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**PROCEDURAL ASPECTS RELATED TO THE DRAFTING OF AMENDMENTS
TO SAFETY-RELATED IMO CONVENTIONS, OTHER THAN
THE 1974 SOLAS CONVENTION, AND RELATED
MANDATORY INSTRUMENTS**

1 The Maritime Safety Committee (the Committee), at its ninety-ninth session (16 to 25 May 2018), following the decision to apply the practice of keeping records for regulatory development and, subsequently, expand the application of the *Guidance on drafting of amendments to the 1974 SOLAS Convention and related mandatory instruments* (MSC.1/Circ.1500) to all safety-related IMO conventions and mandatory instruments under those conventions, approved the Procedural aspects related to the drafting of amendments to safety-related IMO conventions, other than the 1974 SOLAS Convention, and related mandatory instruments, as set out in the annex.

2 Without prejudicing the amendments procedure specified in the respective articles of safety-related IMO conventions and the provisions set out in the *Organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.5/Rev.1), the procedural aspects contained in the annex provide relevant guidance for the drafting of amendments to safety-related IMO conventions, other than the 1974 SOLAS Convention, and related mandatory instruments.

3 Contracting Governments/Parties to the safety-related IMO conventions are invited to take into account the procedural aspects set out in the annex, when submitting proposals for amendments to safety-related IMO conventions, other than the 1974 SOLAS Convention, or mandatory instruments related to those conventions; and/or proposals for new outputs in accordance with section 4 of the *Organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.5/Rev.1).

4 The Committee and its subsidiary bodies, including working, drafting and intersessional groups, should apply the procedural aspects set out in the annex when preparing draft amendments to safety-related IMO conventions, other than the 1974 SOLAS Convention, and related mandatory instruments, as well as during the approval and adoption stages.

5 Member States and the Committee's subsidiary bodies are invited to bring to the attention of the Committee the results of experience gained from the use of the procedural aspects set out in the annex and to make recommendations for improvements, as appropriate.

ANNEX

PROCEDURAL ASPECTS RELATED TO THE DRAFTING OF AMENDMENTS TO SAFETY-RELATED IMO CONVENTIONS, OTHER THAN THE 1974 SOLAS CONVENTION, AND RELATED MANDATORY INSTRUMENTS

1 Introduction

1.1 This note provides procedural aspects related to the drafting of amendments to safety-related IMO conventions, other than the 1974 SOLAS Convention, and related mandatory instruments.

1.2 These procedural aspects should always be read with reference to the amendment provisions in the relevant articles of safety-related IMO conventions and in conjunction with the *Organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.5/Rev.1).

1.3 The present procedural aspects summarize the most common practice for keeping records for regulatory development to safety-related IMO conventions, other than the 1974 SOLAS Convention, and related mandatory instruments.

2 Goal

2.1 The present procedural aspects are meant to ensure that submission and development of new or amended regulations/paragraphs are carried out in an appropriately comprehensive and detailed manner and, in particular, that Contracting Governments/Parties to safety-related IMO conventions, other than the 1974 SOLAS Convention, the Committee and its subsidiary bodies, including working and drafting groups, as well as other interested parties, are provided with appropriate guidance on drafting of amendments to such conventions and related mandatory instruments.

2.2 In order to achieve the above goal, the procedural aspects are based on the following two main principles:

- .1 a systematic control process throughout the different stages of the amendments' development; and
- .2 relevant guidance for drafting amendments.

