requested by an EU/EEA Member State or the Commission.

The comments by the Commission are printed in *italics*. The proposed line of conduct to be followed by the Member States and the Commission is printed in ***bold italics***.

¹ For reasons of brevity the word Commission used in this document means the responsible service of the Commission.

² Based on documents received up to 25 October 2018.

General

Relevant positions agreed in earlier EU IMO coordination papers remain valid - as far as still applicable – for this EU MSC 100 coordination.

Agenda item 1 – Adoption of the agenda

Docs: MSC 100/1, MSC 100/1/1

MSC 100/1 (Secretariat): provides the provisional agenda for MSC 100.

MSC 100/1/1 (Secretariat): provides the annotated agenda as well as the provisional timetable for MSC 100

In accordance with MSC 100/1/1 the following working and drafting groups will be established:

- *WG1 - Working Group on Maritime Autonomous Surface Ships.*
- *WG2 - Working Group on Goal-based Standards.*
- *WG3 - Working Group on Safety Measures for non-SOLAS Ships Operating in Polar Waters.*
- *DG1 - Drafting Group on Amendments to Mandatory Instruments.*

Agenda item 2 – Decisions of other IMO Bodies

Docs: MSC 100/2, MSC 100/2/1-2

MSC 100/2 (Secretariat): provides the outcome of C 120 on matters relevant to the Committee.

MSC 100/2/1 (Secretariat): provides the outcome of FAL 42 on matters relevant to the Committee.

MSC 100/2/2 (Secretariat): provides information on the outcome of TC 68 on matters of interest to the Committee.

Agenda item 3 – Consideration and adoption of amendments to mandatory instruments

Docs: MSC 100/3, MSC 100/3/1-2

MSC 100/3 (Secretariat): The Committee is invited to consider, with a view to adoption, draft amendments to the 2011 ESP Code.

MSC 100/3/1 (Secretariat): recalls the adoption of amendments to SOLAS chapter IV and the appendix (Certificates) (resolution MSC.436(99)) and provides a draft MSC resolution on consequential amendments to the SPS Code (resolution A.534(13)), incorporating the amendments adopted by circular MSC/Circ.739 and resolution MSC.183(79), and the draft amendment to the Record of Equipment of the SPS Code, proposed in the annex to document MSC 99/3/2/Add.1.

MSC 100/3/2 (IACS and the Secretariat): proposes modifications to the draft amendments to the 2011 ESP Code approved at MSC 99 with a view to adoption at this session.

EU Relevance

The amendments to the 2011 ESP Code would affect EU law through the application of Regulation (EU) No 530/2012 of the European Parliament and of the Council on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers.

As the amendments to be adopted under this agenda item will have an impact on Union law, the Commission adopted a proposal for a Council Decision on 13 September 2018 (COM(2018)624) establishing the EU position on these amendments, which was subsequently adopted by the Council on 15 October 2018 (Council Decision 2018/1601). It authorises Member States to give their consent to be bound by these amendments contained in the annex to MSC 100/3. This Council Decision expressly allows minor changes to the stated position without requiring a formal amendment of the Decision concerned.

Background

The 5th session of the Sub-Committee on Ship Design and Construction (SDC 5), which took place in London 22 – 26 January 2018, recalled that the 4th session of the Sub-Committee on Ship Design and Construction (SDC 4), which took place in London 13 – 17 February 2017, had authorized the International Association of Classification Societies (IACS) and the Secretariat to analyse the 2011 ESP Code, with a view to proposing editorial changes to identify all mandatory requirements; improve the format of the tables and forms; and provide a report on the progress made for consideration at SDC 5.

SDC 5 agreed that all substantive provisions currently contained in footnotes in the 2011 ESP Code should be included in the main body of the new consolidated text. SDC 5 furthermore agreed to improve the format of tables and forms in the ESP Code. SDC 5 finally also agreed to merge the editorial changes with new substantial amendments to the 2011 ESP Code, proposed by IACS that deal with the recent updates to the IACS Unified Requirements (UR) Z10 series.

SDC 5 endorsed the proposal to submit the draft amendments to the 2011 ESP Code to the 99th session of the Maritime Safety Committee (MSC 99), which took place in London 16 – 25 May 2018, for approval, with a view to subsequent adoption of the amendments at the 100th session of the Maritime Safety Committee (MSC 100) and entry into force on 1 July 2020.

MSC 99 considered the draft amendments to the 2011 ESP Code prepared by SDC 5 in accordance with the procedure for undertaking regular updates of the Code. MSC 99 approved the draft amendments to the 2011 ESP Code, which are set out in a draft MSC resolution, with a view to adoption at MSC 100.

Consideration at MSC 100

MSC 100/3 (Secretariat) lays down the draft amendments to the 2011 ESP Code and which are expected to be adopted at this session.

MSC 100/3/2 by IACS and the Secretariat asks for some modifications to the draft amendments to the 2011 ESP Code to be approved at this session, which, if accepted, can be considered minor changes. In the Commission's view such changes can be considered positively.

Member States and the Commission should:

Support the adoption by the Committee of the amendments to the 2011 ESP Code as set out in document MSC 100/3 and the minor editorial changes set out in MSC 100/3/2.

Agenda item 4 – Measures to enhance Maritime Security

Docs: MSC 100/4, MSC 100/INF.8

MSC 100/4 (Secretariat): provides information on submission of security-related information through the Maritime Security module of the Global Integrated Shipping Information System (GISIS), including the electronic transfer of information into the module, and on findings amongst participants in recent technical assistance activities related to the enhancement of maritime security measures.

MSC 100/INF.8 (Secretariat): provides draft specifications on data exchange to be read in conjunction with the draft guidance for the electronic transfer of information into the Maritime Security module of the Global Integrated Shipping Information System (GISIS), available within the module.

EU relevance

Regulation (EC) No 725/2004 and Directive 2005/65/EC implement the maritime security regime agreed by the International Maritime Organization (IMO) in December 2002 in SOLAS chapter XI 2 and the International Ship and Port Facility Security (ISPS) Code. In particular, Article 3(5) of Regulation (EC) No 725/2004 renders some provisions of Part B of the ISPS Code mandatory, including the minimum standards for Ship Security Assessment (SSA).

Directive 2010/65/EU on reporting formalities includes in Appendix the security form and details that should be reported prior to a ship calling in an EU port, including the list of the last 10 calls at port facilities, and be available for exchange, upon request, using the Union Maritime Information and Exchange System (SafeSeaNet) according to Directive 2002/59/EC (VTMIS Directive).

Background

In 2016 MSC 97 agreed to proceed with the proposals made by the Secretariat (MSC 97/4/1) concerning the development of a data transfer mechanism for the Maritime Security module of GISIS to facilitate the transfer and updating of such information directly from national databases, which are updated locally. The aim is to reduce the administrative burden of SOLAS Contracting Governments having to maintain the information in two separate systems. At MSC 97 an EU position was agreed:

"Support the general principle of the development of a data transfer mechanism for the Maritime Security Model of GISIS as proposed by the Secretariat in MSC 97/4/1, provided that all necessary provisions and procedures are developed to guarantee the proper secure handling of security-related information."

MSC 98 endorsed the draft guidance for the electronic transfer of information into the Maritime Security module of GISIS, as set out in the annex to the Secretariat's submission, MSC 98/5. It also invited Member States to assist with the technical implementation and testing. In MSC 99/4/1, the Secretariat advises that Norway has assisted in testing the system and that the new system functionalities are currently available in the developmental testing environment.

Consideration at MSC 100

In MSC 100/4 the IMO Secretariat provides a further update on IMO activities in relation to maritime security, in particular on the development of a functionality to upload information in the GISIS Maritime Security Module. The Secretariat notes that the functionality is being tested by Norway but it invites other Member States to test the same functionality to ensure that it would comply with different Member States systems.

*MSC 100/4 also asks Member States whether they would be interested in development of web-services to download information from the Maritime Security module of GISIS. **DELETED***

Agenda item 5 – Regulatory Scoping Exercise for the use of Maritime Autonomous Surface Ships (MASS).

Docs: MSC 100/5, MSC 100/5/1-8, MSC 100/INF.3, MSC 100/INF.6, MSC 100/INF.10

MSC 100/5 (Finland as coordinator of the Correspondence Group on MASS): reports on the outcome of the Correspondence Group on Maritime Autonomous Surface Ships (MASS) established at MSC 99.

MSC 100/5/1 (ISO): It has been observed that the understanding of degrees of autonomy used in the regulatory scoping exercise differs significantly between different stakeholders. ISO suggests that it is necessary to provide a better and less ambiguous way to describe these degrees for further work. An example of a possible characterization scheme is provided in this document. ISO also plans to launch a new work item to provide an industry standard for basic terminology and concepts for MASS. The document includes a brief description of the proposed contents and invites interested parties to join the working group.

