

International Maritime Organisation**REPORT OF THE MARITIME SAFETY COMMITTEE 99**

HELD AT IMO HEADQUARTERS FROM 16 TO 25 MAY 2018

1. INTRODUCTION – ADOPTION OF THE AGENDA

MSC99 was held at the IMO Headquarters from 16 to 25 May 2018, chaired by Mr. Brad Groves (Australia).

The Secretary-General welcomed participants and delivered his opening address, the full text of which can be downloaded from the IMO website at the following link:

<http://www.imo.org/en/MediaCentre/SecretaryGeneral/Secretary-GeneralsSpeechesToMeetings/Pages/MSC-99-opening.aspx>

MSC98 adopted the Agenda (MSC99/1/Rev.1)

2. DECISIONS OF OTHER IMO BODIES

The Committee noted the outcomes of Council, Marine Environmental Protection Committee, Technical Cooperation Committee and Council Extraordinary and agreed to take appropriate action under the relevant agenda items.

3. CONSIDERATION AND ADOPTION OF AMENDMENTS TO MANDATORY INSTRUMENTS

This was a large agenda item that considered a range of amendments to IMO conventions and codes affecting international shipping. There was nothing that affects World Sailing from this session.

4. MEASURES TO ENHANCE MARITIME SECURITY

Nothing was submitted under this agenda item to concern World Sailing.

5. REGULATORY SCOPING EXERCISE FOR THE USE OF MARITIME AUTONOMOUS SURFACE SHIPS (MASS)

A considerable number of documents were submitted for consideration under this agenda item. After in-depth consideration, MSC99 recognized that all documents submitted under this agenda item provided relevant information and that there were a number of aspects that would benefit from further consideration by a working group. Subsequently, MSC99 established a Working Group on MASS and instructed it to:

- develop a framework for the regulatory scoping exercise, including aims, objectives, methodology, instruments, type and size of ships, provisional definitions and different types and concepts of autonomy, automation, operation and manning to be considered;
- develop a plan of work for the regulatory scoping exercise, including timelines, deliverables and priorities, involvement of other committees and intersessional arrangements;
- consider the need to establish a mechanism for sharing information and lessons learned and liaison with other international organizations to share up-to-date information on MASS, and advise, as appropriate; and
- consider the need for a correspondence group and develop draft terms of reference, as appropriate.

MSC99 also established a Correspondence Group on MASS, under the coordination of Finland and authorized it to commence its work as soon as possible and submit a report to MSC 100.

6. GOAL-BASED NEW SHIP CONSTRUCTION STANDARDS

This item again dealt with Goal Based Standard verification audits within class and is of no interest to World Sailing.

7. SAFETY MEASURES FOR NON-SOLAS SHIPS OPERATING IN POLAR WATERS

MSC99 noted that MSC 98 has agreed to:

- change the title of this output to "Safety measures for non-SOLAS ships operating in polar waters"; and
- the item to the provisional agenda of MSC99, with a view to taking a policy decision regarding the scope of application of the second phase of work on the Polar Code, its mandatory or recommendatory status and types of vessels to be addressed.

Again MSC99 considered a number of documents and noted the following views:

- accidents involving non-SOLAS ships operating in polar waters, particularly in the Antarctic area, had continued to pose a significant risk to the safety of lives at sea and a threat to the marine environment and urgent action needed to be taken now rather than waiting for experience to be gained with the implementation of the Polar Code;
- taking into account all the IMO instruments that could be considered for application to non-SOLAS ships which were mandatory, recommendatory or not yet in force, a combined and/or staged approach could be taken when developing the legal framework for addressing the safety of non-SOLAS ships operating in polar waters;
- IMO safety-related instruments had been developed for application to SOLAS ships and, therefore, any safety measures for non-SOLAS ships must be both proportionate and feasible to implement;
- extending the Polar Code to non-SOLAS ships might be a very complex undertaking and, therefore, ratifying the Cape Town agreement would significantly improve the safety of fishing vessels; and
- the operational differences and challenges encountered in Arctic waters and the Antarctic area needed to be thoroughly considered when developing both the legal framework and the safety measures.

At this point World sailing submitted an intervention to the Plenary Session of MSC99. (See Appendix 1.)

