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# Places of Refuge for Ships in Need of Assistance

## Guidelines and Procedures

a Report  
prepared under the Project

### Euromed Cooperation on Maritime Safety and Prevention of Pollution from Ships **SAFEMED**

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by

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## Introduction

1. In January 2001, when inaugurating the IMO's sub-committee meeting (FP 45), the then IMO Secretary General stated that the time had come for IMO to discuss the issue of places of refuge for ships in distress<sup>1</sup>. A long and thorough discussion of various aspects ensued at different IMO Committees and Sub-Committees, in particular the MSC, MEPC, LEG and NAV, which eventually led to the adoption, on 5 December 2003, of two IMO Assembly resolutions:

- Resolution A.949(23) on Guidelines on Places of Refuge for Ships in Need of Assistance; and
- Resolution A.950(23) on Maritime Assistance Services.

2. These two Assembly Resolutions should be seen as complementary of each other, as they address different aspects of the issue of places of refuge for ships in need of assistance, viz. the actions required of Masters and/or Salvors of the ship in need of assistance as well as the actions expected of a coastal State on the one hand and the communication and decision making aspects on the other hand.

3. In parallel to this IMO initiative, the Commission of the European Communities published on 23 November 2005 the Proposal for a Directive of the European Parliament and of the Council, amending Directive 2002/59/EC establishing a Community vessel traffic monitoring and information system, (COM (2005)589 final), later on referred to as "Proposal".

4. In the proposal, the existing Directive Art. 20 is replaced by a new Art. 20 that, inter alia, requests EU Member States to designate an "independent competent authority" which should decide on a request for granting access to a place of refuge.

5. The proposal leaves it open, whether the "independent competent authority" is the same as the 'maritime assistance service' proposed by the IMO resolution (A.950(23)). Since the proposal chooses a different title, it is reasonable to assume, that the two authorities are not the same.

6. Indeed, these guidelines propose, that the functions of the Maritime Assistance Service (MAS) should be separate from those of the independent competent authority, being the body making the decision on whether to grant or refuse the request for access to a place of refuge.

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<sup>1</sup> IMO Document FP 45/16, paragraph 1.3

7. Place of refuge is a relatively new term, which has not been used previously in IMO resolutions or the United Nations Convention on the Law of the Sea. The term may include, but is not confined to, ports and may also mean a place of shelter near the coast, an inlet, a cove, a fjord or a bay or any part of the coast.

8. The Guidelines suggest that a coastal State applying these guidelines should enact national legislation which clearly mandates an existing or newly created body to have powers to decide upon a request for access to a place of refuge. Such a body could be the National Maritime Administration or the National Administration for Ports and Harbours or the Admiral of the Fleet (the Coastguard) or another governmental body. It is important that legislation be clear and precise on who can take the decision, and in what manner. Decisions on a request for access to a place of refuge often have to be taken in the heat of the moment. It is therefore recommended to nominate an official (or a post) who will, after the necessary consultation process has been duly completed, take the final decision on whether to grant or refuse access to a place of refuge. Experience in other Nation States has shown, that this official should preferably not be a politician, but rather a civil servant who has been appointed with the final decision-making authority in such cases.

# Chapter 1

## Guidelines on establishing a Maritime Assistance Service (MAS) and Definition of its Role and Functions



## **1.1 The role and functions of a Maritime Assistance Service (MAS)**

### **1.1.1 Communication**

1. The main function of the MAS is to provide communication facilities for ships, that might be in need of assistance in an emergency situation other than those defined in the SAR Convention. However, should the emergency situation develop dramatically into an emergency as defined in the SAR Convention, then the national or regional Maritime Rescue Co-ordination Centre (MRCC) takes over communication and management of the search and rescue operations. In such a situation, the MAS should continue to monitor the developments, so as to assess if the need for a place of refuge arises or if other measures, e.g. counter pollution activities are required. Once the SAR functions are completed, communication reverts back to the MAS.

2. It is possible that a passing ship or a ship visiting for the first time the EEZ or the national waters of the coastal State, may be unfamiliar with the reporting requirements and may have directed its request to another government department or agency. In such cases, the department or agency contacted should immediately advise the MAS of the request for a place of refuge. The MAS should then contact the casualty, identify itself and advise the Master of the vessel that all further communication with respect to the request for granting access to a place of refuge, will be handled by the MAS.

### **1.1.2 Decision making**

3. The MAS does not need to be the decision making body, should a vessel submit a request for access to a place of refuge in national waters. In this case, the MAS must have clear contingency plans on whom to contact, in case a request for access to a place of refuge has been made.

4. If consistent with national or regional laws, it is desirable to designate the MAS to be the designated decision maker ("independent competent authority" as per the revised Art 20 of the EU proposal) on granting or refusing access to a place of refuge in national waters.

5. Current designated decision makers, i.e. the SOSREP in the United Kingdom or the MERCOM in Australia seem to have communication functions or facilities at their disposal in the form of the national MRCC, whereas the Head, *Havariekommando* in Germany is also supervising the German Marine Incident Reporting Centre and has thus direct access to communication reports received independently from the German MRCC.

6. These guidelines, however, assume that the two functions: communication and decision making; are kept separate and that the communication section of the MAS reports to the decision making body.

### **1.1.3 Designated Reporting Point for reports to be made under existing IMO instruments.**

7. It is desirable that the MAS is also designated as the reporting point for mandatory reports that have to be made by the Master of a ship under various existing IMO instruments<sup>2</sup> in cases of discharge of substances into the sea. Such incidents may develop from minor discharges into serious safety or pollution threats and a trained communication officer could assess such reports to alert the competent national or regional authorities and make them aware of a potentially serious situation developing at sea or off the coast.

