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Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the International Maritime Organization during the 110th session of the Maritime Safety Committee on the adoption of amendments to the International Convention for the Safety of Life at Sea (SOLAS), the 1994 International Code of Safety for High-Speed Craft (1994 HSC Code) and the 2000 International Code of Safety for High-Speed Craft (2000 HSC Code)

EXPLANATORY MEMORANDUM

1. SUBJECT MATTER OF THE PROPOSAL

This proposal concerns a decision establishing the position to be taken on the Union's behalf at the 110th session of the International Maritime Organization's Maritime Safety Committee (MSC 110), scheduled to take place from 18 to 27 June 2025.

During the MSC 110, it is envisaged to adopt amendments to:

the International Convention for the Safety of Life at Sea (SOLAS), 1974,
the 1994 International Code of Safety for High-Speed Craft (1994 HSC Code) and
the 2000 International Code of Safety for High-Speed Craft (2000 HSC Code).

2. CONTEXT OF THE PROPOSAL

2.1. The Convention on the International Maritime Organization

The Convention on the International Maritime Organization (IMO) establishes the IMO. The IMO's purpose is to provide a forum for co-operation in the field of regulation and practices relating to technical matters of all kinds affecting shipping engaged in international trade. It furthermore aims to encourage the general adoption of the highest practicable standards in matters concerning maritime safety, efficiency of navigation and prevention and control of marine pollution from ships, promoting a level playing field. It also to deal with related administrative and legal matters.

The Convention entered into force on 17 March 1958.

All Member States are parties to the Convention. The Union is not a party to the Convention.

All Member States are parties to the International Convention for the Safety of Life at Sea ('SOLAS'), 1974, which entered into force on 25 May 1980. The Union is not a party to SOLAS.

2.2. The International Maritime Organization

The International Maritime Organization (IMO) is the United Nations' specialised agency with responsibility for the safety and security of shipping and the prevention of marine pollution by ships. It is the global standard-setting authority for the safety, security, and environmental performance of international shipping. Its main role is to create a regulatory framework for the shipping industry that is fair and effective, universally adopted and universally implemented.

Membership in the IMO is open to all States and all EU Member States are IMO members. The EC's relations with IMO are based today on the IMO Resolution A.1168(32) which prescribes the procedures and terms for the cooperation between IMO and intergovernmental organisations.

IMO's Maritime Safety Committee (MSC) consists of all the IMO Members and meets at least once a year. It considers any matter within the scope of the Organization concerned with aids to navigation, construction, and equipment of vessels, manning from a safety standpoint, rules for the prevention of collisions, handling of dangerous cargoes, maritime safety procedures and requirements, hydrographic information, log-books and navigational records, marine casualty investigation, salvage and rescue, and any other matters directly affecting maritime safety.

Pursuant to Article 28(b) of the IMO Convention, IMO's Maritime Safety Committee provides machinery for performing any duties assigned to them by the IMO Convention, the IMO Assembly or the IMO Council, or any duty within the above scope which may be assigned to them by or under any other international instrument and accepted by the IMO. Decisions of the Maritime Safety Committee, and of their subsidiary bodies, are adopted by a majority of their Members.

2.3. The envisaged act of the IMO's Maritime Safety Committee

On 18 to 27 June 2025, during its 110th session, the Maritime Safety Committee is to adopt amendments to chapters II-1, II-2 and V of SOLAS and 1994 HSC Code and 2000 HSC Code.

The purpose of the envisaged amendments to SOLAS Chapter II-1 is to provide clarification and certainty on the application of the IGF Code to gaseous fuels.

The purpose of the envisaged amendments to SOLAS Chapter II-2 is to ensure consistent implementation of this provision for passenger ships and cargo ships.

The purpose of the envisaged amendments to SOLAS Chapter V is to improve the safety of pilots at sea.

The purpose of the envisaged amendments to 1994 HSC Code and 2000 HSC Code is to harmonise the lifejacket carriage requirements with the requirements in SOLAS chapter III.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF IN THE 110TH SESSION OF THE MARITIME SAFETY COMMITTEE

3.1. Amendments to Chapter II-1 of SOLAS

At its 108th session, the Maritime Safety Committee (MSC 108) considered the application of the IGF Code to fuels with a low-flashpoint and other gaseous fuels, noted a need to clarify whether or not the IGF Code applies to ships using gas as fuel irrespective of flashpoint and agreed to refer the issue to Sub-Committee on Carriage of Cargoes and Containers (CCC 10) and to receive the advice of CCC at MSC 109.