3 Procedural aspects related to the drafting of amendments and control process

3.1 ***Process for amending safety-related IMO conventions, other than the 1974 SOLAS Convention, and related mandatory instruments (from proposal to adoption)***

3.1.1 At a proposal stage and in addition to the information to be provided in proposals for new outputs (see annex 1 to the *Organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.5/Rev.1)), where possible, the following elements should be addressed when considering proposals for a new output that may require the preparation of amendments to safety-related IMO conventions, other than the 1974 SOLAS Convention, and/or mandatory instruments related to those conventions:

- .1 ship type(s) to which the proposed amendment(s) is/are expected to apply (e.g. scope, size, type, tonnage/length restriction; service areas (international/non-international); activities (e.g. supporting diving activities));
- .2 the extent of application to existing ships,¹ along with any relevant safety measures that may be applied to existing ships;
- .3 the intended instrument(s) that should be amended (i.e. the conventions and associated mandatory instruments); and
- .4 the use of the check/monitoring sheet (refer to paragraph 3.1.3.14 below).

3.1.2 During the consideration of new outputs, and in addition to the actions to be taken based on MSC-MEPC.1/Circ.5/Rev.1, the Committee should consider the elements listed below and, in this respect, should give clear instructions to the relevant technical subsidiary body/bodies (i.e. sub-committees, including their working/drafting/intersessional groups, as well as those reporting directly to the Committee), as may be applicable:

- .1 target completion date at the sub-committee level;
- .2 expected date(s) of entry-into-force and implementation/application date(s) (e.g. possible phase-in arrangement for existing ships) of the amendment(s) or of the new requirement(s) to be developed; and
- .3 scope of application of the proposed amendment(s) or new requirement(s), along with the instrument(s) which would be required to be amended/developed. In this regard, the following should be taken into consideration:
 - .1 if a comprehensive revision to an instrument is required, a decision should be taken whether to revise the existing instrument or create a new version, which may co-exist with the existing instrument; and
 - .2 if the instrument to be amended has different versions, a decision should be made whether older versions of the instrument should also be revised, especially when considering amendments to operational requirements which are likely to result in the revision to all versions of the instrument.

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

- .1 at an initial engagement, sufficient time is allocated for technical research and discussion before the target completion date, especially when the issue is needed to be addressed by more than one sub-committee where timing of meetings of relevant sub-committees and exchanges of the result of considerations need to be carefully examined;
- .2 the intended scope of application agreed by the Committee (refer to paragraph 3.1.2 above) is not changed without approval of the Committee,

¹ Refer to the *Interim guidelines for the systematic application of the grandfather clauses* (MSC/Circ.765-MEPC/Circ.315).

- providing clear justification for such change (e.g. in case of unintended omissions);
- .3 the technical base document or draft amendment addresses the proposal's issue(s) through the suggested instrument(s) and, if not, an alternative method is offered to the Committee for addressing the problem raised by the proposal;
 - .4 if application to existing ships is agreed by the Committee under paragraph 3.1.1.2 above, due attention should be paid to the *Interim guidelines for the systematic application of the grandfather clauses* (MSC/Circ.765-MEPC/Circ.315) and, as appropriate, to the *Unified interpretation of the date of completion of the survey and verification on which the certificates are based* (MSC-MEPC.5/Circ.3);
 - .5 all references have been examined against the text that would be valid if the proposed amendment enters into force;
 - .6 there are no inconsistencies between the scope of application of a particular technical regulation and the application statement of the relevant chapter, and application is specifically addressed for existing and/or new ships, as necessary;
 - .7 if a new term is introduced in a regulation and a clear definition is necessary, the definition is given in the relevant article of the convention or at the beginning of the chapter, as appropriate;
 - .8 when terms such as "fitted", "provided", "installed" or "installation" are used, a clear understanding of the intended meaning of the term is provided;
 - .9 all necessary related and consequential amendments to other existing instruments, including non-mandatory instruments, in particular the forms of certificates and records of equipment required in the instrument being amended, have been examined and included as a part of the amendment(s);
 - .10 the forms of certificates are harmonized, where appropriate, between the convention and its protocol(s);
 - .11 draft amendments are presented for consideration, as far as practically possible, as tracked changes within the context of the relevant provisions to be amended (refer to section 3.3 below);
 - .12 due attention is paid to the "application" and "definition" regulations/ paragraphs of the chapter where these are likely to affect or be affected by the proposed amendments;
 - .13 when preparing amendments to mandatory instruments, the relationship between the convention and the instrument is observed;