## **1.2 Operational Modus**

8. The MAS needs to operate on a 24 hours, 7 days a week, 365 days a year basis. In most cases it will be attached to an existing MRCC, which already operates under this system, but it could likewise be attached to another, existing emergency reporting centre, i.e. Coast Guard, pilotage centre etc. It is, however, possible that the national or regional maritime infrastructure is such that it would seem indicated to establish an entirely separate and independent organisation.

9. In all these operational models, it should be borne in mind that the role and functions of the MAS is very different from the centre to which it may be attached. For example, an MRCC deals with emergency situations where people are in urgent need of life-saving assistance. The MRCC officer is therefore trained inter alia, in selecting the appropriate rescue means based on technical capacity of the rescue services or geographical position of the stricken vessel vs. location of the rescue services. It is unlikely that such SAR officers

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<sup>2</sup> Resolution A.851(20): General principles for ship reporting systems and ship reporting requirements, including guidelines for reporting incidents involving dangerous goods, harmful substances and/or marine pollutants.

are likewise trained in assessing emergency situations other than SAR incidents.

10. Good communication is the key to enabling a proper assessment of the situation that is developing, or already has developed, at sea.

11. Therefore, communication officers, performing the role and function of the MAS should have participated in special training courses focussing on maritime emergency communications with ships in need of assistance other than SAR situations.

12. Based on an assessment of the traffic in the country's coastal and exclusive economic zone and in line with the suggestions in the IMO resolution A.950 (23), the MAS should have the capacity to communicate in English.

13. In order to centralize information dissemination, the MAS should have the monopoly on communications with the stricken vessel, as long as the situation has not developed into a SAR situation. If the MAS is not attached to the MRCC, then, as a matter of policy, the MAS should advise the MRCC of the potential of the distress situation developing into a SAR emergency.



## Chapter 2

Proposal

for a

System of Information Sharing

when deciding on a

Request for Access to Places of Refuge



## **2.1 Introduction**

1. This proposal assumes that the coastal State following these suggestions has nominated a national decision making body (e.g. the National Maritime Administration or a nominated Official) to take a decision on granting or refusing a request for access to a place of refuge, after a due consultation process has been completed. Throughout these guidelines, this national decision making body will be referred to as "Independent Competent Authority" (ICA).

2. This proposal also assumes that a Maritime Assistance Service (MAS) has been established in line with the IMO resolution A.950(23) and organised along the Guidelines that form part of this set of guidelines.

## **2.2 Stage 1**

3. The MAS receives a notification of a reportable incident as defined under the various IMO instruments as listed in resolution A.949(23) and the officer of the watch decides that this incident is serious enough to contact the "Independent Competent Authority" (ICA).

4. The MAS communication officer attempts to collect as much as possible of the information as listed in Appendix 2 (Initial information to be supplied with a request for granting access to a place of refuge) of the Guidelines on the decision making process for granting access to a place of refuge.

5. The MAS Officer of the watch, notifies the Independent Competent Authority (ICA) that a potential Place of Refuge situation is developing.

6. Based on the information collected by the MAS, the ICA decides if a formal consultation process is necessary at this stage.

7. The National Contingency Plan might be triggered, if deemed justified.

## **2.3 Stage 2**

8. The Master of the vessel in need of assistance or a person connected with the casualty, such as the Salvage Master or the Owners/ Managers contact the MAS with a formal request for a place of refuge.

9. If not already done under 4., the MAS communication officer attempts to collect the information as listed in Appendix 2 (Initial information to be supplied with a request for granting access to a place of refuge) of the Guidelines on the decision making process for granting access to a place of refuge.

10. Depending on the initial information received, the MAS alerts the ICA. The ICA in turn may decide to alert nominated liaison officers, who in turn may decide to alert their nominated expert advisers (deciding which advisers to call based on the initial information received from the MAS).

11. The ICA will immediately call a formal consultation meeting which could be attended by:

- The National Weather Service to supply data on wind and sea conditions in the vicinity of the casualty and to provide timely forecast on the weather in the near future.
- The agency qualified to carry-out an assessment of the drift of the casualty or the spilled substance.
- The National Emergency Management Authority
- The local authorities in the vicinity of the casualty as well as in the vicinity of a potential place of refuge
- Non-Governmental Organizations working in the vicinity of the casualty as well as in the vicinity of a potential place of refuge
- The National Coast Guard
- Fire services working in the vicinity of the casualty as well as in the vicinity of a potential place of refuge
- The National Disaster Combating Authority
- The Port Authority/ Corporation responsible for the potential place of refuge
- The Water Board responsible for the area around the potential place of refuge
- The Fisheries Management Authority
- The Environmental Protection Authority
- Chiefs of Staff of Navy, Army, Air force (in case exclusion zones or "no-go areas" have to be established around the casualty or the place of refuge)
- The National Aviation Authority (in case an exclusion zone has to be established)
- if deemed necessary: Customs, Immigration or National Security Adviser
- if deemed necessary: the local Police Force
- preferably by the Liaison Officers nominated by the various Government Departments/ Agencies/ Authorities, who have been consulted before

**Note:** This list is meant to be an example and not to be exhaustive. Coastal States applying these procedures should review their national administrative structure and identify those agencies or departments that would need to be involved in the alerting and advisory process.

The purpose of this meeting is to share all information available and to seek input from the relevant authorities involved.

