

**National Interest Analysis [2015] ATNIA 5
With attachment on consultation**

**Resolution A.1070 (28) IMO INSTRUMENT IMPLEMENTATION CODE (III CODE)
[2015] ATNIF 8**

Adopted at London on 4 December 2013

**Resolution A.1083 (28): AMENDMENTS TO THE INTERNATIONAL CONVENTION ON
LOAD LINES, 1966
[2015] ATNIF 4**

Adopted at London on 4 December 2013

**Resolution A.1084 (28): AMENDMENTS TO THE INTERNATIONAL CONVENTION
ON TONNAGE MEASUREMENT OF SHIPS, 1969
[2015] ATNIF 5**

Adopted at London on 4 December 2013

**Resolution A.1085 (28): AMENDMENTS TO THE CONVENTION ON THE
INTERNATIONAL REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1972
[2015] ATNIF 6**

Adopted at London on 22 May 2014

**Resolution MSC.365 (93): AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR
THE SAFETY OF LIFE AT SEA, 1974, AS AMENDED
[2015] ATNIF 7**

**Resolution MSC.366 (93): AMENDMENTS TO THE INTERNATIONAL CONVENTION FOR
THE SAFETY OF LIFE AT SEA, 1974, AS AMENDED
[2015] ATNIF 1**

Adopted at London on 22 May 2014

**Resolution MSC.373 (93): AMENDMENTS TO THE INTERNATIONAL CONVENTION ON
STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR
SEAFARERS (STCW), 1978
[2015] ATNIF 2**

Adopted at London on 22 May 2014

**Resolution MSC.375 (93): AMENDMENTS TO THE PROTOCOL OF 1988 RELATING TO
THE INTERNATIONAL CONVENTION ON LOAD LINES, 1966, AS AMENDED
[2015] ATNIF 3**

Adopted at London on 22 May 2014

NATIONAL INTEREST ANALYSIS: CATEGORY 1 TREATY

SUMMARY PAGE

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Nature and timing of proposed treaty action

1. At the 28th session of the International Maritime Organization's ('IMO') Assembly meeting in December 2013 the IMO adopted the IMO Instruments Implementation Code (III Code) in the Annex to Resolution A.1070 (28). The III Code itself has no legal force until it is incorporated by amendment into relevant IMO Conventions.

2. At the 28th session of the IMO in December 2013 and at the 93rd session of the Maritime Safety Committee ('MSC') of the IMO in May 2014, amendments were adopted to amend the conventions listed below (relevant IMO Conventions), to make the III Code mandatory:

- (a) *International Convention on Load Lines, 1966*;
- (b) *International Convention on Tonnage Measurement of Ships, 1969* [1982] ATS 15;
- (c) *Convention on the International Regulations for Preventing Collisions at Sea, 1972* [1980] ATS 5;
- (d) *International Convention for the Safety of Life at Sea, 1974* [1983] ATS 22, as amended (SOLAS);
- (e) *International Convention on Standards of Training, Certification and Watch-keeping of Seafarers, 1978* [1984] ATS 7; and
- (f) *Protocol of 1988 relating to the International Convention on Load Lines, 1966* [2000] ATS 2, as amended.

3. These amendments were effected by way of the seven resolutions that are the subject of the bulk of this NIA (relevant IMO Resolutions):

- 1. Resolution A. 1070 (28) IMO Instrument Implementation Code (III Code) which revokes an earlier version of the Code (Resolution A. 1054 (27) on the Code for Implementation of Mandatory IMO Instruments 2011);
- 2. Resolution A.1083(28): Amendments to the International Convention on Load Lines, 1966;
- 3. Resolution A.1084(28): Amendments to the International Convention on Tonnage Measurement of Ships, 1969;
- 4. Resolution A.1085(28): Amendments to the Convention on the International Regulations for Preventing Collisions at Sea, 1972;
- 5. Resolution MSC.366(93): Amendments to the International Convention for the Safety of Life at Sea, 1974, as amended;
- 6. Resolution MSC.373(93): Amendments to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978; and
- 7. Resolution MSC.375 (93): Amendments to the Protocol of 1988 Relating to the International Convention on Load Lines, 1966, as amended.

4. MSC 93 also adopted resolution MSC.365 amending the International Convention for the Safety of Life at Sea (SOLAS), specifically by amending:

- (a) Chapter II-1 Construction structure - Part C: to allow for alternative means of verifying compliance with steering gear requirements.
- (b) Chapter II-2 Fire protection- Part A: to insert new definitions for types of fire and smoke dampers that assist with interpretation. Part B clarifies the requirements for existing and new tankers, chemical tankers and gas carriers in relation to the current standards in the Fire Safety Systems Code. Part C inserts requirements for vessels constructed after 1 January 2016, establishing standards for material use and placement on board the vessel to maximise fire suppression. Part D is amended to

allow for additional means of escape from machinery spaces for new cargo and passenger ships. Part E inserts new paragraphs to ensure the operation of inert systems achieves a non-flammable atmosphere in cargo tanks. Part G inserts new provisions that clarify fire protection requirements on vehicle carriers that carry a cargo of vehicles with compressed hydrogen on compressed natural gas in their tank and specifies electrical standards to be met in this context.

