

DECISIONS

COUNCIL DECISION (EU) 2017/1243

of 29 May 2017

on the position to be adopted on behalf of the European Union at the International Maritime Organization (IMO) during the 98th session of the Maritime Safety Committee and the 71st session of the Marine Environment Protection Committee, on the adoption of amendments to SOLAS Regulation II-1/23, SOLAS Regulation II-2/9.4.1.3, the 1994 and 2000 International High Speed Craft Codes, the International Life-saving Appliance Code and Appendix V to MARPOL Annex VI

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) Action by the Union in the sector of maritime transport should aim at improving maritime safety and protecting the marine environment.
- (2) The Maritime Safety Committee ('MSC') of the International Maritime Organization ('IMO'), meeting at its 97th session, approved amendments to Regulation II-1/23 and Regulation II-2/9.4.1.3 of the International Convention for the Safety of Life at Sea ('SOLAS'), to the 1994 and 2000 International High Speed Craft Codes ('HSC Codes'), to the International Life-saving Appliance Code ('LSA Code') and to the Annex to Resolution MSC.81(70). Those amendments are expected to be adopted during the 98th session of the MSC, to be held in June 2017.
- (3) The Marine Environment Protection Committee ('MEPC') of the IMO, meeting at its 70th session, agreed on amendments to Appendix V to Annex VI to the International Convention for the Prevention of Pollution from Ships ('MARPOL Annex VI') as regards the information to be included in the Bunker Delivery Note ('BDN'). Those amendments are expected to be adopted during the 71st session of the MEPC, to be held in July 2017.
- (4) The MSC of the IMO, meeting at its 95th and 96th sessions, approved several draft amendments to SOLAS Regulation II-1 on subdivision and damage stability regulations. The position to be adopted on behalf of the Union regarding those amendments was determined in Council Decision (EU) 2016/2077 ⁽¹⁾.
- (5) The MSC of the IMO, meeting at its 97th session, agreed to hold the adoption of most of the draft amendments to SOLAS Regulation II-1 on subdivision and damage stability regulations in abeyance until its 98th session, and as regards the amendments to Regulation II-1/6, concerning the formula for the required subdivision index R, it agreed that any further modifications to Regulation II-1/6 should not lower the current safety level.
- (6) The position to be adopted on behalf of the Union as set out in Article 2(1)(a) and Article 2(2) of Decision (EU) 2016/2077 therefore remains applicable.
- (7) The MSC of the IMO, meeting at its 97th session, agreed to harmonise the text in Regulations II-1/22, II-1/23 and II-1/24 as regards the existence of multiple expressions for similar requirements, and to update existing cross

⁽¹⁾ Council Decision (EU) 2016/2077 of 17 October 2016 on the position to be adopted on behalf of the European Union at the International Maritime Organization (IMO) during the 70th session of the Marine Environment Protection Committee and the 97th session of the Maritime Safety Committee, on the adoption of amendments to MARPOL Annex VI, SOLAS Regulations II-1, SOLAS Regulations III/1.4, III/30 and III/37, SOLAS Regulations II-2/1 and II-2/10, SOLAS Regulation II-1/3-12, the STCW Convention and Code, the Fire Safety Systems Code and the 2011 Enhanced Survey Programme Code (OJ L 320, 26.11.2016, p. 36).

references, without altering the content of previously approved amendments. Regulation II-1/23 concerns special requirements for ro-ro passenger ships and is not covered by the position to be adopted on behalf of the Union as set out in Decision (EU) 2016/2077. Directive 2009/45/EC of the European Parliament and of the Council ⁽¹⁾ applies to passenger ships and high-speed passenger craft which are engaged on domestic voyages. Article 6(2)(a)(i) of that Directive provides that new passenger ships of Class A are to comply entirely with the requirements of the 1974 SOLAS Convention, as amended.