12. The ICA will endeavour to contact the shipowners, probably through their Designated Person Ashore (DPA) and may find it also helpful to get in contact with the vessel's P&I Club or their local representatives. The ship owners and/or the P&I Club may have vital information available on the vessel's cargo, or the situation on board.

13. During this meeting it should be clear to all participants, that the Independent Competent Authority (ICA) is in charge of the decision making process for granting access to a place of refuge or denying access. All participants of the meeting are there to give advice and share their expertise, but not to vote.

14. The ICA briefs Ministers or Government on the situation.

15. The ICA might decide to investigate the situation through sending an assessment team or person out to the casualty to collect first hand information on the casualty.

16. The ICA considers report from assessment team, feeds this into the risk assessment process and decides on the request.

## **2.4 Scenario A: Request is considered feasible**

17. The ICA requests legal advisor to assess the need for an appropriate coverage of potential costs and compensation.

18. The ICA calls in advisors for a second briefing session, communicating his decision and his reasons, calling for comments or advice, as deemed necessary.

19. Decision is immediately communicated to the Master or the person who made the request. In line with defined procedures, the MAS and/or the ICA will also contact neighbouring States and communicate the decision.

20. The ICA briefs Ministers or Government on the situation and the reason for granting the request.

21. The ICA briefs the national and international news agencies and the press.
22. The casualty is constantly monitored, to be abreast of the development of the situation and the National Contingency Plan may be invoked.

or

## **2.5 Scenario B: Request is denied**

23. Decision is immediately communicated to the Master or the person who made the request. In line with defined procedures, the MAS and/or the ICA will also contact neighbouring States and communicate the decision.
24. The ICA briefs Ministers or Government on the situation and the reason for denial of request.
25. The ICA briefs the national and international news agencies and the press.
26. The casualty is constantly monitored, to be abreast of the development of the situation and the National Contingency Plan may be invoked.

## **2.6 Notes**

27. In order to receive clear and unbiased information, the ICA should very early on in the decision-making process decide to nominate a qualified expert, or a team of experts, who can go out to the vessel, to assess the situation first-hand and report back to the ICA.
28. It is very important to train the MAS officers in disaster communication with persons under considerable stress.
29. Good public relations (PR) work is important and this has to be included in training exercises.
30. Managing a disaster may not best be placed in the hands of environmental or fisheries officers, even though it is their "turf". Such a situation might better be handled by professionally trained disaster managers who can act based on expert advice and input from other departments.

31. The ICA must have a clear composition of decision makers versus the advisory persons (the expert advisers). In addition the ICA must have access to funds in an emergency case.

32. It is very important to have clearly defined international reporting and information sharing procedures, which might best be based on Memoranda of Understanding or regional Co-operation Agreements. Such MoUs will ensure that information is disseminated across national borders.

33. Coastal States, when applying these guidelines and procedures might consider sharing information on their respective national contingency plans, so as to better align their decision making process.

34. In the terms of reference, the MAS must have clear instructions and an obligation to monitor the development of the situation and the condition of the vessel and to prepare regular briefings for the ICA, if the situation remains unchanged or to prepare ad-hoc briefings, if the situation worsens or improves. Emergencies have to be plotted, emergency situation files have to be opened or can be closed after a situation has been resolved.

35. In their terms of reference, the MAS should have an obligation to document all activities, occurrences, decisions, communication etc. preferably in a log-book style. This may be helpful during de-briefing and analysing the situation; it may be used for an accident or event analysis; or it may be necessary for legal proceedings.

36. During all deliberations it is advisable that the ICA has a competent maritime legal advisor present, who can brief on all maritime legal issues, including limitation of liability and compensation issues.

## **2.7 Public Relations Officer**

37. The ICA should nominate a designated Public Relations Officer (PRO). The PRO, or the officer nominated, should have knowledge of maritime emergencies and the decision making process in cases of assessment of requests for places of refuge and the techniques of disseminating information to the public.

38. The authority of the PRO will be covered by organisational policies and procedures. The commercial distribution of news is highly competitive and therefore news releases must be impartial. Specifically, the PRO will perform the following duties:

- receive briefings from the Head of the MAS;
- receive briefings from the Independent Competent Authority on the process involved in deciding the specific request made;
- make proper and full use of existing news media such as press, radio, television and wire services to disseminate information;
- establish liaison with media sources early on in the decision making process in order to prevent the MAS from being flooded with requests for information as the decision making process progresses;
- keep well informed on the procedures and techniques being used in the assessment of requests for granting access to a place of refuge, how the casualty is progressing and in which stage the decision making process is at any particular time; and
- process and review for news-worthiness all photographs taken of MAS and ICA activities.

## **2.8 Press Releases**

39. The early release of information will frequently aid in preventing time-consuming requests from news media concerning the operation. In cases where extensive consultation processes have to be or are being conducted, the early release of information to the public may bring about a better support of the community with regard to the decision making process.

