



Brussels, 6.9.2022
COM(2022) 439 final

2022/0259 (NLE)

Proposal for a

COUNCIL DECISION

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

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 106th session of the International Maritime Organization's Maritime Safety Committee (MSC 106), taking place from 2 to 11 November 2022, and at the 79th session of the International Maritime Organization's Marine Environment Protection Committee (MEPC 79), which will take place from 12 to 16 December 2022.

During MSC 105, it was envisaged that MSC 106 would adopt amendments to:

- (1) chapter II-2 of the International Convention for the Safety of Life at Sea (SOLAS), 1974;
- (2) the International Code on the Enhanced Programme of Inspections during Surveys of Bulk Carriers and Oil Tankers, 2011 (2011 ESP Code).

During MEPC 78, it was envisaged that MEPC 79 would adopt amendments to:

- (1) MARPOL Annex VI on inclusion of more information on the ship's carbon intensity performance in the IMO Ship Fuel Oil Consumption Database.

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 Prevention of Pollution from Ships ('MARPOL'), 1973, which entered into force on 2 October 1983 and to Annex VI, which entered into force on 18 May 2005. The Union is not a party to MARPOL.

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 EU's relations with IMO are based notably on the Arrangement for Co-operation and Collaboration concluded between the Inter-Governmental Maritime Consultative Organisation (IMCO) and the Commission of the European Communities in 1974.

IMO's Maritime Safety Committee 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.

IMO's Marine Environment Protection Committee also consists of all the IMO Members and meets at least once a year. It addresses environmental issues under the scope of the Organization as regards the control and prevention of ship-source pollution covered by the MARPOL treaty, including oil, chemicals carried in bulk, sewage, garbage and emissions from ships to air, including air pollutants and greenhouse gas emissions. Other matters covered include ballast water management, anti-fouling systems, ship recycling, pollution preparedness and response, and identification of special areas and particularly sensitive sea areas.

Both IMO's Maritime Safety Committee and Marine Environment Protection Committee provide 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 the Marine Environment Protection 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

During its session from 2 to 11 November 2022, MSC 106 is to adopt amendments to SOLAS Chapter II-2 and ESP Code.

The purpose of the envisaged amendments to SOLAS Chapter II-2 is to 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 purpose of the envisaged amendments to the ESP Code is to implement stricter requirements for survey of ballast tanks and void spaces intended to address the safety issues that were identified during the flag State's marine safety investigation of the loss of MV Stellar Daisy.

2.4. The envisaged act of the IMO's Marine Environment Protection Committee

On 12 to 16 December 2022, MEPC 79 is to adopt amendments to MARPOL Annex V and VI.

The purpose of the envisaged amendments to MARPOL Annex VI is to include more information on the ship's carbon intensity performance in the IMO Ship Fuel Oil Consumption Data Collection System.

3. POSITION TO BE TAKEN ON THE UNION'S BEHALF

3.1. Amendments to chapter II-2 of the International Convention for the Safety of Life at Sea

The Maritime Safety Committee (MSC), at its 100th session, agreed to include in its biennial agenda an output on "Development of further measures to enhance the safety of ships relating to the use of fuel oil", with a target completion year of 2021 to review existing safety provisions for fuel oil and information concerning the safety implications associated with the use of fuel oil, and to develop further measures to enhance the safety of ships relating to the use of fuel oil. MSC 100 also agreed that a working group could be established at MSC 101 with a view to further progressing the development of measures to enhance the safety of ships relating to the use of fuel oil. At MSC 100, the Union's position was to support any future developments seeking to enhance fuel quality and ensure a quality-oriented fuel supply in view of potential safety operating aspects related to their use.

MSC 101 established the Correspondence Group on Oil Fuel Safety, under the coordination of Germany, with among others the following terms of reference: .1 further consider the development of mandatory requirements regarding the reporting of confirmed cases where oil fuel suppliers have failed to meet the flashpoint requirements of the Organization, taking into account that feedback should also be provided to the supplier; .2 further consider the development of mandatory requirements to ensure SOLAS Contracting Governments take action as appropriate against oil fuel suppliers in confirmed cases of deliveries of oil fuel that does not comply with the requirements specified in SOLAS regulation II-2/4.2.1, taking into account regulation 18.9.4 of MARPOL Annex VI; .3 further consider the development of mandatory requirements regarding the documentation of the flashpoint of the actual fuel batch when bunkering, providing a statement that the oil fuel delivered complies with SOLAS regulation II-2/4.2.1.

At MSC 101, the Union position was to support the proposals in the submitted documents and proposed that they should be discussed in more detail in the Working Group on Measures to Enhance the Safety of Ships Relating to the Use of Fuel Oil.