MSC 100/5/2 (Norway and BIMCO): The need for the development of interim guidelines on MASS trials was expressed at MSC 99. In order to gather information and experience, and to ensure safe operations, precautionary safety measures are needed. The proposal contained in this document could enhance such measures on an interim basis.

MSC 100/5/3 (Republic of Korea): proposes relevant elements that should be considered during the development of the interim guidelines for Maritime Autonomous Surface Ships (MASS) trials.

MSC 100/5/4 (Secretariat): comments on the main issues identified by the Correspondence Group on Maritime Autonomous Surface Ships (MASS) during the testing of the framework and methodology for the regulatory scoping exercise on MASS.

MSC 100/5/5 (Japan): provides comments on the Report of the Correspondence Group on Maritime Autonomous Surface Ships (MASS).

MSC 100/5/6 (Australia, Denmark, Finland, France and Turkey): comments on the report of the Correspondence Group on MASS and proposes a framework to define levels, or degrees, of autonomy and control. The proposed framework is provided as a basis for future work of the Organization that will be needed to ensure the safe and efficient adoption of increasing levels of autonomy on board ships.

MSC 100/5/7 (China): comments on the outcome of the Correspondence Group on MASS and provides an analysis of the main challenges faced by the group. Several key aspects are identified to further improve the effectiveness and efficiency of the regulatory scoping exercise. A revised methodology is proposed accordingly to facilitate the work.

MSC 100/5/8 (United States): comments on the report of the Correspondence Group on Maritime Autonomous Surface Ships (MASS) and provides a method of work for the regulatory scoping exercise.

MSC 100/INF.3 (Secretariat): provides a consolidated report containing comments on maritime safety and security instruments based on documents submitted to MSC 99 related to the regulatory scoping exercise for the use of Maritime Autonomous Surface Ships (MASS).

MSC 100/INF.6 (China): provides information on the preliminary analysis of the International Regulations for Preventing Collisions at Sea, 1972, for the purpose of facilitating the ongoing regulatory scoping exercise for the use of maritime autonomous surface ships.

MSC 100/INF.10 (Republic of Korea): provides information on the results of a technology assessment on Maritime Autonomous Surface Ships (MASS) carried out by the Republic of Korea.

EU relevance

At this stage the impact on EU legislation cannot be determined (other than that there will be an impact). Maritime Autonomous Surface Systems are being developed at an increasing pace and while no full scale tests at sea (e.g. in dedicated sea areas) are being carried out in Member States national waters, some tests with (remote controlled) models for testing various types of sensors are starting. In the not too distant future, it is therefore foreseeable that first intra-European commercial voyages may take place. This accelerates the need to identify and address all the issues involved, both for the ship and shore side (e.g. monitoring, amangement and control of such operations also from the authprities side). These systems are very promising as they may deliver an increased level of safety, especially in relation to navigational aspects. Moreover, the European industry is at the forefront of these technological developments and should be supported.

However, even at this early stage the Commission is aware of at least one EU legislative instrument, which may have to be reconsidered in the light of autonomous vessels, namely Directive 2002/59/EC on the establishment of a Vessel Traffic Monitoring and Information System (VTMIS Direictive). The main issue to be considered under this Directive is how MASS would affect vessel traffic services (VTS) and what could be done to meet future challenges, including point-to-point intra EU-trade. Another aspect directly related to the VTMIS directive is the use of communication and monitoring tools (integrated maritime services).

In view of this, the High Level Steering Group for Governance of the Digital Maritime System and Services (HLSG DMSS; formally established under the VTMIS Directive) agreed to set up an ad hoc experts sub-group on Autonomous Shipping and VTS (MASS) to start investigating the VTMIS aspects related to the introduction of autonomous navigation and to analyse how to deal with autonomous navigation and routing from the perspective of monitoring, management and control. The HLSG DMSS should gather experts' views, advice and recommendations with a view to facilitate the safe deployment in particular in relation to the VTMIS Directive. This is in line with Article 23 (c) of the Directive, which requires that the Commission and the Member States “ ...work together to put in place, where necessary, mandatory reporting systems, mandatory maritime traffic services and appropriate ship's routing systems, with a view to submitting them to the IMO for approval”.

The first meeting of this ad hoc expert sub-group was held on 9th October 2018. The group agreed to do the following:

- Develop guidance/principles for MASS test/trials based on best practices for test zones in dedicated areas for complete safety, including the testing of communication-enabling monitoring, management and control. Coverage should gradually go from national waters to port/point to port/point traffic across-MS (intra-EU).*
- Explore how the Integrated Maritime Services provided by EMSA can support such purposes (e.g. Automated Behaviour Monitoring (ABM), Traffic Density Maps (TDM), etc.)*
- Continue developing a concept for the future VTS – monitoring, management and control – for all types of MASS operations, mixed traffic and ultimately for fully autonomous ships. Identify needs from a VTS angle, including training.*

Background

Marine Autonomous Systems have a "disruptive" (in both senses of the word) potential that industry expects to become a 'revolution' with implications in terms of technical, economic, environmental, legislative and social impacts in the years to come. They may also provide opportunities and new concepts that could improve logistics and therefore also the overall environmental impact of transport.

Autonomous/remotely controlled vehicles are expanding into all transport and non-transport related sectors with several road, aerial, agricultural, marine and maritime applications. These technological developments are at the core of all relevant robotics road maps of various organizations at European and international level. Besides the technological challenges, a key enabler for the deployment of civil applications is a regulatory framework designed to cater for such technological developments; thorough groundwork needs to be undertaken at IMO to update International Conventions such as SOLAS (about Safety) and COLREG (about avoiding Collisions). There are a number of studies and research projects under the EU-funded and -managed programmes that could be submitted for information within this scoping exercise.

MSC 98 agreed to the request by Denmark et al in MSC 98/20/2 for a regulatory scoping exercise of IMO with the aim of identifying:

- 1. IMO regulations which, as currently drafted, preclude unmanned operations;*
- 2. IMO regulations that would have no application to unmanned operations (as they relate purely to a human presence on board); and*
- 3. IMO regulations which do not preclude unmanned operations but may need to be amended in order to ensure that the construction and operation of MASS are carried out safely, securely, and in an environmentally sound manner.*

In addition MSC 98 recognised the need to draw up a workplan and the need to address in particular the human element aspects.

MSC 99 developed a draft framework for the regulatory scoping exercise, including its aim and objective; the preliminary definition of MASS and four levels of autonomy; the list of mandatory instruments to be considered; the applicability in terms of type and size of ships; the methodology for the exercise and the plan of work. In this regard MSC 99 established a correspondence group, under the coordination of Finland, in order to test the framework, in particular the methodology agreed for the regulatory scoping exercise.

MSC 99 also agreed that it should only review the legal instruments under its purview, but it would take a coordinating role on the whole MASS issue. Finally, the Committee invited interested Member States and international organizations to submit proposals to MSC 100 related to the development of interim guidelines for MASS trials.

Consideration at MSC 100

The report of the correspondence group is provided in MSC 100/5. This report confirms that the framework and methodology for the regulatory scoping exercise is, in principle, suitable for its purpose. A number of improvements were referred for the Committee's consideration. However, additional work on the framework would be required, especially regarding the level of detail and depth of analysis. In fact, most of the submissions under this agenda item (MSC 100/5/1 (ISO), MSC 100/5/4 (Secretariat), MSC 100/5/5 (Japan), MSC 100/5/6 (Australia et al), MSC 100/5/7 (China), and MSC 100/5/8 (United States)) propose further improvements to the content of the framework and the method of work. It is expected that such detailed consideration will be carried out in a working group.

The Commission would single out two submissions in particular, namely MSC 100/5/6, which amongst its co-sponsors includes several EU MS including the CG coordinator's own country and provides a good basis for better defining the concepts and levels of autonomy as well as MSC 100/5/8 by the US which will help to set a stricter scope for the RSE exercise.

The other two documents - MSC 100/5/2 (Norway and BIMCO) and MSC 100/5/3 (Republic of Korea) - propose relevant elements that should be considered for inclusion in the interim guidelines for MASS trials. . As noted above the Commission would have competence on issues related to the interaction of trials with VTS. Although this issue is not part of the consideration of the two documents, the Commission is of the view that the development of interim guidelines for MASS trials should be supported.

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Agenda item 6 – Goal-based new ship construction standards

Docs: MSC 100/6, MSC 100/6/1-9, MSC 100/INF.7

MSC 100/6 (Secretariat): provides the draft MSC resolution on Revised guidelines for verification of conformity with goal-based ship construction standards for bulk carriers and oil tankers (Revised GBS Guidelines), as set out in annex 1 to document MSC 99/WP.8, with minor modifications suggested by the Secretariat, as well as a proposal to amend paragraph 10 of the Guidelines, for consideration and action, as appropriate.

MSC 100/6/1 (Secretariat): provides an analysis of the costs for the first GBS maintenance audit and additional audits associated with verifying that non-conformities have been rectified, and recommends how audit fees should be calculated for future maintenance and non-conformity audits. All amounts shown in this document are in US dollars.