- .14 the check/monitoring sheet given in annex 1 is observed and completed throughout the progress at each one of the above stages. In this respect, it is intended that:
 - .1 parts I and II should be completed by the submitter of a proposal for a new output, as far as possible, as an annex to the submission document (refer to paragraph 3.1.1.4 above); and
 - .2 part III should be completed by the drafting or working group that prepares the draft amendment(s);²
- .15 the final draft text of proposed amendments to the Convention or any related mandatory instrument is reviewed by either a drafting group or by a working group² to properly address the issues listed in part III of the check/monitoring sheet, as given in paragraph 3.2.2 below;
- .16 the check/monitoring sheet is presented along with the draft amendments submitted for approval; and
- .17 the record format given in annex 2 is completed³ by the drafting or working group that prepares the draft amendment(s).²

3.1.4 At the approval and adoption stages:

- .1 the Committee should carefully review the draft amendments submitted for approval, using the associated check/monitoring sheet prepared by the subsidiary body. In doing so, issues requiring further drafting consideration may be identified. Under those circumstances, the Committee may consider instructing the drafting group on amendments to review the draft amendments and the associated check/monitoring sheet before approval of the related amendments, taking into account the information contained in the related record format; and
- .2 the Secretariat should:
 - .1 ensure that the draft amendments submitted for approval, as well as those contained in the annexes of the Committee's report after approval, are presented in tracked changes, as appropriate (refer to section 3.3 below);
 - .2 prepare the appropriate text of draft amendments without tracked changes for circulation to all Members of the Organization and all Contracting Governments/Parties to the convention after approval, in accordance with the relevant article of the convention;

² For the draft amendments to be considered and finalized by sub-committees in plenary within one session, the Secretariat may be requested, when necessary, to complete part III of the check/monitoring sheet and the records for regulatory development after the session, instead of establishing a specific working/drafting group. "Minor corrections" (C/ES.27/D, paragraph 3.2(vi)) may be excluded from application of the provisions for completion of the check/monitoring sheet and the records for regulatory development.

³ The information should be completed in the module "Development of amendments to the 1974 SOLAS Convention and related mandatory instruments" of GISIS, when available.

- .3 prepare documents containing the text of the approved draft amendments without tracked changes, together with the draft resolution(s), for submission to the session of the Committee that will consider the amendments for adoption;
- .4 prepare a working paper consolidating all draft amendments submitted for adoption with tracked changes, including proposals for modifications or editorial improvements, if any, as well as notes and comments, as appropriate (refer to section 3.3 below). This document should be made available in IMODOCS as soon as possible after the deadline for commenting documents and should be used as the base document for the preliminary consideration by the expanded Committee and final revision by the drafting group on amendments;
- .5 ensure that, after adoption, the final text of the amendments which are contained in the annexes of the Committee's report (i.e. the MSC resolutions) is presented without tracked changes;
- .6 prepare the authentic text of the adopted amendments after adoption, when requested, and make it available on IMODOCS;⁴ and
- .7 keep the related record format updated in respect to relevant decisions taken at the sub-committee or committee level.

3.2 Drafting group arrangements

3.2.1 Drafting groups have a relevant role in the amendment control process. Although drafting groups cannot change the essence of the amendments, they should ensure that the drafting of amendments is carried out in accordance with the present procedural aspects. Therefore, these procedural aspects should be included as a standing reference in the terms of reference of these groups, along with references for completion of the check/monitoring sheet and record format, set out in annexes 1 and 2, respectively.

3.2.2 The first stage of the engagement in the control process of drafting works should be undertaken by a drafting group or by a working group of the subsidiary body or by those reporting directly to the Committee.⁵ In doing so, the check/monitoring sheet set out in annex 1 should be observed and completed before submitting the draft amendments for approval.

3.2.3 At the approval stage of amendments, the Committee should carefully review the draft amendments submitted for approval, along with the related check/monitoring sheet (refer to paragraph 3.1.4.1).

