



MARITIME SAFETY COMMITTEE
87th session
Agenda item 5

MSC 87/5/4
9 February 2010
Original: ENGLISH

GOAL-BASED NEW SHIP CONSTRUCTION STANDARDS

Guidelines for Ship Construction File implementation

A cross industry model for SCF implementation

Submitted by CESA, ICS, INTERCARGO, INTERTANKO, BIMCO, OCIMF and IACS

SUMMARY

Executive summary: This document describes a cross industry model in relation to the implementation of the Ship Construction File (SCF) with the purpose of balancing the legitimate goals of improving design transparency and safeguard intellectual property protection.

Strategic direction: 10

High-level action: 10.1

Planned output: 10.0.1.2

Action to be taken: Paragraph 24

Related documents: MSC 87/3, MSC 87/5/1, MSC 86/WP.5, MSC 86/5, MSC 86/5/7, MSC 86/INF.10 and MSC 87/5/5

Introduction and background

1 Acknowledging the importance of achieving the right balance between design transparency and protection of intellectual property (IP), at MSC 86 the Committee instructed the GBS Working Group to take into account documents MSC 86/5/7 and MSC 86/INF.10 when considering the draft MSC circular on Guidelines for the information to be included in a Ship Construction File (SCF) (the draft SCF Guidelines).

2 The GBS Working Group noted that, coordinated by CESA, a cross industry group (shipbuilders from Europe, the United States, Japan, the Republic of Korea and China, ICS, INTERCARGO, INTERTANKO, BIMCO, OCIMF and IACS) was working on amendments to the draft SCF Guidelines concerning the inclusion of IP protection precautions and amendments to the list of information to be included in the SCF. The Working Group has agreed that, when the outcome of the considerations of the cross industry group would be available, the draft SCF Guidelines and Guidelines for verification of conformity with the international goal-based ship construction standards (Verification Guidelines) should be finalized at MSC 87 (MSC 87/5/1, paragraph 2).

3 Meanwhile, the cross industry group has further developed the general concept described in document MSC 86/INF.10 and proposed accordingly amendments to the draft SCF Guidelines, its annexed content list and part B – Section III.10 of the Verification Guidelines, and SOLAS amendments approved at MSC 86 (MSC 87/5/5 and MSC 87/3/5).

4 This document outlines the basic framework of the “SCF onboard – SCF Supplement ashore” model and the principal approach for the SCF industry standard to be developed (hereinafter, the industry standard).

The “SCF onboard – SCF Supplement ashore” model

5 Under this model there would be two sets of documents, i.e. the “SCF” and the “SCF Supplement”. The SCF composed of “SCF onboard” and “SCF Supplement ashore”, both of which are related to safe operation, shall be covered by the draft SCF Guidelines.

6 The SCF is mandatory and includes all documents that are sufficient to demonstrate that the ship meets the GBS functional requirements and provide structural and safety information for safe operation and for emergency situations. It should stay with the ship throughout its lifetime. Full or a part copy of SCF onboard may be kept at the owner’s office ashore subject to the IP control procedures provided by the industry standards. For the highly IP sensitive information which is covered by the draft SCF Guidelines but not absolutely necessary and relevant to be on board at all times, its full content may be kept as SCF Supplement at dedicated storage ashore while its reference and access procedure would be an integral part of the SCF onboard.

7 Other structure-related information that is not required by the SOLAS and MARPOL Conventions may also be kept at such dedicated storage ashore (this part of the information could be agreed upon between the shipbuilder and the owner on a case by case basis).

8 The storage of the “SCF Supplement ashore” and the full copy of the “SCF onboard” should be at an ashore location, ideally stored by a dedicated archive centre which is to be set up and operated by the industry in accordance with international archive system standards (e.g., ISO 15489 Information and documentation – Records management; ISO 19005 Document management – Electronic document file format for long-term preservation).

9 The functional requirements of such dedicated archive centre would be:

- .1 able to provide life-time services;
- .2 neutral among IP holders;
- .3 internationalized;
- .4 excellent in security control;
- .5 capable of early backup and recovery;
- .6 able to provide quality and cost-efficient services; and
- .7 open 24 hours and 365 days.

There could be more than one archive centre operating in various places individually, subject to common standards.

10 In terms of financing, in principle, initial costs related to registration and storage of original SCF at an archive centre would be paid by shipbuilders upon deliveries; running costs related to SCF inquiries and updates would be paid by owners.

11 A dedicated archive centre presents advantages such as:

- .1 long-term data storage can be guaranteed (safeguard against data loss due to corporate default);
- .2 in case the SCF onboard is damaged, destroyed or lost and no copy is kept ashore by the owner, the archive centre can provide a replacement; and
- .3 for the highly IP sensitive information which is not absolutely necessary and relevant to be on board or at the owner's office ashore at all times, an ashore archive centre can provide better IP protection than leaving it on board.

