



Council of the
European Union

Brussels, 5 November 2021
(OR. en)

13545/21

MAR 204
OMI 88
ENV 819

COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
date of receipt:	3 November 2021
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union

No. Cion doc.:	SWD(2021) 316 final
Subject:	COMMISSION STAFF WORKING DOCUMENT Union submission to the International Maritime Organization's 8 th session of the Sub-Committee on Ship Design and Construction on developing amendments to the SOLAS Convention to extend the requirement for an emergency towing arrangement to all new ships over 20,000 gross tonnage

Delegations will find attached document SWD(2021) 316 final.

Encl.: SWD(2021) 316 final



Brussels, 3.11.2021
SWD(2021) 316 final

COMMISSION STAFF WORKING DOCUMENT

Union submission to the International Maritime Organization's 8th session of the Sub-Committee on Ship Design and Construction on developing amendments to the SOLAS Convention to extend the requirement for an emergency towing arrangement to all new ships over 20,000 gross tonnage

Union submission to the International Maritime Organization's 8th session of the Sub-Committee on Ship Design and Construction on developing amendments to the SOLAS Convention to extend the requirement for an emergency towing arrangement to all new ships over 20,000 gross tonnage

PURPOSE

This Staff Working Document contains a draft Union submission to the International Maritime Organization's (IMO) 8th session of the Sub-Committee on Ship Design (SDC 8). The IMO has indicatively scheduled SDC 8 from 17 to 21 January 2022.

The draft submission suggests an amendment to Regulation 3-4, Chapter II-1 of the SOLAS Convention. In particular, it concerns extending emergency towing arrangements, already applicable to tankers above 20,000 tons deadweight, to all types of new ships of more than 20,000 gross tonnage.

After discussion of this submission at SDC 8 and likely SDC 9, and in case the Sub-Committee sees the proposal favourably, the matter will be referred to the Maritime Safety Committee (MSC), likely its 107th session in 2023. If IMO Member States agree to and formally approve the amendments to SOLAS at MSC 107, the matter would then be included on the agenda of the subsequent MSC for adoption. SOLAS amendments enter into force on a four-year cycle. Should the amendment be adopted at MSC 108, it would be too late for the July 2024 'batch' and would have to wait for entry into force in July 2028. Due to the pandemic, however, an exceptional relaxation of this system means that it could enter into force in July 2026.

The paper seeks to address that the increasing size of vessels no longer allows for emergency towing without suitable equipment. In case of need, an emergency towing system should be quickly deployable without using a power source from the vessel and easily attachable to the towing vessel. This towing system should be the same for all vessels, to facilitate interventions on ships abandoned by their crew.

The suggested amendment would result in negligible costs for the shipping industry, while substantially increasing safety. There would also be no additional administrative burden.

EU COMPETENCE

Article 6(2)(a)(i) of Directive 2009/45/EC on safety rules and standards for passenger ships applies SOLAS, as amended, to Class A passenger ships. In addition, Regulation II-1/A-1/5 of Commission Delegated Regulation (EU) 2020/411 of 19 November 2019 amending Directive 2009/45/EC states that Class B ships shall be provided with a ship-specific emergency towing procedure.

Such a procedure shall be carried aboard the ship for use in emergency situations and shall be based on existing arrangements and equipment available on board the ship. This regulation also refers to the 'Guidelines for owners/operators on preparing emergency towing procedures' (MSC.1/Circ.1255). Therefore, any changes to SOLAS requirements with respect to emergency towing arrangements and procedures applicable to passenger ships fall under EU competence.

In light of all of the above, the present draft Union submission falls under EU exclusive competence.¹

¹ An EU position under Article 218(9) TFEU is to be established in due time should the IMO Maritime Safety Committee eventually be called upon to adopt an act having legal effects as regards the subject matter of the said draft Union submission. 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*

This Staff Working Document is presented to establish an EU position on the matter and to transmit the document to the IMO prior to the required deadline of 12 November 2021.²

Sub-Committee on Ship Design and
Construction
8th session
Agenda item XX

SCD 8/XX
xx November 2022
Language Original: French
Pre-session public release:

WORK PROGRAMME

Development of amendments to Regulation 3-4 of Chapter II-1 of the SOLAS Convention to extend the requirement for an emergency towing arrangement to all new ships over 20,000 gross tonnage.

Submitted by the European Commission on behalf of the European Union

SUMMARY

Executive summary: In accordance with the new outcome approved by MSC 103, this document contains a suggestion for amendment to SOLAS concerning the extension of emergency towing arrangements, already applicable to tankers of more than 20,000 tons deadweight, to all types of new ships of more than 20,000 gross tonnage (Regulation 3-4, Chapter II-1 SOLAS).

Strategic direction, if 2 applicable:

Output:

Action to be taken: 22

Related documents: MSC 102/21/5, MSC 102/INF4 and MSC 103/21

Introduction

1 At MSC103, the Committee had considered documents MSC 102/21/5 and MSC 102/21/5/Corr.1. In these documents, Spain *et al* proposed to extend the scope of the requirements of SOLAS regulation II-1/3-4 on emergency towing arrangements. As these are currently applicable to tankers of 20,000 tons deadweight and above, they would then

*legislation adopted by the EU legislature*² (Case C-399/12 Germany v Council (OIV), ECLI:EU:C:2014:2258, paragraphs 61-64). The present submission, however, does not produce legal effects and thus the procedure for Article 218(9) TFEU is not applied.

² 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.

apply to all types of new large ships. In this regard, the Committee took note of the information contained in documents MSC 102/INF.4 and MSC 102/INF.5, in which France provided information on the evolution of the size of ships in the Channel and presented a summary of a towing exercise carried out between a large container ship and a salvage tug, respectively.