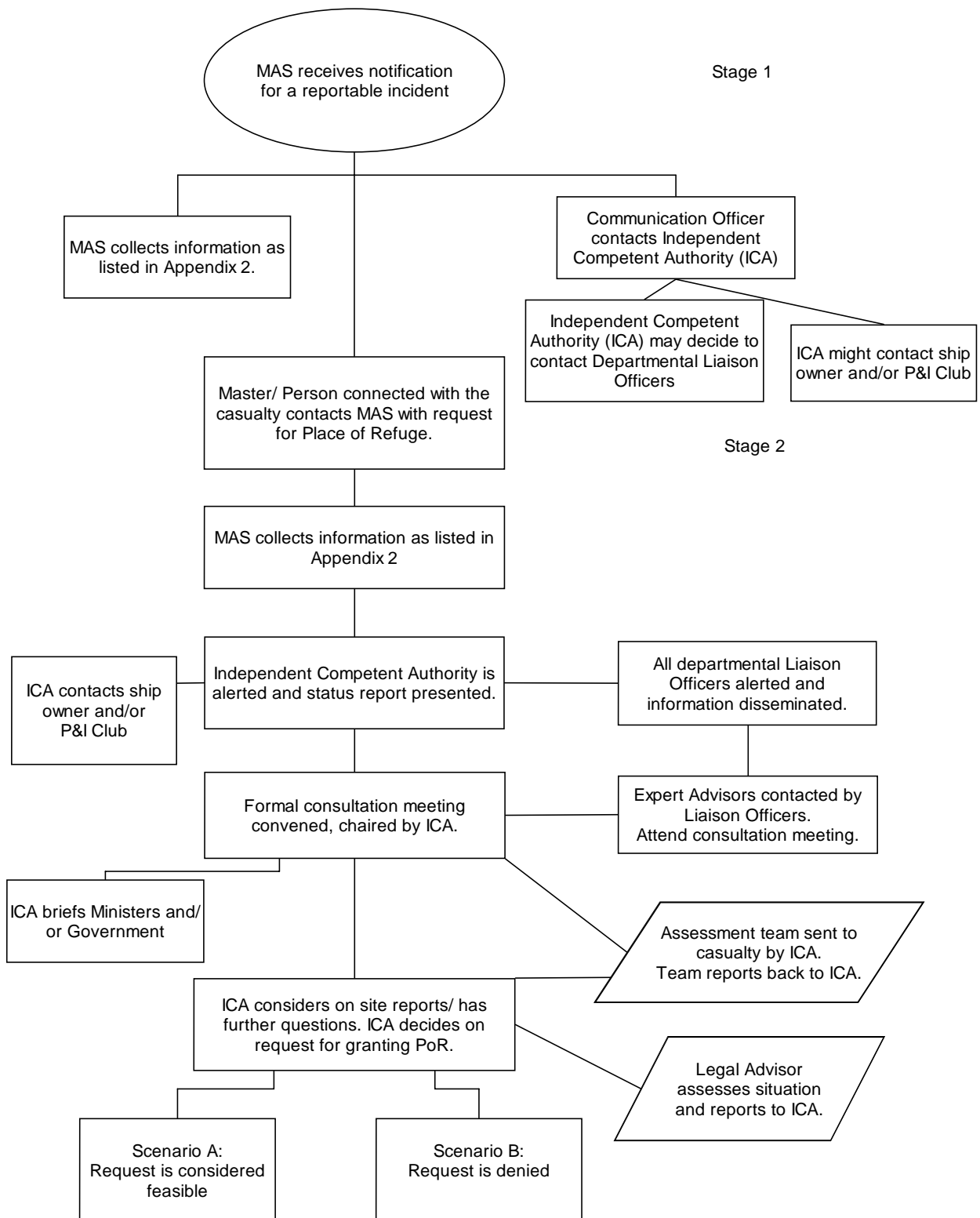
40. As a rule, individual MAS officers should not comment on behalf of the MAS or the Independent Competent Authority.

41. Media releases may include the following information:

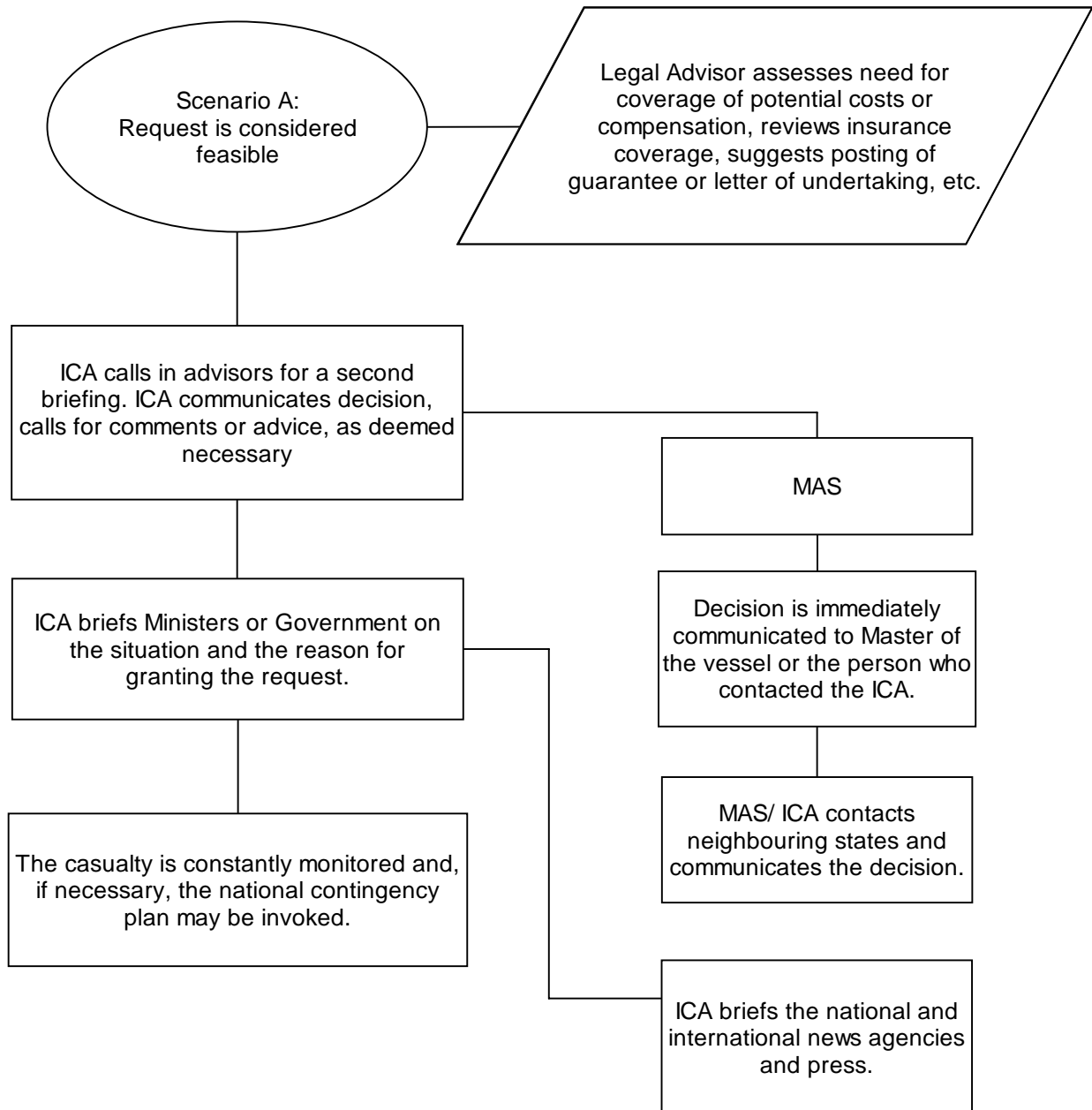
- a. type of ship involved, details of the vessel
- b. reason for the place of refuge request, e.g. collision, structural defect, fire, etc.
- c. owner of the vessel (subject to consent)
- d. number of missing persons
- e. area where the vessel is currently assessed or assisted
- f. details of the salvage and assistance operations in progress
- g. details of other authorities participating in the decision making process (if deemed advisable); and/or
- h. reinforce the positive aspects relating to safety and the assessment process

