

MARITIME SAFETY COMMITTEE
102nd session
Agenda item 7

MSC 102/7/5
9 March 2020
Original: ENGLISH
Pre-session public release:

GOAL-BASED NEW SHIP CONSTRUCTION STANDARDS

Unified interpretation of SOLAS regulation II-1/3-10 concerning the term "unforeseen delay in delivery of ships"

Submitted by China and IACS

SUMMARY

Executive summary: This document proposes a unified interpretation of SOLAS regulation II-1/3-10 concerning the term "unforeseen delay in the delivery of ships" with a view to harmonizing the interpretation of the provisions for the application scheme thereof with the unified interpretation to regulation 1.28 of MARPOL Annex 1

Strategic direction, if applicable: Other work

Output: OW 7

Action to be taken: Paragraph 7

Related documents: MSC.1/Circ.1247; resolutions MSC.287(87) and MSC.290(87)

Background

1 On 30 January 2020, the World Health Organization (WHO) declared that the outbreak of pneumonia epidemic caused by the novel coronavirus (COVID-19) constituted a Public Health Emergency of International Concern (PHEIC). Since the outbreak, the Government of China has adopted the most comprehensive and stringent prevention and control measures in a highly responsible manner to protect people's health. At the same time, in a responsible manner, China has timely notified WHO, relevant countries and regional organizations of the epidemic, maintained close communication, strengthened cooperation, made concerted efforts to deal with the epidemic, and maintained regional and global public health security. In a nationwide effort to fight against the novel coronavirus disease, shipbuilders in China have, upon the request of the Government, taken rigorous measures including extending the Spring Festival holiday, adopting necessary measures, such as personnel quarantine and working on a rotational basis etc., to contain the outbreak. As a consequence, shipbuilders and their associated supply chains took a hit which led to difficulties in resuming normal production and different degrees of delay in the delivery of ships under construction. There will be significant impact on ships originally scheduled to be

delivered before 1 July 2020, which were not designed and constructed in accordance with the requirements of SOLAS regulation II-1/3-10 (Goal-based ship construction standards for bulk carriers and oil tankers).

2 In accordance with SOLAS regulation II-1/3-10, adopted by resolution MSC.290(87), the following oil tankers and bulk carriers of 150 m in length and above, excluding ore carriers and combination carriers, need to satisfy the applicable structural requirements of a recognized organization or the national standards of an Administration, conforming to the functional requirements of the *Goal-based Ship Construction Standards for Bulk Carriers and Oil Tankers* (resolution MSC.287(87)), hereinafter referred to as the GBS Standards:

- .1 for which the building contract is placed on or after 1 July 2016;
- .2 in the absence of a building contract, the keels of which are laid on or after 1 July 2017; or
- .3 the delivery of which is on or after 1 July 2020.

Discussion

3 On 19 February 2020, the Organization issued Circular Letter No.4204/Add.1 on *COVID-19 – Implementation and enforcement of relevant IMO instruments* and called for understanding and close cooperation among all Member States to overcome challenges related to the implementation and enforcement of relevant IMO instruments. The epidemic of the novel coronavirus infection is unforeseen and its impact is far beyond the control of the shipbuilder and the shipowner. As a result, for oil tankers and bulk carriers of 150 m in length and above for which the building contract was placed before 1 July 2016 (in the absence of a building contract, the keels of which were laid before 1 July 2017), and scheduled to be delivered before 1 July 2020, the delivery may be on or after 1 July 2020. Although these ships were not designed and constructed in accordance with the Standards, they will need to satisfy the Standards upon delivery in accordance with SOLAS regulation II -1/3-10 if without appropriate interpretation of its applicability. Yet, it is obvious that the delays in delivery of those ships are unforeseen delays and it is necessary to develop an appropriate interpretation of this regulation for its applicability to ships in unforeseen delay.

4 The co-sponsors noted that MSC.1/Circ.1247 on *Unified interpretation of unforeseen delay in delivery of ships* was approved by MSC 83 to address the applicability of SOLAS regulation II-1/3-2 (Performance Standard for Protective Coatings (PSPC)) to ships in case of delay in delivery which is unforeseen and out of the control of the owner and the builder. The MSC circular has played a positive role in the implementation of PSPC requirements by the Administrations and the industry.