⁴ The whole process of the production of certified true copies, in all cases, should not take longer than 100 days for non-bulky documents (those containing six pages or fewer) and 160 days for bulky documents (those containing more than six pages) after the date of adoption of the amendment.

⁵ For the draft amendments to be considered and finalized by sub-committees in plenary within one session, the Secretariat may be requested, when necessary, to complete part III of the check/monitoring sheet and the records for regulatory development after the session, instead of establishing a specific working/drafting group. "Minor corrections" (C/ES.27/D, paragraph 3.2(vi)) may be excluded from application of the provisions for completion of the check/monitoring sheet and the records for regulatory development.

3.2.4 Depending upon the findings in the check/monitoring sheet, the Committee may consider tasking the drafting group established for reviewing the amendments submitted for adoption (refer to paragraph 3.2.6 below) to review the draft amendments submitted for approval and the related check/monitoring sheet, including the information contained in the related record format.

3.2.5 After the approval of draft amendments by the Committee, the Secretariat should review the approved draft amendments from the drafting and editorial point of view. Any findings by the Secretariat should be submitted to the session of the Committee that would adopt the amendments as part of the working paper consolidating the amendments, comments and proposals for modifications, which would be prepared in advance by the Secretariat (see paragraph 3.1.4.2.4).

3.2.6 At the adoption stage, the above-mentioned working paper should be used as the basis document for consideration of the draft amendments by the expanded Committee and by the drafting group that would conduct the final review of the draft amendments, along with any comments provided in any of the documents submitted to that session for consideration.

3.3 Use of tracked changes

3.3.1 The use of tracked changes during the preparation, approval and adoption of draft amendments may facilitate the consideration of proposed amendments. It may also assist the work of translators and reduce the number of misinterpretations.

3.3.2 Tracked changes should mainly be used, as far as practically possible, for draft amendments to the text of existing regulations, paragraphs or tables, in order to easily identify the changes proposed with respect to the original text. In this respect, only the relevant part(s) of the original text should be reproduced.

3.3.3 For insertions of new regulations, paragraphs or tables, or deletion of existing ones, the use of tracked changes may not be practical.

3.3.4 Tracked changes should be created using "strikeout" for deleted text and "grey shading" to highlight all modifications and new insertions, including deleted text (i.e. not using the track changes function of Microsoft Word), in order to ensure that such changes are not lost during further editorial work (e.g. cut and paste).

3.4 Referencing other instruments

3.4.1 When referencing other mandatory/non-mandatory instruments in a mandatory instrument, the *Guidelines on methods for making reference to IMO and other instruments in IMO conventions and other mandatory instruments*, as set out in the annex to resolution A.911(22) on *Uniform wording for referencing IMO documents*, should be applied.

3.4.2 The above Guidelines provide standard text for references for inclusion in new IMO conventions and other mandatory instruments relating to maritime safety and pollution prevention and in future amendments to existing conventions and other instruments, in order to ensure that, where reference is made to IMO conventions and other instruments, a uniform wording is used. This is to indicate clearly the legal status of the instrument in question after the IMO body concerned has decided on the status. Therefore, references to standards which are intended to be mandatory should not be included as a footnote. They should instead be included explicitly in the text of relevant regulations/paragraphs or amendments.

3.5 Status of footnotes

3.5.1 The *Guidelines on methods for making reference to IMO and other instruments in IMO conventions and other mandatory instruments*, adopted by resolution A.911(22), reflect that standards and specifications referred to in footnotes, as well as guidelines and recommendations, should not appear in the authentic text of mandatory instruments but may be included in sales publications and updated by the Secretariat as necessary when a new edition of the relevant publication is prepared.

3.5.2 For future amendments to the Convention or related mandatory instruments, text intended to be a mandatory part of the instrument should not be included in a footnote.

