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COVER NOTE

From: Secretary-General of the European Commission,
signed by Mr Jordi AYET PUIGARNAU, Director

date of receipt: 19 February 2019

To: Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of
the European Union

No. Cion doc.: SWD(2019) 87 final

Subject: **COMMISSION STAFF WORKING DOCUMENT For the Council
Shipping Working Party IMO - Union submission to be submitted to
the 101st session of the Committee on Maritime Safety (MSC 101) of
the IMO in London from 5 – 14 June 2019 concerning a proposal for a
new output to review the International Code for Application of Fire
Test Procedures, 2010**

Delegations will find attached document SWD(2019) 87 final.

Encl.: SWD(2019) 87 final



Brussels, 19.2.2019
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COMMISSION STAFF WORKING DOCUMENT

For the Council Shipping Working Party

IMO - Union submission to be submitted to the 101st session of the Committee on Maritime Safety (MSC 101) of the IMO in London from 5 – 14 June 2019 concerning a proposal for a new output to review the International Code for Application of Fire Test Procedures, 2010

COMMISSION STAFF WORKING DOCUMENT
For the Council Shipping Working party

IMO - Union submission to be submitted to the 101st session of the Committee on Maritime Safety (MSC 101) of the IMO in London from 5 – 14 June 2019 concerning a proposal for a new output to review the International Code for Application of Fire Test Procedures, 2010

PURPOSE

The document in Annex contains a draft Union submission to the 101st session of the Committee on Maritime Safety (MSC 101) of the IMO, taking place in London from 5 – 14 June 2019, concerning a proposal for a new output to review the International Code for Application of Fire Test Procedures, 2010 ('FTP Code'). It is hereby submitted to the appropriate technical body of the Council with a view to achieving agreement on transmission of the document to the IMO prior to the required deadline of 5 March 2019¹.

Article 6(2)(a)(i) of Directive 2009/45/EC of the European Parliament and of the Council on safety rules and standards for passenger ships 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 and Part B of Annex I of Directive 2009/45/EC applies the Fire Safety Systems Code adopted by Resolution MSC.98(73), to Class B, C and D ships constructed on or after 1 January 2003.

Fire protection equipment is included in Commission Implementing Regulation (EU) 2018/773 of 15 May 2018 on design, construction and performance requirements and testing standards for marine equipment and repealing Implementing Regulation (EU) 2017/306², which makes reference to Resolution MSC.307(88) "International code for application of fire test procedures,

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.

² OJ L 133, 30.5.2018, p. 1.

2010 (2010 FTP Code)”. This equipment therefore falls in the scope of 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/EC³ and therefore the said draft Union submission falls under EU exclusive competence⁴.

³ OJ L 257, 28.8.2014, p. 146.

⁴ A formal EU position under Article 218(9) TFEU is to be established in due time as regards the subject matter covered by this draft Union submission. The act which the IMO Marine Environment Protection Committee will eventually be called upon to adopt will constitute an act having legal effects. The envisaged act will be capable of decisively influencing the content of the above EU legislation. The concept of ‘*acts having legal effects*’ includes acts that have legal effects by virtue of the rules of international law governing the body in question. It also includes instruments that do not have a binding effect under international law, but that are ‘*capable of decisively influencing the content of the legislation adopted by the EU legislature*’ (Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraphs 61-64).

WORK PROGRAMME

Sub-Committee on Ship Systems and Equipment

Proposal for a new output to review the International Code for Application of Fire Test Procedures, 2010

Submitted by European Commission on behalf of the European Union

SUMMARY

Executive summary: This document proposes a new output for the Sub-Committee on Ship Systems and Equipment (SSE) concerning a further review and revision of the International Code for Application of Fire Test Procedures, 2010 and relevant fire test procedures”

Strategic direction, if applicable: Other Work

Output: Not yet assigned

Action to be taken: Paragraph 18

Related documents: Res. MSC.307(88) 2010 - FTP Code.

INTRODUCTION

1 This paper is submitted in accordance with MSC-MEPC.1/Circ.5/Rev.1 “Organization and Method of Work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary Bodies” on the submission of proposals for new outputs.

2 It is proposed to have evidence for the need to review the “International Code for Application of Fire Test Procedures, 2010 and relevant fire test procedures” in order to allow for new fire protection systems and materials.

3 In December 1996 at the sixty-seventh session of the Committee the resolution MSC.61(67) “Adoption of the international code for application of fire test procedures (FTP Code)”. FTP Code became mandatory by an amendment to SOLAS chapter II-2., which entered into force on 1 July 1998.

