

Resolution A.740(18)
Adopted on 4 November 1993
(Agenda item 11)

INTERIM GUIDELINES TO ASSIST FLAG STATES

THE ASSEMBLY,

RECALLING Article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to regulations and guidelines concerning maritime safety and the prevention and control of marine pollution from ships,

RECALLING FURTHER that, at its sixteenth session, it affirmed the contents of resolution A.500(XII) and the assignment of the highest priority to promoting the implementation of international standards and regulations for the improvement of maritime safety and pollution prevention,

REAFFIRMING its desire to ensure that ships comply at all times with maritime safety and pollution-prevention standards prescribed by the relevant IMO conventions,

BEING AWARE of the difficulty some States have in giving full effect to the provisions of IMO instruments,

DESIRING to assist Member Governments to ensure achievement of the IMO objectives,

HAVING ADOPTED resolution A.739(18) on Guidelines for the Authorization of Organizations Acting on Behalf of the Administration,

HAVING CONSIDERED the recommendations made by the Maritime Safety Committee at its sixty-second session and by the Marine Environment Protection Committee at its thirty-fourth session,

DECIDES:

- (a) to adopt the Interim Guidelines to Assist Flag States, set out in the annex to the present resolution;
- (b) to request the Maritime Safety Committee and the Marine Environment Protection Committee to proceed, as a matter of urgency, and with the direct participation of Governments concerned, to a comprehensive analysis of difficulties encountered by them in the implementation of IMO instruments, with a view to identifying needs and appropriate solutions; and
- (c) to request also the above Committees to keep the Interim Guidelines under continuous review and update them in the light of the results of the comprehensive analysis referred to above.

Annex

INTERIM GUIDELINES TO ASSIST FLAG STATES

1 INTRODUCTION

1.1 Under the provisions of applicable Conventions for the Safety of Life at Sea (SOLAS), for the Prevention of Pollution from Ships (MARPOL), on Load Lines (LL) and on Standards for Training, Certification and Watchkeeping (STCW), Administrations are responsible for promulgating laws and

regulations and for taking all other steps which may be necessary to give these instruments full and complete effect so as to ensure that, from a point of view of safety of life and environment, a ship is fit for the service for which it is intended.

1.2 Administrations should improve the adequacy of the measures which are taken to give effect to those conventions and protocols which they have ratified, adopted or acceded to and ensure that they are effectively monitored. Improvement can be made through rigorous and more effective application and enforcement of national legislation. The use of these Guidelines for flag States on how to administer maritime safety and environmental protection responsibilities can help achieve this improvement.

1.3 Some flag States have encountered difficulty in fully implementing the IMO instruments and ensuring that prompt and timely surveys are conducted. Reasons for this difficulty include finances, personnel and technical expertise, delegation of authority, division of responsibilities and inadequate supervision of bodies acting on behalf of the flag State.

1.4 It should be noted that technical assistance is available to flag States experiencing difficulties in meeting their treaty responsibilities.

2 GUIDELINES FOR FLAG STATES

2.1 In order to effectively discharge its responsibilities, flag States, in addition to enacting necessary national legislation, should:

- .1** develop goals based on international instruments to which the State is a Party in conjunction with applicable national legislation;
- .2** implement policies through the issuance of national legislation which provide a course of action for achieving the stated goals;
- .3** assign responsibilities within the Administration to update and revise the goals and policies as necessary; and
- .4** formally adopt the above within a long-term strategic planning document.

2.2 Flag States should seek to establish a support infrastructure capable of administering their safety and environmental-protection programme which, as a minimum, consists of the following:

- .1** personnel with appropriate technical expertise and background, qualified to guide, direct and manage the programme, as well as providing the continuity in service. Flag States should recruit and train suitable applicants, taking full advantage of existing training and technical support assistance offered by the International Maritime Organization;
- .2** administrative instructions which implement applicable international as well as any interpretative national regulations that may be needed;
- .3** facilities and personnel commensurate with the number, type and tonnage of vessels registered under their flag. In determining the number, size and location of offices needed, the flag State should consider data collected from the oversight and control programme described below in 2.4, the amount of work delegated to other organizations and the sources of ships coming under its registry. It should be noted that evidence of non-compliance may indicate the need for greater focus on those areas to ensure compliance and/or an increase in programme resources;
- .4** resources to ensure compliance with basic MARPOL, SOLAS and LL requirements, using an audit and inspection programme independent of the entities delegated authority by the flag State to issue the required international certificates and documentation;
- .5** resources to ensure compliance with the requirements of the STCW Convention. A flag State may issue its own STCW certification based on examination or on a policy of reciprocation. Flag States are reminded that it is the flag State, not a third-party State, that is responsible for the standards of the officers and crews of the ships in its register; and

- .6 resources to ensure that investigations into casualties are conducted as well as adequate and timely handling of cases of deficient ships.

2.3 Many flag States authorize organizations to act on their behalf in the surveys and inspections required under the above-mentioned conventions. Control in the assignment of such authority is needed in order to promote uniformity of inspections and maintain established standards. Therefore, any assignment of authority to recognized organizations should follow the Guidelines for the Authorization of Organizations Acting on Behalf of the Administration (resolution A.739(18)) and, in particular, Administrations should:

- .1 determine that the organization has adequate resources in terms of technical, managerial and research capabilities to accomplish the tasks being assigned, in accordance with the Minimum Standards for Recognized Organizations Acting on Behalf of the Administration set out in appendix 1 to that resolution;
- .2 have a formal written agreement between the Administration and the organization being authorized which should, as a minimum, include the elements as set out in appendix 2 to that resolution, or equivalent legal arrangements;
- .3 specify instructions detailing actions to be followed in the event that a ship is found not fit to proceed to sea without danger to the ship or persons on board, or presenting unreasonable threat of harm to the marine environment;
- .4 provide the organization with all appropriate instruments of national law giving effect to the provisions of the conventions or specify whether the Administration's standards go beyond convention requirements in any respect; and
- .5 specify that the organization maintain records which can provide the Administration with data to assist in interpretation of convention regulations.

2.4 An oversight and control programme should be an integral part of a flag State's maritime safety administration. Such programmes aid in maintaining internal quality standards, evaluating the effectiveness of a flag State's actions in complying with convention instruments and help in identifying areas in IMO regulations which may need improvement. An effective programme should:

- .1 provide for prompt and thorough casualty investigations, reporting back to the International Maritime Organization, as appropriate;
- .2 provide a programme to collect statistical data so that trend analysis can be conducted to identify problem areas;
- .3 provide for a timely response to deficiencies and alleged pollution incidents reported by port and coastal States;
- .4 verify the adequacy of work performed by organizations authorized to act on its behalf;
- .5 include a regular review of:
 - .1 fleet loss and accident ratios to identify the trend over selected time periods;
 - .2 the number of verified cases of substandard ships in relation to the size of the fleet;
 - .3 responses to port State deficiency reports or interventions;
 - .4 investigations into serious casualties and lessons learned therefrom; and
 - .5 financial, technical and other resources committed.

3 IMPLEMENTATION OF THE GUIDELINES

3.1 These Guidelines are intended to provide flag States with a means to establish and maintain measures for the effective application and enforcement of relevant instruments. Flag State controls may need to be supplemented with more extensive measures as appropriate, based on the size, number and type of vessels in its fleet. In implementing these Guidelines, flag States are encouraged to inform IMO of any difficulties experienced in complying with these Guidelines and to apply when necessary for technical assistance.