During CCC 10, the Sub-Committee agreed to the general approach that the IGF Code should apply to low-flashpoint fuels and gas fuels and recommended to MSC 109 that SOLAS chapter II-1 would require an amendment. The Union's position in CCC 10 was to support further consideration on the best way forward on how and whether all gaseous fuels should be considered as falling within the scope of the IGF Code.

MSC 109 established the Working Group on Development of a Safety Regulatory Framework to Support the Reduction of GHG Emissions from Ships Using New Technologies and Alternative Fuels and instructed it to prepare draft amendments to SOLAS regulations II-1/2.29, 56 and 57 for consideration by the Committee. The Union's position in MSC 109 was to support the need to clarify urgently the scope of application of the IGF code by adopting, if relevant, draft amendments to SOLAS.

Having considered the report of the Working Group, MSC 109 approved the draft SOLAS amendments in relation to the application of the IGF Code with a view to adoption at MSC 110. These amendments are circulated through IMO Circular Letter No.4953 of 17 December 2024 in Annex 1.

The Union should support these amendments because they will provide clarification and certainty on the application of the IGF Code to gaseous fuels.

3.2. Amendments to Chapter II-2 of SOLAS

At its 10th session, the Sub-Committee on Ship Systems and Equipment (SSE 10) considered document minor corrections to SOLAS regulations II-2/11.2 and 11.4.1, with a view to ensuring consistent implementation of this provision for passenger ships and cargo ships. Following discussion, the Sub-Committee supported the proposal and agreed to the draft amendments to SOLAS regulation II-2/11, as minor corrections 7, with a view to approval by MSC 109 and adoption by MSC 110. The Union's position in SSE 10 was to support these amendments in order to ensure consistent implementation of this provision for passenger ships and cargo ships.

MSC 109 approved the draft amendments to SOLAS regulation II-2/11, for consistent implementation of this provision for passenger ships and cargo ships, with a view to adoption at MSC 110. These amendments are circulated through IMO Circular Letter No.4953 of 17 December 2024 in Annex 1.

The Union should support these amendments because they will ensure consistent implementation of this provision for passenger ships and cargo ships.

3.3. Amendments to Chapter V of SOLAS

MSC 106 agreed to include in the biennial agenda of the Sub-Committee on Navigation, Communications and Search and Rescue (NCSR) for 2022-2023 and the provisional agenda for NCSR 10 an output on "Revision of SOLAS regulation V/23 and associated instruments to improve the safety of pilot transfer arrangements", with a target completion year of 2024. The Union's position in MSC 106 was to support in principle the proposal to establish a new output to amend SOLAS regulation V/23 and associated instruments to improve the safety of pilot transfer arrangements.

NCSR 10 commenced the work on the necessary revision of SOLAS regulation V/23. To continue the work the Sub-Committee agreed to establish a Correspondence Group on Pilot Transfer Arrangements under the coordination of China with a view to finalization of this output at NCSR 11. The Union's position in NCSR 10 was to propose that the technical discussion should continue by experts in a working group.

The Correspondence Group presented to NCSR 11 draft amendments to SOLAS regulation V/23 and draft performance standards for pilot transfer arrangements. Following consideration, the Sub-Committee referred this report to the Working Group on Navigation for review and finalization of the draft amendments to SOLAS and the draft performance standards. Having considered the Working Group's report, the Sub-Committee agreed to the draft amendments to SOLAS regulation V/23 and the appendix (Certificates), the associated draft MSC resolution on performance standards for pilot transfer arrangements, and invited the Committee to approve them, for subsequent adoption. The Union's position in NCSR 11 was to propose that all documents are referred to the Working Group on Navigation to further develop the amendments to SOLAS regulation V/23, and the associated instruments.

MSC 109 approved the draft amendments to SOLAS regulation V/23 and the appendix (Certificates), with a view to adoption at MSC 110. These amendments are circulated through IMO Circular Letter No.4953 of 17 December 2024 in Annex 1.

The Union should support these amendments because they will improve the safety of pilots at sea.

