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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

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 107th session as regards the amendment of the International Convention for the Safety of Life at Sea (SOLAS), of the 1994 International Code of Safety for High-speed Craft (the '1994 HSC Code') and the 2000 International Code of Safety for High-speed Craft (the '2000 HSC Code'), of the International Code for Ships Operating in Polar Waters (the 'Polar Code'), of the 1978 International Convention on Standards of Training, Certification and Watch-keeping for Seafarers (STCW) and the STWC Code, and of the International Life-Saving Appliances Code (the 'LSA Code')

COUNCIL DECISION (EU) 2023/...

of ...

**on the position to be taken on behalf of the European Union within
the International Maritime Organization's Maritime Safety Committee
during its 107th session as regards the amendment
of the International Convention for the Safety of Life at Sea (SOLAS),
of the 1994 International Code of Safety for High-speed Craft (the '1994 HSC Code')
and the 2000 International Code of Safety for High-speed Craft (the '2000 HSC Code'),
of the International Code for Ships Operating in Polar Waters (the 'Polar Code'),
of the 1978 International Convention on Standards of Training, Certification
and Watch-keeping for Seafarers (STCW) and the STWC Code,
and of the International Life-Saving Appliances Code (the 'LSA 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 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 107th session ('MSC 107') from 31 May to 9 June 2023, amendments to Chapters II-2 and XIV of the 1974 International Convention for the Safety of Life at Sea (SOLAS), to the 1994 International Code of Safety for High-speed Craft (the '1994 HSC Code') and the 2000 International Code of Safety for High-speed Craft (the '2000 HSC Code'), to the International Code for Ships Operating in Polar Waters (the 'Polar Code'), to the 1978 International Convention on Standards of Training, Certification and Watch-keeping for Seafarers (STCW) and the STWC Code, and to the International Life-Saving Appliances Code (the 'LSA Code').

- (3) It is appropriate to establish the position to be taken on the Union's behalf during MSC 107, as the amendments to Chapters II-2 and XIV of SOLAS, to the 1994 HSC Code and the 2000 HSC Code, to the Polar Code, to the STCW Convention and the STWC Code, and to the LSA Code are capable of decisively influencing the content of Union law, namely Regulations (EU) No 1257/2013¹ and (EU) 2019/1021² of the European Parliament and of the Council, Directives 2002/59/EC³, 2009/45/EC⁴, 2013/53/EU⁵, 2014/90/EU⁶ and (EU) 2022/993⁷ of the European Parliament and of the Council and Council Directive 97/70/EC⁸.

¹ Regulation (EU) No 1257/2013 of the European Parliament and of the Council of 20 November 2013 on ship recycling and amending Regulation (EC) No 1013/2006 and Directive 2009/16/EC (OJ L 330, 10.12.2013, p. 1).

² Regulation (EU) 2019/1021 of the European Parliament and of the Council of 20 June 2019 on persistent organic pollutants (OJ L 169, 25.6.2019, p. 45).

³ Directive 2002/59/EC of the European Parliament and of the Council of 27 June 2002 establishing a Community vessel traffic monitoring and information system and repealing Council Directive 93/75/EEC (OJ L 208, 5.8.2002, p. 10).

⁴ 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).

⁵ Directive 2013/53/EU of the European Parliament and of the Council of 20 November 2013 on recreational craft and personal watercraft and repealing Directive 94/25/EC (OJ L 354, 28.12.2013, p. 90).

⁶ 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/EC (OJ L 257, 28.8.2014, p. 146).

⁷ Directive (EU) 2022/993 of the European Parliament and of the Council of 8 June 2022 on the minimum level of training of seafarers (OJ L 169, 27.6.2022, p. 45).

⁸ Council Directive 97/70/EC of 11 December 1997 setting up a harmonised safety regime for fishing vessels of 24 metres in length and over (OJ L 34, 9.2.1998, p. 1).

- (4) The amendments to Chapter II-2 of SOLAS and to the 1994 and 2000 HSC Codes will prohibit the use of fire-fighting foams containing perfluorooctane sulfonic acid (PFOS) in marine fire-fighting. The Union should support those amendments, as PFOS is a harmful substance both to human health and to the marine environment.
- (5) The amendments to Chapter XIV of SOLAS and to the Polar Code will facilitate the mandatory application of certain provisions to fishing vessels and will make certain methodologies mandatory in order to determine a ship's operational capabilities in ice as an essential element of voyage planning. The Union should support those amendments, as they will enhance the safety standards for non-SOLAS ships operating in polar waters.
- (6) The amendments to the STCW Convention and the STWC Code will address the use of electronic certificates pursuant to the STCW Convention and the STWC Code. The Union should support those amendments, as the digitalisation of STCW certificates will facilitate the work and reduce the administrative burden for flag administrations, port state control officers and seafarers. Such digitalisation could also allow for the faster identification of fraudulent certificates.
- (7) The amendments to the LSA Code will include new requirements for ventilation on survival craft as regards totally enclosed lifeboats. The Union should support those amendments, as they enhance safety requirements with respect to ventilation standards in totally enclosed lifeboats.

- (8) The Union is neither a member of the IMO, nor a contracting party to SOLAS, to the 1994 HSC Code and the 2000 HSC Code, to the Polar Code, to the STCW Convention and the STWC Code, and to the LSA Code. The Council should therefore authorise the Member States to express the position of the Union.
- (9) 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 107th session ('MSC 107') shall be to agree to the amendment of Chapters II-2 and XIV of the 1974 International Convention for the Safety of Life at Sea (SOLAS), of the 1994 International Code of Safety for High-speed Craft (the '1994 HSC Code') and the 2000 International Code of Safety for High-speed Craft (the '2000 HSC Code'), of the International Code for Ships Operating in Polar Waters (the 'Polar Code'), of the 1978 International Convention on Standards of Training, Certification and Watch-keeping for Seafarers (STCW) and the STWC Code, and of the International Life-Saving Appliances Code (the 'LSA Code'), as set out in IMO Circular Letter No.4658/Rev.1.

Article 2

1. The position to be taken on behalf of the Union referred to in Article 1 covers 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. That position 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 position referred to in Article 1 may be agreed upon without further decision of the Council.

Article 3

Member States are hereby authorised to give their consent to be bound, in the interests of the Union, by the amendments referred to in Article 1, to the extent that those amendments fall under the exclusive competence of the Union.

Article 4

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

Done at ...,

For the Council

The President
