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Agenda item 3

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## CONSIDERATION AND ADOPTION OF AMENDMENTS TO MANDATORY INSTRUMENTS

### Application requirements of draft revised regulations of the 1988 Load Lines Protocol and the IGC Code pertaining to watertight doors

Submitted by United Kingdom and IACS

#### SUMMARY

*Executive summary:* This document analyses application requirements of the Protocol of 1988 relating to the International Convention on Load Lines, 1966 ("1988 Load Lines Protocol") and the IGC Code, and proposes a way forward to introduce clarity regarding application of draft amendments to those instruments pertaining to watertight doors on cargo ships.

*Strategic direction, if applicable:* 1.

*Output:* 1.13.

*Action to be taken:* Paragraph 21.

*Related documents:* MSC 103/3, annex 3, MSC 103/21, paragraph 3.19.2; MSC 101/24, paragraph 21.26; SDC 7/16, paragraphs 12.11 and 12.13 and MSC 102/24, paragraphs 17.28 and 17.30.

#### Background

1 MSC 101 agreed on a new output to review the mandatory requirements in SOLAS, MARPOL, the 1988 Load Lines Protocol and the IBC and IGC Codes regarding watertight doors on cargo ships, to address inconsistencies and that the amendments to be developed should apply to new ships (MSC 101/24, paragraph 21.26).

2 SDC 7 prepared the draft amendments for submission to MSC 102 and MEPC 76, as appropriate, for approval, with a view to adoption and entry into force on 1 January 2024 for new ships only, with the expectation that the amendments would have no impact on existing ships and, therefore, the Committees could consider applying the amendments to all ships on the date of entry into force (SDC 7/16, paragraphs 12.11 and 12.13).

3 MSC 102 had approved the draft amendments to the 1988 LL Protocol, the IBC Code and the IGC Code concerning watertight doors on cargo ships with a minor editorial correction (MSC 102/24, paragraph 17.28). Further, MSC 102, having noted that the above-mentioned draft amendments would have no impact on existing ships, agreed to apply them to all ships (MSC 102/24, paragraph 17.30).

4 Taking into account the decision of MSC 101 regarding application of the draft amendments to new ships against the approach discussed by SDC 7 and the agreement at MSC 102 as described in paragraphs 2 and 3 above, respectively, MSC 103 considered that the application provision in the draft amendments to the 1988 Load Lines Protocol and the IGC Code warranted further discussion. Therefore, the Committee deferred the consideration of the necessity for an application provision and the adoption of the proposed amendments to the 1988 Load Lines Protocol and the IGC Code to MSC 104 and invited relevant submissions.

### **Discussion**

5 On the basis of the above, there are two possible application options which the Committee can consider and determine a way of recording them in order to introduce clarity of application, as follows:

- .1 option 1: apply to all ships; or
- .2 option 2: apply to new ships only.

6 The possibility to deploy option 1 (all ships) hinges on the understanding that the amendments would have no impact on existing ships. In turn, this understanding is grounded on the objective of the output to harmonize the existing requirements across relevant instruments, resulting in maintaining (that is, not changing) the requirements of those instruments as currently in force. In achieving this objective, it is noted that the draft amendments to the 1988 Load Lines Protocol and the IGC Code specify additional openings fitted with watertight closures, which are excluded from the requirement of being located above the final damage waterline. Therefore, it is considered that these additional exclusions would have no impact on existing ships.

7 The possibility to deploy option 2 (new ships) is derived from the original determination of MSC 101 and is analysed in paragraphs 9 to 19.

#### ***Option 1 (all ships) pertaining to the IGC Code and the 1988 Load Lines Protocol***

8 The co-sponsors consider that, in order to capture the basis for the decision, it is sufficient to capture the essence of paragraph 6 above in the MSC 104 report at the time of adoption.

#### ***Option 2 (new ships) pertaining to the IGC Code***

9 Paragraph (e) of article VIII of SOLAS states:

"(e) Unless expressly provided otherwise, any amendment to the present Convention made under this article, which relates to the structure of a ship, shall apply only to ships the keels of which are laid or which are at a similar stage of construction, on or after the date on which the amendment enters into force."