42. As the operation progresses, releases should be made periodically to keep the public updated on the progress that is being made. A final release should be made if and when the case is concluded. This release should summarise the activities conducted during the operation, giving full particulars on the efforts expended.

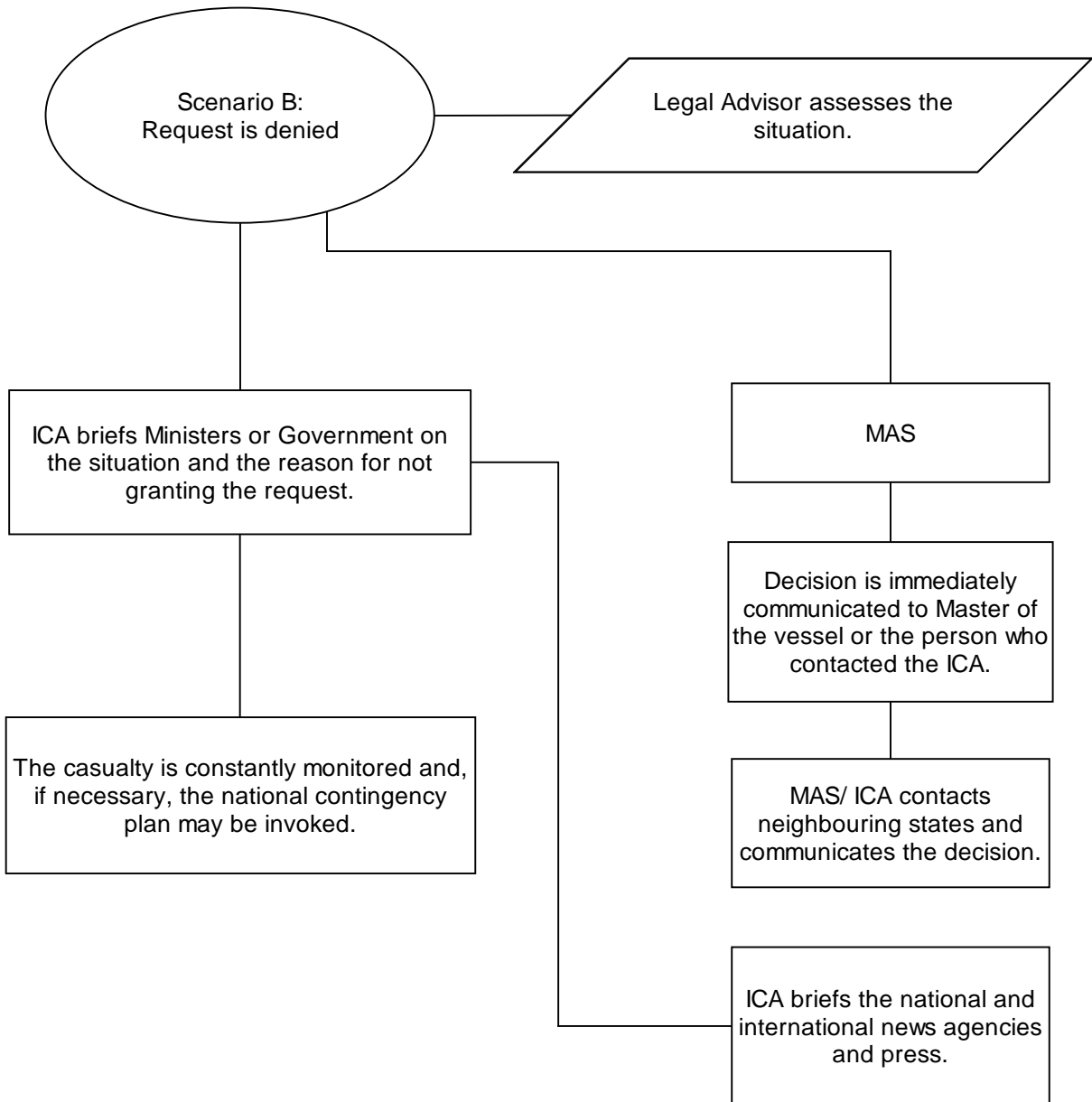
Flow Chart: Information Sharing when deciding on a Request for Access to a Place of Refuge



