



Council of the
European Union

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'I' ITEM NOTE

From:	General Secretariat of the Council
To:	Permanent Representatives Committee
No. Cion doc.:	6502/20
No. prev. doc.:	6637/1/20 REV 1
Subject:	Draft Union submission to the 102nd session of the Maritime Safety Committee of the IMO from 13 – 22 May 2020 in London, concerning a Union commenting paper on the new output on containers lost at sea in application of the action plan to address marine plastic litter from ships, submitted by Vanuatu – <i>Endorsement</i>

INTRODUCTION

1. On 2 March 2020, the Commission transmitted to the Council a Staff Working Document containing a draft submission to the 102nd session of the Maritime Safety Committee (MSC 102) of the International Maritime Organization (IMO) commenting on a proposal, submitted by Vanuatu, for a new output (agenda item) on containers lost at sea in application of the IMO Action Plan to address marine plastic litter from ships. The deadline for transmitting the draft submission to the IMO Secretariat is 24 March 2020.
2. Containers lost at sea pose a threat to safety of navigation and to the marine environment; among other things, they might contribute to the proliferation of marine plastic litter.

3. The purpose of the draft submission is to express general support for a submission by Vanuatu¹ proposing a new output on this issue and to draw attention to the operational system at Union level for the detection and reporting of containers lost at sea, enhancing the positioning, tracking and recovery of such containers which could serve as an inspiration for a system at the international level. Furthermore, it suggests certain changes to the output proposed by Vanuatu.
4. It should be noted that some industry associations are prepared to co-sponsor the submission².

WORK WITHIN THE COUNCIL

5. The draft submission was examined by the Shipping Working Party at its meeting on 6 March 2020. After that meeting, a revised version was distributed to delegations, including some comments from delegations, and subjected to a silence procedure which ended on 13 March 2020. Delegations expressed no objections and thus consensus was reached. It was also agreed that the Presidency would be allowed to indicate at the time of transmission that the document may be released to the public by the IMO secretariat prior to MSC 102.
6. However, there is no agreement on who should submit the draft submission. The Commission maintains the view that the draft submission should be made by "the European Commission on behalf of the European Union", while the Member States consider that it should be made by the Member States and the European Commission.
7. Given the urgency and importance of the matter, it was agreed at working party level to propose to transmit the submission in the name of the Member States and the European Commission, while taking good note of the position of the Commission.

¹ Cf. doc. WK 3288/20 ADD 1 (IMO doc. MSC 102/21/13).

² The Baltic and International Maritime Council (BIMCO) and the World Shipping Council (WSC).

CONCLUSION

8. In the light of the above, the Permanent Representatives Committee is invited to
 - endorse the text of the draft submission in the annex, with a view to its transmission by the Presidency to the International Maritime Organization.
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MARITIME SAFETY COMMITTEE
102nd session
Agenda item 21

MSC 102/21/XX
DD/MM/YY
Original: English

Pre-session public release :

WORK PROGRAMME

Comments on document MSC 102/21/13 submitted by Vanuatu³ proposing a new output on containers lost at sea in application of the action plan to address marine plastic litter from ships

Submitted by Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden and the European Commission

SUMMARY

<i>Executive summary:</i>	This document provides comments on document MSC 102/21/13 regarding containers lost at sea. Such incidents represent a potential danger to maritime safety and a threat to the environment, particularly if they contain plastic or hazardous materials. This document expresses general support for a new output, and draws attention to the operational system at European Union level for the detection and reporting of containers lost at sea enhancing the positioning, tracking and recovery of such containers which could serve as an inspiration for a system at the international level.
<i>Strategic direction :</i>	SD 2, SD 4, SD 6
<i>Output :</i>	N/A
<i>Action to be taken:</i>	Paragraph 13
<i>Related documents:</i>	MEPC 73/19 (Annex 10), MEPC 73/8/3 resolution MEPC.310.(73) and MEPC 74/18 paragraphs 8.38 and 8.39

Introduction

1 This document is submitted in accordance with the provisions of paragraph 6.12.5 of the *Organization and method of work of the Maritime Safety Committee and the Marine Environmental Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.5/Rev.1) and provides comments on document MSC 102/21/13.

³ See WK 2388/2020 ADD 1.

Aim

2 This document expresses support in principle of the request in document MSC 102/21/13 for a new output, and provides information regarding what action is already required under European Union (EU) law.

Discussion

3 As other coastal States, EU coastal States regularly face the consequences of container losses off their shores. After severe events (such as in adverse weather conditions⁴), the consequences can be very negative for maritime safety and the environment, including economic ones, for coastal regions.

4 For this reason, at the EU level, the issues of detection, reporting, positioning, and tracking are covered in the EU legislation on Vessel Traffic Monitoring and Information Systems (Directive 2002/59/EC⁵⁶) as well as (the issue of reporting) in Investigation of Accidents in the maritime transport sector (Directive 2009/18⁷).

5 For the purposes of reporting containers lost at sea, a reporting template has been elaborated⁸ with the participation of the EU Member States, the European Commission and the European Maritime Safety Agency and is systematically used. This has been established practice since 2012. The system is operational (technically developed and operated by EMSA) and the required incident reporting is, and has been, used to share information among all concerned coastal States, as well as to provide the necessary navigational warnings to mariners, in recent incidents⁹.