4 In May 2005 at the eightieth session of the Committee a comprehensive review on Fire Test Procedures Code was undertaken following a proposal by Japan. This led to the adoption of resolution MSC.307(88) “International code for application of fire test procedures, 2010 (2010 FTP Code)”. This revised code entered into force on July 1st, 2012.

5 A new output is proposed for inclusion in the biennial agenda of SSE Sub-Committee to review and revise resolution MSC.307(88) “International code for application of fire test procedures, 2010 (2010 FTP Code)” in the light of experience gained in the application of this code and the technical development since the most recent revision. Such re-revision will be aimed at making the 2010 FTP Code more technically up to date, more user-friendly and thereby providing for a more uniform application.

Scope of the proposal

Interpretations to the 2010 FTP Code

6 Following the adoption of the 2010 FTP Code technical development continued and experience was gained in the application of the 2010 FTP Code. It led to the development of unified interpretations. These numerous unified interpretations were adopted as MSC circulars. Additionally, further interpretations have been raised some of which were discussed at Sub-Committee level.

ISO Fire test standards

7 Meanwhile, ISO fire test standards, which were referred to in the 2010 FTP Code, were revised, based on the evolution of the technology, in order to facilitate to conduct the fire tests. Therefore, references, in the 2010 FTP Code, to these ISO fire test standards should be reviewed and revised if necessary.

New technologies

8 In addition, new fire protection systems and materials have been developed and are being developed based on the evolution of the shipbuilding and related technologies. However, those were not expected or assumed at the stage of the development and the revision of the 2010 FTP Code. Therefore, an appropriate action should be taken to accommodate such development of fire protection technologies to enhance the fire safety of ships.

IMO's objectives

9 This proposal for a new output to revise resolution MSC.307(88) “International code for application of fire test procedures, 2010 (2010 FTP Code)” lies within the mission statement of IMO to promote safe, secure and environmentally sound, efficient and sustainable shipping.

Need

10 Fire protection for seagoing ships is governed by SOLAS II-2 and the FTP Code. Administrations and organizations recognized on their behalf rely on these standards when approving fire protection matters in ship construction and used materials. Thus the observations

mentioned in paragraphs 5, 6 and 7 are seen as constituting a compelling need to update the requirements for conducting the fire tests specified in the 2010 FTP Code, improvements of fire test procedures in newest ISO fire test standards which as mentioned in paragraph 5 could be incorporated into the FTP Code.

Analysis of the issue

11 The further development of the 2010 FTP Code is one of the important mandatory elements, within SOLAS, to define the level of safety implicitly required for sea going ships. Improvements of the Code are considered to be within the scope of IMO primary objectives. There are IMO standards, e.g. MSC resolutions and MSC circulars, and references to industry standards therein, e.g. ISO standards available. In order to provide for a more practicable background and harmonized mandatory equipment updating the FTP Code seems both feasible and proportional.

Analysis of implications

12 It is considered that this proposal will not incur any additional administrative requirements or burdens. Because the revision will update existing requirements, there should be no increase of cost in maritime industry. On the other hand, the revision will provide the way of further development of fire safety technology and provide positive encouragement to the maritime industry for enhancement of fire safety of ships. In this regard, the completed administrative checklist, as set out in annex 5 to MSC-MEPC.1/Circ.5/Rev.1, is set out in annex 1.

Benefits

13 Revision of the 2010 FTP Code will keep the level of fire safety uniformly world-wide, and provide further enhancement of the fire safety of ships under SOLAS Convention. The revision will also re-solve existing problems raised in the application of the 2010 FTP Code in the Administrations.

Output

14 The proposed output, if agreed, could be considered by the SSE Sub-Committee, with a view to drafting a revised FTP Code for consideration, approval and subsequent adoption by Committee in future.

15 It is anticipated that, if MSC 101 approves this output for inclusion in the upcoming agenda of the SSE Sub-Committee, this could possibly be completed in three session of the Sub-Committee.

Human element

16 The completed checklist contained in MSC-MEPC.7/Circ.1 is set out in annex 2.

Urgency

17 In view of the FTP code recognized as one part of a holistic approach to ensuring safety of the ship it is suggested that this issue could be further considered by the Organization as

soon as possible and as a matter of priority. In this regard, the proposed output could be included in the Strategic Plan's list of outputs for the upcoming biennium, as well as in the upcoming biennial agenda for the SSE Sub-Committee, for completion in no more than three sessions.