Flowchart Scenario A: Request is considered feasible



Flowchart Scenario B: Request is denied



## Chapter 3

### Procedures

for an

Assessment of a Place of Refuge



### 3.1 General remarks

1. The objectives when assessing and selecting a place of refuge for a vessel in need of assistance are towards:

- vessel's crew
- the passengers on board the vessel
- human life and health in the vicinity of the potential place of refuge, once the ship has been admitted to the area
- resources available in the marine and coastal environment
- economic infrastructure and facilities in ports or within the coastal zone
- designated environmental areas
- sensitive habitats and species
- fisheries
- the vessel and/ or her cargo

2. A few basic principles are to be observed during the decision making process:

- A seaport is not always the best place of refuge.
- The selection of the location must be based on objective criteria and an unbiased assessment.
- The selected place of refuge must be adequately equipped to handle the situation.
- There must be appropriate emergency response procedures in place should an accident occur while the vessel is at the place of refuge.

3. An important factor in the decision making process could be the availability of contingency plans for the area or location chosen, as these would define roles and responsibilities of local authorities and responders. Persons nominated and involved in emergency response plans would most probably have undergone training and participated in exercises.

4. The decision should also be influenced by the availability of response equipments and the need for equipment to mitigate a potential spill of cargo or bunker fuel.

5. Likewise, the possibility of international co-operation should be assessed and evaluated.

### 3.2 Two different schools of thought

6. One school of thought advocates the pre-selection of potential places of refuge based on a step-by-step assessment, examples are the Kingdom of Spain and the Kingdom of Denmark. Taking the Spanish method as an example:<sup>1</sup>

Step 1: Identify all possible places of refuge for vessels in need of assistance along the national coastal zone, taking into account:

water depth

natural conditions

availability of equipment

Step 2: Among those places identified, select those locations that are more suitable as function of: situation; topography; water depth; suitability of the ground for anchoring; accessibility from the sea; tug boat availability, accessibility from land; equipment available; socio-economic factors; environmental factors

Step 3: Select those places based on an assessment of: best shelter conditions; geographical spread and coverage of the coast line; lowest socio-economic impact; best availability of equipment.

In that way, in 2003 Spain had already identified 35 designated places of refuge located on the Atlantic and Mediterranean coast, out of a total of 231 areas identified in step 1.<sup>2</sup>

Denmark, probably using a similar approach, has identified a total 14 designated places of refuge for ships with high pollution potential and an additional 8 places for ships with a low pollution potential.<sup>3</sup>

7. The other school of thought postulates that any place on the coastline can potentially be a place of refuge. The advantage, among others, being that no extra equipment will be needed to build, maintain or equip certain places.<sup>4</sup> Examples here are the United Kingdom and the Federal Republic of Germany.

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<sup>1</sup> Gómez Barquín, G. (2003): *Methodology for risk assessment in coastal zones in Spain*, presentation at the ESPO workshop Places of Refuge, University of Antwerp, 11. Dec. 2003, <http://www.espo.be>

<sup>2</sup> The process is an ongoing task and more places have been identified in later years, as was emphasized by Spanish delegates during the REMPEC workshop on places of refuges in Nov. 2006.

<sup>3</sup> Liljedal, J. (2005): Places of Refuge for ships: The Danish approach, in: Chircop & Lindén (Eds.) *Places of Refuge for Ships*, Leiden, 2005, Martinus Nijhoff, p. 461, 462

<sup>4</sup> Jenisch, U. (2005): Places of Refuge in Germany, in: Chircop & Lindén (Eds.) *Places of Refuge for Ships*, Leiden, 2005, Martinus Nijhoff p. 480

8. As a guide, the following pages outline the criteria to be used when assessing a potential place of refuge for its suitability in the particular situation. According to Jenisch, the German Decision Making Body uses in addition to the inventory of the coastline, a set of 12 detailed checklists, which would help guide the decision making process, as they also include risk assessments for different scenarios.

### **3.3 Selecting a Place of Refuge – ad-hoc decision**

#### **3.3.1 Location Criteria**

9. When deciding on an ad-hoc basis on the location of a place of refuge, the following criteria should be taken into account:

- Distance and estimated transit time to place of refuge.
- Adequate sea room and depth of water with relatively unobstructed approach from seaward.
- Presence of good holding ground for both immediate anchoring during the approach and at the place of refuge.
- Water depth at selected place of refuge, manoeuvring space and possibility to go alongside for lightering operations.
- Tidal and current situations.
- Provision of marine pilot during approach.
- Availability and positioning of suitable tugs or other support vessels during the approach.
- Availability of dolphins, mooring buoys for the vessel.
- Availability of helicopters or fixed wing aircraft for rescue or surveillance and/or pollution response function.
- Is there a possibility to contain the risk inherent in the admittance of the vessel ?
- Is it possible to calculate the spreading effects, in case a pollution occurs ?

