



Council of the  
European Union

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**TRANS 588**  
**MAR 166**  
**ENV 900**

## LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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Subject: COUNCIL DECISION on the position to be taken on behalf of the European Union within the International Maritime Organization's Maritime Safety Committee during its 106th session and within the International Maritime Organization's Marine Environment Protection Committee during its 79th session as regards the amendment of the International Convention for the Safety of Life at Sea (SOLAS), of the International Code on the Enhanced Programme of Inspections during Surveys of Bulk Carriers and Oil Tankers, 2011 (the '2011 ESP Code') and of Annex VI to the International Convention for the Prevention of Pollution from Ships (MARPOL)

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**COUNCIL DECISION (EU) 2022/...**

**of ...**

**on the position to be taken on behalf of the European Union within  
the International Maritime Organization's Maritime Safety Committee  
during its 106th session and within  
the International Maritime Organization's Marine Environment Protection Committee  
during its 79th session as regards the amendment of  
the International Convention for the Safety of Life at Sea (SOLAS),  
of the International Code on the Enhanced Programme of Inspections  
during Surveys of Bulk Carriers and Oil Tankers, 2011 (the '2011 ESP Code')  
and of Annex VI to the International Convention for the Prevention of Pollution from Ships  
(MARPOL)**

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 to improve maritime safety and to protect the marine environment and human health.
- (2) The Maritime Safety Committee of the International Maritime Organization (IMO) is expected to adopt, during its 106th session ('MSC 106') from 2 to 11 November 2022, amendments to Chapter II-2 of the International Convention for the Safety of Life at Sea (SOLAS) and to the International Code on the enhanced programme of inspections during surveys of Bulk carriers and Oil tankers, 2011 (the '2011 ESP Code').
- (3) The Marine Environment Protection Committee of the IMO is expected to adopt, during its 79th session ('MEPC 79') from 12 to 16 December 2022, amendments to Regulation 14 of the International Convention for the Prevention of Pollution from Ships (MARPOL) and to Appendices VII and IX of Annex VI to MARPOL.
- (4) It is appropriate to establish the position to be taken on the Union's behalf during MSC 106, as the amendments to Chapter II-2 of SOLAS and to the 2011 ESP Code are capable of decisively influencing the content of Union law, namely Directive 2009/45/EC of the European Parliament and of the Council<sup>1</sup> and Regulation (EU) No 530/2012 of the European Parliament and of the Council<sup>2</sup>.

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<sup>1</sup> 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).

<sup>2</sup> 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).

- (5) The amendments to Chapter II-2 of SOLAS will take into account oil fuel suppliers who have failed to meet the flashpoint requirements, actions against oil fuel suppliers that have been found to deliver oil fuel that does not comply with minimum flashpoint requirements, and documentation of the flashpoint of the actual fuel batch when bunkering. The Union should support those amendments as they will enhance the safety of ships.
- (6) The amendments to the 2011 ESP Code are intended to implement stricter requirements for survey of ballast tanks and void spaces in order to address the safety issues that were identified during the flag State's marine safety investigation of the loss of the bulk carrier MV Stellar Daisy in 2017. The Union should support those amendments as they will enhance the safety of ships.
- (7) It is appropriate to establish the position to be taken on the Union's behalf during MEPC 79, as the amendments to Regulation 14 of MARPOL and to Appendices VII and IX of Annex VI to MARPOL are capable of decisively influencing the content of Union law, namely Regulation (EU) 2015/757 of the European Parliament and of the Council<sup>1</sup> and Directive (EU) 2016/802 of the European Parliament and of the Council<sup>2</sup>.

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<sup>1</sup> 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).

<sup>2</sup> Directive (EU) 2016/802 of the European Parliament and of the Council of 11 May 2016 relating to a reduction in the sulphur content of certain liquid fuels (OJ L 132, 21.5.2016, p. 58).

- (8) The amendments to Regulation 14 of MARPOL and to Appendix VII of Annex VI to MARPOL concern the designation of the Mediterranean Sea, as a whole, as an Emission Control Area for Sulphur Oxides (Med SOX ECA). The Union should support those amendments as that designation will result in significant reductions in ambient levels of air pollution in the Mediterranean Sea as a whole and in the Mediterranean coastal States, which will lead to substantial benefits to human health and the environment.
- (9) The amendments to Appendix IX of Annex VI to MARPOL will enhance information on the carbon intensity performance of ships in the IMO Ship Fuel Oil Consumption Data Collection System (DCS). The Union should support those amendments as enhanced information on carbon intensity of ships will provide essential data regarding the global fleet's energy efficiency and carbon intensity performance. Thus, such information should be reported to the IMO DCS.

- (10) The Union is neither a member of the IMO, nor a contracting party to SOLAS, to the 2011 ESP Code or to MARPOL. The Council should therefore authorise the Member States to express the position of the Union.
- (11) The scope of this Decision should be limited to the content of the proposed amendments, to the extent that those amendments are capable of affecting Union common rules and fall under the exclusive competence of the Union. This Decision should not affect the division of competences between the Union and the Member States,

HAS ADOPTED THIS DECISION:

### *Article 1*

The position to be taken on the Union's behalf within the Maritime Safety Committee of the International Maritime Organization (IMO) during its 106th session ('MSC 106') shall be to agree to the adoption of the amendment of Chapter II-2 of the International Convention for the Safety of Life at Sea (SOLAS), as set out in Annex 1 to IMO document MSC 106/3, and of the International Code on the Enhanced Programme of Inspections during Surveys of Bulk Carriers and Oil Tankers, 2011 (the '2011 ESP Code'), as set out in Annex 5 to IMO document MSC 106/3.

### *Article 2*

The position to be taken on the Union's behalf within the Marine Environment Protection Committee of the IMO during its 79th session ('MEPC 79') shall be to agree to the adoption of the amendment of Regulation 14 of the International Convention for the Prevention of Pollution from Ships (MARPOL) and of Appendix VII of Annex VI to MARPOL, as set out in the Annex to IMO document MEPC 79/3/2, and to the adoption of the amendment of Appendix IX of Annex VI to MARPOL, as set out in the Annex to IMO document MEPC 79/3/3.

### *Article 3*

1. The positions to be taken on behalf of the Union specified in this Decision cover the amendments concerned to the extent that those amendments fall under the exclusive competence of the Union and are capable of affecting Union common rules. Those positions shall be expressed by the Member States, which are all members of the IMO, acting jointly in the interests 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 interests of the Union, by the amendments referred to in Articles 1 and 2, to the extent that those amendments fall under the exclusive competence of the Union.



*Article 5*

This Decision shall enter into force on the date of its adoption.

Done at ...,

*For the Council*

*The President*

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