

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

COUNCIL DECISION (EU) 2016/2077

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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 Marine Environment Protection Committee ('MEPC') of the International Maritime Organization ('IMO'), meeting at its 69th session, agreed on the establishment of a mandatory data collection system for fuel consumption and the necessary amendments to Chapter 4 of Annex VI to the International Convention for the Prevention of Pollution from Ships ('MARPOL Annex VI'). Those amendments are expected to be adopted during the 70th session of the MEPC to be held in October 2016.
- (3) The Maritime Safety Committee (MSC) of the IMO, meeting at its 95th and 96th sessions, approved amendments to Regulation II-1, Regulations III/1.4, III/30 and III/37, Regulations II-2/1 and II-2/10 and Regulation II-1/3-12 of the International Convention for the Safety of Life at Sea (SOLAS), to the International Convention and Code on Standards of Training, Certification and Watchkeeping for Seafarers ('STCW Convention and Code'), to the International Code for Fire Safety Systems ('FSS Code') and to the 2011 Enhanced Survey Programme Code (the '2011 ESP Code'). Those amendments are expected to be adopted during the 97th session of the MSC to be held in November 2016.

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- (4) The amendments to Chapter 4 of MARPOL Annex VI will establish a mandatory global data collection system for the data to be collected and reported annually by certain ships, the verification processes related to reported data, the establishment of statements of compliance, situations concerning ownership transfer, submission of the data to the IMO, anonymisation of and access to the data, as well as procedures for confirming compliance of ships flying the flag of non-parties to MARPOL Annex VI. Regulation (EU) 2015/757 of the European Parliament and of the Council<sup>(1)</sup> sets out an EU system to monitor, report and verify (MRV) CO<sub>2</sub> emissions and energy efficiency from shipping. It applies to all ships over 5 000 gross tons arriving at, within or departing from ports under the jurisdiction of a Member State from 1 January 2018 onwards, irrespective of where the ships are registered.
- (5) Article 22 of Regulation (EU) 2015/757 includes a review clause in the event of an international agreement in this field. The adoption of the amendments to Chapter 4 of MARPOL Annex VI will start such a review process, which may lead to a proposal to amend Regulation (EU) 2015/757 in order to ensure alignment, to the extent appropriate, with the global data collection system agreed in the IMO.
- (6) The amendments to SOLAS Regulations II-1/1, II-1/2, II-1/3, II-1/4, II-1/5, II-1/6, II-1/7, II-1/8-1, II-1/9, II-1/10, II-1/12, II-1/13, II-1/15 — 17, II-1/19, II-1/21 — 22 and II-1/35 will introduce editorial and consequential changes, as well as changes that concern subdivision and damage stability requirements to improve passenger ship survivability in case of damage. Directive 2009/45/EC of the European Parliament and of the Council<sup>(2)</sup> applies to passenger ships and high-speed passenger craft which are engaged in 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.
- (7) The amendments to SOLAS Regulation II-1/1.2, the new SOLAS Regulation II-1/19-1, and the amendments to SOLAS Regulations III/1.4, III/30 and III/37 concerning damage control drills form part of a comprehensive approach to enhance the survivability after flooding with the intention of improving safety on new and existing passenger ships. Directive 2008/106/EC of the European Parliament and of the Council<sup>(3)</sup>, and in particular Regulation V/2 of Chapter V of Annex I, includes mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on passenger ships. The STCW Convention, which has been incorporated into Union law by means of Directive 2008/106/EC, includes training requirements on ship stability in the relevant tables of competences of the STCW Code.
- (8) The amendments to SOLAS Regulations II-2/1 and II-2/10 will provide that foam-type extinguishers of at least 135 l capacity are no longer to be required in boiler rooms in the case of domestic boilers of less than 175 kW, or boilers protected by fixed water-based local application fire-extinguishing systems. Article 6(2)(a)(i) of Directive 2009/45/EC provides that new passenger ships of Class A are to comply entirely with the requirements of the 1974 SOLAS Convention, as amended. In addition, SOLAS Regulations II-2/1 and II-2/10 are applicable to new Class B, C and D and existing

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Class B passenger ships in accordance with Annex I, Chapter II-2 Part A, point 6.7 ('Fire-extinguishing arrangements in machinery spaces') of Directive 2009/45/EC, in which it is established that machinery spaces and boiler rooms should be equipped with portable systems.