MSC99 established a Working Group on Safety Measures for Non-SOLAS Ships Operating in Polar Waters and instructed it to:

- consider the scope of application (i.e. Arctic waters and/or Antarctic area) of the further work on safety measures for non-SOLAS ships operating in polar waters;
- consider the types of ships (e.g. fishing vessels and yachts) to be addressed;
- consider the mandatory and/or recommendatory status of any safety measures; and
- prepare a road map that identified priorities, time frames and responsibilities for the work to be accomplished, for consideration by MSC.

Following discussion on the Working Group report it was agreed to:

- Include the output on "Safety measures for non-SOLAS ships operating in polar waters" in the biennial agenda of the Ship Design and Construction (SDC) Sub-Committee and the provisional agenda for SDC 6;
- instruct SDC 6 to develop recommendatory safety measures for the following types of ships operating in polar waters:
 - o fishing vessels of 24 m in length and over, with a view to alignment with the 2012 Cape Town Agreement; and
 - o pleasure yachts above 300 gross tonnage not engaged in trade;
- and
- invite interested Member States and international organizations to submit concrete proposals to SDC 6.

MSC 99 also agreed to establish a working group at MSC 100 to further consider outstanding issues; provide clear instructions to the NCSR Sub-Committee; and further consider the road map prepared by the group; and invited Member States and international organizations to submit proposals addressing the aforementioned issues to MSC 100.

8. CARRIAGE OF CARGOES AND CONTAINERS

This item dealt with regulatory amendments and issues that are of no interest to World Sailing.

9. IMPLEMENTATION OF IMO INSTRUMENTS

The following issues are worth noting under this wide ranging agenda item:

- (a) Piracy, armed robbery against ships and other security-related issues

MSC 99 encouraged the implementation of the Best Management Practices for Protection against Somalia Based Piracy (MSC.1/Circ.1339, annex 2) on fishing vessels and, in particular, its Annex F on Additional Guidance for Vessels Engaged in Fishing.

- (b) Marking of fishing gear

MSC 99 noted that MEPC 72 had encouraged the proper marking of fishing gear, emphasizing that the discarding of fishing gear at sea was in contravention of the relevant requirements of MARPOL Annex V and the London Convention and its Protocol. In this connection, the Committee also noted that MEPC 72 had approved a new output on "Development of an action plan to address marine plastic litter from ships".

- (c) Navigational hazards caused by marine litter

MSC 99 invited interested delegations to consider submitting a relevant proposal for a new output, in consideration of navigational hazards caused by marine litter, including abandoned, lost or otherwise discarded fishing gear, e.g. abandoned, lost or discarded fish aggregating devices (FADs).

10. SHIP DESIGN AND CONSTRUCTION

There was nothing of interest for World Sailing in this agenda item.

11. POLLUTION PREVENTION AND RESPONSE

There was nothing of interest for World Sailing in this agenda item.

12. NAVIGATION, COMMUNICATIONS AND SEARCH AND RESCUE (NCSR)

See my report from NCSR 5 19-23 Feb 2018

13. SHIP SYSTEMS AND EQUIPMENT

There were no items of interest for World Sailing in this agenda item.

14. IMPLEMENTATION OF THE STCW CONVENTION

This agenda item concerned the implementation of the provisions of the STCW convention and raised no matters of concern of interest for World Sailing.

15. CAPACITY-BUILDING FOR THE IMPLEMENTATION OF NEW MEASURES

This item examines the capacity of the organisation to deal with amendments to mandatory instruments and new outputs related to them; no issues were discussed that are of concern to World Sailing.

16. FORMAL SAFETY ASSESSMENT

There were no items of interest for World Sailing in this agenda item.

17. PIRACY AND ARMED ROBBERY AGAINST SHIPS

MSC 99 considered a report prepared by IMO (MSC 99/17 Secretariat) that reported on developments on piracy and armed robbery against ships since MSC 98, including piracy and armed robbery statistics and regional developments. The report highlighted that 203 incidents of piracy and armed robbery against ships worldwide had been received by the IMO in 2017, the lowest for over 20 years. This confirmed the current downward year-on-year trend, with a reduction of about 8% at global level.