MSC 100/6/2 (Secretariat): contains the draft MSC circular on Interim guidelines for development and application of the IMO goal-based standards safety level approach, as agreed in principle by MSC 99, for consideration by the Committee with a view for approval.

MSC 100/6/3 (Secretariat): proposes to conduct a re-verification audit of DNV-GL's ship construction rules in accordance with paragraph 20 of part A of the GBS Guidelines (resolution MSC.296(87)), following the assessment by the audit team (MSC 100/6/4) that it could not conduct the audit of the rule changes submitted by DNV-GL to verify conformity with the GBS.

MSC 100/6/4 (Secretary-General): provides the final report of the GBS initial verification audit of Türk Loydu Uygunluk Değerlendirme Hizmetleri A.Ş. (Türk Loydu) for consideration by the Committee to establish conformity with the Organization's International Goal-based Ship Construction Standards for Bulk carriers and Oil tankers (GBS Standards) (resolution MSC.287(87)).

MSC 100/6/5 (Secretary-General): provides the final report of the first GBS maintenance of verification audit of 12 recognized organizations and IACS that had successfully undergone the initial verification audit, for consideration by the Committee to establish continued conformity with the Organization's goal-based ship construction standards for bulk carriers and oil tankers in accordance with resolution MSC.287(87) (GBS Standards).

MSC 100/6/5/Add.1(Secretary-General): provides the list of documents submitted by the recognized organizations and IACS to the GBS auditors for the maintenance of verification audit, as referred to in document MSC 100/6/5, annex, page 28 (annex 1 to the final report of the GBS audit team).

MSC 100/6/6 (Secretariat): provides the observations of the audit teams who have submitted their reports to MSC 100, namely the audit team for the GBS Initial Verification Audit of Türk Loydu, and the GBS maintenance of verification audit of the 12 recognized organizations which successfully underwent the GBS initial verification audit.

MSC 100/6/7 (Secretariat): provides the financial report on the GBS Trust Fund, including the income and expenditure, as of 31 August 2018.

MSC 100/6/8 (Secretariat): provides the corrective action plans for the non-conformities and observations raised by the audit team responsible for the initial GBS verification audit of Türk Loydu Uygunluk Değerlendirme Hizmetleri A.Ş. (Türk Loydu).

MSC 100/6/9 (IACS): provides information and comments to facilitate the Committee's consideration of documents MSC 100/6/4, MSC 100/6/6 and MSC 100/6/8.

MSC 100/INF.7 (Secretariat): provides the status of the work undertaken by China Classification Society (CCS) in addressing the observation by the GBS maintenance of verification audit team.

EU relevance

Article 11(1) of Directive 2009/15/EC on common rules and standards for ship inspection and survey organisations and for relevant activities of maritime administrations states:

“Each Member State shall ensure that ships flying its flag are designed, constructed, equipped and maintained in accordance with the rules and procedures relating to hull, machinery and electrical and control installation requirements of a recognised organisation.”,

while Article 11(3) of the same Directive stipulates that

“Member States shall cooperate with the recognised organisation they authorise in the development of the rules and procedures of those organisations. They shall confer with the recognised organisations with a view to achieving consistent interpretation of the international conventions.”

Furthermore, in Annex I to Regulation (EC) 391/2009, Criterion B.7 states that

“The recognised organisations must ensure that: (a) its rules and procedures are established and maintained in a systematic manner”,

while in Criterion B.11 it is stipulated that

“The recognised organisation must allow participation in the development of its rules and procedures by representatives of the administration and other parties concerned.”

Background

At MSC 99 submissions concerned two distinct lines of work:

1) The IMO Goal Based Construction Standards for Oil Tankers and Bulk Carriers that applies since 1 July 2016 and draws on a specific set of goals, requirements, rules and guidelines covering the five tiers of the GBS framework.

MSC 98 confirmed that before establishing the necessary financial arrangements for the maintenance of verification audits, the ROs whose rules had been verified as conforming to the goals and functional requirements of the International Goal-based Ship Construction Standards for Bulk Carriers and Oil Tankers (resolution MSC.287(87)) were to be requested to notify and make available, at least annually, any rule changes, including any errata, corrigenda or clarifications, to the Secretary-General and to all Administrations that had recognized them, as provided in paragraph 19 of the GBS Verification Guidelines.

MSC 99 approved, in principle, the draft MSC resolution on Revised guidelines for verification of conformity with goal-based ship construction standards for bulk carriers and oil tankers, with a view to subsequent adoption at MSC 100. The Revised timetable and schedule of activities for the implementation of the GBS verification scheme was also agreed, bearing in mind that the guidelines might need to be updated taking into account the experience gained during the auditing process.

2) The application of the Safety Level Approach (SLA) in the GBS framework to the IMO rule-making process, which is more generic and aims i.a. at integrating relevant risk-based approaches and methodologies for rule-making, e.g. the Formal Safety Assessment (FSA).

In this regard MSC 99 approved, in principle, the draft Interim guidelines for development and application of IMO goal-based standards safety level approach and instruct the Secretariat to prepare the associated MSC circular, for consideration at MSC 100 with a view to approval.

Consideration at MSC 100

In line with the agreement at MSC 99, the Secretariat (MSC 100/6) proposes minor modifications to the draft MSC resolution on Revised guidelines for verification of conformity with goal-based ship construction standards for bulk carriers and oil tankers (Revised GBS Guidelines), as well as a proposal to amend paragraph 10 of the Guidelines. In MSC 100/6/2, the Secretariat also proposes the draft MSC circular to the draft Interim guidelines for development and application of the IMO goal-based standards safety level approach (Interim guidelines).

Taking into consideration what was agreed at MSC 99, that the Revised GBS Guidelines would require periodical review, taking into account the experience gained with the auditing process over time, the Commission is of the view that the Revised GBS Guidelines are a considerable improvement in comparison to the previous Guidelines. However, clear guidance should be provided in paragraph 19 of the revised Guidelines in relation to the acceptable deviation of the submitted rules from the standard, when non-conformities have been identified during the verification audit.

In particular, draft paragraph 19 states that “Where non-conformities have been found and corrective action plans have been submitted, the rules and/or the documentation should be revised as necessary and the documentation to demonstrate rectification of non-conformities according to the agreed corrective action plans should be submitted for audit (see paragraphs 26.1, 27.1 and 27.3). During this process, ships contracted for construction to the rules prior to the final decision of the Committee may be deemed to meet the Standards unless the Committee agrees that there is a non conformity that compromises safety.”

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Agenda item 7 – Safety measures for non-SOLAS ships operating in Polar Waters

Docs: MSC 100/7, MSC 100/7/1

MSC 100/7 (Canada and New Zealand): proposes amendments to SOLAS chapter XIV to mandate the Polar Code, part I-A, chapter 10 on all ships operating in polar waters to which SOLAS chapter IV applies and to mandate the Polar Code, part I-A, chapters 9 and 11 on all ships operating in polar waters to which SOLAS chapter V applies, while maintaining the application of SOLAS regulation V/1.4.

MSC 100/7/1 (Canada): comments on document MSC 100/7 and proposes that non-SOLAS ships also be subject to methodologies for assessing operational limitations in ice and be required to carry onboard documentation that provides the operator, master and crew with guidance on how to operate safely in the polar environment, and how to respond to any incidents that may arise.

EU relevance

In terms of safety, Directive 97/70/EC setting up a harmonised safety regime for fishing vessels of 24 metres in length and over includes certain provisions on ice accretion in Annex I and in Annex III sets out specific technical provisions for fishing vessels operating in areas including Polar Waters.

Background

At SDC 4, following discussions on a submission by New Zealand (SDC 4/13/1) on starting work on Phase II of the Polar Code and its application to non-SOLAS vessels, it was decided to seek a policy decision from MSC 98 on how this work should be structured. At MSC 98 the Committee considered various proposals for mandatory requirements for non-SOLAS ships operating in polar waters, without any substantive conclusions.

MSC 99 considered various proposals for safety measures for non-SOLAS ships operating in polar waters.

MSC 99 confirmed the merit of increasing the safety-level for non-SOLAS ships operating in polar waters and that, in order to achieve this, a practicable legal framework was needed, whereby the proposal by Norway (MSC 99/7) would be a good starting point for discussion.

MSC 99 considered proposals for safety measures for non-SOLAS ships operating in polar waters and agreed that any safety measures for non-SOLAS vessels should, in principle, apply to both Arctic waters and the Antarctic area. When considering safety measures for different types of vessels, it was necessary to consider the area of application on a case-by-case basis as there was a possibility that exemptions/exceptions may apply.

MSC 99 also concluded that mandatory measures could only be applicable to international voyages while guidelines normally have no applicability restrictions and it would be up to the Member States to determine how to implement them. In this regard the SDC Sub-Committee was asked to develop recommendatory safety measures for fishing vessels of 24m in length and over, with a view to alignment with the 2012 Cape Town Agreement as well as for pleasure yachts above 300 gross tonnage not engaged in trade. The need for the NCSR Sub-Committee to develop mandatory measures would again be discussed at MSC 100, which would also have to review the roadmap for the work to be accomplished.

