



Council of the
European Union

091121/EU XXV. GP
Eingelangt am 26/01/16

Brussels, 26 January 2016
(OR. en)

5533/16

OMI 4
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COVER NOTE

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	25 January 2016
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2016) 12 final
Subject:	COMMISSION STAFF WORKING DOCUMENT For the Council Shipping Working party IMO – Union submission to be submitted to the 96th session of the Maritime Safety Committee (MSC 96) of the IMO in London from 11 – 20 May 2016 concerning a proposal on the application of the Code on Noise Levels on Board of Ships

Delegations will find attached document SWD(2016) 12 final.

Encl.: SWD(2016) 12 final



Brussels, 25.1.2016
SWD(2016) 12 final

COMMISSION STAFF WORKING DOCUMENT

For the Council Shipping Working party

IMO – Union submission to be submitted to the 96th session of the Committee on Maritime Safety (MSC 96) of the IMO in London from 11 – 20 May 2016 concerning a proposal on the application of the Code on Noise Levels on Board of Ships

COMMISSION STAFF WORKING DOCUMENT
For the Council Shipping Working party

IMO – Union submission to be submitted to the 96th session of the Committee on Maritime Safety (MSC 96) of the IMO in London from 11 – 20 May 2016 concerning a proposal on the application of the Code on Noise Levels on Board of Ships

PURPOSE

The document in Annex contains a draft Union submission to the 96th session of the Committee on Maritime Safety (MSC96) of the IMO. It is hereby submitted to the appropriate technical body of the Council with a view to achieving agreement on transmission of the documents to the IMO prior to the required deadline of 8 March 2016¹.

Article 3 of Directive 2003/10/EC on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (noise) lays down minimum requirements for the protection of workers and sets exposure limit values and exposure action values. Furthermore as secondary relevant legislation, Article 6(2)(a)(i) of Directive 2009/45/EC on Safety Rules and Standards for Passenger Ships makes the application of SOLAS in its up-to-date version applicable to new Class A ships and Annex I PART C, Regulation 18, of that Directive lays down measures for noise reduction in machinery spaces for new Class B, C and D ships. Therefore, the said draft Union submission falls under EU exclusive competence.

¹ The submission of proposals or information papers to the IMO, on issues falling under external exclusive EU competence, are acts of external representation. Such submissions are to be made by an EU actor who can represent the Union externally under the Treaty, which for non-CFSP (Common Foreign and Security Policy) issues is the Commission or the EU Delegation in accordance with Article 17(1) TEU and Article 221 TFEU. IMO internal rules make such an arrangement absolutely possible as regards existing agenda and work programme items. This way of proceeding is in line with the General Arrangements for EU statements in multilateral organisations endorsed by COREPER on 24 October 2011.

ANNEX

MARITIME SAFETY COMMITTEE
96th session
Agenda item 20

MSC 96/20/XX
[Day] [Month] [Year]
Original: ENGLISH

IMPLEMENTATION OF INSTRUMENTS AND RELATED MATTERS

Application of Code on Noise Levels on Board Ships

Submitted by the European Commission on behalf of the European Union

SUMMARY

<i>Executive summary:</i>	This paper provides comments on the scope of application of <i>Code on Noise Levels on Board Ships</i> (resolution MSC.337(91)), as defined by regulation II-1/3-12 of SOLAS (resolution MSC.338(91)). It is noted that some ships do not fall under this definition and therefore the submitters propose amendments to the said SOLAS regulation, so that all ships are regulated.
<i>Strategic direction:</i>	5.2
<i>High-level action:</i>	5.2.1
<i>Planned output:</i>	–
<i>Action to be taken:</i>	Paragraph 6-7
<i>Related documents:</i>	MSC.337(91), MSC.338(91), MSC 95/INF.14, MSC.95/22 par.21.31

1 This document is submitted in accordance with paragraphs 6.1 to 6.3 of the *Guidelines on the Organization and Method of Work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.4/Rev.2) on the submission of new planned outputs.

Background

2 It is recalled that Maritime Safety Committee adopted on 30 November 2012 the *Code on noise levels on board ships* (resolution MSC.337(91)) and amendments to the SOLAS Convention (resolution MSC.338(91)), which made the Code mandatory under regulation II-1/3-12 with entry into force on 1 July 2014. Previous relevant IMO standards were the *Recommendation on methods of measuring noise levels at listening posts* (resolution A.343(IX)) and the *Code on noise levels on board ships* (resolution A.468(XII)).