3.6 Human element

Reference is made to paragraph 4.27 of the *Organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.5/Rev.1), which states that, recognizing the human factor as an integral part of any effort to enhance maritime safety, maritime security or protection of the marine environment, the subsidiary bodies should consider the human factor whenever new requirements are developed and existing requirements are reviewed, by taking into account the human element principles, as set out in the annex to resolution A.947(23) on *Human element vision, principles and goals for the Organization*.

ANNEX 1

**CHECK/MONITORING SHEET FOR THE PROCESSING OF AMENDMENTS TO
SAFETY-RELATED IMO CONVENTION, OTHER THAN THE 1974 SOLAS
CONVENTION, AND RELATED MANDATORY INSTRUMENTS
(PROPOSAL/DEVELOPMENT)**

Part I – Submitter of proposal (refer to paragraph 3.1.1)*

1	<i>Submitted by (document number and submitter)</i>
2	<i>Meeting session</i>
3	<i>Date (date of submission)</i>

Part II – Details of proposed amendment(s) or new mandatory instrument (refer to paragraphs 3.1.1 and 3.1.2)*

1	<i>Strategic direction</i>
2	<i>Title of the output</i>
3	<i>Instruments intended for amendment (i.e. the conventions and relevant mandatory instruments) or developed (new code, new version of a code, etc.)</i>
4	<i>Intended application (scope, size, type, tonnage/length restriction, service (international/non-international), activity, etc.)</i>
5	<i>Application to new/existing ships</i>
6	<i>Proposed coordinating sub-committee</i>
7	<i>Anticipated supporting sub-committees</i>
8	<i>Timescale for completion</i>
9	<i>Expected date(s) for entry into force and implementation/application</i>
10	<i>Any relevant decision taken or instruction given by the Committee</i>

* Parts I and II should be completed by the submitter of a proposed new amendment, to the fullest extent possible.

Part III – Process monitoring to be completed during the work process at the sub-committee and checked as part of the final approval process by the Committee (refer to paragraph 3.1.3)**

1	The sub-committee, at an initial engagement, has allocated sufficient time for technical research and discussion before the target completion date, especially on issues needing to be addressed by more than one sub-committee and for which the timing of relevant sub-committees meetings and exchanges of the result of consideration needed to be carefully examined.	
2	The scope of application agreed at the proposal stage was not changed without the approval of the Committee.	
3	The technical base document/draft amendment addresses the proposal's issue(s) through the suggested instrument(s); where it does not, the sub-committee offers the Committee an alternative method of addressing the problem raised by the proposal.	
4	Due attention has been paid to the <i>Interim guidelines for the systematic application of the grandfather clauses</i> (MSC/Circ.765-MEPC/Circ.315).	
5	All references have been examined against the text that will be valid if the proposed amendment enters into force.	
6	There are no inconsistencies in respect of scope of application between the technical regulation and the application statement of the relevant chapter, and application is specifically addressed for existing and/or new ships, as necessary.	
7	Where a new term has been introduced into a regulation and a clear definition is necessary, the definition is given in the article of the convention or at the beginning of the chapter.	
8	Where any of the terms "fitted", "provided", "installed" or "installation" are used, consideration has been given to clarifying the intended meaning of the term.	
9	All necessary related and consequential amendments to other existing instruments, including non-mandatory instruments, in particular to the forms of certificates and records of equipment required in the instrument being amended, have been examined and included as part of the proposed amendment(s).	
10	The forms of certificates and records of equipment have been harmonized, where appropriate, between the convention and its protocol(s).	
11	It is confirmed that the amendment is being made to a currently valid text and that no other bodies are concurrently proposing changes to the same text.	

** Part III should be completed by the drafting/working group that prepared the draft text using "yes", "no" or "not applicable". For the draft amendments to be considered and finalized by sub-committees in plenary within one session, the Secretariat may be requested, when necessary, to complete part III of the check/monitoring sheet after the session, instead of establishing a specific working/drafting group. "Minor corrections" (C/ES.27/D, paragraph 3.2(vi)) may be excluded from application of the provisions for completion of the check/monitoring sheet.