5. Unless otherwise stated, the amendments to the International Convention for the Safety of Life at Sea (MSC. 365(93) and MSC. 366(93), the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (MSC.373 (93)) and the Protocol relating to the International Convention on Load Lines (MSC.375(93)) will all be deemed to be accepted on 1 July 2015, unless, prior to that date, more than one third of the Contracting Governments to the respective Conventions or Contracting Governments the combined merchant fleets of which constitute not less than fifty percent of the gross tonnage of the world's merchant fleet, have notified their objections to the amendments. Subject to this condition being satisfied, the amendments will enter into force on 1 January 2016.

6. The amendment to the Convention on the International Regulations for Preventing Collisions at Sea (A.1085 (28)) will enter into force on 1 January 2016, unless by 1 July 2015 more than one third of Contracting Parties to the Convention have notified their objection to the amendment.

7. The amendments to the International Convention on Load Lines (A.1083 (28)) and the International Convention on Tonnage Measurement of Ships (A.1084 (28)) will enter into force twelve months following their unanimous acceptance by all contracting Parties to the respective conventions.

8. In implementing the III Code, Resolution A1070 (28) revokes Resolution A. 1054(27) on the Code for the Implementation of Mandatory IMO Instruments, 2011.

Overview and national interest summary

9. The objective of the III Code is to provide a mandatory Audit Scheme for assessing Member States' performance in meeting their obligations and responsibilities as flag, port and coastal States under the relevant IMO Conventions and to offer assistance, where required, for Member States to meet their obligations fully and effectively.

10. Acceptance of the III Code through incorporation into the relevant IMO Conventions is in the national interest as it will provide audit and assistance functions for all IMO Member States. By standardising auditing procedures, the III Code will enable IMO Member States to evaluate their compliance with its international obligations. The III Code will also enable the IMO to better assess their performance as the international maritime standard setting organisation. It is expected that the III Code will deliver improved maritime safety and environmental outcomes in Australian and international waters

Reasons for Australia to take the proposed treaty action

11. Australia is a long-standing supporter of the institutionalisation of the Audit Scheme. The III Code was preceded by a Voluntary IMO Member State Audit Scheme, established under the Code for the Implementation of Mandatory IMO Instruments. It was agreed by the IMO at that time that the Audit Scheme should eventually be mandatory. Australia was audited under the Voluntary IMO Member State Audit Scheme in 2008.

12. The preamble to the III Code affirms that States have 'the primary responsibility to have in place an adequate and effective system to exercise control over ships entitled to fly their flag, and to ensure that they comply with relevant international rules and regulations in respect of maritime safety, security and protection of the marine environment'. Acceptance of the III Code is in accordance with Australia's interests in ensuring that IMO Member States are adhering to their international obligations. This will increase maritime safety and security, and improve the protection of the marine environment. The III Code will also provide an opportunity for the IMO to identify capacity building needs and offer technical assistance to Member States, where required.

13. The amendments presented in resolution MSC.365 are in Australia's interest as these standards provide clarity to the Australian shipping industry on regulatory standards, present best practice in vessel fire safety and management and also ensure international regulatory consistency, promoting smooth international trade.

Obligations

14. Resolution A.1070 specifies that the IMO Assembly adopts the III Code as set out in the Annex to the Resolution.

15. Each relevant IMO Resolution (A. 1083, A. 1084, A. 1085, MSC. 366, MSC. 373 and MSC. 375) makes three amendments to the relevant IMO Convention. The amendments listed in each Resolution are identical and can be summarised as follows:

- (a) Amendment 1: creates new definitions for terms of relevance to the III Code including Audit, Audit Scheme, Code for Implementation and Audit Standard.
- (b) Amendment 2: specifies that Contracting Governments shall use the provisions of the Code for Implementation in the execution of their obligations and responsibilities contained in the respective convention.
- (c) Amendment 3: specifies that every Contracting Government shall be subject to periodic audits by the IMO, and that the administration of the Audit Scheme will be the responsibility of the Secretary-General of the IMO and conducted in accordance with the guidelines contained in Resolution A. 1067(28). Amendment 3 also specifies that every Contracting Government shall be responsible for facilitating the conduct of the audit and responding to the findings, based on the guidelines contained in that Resolution.

16. Resolution A.1067 (28) (not tabled) creates procedural guidelines outlining how the auditing will be undertaken. The purpose of this document is also to describe the objectives, principles, scope, responsibilities and capacity-building aspect of the IMO Member State Audit Scheme and to ensure that auditing procedures are undertaken in an internationally consistent manner.

17. The amendments presented in Resolution MSC.365 make minor amendments to a number of existing technical standards relating to fire safety in ships and verification of compliance with existing standards. These standards will apply to passenger and cargo ships, tankers, oil tankers and gas carriers.