2 After considering the issue, the Committee decided to include it in the biennial agenda of the SDC Sub-Committee for the period 2022-2023 and in the provisional agenda of SDC 8. It is listed as the outcome entitled "Development of amendments to SOLAS regulation II-1/3-4 to apply the requirements for emergency towing arrangements for tankers to other types of ships", with a desirable completion date of 2023.

3 The Committee also decided that, in accordance with the provisions of MSC.1/Circ.1481 and MSC.1/Circ.1500/Rev.1, that:

.1 the amendments to be developed should apply to all types of new ships of 20 000 gross tonnage and above (the tonnage threshold was left in square brackets for consideration and advice to the Committee by the SDC Sub-Committee);"

.2 that the instrument to be amended was SOLAS regulation II-1/3-4; and

.3 that the amendments to be developed should enter into force on 1 January 2028, provided that they are adopted before 1 July 2026.

4 This document is submitted in accordance with paragraph 6.12.5 of the document on the organization of work and methods of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies (MSC-MEPC.1/Circ.5/Rev.2). It aims to present a possible amendment to SOLAS concerning the extension of emergency towing arrangements, already applicable to tankers of more than 20,000 tons deadweight, to all types of new ships of more than 20,000 gross tonnage (Regulation 3-4, Chapter II-1 SOLAS).

Context

5 After the dramatic pollution incidents that have repeatedly hit Europe since the end of the 1960s, provisions for emergency towing were introduced by Regulation 3-4, Chapter II-1 of the SOLAS Convention.

6 Since 1996, in accordance with MSC Res. 35(63) as amended by MSC Circular 132(75) and MSC/Circular 966, tankers over 20,000 deadweight tonnes must have an emergency towing arrangement, fore and aft, and a towing procedure. Other types of ships (Circular MSC.1/Circ.1255.) are only required to have a towing procedure but are not required to be equipped.

7 Thirty years ago, the Organisation focused on the risk associated with tankers, which were already very large (VLCCs, ULCCs). The possibility of carrying out emergency towing of a tanker likely to cause an environmental disaster was seen as a priority. The situation is now different. The increase in the size of all ships creates new constraints and risks for coastal States (see MSC 102/INF4).

8 In view of the constant growth in the size of ships, the Organisation approved at MSC 103 the study of the adaptation of the rules on emergency towing to the evolution of the world fleet.

9 Document MSC 102/INF4 recalled the increasing size of ships of all types has consequences on the potential risks in the event of an accident, both for human life at sea and for the environment.

Review of the issue

10 The increase in the size of vessels no longer allows for emergency towing without suitable equipment.

11 In case of need, an emergency towing system should be able to be deployed quickly without using a power source from the vessel to be towed and should be able to be easily attached to the towing vessel. This towing system should ideally be the same for all vessels, to facilitate interventions on vessels abandoned by their crew.

12 If the structure of the anchor points for the towing holds of large cargo ships and cruise ships is not suitable, it will not allow emergency towing in bad weather without difficulty. Indeed, working a towing cable or chain up onto an unsuitable foredeck is a source of danger for the response personnel.

13 Today, when towing a very large commercial vessel on the high seas, the peak tensile stresses can exceed 100 tonnes, although these vessels are generally equipped with a towing device that cannot withstand such tensile stresses.

14 In view of the importance of maritime traffic in confined waters, particularly in the Channel, the number of incidents of damage to traffic separation schemes close to the coast and the constant increase in the size of ships, the generalisation of an emergency towing system capable of withstanding a pulling force relative to the ship's characteristics (weight and length) would make a decisive contribution to improving maritime safety.

15 In the case of an ultra large container ship floating towards the coast, it makes a difference whether the ship has the power to operate the winches. If this were the case, the safety of the crew would increase considerably in case emergency towing devices are in place on the forecastle. In the event of a total breakdown and the ship drifting towards the coast, a device such as the emergency stern tow device on tankers would also be a plus.

16 Emergency towing systems are designed to facilitate emergency assistance and towing operations for all large vessels in order to reduce the risk of sinking and pollution. At present, in terms of equipment, the regulations require these devices only for tankers.

17 It should also be noted that increased activity at sea with, for example, many new wind farms planned near major shipping lanes will require the ability to quickly tow vessels in difficulty even more than today.

SOLAS requirements

18 Provisions for emergency towing were introduced by Regulation 3-4, Chapter II-1 of the SOLAS Convention: tankers of more than 20,000 deadweight tonnes must have an emergency towing arrangement, both fore and aft, and a towing procedure. Other types of ships are only required to have a towing procedure but are not required to be equipped.

19 As Document MSC 102/INF.4 demonstrates, there is continuously increasing size of ships of all types passing, in that case, through the Pas-de-Calais Strait. It is suggested to extend the scope of Regulation 3-4, Chapter II-1 of the SOLAS Convention to all new ships over 20,000 gross tonnage. These would thus be subject to the obligation to be equipped with an emergency towing arrangement, fore and aft.

20 The proposed amendment would result in negligible costs for the shipping industry in relation to the total construction cost of a new ship. There would be no additional

administrative burden. In regulatory terms, the impact would be to extend the scope of Regulation 3-4, Chapter II-1 of the SOLAS Convention.

Proposed regulatory amendment

21 To this end, the European Union suggests to add the following paragraph after 1.3 of Regulation 3-4, Chapter II-1 of the SOLAS Convention :

“2. Emergency towing arrangements on ships other than tankers:

2.1 Emergency towing arrangements shall be fitted forward and aft on all ships over 20,000 gross tonnage, constructed on or after [entry into force date], other than tankers.”

Action requested of the Sub-Committee

22 The Sub-Committee is invited to consider the proposals set out in this document, specifically paragraphs 18, 19, 20 and 21, and to take such action, as it considers appropriate.