

DECISIONS

COUNCIL DECISION (EU) 2016/807

of 15 March 2016

on the position to be adopted on behalf of the European Union at the International Maritime Organization (IMO) during the 40th session of the Facilitation Committee, the 69th session of the Marine Environment Protection Committee and the 96th session of the Maritime Safety Committee, on the adoption of amendments to the Facilitation Convention, MARPOL Annex IV, SOLAS Regulations II-2/13 and II-2/18, the Fire Safety Systems Code and the 2011 Enhanced Survey Programme 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) Action by the Union in the sector of maritime transport should aim at improving maritime safety, protecting the marine environment and facilitating international maritime traffic.
- (2) The Facilitation Committee of the IMO (FAL), meeting at its 39th session, approved amendments to the Convention on Facilitation of International Maritime Traffic, 1965 (the 'FAL Convention'). Those amendments are expected to be adopted during the 40th session of the FAL to be held in April 2016.
- (3) The Marine Environment Protection Committee (MEPC) of the IMO, meeting at its 68th session (MEPC 68), agreed that sufficient notification pursuant to Regulation 13 of Annex IV to the International Convention for the Prevention of Pollution from Ships ('MARPOL Annex IV') had been received for part of the Baltic Sea to be designated as a Special Area. Consequently, effective dates for the taking effect of that designation provided for in Regulation 11.3 of MARPOL Annex IV could be established for that Special Area. The MEPC 68 concluded that amendments to Regulations 1 and 11 of MARPOL Annex IV would be needed for the designation of that part of the Special Area to take effect, and that amendments to MARPOL Annex IV to that effect should be proposed. Those amendments are expected to be adopted during the 69th session of the MEPC to be held in April 2016.
- (4) The Maritime Safety Committee (MSC) of the IMO, meeting at its 95th session, approved amendments to Regulations II-2/13 and II-2/18 of the International Convention for the Safety of Life at Sea (SOLAS), the International Code for Fire Safety Systems ('FSS Code') and the 2011 Enhanced Survey Programme Code (the '2011 ESP Code'). Those amendments are expected to be adopted during the 96th session of the MSC to be held in May 2016.
- (5) The general review of the FAL Convention modernises its provisions, taking into account developments in the field of the transmission of information and data by electronic means and the single window concept. It introduces, in particular, measures of relevance to the Union concerning the insertion of visa numbers in the passenger lists but not in crew lists and the right of authorities to make the use of electronic submissions of forms mandatory. Articles 5 and 7 of Directive 2010/65/EU of the European Parliament and of the Council ⁽¹⁾ provide that reporting formalities for ships arriving in and departing from ports situated in Member States are to be accepted only in electronic format via a single window as of 1 June 2015 and that Member States are to accept FAL forms on paper for the fulfilment of reporting formalities until that date. Directive 2010/65/EU also provides that information required in accordance with a legal act of the Union is to be provided in electronic

⁽¹⁾ Directive 2010/65/EU of the European Parliament and of the Council of 20 October 2010 on reporting formalities for ships arriving in and/or departing from ports of the Member States and repealing Directive 2002/6/EC (OJ L 283, 29.10.2010, p. 1).

format as of 1 June 2015. The requirement to include a visa number where applicable in the crew and passenger lists results from point 3.1.2 of Annex VI to Regulation (EC) No 562/2006 of the European Parliament and of the Council ⁽¹⁾.

