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### WORKING PAPER

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### **CONTRIBUTION**

From:	Council of the European Union
To:	Working Party on Shipping
N° Cion doc.:	ST 9123/18 + ADD 1
Subject:	Proposal for a Directive of the European Parliament and of the Council amending Directive 2008/106/EC on the minimum level of training of seafarers and repealing Directive 2005/45/EC - Comments by Denmark

Delegations will find attached comments by **Denmark** on the above proposal.

## Comments by Denmark

### **Article 5b Mutual recognition of seafarers' certificates issued by Member States**

- § 6. Without prejudice to paragraph 2, a Member State may, where necessary, allow a seafarer to serve in a capacity other than radio officer or radio operator, except as provided by the Radio Regulations, for a period not exceeding three months on board a ship flying its flag, while holding an appropriate and valid certificate issued and endorsed by another Member State, but not yet endorsed for recognition by the Member State concerned.

Documentary proof **shall be readily available** that an application for an endorsement has been submitted to the competent authorities ~~shall be kept readily available on board the ship.~~

Denmark proposes these changes to the text, as the proposal will then follow closely the wording of the STCW Convention.

In this respect, it should not be port state control dictating the wording of the directive. At the same time, it should be clear that this also includes the use of digital certificates.

### **Article 19 Recognition of certificates of competency and certificates of proficiency**

- § 2 A Member State which intends to recognise, by endorsement, the certificates of competency or the certificates of proficiency referred to in paragraph 1 issued by a third country to a master, officer or radio operator, for service on ships flying its flag, shall submit a request to the Commission for the recognition of that third country, accompanied by a preliminary analysis of the third country's compliance with the requirements of the STCW Convention by collecting the information referred to in Annex II, including an estimation of the number of masters and officers from that country likely to be employed.

Following the submission of the request by a Member State, a decision for initiating the recognition procedure for that third country shall be taken by the Commission. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 28(2). When a positive decision for initiating the recognition procedure has been adopted, the Commission, assisted by the European Maritime Safety Agency and with the possible involvement of the Member State submitting the request, shall collect the information referred to in Annex II and shall carry out an assessment of the training and certification systems in the third country for which the request for recognition was submitted, in order to verify whether the country concerned meets all the requirements of the STCW Convention and whether appropriate measures have been taken to prevent issuance of fraudulent certificates."

We find, that the wording of the article is unclear and too broadly formulated. There should be some clearer criteria for how the new recognition system will work, including how COM will deal with MS's approval of third countries afterwards.

The Member States have a lot of reasons for the conclusion of agreements MOU's with third countries, so it is not necessarily correct to draw up the agreement based on the current need for seafarers from the desired third country. Including access to trade with third countries or other

policy agreements, which are not necessarily clarified in the amount of seafarers working on the country's ships.

#### **Article 20 Non-compliance with the requirements of the STCW Convention**

- § 8. If there are no endorsements attesting recognition issued by a Member State in relation to certificates of competency or certificates of proficiency, referred to in paragraph 1 of Article 19, issued by a third country for a period of more than 5 years, the recognition of that country's certificates shall be withdrawn. To this end, the Commission shall adopt implementing decisions, in accordance with the examination procedure referred to in Article 28(2), after notifying the Member States as well as the third country concerned at least two months in advance.

We find, that the need for withdrawal the recognition of that country's certificates on the basis of the amount of certificates issued, is disproportionate. There may be many reasons for the need for recognition of third countries. recognition of that country's certificates. Therefore, clear criteria should be laid down for when and why this procedure is initiated.

#### **Article 27 amendment**

- § 2. The Commission shall be empowered to adopt delegated acts, in accordance with Article 27a, in order to amend Annex I to this Directive and any other necessary provisions in order to align it with new amendments to the STCW Convention and STCW Code."

In general, we support the current approach of the Directive aligning it very closely with the requirements of the STCW Convention as such. However, we would emphasize that only those parts of the Convention which is mandatory should be included in the revised version of the Directive, thus excluding guidelines and codes. **Therefore, if a delegated act is applied, it must ensure that in the implementation of new regulation the exact wording of the STCW Convention is used**