Consideration at MSC 100

*The Commission welcomes the submissions by Canada and New Zealand. In MSC 100/7, Canada and New Zealand propose amendments to SOLAS chapter XIV to facilitate the mandatory application of certain provisions to fishing vessels. In addition, Canada in MSC 100/7/1 proposes the consideration of making mandatory certain methodologies for determining a ship's operational capabilities in ice as an essential element of voyage planning (Polar Code, chapter 11), and asserts that a case can be made to make mandatory the carriage of a Polar Code's Polar Water Operational Manual (PWOM) or elements of it. **DELETED***

Agenda item 8 – Pollution prevention and response (matters emanating from the fifth session of the Sub-Committee)

Docs: MSC 100/8, MSC 100/8/1-2

MSC 100/8 (Secretariat): invites the Committee to take action on matters emanating from PPR 5.

MSC 100/8/1 (Liberia, ICS, INTERTANKO, IPTA and INTERFERRY): At the Intersessional Meeting on Consistent implementation of regulation 14.1.3 of MARPOL Annex VI (ISWG-AP 1), it was agreed to recommend that MEPC 73 refer fuel oil safety related concerns to MSC 100 for further consideration. This document provides proposals to assist the Maritime Safety Committee to address these concerns and to improve safety. Importantly, the co-sponsors emphasize that this is an existing safety matter, however, it is expected to become more acute as a result of amendments to regulation 14 of MARPOL Annex VI, which will enter into force on 1 January 2020.

MSC 100/8/2 (Bahamas, Liberia, Marshall Islands, Panama, BIMCO, INTERCARGO and INTERTANKO): provides further technical information to assist the Committee in considering the outcome of the Intersessional Meeting on Consistent implementation of regulation 14.1.3 of MARPOL Annex VI (ISWG-AP 1) concerning the identified safety implications associated with the use of fuels compliant with the 0.50% m/m global fuel oil sulphur limit entering into force on 1 January 2020.

EU Relevance

The sulphur-in-fuel-related requirements and implementing provisions of the revised MARPOL Annex VI have been reflected in Directive (EU) 2016/802 as regards the sulphur content of certain liquid fuels (codifying Directive 1999/32/EC and all subsequent amendments including Directive 2012/33/EU of 21 November 2012). The Energy Community countries (Montenegro, Albania, Bosnia Herzegovina, Moldova, Serbia, Ukraine) have adopted the sulphur-related EU environment acquis in the Energy Community Treaty in 2016 with an entry into force date of 1 June 2018.

The recent Commission report on implementation and compliance with the sulphur standards for marine fuels set out in Directive (EU) 2016/802 (COM/2018/188 final) illustrates a wealth of initiatives carried out at EU level to ensure the correct and cost efficient implementation of the latest 2012 revision of the Directive. According to the report, ECA areas for SO_x in EU waters (established in 2007-8 in the Baltic Sea, North Sea and English Channel) were successful in significantly reducing the sulphur dioxide concentration across the relevant riparian states as of 2015 when the ECA Sulphur requirement was reduced down to 0.1% from previous 1%. The report also shows that an EU credible and intensified enforcement of the legal requirements was key to address potential fears of distortion of competition and that the EU experience in SO_x-ECAs showed its value in preserving the economic level playing field. Importantly, the report also shows no records of accidents due to the operational transition from the use of heavy fuel oils to distillate fuel products. This is an encouraging precedent in view of the introduction of the global 0.50% sulphur limit, indicating that experience exists in the industry and timely preparation can ensure a smooth transition to the new limit while avoiding negative economic repercussions for the sector and minimizing any impacts at operational level.

In terms of the SOLAS aspects of operational safety and fuel oil requirements, Article 6(2)(a)(i) of Directive 2009/45/EC on safety rules and standards for passenger ships applies SOLAS, as amended, to Class A passenger ships. In this instance, SOLAS, Ch. II-2, regulation 4.2 is relevant.

In terms of fuel quality mandatory requirements and related standards under EU legislation, Articles 1 and 4 of Directive 2009/30/EC of the European Parliament and of the Council of 23 April 2009 amending Directive 98/70/EC as regards the specification of petrol, diesel and gas-oil for use in road and non-road mobile applications for health and environmental reasons and introducing a mechanism to monitor and reduce greenhouse gas emissions are relevant.

Background

At MEPC 73, the Committee, having noted the discussions of the Intersessional Meeting on Consistent Implementation of Regulation 14.1.3 of MARPOL Annex VI (MEPC 73/ISWG-AP 1), invited MSC to consider the outcome of the intersessional meeting concerning the potential safety implications associated with the use of low sulphur fuel. In addition, to further address remaining concerns expressed as to the quality of fuels to be supplied to ships and to the need for advance information on their availability, the Committee invited further concrete proposals on how to enhance the implementation of Regulation 18 of MARPOL Annex VI by early collection of relevant data and related analysis; this would include the upgrade of an existing dedicated module in GISIS, IMO's web platform.

At the same time, MEPC 73 adopted the amendments to MARPOL Annex VI concerning the prohibition on the carriage of fuels oils with sulphur content exceeding 0.50%, (hence non-compliant with Regulation 14), both for combustion and operational purposes. With this important step, the Committee strengthened significantly the enforcement of the 0.50% sulphur limit as an essential element to ensure the consistent and correct implementation of Regulation 14, while reinforcing the level playing field. Significantly, the adoption of the ban underlines IMO's commitment to honour its 2016 decision on the global sulphur cap and sends a clear message about IMO's undertaking to apply the regulation without any undue delay.

Considerations at MSC 100

1/ Draft amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk

In MSC 100/8 the Secretariat provides information on the publication of the report of the fifth session of the Sub-Committee on Pollution Prevention and Response (PPR). The main action points for consideration by MSC 100 are the approval of the draft amendments to the International Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (IBC Code), as well as the draft consequential amendments to the Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk (BCH Code). It should be noted that MEPC 73 has already approved the mentioned draft amendments.

2/ Fuels compliant with the 0.50% m/m global fuel oil sulphur limit entering into force on 1 January 2020: identified potential safety implications associated with their use on board.

Documents MSC 100/8/1 (Liberia et. Al.) and MSC 100/8/2 (Bahamas et. al.) refer to potential safety implications associated with the supply and use of 2020 compliant fuels but emphasize that it is already an existing safety issue, which may arise in relation to supplies of fuel oil of sub-standard quality. While the focus of the documents is on fuel supply, however known safety issues may occur when on-board fuel oil management procedures are not correctly applied.

The main issues identified in document MSC 100/8/2 (Bahamas et. al.) relate inter alia to stability, compatibility, flashpoint and viscosity. In this regard it should be noted that OCIMF, together with other industry organisations, is developing guidance on how ships could deal with such potential issues and submitted this information to MEPC in MEPC 73/5/17. The timely guidance will provide more information on the characteristics of fuels expected to be available by 2020, reflecting the new formulations and ranges of compliant fuels and within the limit imposed by competition law. Significantly, MEPC has called on ISO to deliver a Publicly Available Specification (PAS) in relation to the quality of upcoming 0.50 fuels.

Document MSC 100/8/1 provides a number proposals reformulated below for convenience: to assist IMO in addressing the safety issue for the consideration of MSC, the IMO should:

- review regulation 18 of MARPOL Annex VI to identify those requirements that are concerned with safety. Then, consider developing:*

- *a mechanism to assign responsibility to transfer these provisions from MEPC to MSC; or*
- *appropriate regulatory amendments to incorporate relevant provisions within the SOLAS Convention.*
- *replace the requirement to maintain a register of bunker suppliers with a requirement that parties to MARPOL Annex VI should establish bunker supplier licensing schemes.*
- *create a new Global Integrated Shipping Information System (GISIS) module for fuel oil safety matters with improve information including fuel quality and safety reports as well as supplier licensing schemes.*
- *in the interim, ensure MSC adopts a circular recommending that all Member States should take appropriate action to ensure that fuel suppliers under their jurisdiction deliver fuels that comply with applicable statutory requirements and the agreed specifications outlined in relevant IMO Guidance on Best Practice for Fuel Oil Purchasers/Users for Assuring the Quality of Fuel Oil Used on Board Ships (MEPC.1/Circ.875).*

In relation to the proposed review of Regulation 18 of MARPOL Annex VI and of GISIS, it is important to note that MEPC 73 already decided to invite further concrete proposals on how to enhance the implementation of regulation 18, in particular on reporting fuel oil quality and reporting of non-availability of compliant fuel oils through the enhancement of the GISIS module for data collection and analysis. Furthermore, the need to share relevant data on all aspects of consistent implementation of the global sulphur cap (enforcement, FONAR, Regulation 18, ...) has been also extensively debated at PPR and in the Fuel Quality Correspondence group.

