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NOTE

From:	General Secretariat of the Council
To:	Delegations
No. Cion doc.:	8026/23
Subject:	Proposal for a COUNCIL DECISION on the position to be taken on behalf of the European Union in the International Maritime Organization during the 107th session of the Maritime Safety Committee on the adoption of amendments to the International Convention for the Safety of Life at Sea (SOLAS), the International Code of Safety for High-speed Craft, 1994 (1994 HSC Code) , the 2000 HSC Code, the International Code for Ships Operating in Polar Waters (Polar Code), the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers, 1978 (STCW) and Code and to the International Life-Saving Appliances (LSA) Code

In view of the Shipping Working Party meeting on 18 April 2023, delegations will find attached a Presidency compromise proposal.

Changes compared to the Commission proposal are indicated in **bold underline** (new text) and ~~strikethrough~~ (deleted text)¹.

General scrutiny and language reservation: all delegations.

¹ *The Presidency suggests aligning the text, as far as relevant, with the text of Council Decision (EU) 2022/2078 of 24 October 2022.*

2023/0092 (NLE)

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union within the International Maritime Organization's ~~during the 107th session of the~~ Maritime Safety Committee during its 107th session on the adoption of amendments to the International Convention for the Safety of Life at Sea (SOLAS), the International Code of Safety for High-speed Craft, 1994 (1994 HSC Code)-, the 2000 HSC Code, the International Code for Ships Operating in Polar Waters (Polar Code), the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers, 1978 (STCW) and Code₂ and ~~to~~ the International Life-Saving Appliances (LSA) Code

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 100(2), in conjunction with Article 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) ~~The Convention on the International Maritime Organization ('IMO') entered into force on 17 March 1958.~~ **Action of the Union in the sector of maritime transport should aim to improve maritime safety and to protect the marine environment and human health.**

- (2) ~~The IMO is a specialised agency of the United Nations with responsibility for the safety and security of shipping and the prevention of marine and atmospheric pollution by ships. All Union Member States are members of the IMO. The Union is not a member of the IMO.~~
- (3) ~~Pursuant to Article 28(b) of the Convention on the IMO, the Maritime Safety Committee provides machinery for the performance of any duties assigned to it in accordance with that Convention, by the IMO Assembly or by the IMO Council, or any duty within the scope of that Article which may be assigned to the Maritime Safety Committee under any other international instrument and accepted by the IMO.~~
- (4) The Maritime Safety Committee **of the International Maritime Organization (IMO) is expected to adopt**, during its 107th session (**‘MSC 107’**) from 31 May to 9 June 2023, ~~is to adopt~~ amendments to chapter II-2 of the International Convention for the Safety of Life at Sea (SOLAS), 1974 and to the International Code of Safety for High-speed Craft, 1994 (**the ‘1994 HSC Code’**) and **the** 2000 HSC Code, **to** chapter XIV of the International Convention for the Safety of Life at Sea (SOLAS), 1974 and **to** the International Code for Ships Operating in Polar Waters (Polar Code), **to** the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers, 1978 (STCW) and Code₂, and **to** the International Life-Saving Appliances (LSA) Code.

- (5) It is appropriate to establish the position to be taken on the Union's behalf during the 107th session of the Maritime Safety Committee MSC 107, as the envisaged amendments to SOLAS chapter II-2 and the 1994 and 2000 HSC Codes, to chapter XIV of SOLAS ~~Convention~~ and the Polar Code, to the STCW Convention and Code and to the LSA Code are capable of decisively influencing the contents of Union law, namely Regulation (EU) 2019/1021 of the European Parliament and of the Council on persistent organic pollutants², Regulation (EU) 1257/2013 on ship recycling of the European Parliament and of the Council³, Council Directive 97/70/EC setting up a harmonised safety regime for fishing vessels of 24 metres in length and over⁴, Directive 2013/53/EU of the European Parliament and of the Council on recreational craft and personal watercraft⁵, Directive 2014/90/EU of the European Parliament and of the Council on marine equipment⁶, Directive 2002/59/EC of the European Parliament and of the Council establishing a Community vessel traffic monitoring and information system⁷, Directive (EU) 2022/993 of the European Parliament and of the Council on the minimum level of training of seafarers⁸, and Directive 2009/45/EC of the European Parliament and of the Council on safety rules and standards for passenger ships⁹.

² Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (OJ L 169, 25.6.2019, p. 45).

³ Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC (OJ L 330, 10.12.2013, p. 1).

⁴ Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over (OJ L 34, 9.2.1998, p. 1).

⁵ Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft and repealing Directive 94/25/EC (OJ L 354, 28.12.2013, p. 90).

⁶ Directive 2014/90/EU of the European Parliament and of the Council of 23 July 2014 on marine equipment and repealing Council Directive 96/98/EC (OJ L 257, 28.8.2014, p. 146).

⁷ Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (OJ L 208, 5.8.2002, p. 10).

⁸ Directive (EU) 2022/993 of the European Parliament and of the Council of 8 June 2022 on the minimum level of training of seafarers (OJ L 169, 27.6.2022, p. 45).

⁹ Directive 2009/45/EC of the European Parliament and of the Council of 6 May 2009 on safety rules and standards for passenger ships (OJ L 163, 25.6.2009, p. 1).

- (6) The envisaged amendments to SOLAS Chapter II-2 and the 1994 and 2000 HSC Codes will prohibit the use of fire-fighting foams containing **perfluorooctane sulfonic acid (PFOS)** in marine fire-fighting. The Union position should be to support ~~these~~ **those** amendments, as PFOS ~~was~~ **is** a harmful substance both to human health and to the marine environment.
- (7) The amendments to SOLAS chapter XIV and the Polar Code will facilitate the mandatory application of certain provisions to fishing vessels and will make mandatory certain methodologies for determining a ship's operational capabilities in ice as an essential element of voyage planning. The Union position should be to support ~~these~~ **those** amendments, as they will enhance the safety standards for non-SOLAS ships operating in Polar waters.
- (8) The amendments to the STCW Convention and Code will address the use of electronic certificates pursuant to the STCW Convention and Code. The Union position should be to support ~~these~~ **those** amendments, as digitalisation of STCW certificates would facilitate the work and reduce the administrative burden for flag Administrations, port State control officers and seafarers. It could also allow for a faster identification of fraudulent certificates.
- (9) The amendments to the LSA Code will include new requirements for ventilation on survival craft other than totally enclosed lifeboats. The Union position should be to support ~~these~~ **those** amendments as they enhance safety requirements with respect to ventilation standards in totally enclosed lifeboats.
- (10) The Union is neither a member of the IMO, nor a contracting party to SOLAS, the 1994 and the 2000 HSC Codes, the Polar Code, the STCW Convention and Code and the LSA Code. The Council should therefore authorise the Member States to express the position of the Union.**
- (11) The scope of this Decision should be limited to the content of the proposed amendments, to the extent that those amendments are capable of affecting Union common rules and fall under the exclusive competence of the Union. This Decision should not affect the division of competences between the Union and the Member States.**

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf within the 107th ~~session of the International Maritime Organization's ('IMO')~~ Maritime Safety Committee **of the International Maritime Organization (IMO) during its 107th session ('MSC 107')** shall be to agree to **the adoption of** the amendments to chapter II-2 of the International Convention for the Safety of Life at Sea (SOLAS), 1974 and to the International Code of Safety for High-speed Craft, 1994 (1994 HSC Code) and the 2000 HSC Code, to chapter XIV of ~~the International Convention for the Safety of Life at Sea (SOLAS), 1974~~ and the International Code for Ships Operating in Polar Waters (Polar Code), to the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers, 1978 (STCW) and Code, and to the International Life-Saving Appliances (LSA) Code, as set out in ~~the~~ IMO Circular Letter No.4658/Rev.1.

Article 2

1. The position **to be taken on behalf of the Union** referred to in Article 1 **cover the amendments concerned to the extent that those amendmendments fall under the exclusive competence of the Union and are capable of affecting Union common rules.** **That position** shall be expressed by ~~the Commission and by the Member States, of the Union that~~ which are **all** members of the IMO's Maritime Safety Committee, acting jointly in the interests of the Union.
2. **Minor changes to the position referred to in Article 1 may be agreed upon without further decision of the Council.**

Article 3

~~This Decision is addressed to the Commission and the Member States.~~ **Member States are hereby authorised to give their consent to be bound, in the interests of the Union, by the amendments referred to in Article 1, to the extent that those amendmendments fall under the exclusive competence of the Union.**

Article 4

This Decision shall enter into force on the date of its adoption.

Done at ~~Brussels~~,

For the Council
The President