MSC 103 re-established the Correspondence Group on Development of further measures to enhance the safety of ships relating to the use of fuel oil, under the coordination of Germany.

The Group was instructed, among others to:

- (1) further develop, with a view towards finalization, draft SOLAS amendments regarding the reporting of confirmed cases where oil fuel suppliers have failed to meet the flashpoint requirements of the Organization, taking into account that feedback should also be provided to the supplier,
- (2) further develop, with a view towards finalization, the draft SOLAS amendments on actions against oil fuel suppliers that have been found to deliver oil fuel that does not comply with minimum flashpoint requirements,
- (3) further develop, with a view to finalization, the mandatory requirements regarding the documentation of the flashpoint of the actual fuel batch when bunkering.

At MSC 103, the Union's position was to support the report of the correspondence group concerning the mandatory requirements.

MSC 105 approved the envisaged amendments, paragraph 5.13 of the MSC 105 report (MSC 105/20), with a view to adoption at MSC 106.

At MSC 105, the Union's position was to support the proposal of the Correspondence Group on development of further measures to enhance the safety of ships relating to the use of fuel oil.

The Union position should be to support these amendments as they will enhance the safety of ships relating to the use of fuel oil by taking 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.

3.2. Amendments to the International Code on the enhanced programme of inspections during surveys of Bulk carriers and Oil tankers (ESP Code)

MSC 103 had instructed the Sub-Committee on Ship Design and Construction (SDC 8), to consider the amendments to the ESP Code to address safety issues that were identified during the flag State's marine safety investigation of the loss of MV Stellar Daisy, under its existing continuous output "Amendments to the ESP Code". MSC 103 also agreed that the SDC Sub-Committee should consider in detail proposed amendments to the 2011 ESP Code to address matters related to surveys of ballast tanks and void spaces, and such amendments should enter into force with other amendments being developed under the existing output.

At MSC 103, the Union's position was to support that the SDC Sub-Committee would consider amendments to the 2011 ESP Code.

SDC 8 agreed to the draft amendments to the 2011 ESP Code for submission to MSC 105 for approval. At SDC 8, the Union's position was to support the results of the MV Stellar Daisy investigation.

MSC 105 approved draft amendments to the 2011 ESP Code, paragraph 15.12 of the MSC 105 report (MSC 105/20), with a view to adoption at MSC 106.

At MSC 105, the Union's position was to support the approval of the draft amendments to the 2011 ESP Code with a view to subsequent adoption.

The Union position should be to support these amendments as they are intended to strengthen the requirements for inspections of void spaces and ballast tanks.

3.3. Amendments to the International Convention for the Prevention of Pollution from Ships ('MARPOL') Annex VI

The Union had suggested to MEPC 77 to include information on the ship's required and attained Energy Efficiency Existing Ship Index (EEXI) and Carbon Intensity Indicator (CII) values and rating in the IMO Data Collection System (DCS). It further suggested possible amendments to Appendix IX of MARPOL Annex VI and draft terms of reference for a work stream for amending the IMO DCS

MEPC 77 had instructed the Intersessional Working Group on GHG (ISWG-GHG 11) to further consider among others the proposals of possible amendments to appendix IX of MARPOL Annex VI.

At MEPC 77, the Union's position was to support suggested amendments to appendix IX of MARPOL Annex VI.

ISWG-GHG 11 had finalised the draft amendments to Appendix IX of MARPOL Annex VI to include more information on the ship's carbon intensity performance, with a view of their approval at MEPC 78.

MEPC 78 approved the draft amendments to Appendix IX of MARPOL Annex VI to include more information on the ship's carbon intensity performance in the IMO Ship Fuel Oil Consumption Data Collection System, paragraph 7.119 of the MEPC 78 report (MEPC 78/17), with a view to adoption at MEPC 79.

At MEPC 78 and ISWG-GHG 11, the Union position was to support the approval of the draft amendments to Appendix IX of MARPOL Annex VI.

The Union position should be to support these amendments as information on carbon intensity of ships would provide essential information on the global fleet's energy efficiency and carbon intensity performance, and therefore should be reported to the IMO DCS.

3.4. Relevant EU legislation and EU competence

3.4.1. Amendments to chapter II-2 of the International Convention for the Safety of Life at Sea

Directive 2009/45/EC on safety rules and standards for passenger ships¹ in its Article 6(2)(a)(i) applies SOLAS, as amended, to Class A passenger ships.

Therefore, the amendments to SOLAS Chapter II-2 due to be adopted at MSC 106 will affect the requirements applicable under Directive 2009/45/EC.