DELETED

DELETED

Agenda item 9 – Ship systems and equipment (report of the fifth session of the Sub-Committee)

Docs: MSC 100/9, MSC 100/9/1-10

MSC 100/9 (Secretariat): invites the Committee to take action on the remaining matters emanating from SSE 5.

MSC 100/9/1 (Japan, New Zealand and ICHCA): provides a proposal on the scope of application of the new requirements for onboard lifting appliances and anchor handling winches.

MSC 100/9/2 (Japan): proposes to clarify the application of the draft amendment to paragraph 6.1.1.3 of the LSA Code, as set out in annex 1 to document SSE 5/17.

MSC 100/9/3 (Japan): proposes the application date of the draft MSC circular on Revised guidelines for the design and approval of fixed water-based fire-fighting systems for ro-ro spaces and special category spaces agreed by SSE 5.

MSC 100/9/4 (CIRM): CIRM has been made aware that some companies that manufacture dedicated fire-fighter radios, required by resolution MSC.338(91), are encountering a significant shortage of electronic component parts and, therefore, they are having difficulty in delivering a sufficient quantity of radios in time for customers' ships to comply with the above carriage requirement.

MSC 100/9/5 (IMCA): provides comments on the report of SSE 5, in particular, the development of draft goal and function-based SOLAS regulations and draft guidelines supporting the goals and functional requirements contained in the report of the Working Group on Onboard Lifting Appliances. The document provides information in respect of onboard lifting appliances installed on offshore construction ships and requests the Committee to agree that such lifting appliances are already highly regulated and, therefore, should not be included within the scope of the new SOLAS regulations.

MSC 100/9/6 (Japan): proposes an amendment to paragraph 4.4.8.1 of the LSA Code on lifeboat equipment, taking into account the outcome of SSE 5 on a unified interpretation of the requirement.

MSC 100/9/7 (China): highlights the inconsistency in interpreting item 8.1 on "Rudder, propeller, thrust, pitch and operational mode indicator" in the records of equipment in Forms C, E and P in certificates contained in the appendix to the SOLAS Convention and proposes to add a footnote to provide the necessary clarification.

MSC 100/9/8 (ICS): provides statistical information on the availability of fire-fighter radios procured by companies to meet the requirements of SOLAS regulation II-2/10.10.4 and comments on the actions requested of the Committee in document MSC 100/9/4.

MSC 100/9/9 (IACS): provides comments on the draft amendment to paragraph 6.1.1.3 of the LSA Code which was agreed at SSE 5.

MSC 100/9/10 (ICS, BIMCO, IFSMA, INTERCARGO, INTERMANAGER, IPTA and ITF): comments on paragraph 4.10 of the report to the Maritime Safety Committee (SSE 5/17), regarding the draft amendments to the LSA Code on the ventilation of totally enclosed lifeboats.

General

In the outcome of this sub-committee that is presented to MSC under this agenda item, there are some issues where there are positions that have been agreed within the EU at the time of their consideration in this IMO sub-committee. In the view of the Commission, this outcome is in line with these previously agreed EU positions and can therefore be accepted.

EU relevance

Article 6(2)(a)(i) of Directive 2009/45/EC on safety rules and standards for passenger ships applies SOLAS, as amended, to Class A passenger ships. Moreover, Directive 2009/45/EC, Annex I, Chapter III Life-Saving Appliances lays down various and extensive requirements for Class B, C and D passenger ships when engaged in domestic voyages.

Developments

LSA Code para 4.4.8.1 (MSC 100/9 and MSC 100/9/6)

*At SSE 5, in document SSE 5/12/1, the EU Member States successfully proposed a UI of the Life-Saving Appliances (LSA) Code Paragraph 4.4.8.1 and the Standardized Life-Saving Appliances Evaluation and Test Report forms MSC/Circ 980/Add.1, Section 4.4.1.2. The main scope of this UI is to cater for a lifeboat equipped with two independent propulsion systems as the existing requirements of paragraph 4.4.8.1 of the LSA Code cover mainly standard lifeboats with a single engine only. MSC 100/9 is now asked in MSC 100/9 to approve this UI. Japan in MSC 100/9/6, while allowing the UI to go ahead, favours to amend the LSA Code in this regard and to revoke the unified interpretation, if approved by the Committee, after the entry into force of the amendment to the LSA Code. **DELETED***

SOLAS Forms C, E and P (MSC 100/9/7)

In MSC 100/9/7, China proposes insertion of a minor administrative clarifying footnote within three SOLAS forms, one of which relates to record of equipment for passenger ship safety.

DELETED

Ventilation of totally enclosed lifeboats (MSC 100/9/10)

A joint industry paper by ICS et al (MSC 100/9/10), points out that SSE 5 agreed to the draft amendments to the LSA Code, as set out in the LSA WG report (SSE 5/WP.3) for eventual submission to the Committee for approval once the related amendments to the LSA Code regarding ventilation on survival craft other than totally enclosed lifeboats were finalized. Industry expressed its concerns at the outcome and considers the Committee should undertake a more detailed in-depth discussion, including whether an FSA should be undertaken, before a final decision is reached on the ventilation requirements of totally enclosed lifeboats and subsequently other survival crafts.

Agenda item 10 – Human element, training and watchkeeping (report of the fifth session of the Sub-Committee)

Docs: MSC 100/10, MSC 100/10/1-5,

MSC 100/10 (Secretariat): invites the Committee to take action on matters emanating from HTW 5.

MSC 100/10/1 (Japan and Panama): proposes revising the Guidance on arrangements between Parties to allow for recognition of certificates under regulation I/10 of the STCW Convention (MSC.1/Circ.1450) in order to facilitate prompt and effective implementation of the regulation.

MSC 100/10/2 (Finland): provides information on supplementary training provided for crew and personnel on board vessels certified according to the Polar Code.

MSC 100/10/3 and Add.1 (Secretariat): provides information regarding competent persons made available or recommended by the STCW Parties for inclusion in the list of competent persons maintained by the Secretary-General in accordance with section A-I/7 of the STCW Code, for approval by the Committee. The document also provides information about the competent persons who have been withdrawn by the Parties.

MSC 100/10/4 (Mexico): reference is made to mandatory seagoing service for candidates for certification under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention), 1978, as amended, for the purpose of calling the Committee's attention to taking measures to facilitate access to onboard training and to enable candidates to obtain certification.

MSC 100/10/5 (ITF): In order to support the Committee in pursuing the establishment of a robust fatigue management guidelines and its effective implementation, this document introduces research with recommendations and proposals on tugboat captains' fatigue issues that were consequently identified after launching the expanded new Panama Canal.

General

In the outcome of this sub-committee that is presented to MSC under this agenda item, there are some issues where there are positions that have been agreed within the EU at the time of their consideration in this IMO sub-committee. In the view of the Commission, this outcome is in line with these previously agreed EU positions and can therefore be accepted.

EU Relevance

Directive 2008/106/EC on the minimum level of training of seafarers as amended by Directive 2012/35/EU to incorporate the 2010 Manila Amendments to the STCW Convention in Union Law is relevant for these issues.

Developments

*In MSC 100/10/1, Japan and Panama seek to clarify the term 'undertaking' between two parties under the STCW Convention where one or both parties cannot enter into international agreements, by allowing the term to include non-legally binding agreements. They propose a revision of the relevant Guidelines to take this into account. **DELETED***

*In MSC 100/10/4 Mexico points to the problem of insufficient places for STCW certification candidates seeking the mandatory seagoing service. Mexico asks that MSC consider a proposal for a new output for the next session, involving MSC and TCC, to include an item in their respective agendas, to discuss potential measures to address the current shortage of seafarers and the situation of candidates for certification. **DELETED***

Agenda item 11 – Carriage of cargoes and containers (urgent matters emanating from the fifth session of the Sub-Committee)

Docs: MSC 100/11, MSC 100/11/1

MSC 100/11(Secretariat): invites the Committee to take action on urgent matters emanating from CCC 5.

MSC 100/11/1 (ICS and SGMF): provides comments on document MSC 100/11 regarding the draft amendments to paragraph 9.5 of the IGF Code and proposes the inclusion of additional text in order to ensure the applicability of leakage detection requirements for pipes carrying liquefied fuel.

EU relevance

The purpose of Directive 2009/45/EC on safety rules and standards for passenger ships is to introduce a uniform level of safety of life and property on new and existing passenger ships and high-speed passenger craft, when both categories of ships and craft are engaged on domestic voyages, and to lay down procedures for negotiation at international level with a view to a harmonisation of the rules for passenger ships engaged on international voyages. Article 6(2)(a)(i) of this Directive applies SOLAS, as amended, to Class A passenger ships. As the IGF Code is made mandatory for passenger ships through SOLAS, the Commission is of the view that this matter should be regarded as one of EU competence.