3 Greece advised the Committee (MSC 95/INF.14) that after an analysis that had been undertaken on the application of the Code on noise levels on board ships, some ships do not fall under the scope of application of SOLAS regulation II-1/3-12. In particular, the Committee noted that ships for which the building contract was placed before 1 July 2014 and the keels of which were laid or which are at a similar stage of construction on or after 1 January 2015, and the delivery of which is before 1 July 2018, do not fall either under paragraph 1 or paragraph 2 of the above SOLAS regulation.

Discussion

4 SOLAS regulation II-1/3-12 in its current form reads as follows:

"Regulation 3-12 – Protection against noise

1 This regulation shall apply to ships of 1,600 gross tonnage and above:

- .1 for which the building contract is placed on or after 1 July 2014; or
- .2 in the absence of a building contract, the keels of which are laid or
which are at a similar stage of construction on or after 1 January 2015; or
- .3 the delivery of which is on or after 1 July 2018,

unless the Administration deems that compliance with a particular provision is unreasonable or impractical.

2 On ships delivered before 1 July 2018 and:

- .1 contracted for construction 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 2009 but before 1 January 2015; or
- .2 in the absence of a building contract, the keels of which are laid or
which are at a similar stage of construction on or after 1 January 2009 but
before 1 January 2015,

measures* shall be taken to reduce machinery noise in machinery spaces to acceptable levels as determined by the Administration. If this noise cannot be sufficiently reduced the source of excessive noise shall be suitably insulated or isolated or a refuge from noise shall be provided if the space is required to be manned. Ear protectors shall be provided for personnel required to enter such spaces, if necessary."

5 A careful and thorough reading of the above paragraph 4 highlights that some ships do not fall under the scope of application of SOLAS regulation II-1/3-12. More specifically, 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, moreover, the delivery of which is before 1 July 2018, do not fall either under paragraph 1 or paragraph 2 of the said regulation. Thus, there is a gap in current SOLAS regulation II-1/3-12 and this gap should be addressed with a view to amending that regulation.

Proposal

6 Following the aforementioned discussion, it is not acceptable that the current SOLAS regulation II-1/3-12 does not regulate some ships, as regards SOLAS regulatory regime on noise levels on board ships. Therefore, there is a need for an appropriate amendment to the current SOLAS regulation II-1/3-12, in order to include all ships within its scope of application. In this regard it is found that it is not rational and practicable for a ship contracted for construction before 1 July 2014 to comply with standards entered into force after that date, namely the *Code on noise levels on board ships* (resolution MSC.337(91)). However, it is more appropriate that such a ship should comply with the standards set forth in the *Code on noise levels on board ships* (resolution A.468(XII)). To this end, an amendment to SOLAS regulation II-1/3-12 is proposed, which would read as set out in annex 1 to this document and for ease of reference, the relevant application flowchart is set out in annex 2 to this document.

Action requested of the Committee

7 The Committee is invited to consider the proposal at paragraph 6 and annex 1 and take action as appropriate.

ANNEX 1

"Regulation 3-12 – Protection against noise

1 This regulation shall apply to ships of 1,600 gross tonnage and above:

- .1 for which the building contract is placed on or after 1 July 2014; or
- .2 in the absence of a building contract, the keels of which are laid or which are at a similar stage of construction on or after 1 January 2015; or
- .3 the delivery of which is on or after 1 July 2018,

unless the Administration deems that compliance with a particular provision is unreasonable or impractical.

2 On ships delivered before 1 July 2018 and:

- .1 contracted for construction 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 2009 ~~but before 1 January 2015~~; or
- .2 in the absence of a building contract, the keels of which are laid or which are at a similar stage of construction on or after 1 January 2009 but before 1 January 2015,

measures* shall be taken to reduce machinery noise in machinery spaces to acceptable levels as determined by the Administration. If this noise cannot be sufficiently reduced the source of excessive noise shall be suitably insulated or isolated or a refuge from noise shall be provided if the space is required to be manned. Ear protectors shall be provided for personnel required to enter such spaces, if necessary."

ANNEX 2

Ch. II-1 Regulation 3-12 – “Protection against noise” Application Flowchart

