



2023/2751

6.12.2023

COUNCIL DECISION (EU) 2023/2751

of 30 November 2023

on the position to be taken on behalf of the European Union within the International Maritime Organization during the 33rd session of its Assembly on the adoption of amendments to the Guidelines on places of refuge for ships in need of assistance, to the Guidelines under the Harmonized System of Survey and Certification, to the Non-exhaustive list of obligations under instruments relevant to the IMO Instruments Implementation Code and to the Guidelines on implementation of the International Safety Management Code by Administrations

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 Assembly of the International Maritime Organization (IMO), during its 33rd session from 27 November to 6 December 2023 ('A 33'), is expected to adopt the Guidelines under the Harmonized System of Survey and Certification (HSSC), 2023 (the 'HSSC Survey Guidelines, 2023'), based on amendments to the HSSC Survey Guidelines, 2021, contained in IMO Assembly resolution A.1156(32), as well as to adopt the amended versions of the Guidelines on places of refuge for ships in need of assistance ('revised Guidelines on places of refuge for ships in need of assistance'), of the Non-exhaustive list of obligations under instruments relevant to the IMO Instruments Implementation Code ('2023 Non-exhaustive list of obligations under instruments relevant to the III Code') and of the Guidelines on implementation of the International Safety Management (ISM) Code by Administrations ('2023 Guidelines on implementation of the ISM Code by Administrations').
- (3) It is appropriate to establish the position to be taken on the Union's behalf during A 33, as the envisioned acts are capable of decisively influencing the contents of Union law, namely Directive 2002/59/EC ⁽¹⁾, Regulation (EC) No 336/2006 ⁽²⁾, Regulation (EC) No 391/2009 ⁽³⁾ and Directive 2009/21/EC ⁽⁴⁾ of the European Parliament and of the Council.
- (4) The Union should support the adoption of the revised Guidelines on places of refuge for ships in need of assistance so as to provide a clear framework to deal with a ship seeking a place of refuge, in a consistent and harmonised manner.
- (5) The Union should support the adoption of the HSSC Survey Guidelines, 2023, and the revocation of the HSSC Survey Guidelines, 2021, as well as the adoption of the 2023 Non-exhaustive list of obligations under instruments relevant to the III Code, because this will ensure that they remain up to date.
- (6) The Union should support the adoption of the 2023 Guidelines on implementation of the ISM Code by Administrations to develop the guidance on assessments and applications of remote audits.

⁽¹⁾ 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).

⁽²⁾ Regulation (EC) No 336/2006 of the European Parliament and of the Council of 15 February 2006 on the implementation of the International Safety Management Code within the Community and repealing Council Regulation (EC) No 3051/95 (OJ L 64, 4.3.2006, p. 1).

⁽³⁾ Regulation (EC) No 391/2009 of the European Parliament and of the Council of 23 April 2009 on common rules and standards for ship inspection and survey organisations (OJ L 131, 28.5.2009, p. 11).

⁽⁴⁾ Directive 2009/21/EC of the European Parliament and of the Council of 23 April 2009 on compliance with flag State requirements (OJ L 131, 28.5.2009, p. 132).

- (7) The Union is neither a member of the IMO, nor a contracting party to the relevant conventions and codes. The Council should therefore authorise the Member States to express the position of the Union at A 33.
- (8) 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 at the 33rd session of the Assembly of the International Maritime Organization (IMO) shall be to agree to:

- (a) the adoption of the revised Guidelines on places of refuge for ships in need of assistance, as laid down in IMO document MEPC 80/17, Annex 1;
- (b) the adoption of the HSSC Survey Guidelines, 2023, as laid down in IMO document III 9/19/Add. 1, Annex 5;
- (c) the revocation of IMO resolution A.1156(32);
- (d) the adoption of the 2023 Non-exhaustive list of obligations under instruments relevant to the III Code, as laid down in IMO document III 9/19/Add. 1, Annex 6; and
- (e) the adoption of the 2023 Guidelines on implementation of the ISM Code by Administrations, as laid down in IMO document III 9/19/Add. 1, Annex 7.

Article 2

1. The position to be taken on the Union's behalf as set out in Article 1 covers the amendments concerned to the extent that those amendments fall under the exclusive competence of the Union and to the extent that they may affect Union common rules. It 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 Brussels, 30 November 2023.

For the Council
The President
M. GARCÍA GÓMEZ