The report also noted that:

- In the waters off the coast of Somalia in 2017 a total of six incidents had been reported (two hijacked, one boarded, and three attempted boarding). As at May 2018 there had been two reported incidents of attempted piracy (Leopard Sun on 22 February 2018 and Kriti Spirit on 31 March 2018), MSC 99 noted that Somalia-based piracy had been suppressed, but not eradicated;
- In the Gulf of Guinea, as at 30 April 2018, 37 incidents of piracy and armed robbery against ships had been reported, some resulting in the hijacking of ships and holding of crew members for ransom. In late March 2018, several attacks on large fishing vessels had taken place in waters off Equatorial Guinea, Ghana and Nigeria, involving the use of captured vessels as temporary mother ships to conduct attacks on other fishing vessels and merchant ships, as well as the abduction of crew members. On a more positive note, MSC99 noted that naval forces in the region were showing an increased appetite and capability to intervene in such incidents;

Regrettably, the threat to recreational craft is still assessed as high because crew are deemed to be high value targets and as mentioned about piracy has been suppressed but not eradicated. The root causes of refugee displacement and the structural causes for the unsafe migration meant that, despite the risks, refugees and migrants would continue to turn to smugglers and dangerous journeys by sea and land if they did not see better options on the horizon.

18. UNSAFE MIXED MIGRATION BY SEA

This is an issue of great concern to IMO delegations. Refugees and migrants continued to take to the sea not only in the Central Mediterranean towards Italy but also along sea routes leading to Greece, Spain, the Bab el-Mandeb Strait, the Andaman Sea and elsewhere. The root causes of refugee displacement and the structural causes for the unsafe migration

meant that, despite the risks, refugees and migrants would continue to turn to smugglers and dangerous journeys by sea and land if they did not see better options on the horizon. SAR operations for boats with migrants in 2017 had increased by 150% compared to 2016 in the West Mediterranean, while the number of deaths in the same period had increased by 206%. Regrettable as the situation is, World Sailing can only note the situation.

19. APPLICATION OF THE COMMITTEE'S PROCEDURES ON ORGANIZATION AND METHOD OF WORK

This agenda item concerned the IMO strategic plan for the six-year period from 2018 to 2023

20. WORK PROGRAMME

The only item of marginal interest under this agenda item was a proposal from Israel and Poland for a new output on development of performance standards for a Navigation Decision Support System for Collision Avoidance in order to achieve effective and harmonized means of support for the master or officer of the watch in optimizing the course of action in situations of danger of collision, in compliance with COLREG 1972. However, MSC99 did not accept, at this stage, the proposed new output and invited the co-sponsors to submit a revised proposal with more information to a future session, taking into account the outcome of the discussion at this session. This effectively kicks it into touch!

21. ANY OTHER BUSINESS

Nothing of interest for World Sailing was raised under this agenda item.

22. ACTION REQUESTED OF OTHER IMO ORGANS

Nothing in this agenda item is of concern to World Sailing.

APPENDIX 1

World Sailing intervention under item 7:

“ Delegates will recall that the overwhelming majority of the yachtsmen and yachtswomen that World Sailing represents sail boats that fall outside the scope of the International Maritime Organisation’s internationally agreed legal frameworks.

Sir, World Sailing is committed to the safety of yachting wherever it takes place. It publishes Offshore Special Regulations to establish minimum structural, stability, equipment and training standards for monohull and multihull yachts that take part in offshore and transoceanic sailing.

A considerable part of Offshore Special Regulations is devoted radio communication, navigation and safety equipment dependant on area of operation including those where air and sea temperatures fall below 5C and yachts are expected to be completely self-sufficient for long periods, capable of withstanding heavy storms and prepared to meet serious emergencies without the expectation of outside assistance.

World Sailing is aware that the Organisation has made a commitment in the past to address non-SOLAS vessels in the second phase of the Polar Code however, we can find no clear indications of any explicit agreement to Phase II being made mandatory. Furthermore, the fact remains that the legal framework is lacking to allow for the mandatory application of the Polar Code to non-SOLAS vessels.

In addition, World Sailing is aware from a number of papers that have been submitted to the Organisation from time to time that the number of incidents involving yachts is low and that many of those cited may not have been either prevented or mitigated by the Polar Code. Furthermore some carriage requirements are not feasible on yachts.

We note document MSC 99/7 submitted by Norway proposes a pragmatic approach which merits exploration, however, World Sailing strongly believes that the most sensible way forward is by way of guidelines which provide an equivalent level of safety.

Thank you Sir”