Implementation

18. No legislative amendment is required to implement the III Code. It would be the responsibility of the Australian Government, as a Party to the relevant IMO Conventions, to facilitate the conduct of a mandatory audit and address the findings.

19. No legislative amendment is required to give effect to the Amendments presented in Resolution MSC.365. Existing Marine Orders administered by the Australian Maritime Safety Authority are currently capable of capturing the requirements of these amendments.

20. Unless Australia lodges an objection with the Depositary prior to 1 July 2015, each of the Resolutions will enter into force for Australia on 1 January 2016 with the exception of Resolutions 1083 (28) and 1084 (28).

Cost

21. Implementation of the relevant IMO Resolutions is expected to have negligible administrative impact, with compliance costs likely to remain unchanged.

22. The amendments presented in Resolution MSC.365 are likely to result in minor cost increases for the Australian shipping industry. Part of constructing any ship includes the installation of fire protection equipment and systems that meet the international standards. The amendments presented in MSC.365 are minor adjustments to those standards and will therefore result in minor costs.

Future treaty action

23. Any future amendments to the relevant IMO Conventions must be effected in accordance with the relevant amendment provisions specified in the respective conventions. Any amendments to conventions for which the IMO is responsible will be subject to Australia's treaty processes.

24. Amendment provisions in the relevant IMO Conventions are as follows:

- (a) *International Convention on Load Lines, 1966 – Article 29* (Amendments);
- (b) *International Convention on Tonnage Measurement of Ships, 1969 – Article 18* (Amendments);
- (c) *Convention on the International Regulations for Preventing Collisions at Sea, 1972 – Article VI* (Amendments to the Regulations);
- (d) *International Convention for the Safety of Life at Sea, 1974, as amended – Article IX* (Amendments);
- (e) *International Convention on Standards of Training, Certification and Watch-keeping of Seafarers, 1978 – Article XII* (Amendments); and
- (f) *Protocol of 1988 relating to the International Convention on Load Lines, 1966, as amended – Article VI* (Amendments).

Withdrawal or denunciation

25. The same denunciation provisions apply to all relevant ILO Conventions as follows:

- (a) *International Convention on Load Lines, 1966 – Article 30* (Denunciation);
- (b) *International Convention on Tonnage Measurement of Ships, 1969 – Article 19* (Denunciation);

- (c) *Convention on the International Regulations for Preventing Collisions at Sea, 1972 – Article VII* (Denunciation);
- (d) *International Convention for the Safety of Life at Sea, 1974, as amended – Article VII* (Denunciation);
- (e) *International Convention on Standards of Training, Certification and Watch-keeping of Seafarers, 1978 – Article XV* (Denunciation); and
- (f) *Protocol of 1988 relating to the International Convention on Load Lines, 1966, as amended – Article VII* (Denunciation).

Each of the relevant Conventions specifies that a Contracting Party may denounce from the Convention at any stage following five years from the date on which the Convention entered into force for that Party. This is achieved by depositing an instrument to the IMO whereby the Secretary-General shall inform other Contracting Parties of such receipt. A denunciation shall take effect at least one year following the submission of the instrument, unless the instrument specifies a longer period.

26. None of the relevant Conventions contain specific provisions on withdrawal from the treaty by IMO Members.

Contact details

Maritime Economic Regulation
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ATTACHMENT ON CONSULTATION

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CONSULTATION

1. The III Code was developed at the International Maritime Organization which is comprised of 170 Member States. In addition to government representation, the IMO encourages Non-Governmental Organizations ('NGO') to hold "consultative status" which enables the inclusion of a range of NGO interests to be incorporated into IMO discussions and resolutions. Shipping industry representatives are frequently present at the IMO.
2. As the purpose of the III Code is to assess Member State's performance in meeting their obligations under IMO conventions to which they are a signatory, the key stakeholders that will be subject to auditing following the introduction of the Code in Australia are, the Australian Maritime Safety Authority ('AMSA'), as the relevant national maritime regulator and the Department of Infrastructure and Regional Development, as the Australian Government Department which administers the Commonwealth legislation that implements the conventions referred to in the NIA.
3. AMSA and the Department of Infrastructure and Regional Development have both been consulted on the implementation of the III Code and support its implementation domestically in Australia.
4. Consultation with Australian industry and community representatives is considered immaterial as there are no impacts associated with the introduction of the III Code on these groups in Australia.
5. Resolution MSC.365 will have a minor cost impact on the Australian ship building industry. The Australian Shipbuilding and Repair Group, the recognised peak industry body representing and promoting the capability of the Australian shipbuilding and repair industry sectors to the domestic and international market, support the amendments. Australia's ship building industry is relatively small and predominantly builds vessels for domestic use with few Australian companies building vessels for operation outside Australia. As these standards are to be adopted internationally, it is likely that the requirements of this resolution would need to be met in order to access international markets.
6. Consultation on the development of these amendments has been undertaken with the Australian Shipbuilding and Repair Group, MarineSafe, Shipping Australia Limited and Australian Shipowners Association. There have been no concerns expressed by these industry peak bodies.