#### **3.3.2 Situational Criteria**

10. When deciding on an ad-hoc basis on the location of a place of refuge the following prevailing conditions should be considered:

- Prevailing weather conditions during approach.
- Shelter from prevailing and forecast weather and swell at place of refuge and forecast weather conditions for the time period the vessel is expected to remain at the place of refuge.

- If the weather should suddenly deteriorate and make the selected place of refuge unsuitable, is there a nearby alternative available?
- Has a contingency plan been prepared, covering the possibility that the transfer to the designated place of refuge has to be aborted or that the planned activities to stabilize the vessel have to be aborted on grounds of deteriorating weather conditions?

### 3.3.3 Operational Criteria

11. The following operational criteria should be considered when deciding on the request for granting access to a place of refuge and in selecting a suitable place of refuge:

- What is the state of the vessel – does it urgently require access to the nearest place of refuge or can the vessel endure a longer passage to a place of refuge with either better facilities and resources or one which is of lesser environmental, socio-economic and cultural sensitivity ?
- What are the risks posed by the vessel in need of assistance to the population, environment and installations, particularly those requiring special protection, at the intended place of refuge and in the vicinity, taking into consideration the “worst case” scenario and the likelihood of it actually occurring, if the ship is shifted to the intended place of refuge ?
- In case of dangerous goods on board – the type of goods on board and what effects may result from one of the incidents mentioned above.
- The overall risk posed to coastal waters, marine species, coastline or the proposed place of refuge.
- Access to the place of refuge by land, sea and air transport modes.
- If it is desirable or necessary to bring the vessel into a port, availability of suitable anchorage or berth, risks of entry into port such as potential channel blockage, environmental effects (spills etc.), effect on ongoing port operations such as delays to other vessel movements, berth/facility lease arrangements and consequential cargo impacts of berth use especially if cargo is to be discharged.
- Availability of fire fighting, oil and chemical pollution response equipment and operating personnel.
- Availability of reception facilities for harmful and dangerous cargoes.
- Availability of the required means of assistance (cranes, pumps, fire brigade, waste-disposal companies, reception facilities, tanks or gas-tight containers).
- Availability of contingency plans for the immediate vicinity of the selected place of refuge.

- Compliance with instructed preventive measures (navigational directions, marine surveyor/salvor aboard to ensure compliance with preventive instructions, tugs in attendance as directed, compulsory pilotage).
- Any requirement under domestic legislation or for commercial/operational reasons to post an adequate bond to cover any risk (pollution, grounding, damage to port facilities, business disruption, etc.).
- Restricting or prohibiting unauthorised vessels/vehicles and personnel as required during operation.
- Restriction on the use of air space over and in the vicinity of the vessel at the place of refuge, if required.
- As required, notification of relevant agencies such as Quarantine, Immigration and Customs.
- When practical, and particularly where serious impact on coastal resources may occur, consultation with the community should be undertaken as soon as possible.
- Agreement by the Master and/or the owner of the ship to the proposal.

### **3.3.4 Environmental, Cultural and Socio-economic Criteria**

12. The requirements listed under this heading must be considered in conjunction with the previously listed criteria:

- Assessment of the immediate risk to persons living in the neighbourhood of the selected place of refuge.
- Assessment of an environmental risk to ecological, cultural and socio-economic resources, both along the approach to, and at the proposed place of refuge. This may include *inter alia* an assessment of ecological and socio-economic resources and include reefs, islands, coastline, significant species, sensitive habitats, fisheries, commercial activities and amenities and an assessment of risk posed to culturally significant resources including sites, species, etc.
- Analysis of “worst case” scenario, the likelihood of the scenario occurring and the effects on environmental, cultural and socio-economic resources.
- Does the decision to designate this location as place of refuge comply with local environmental protection rules and regulations.
- Liaison with environmental and cultural groups within the community and concurrence or approvals of statutory agencies.



## Chapter 4

Event specific Assessment

of a

Request to grant Access

to a

Place of Refuge.



## 4.1 Introduction

1. In section 3 of the IMO Guidelines on places of refuge for ships in need of assistance (resolution A.949(23)) , it is recommended that coastal States undertake an event specific risk assessment (section 3.9) and Appendix 2 of the IMO Guidelines comprehensively list under section 2, various factors that should be taken into account when assessing the risks associated with the provision of places of refuge for a particular ship at a particular location.

2. When reviewing the list of factors in Appendix 2, section 2 which should be considered, it will be noticed that similar factors have already been considered when evaluating places on the coast or ports or harbours for their suitability as a place of refuge.

## 4.2 General remarks on Risk Assessment

3. The Oxford Concise Dictionary defines risk as the "danger of loss, injury or other adverse consequences". Some authors often use the term 'risk' interchangeably with the term 'hazard'. The management of risk aims to mitigate the dangers of risks, and a risk assessment is a rational and systematic application of scientific methodology to identify, analyse and evaluate the risks associated with a particular process or activity. Such an assessment would allow organisations:

- to minimize loss and
- to maximize safety or/ and output

4. Gómez Barquín<sup>1</sup> in his presentation on the Spanish approach to risk assessment of decisions to grant access to a place of refuge, advocates the following approach:

Establish the Context

Identify the Risks

Analyse the Risks

Evaluate the Risks

Address the Risks

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<sup>1</sup> Gómez Barquín, G. (2003): *Methodology for risk assessment in coastal zones in Spain*, presentation at the ESPO workshop Places of Refuge, University of Antwerp, 11. Dec. 2003, <http://www.espo.be>

Each stage includes a review option and each stage should be used for a communication and consultation exercise, to involve stakeholders.