Action Required

18 The Committee is requested to consider the above proposal and justification and include a new output in the Committee's post biennial agenda on "Revision of the FTP Code 2010", with the SSE Sub-Committee being assigned as the coordinating body, with a view to the output being placed on the Sub-Committee's provisional agenda for SSE 7.

ACTION REQUESTED TO THE COMMITTEE

19 The Committee is invited to consider the information provided above and the proposal for a new Output in paragraph 18.

ANNEX 1
CHECKLIST FOR IDENTIFYING ADMINISTRATIVE REQUIREMENTS

<ul style="list-style-type: none"> • This checklist should be used when preparing the analysis of implications required in submissions of proposals for inclusion of outputs. For the purpose of this analysis, the term "administrative requirements" is defined in resolution A.1043(27), i.e. administrative requirements are an obligation arising from future IMO mandatory instruments to provide or retain information or data. • • Instructions: (A) If the answer to any of the questions below is YES, the Member State proposing an output should provide supporting details on whether the requirements are likely to involve start-up and/or ongoing costs. The Member State should also give a brief description of the requirement and, if possible, provide recommendations for further work (e.g. would it be possible to combine the activity with an existing requirement?). • (B) If the proposal for the output does not contain such an activity, answer NR (Not required). • (C) For any administrative requirement, full consideration should be given to electronic means of fulfilling the requirement in order to alleviate administrative burdens. • 		
<ul style="list-style-type: none"> • 1. Notification and reporting? • Reporting certain events before or after the event has taken place, e.g. notification of voyage, statistical reporting for IMO Members 	<ul style="list-style-type: none"> • N • R 	<ul style="list-style-type: none"> •
<ul style="list-style-type: none"> • Description of administrative requirement(s) and method of fulfilling it: (if the answer is yes) 		
<ul style="list-style-type: none"> • 2. Record keeping? • Keeping statutory documents up to date, e.g. records of accidents, records of cargo, records of inspections, records of education. 	<ul style="list-style-type: none"> • N • R 	<ul style="list-style-type: none"> •
<ul style="list-style-type: none"> • Description of administrative requirement(s) and method of fulfilling it:(if the answer is yes) • • The existing record keeping is anticipated to continue. The proposal to encourage facilitating reporting results from inspections carried out by non-governmental entities seeks to mitigate any additional burden on Administrations. 		
<ul style="list-style-type: none"> • 3. Publication and documentation? • Producing documents for third parties, e.g. warning signs, registration displays, publication of results of testing 	<ul style="list-style-type: none"> • N • R 	<ul style="list-style-type: none"> •
<ul style="list-style-type: none"> • Description of administrative requirement(s) and method of fulfilling it (if the answer is yes) 		
<ul style="list-style-type: none"> • 4. Permits or applications? • Applying for and maintaining permission to operate, e.g. certificates, classification society costs 	<ul style="list-style-type: none"> • N • R 	<ul style="list-style-type: none"> •
<ul style="list-style-type: none"> • Description of administrative requirement(s) and method of fulfilling it:(if the answer is yes) 		
<ul style="list-style-type: none"> • 5. Other identified requirements? 	<ul style="list-style-type: none"> • N • R 	<ul style="list-style-type: none"> •
<ul style="list-style-type: none"> • 		

ANNEX 2
CHECKLIST FOR CONSIDERING HUMAN ELEMENT ISSUES BY IMO BODIES
(MSC-MEPC.7/Circ.1)

Instructions:			
If the answer to any of the questions below is:			
(A) YES, the preparing body should provide supporting details and/or recommendation for further work.			
(B) NO, the preparing body should make proper justification as to why human element issues were not considered.			
(C) NA (Not Applicable), the preparing body should make proper justification as to why human element issues were not considered applicable.			
Subject Being Assessed: (e.g. Resolution, Instrument, Circular being considered)			
New Unplanned Output to review the Res. 307(88) "International code for the application of fire test procedures, 2010 (2010 FTP Code			
Responsible Body: (e.g. Committee, Sub-committee, Working Group, Correspondence Group, Member State)			
Maritime Safety Committee and the Sub-Committee for Ship Systems and Equipment			
1. Was the human element considered during development or amendment process related to this subject?	Yes	No	✓ NA
2. Has input from seafarers or their proxies been solicited?	Yes	No	✓ NA
3. Are the solutions proposed for the subject in agreement with existing instruments? (Identify instruments considered in comments section)	✓ Yes	No	NA
4. Have human element solutions been made as an alternative and/or in conjunction with technical solutions?	Yes	No	✓ NA
5. Has human element guidance on the application and/or implementation of the proposed solution been provided for the following:	Yes	No	✓ NA
• Administrations?	Yes	No	✓ NA
• Ship owners/managers?	Yes	No	✓ NA
• Seafarers?	Yes	No	✓ NA
• Surveyors?	Yes	No	✓ NA
6. At some point, before final adoption, has the solution been reviewed or considered by a relevant IMO body with relevant human element expertise?	Yes	No	✓ NA
7. Does the solution address safeguards to avoid single person errors?	Yes	No	✓ NA
8. Does the solution address safeguards to avoid organizational errors?	Yes	No	✓ NA
9. If the proposal is to be directed at seafarers, is the information in a form that can be presented to and is	Yes	No	✓ NA