- (8) The amendments to SOLAS Regulation II-2/9.4.1.3 clarify the requirements for the fire integrity of windows on passenger ships carrying not more than 36 passengers and special purpose ships with more than 60 (but not more than 240) persons on board. Ships carrying not more than 36 passengers should ensure the same level of safety as those carrying more than 36 passengers. Directive 2009/45/EC applies to passenger ships and high-speed passenger craft which are engaged on domestic voyages. Article 6(2)(a)(i) of that Directive provides that new passenger ships of Class A are to comply entirely with the requirements of the 1974 SOLAS Convention, as amended. Part B.10.4 of Chapter II-2 of Annex I to that Directive stipulates that for passenger ships carrying not more than 36 passengers, special attention is to be given to the fire integrity of windows facing open or enclosed lifeboats and life-raft embarkation areas and to the fire integrity of windows situated below such areas in such a position that their failure during a fire would impede the launching of, or embarkation into, lifeboats or life-rafts.
- (9) The amendments to the HSC Codes clarify the application of paragraphs 8.10.1.4 to 8.10.1.6 of the HSC Codes concerning the exemption of carriage of rescue boats for high-speed craft of less than 20 m and less than 30 m in length, respectively. A high-speed craft of less than 30 m in length for the purposes of the 2000 HSC Code, or of less than 20 m in length for the purposes of the 1994 HSC Code, may be exempted from carrying a rescue boat, provided that the requirements of paragraph 8.10.1.6 of the HSC Codes are fulfilled, which includes a new point stating that it must be possible to recover a helpless person from water in a horizontal or near-horizontal body position. Directive 2009/45/EC applies to passenger ships and high-speed passenger craft which are engaged on domestic voyages. Article 6(2)(a)(i) of that Directive provides that new passenger ships of Class A are to comply entirely with the requirements of the 1974 SOLAS Convention, as amended.
- (10) The LSA Code provides international requirements for life-saving appliances that are covered by Chapter III of the 1974 SOLAS Convention, as amended. The amendments to paragraphs 6.1.1.5 and 6.1.1.6 of the LSA Code and to paragraph 8.1.1 of part 1 of the Annex to Resolution MSC.81(70) ensure consistency with the static tests and their proof loads that launching appliances, including their structural members and winches, have to withstand. Those amendments should be treated as minor corrections. Launching appliances and winches are listed in Commission Implementing Regulation (EU) 2017/306 ⁽²⁾, which refers to the LSA Code and to Resolution MSC.81(70) in relation to items MED/1.21, 1.23, 1.24 and 1.25 as regards launching appliances, and in relation to items MED/1.41a, 1.41b, 1.41c, 1.41d, 1.41e as regards winches. They therefore fall under the scope of Directive 2014/90/EU of the European Parliament and of the Council ⁽³⁾.
- (11) The amendments to Appendix V to MARPOL Annex VI clarify that ships that meet the MARPOL Annex VI requirements as regards the sulphur content of fuel in (sulphur) emission control areas ('(S)ECAs') through equivalent means (exhaust gas cleaning systems ('EGCS')), may permit the supplier, following the purchaser's notification, to declare in the BDN that the fuel is intended to be used by a ship which meets the sulphur requirements through equivalent means. In view of the increasing number of ships equipped with EGCS, the amendments to Appendix V to MARPOL Annex VI are necessary in order to align the standard text of the BDN with the fact that ships may continue to use fuels with a higher sulphur content even after the entry into force of the 0,10 % sulphur content requirements in (S)ECAs as of 1 January 2015. The MARPOL Annex VI requirements as regards the limitation of SO_x emissions are implemented in Union law by means of Directive (EU) 2016/802 of the European Parliament and of the Council ⁽⁴⁾. Article 6(9)(b) and (c) and Article 13(2)(a) of that Directive refer to the BDN as the principal mechanism for ensuring compliance with that Directive. Equivalent means of compliance are regarded as alternative emission abatement methods, as defined in Article 2(o) of that Directive, and may be used provided that the ships using the emission abatement method continuously achieve reductions of sulphur dioxide emissions that are at least equivalent to the reductions that would be achieved by using marine fuels that meet the requirements of that Directive.

⁽¹⁾ 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).

⁽²⁾ Commission Implementing Regulation (EU) 2017/306 of 6 February 2017 indicating design, construction and performance requirements and testing standards for marine equipment (OJ L 48, 24.2.2017, p. 1).

⁽³⁾ 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).

⁽⁴⁾ Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels (OJ L 132, 21.5.2016, p. 58).

- (12) The Union is not a member of the IMO, nor is it a contracting party to the relevant conventions and codes. The Council should therefore authorise the Member States to express the position of the Union and to express their consent to be bound by those amendments, to the extent that those amendments fall under the exclusive competence of the Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted on behalf of the Union at the 98th session of the IMO Maritime Safety Committee shall be to agree to the adoption of the following amendments:

- (a) the amendments to SOLAS Regulation II-1/23, as laid down in Annex 1 to IMO document MSC 97/WP.5, subject to the modifications proposed in IMO documents MSC 97/3/5 and MSC 97/3/4;
- (b) the amendments to SOLAS Regulation II-2/9.4.1.3, as laid down in Annex 13 to IMO document MSC 97/22/Add.1;
- (c) the amendments to the HSC Codes, as laid down in Annexes 15 and 16 to IMO document MSC 97/22/Add.1;
- (d) the amendments to the LSA Code and to the Annex to Resolution MSC.81(70), as laid down in Annex 17 to IMO document MSC 97/22/Add.1 and in Annex 1 to IMO document MSC 98/3/1.

Article 2

The position to be adopted on behalf of the Union at the 71st session of the IMO Marine Environment Protection Committee shall be to agree to the adoption of the amendments to Appendix V to MARPOL Annex VI, as laid down in Annex 7 to IMO document MEPC 70/18/Add.1.

Article 3

- 1. The positions to be adopted on behalf of the Union as set out in Articles 1 and 2 shall be expressed by the Member States, which are members of the IMO, acting jointly in the interests of the Union.
- 2. Minor changes to the positions referred to in Articles 1 and 2 may be agreed upon without further decision of the Council.

Article 4

Member States are hereby authorised to give their consent to be bound, in the interests of the Union, by the amendments referred to in Articles 1 and 2, to the extent that those amendments fall under the exclusive competence of the Union.

Article 5

This Decision is addressed to the Member States.

Done at Brussels, 29 May 2017.

For the Council
The President
C. CARDONA