In addition, Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure requires Member States to ensure that LNG is available at EU core ports for seagoing ships as from the end of 2025. National policy frameworks have been finalized by EU Member States for the market development of alternative fuels and their infrastructure, with a particular focus on the different supporting measures and initiatives for the promotion and development of LNG refuelling points for sea going ships.

Background

MSC 99 had agreed to hold the approval of the draft amendments to parts A and A-1 of the IGF Code in abeyance and instructed CCC 5, taking into account the views expressed (MSC 99/22, paragraph 8.4) and document MSC 99/8/1, to reconsider the draft amendments to regulation 9.5.6 and report the outcome to MSC 100 as an urgent matter.

Consideration at MSC 100

Document MSC 100/11 by the Secretariat invites the Committee to approve the draft amendments to the IGF Code, as contained in annex 1 to document CCC 4/12, with a view to subsequent adoption. Nevertheless, document MSC 100/11/1 by ICS and SGMF provides comments on document MSC 100/11 regarding referred draft amendments and proposes the inclusion of additional text in order to ensure the applicability of leakage detection requirements for pipes carrying liquefied fuel.

As reflected in paragraph 3 of CCC 5 draft report (CCC 5/WP.1), ICS had already raised the need to clarify that secondary enclosures for pipes carrying liquefied fuel should be provided with leakage detection. This was discussed in the IGF WG and, despite recognizing some merits in the proposal, the majority was of the view that the addition would not add any value (paragraph 5 of document CCC 5/WP.3).

DELETED

DELETED

Agenda item 12 – Implementation of IMO instruments (urgent matters emanating from the fifth session of the Sub-Committee)

No Docs

Agenda item 13 – Capacity-building for the implementation of new measures

Docs: MSC 99/13,

MSC 100/13 (Vice-Chair): provides the preliminary assessment of capacity-building implications, or technical assistance needs, related to the draft amendments to mandatory instruments, and the outputs related to mandatory instruments approved at MSC 99.

Agenda item 14 – Piracy and armed robbery against ships

Docs: MSC 100/14, MSC 100/14/1-3, MSC 100/INF.4, MSC 100/INF.12

MSC 100/14 (Secretariat): reports on developments related to piracy and armed robbery against ships since MSC 99.

MSC 100/14/1 (ICS, BIMCO, OCIMF, IFSMA, INTERTANKO, P & I Clubs, INTERCARGO and InterManager): informs the Committee of the development of new Global Counter Piracy Guidance for Companies, Masters and Seafarers; the revised Best Management Practices to Deter Piracy and Enhance Maritime Security in the Red Sea, Gulf of Aden, Indian Ocean and Arabian Sea (BMP5); updated guidance for protection against piracy and armed robbery in the Gulf of Guinea region; and the development of a dedicated maritime security website by the shipping industry; and proposes that the Committee circulate the documents for Member Governments and intergovernmental and non-governmental organizations with consultative status, and endorse the annexed draft circular.

MSC 100/14/2 ():

MSC 100/14/3 (Islamic Republic of Iran): comments on documents MSC 100/14 and MSC 100/14/1 regarding piracy and armed robbery against ships highlighting the importance of the mental and psychological state of seafarers to the work of safety and security on board. It also provides some draft recommendations to seafarers on how to deal with mental and psychological effects of navigating in High Risk Areas (HRA) whether in West Africa and Gulf of Guinea or off the coast of Somalia.

MSC 100/INF.4 (ReCAAP-ISC): provides an update on the activities carried out by the Regional Cooperation Agreement on Combating Piracy and Armed Robbery against ships in Asia – Information Sharing Centre (ReCAAP-ISC) since MSC 99.

MSC 100/INF.12 (Marshall Islands, BIMCO, OCIMF and INTERTANKO): provides an update on the informal working group established during MSC 99 to harmonize global reporting of piracy and armed robbery incidents in the GISIS database.

EU relevance

The Commission has supported and continues to support all initiatives that facilitate the fight against the scourge of piracy and armed robbery, either at international and European level, with the aim to improve security aboard ships and ashore. The Commission has also initiated various initiatives itself in recent years. The Commission underlines the need for prior circulation of submissions in this area of shared competence.

Background

In MSC 100/14, the Secretariat sets out developments in terms of maritime security and reminds MS to update their contact details, provide information on incidents, complete the current questionnaire on information on port and coastal State requirements related to privately contracted armed security personnel on board ships (PCASP) (MSC-FAL.1/Circ.2) and continue to apply IMO guidance and Best Management Practice.

*In MSC 100/14/1 ICS et al. informs the Committee of the development of new Global Counter Piracy Guidance for Companies, Masters and Seafarers; the revised Best Management Practices to Deter Piracy and Enhance Maritime Security in the Red Sea, Gulf of Aden, Indian Ocean and Arabian Sea (BMP5); updated guidance for protection against piracy and armed robbery in the Gulf of Guinea region; and the development of a dedicated maritime security website by the shipping industry; and proposes that the Committee circulate the documents for Member Governments and intergovernmental and non-governmental organizations with consultative status, and endorse the annexed draft circular. **DELETED***

Agenda item 15 – Unsafe mixed migration by sea

Docs: MSC 100/15

MSC 100/15 (Secretariat): provides information about the progress made with the Global Compact for Safe, Orderly and Regular Migration and the global compact on responsibility-sharing for refugees since MSC 99.

EU relevance

Building on the European Agenda on Migration and the work undertaken under the Migration Partnership Framework, the European Commission and the High Representative/VP issued a communication on the 'Migration on the Central Mediterranean route - managing flows, saving lives' on the 25 January 2017.

The European Commission and the European External Action Service have developed a common approach and actions to strengthen the EU's integrated engagement in the Mediterranean with the aim of contributing to reduce the flow of irregular migrants tackle the smuggling of migrants and prevent cross border crime. Efforts through enhanced operational action is in place, within an integrated approach involving other countries in the region and relevant international partners, engaged Member States, CSDP missions and operations, Europol and the European Border and Coast Guard Agency. For the latter, its increased capacity benefits from the European cooperation

on Coast Guard functions with EMSA and EFCA, the support of EMSA being particularly essential for maritime surveillance.

A further step was taken by the Council addressing the Central Mediterranean route with the Malta Declaration on 3 February 2017. The Malta Declaration was supported by the Implementing Plan with the aim to take additional action to significantly reduce migratory flows along the Central Mediterranean route and break the business model of smugglers.

Developments

In MSC 100/15, as requested by MSC 99, the Secretariat reports on progress made with (1) the Global Compact for Safe, Orderly and Regulation Migration (global compact for migration) and (2) the global compact on responsibility-sharing for refugees (global compact on refugees). The Intergovernmental Conference to Adopt the Global Compact for Safe, Orderly and Regular Migration will be held on 10 and 11 December 2018 in Marrakech, Morocco. As regards the global compact on refugees, the text of the compact will be proposed by the High Commissioner for Refugees in his 2018 annual report to the United Nations General Assembly.

Agenda item 16 – Application of the Committee's method of work

No Docs

Agenda item 17 – Work programme

Docs: MSC 100/17, MSC 100/17/1-13

MSC 100/17 (Chairs of MSC and MEPC): contains the MSC and MEPC Chairs' proposals on activities, priorities and meetings of the two Committees and their subsidiary bodies for the 2020-2021 biennium

MSC 100/17/1 (+Corr.1) (EU, ICS, IUMI, BIMCO, ISU, INTERTANKO and P&I Clubs): proposes a new output for the Sub-Committee on Navigation, Communications and Search and Rescue (NCSR) for a revision of resolution A.949(23) on Guidelines on places of refuge for ships in need of assistance. This is to ensure that the resolution remains up to date and continues to serve as an effective instrument providing a clear framework to deal with a ship in need of assistance seeking a place of refuge in a consistent and harmonized manner globally.

MSC 100/17/2 (United States): proposes a new output to amend the International Convention for the Safety of Life at Sea (SOLAS). The aim of this proposal is to expand the applicability of SOLAS Regulation II-1/25, requirements for cargo hold water level detectors, by adding a new SOLAS regulation II-1/25-1 to apply to cargo ships with multiple cargo holds.

MSC 100/17/3 (United Kingdom): proposes a new output for the NCSR Sub-Committee to develop guidance on the management and use of emergency personal radio devices in multiple casualty situations.

MSC 100/17/4 (China and IMLA): proposes a new output for the Sub-Committee on Human Element, Training and Watchkeeping to develop an action verb taxonomy for IMO model courses to be included in the Revised guidelines for the development, review and validation of model courses (MSC-MEPC.2/Circ.15). The purpose of developing an action verb taxonomy for the detailed teaching syllabus applicable to IMO model courses is to improve the uniform understanding of model course developers/revisers and course users; as well as further promoting model courses.

MSC 100/17/5 (China): proposes a new output for revision of ECDIS – Guidance for good practice (MSC.1/Circ.1503/Rev.1) with a view to improving unified implementation on ECDIS type approval when the Administrations or ROs approve ECDIS's software and relevant updates.