10 Regulation 11.1 of part C of chapter VII of SOLAS states:

"1 'International Gas Carrier Code' means the International Code for the Construction and Equipment of Ships Carrying Liquefied Gases in Bulk as adopted by the Maritime Safety Committee of the Organization by resolution MSC.5(48), as may be amended by the Organization, provided that such amendments are adopted, brought into force and take effect in accordance with the provisions of article VIII of the present Convention concerning the amendment procedures applicable to the Annex other than chapter I."

11 The amendments to the IGC Code, which replaced the complete text of the IGC Code, were adopted by resolution MSC.370(93) in accordance with SOLAS article VIII.

12 Therefore, from the above two references of SOLAS it can be argued that the amendments to the IGC Code relevant to the installation of watertight doors affect construction, therefore, trigger application of SOLAS article VIII(e), which determines application of those amendments to new ships only.

13 That said, paragraph 1.1.2.1 of the IGC Code states:

"1.1.2.1 Unless expressly provided otherwise, the Code applies to ships whose keels are laid on or after 1 July 2016..."

14 Therefore, the co-sponsors believe that direct reading of paragraph 1.1.2.1, without further qualification, could make one consider application of those amendments to ships whose keels were laid on or after 1 July 2016, that is "existing ships" at the time of entry into force (projected 1 January 2024) of those new amendments related to watertight doors. Therefore, for the sake of clarity and noting the definition of "ship constructed" in SOLAS regulation VII/11.3 related to the IGC Code, the introduction of an application statement into the IGC Code draft amendments appearing in the annex to the draft resolution in annex 3 to document MSC 103/3, would be necessary, as follows\*:

"1 The existing text of paragraph 2.7.1.1 is replaced with the following:

**2.7.1 In any stage of flooding:**

This regulation applies to ships constructed on or after [1 January 2024].

.1 the waterline, taking into account sinkage, heel and trim, shall be..."

***Option 2 (new ships) pertaining to the 1988 Load Lines Protocol***

15 Paragraph 5 of article VI of the 1988 Load Lines Protocol concerning amendment procedures, states:

"5. Unless expressly provided otherwise, any amendment made under this article which relates to the structure of a ship shall apply only to ships the keels of which are laid or which are at a similar stage of construction on or after the date on which the amendment enters into force."

16 On the basis of the above reference, it can be concluded that the amendments to the 1988 Load Lines Protocol relevant to the installation of watertight doors affect construction and therefore trigger application of paragraph 5 of article VI of the 1988 Load Lines Protocol, which determines application of those amendments to new ships only.

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\* Tracked change is indicated using "grey shading" to highlight the new insertion.

17 At the same time, paragraph (7) of regulation 2 of Chapter I of annex B to the 1988 Load Lines Protocol states:

"(7) Unless expressly provided otherwise, the regulations of this annex shall apply to ships the keels of which are laid or which are at a similar stage of construction on or after 1 January 2005."

18 Direct and isolated reading of regulation 2(7) of chapter I of annex B of the 1988 Load Lines Protocol could make one consider application of new amendments to ships whose keels were laid or which are at a similar stage of construction on or after 1 January 2005, that is "existing ships" at the time of entry into force (projected 1 January 2024) of amendments related to watertight doors. However, unlike the case of the IGC Code analysed above, where the Code is separate but subordinate to the SOLAS instrument, those amendments form an integral part of annex B of the 1988 Load Lines Protocol and, therefore, are directly affected by its articles, with paragraph 5 of article VI of the 1988 Load Lines Protocol being the decisive qualifier of application of the draft amendments.

19 Hence, the co-sponsors consider unnecessary the introduction of a separate application statement into the regulation.

### **Proposal**

20 As a result of the above discussion and analysis, the co-sponsors favour option 1. However, if option 2 is pursued, the co-sponsors propose to introduce an additional application statement as in the above paragraph 14 into the draft amendments to the IGC Code; in respect of the draft amendments to the 1988 Load Lines Protocol, it is considered sufficient to record in the report of MSC 104 the reason for determining the application to new ships as described in paragraph 16.

### **Action requested of the Committee**

21 The Committee is invited to consider the foregoing, in particular the proposals in paragraph 20 and take action, as appropriate.

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