

DECISIONS

COUNCIL DECISION (EU) 2015/1534

of 7 May 2015

on the position to be adopted on behalf of the European Union at the International Maritime Organization during the 68th session of the Marine Environment Protection Committee and the 95th session of the Maritime Safety Committee on the adoption of amendments to MARPOL, SOLAS and the 2009 Guidelines for exhaust gas cleaning systems

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 100(2) and 218(9) thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Action by the Union in the maritime transport sector should aim to improve maritime safety and to protect the marine environment.
- (2) The Marine Environment Protection Committee (MEPC) of the International Maritime Organization (IMO), meeting at its 67th session, approved amendments to the International Convention for the Prevention of Pollution from Ships (MARPOL). Those amendments are expected to be adopted during the 68th session of the MEPC to be held in May 2015.
- (3) The Sub-Committee on Pollution Prevention and Response (PPR) of the IMO, meeting at its 2nd session, approved draft amendments to the 2009 Guidelines for exhaust gas cleaning systems ('the 2009 Guidelines'). Those amendments are expected to be adopted during the 68th session of the MEPC to be held in May 2015.
- (4) The Maritime Safety Committee (MSC) of the IMO, meeting at its 94th session, approved amendments to the International Convention for the Safety of Life at Sea (SOLAS). Those amendments are expected to be adopted during the 95th session of the MSC to be held in June 2015.
- (5) The amendments to Annexes I and II to MARPOL will introduce measures associated with the adoption of the draft International Code for ships operating in polar waters (the 'Polar Code'), to make the Polar Code mandatory. The Polar Code extends the current MARPOL ban on oil/noxious liquid discharges in the antarctic to polar waters. Article 4 of Directive 2005/35/EC of the European Parliament and of the Council ⁽¹⁾, in conjunction with Article 3(1) thereof, provides that Member States have to ensure that ship-source discharges of polluting substances, including minor cases of such discharges, are regarded as infringements if committed with intent, recklessly or with serious negligence. Article 5(1) of that Directive provides that a discharge of polluting substances is not to be regarded as such an infringement if it satisfies the conditions set out in *inter alia* Annex I, Regulations 15 and 34 of MARPOL. Both Regulation 15 and 34 are among the MARPOL Regulations that will be changed with the adoption of the amendments laid down in Annex 11 of IMO Document MEPC 67/20. Those amendments will therefore affect the scope of an infringement pursuant to Directive 2005/35/EC and, therefore, fall under the exclusive competence of the Union.
- (6) The amendments to the 2009 Guidelines will introduce the use of a calculation-based methodology for the testing of scrubbers connected to ship machinery items that cannot be tested at higher loads, or tested at all while 'at rest in harbour'. Article 4c and Annex II to Council Directive 1999/32/EC ⁽²⁾ cover those issues and Annex II is derived from the 2009 Guidelines which will be amended.

⁽¹⁾ Directive 2005/35/EC of the European Parliament and of the Council of 7 September 2005 on ship-source pollution and on the introduction of penalties, including criminal penalties, for pollution offences (OJ L 255, 30.9.2005, p. 11).

⁽²⁾ Council Directive 1999/32/EC of 26 April 1999 relating to a reduction in the sulphur content of certain liquid fuels and amending Directive 93/12/EEC (OJ L 121, 11.5.1999, p. 13).

- (7) The amendments to SOLAS Regulation II-2/20.3.1.2.1 will allow operation of the ventilation fans at a decreased number of air changes when an air quality control system is in place for passenger ships in vehicle, special category and ro-ro spaces. Point (a)(i) of Article 6(2) of Directive 2009/45/EC of the European Parliament and of the Council ⁽¹⁾ provides that new passenger ships of Class A shall comply entirely with the requirements of SOLAS, including SOLAS Regulation II-2/20.3. Therefore, the amendments to be adopted will have a direct legal effect on Directive 2009/45/EC. To the extent that those amendments affect passenger ships which are engaged in domestic voyages, those amendments fall under the exclusive competence of the Union.
- (8) The Union is not a member of the IMO, nor is it a contracting party to the conventions concerned. It is therefore necessary for the Council to authorise the Member States to express the position to be adopted on behalf of the Union and to express their consent to be bound by those amendments, to the extent that they fall under the exclusive competence of the Union,

HAS ADOPTED THIS DECISION:

Article 1

The position to be adopted on behalf of the Union at the 68th session of the IMO Marine Environment Protection Committee shall be to agree to the adoption of:

- (i) the amendments to Annexes I and II to MARPOL as laid down in Annex 11 to IMO Document MEPC 67/20;
- (ii) the amendments to the 2009 Guidelines for exhaust gas cleaning systems as laid down in Annex 1 to IMO Document PPR 2/21.

Article 2

The position to be adopted on behalf of the Union at the 95th session of the IMO Maritime Safety Committee shall be to agree to the adoption of the amendments to

— SOLAS Regulation II-2/20.3.1.2.1 as laid down in Annex 11 to IMO Document MSC 94/21/add.1.

Article 3

The position to be adopted on behalf of the Union as set out in Articles 1 and 2 shall be expressed by the Member States, which are members of the IMO, acting jointly in the interest of the Union.

Article 4

Formal and minor changes to the positions referred to in Articles 1 and 2 may be agreed without requiring those positions to be amended.

Article 5

Member States are hereby authorised to give their consent to be bound, in the interest of the Union, by the amendments referred to in Articles 1 and 2, to the extent that they fall under the exclusive competence of the Union.

⁽¹⁾ 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).

Article 6

This Decision is addressed to the Member States.

Done at Brussels, 7 May 2015.

For the Council
The President
E. RINKĒVIČS