MSC 100/17/6 (Marshall Islands and RINA): invites the Committee to recognize the debate at MSC 99 regarding document MSC 99/21/11 and the view that a new output should be submitted regarding practical lifeboat seating arrangements.

MSC 100/17/7 (Belarus and Russian Federation): contains a proposal for a new output for the current biennial agenda of the Committee in order for the HTW Sub-Committee to address the use of electronic certificates and documents issued pursuant to the STCW Convention and Code.

MSC 100/17/8 (United States): proposes a new output to enhance performance standards and carriage requirements for shipborne voyage data recorders in order to require float free arrangements on VDR installations and to record all communications between shipboard control stations and both sides of all communications with the bridge.

MSC 100/17/9 (New Zealand and ICHCA): proposes a new output for the Sub-Committee on Carriage of Cargoes and Containers (CCC) concerning the revision of MSC.1/Circ.1442, as amended by MSC.1/Circ.1521

MSC 100/17/10 (Panama, CLIA and IBIA): proposes a new output to amend SOLAS regulation II-2/13.4 regarding means of escape from machinery spaces below the bulkhead deck so that seafarers can safely and swiftly escape to the lifeboat and liferaft embarkation deck. This proposal calls for doors in vertical emergency escape trunks from machinery spaces below the bulkhead deck to only open in-way of the direction of escape.

MSC 100/17/11 (China): comments on the biennial status report of the sub-committees (MSC 99/22/Add.1, annex 21) and proposes to assign a different strategic direction to the outputs "Amendments to the IMDG Code and supplements", "Amendments to the IMSBC Code and supplements" and "Measures to harmonize port State control (PSC) activities and procedures worldwide" in order to better reflect the effectiveness of the work achieved by IMO.

MSC 100/17/12 (IMHA): comments on the proposal for a new output to amend the Revised guidelines for the development, review and validation of model courses (MSC-MEPC.2/Circ.15) by the development of an action verb taxonomy.

MSC 100/17/13 (ILAMA): presents ILAMA's concerns with regard to the proposals contained in MSC 100/17/6 and recommends that the practical lifeboat seating issue be considered as part of the revision of the entire LSA Code, instead of being taken as a separate issue.

Places of Refuge Guidelines

EU relevance

Article 20a of Regulation 2002/59/EC on plans for the accommodation of ships in need of assistance directly addresses this issue and makes reference to the current IMO Guidelines in IMO Resolutions A.949(23) and A.950(23).

General

*In MSC 100/17/1 (+Corr.1), the EU MS, plus all concerned industry bodies, request a new output to update the current IMO resolution A.949(23) on Guidelines on places of refuge for ships in need of assistance. This has been a very fruitful collaboration with industry with the resulting elaboration of EU operational guidelines; the submission seeks to ensure that the IMO resolution remains up to date and continues to serve as an effective instrument providing a clear framework to deal with a ship in need of assistance seeking a place of refuge in a consistent and harmonized manner globally. The proposal is to share and draw from the common experience in developing the EU Operational Guidelines. **DELETED***

Revised guidelines for the development, review and validation of model courses (MSC-MEPC.2/Circ.15): inclusion of action verb taxonomy.

EU relevance

According to paragraph 1 of Annex I to Directive 2008/106/EC on the minimum level of training of seafarers, the Regulations prescribing the mandatory minimum requirements for certification of seafarers, including requirements for approved education and training, referred to in that Annex are supplemented by the mandatory provisions contained in Part A of the Seafarers' Training, Certification and Watchkeeping (STCW) Code. According to paragraph 6 of Section A-I/2 of the STCW Code, in approving training courses and programmes, Parties should take into account that the relevant IMO Model Courses can assist in the preparation of such courses and programmes and ensure that the detailed learning objectives recommended are suitably covered.

General

At HTW 5, in HTW 5/3/13, China notified its intention to develop a new Action Verb Taxonomy of the Detailed Teaching Syllabus applicable to IMO model course development and revision, and if accepted by HTW, to take the next steps to propose the establishment of a new output. The EU position at HTW 5 for this agenda item was generally supportive:

"Support – in general – the development, review and amendment of IMO model courses so as to bring them in line with technological developments, amended standards and emerging training needs and requirements of applicable conventions."

*In MSC 100/17/4, China now formally proposes this new output. **DELETED***

ECDIS – revision of Guidance for good practice (MSC.1/Circ.1503/Rev.1) – MSC 100/17/5

EU relevance

MED/4.30 of Commission Regulation 2018/773 deals with the ECDIS type approval requirements and carriage and performance requirements.

General

In MSC 100/17/5, following a favourable indication to their initial suggestion in paper MSC 99/12/10 at MSC 99, China proposes a new output for revision of ECDIS – Guidance for good practice (MSC.1/Circ.1503/Rev.1) to improve unified implementation on ECDIS type approval when the Administrations or ROs approve ECDIS's software and relevant updates. This also comes in the light of difficulties highlighted last year in upgrading ECDIS equipment.

DELETED

Assessment of the practicality of survival craft (specifically lifeboat) seating arrangements MSC 100/17/6)

EU relevance

Article 6(2)(a)(i) of Directive 2009/45/EC on safety rules and standards for passenger ships applies SOLAS, as amended, to Class A passenger ships. Moreover, Directive 2009/45/EC, Annex I, Chapter III Life Saving Appliances lays down various and extensive requirements for Class B, C and D passenger ships when engaged in domestic voyages.

General

In MSC 100/17/6, following a favourable indication to their initial suggestion in paper MSC 99/21/11, the Marshall Islands puts forward the case for a new output to examine the practicality of survival craft seating arrangements, given the potential for the current rules to be interpreted in such a way that pose a potential health and safety risk to the occupants. **DELETED**

Use of electronic certificates pursuant to the STCW Convention and Code (MSC 100/17/7)

EU relevance

Article 5(10) of Directive 2009/15/EC on minimum level of training of seafarers stipulates that :

“Subject to Article 19(7) any certificate required by this Directive shall be kept available in its original form on board the ship on which the holder is serving”

General

Digitalisation of STCW certificates could facilitate documentary inspection during the PSC. It could also allow for a faster identification of fraudulent certificates. However, it is important to consider the technical and practical obstacles that may exist to implement the digitalization of STCW certificates throughout the maritime sector. Thus, to promote such a development and eventual implementation, a thorough discussion on the issue should take place.

DELETED

Shipborne Voyage Data Recorders (VDR) - enhancing performance standards and carriage requirements (MSC 100/17/8)

EU relevance

The VTMS Directive 2002/59/EC, Article 10 and MED/4.29 and MED/4.47 in Commission Regulation 2018/773 deal with VDRs, the latter two sections within the Regulation covering VDR and S-VDR carriage and performance requirements respectively.

General

Following El Faro accident and the subsequent recommendations of the US accident investigation body, the US proposes a new output, essentially to require float free arrangements on VDR installations and to record all communications between shipboard control stations and both sides of all communications with the bridge.

Background

A VDR carriage requirement for new and existing ships, except cargo ships of less than 3,000GT, was introduced into SOLAS with an application date of 1 July 2002 and various phase-in dates for existing ships.

Initially, IMO adopted standards for VDRs (A.861(20)) and simplified VDRs (S-VDR) (MSC.163(78)), the latter being intended for cargo ships constructed before 1 July 2002 with a latest installation date in 2010.

The latest IMO standard for the maritime VDR is annexed to Resolution MSC.333(90), which recommends Governments to ensure that VDRs installed on or after 1 July 2014, conform to performance standards not inferior to those specified in its annex. The update of the standard was undertaken following identification of problem areas by a number of IMO Member States, notably Germany in particular, and was informed by the EU funded European Maritime Data Management (EMDM) project. The new MSC.333(90) standard has taken advantage of this experience and improving technology to address the principal problems identified with the older VDRs.

MSC 100

The problems noted by the investigation into the El Faro were partly considered already in the development of the new standard. Among the changes introduced by MSC.333(90), the final recording medium of a new VDR should consist of three recording media, one of them being installed in a float-free capsule. This float-free capsule should be capable of transmitting an initial locating signal and further locating homing signal for at least 48 hours over a period or not less than seven days/168 hours. Resolution MSC.333(90) also introduced new provisions to improve

microphone location and require them to be separated across at least two channels so that extraneous noise on one channel, e.g. due to wind or an alarm, would not render audio on the other channel unintelligible. The new standard did not address the recording of communication on a ship's internal telephone systems.

In paragraph 14 of their paper the US "believes all new VDRs should be required to be carried in float-free arrangements" whereas this is already a requirement of Resolution MSC.333(90) for VDRs installed on or after 1 July 2014. In addition, other parts of the paper raise doubts about the intended scope of the proposed output with respect to existing installed VDRs and SVDRs. However, in paragraph 15 the US says "The proposal would only apply to new installations."