⁴ This issue was also raised at the WMO/IMO International Symposium: "Extreme Maritime Weather: Towards Safety of Life at Sea and a Sustainable Blue Economy" held at IMO, 23/25 October 2019. NCSR 7/INF.12 (IMO and WMO Secretariats): contains in the annex the preliminary report of the WMO/IMO International Symposium.

⁵ Article 17(1) on incident reporting, regulates the reporting of certain items. Thus, the master of a ship sailing within a Member State's search and rescue region/exclusive economic zone or equivalent, shall immediately report to the coastal station responsible for that geographical area any slick of polluting materials and containers or packages seen drifting at sea. This applies to any master, whether his own ship has lost one of those items or whether he has only detected them.

⁶ Reporting, positioning and tracking are enabled via the Union Maritime Information and Exchange System (SafeSeaNet) integrated maritime services. The reporting is done through the Incident Reporting into SafeSeaNet. The purpose is to make responsible authorities aware, so that timely measures can be taken. For example, in the case of lost containers at sea, a navigational hazard warning could be sent out. On the basis of the incident reporting, SafeSeaNet has features (so called Automated Behaviour Monitoring (ABM)) enabling the positioning and therefore tracking of the area/location where the lost container has been spotted (without the need for any locator mechanism fitted in the container as such).

⁷ Article 6 of the Directive provides that Member States' maritime accident investigation bodies must be informed without delay by the responsible authorities and/or by the parties involved, of the occurrence of all casualties and incidents falling within the scope of the Directive. This includes loss of containers at sea.

⁸ In the established Governance Body (the High Level Steering Group).

⁹ E.g. MSC Zoe (in January 2019), BG Jade and OOCL Rauma (both in February 2020).

6 At the 73rd session of MEPC, in October 2018, the EU and its Member States submitted MEPC 73/8/3 (Austria et al.), proposing a list of elements for inclusion in the action plan on marine plastic litter from ships and a list of actions to be coordinated at the international level as part of a programme to address marine plastic litter from ships. This was in support to the action plan to address marine plastic litter from ships as adopted by MEPC 73 (Resolution MEPC.310(73)). In addition, the joint WSC/BIMCO submission (MEPC 73/8/11) expressed support in principle for a mandatory reporting requirement. Measures 10 and 11 of the action plan specifically target the loss of containers at sea. They consider (i) the establishment of a compulsory system of formatted declarations; (ii) an obligation to report through a standardised procedure; and, (iii) based on additional information to be provided by interested parties, possible means to communicate their location.

7 MEPC 74 agreed that the best way to move forward on these measures (10 and 11) would be for interested Member States and international organisations to submit proposals for a new output to the MSC. At its 101st session, the Committee noted that *"The MEPC is invited to note the general support of the [MSC] Committee to tackle the problem of containers lost at sea and that Member States and international organizations have been invited to submit proposals for a relevant new output to MSC 102."*

8 The European Commission, in July 2019, organised a specific workshop with interested and concerned stakeholders to identify issues and make progress on preventing containers lost at sea (<https://webgate.ec.europa.eu/maritimeforum/en/node/4405>).

9 The above-mentioned elements could be considered as relevant practices and experiences for this issue if taken further in the international context, and could serve as a basis for discussion in the relevant sub-committee(s).

Proposal

10 The co-sponsors of this document concur with the need for a new output on the mandatory reporting of containers lost at sea and are therefore, in principle, in favour of the proposal made in document MSC 102/21/13. The co-sponsors are of the opinion that the proposed output falls within the scope of not only Strategic Direction (SD) 4 and 6 of the Organization's Strategic Plan 2018-2023, but also SD 2, as the output aims to establish an effective and coherent international regulatory framework, compatible with the adoption and integration of new and advancing technologies, without imposing unnecessary burdens¹⁰.

11 Moreover, the co-sponsors of this document are of the opinion that the proposed new output should provide clarification on a mandatory reporting procedure following detection of containers lost at sea. Furthermore, they are of the opinion that that, in turn, may enhance the positioning, tracking, and recovery of containers lost at sea¹¹. In the context of digitalization of information transfer between stakeholders, and recalling Measures 10 and 11 of the IMO Action Plan to address plastic litter from ships, the proposed new output could include consideration of the usage of new and emerging technologies, including, but not limited to, tracking, geolocation and automated radio communication and satellite positioning (GNSS) reporting technologies suitable to be used in all environmental conditions (including hazardous atmosphere) without interfering with any onboard equipment (e.g. GMDSS and AIS) jeopardizing the safety of the vessel, drawing inspiration from what is already in operational use among the EU coastal States.

¹⁰ Consequently, consideration should be given to point 2 – record keeping – in Annex 1 to Document MSC 102/21/13 which should indicate a start-up of such record keeping.

¹¹ It is noted that document MSC 102/21/13 includes references to several incidents where it appears that the formal accident investigation reports have yet to be published. The details of some of these incidents may also be in dispute.

12 Against this background it is proposed that the new output should read: "Development of measures regarding the detection and mandatory reporting of containers lost at sea that may enhance the positioning, tracking and recovery of such containers."

Action requested of the Committee

13 The Committee is invited to consider the above information and the comments provided in paragraphs 10-12 and take action as appropriate.