easily understood by the seafarer?				
10. Have human element experts been consulted in development of the solution?	Yes	No	✓	NA
11. HUMAN ELEMENT: Has the proposal been assessed against each of the factors below?				
<input type="checkbox"/> CREWING. The number of qualified personnel required and available to safely operate, maintain, support, and provide training for system.	Yes	No	✓	NA
<input type="checkbox"/> PERSONNEL. The necessary knowledge, skills, abilities, and experience levels that are needed to properly perform job tasks.	Yes	No	✓	NA
<input type="checkbox"/> TRAINING. The process and tools by which personnel acquire or improve the necessary knowledge, skills, and abilities to achieve desired job/task performance	Yes	No	✓	NA
<input type="checkbox"/> OCCUPATIONAL HEALTH AND SAFETY. The management systems, programmes, procedures, policies, training, documentation, equipment, etc. to properly manage risks.	Yes	No	✓	NA
<input type="checkbox"/> WORKING ENVIRONMENT. Conditions that are necessary to sustain the safety, health, and comfort of those on working on board, such as noise, vibration, lighting, climate, and other factors that affect crew endurance, fatigue, alertness and morale.	Yes	No	✓	NA
<input type="checkbox"/> HUMAN SURVIVABILITY. System features that reduce the risk of illness, injury, or death in a catastrophic event such as fire, explosion, spill, collision, flooding, or intentional attack. The assessment should consider desired human performance in emergency situations for detection, response, evacuation, survival and rescue and the interface with emergency procedures, systems, facilities and equipment.	Yes	No	✓	NA
<input type="checkbox"/> HUMAN FACTORS ENGINEERING. Human-system interface to be consistent with the physical, cognitive, and sensory abilities of the user population.	Yes	No	✓	NA

ANNEX 3

CHECK/MONITORING SHEET FOR THE PROCESS OF AMENDMENTS TO THE CONVENTION AND RELATED MANDATORY INSTRUMENTS (PROPOSAL / DEVELOPMENT)

Part I – Submitter of the proposal (refer to section 3.2.1.1)*

1	<i>Submitted by (Document Number and submitter)</i> [MSC 101/21/X] submitted by the European Commission
2	<i>Meeting session</i> 101st meeting of the Maritime Safety Committee
3	<i>Date (date of the submission)</i> [5 March 2019]

Part II – Details of the proposed amendment(s) or new mandatory instrument (refer to sections 3.2.1.1 and 3.2.1.2)*

1	<i>Strategic direction</i>
	Other work
2	<i>Title of the output</i>
	Proposal for a new output to review review the Res.307(88) “International code for the application of fire test procedures, 2010 (2010 FTP Code)
3	<i>Recommended type of amendments (MSC.1/Circ.1481) (delete as appropriate)</i>
	Updates and harmonization
4	<i>Intended instrument(s) to be amended (SOLAS,)</i>
	Res.307(88) “International code for the application of fire test procedures, 2010 (2010 FTP Code
5	<i>Intended application (scope, size, type, tonnage/length restriction, service (International/non-international), activity, etc.)</i>
	The proposed review would apply to the FTP Code.
6	<i>Application to new/existing ships (i.e. if intended to be a retro-active application)</i>
	Application to new ships
7	<i>Proposed coordinating sub-committee</i>
	Sub-Committee on Ship Systems and Equipment (SSE)
8	<i>Anticipated supporting sub-committees</i>
	n/a
9	<i>Time scale for completion</i>
	[2019]
10	<i>Expected date(s) for entry into force and implementation/application</i>
	[1 January 2024]

11	<i>Any relevant decision taken or instruction given by the Committee</i>
	n/a