3.4. Amendments to 1994 HSC Code and 2000 HSC Code

MSC 101 agreed to include, in its post-biennial agenda, an output on "Development of amendments to paragraph 8.3.5 and annex 1 of the 1994 and 2000 HSC Codes", with one session needed to complete the item, assigning the SSE Sub-Committee as the associated organ. The Union's position in MSC 101 was to support the proposal for the establishment of a new output for the SSE Sub-Committee to harmonize the lifejacket requirements suitable for infants in the HSC Codes to the lifejacket carriage requirements of SOLAS chapter III.

SSE 9 had agreed to include the agenda item in the provisional agenda of SSE 10. SSE 10 instructed the LSA Working Group, taking into account comments made and decisions taken in plenary, to finalize the draft amendments to the 1994 and 2000 HSC Codes. Having considered the relevant part of the report of the LSA Working Group, SSE 10 agreed to the draft amendments to the 1994 and 2000 HSC Codes, with a view to approval by MSC 109 and subsequent adoption by MSC 110.

MSC 109 approved the draft amendments to paragraph 8.3.5 (Personal life-saving appliances) and annex 1 (Record of Equipment), of the 1994 HSC Code and paragraph 8.3.5 (Personal life-saving appliances) and annex 1 (Record of Equipment), of the 2000 HSC Code, with a view to adoption at MSC 110, and expected entry into force on 1 January 2028. These amendments are circulated through IMO Circular Letter No.4953 of 17 December 2024 in Annex 2 and 3.

The Union should support these amendments because they will harmonise the lifejacket carriage requirements with the requirements in SOLAS chapter III and improve the safety of infants in case of an accident.

4. RELEVANT EU LEGISLATION AND EU COMPETENCE

4.1. Relevant EU legislation

4.1.1. Amendments to Chapter II-1 of SOLAS

Article 6(2)(a)(i) of Directive 2009/45/EC¹ on safety rules and standards for passenger ships provides that new passenger ships of Class A engaged in domestic voyages within the EU shall comply entirely with the requirements of the 1974 SOLAS Convention, as amended.

In addition, Annex I of Directive 2009/45/EC includes two regulations related to ships using low-flashpoint fuels:

- Regulation II-1/G/1: applicable to New Class B, C and D [and existing Class B ships] - "Ships, irrespective of the date of construction, converted to using or which undertake to use gaseous or liquid fuel having a flashpoint lower than otherwise permitted under Regulation II-2/A/10, subparagraph.1.1, shall comply with the requirements of the IGF Code, as defined in SOLAS II-1/2.28."; and
- Regulation II-1/G/57: Requirements for ships using low-flashpoint fuels - "ships using gaseous or liquid fuel having a flashpoint lower than otherwise permitted under Regulation II- 2/4.2.1.1 shall comply with the requirements of the IGF Code, as defined in SOLAS II-1/2.28.

¹ OJ L 163, 25.6.2009, p. 1

Therefore, the amendments to Chapter II-1 of SOLAS are capable of decisively influencing the content of Directive 2009/45/EC. This is because Article 6(2)(a)(i) provides that new passenger ships of Class A shall comply entirely with the requirements of the 1974 SOLAS Convention, as amended.

4.1.2. Amendments to Chapter II-2 of SOLAS

Article 6(2)(a)(i) of Directive 2009/45/EC on safety rules and standards for passenger ships provides that new passenger ships of Class A engaged in domestic voyages within the EU shall comply entirely with the requirements of the 1974 SOLAS Convention, as amended.

Therefore, the amendments to Chapter II-2 of SOLAS are capable of decisively influencing the application of Directive 2009/45/EC. This is because Article 6(2)(a)(i) provides that new passenger ships of Class A shall comply entirely with the requirements of the 1974 SOLAS Convention, as amended.

4.1.3. Amendments to Chapter V of SOLAS

Article 6(2)(a)(i) of Directive 2009/45/EC on safety rules and standards for passenger ships provides that new passenger ships of Class A engaged in domestic voyages within the EU shall comply entirely with the requirements of the 1974 SOLAS Convention, as amended.