- (9) The amendments to SOLAS Regulation II-1/3-12 will address a gap in the current Regulation concerning the application of the Code on Noise Levels on Board Ships for ships for which the building contract is placed before 1 July 2014 and the keels of which are laid or which are at a similar stage of construction on or after 1 January 2015 and the delivery of which is not before 1 July 2018. Article 3 of Directive 2003/10/EC of the European Parliament and of the Council<sup>(4)</sup> lays down minimum requirements for the protection of workers and sets exposure limit values and exposure action values. Furthermore, as relevant secondary legislation, Article 6(2)(a)(i) of Directive 2009/45/EC makes the application of the 1974 SOLAS Convention, as amended, applicable to new Class A ships, and Annex I PART C, Regulation 15 of that Directive lays down measures for noise reduction in machinery spaces for new Class B, C and D ships.
- (10) The amendments to the STCW Convention and Code relating to passenger-ship specific training and to Parts A and B of the STCW Code will address new challenges posed by the increased size of modern cruise ships and the large number of passengers on board and comprise four distinct levels of training and familiarization: passenger ship emergency familiarization, passenger ship crowd management training, passenger ship crisis management and human behaviour training, and ro-ro passenger ship training. Directive 2008/106/EC, in particular Regulation V/2 of Chapter V of Annex I, includes mandatory minimum requirements for the training and qualifications of masters, officers, ratings and other personnel on passenger ships.
- (11) The amendments to Chapter 13 of the FSS Code will clarify that the calculations of the dimension of means of escape, which are made on the basis of the total number of persons expected to escape by the stairway and through doorways, corridors and landings, are to be made separately for two different cases of occupancy of the specified spaces. Article 6(2)(a)(i) of Directive 2009/45/EC establishes that new passenger ships of Class A are to comply entirely with the requirements of the 1974 SOLAS Convention, as amended. Furthermore, Chapter II-2, Part A, of Annex I of Directive 2009/45/EC applies the FSS Code adopted by Resolution MSC.98(73), to Class B, C and D ships constructed on or after 1 January 2003.
- (12) To the extent that the amendments to SOLAS Regulations II-1/1, II-1/2, II-1/3, II-1/4, II-1/5, II-1/6, II-1/7, II-1/8-1, II-1/9, II-1/10, II-1/12, II-1/13, II-1/15 — 17, II-1/19, II-1/21 — 22 and II-1/35, SOLAS Regulations II-2/1 and II-2/10 and Chapter 13 of the FSS Code may affect the provisions of Directive 2009/45/EC regarding passenger ships and high-speed passenger craft which are engaged on domestic voyages, those amendments fall under the exclusive competence of the Union.
- (13) The amendments to the 2011 ESP Code will provide alignment with the updated Unified Requirements Z10 series of the International Association of Classification Societies Uniform Requirements (IACS UR Z10 series), which concern survey and certification requirements. Articles 5 and 6 of Regulation (EU) No 530/2012 of the

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European Parliament and of the Council<sup>(5)</sup> make mandatory the application of the IMO's Condition Assessment Scheme (CAS) to single hull oil tankers above 15 years of age. The Enhanced Programme of Inspections during surveys of Bulk Carriers and Oil tankers or Enhanced Survey Programme (ESP) specifies how to undertake this intensified assessment. As CAS uses ESP as the tool to achieve its aim, any changes to the ESP inspections will automatically be applicable through Regulation (EU) No 530/2012.

- (14) The Union is neither a member of the IMO nor a contracting party to the relevant conventions and codes. It is therefore necessary for the Council to authorise the Member States to express the position of the Union and express their consent to be bound by those amendments, to the extent that they 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 70th session of the IMO Marine Environment Protection Committee shall be to agree to the adoption of the amendments to Chapter 4 of MARPOL Annex VI, as laid down in Annex 7 to IMO document MEPC 69/21/Add.1.

*Article 2*

1 The position to be adopted on behalf of the Union at the 97th session of the IMO Maritime Safety Committee shall be to agree to the adoption of the following amendments to:

- a SOLAS Regulations II-1/1, II-1/2, II-1/3, II-1/4, II-1/5, II-1/6, II-1/7, II-1/8-1, II-1/9, II-1/10, II-1/12, II-1/13, II-1/15 — 17, II-1/19, II-1/21 — 22 and II-1/35 as laid down in Annex 1 to IMO Circular Letter No 3644 of 20 May 2016;
- b SOLAS Regulation II-1/1.2, a new regulation II-1/19-1, and amendments to SOLAS Regulations III/1.4, III/30 and III/37 as laid down in Annex 1 to IMO Circular Letter No 3644 of 20 May 2016;
- c SOLAS Regulations II-2/1 and II-2/10 as laid down in Annex 1 to IMO Circular Letter No 3644 of 20 May 2016;
- d SOLAS Regulation II-1/3-12 as laid down in Annex 1 to IMO Circular Letter No 3644 of 20 May 2016;
- e The STCW Convention and Code relating to passenger-ship specific training and to parts A and B of the STCW Code as laid down in Annexes 8, 9 and 10 to IMO Document MSC 96/25/Add.1;
- f Chapter 13 of the FSS Code as laid down in Annex 2 to IMO Circular Letter No 3644 of 20 May 2016;
- g The 2011 ESP Code as laid down in Annex 4 to IMO Circular Letter No 3644 of 20 May 2016.

2 If the amendments to SOLAS Regulation II-1/6 referred to in point (a) of paragraph 1 are reviewed at the 97th session of the IMO Maritime Safety Committee, the position to be adopted on behalf of the Union shall be to agree to changes to those amendments that improve the current safety levels.

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### *Article 3*

1 The position 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 interest 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 interest of the Union, by the amendments referred to in Articles 1 and 2, to the extent that they fall under the exclusive competence of the Union.

### *Article 5*

This Decision is addressed to the Member States.

Done at Luxembourg, 17 October 2016.

*For the Council*

*The President*

L. SÓLYMOS

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- (1) Regulation (EU) 2015/757 of the European Parliament and of the Council of 29 April 2015 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC (OJ L 123, 19.5.2015, p. 55).
- (2) 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).
- (3) Directive 2008/106/EC of the European Parliament and of the Council of 19 November 2008 on the minimum level of training of seafarers (OJ L 323, 3.12.2008, p. 33).
- (4) Directive 2003/10/EC of the European Parliament and of the Council of 6 February 2003 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) (OJ L 42, 15.2.2003, p. 38).
- (5) Regulation (EU) No 530/2012 of the European Parliament and of the Council of 13 June 2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers (OJ L 172, 30.6.2012, p. 3).

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