12	Other impacts of the implementation of the proposed/approved amendment have been fully analysed, including consequential amendments to the "application" and "definition" regulations of the chapter.	
13	The amendments presented for adoption clearly indicate changes made with respect to the original text, so as to facilitate their consideration.	
14	For amendments to mandatory instruments, the relationship between the convention and the related instrument has been observed and addressed, as appropriate.	
15	The related record format has been completed or updated, as appropriate.	

GUIDANCE NOTES FOR COMPLETING THE CHECK/MONITORING SHEET

Part I – Submitter of proposal

This part should be completed by the submitter of a proposed new amendment, to the fullest extent possible.

The original proposal for amendment(s) should be sponsored by, at least, a Contracting Government/Party to the convention. The Contracting Government/Party (or in the case of a number of Contracting Governments/Parties, a nominated lead Contracting Government/Party) should complete part I.

Part II – Details of proposed amendment(s) or of the proposed new mandatory instrument

This part should be completed by the submitter of a proposed new amendment, to the fullest extent possible.

Details of the proposal should be complete and as detailed as possible. If the proposal is related to a casualty, a full explanation of the factors involved or the safety analysis should be appended to the proposal. Consideration of the size of the affected fleet or number of affected mariners, or both, should form part of the justification of the proposal.

Part III – Process monitoring to be completed during the work process at the sub-committee and checked as part of the final approval process by the Committee

This part should be completed by the drafting/working group that prepared the draft text. For the draft amendments to be considered and finalized by sub-committees in plenary within one session, the Secretariat may be requested, when necessary, to complete part III of the check/monitoring sheet after the session, instead of establishing a specific working/drafting group. "Minor corrections" (C/ES.27/D, paragraph 3.2(vi)) may be excluded from application of the provisions for completion of the check/monitoring sheet.

This check sheet should be completed to the fullest extent possible at each stage of the regulatory project process. Each time the regulatory project receives a set of terms of reference for a correspondence, working or drafting groups, the Chair or the Secretariat should review the check sheet with the group at the completion of that group's report.

Each process means:

- Initial engagement at the sub-committee (items 1 to 2)
- During the discussion at the sub-committee (items 3 to 5)
- Finalization stage at the sub-committee (items 6 to 15)

The concept is to create a tracking mechanism, by a complete synopsis record of the regulatory process, to assure those delegations unable to participate in the work of working/drafting groups due to personnel and/or time constraints, that the strictures of the process method are complied with in accordance with the dictates of the Committee.

ANNEX 2

RECORD FORMAT

The following records should be created and kept updated for each regulatory development.*

The records can be completed by providing references to paragraphs of related documents containing the relevant information, proposals, discussions and decisions.

1	Title (number and title of regulation(s))
2	Origin of the requirement (original proposal document)
3	Main reason for the development (extract from the proposal document)
4	Related output
5	History of the discussion (approval of work programmes, sessions of sub-committees, including CG/DG/WG arrangements)
6	Impact on other instruments (codes, performance standards, guidance circulars, certificates/records format, etc.)
7	Technical background
7.1	<i>Scope and objective (to cross check with items 4 and 5 in part II of the check sheet)</i>
7.2	<i>Technical/operational background and rationale (e.g. summary of FSA study, if available, or engineering challenge posed)</i>
7.3	<i>Source/derivation of requirement (non-mandatory instrument, industry standard, national/regional requirement)</i>
7.4	<i>Short summary of requirement (what is the new requirement – in short and lay terms)</i>
7.5	<i>Points of discussions (controversial points and conclusion)</i>

* For the draft amendments to be considered and finalized by sub-committees in plenary within one session, the Secretariat may be requested, when necessary, to complete the records for regulatory development after the session, instead of establishing a specific working/drafting group. "Minor corrections" (C/ES.27/D, paragraph 3.2(vi)) may be excluded from application of the provisions for completion of the records for regulatory development.