3.4.2. Amendments to the International Code on the enhanced programme of inspections during surveys of Bulk carriers and Oil tankers (ESP Code)

Regulation (EU) No 530/2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers² make mandatory the application of the IMO's Condition Assessment Scheme (CAS) to single hull oil tankers above 15 years of age. The Enhanced Programme of Inspections during surveys of Bulk Carriers and Oil tankers or Enhanced Survey Programme (ESP) specifies how to undertake this intensified assessment. As CAS uses ESP as the tool to achieve its aim, any changes to the ESP inspections, such as the current amendments to focus surveys only on suspect areas for thickness measurements at the first renewal survey of double hull oil tankers will automatically be applicable through Regulation (EU) No 530/2012.

Therefore, the amendments 2011 ESP Code due to be adopted at MSC 106 will affect the application of Regulation (EU) No 530/2012.

3.4.3. Amendments to the International Convention for the Prevention of Pollution from Ships ('MARPOL') Annex VI

Regulation (EU) 2015/757 on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC establishes the legal framework for an EU system to monitor, report and verify CO₂ emissions and energy efficiency from shipping (MRV Regulation)³. The regulation aims to deliver robust and verifiable CO₂ emissions data, inform policy makers and stimulate the market uptake of

¹ OJ L 163, 25.6.2009, p. 1

² OJ L 172, 30.6.2012, p. 3

³ OJ L 123, 19.5.2015, p. 55

energy efficient technologies and behaviours. It does so by addressing market barriers such as the lack of information.

Related delegated Commission regulations on verification and accreditation of verifiers and on the refinement of monitoring methods were adopted on 22 September 2016.⁴ Two additional implementing regulations on cargo parameters and templates were adopted by the Commission on 4 November 2016.⁵

The Energy Efficiency Existing Ship Index (EEXI) and the Carbon Intensity Indicator (CII), values which are to be included in the IMO Data Collection System, are linked to the MRV Regulation, as the EU Regulation aims to collect and publish information on the technical and operational energy efficiency of ships on a per-ship basis.

Therefore, the amendments to MARPOL Annex VI due to be adopted at MEPC 79 will affect the implementation of Regulation (EU) 2015/757.

3.4.4. EU competence

The amendments to SOLAS Chapter II-2 would affect Union law, in particular the application of Directive 2009/45/EC.

The amendments 2011 ESP Code would affect Union law, in particular the application of Regulation (EU) No 530/2012.

The amendments to MARPOL Annex VI would affect Union law, in particular the implementation of Regulation (EU) 2015/757.

The subject matter of the envisaged acts therefore concerns an area for which the Union has exclusive external competence by virtue of the last limb of Article 3(2) TFEU.

4. LEGAL BASIS

4.1. Procedural legal basis

4.1.1. 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.'*

⁴ Commission Delegated Regulation (EU) 2016/2071 of 22 September 2016 amending Regulation (EU) 2015/757 of the European Parliament and of the Council as regards the methods for monitoring carbon dioxide emissions and the rules for monitoring other relevant information, OJ L 320, 26.11.2016, p. 1–4 and Commission Delegated Regulation (EU) 2016/2072 of 22 September 2016 on the verification activities and accreditation of verifiers pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, OJ L 320, 26.11.2016, p. 5–24

⁵ Commission Implementing Regulation (EU) 2016/1927 of 4 November 2016 on templates for monitoring plans, emissions reports and documents of compliance pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council on monitoring, reporting and verification of carbon dioxide emissions from maritime transport, OJ L 299, 5.11.2016, p. 1–21 and Commission Implementing Regulation (EU) 2016/1928 of 4 November 2016 on determination of cargo carried for categories of ships other than passenger, ro-ro and container ships pursuant to Regulation (EU) 2015/757 of the European Parliament and of the Council on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, OJ L 299, 5.11.2016, p. 22–25

Article 218(9) TFEU applies regardless of whether the Union is a member of the body or a party to the agreement.⁶

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’.⁷

4.1.2. Application to the present case

The IMO’s Maritime Safety Committee and Marine Environment Protection Committee are bodies set up by an agreement, the Convention on the International Maritime Organization.

The acts which these two IMO committees are 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) applies SOLAS, as amended, to Class A passenger ships.
- Regulation (EU) 530/2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers. This is because Regulation (EU) 530/2012 make mandatory the application of the IMO's Condition Assessment Scheme (CAS) to single hull oil tankers above 15 years of age. The Enhanced Programme of Inspections during surveys of Bulk Carriers and Oil tankers or Enhanced Survey Programme (ESP) specifies how to undertake this intensified assessment. As CAS uses ESP as the tool to achieve its aim, any changes to the ESP inspections, such as the current amendments to focus surveys only on suspect areas for thickness measurements at the first renewal survey of double hull oil tankers will automatically be applicable through Regulation (EU) No 530/2012.
- Regulation (EU) 2015/757 (MRV Regulation) on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC. This is because of the links between the MRV Regulation and both the EEXI and CII values to be included in the IMO Data Collection System.