IMO did not take retrospective action in relation to the older equipment at the time of adoption of the revised standard in Res. MSC.333(90). With manufacturers tending to repair and upgrade rather than replace with new, these units and their inherent problems are likely to continue in use for some years to come. However what may be practicable for older VDRs will depend very much on the individual designs and it will be difficult to establish a mandatory upgrade that could reasonably be applied for all. Furthermore, IMO Member States may feel that this step has already been rejected when the standard was revised only a few years ago.

The US proposal that "VDR performance criteria should be enhanced to include standards for recording all communications between shipboard control stations and both sides of all communications with the bridge" is however, clear and will be of benefit for accident investigation purposes. **DELETED**

SOLAS regulation II-2/13.4: amendments regarding means of escape from machinery spaces below the bulkhead deck for new ships MSC 100/17/10

EU relevance

Article 6(2)(a)(i) of Directive 2009/45/EC on safety rules and standards for passenger ships applies SOLAS, as amended, to Class A passenger ships. Moreover, Directive 2009/45/EC, Annex I, Chapter II-2, Part B, Reg.6 (means of escape) lays down various and extensive requirements for Class B, C and D passenger ships engaged in domestic voyages

General

In MSC 100/17/10, Panama et al. call for a new output to amend the current SOLAS provisions on means of escape from machinery spaces below the bulkhead deck so that seafarers can safely and swiftly escape to the lifeboat and liferaft embarkation deck in case of emergency, whether from fire, flooding or otherwise. Specifically they call for doors in vertical emergency escape trunks from machinery spaces below the bulkhead deck to only open in-way of the direction of escape. They make the point that while current provisions allow vertical escape in the event of fire, the case of escape from flooding is not addressed.

DELETED

Agenda item 19 – Any other business

Docs: MSC 100/19, MSC 100/19/1-11, MSC 100/INF.2, MSC 100/INF.5, MSC 100/INF.9, MSC 100/INF.11

MSC 100/19 (United States): invites the Committee to note the contribution of the Automated Merchant Vessel Reporting (Amver) service to maritime safety, and recognize as appropriate, the 60th anniversary and its continuous operation since establishment in July 1958.

MSC 100/19/1 (Secretariat): provides a proposal for minor corrections to the Revised recommendation on testing of life-saving appliances (resolution MSC.81(70)), as contained in document MSC 99/20/13, as requested by MSC 99 (MSC 99/22, paragraph 20.30), for consideration by the Committee. The document further highlights the differences between the texts of standards ISO 15372:2000 and ISO/TR 6065.

MSC 100/19/2

MSC 100/19/3 (Russian Federation): proposes a study related to all issues of Fibre Reinforced Plastic (FRP) material usage in the maritime industry and to consolidate the available experience, as

well as to consider a new output for the development of IMO requirements on design, construction and survey of seagoing vessels (including Maritime Autonomous Surface Ships (MASS)) with FRP hulls and/or FRP structures contributing to global strength.

MSC 100/19/4 (EU): IMO resolution A.658(16) on Use and fitting of retro-reflective materials on life-saving appliances requires the use of carbon arc testers for the accelerated weathering tests for retro-reflective materials. However, new technologies are progressively replacing carbon arc lamps making their use for testing increasingly difficult. To address this issue two alternatives in the form of minor issues are proposed.

MSC 100/19/5 (Ukraine): draws the attention of the Committee to the Russian Federation's unlawful unilateral actions in the northern part of the Black Sea, including areas adjacent to the temporarily occupied Autonomous Republic of Crimea and the city of Sevastopol, Ukraine, and the consequences of such unlawful actions for the safety and security of navigation in these areas.

MSC 100/19/6 (China): proposes measures to improve domestic passenger ships' safety, based on a statistical analysis of domestic ferry incidences in Member States, including China.

MSC 100/19/7 (ISO): provides an updated list of international standards recently published, or under development, by ISO that relate to work items considered by the Maritime Safety Committee.

MSC 100/19/8 (Liberia, Marshall Islands, New Zealand and IACS): discusses moves towards a fully independent, international quality assessment review body for the IACS Quality System Certification Scheme (QSCS) by means of an initial trial.

MSC 100/19/9 (Australia, Canada, France, Italy, Japan, United Kingdom and United States): proposes an MSC circular on deceptive shipping practices employed by the Democratic People's Republic of Korea that endanger maritime security and threaten the safety of navigation.

MSC 100/19/10 (Secretariat): provides comments on document MSC 100/19/6 (China) and an update on the efforts of the Organization to address the safety of passenger ships on non-international voyages under the Integrated Technical Cooperation Programme.

MSC 100/19/11 (Russian Federation): provides comments on document MSC 100/19/5 (Ukraine)

MSC 100/INF.2 (Secretariat): informs the Committee of the status of the Global Integrated Shipping Information System (GISIS).

MSC 100/INF.5 (Russian Federation, FAO, Pew and the Secretariat): provides information on the roundtable "Course for 2050: The safety of fishermen and fishing vessels" co-hosted by IMO and Pew at the Global Fishery Forum (Saint Petersburg, Russian Federation, 13 September 2018).

MSC 100/INF.9 (Republic of Korea): provides information on the 2018 Korea Maritime Week, which was held from 26 to 28 June 2018 in Seoul and Busan, to discuss current issues, such as smart-shipping and green-shipping, together with leading experts from the Government, academia and industrial circles.

MSC 100/INF.11 (Secretariat): provides, for the information of the Committee, some highlights in the history of IMO and the Maritime Safety Committee and other information relating to the work and achievements of MSC.

Revised recommendation on testing of life-saving appliances (resolution MSC.81(70)) (MSC 100/19/1)

EU Relevance

Item 1 (Life Saving Appliances) of the Annex to Commission Regulation (EU) 2018/773 indicates that the testing standards are MSC.81(70). Hence any change to these standards is an issue of EU competence.

General

*In MSC 100/19/1 the IMO Secretariat puts forward some minor corrections to MSC.81(70) for adoption at this session. **DELETED***

Accelerated weathering tests of retro-reflective materials on life-saving appliances (MSC 100/19/4)

EU relevance

Article 6(2)(a)(i) of Directive 2009/45/EC on safety rules and standards for passenger ships applies SOLAS, as amended, to Class A passenger ships. Moreover, Directive 2009/45/EC, Annex I, Chapter III Life Saving Appliances lays down various and extensive requirements for Class B, C and D passenger ships when engaged in domestic voyages.

General

This EU submission asks for minor amendments to IMO resolution A.658(16) on the Use and fitting of retro-reflective materials on life-saving appliances. It makes the point that currently the resolution requires the use of carbon arc testers for the accelerated weathering tests for retro-reflective materials, but this does not reflect new replacing technologies and proposes two alternative minor editorials.

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Domestic ferry vessel safety (MSC 100/19/6)

EU relevance

Directive 2009/45/EC as amended sets out rules for passenger ship safety on ships engaged on domestic voyages.

General

In MSC 100/19/6 China points out the tragic and ongoing loss of life due to domestic ferry accidents, not least in China itself. It proposes a comprehensive series of actions by the IMO to address this continuing problem – study on elements affecting ferry safety; technical guidance in implementing/enforcing rules/regulations; technical cooperation and capacity building; sharing of ferry safety management experience and lessons learned from accidents; seminars.

*Given the EU's own experience and response to tragic ferry accidents (mainly international) – Herald of Free Enterprise, Estonia, Samina, Lisco, Norman Atlantic, there is much that can be shared. IMO's remit is primarily for international shipping and the IMO's resources are limited. Nevertheless in MSC 100/19/10 the Secretariat points out the extensive and widespread assistance it has provided in terms of training and workshops over the years in many parts of the developing world. In such circumstances, it might be more appropriate for the IMO to act as a link between those countries/organisations willing to share their experience and those for whom it might be helpful. **DELETED***

Trial for an independent assessment of the IACS Quality System Certification Scheme (OSCS) MSC 100/19/7.

EU relevance

Regulation (EU) 391/2009 on common rules and standards for ship inspection and survey organisations covers the aspect of independent assessment of Recognised Organisations.

General

Liberia et al inform the Committee that IACS wishes to trial the establishment of a universal, independent and international quality assessment review body, possibly under the aegis of the IMO, which would review the findings of the ACBs' audits of IACS members as well as the corresponding corrective action plans. This proposed International Quality Assessment Review Body (IQARB), an

advisory and a non-decision-making body, composed of suitably qualified individuals from maritime authorities, the IMO Secretariat, and industry bodies including those from the insurance industry, shipowners and shipbuilders, with IACS acting as Secretariat. The co-sponsors ask the Committee to endorse the active participation of the IMO Secretariat in the trial phase and the hosting of IQARB meetings by IMO.

DELETED

Deceptive shipping practices employed by Democratic People's Republic of Korea MSC 100/19/9)

General

In MSC 100/19/9, the cosponsors set out a list of deceptive practices in shipping employed by the DPRK. They propose a draft MSC circular to be circulated to all Members to call their attention to these deceptive shipping practices and to remind all Members of the requirements and guidance contained in relevant IMO instruments.

DELETED
