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COMMISSION STAFF WORKING DOCUMENT

For the Council Shipping Working Party

IMO - Union submission (INF paper) to be submitted to the 6th session of the Sub-Committee on Carriage of Cargoes and Containers (CCC 6) of the IMO, taking place in London from 9 – 13 September 2019 concerning the full report of the Formal Safety Assessment Study on the Use of Low-Flashpoint Diesel as a Marine Fuel within the Scope of the International Code of Safety for Ships using Gases or other low-flashpoint Fuels (IGF Code)

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PURPOSE

The document in Annex contains a draft Union submission (INF paper) to the 6th session of the Sub-Committee on Carriage of Cargoes and Containers (CCC 6) of the IMO, taking place in London from 9 – 13 September 2019, concerning the full report of the Formal Safety Assessment Study on the Use of Low-Flashpoint Diesel as a Marine Fuel within the Scope of the International Code of Safety for Ships using Gases or other low-flashpoint Fuels (IGF Code). It is hereby submitted to the appropriate technical body of the Council with a view to achieving agreement on transmission of the document to the IMO prior to the required deadline of 7 June 2019¹.

Article 6(2)(a)(i) of Directive 2009/45/EC applies SOLAS, as amended, to Class A passenger ships. As the IGF Code is made mandatory for passenger ships through SOLAS, the Commission is of the view that this matter should be regarded as one of EU competence.

In addition, Directive 2014/94/EU of the European Parliament and of the Council of 22 October 2014 on the deployment of alternative fuels infrastructure requires Member States to ensure that LNG is available at EU core ports for seagoing ships as from the end of 2025. National policy frameworks have been finalized by EU Member States for the market development of alternative fuels and their infrastructure, with a particular focus on the different supporting measures and initiatives for the promotion and development of LNG refuelling points for sea going ships.

¹ The submission of proposals or information papers to the IMO, on issues falling under external exclusive EU competence, are acts of external representation. Such submissions are to be made by an EU actor who can represent the Union externally under the Treaty, which for non-CFSP (Common Foreign and Security Policy) issues is the Commission or the EU Delegation in accordance with Article 17(1) TEU and Article 221 TFEU. IMO internal rules make such an arrangement absolutely possible as regards existing agenda and work programme items. This way of proceeding is in line with the General Arrangements for EU statements in multilateral organisations endorsed by COREPER on 24 October 2011.

The said draft Union submission therefore falls under EU exclusive competence².

² A formal EU position under Article 218(9) TFEU is to be established in due time as regards the subject matter covered by this draft Union submission. The act which the IMO Maritime Safety Committee will eventually be called upon to adopt will constitute an act having legal effects. The envisaged act will be capable of decisively influencing the content of the above EU legislation. 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*’ (Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraphs 61-64).

**AMENDMENTS TO THE IGF CODE AND DEVELOPMENT OF
GUIDELINES FOR LOW-FLASHPOINT FUELS**

FSA Study on the Use of Low-Flashpoint oil fuels

Submitted by the European Commission on behalf of the European Union

SUMMARY

Executive summary: This document presents the full report of a FSA study on safety related issues for the potential use of low-flashpoint oil fuels

Strategic Direction, if applicable: 2

Output: 2.3

Action to be taken: Paragraph 3

Related documents: MSC.391(95); CCC 2/15; SOLAS II-2; CCC 4/3/5; CCC 4/INF.11; CCC 4/12, CCC 5/3/4, CCC 6/3/XX

Introduction

1 This document is submitted in view of the discussion on the use of low-flashpoint oil fuels in the context of SOLAS chapter II-2 and the IGF Code (resolution MSC.391(95)). As discussed at MSC 94, MSC 95, CCC 2 and CCC 5, provisions should be made to allow for the use of low-flashpoint diesel.

2 In support of the further debate on the use of low-flashpoint oil fuels on ships to which SOLAS applies, a study addressing safety related issues for the use of low flashpoint oil fuels, comparing the hazards and risks in the use of low flashpoint oil fuels to oil fuels with a flashpoint of 60°C, is presented in the annex to this document.

Action requested of the Sub-Committee

3 The Sub-Committee is invited to note the information provided.
