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European Union

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#### 'I/A' ITEM NOTE

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From: General Secretariat of the Council

To: Permanent Representatives Committee/Council

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Subject: Draft COUNCIL DECISION on the position to be taken on behalf of the European Union at the International Maritime Organization during the 74th session of the Marine Environment Protection Committee and the 101st session of the Maritime Safety Committee, on the adoption of amendments to Annex II to the International Convention for the Prevention of Pollution from Ships, amendments to the International Code on the Enhanced Programme of Inspections During Surveys of Bulk Carriers and Oil Tankers, 2011, amendments to the International Life-Saving Appliance Code, amendments to Forms C, E and P of the appendix to the International Convention for the Safety of Life at Sea, and amendments to the International Code of Safety for Ships Using Gases or Other Low-flashpoint Fuels

– Adoption

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Delegations will find attached statements by the Commission to be included in the minutes of the Permanent Representatives Committee and of the Council.

**Commission statement on EU competence**

In so far as the relevant amendments to Annex II to the International Convention for the Prevention of Pollution from Ships (MARPOL) and to the International Code on the Enhanced Programme of Inspections During Surveys of Bulk Carriers and Oil Tankers, 2011, amendments to the International Life-Saving Appliance Code, amendments to Forms C, E and P of the appendix to the International Convention for the Safety of Life at Sea, and to the International Code of Safety for Ships Using Gases or Other Low-flashpoint Fuels are concerned, their adoption at the IMO affects existing Union legislation. Therefore, these amendments fall within the exclusive external competence of the Union. Consequently, the Union position established in respect of those amendments cannot be limited in scope and must therefore be understood as covering them in their entirety, without prejudice to Article 2(2) TFEU.

**Commission statement on the affectation of the alternative fuels infrastructure directive**

The Commission considers that the commitments to be undertaken by the Union at MSC 101, which would introduce amendments to the International Code of Safety for Ship Using Gases or Other Low-flashpoint Fuels (IGF Code), will affect common EU rules as laid down both in Directive 2009/45/EC on safety rules and standards for passenger ships and in Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure, or alter their scope. The Union position in respect of the amendments to the IGF Code must therefore be understood in the sense that the Union's exclusive competence results from the fact that both Directives 2009/45 and 2014/94 may be affected.