

MARITIME SAFETY COMMITTEE
95th session
Agenda item 21

MSC 95/INF.8
31 March 2015
ENGLISH ONLY

ANY OTHER BUSINESS

Information on the work within the European Union on operational guidelines for places of refuge following recent incidents

Submitted by Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, the Netherlands, Poland, Portugal, Romania, Slovakia, Slovenia, Spain, Sweden, the United Kingdom, the European Commission (EC), International Chamber of Shipping (ICS), International Union of Marine Insurance (IUMI), BIMCO, the International Salvage Union (ISU), International Association of Independent Tanker Owners (INTERTANKO), and International Group of Protection and Indemnity Associations (P&I Clubs)

SUMMARY

<i>Executive summary:</i>	This document reports on the work carried out by the authorities within the European Union (EU), together with the relevant industry associations, to develop a set of operational guidelines for places of refuge. The operational guidelines build on the experience gained in the EU with such incidents, in particular the incident of the MSC Flaminia . The emphasis is placed on enhanced cooperation and information-sharing among all parties concerned. A schematic outline of the main operational phases, actions and allocation of roles of the parties concerned, as envisaged in the draft operational guidelines currently under development, can be found in the annex to this document.
<i>Strategic direction:</i>	7.2
<i>High-level action:</i>	7.2.1
<i>Planned output:</i>	No related output
<i>Action to be taken:</i>	Paragraph 15
<i>Related documents:</i>	Resolution A.949(23); LEG 101/11/4; MSC 94/20/1 and CCC 1/INF.2

Introduction

1 This document provides information on the work of the authorities within the European Union (EU) together with the relevant industry to develop a set of operational guidelines building on Member States' experiences in handling cases of ships in need of assistance requesting a place of refuge, in line with the *Guidelines on places of refuge for ships in need of assistance* (Resolution A.949(23)).

Background

2 Following recent maritime incidents involving ships in distress in waters outside the jurisdiction of any one State, notably the **MSC Flaminia**, the Member States of the European Union, together with the European Commission and the European Maritime Safety Agency (EMSA), set out to review the framework for cooperation and coordination among national authorities, as well as with other parties involved in such cases, aiming to improve the existing arrangements. Experience gained based on the agreements in the Bonn Agreement and HELCOM was also taken into account.

3 The development of operational guidelines has been carried out in a spirit of enhanced cooperation and coordination among all parties involved, for the purposes of providing places of refuge, in the interest of the protection of human life, maritime safety, security and the environment.

4 A number of casualty investigation reports, including the one following the **MSC Flaminia** incident, have noted some shortcomings in the operational aspects pertaining to similar situations; i.e. in waters outside the jurisdiction of any one State. At the same time, the legislative framework in the EU includes requirements for national plans for the accommodation of ships in need of assistance with a specific reference to "procedures for international coordination and decision-making" and the attainment of the objective to cooperate in drawing up, if and where appropriate, concerted plans to accommodate ships in need of assistance.

5 This has led to the establishment of an expert group (the "Cooperation Group on Places of Refuge"), as also required under European legislation, comprising all authorities in the EU. The Cooperation Group has, since its first meeting in 2013, met three times to exchange expertise and discuss improvement measures. One such improvement measure has been a table top exercise, simulating a situation like the **MSC Flaminia**. The evaluation of that exercise led, as a follow-up, to another initiative: the development of a set of operational guidelines.

6 Many situations leading to a request for a place of refuge involve only one State and will be handled by the same State, within its jurisdiction. There may however be situations where the "purely" national situation may turn into a situation involving neighbouring States or States in the vicinity of the incident. Even if one State may not, after due assessment, be in a position to offer a place of refuge, the handling of the assessment process should continue in cooperation with the other State(s), who may be in a better position to offer accommodation. The operational guidelines therefore address the questions of where to find and, practically, how to liaise with authorities likely to get involved, in order to ensure that information on the vessel, the incident and any potential hazard arising from the incident to the other State(s) is made available as soon as possible. In such cases the unimpeded and easy flow of information is of essence and in itself enables a quicker decision-making process.

7 All coastal States in the EU have developed the "Union Maritime Information and Exchange System (SafeSeaNet)", hosted by EMSA, which supports authorities in their operational work by exchanging and sharing relevant information to enable monitoring of ships and hazardous cargo, and intervention in the event of incidents and accidents at sea.

8 Many times when dealing with a ship in need of assistance, having, verifying or finding the pertinent information is key in making an assessment and in taking a decision, as necessary. The operational guidelines draw upon making use of the information and exchange system that is already available and in use in the EU.

9 Building on this framework, the operational guidelines set out the roles of different actors, and provide practical guidance for the competent authorities and the main parties involved in managing a request for a place of refuge from a ship in need of assistance. These complement mandatory national plans apply in particular to situations where it is likely that more than one State may become involved, or where an incident occurs on the high seas or outside of the jurisdiction of any one EU Member State.

10 The operational guidelines, although non-mandatory in nature, are intended to support the more uniform application of the underlying EU legal provisions. They are drafted with a real operational situation of a vessel in need of assistance in mind. They aim at a robust operational process leading to well-advised and, where possible, quicker decision-making. At the same time they should contribute to promoting positive attitudes – within Governments, authorities and industry. As a matter of principle, each State involved in the operation should examine the ability to provide a place of refuge. In principle, and unless deemed unsafe, there should be "no rejection without inspection".

11 The shipping industry has provided essential input on different aspects of the operational response to incidents involving ships in need of assistance. The role of the shipowner, the master, the salvor, the insurer, the port, the terminal operator, the cargo owner – to name the main parties involved – are all taken into account in this new, collaborative approach to dealing with ships in need of assistance.

Current status

12 Currently the operational guidelines are being finalized, following discussions and input from both competent authorities and industry. There is also ongoing work in making the operational guidelines more user-friendly by the development of hyperlinked flowcharts. A schematic outline of the main operational phases, actions and allocation of roles of the parties concerned, as envisaged, can be found in the annex to this document.

13 The group is also exploring a further table top exercise to "test" the operational guidelines, assess outcomes and fine-tune, as necessary. This is planned to take place in the course of 2015.

14 The intent of the co-sponsors of this document is to share the operational guidelines, once fine-tuned, for information with IMO, in particular the Maritime Safety Committee, the Marine Environment Protection Committee and the Legal Committee, as an input for keeping under review the *Guidelines on places of refuge for ships in need of assistance*, and amending them as appropriate.

Action requested of the Committee

15 The Committee is invited to take note of the information contained in this document and in the annex.

ANNEX

PORT OF REFUGE OPERATIONAL GUIDELINES – FLOW CHART
(QUICK REFERENCE)