- (6) Article VIII of the FAL Convention requires the Contracting Parties to the FAL Convention that find it impracticable to comply with any standard of the FAL Convention, or that deem it necessary for special reasons to adopt different documentary requirements or procedures, to notify those differences to the Secretary-General. Some requirements set out in Directive 2010/65/EU and Regulation (EC) No 562/2006 impose stricter obligations than the relevant rules provided for in the FAL Convention and therefore represent a difference within the meaning of Article VIII of that Convention which needs to be notified.
- (7) The amendments to MARPOL Annex IV are intended to provide the legal framework to implement the agreement by MEPC 68 that sufficient notifications had been received on the availability of port reception facilities to allow the Baltic Sea Special Area provisions to take effect and that, consequently, effective dates could be established for the designation of part of the Baltic Sea as a Special Area, in conformity with those notifications. Article 4 of Directive 2000/59/EC of the European Parliament and of the Council ⁽²⁾ provides for the availability of port reception facilities, which is also covered by Regulation 12bis of IMO Resolution MEPC.200(62), for the purpose of reducing discharges of ship-generated waste and cargo residues into the sea, especially illegal discharges, from ships using ports in the Union.
- (8) The amendments to SOLAS Regulation II-2/13 will introduce requirements for evaluation of escape routes by an evacuation analysis early in the design process, which are to apply to new ro-ro passenger ships and other passenger ships carrying more than 36 passengers. Directive 2009/45/EC of the European Parliament and of the Council ⁽³⁾ 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. Furthermore, Directive 2009/45/EC provides for detailed rules on escape routes on ro-ro passenger ships for Class B, C and D ships, as laid down in Annex I, Chapter II, Part B, paragraph 6-1.
- (9) The amendments to SOLAS Regulation II-2/18 concerning helicopter landing areas on new ro-ro passenger ships will make the provisions of IMO Circular MSC.1/Circ.1431 of 31 May 2012 on Guidelines for the approval of helicopter facility foam fire-fighting appliances mandatory. Regulation 18, Part B, Chapter II-2 of Annex I to Directive 2009/45/EC provides that ships equipped with helidecks are to comply with the requirements of the SOLAS Regulation as per revision of 1 January 2003 which are now expected to be amended.
- (10) The revised Chapter 8 of the FSS Code will provide that special attention is to be paid to the specification of water quality provided by the system manufacturer to prevent internal corrosion and internal clogging of sprinklers. 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, which incorporates the FSS Code made mandatory under SOLAS by IMO Resolution MSC.99(73). Furthermore, Directive 2009/45/EC provides for detailed rules on Fire Extinction for Class B, C and D ships, as laid down in Annex I, Chapter II-2, Part A, paragraphs 4.5 and 4.8.
- (11) The new Chapter 17 of the FSS Code will further detail the specifications for foam firefighting appliances for the protection of helicopter facilities as required by Chapter II-2 of SOLAS. Article 6(2)(a)(i) of Directive 2009/45/EC provides that new passenger ships of Class A is to comply entirely with the requirements of the 1974 SOLAS Convention, as amended, which incorporates the FSS Code made mandatory under SOLAS by IMO Resolution MSC.99(73). Furthermore, Directive 2009/45/EC provides for detailed rules on the special requirements for helicopter facilities for Class B, C and D ships, as laid down in Annex I, Chapter II, Part B, paragraph 18.
- (12) To the extent that the amendments to SOLAS Regulation II-2/13, SOLAS Regulation II-2/18, the revised Chapter 8 of the FSS Code and the new Chapter 17 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.

⁽¹⁾ Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105, 13.4.2006, p. 1).

⁽²⁾ Directive 2000/59/EC of the European Parliament and of the Council of 27 November 2000 on port reception facilities for ship-generated waste and cargo residues (OJ L 332 28.12.2000, p. 81).

⁽³⁾ 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).

- (13) The amendments to the 2011 ESP Code are intended to harmonise the use of terms related to recognised organisations. Articles 5 and 6 of Regulation (EU) No 530/2012 of the European Parliament and of the Council ⁽¹⁾ 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 40th session of the IMO Facilitation Committee shall be to agree to the adoption of the amendments to the Facilitation Convention as laid down in IMO document FAL 40/3.

Article 2

The position to be adopted on behalf of the Union at the 69th session of the IMO Marine Environment Protection Committee shall be to agree to the adoption of the amendments to Regulations 1 and 11 of MARPOL Annex IV, as laid down in the Annex to IMO Document MEPC 69/3/3.

Article 3

The position to be adopted on behalf of the Union at the 96th session of the IMO Maritime Safety Committee shall be to agree to the adoption of the following amendments to:

- SOLAS Regulation II-2/13 as laid down in Annex 14 to IMO document MSC 95/22/add.2,
- SOLAS Regulation II-2/18 as laid down in Annex 2 to IMO document SSE 2/20,
- Chapter 8 of the FSS Code as laid down in point 1 of Annex 18 to IMO document 95/22/add.2,
- Chapter 17 of the FSS Code as laid down in point 2 of Annex 18 to IMO document 95/22/add.2,
- The 2011 ESP Code as laid down in Annex 15 to IMO document 95/22/add.2.

Article 4

1. The position to be adopted on behalf of the Union as set out in Articles 1, 2 and 3 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, 2 and 3 may be agreed upon without further decision of the Council.

⁽¹⁾ 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).

Article 5

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, 2 and 3, to the extent that they fall under the exclusive competence of the Union.

Article 6

This Decision is addressed to the Member States.

Done at Brussels, 15 March 2016.

For the Council
The President
A.G. KOENDERS