Therefore, the adoption of the amendments to

- chapter II-2 of the International Convention for the Safety of Life at Sea
- the International Code on the enhanced programme of inspections during surveys of Bulk carriers and Oil tankers (ESP Code)
- the International Convention for the Prevention of Pollution from Ships (‘MARPOL’) Annex VI

are capable of decisively influencing the content of the following EU legislation, in particular Directive 2009/45/EC on safety rules and standards for passenger ships, Regulation (EU) 530/2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers and Regulation (EU) 2015/757 (MRV Regulation) establishing the legal framework for an EU system to monitor, report and verify CO2 emissions and energy efficiency from shipping.

⁶ Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraph 64.

⁷ Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraphs 61-64.

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.

4.2. Substantive legal basis

4.2.1. 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.

4.2.2. Application to the present case

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

4.3. Conclusion

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

Proposal for a

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

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) Pursuant to Article 38(a) of the Convention on the IMO, the Marine Environment Protection Committee performs such functions as are or may be conferred upon the IMO by or under international conventions for the prevention and control of marine pollution from ships, particularly with respect to the adoption and amendment of regulations or other provisions.
- (5) The Maritime Safety Committee, during its 106th session from 4 to 11 November 2022, is to adopt amendments to chapter II-2 of the International Convention for the Safety of Life at Sea ('SOLAS Convention') and to the International Code on the enhanced programme of inspections during surveys of Bulk carriers and Oil tankers (ESP Code).
- (6) The Marine Environment Protection Committee, during its 79th session from 12 to 16 December 2022, is to adopt amendments to appendix IX of Annex VI to the International Convention for the Prevention of Pollution from Ships ('MARPOL').

- (7) It is appropriate to establish the position to be taken on the Union's behalf during the 106th session of the Maritime Safety Committee, as the envisaged amendments to chapter II-2 of SOLAS Convention and to the 2011 ESP Code, are capable of decisively influencing the contents of Union law, namely Directive 2009/45/EC on safety rules and standards for passenger ships¹ and Regulation (EU) 530/2012 on the accelerated phasing-in of double-hull or equivalent design requirements for single-hull oil tankers².
- (8) The amendments to SOLAS Chapter II-2 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 these amendments as they will enhance the safety of ships relating to the use of fuel oil by taking 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.
- (9) It is appropriate to establish the position to be taken on the Union's behalf during the 79th session of the Marine Environment Protection Committee, as the envisaged amendments to MARPOL Convention Annex VI will be capable of decisively influencing the content of Union law, namely Regulation (EU) 2015/757 (MRV Regulation) on the monitoring, reporting and verification of carbon dioxide emissions from maritime transport, and amending Directive 2009/16/EC³.
- (10) The amendments to Annex VI of MARPOL will include more information on the ship's carbon intensity performance in the IMO Ship Fuel Oil Consumption Data Collection System (DCS). The Union should support these amendments as information on carbon intensity of ships would provide essential information on the global fleet's energy efficiency and carbon intensity performance, and therefore should be reported to the IMO DCS.
- (11) The Union's position is to be expressed by the Commission, in its capacity as an observer in the IMO, and by the Member States of the Union that are members of the IMO's Marine Safety Committee and Marine Environment Protection Committee, acting jointly, in the interest of the Union

HAS ADOPTED THIS DECISION:

Article 1

The position to be taken on the Union's behalf in the 106th session of the International Maritime Organization's ('IMO') Maritime Safety Committee shall be to agree to the amendments to chapter II-2 of the International Convention for the Safety of Life at Sea (SOLAS) as set out in paragraph 5.13 of the MSC 105 report (MSC 105/20) and the International Code on the Enhanced Programme of Inspections during Surveys of Bulk Carriers and Oil Tankers, 2011 (2011 ESP Code) as set out in paragraph 15.12 of the MSC 105 report (MSC 105/20).

¹ OJ L 163, 25.6.2009, p. 1

² OJ L 172, 30.6.2012, p. 3

³ OJ L 123, 19.5.2015, p. 55

Article 2

The position to be taken on the Union's behalf in the 79th session of the IMO's Marine Environment Protection Committee shall be to agree to the adoption of amendments to appendix IX of Annex VI to the International Convention on Pollution Prevention (MARPOL) as set out in paragraph 7.119 of the MEPC 78 report (MEPC 78/17).

Article 3

1. 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.
2. The position referred to in Article 2 shall be expressed by the Commission and by the Member States of the Union that are members of the IMO's Marine Environment Protection Committee, acting jointly.

Article 4

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

Done at Brussels,

*For the Council
The President*