12 Important features related to such an ashore dedicated archive centre are:

- .1 information regarding the location and access procedure to the archive centre and the summary are provided in the SCF onboard, and the copy of such information is provided to the owner's office ashore;
- .2 upon the first call of request, the archive centre shall deliver the requested information to authorized parties within a defined schedule based on the industry standard;
- .3 access to the specific information in the archive centre is subject to general confidentiality terms (with exceptions for required disclosure pursuant to legal proceedings or under an applicable law or order) and registration;
- .4 the information in the archive centre has clear indication of its IP holders (which could be shipbuilders, suppliers, design offices, ship owners etc);
- .5 in the case of changing ship owners, notification and verification procedures are needed for the new access; and
- .6 owner(s) of the vessel shall keep the SCF onboard, its part or full copies at the owner's office ashore and SCF Supplement ashore updated.

13 In terms of accessibility of relevant parties to the "SCF onboard, its part or full copies ashore" and "SCF Supplement ashore", the industry partners propose that:

- .1 respective flag States or the recognized organization (RO) empowered to act on their behalf shall have unconditional* access; and
- .2 in the case of accident investigation and other legal proceedings, the relevant authorities shall have unconditional access.

* Unconditional: means that IP owners/holders of the information in the "SCF onboard and its copies ashore" and "SCF Supplement ashore" package may neither withhold the information nor charge fees based on IP rights. Such unconditional access shall follow the IP protection procedures provided by the industry standard to be developed.

14 Shipowners shall have unconditional access where the information is used to ensure safe ship operations:

- .1 For purposes other than ensuring “safe ship operations”, the accessibility and any condition for access shall be agreed upon between the IP owner/holder and the requesting party.
- .2 In the case when IP owners/holders cease trading or renounce their property rights, the archive system would remain the keeper of the “Full copy of SCF onboard and SCF Supplement ashore” so that the requesting parties could have free access to the information subject to relevant procedures to be defined by the industry standard.

15 When transferring ownership of the vessel, the original archive location shall not be changed unless jointly agreed by all IP holders and the vessel owners.

16 The industry partners believe that this “SCF onboard – SCF Supplement ashore” solution serves optimally both the SOLAS requirements and the IP protection principles. In addition, it can also improve the current data management system in the maritime sector and make the information available irrespective of whether the original information provider and/or holder are still in business.

Proposals of the industry partners

17 As a conclusion, the industry partners propose that the draft SCF Guidelines should be amended to reflect the right balance between design transparency and IP protection. Part B – Section III.10 of the Verification Guidelines, where a general IP clause has been agreed to be inserted, and SOLAS amendments approved at MSC 86 should be amended accordingly.

18 The content of the SCF shall be defined in line with the “SCF onboard – SCF Supplement ashore” solution and based on the mutual consensus of the industry partners. It will be explained in the industry standard by means of models and examples to avoid ambiguity.

19 The access procedures of the SCF onboard and its copies ashore should also be defined in detail by the industry standard.

20 The information other than “SCF Supplement ashore” in terms of paragraph 7 is beyond the SOLAS requirements. The access procedures of the subject information should be defined by the industry standard to be developed in line with the above described principles.

21 In addition to the accessibility explained above, with regard to the access procedures to the SCF onboard and SCF Supplement ashore, the industry partners suggest following the approach below for the industry standard to be developed:

- .1 first, the industry partners define the level of IP sensitivity of the information covered by the SCF Guidelines for example, minimum, low, medium and high levels;
- .2 second, the industry partners define the access means for different IP sensitivity levels. For instance:
 - .2.1 for minimum IP sensitive information, access is permitted to party/person without particular registration provided that he is recognized by the owner of the vessel;

- .2.2 for low IP sensitive information, only access registration is required (e.g., access date, requesting party/person);
- .2.3 for medium IP sensitive information, in addition to access registration the party who requests for access should indicate the exact purpose of use and sign for the standard confidentiality terms and conditions which are to be developed within the industry standard; and
- .2.4 for highly IP sensitive information, which is an integral part of SCF but not absolutely necessary to be retained onboard at all times, the full content may be stored as SCF Supplement at archive centre ashore. The requesting party can find the summary, the location of and access procedure for the archive information in the SCF onboard and at the owner's office ashore. In addition to access registration, statement of purpose, the requesting party should accept the standard confidentiality terms and conditions to be developed within the industry standard and apply to onshore archive centre following standardized procedures. Ashore archive centre investigates validity of the application and forwards it to IP holder(s) with his view. IP holder(s) shall make approval decisions. If IP holder(s) disapprove the request, reasons shall be provided. Ashore archive centre responds to the requesting party with "necessary and sufficient" information and password, or "disqualification notice" with reasons within a prescribed deadline.

22 In principle, the applicable IP control measures should be:

- .1 strict enough for ensured IP protection;
- .2 simple enough for smooth access;
- .3 robust enough for onboard utilization;
- .4 durable enough for lifetime service;
- .5 compatible enough for existing systems; and
- .6 economical enough for the industry.

23 SCF Supplement to be stored at an ashore archive centre, which is not absolutely necessary and relevant to be on board at all times, might be as follows in the case of conventional bulk carriers and oil tankers:

- .1 procedures for and intermediate bulky outputs of strength calculation;
- .2 lines plan drawing which is exclusively dedicated to define entire hull form; and
- .3 yard plans of ship hull.

Action requested of the Committee

24 The Committee is invited to take the cross industry model for SCF implementation into consideration and take actions as appropriate.