In addition, navigation equipment, including the carriage, performance, and type approval of pilot ladders, is listed in Section 4 of Commission Implementing Regulation (EU) 2024/1975². The Implementing Regulation contains design, construction and performance requirements and testing standards for marine equipment. It is based on the empowerment of the Commission to indicate, through implementing acts, the design, construction and performance requirements as well as the testing standards for marine equipment falling within the scope of Directive 2014/90/EU on marine equipment³, in accordance with Article 35(2) thereof.

Therefore, the amendments to Chapter V of SOLAS are capable of decisively influencing the application of Directive 2009/45/EC and Commission Implementing Regulation (EU) 2024/1975. This is because the Commission Implementing Regulation (EU) 2024/1975 in its section 4 lists navigation equipment, including the carriage, performance, and type approval of pilot ladders, which are provided for in SOLAS Regulation V/23.

4.1.4. Amendments to 1994 HSC Code and 2000 HSC Code

Article 2(c) of Directive 2009/45/EC defines the ‘High Speed Craft Code’ as the ‘International Code for Safety of High Speed Craft’ contained in IMO Resolution MSC 36 (63) of 20 May 1994, or the International Code for Safety of High-Speed Craft, 2000 (2000 HSC Code), contained in IMO Resolution MSC.97(73) of December 2000, in their up-to-date versions.

Article 6(4) of Directive 2009/45/EC on safety rules and standards for passenger ships provides that high speed passenger craft, when engaged on domestic voyages, constructed or subjected to repairs, alterations or modifications of a major character on or after 1 January

² OJ L, 2024/1975, 26.7.2024

³ OJ L 257, 28.8.2014, p. 146

1996 shall comply with the requirements of Regulation X/2 and X/3 of the 1974 SOLAS Convention, which provide for the application of the ‘High Speed Craft Code’.

Therefore, the amendments to 1994 HSC Code and 2000 HSC Code are capable of decisively influencing the application of Directive 2009/45/EC. This is because Article 6(4) provides that high speed passenger craft, when engaged on domestic voyages, constructed or subjected to repairs, alterations or modifications of a major character on or after 1 January 1996 shall comply with the requirements of Regulation X/2 and X/3 of the 1974 SOLAS Convention, which provide for the application of the ‘High Speed Craft Code’.

4.2. EU competence

The subject matter of the envisaged acts concerns an area for which the Union has exclusive external competence by virtue of the last limb of Article 3(2) TFEU, as the envisaged acts are liable to ‘affect common rules or alter their scope’.

5. LEGAL BASIS

5.1. Procedural legal basis

5.1.1. Principles

Article 218(9) of the Treaty on the Functioning of the European Union (TFEU) provides for decisions establishing *‘the positions to be adopted on the Union’s behalf in a body set up by an agreement, when that body is called upon to adopt acts having legal effects, with the exception of acts supplementing or amending the institutional framework of the agreement.’*

Article 218(9) TFEU applies regardless of whether the Union is a member of the body or a party to the agreement.⁴

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’*.⁵

5.1.2. Application to the present case

The IMO’s Maritime Safety Committee is a body set up by an agreement in accordance with the Convention on the International Maritime Organization.

The acts which this IMO committee is called upon to adopt constitute acts having legal effects. The envisaged acts are capable of decisively influencing the content of the following EU legislation and notably:

- Directive 2009/45/EC on safety rules and standards for passenger ships. This is because Article 6(2)(a)(i) provides that new passenger ships of Class A shall comply entirely with the requirements of the 1974 SOLAS Convention, as amended and Article 6(4) provides that high speed passenger craft, when engaged on domestic voyages, constructed or subjected to repairs, alterations or modifications of a major character on or after 1 January 1996 shall comply with the requirements of Regulation X/2 and X/3 of the 1974 SOLAS Convention, which provide for the application of the ‘High Speed Craft Code’.

⁴ Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraph 64.

⁵ Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraphs 61-64.

- Commission Implementing Regulation (EU) 2024/1975 laying down rules for the application of Directive 2014/90/EU of the European Parliament and of the Council, as regards design, construction and performance requirements and testing standards for marine equipment and repealing Commission Implementing Regulation (EU) 2023/1667. This is because in its section 4 it lists navigation equipment, including the carriage, performance, and type approval of pilot ladders, which are provided for in SOLAS Regulation V/23.
- The envisaged acts do not supplement or amend the institutional framework of the Agreement.

Therefore, the procedural legal basis for the proposed decision is Article 218(9) TFEU.