5 Based on the above discussion, the co-sponsors are of the view that the nature of the application of SOLAS regulation II-1/3-10 to unforeseen delay in delivery of ships is the same as that of SOLAS regulation II-1/3-2 and, therefore, the principles in MSC.1/Circ.1247 should also apply to the application of SOLAS regulation II-1/3-10 in terms of unforeseen delay in delivery of ships as mentioned in paragraph 3 above, i.e. the ship may be accepted by the Administration as a ship delivered before 1 July 2020 subject to stringent assessment and related procedures followed.

Proposal

6 Due to the urgency and importance of this matter and in order to clearly and timely address the applicability of SOLAS regulation II-1/3-10 to unforeseen delays in delivery of ships, the co-sponsors suggest that the Committee develops an MSC circular by referring to the practice of MSC.1/Circ.1247. In this connection, the co-sponsors have developed a draft MSC circular on Unified interpretation of SOLAS regulation II-1/3-10 concerning the term "unforeseen delay in delivery of ships", as set out in the annex, for consideration by the Committee.

Action requested of the Committee

- 7 The Committee is invited to note the above discussion and to:
- .1 agree with the view in paragraph 5; and
 - .2 consider the attached draft MSC circular on Unified interpretation of SOLAS regulation II-1/3-10 concerning the term "unforeseen delay in delivery of ships" with a view to approval (paragraph 6 and annex).

ANNEX

DRAFT MSC CIRCULAR

**UNIFIED INTERPRETATION OF SOLAS REGULATION II-1/3-10 CONCERNING THE
TERM "UNFORESEEN DELAY IN DELIVERY OF SHIPS"**

1 The Maritime Safety Committee, at its [102nd session (...)], approved the Unified interpretation of the term "unforeseen delay in the delivery of ships", as set out in the annex, with a view to harmonizing the interpretation of the provisions for the application scheme in SOLAS regulation II-1/3-10 (Goal-based ship construction standards for bulk carriers and oil tankers), as adopted by resolution MSC.290(87), with the unified interpretation to regulation 1.28 of Annex I of the MARPOL Convention.

2 Member Governments are invited to use the annexed unified interpretation when applying the relevant provisions of SOLAS regulation II-1/3-10 and to bring it to the attention of all parties concerned.

ANNEX

**INTERPRETATION OF SOLAS REGULATION II-1/3-10 CONCERNING THE TERM
"UNFORESEEN DELAY IN DELIVERY OF SHIPS"**

1 For the purpose of defining the category of a ship under SOLAS regulation II-1/3-10, a ship for which the building contract (or keel laying) occurred, and scheduled delivery date was, before the dates specified in this regulation, but where the delivery has been subject to delay beyond the specific date due to unforeseen circumstances beyond the control of the builder and the owner, may be accepted by the Administration as a ship delivered before the date of delivery specified in this regulation. The treatment of such ships should be considered by the Administration on a case-by-case basis, bearing in mind the particular circumstances.

2 It is important that ships accepted by the Administration under the provisions of paragraph 1 above should also be accepted as such by port States. In order to ensure this, the following practice is recommended to Administrations when considering an application for such a ship:

- .1 the Administration should thoroughly consider applications on a case-by-case basis, bearing in mind the particular circumstances. In doing so in the case of a ship built in a foreign country, the Administration may require a formal report from the authorities of the country in which the ship was built, stating that the delay was due to unforeseen circumstances beyond the control of the builder and the owner;
- .2 when a ship is accepted by the Administration under the provisions of paragraph 1 above, the delivery date annotated on the Cargo Ship Safety Construction Certificate or Cargo Ship Safety Certificate should be footnoted to indicate that the ship is accepted by the Administration under the unforeseen delay in delivery provisions of this interpretation; and
- .3 the Administration should report to the Organization on the identity of the ship and the grounds on which the ship has been accepted under the unforeseen delay in delivery provisions of this interpretation.
