

MARITIME SAFETY COMMITTEE
105th session
Agenda item 3

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**CONSIDERATION AND ADOPTION OF AMENDMENTS
TO MANDATORY INSTRUMENTS**

**Clarification of terms used in the application requirements of non-mandatory
instruments and the adjustment of MSC.1/Circ.1500/Rev.1**

Submitted by IACS

SUMMARY

Executive summary: This document considers the necessity for standard definitions in the situations when terms such as "fitted", "provided", "installed" or "installation" are used in non-mandatory instrument, to provide a clear understanding of the intended meaning of such terms. Further, a proposal to adjust MSC.1/Circ.1500/Rev.1 to account for the building contract in those definitions is offered.

*Strategic direction,
if applicable:* 6

Output: None

Action to be taken: Paragraph 12

Related documents: None

Background

1 SOLAS requires all equipment, to which the chapters apply, to conform to appropriate performance standards not inferior to those adopted by the Organization.

2 When adopting performance standards, the Maritime Safety Committee includes an application statement in the adopting resolution, as in the following example:

"RECOMMENDS Governments to ensure that [equipment]...:

- .1 if installed on or after [date] conform to performance standards and type-approval standards not inferior to those specified in the annex to the present resolution;
- .2 if installed before [date], conform to performance standards not inferior to those specified in the annex to resolution [number] as amended by etc."

Discussion

3 MSC.1/Circ.1500/Rev.1 on the *Guidance on drafting of amendments to the 1974 SOLAS Convention and related mandatory instruments* states:

"3.2.1.3 At a subsequent processing stage, but before the conclusion of the approval for adoption, each allocated sub-committee should ensure that:

...

.9 when terms such as "fitted", "provided", "installed" or "installation" are used, a clear understanding of the intended meaning of the term is provided."

4 While performance standards are not mandatory instruments for treaty purposes, as indicated in paragraph 6 of resolution A.911(22) on *Uniform wording for referencing IMO instruments*, in IACS's view they are *de facto* mandatory, as it is rare that others would develop performance standards "not inferior to those specified by the Organization".

5 However, the use of vague terms such as "if installed on or after" presents IACS members, when acting as recognized organizations for flag States, with a difficulty in applying the requirements of performance standards in a global and consistent manner.

6 Recent examples of resolutions, which include the term "installed on or after" without defining it, include:

.1 resolution MSC.471(101) on the *Recommendation on performance standards for float-free Emergency Position-Indicating Radio Beacons (EPIRBs) operating on 406 MHz*;

.2 resolution MSC.466(101) on *Amendments to the performance standards for the presentation of navigation-related information on shipborne navigation displays (resolution MSC.191(79))*; and

.3 resolution MSC.480(102) on *Performance standards for shipborne Japanese Quasi-Zenith Satellite System (QZSS) receiver equipment*.

7 Also, it should be noted that term "installed" is used in the application of MSC circulars (e.g. MSC.1/Circ.1430/Rev.2).

Proposal

8 IACS suggests that the simplest way of addressing the above matter would be to define the terms "fitted", "provided", "installed" or "installation", which could then be applied universally to the application of performance standards or other non-mandatory instruments, where such phrases are used in the application statement.

9 For example, a definition of "installed" could be included in future non-mandatory instrument as follows:

"(a) for ships for which the building contract is placed on or after [the specified date], or in the absence of the contract, constructed on or after [the specified date], "installed on or after" means any installation on the ship; or

- (b) for ships other than those ships prescribed in (a) above, "installed on or after the specified date" means a contractual delivery date for the equipment or, in the absence of a contractual delivery date, the actual delivery of the equipment to the ship on or after the date specified."

10 Alternatively, the Committee could consider revising the Guidance (MSC.1/Circ.1500/Rev.1) to include non-mandatory instruments, such as performance standards and circulars, so that its paragraph 3.2.1.3.9 applies when terms such as "fitted", "provided", "installed" or "installation" are used, and a clear understanding of the intended meaning of the term is provided.

11 Further, in recognition of the use of the "building contract" date in the application statements of regulations, the example in paragraph 9 of this document contains a "building contract" date, in addition to the keel laying date. In order to recognize the use of the building contract consistently in future applications of "installed", the following adjustment to paragraph 4.2.6.3.1(a) of the Guidance (MSC.1/Circ.1500/Rev.1) is proposed:

- ".1 when the installation date is used:

'Unless expressly provided otherwise, this instrument is applicable to installations (equipment, appliances, fittings, etc.) installed on board ships on or after DDMMYYYY.

The expression *installations (the type of installations should be clearly specified here) installed on board ships on or after DDMMYYYY* means:

- (a) for ships for which the building contract is placed on or after DDMMYYYY, or in the absence of the contract, the keels of which are laid or which are at a similar stage of construction on or after DDMMYYYY, all installations of the specified type on board those ships; or".

Action requested of the Committee

12 The Committee is invited to consider the foregoing and the above proposals in paragraphs 8 to 11, and take action, as appropriate.