5.2. Substantive legal basis

5.2.1. Principles

The substantive legal basis for a decision under Article 218(9) TFEU depends primarily on the objective and content of the envisaged act in respect of which a position is taken on the Union's behalf. If the envisaged act pursues two aims or has two components and if one of those aims or components is identifiable as the main one, whereas the other is merely incidental, the decision under Article 218(9) TFEU must be founded on a single substantive legal basis, namely that required by the main or predominant aim or component.

5.2.2. Application to the present case

The main objective and content of the envisaged acts relate to maritime transport. Therefore, the substantive legal basis of the proposed decision is Article 100(2) TFEU.

5.3. Conclusion

The legal basis of the proposed decision should be Article 100(2) TFEU, in conjunction with Article 218(9) TFEU.

Proposal for a

COUNCIL DECISION

on the position to be taken on behalf of the European Union in the International Maritime Organization during the 110th session of the Maritime Safety Committee on the adoption of amendments to the International Convention for the Safety of Life at Sea (SOLAS), the 1994 International Code of Safety for High-Speed Craft (1994 HSC Code) and the 2000 International Code of Safety for High-Speed Craft (2000 HSC 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) The Convention on the International Maritime Organization ('IMO') entered into force on 17 March 1958.
- (2) The IMO is a specialised agency of the United Nations with responsibility for the safety and security of shipping and the prevention of marine and atmospheric pollution by ships. All Union Member States are members of the IMO. The Union is not a member of the IMO.
- (3) Pursuant to Article 28(b) of the Convention on the IMO, the Maritime Safety Committee provides machinery for the performance of any duties assigned to it in accordance with that Convention, by the IMO Assembly or by the IMO Council, or any duty within the scope of that Article which may be assigned to the Maritime Safety Committee under any other international instrument and accepted by the IMO.
- (4) The IMO's Maritime Safety Committee, in its 110th session from 18 to 27 June 2025, is to adopt amendments to the International Convention for the Safety of Life at Sea (SOLAS), 1974, the 1994 International Code of Safety for High-Speed Craft (1994 HSC Code) and the 2000 International Code of Safety for High-Speed Craft (2000 HSC Code).
- (5) It is appropriate to establish the position to be taken on the Union's behalf during the 110th session of the IMO's Maritime Safety Committee, as the envisioned acts are capable of decisively influencing the content of Union law, namely Directive 2009/45/EC on safety rules and standards for passenger ships¹ and Commission Implementing Regulation (EU) 2024/1975 laying down rules for the application of Directive 2014/90/EU of the European Parliament and of the Council, as regards design, construction and performance requirements and testing standards for marine equipment and repealing Commission Implementing Regulation (EU) 2023/1667².

¹ OJ L 163, 25.6.2009, p. 1

² OJ L, 2024/1975, 26.7.2024

- (6) Therefore, the Union should support the amendments to SOLAS Chapter II-1, because they will provide clarification and certainty on the application of the IGF Code to gaseous fuels. The Union should support the amendments to SOLAS Chapter II-2, because they will ensure consistent implementation of this provision for passenger ships and cargo ships. The Union should support the amendments to SOLAS Chapter V, because they will improve the safety of pilots at sea. The Union should support the amendments to 1994 HSC Code and 2000 HSC Code because they will harmonise the lifejacket carriage requirements with the requirements in SOLAS chapter III and improve the safety of infants in case of an accident.
- (7) The Union's position is to be expressed by the Member States of the Union that are members of the IMO, and by the Commission, acting jointly,

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the 110th session of the IMO's Maritime Safety Committee shall be to agree to the adoption of amendments to chapters II-1, II-2 and V of to the International Convention for the Safety of Life at Sea (SOLAS), 1974, the 1994 International Code of Safety for High-Speed Craft (1994 HSC Code) and the 2000 International Code of Safety for High-Speed Craft (2000 HSC Code) as set out in Annex 1, 2 and 3 of IMO Circular Letter No.4953 of 17 December 2024.

Article 2

The position referred to in Article 1 shall be expressed by the Commission and by the Member States of the Union that are members of the IMO's Maritime Safety Committee, acting jointly in the interest of the Union.

Article 3

This Decision is addressed to the Commission and the Member States.

Done at Brussels,

*For the Council
The President*