5. In a quantitative risk assessment, the scientists aim to link probability, i.e. the likelihood of an event, with the consequences. From this approach, the ALARP<sup>2</sup> principle evolved, as outlined in the IMO FSA<sup>3</sup> Guidelines<sup>4</sup>. FSA is probably the most comprehensive and systematic approach to risk assessment; it is, however, also very time-consuming and expensive. Even after a detailed FSA, the opinions on how the risk should be evaluated could fundamentally differ, as the recent debate and controversy about bulk carrier safety in the IMO demonstrated.

6. Even though past reviews of requests for safe havens can show large numbers of requests, for example Spain counted 304 cases of granting access to a place of refuge in the period 1. Jan 2000 to 31. Jan 2001<sup>5</sup> and the Government of Queensland in Australia counted 89 requests in 2001<sup>6</sup>, most of these requests may have had only comparatively low risks associated, which could be managed without any potentially catastrophic consequences.

7. More difficult to assess are those requests, which involve rare, low probability occurrences, which have a high risk potential for a catastrophic outcome.

8. Such requests will come spontaneously and the decision may have to be taken ad-hoc or "in the heat of the moment". In such cases the only approach could be to use qualitative risk assessment guided by expert advisers.

### 4.3 Event specific assessment

9. The IMO Places of Refuge Guidelines advocate a two-step approach:

- a.) Generic assessment of the potential place or refuge.
- b.) Event specific assessment of the situation when a ship requests a place of refuge.

10. The generic assessment of a Place of Refuge focuses on the suitability of a chosen Place of Refuge to receive a ship in need of assistance outlining which facilities are available and which specific restrictions should be observed.

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<sup>2</sup> ALARP: As low as reasonably practicable.

<sup>3</sup> FSA: Formal safety assessment

<sup>4</sup> Guidelines for Formal Safety Assessment (FSA) for use in the IMO Rule-Making Process, IMO Doc. MSC/Circ. 1023, MEPC/Circ. 392, 5. April 2002

<sup>5</sup> IMO Document MSC 74/2/4/Add.1, 24. Feb 2001

<sup>6</sup> Watkinson, J (2002): *Queensland Safe Haven Guidelines*, paper presented at: Safe Havens and Salvage Conference and Workshop, Sydney 19-20 Feb. 2002

11. The event specific assessment focuses on the ship and the calamity which led to the request or need for a place of refuge.

12. As suggested elsewhere in this set of guidelines and procedures,

- a place of refuge need not necessarily be a port
- the situation in which the ship in need of assistance is, should always be assessed with two options:
  - a.) assisting the ship while she is at sea
  - b.) admitting the ship to a place of refuge directly after the request.

13. In both cases, the risks and hazards need to be carefully assessed and weighed, so that eventually a well-informed, balanced decision can be made.

14. Event specific assessment is to a large extent a qualitative risk assessment process. The objectives of such an assessment are to identify the risks involved in the admission of a ship into a place of refuge. The risks then have to be separated into acceptable and unacceptable risk, using accessible information and informed judgement.

15. Event specific assessment may have to be taken in a step-by-step approach, monitoring the development as the case progresses.

**Case study**  
**Event specific assessment of a containership in need of assistance**  
**after a collision**  
**The Ever Decent – Norwegian Dream collision<sup>7</sup>**

The Ever Decent, a 52,100 gt containership was in collision with the 51,000 gt Passenger Vessel Norwegian Dream. The damage sustained by the Norwegian Dream was serious but watertight integrity was preserved and all passengers and crew were accounted for. The vessel was able to proceed to Dover as a place of refuge.

The Ever Decent was more seriously affected. A fire broke out on deck, where numerous containers loaded with a wide range of IMDG Class goods were stowed. Watertight integrity had been lost, as she had a wide hole in no. 3 wing ballast tank and initially she took on a list of 25 to 40 deg to port. She also settled 2 metres down by the bows. The gash in the ship's side was only 4 metres away from a bunker fuel tank containing 400 tons of fuel oil, this posed a serious threat to the marine environment.

Starting with two containers on fire, the fire spread rapidly down the port side and, within 2 hours, had set ablaze at least 18 containers. There was a risk of explosion and toxic smoke billowed hundreds of feet into the air.

As a first step, public health experts were called in to advise on the air pollution from the presumably toxic smoke. A temporary exclusion zone was placed around the vessel, to restrict access to the casualty and only those involved in the salvage operation were allowed access.

The fire burned for another 6 days and was slowly brought under control. In most cases the containers had to be tackled one by one, inserting pipes and flooding them.

This posed the question if the water was now contaminated and if so how noxious was the water now contained on the ship.

An environment group had been set-up to advise the Salvage Control Unit on environmental issues, in particular modelling the air plumes but also linking with health services and the police to safeguard public health and minimise environmental impacts.

The agreed response was to monitor and reduce the fire intensity over a period of days while the ship was out at sea. In parallel a suitable place of refuge was sought for the vessel,

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<sup>7</sup> This summary is based on a presentation made by T. Stone at Spillcon 2002 Conference, Sydney, Australia: *Prevention and preparedness in the United Kingdom.*

which needed to have ample quay length, deep draught and cargo handling facilities as well as waste disposal facilities. Zeebrugge on the Belgian coast was identified and the Belgian authorities were consulted at an early stage to agree to the conditions for an escorted passage to the port of Zeebrugge, through French and Belgian waters.

The UK MCA and the Belgian authorities undertook a joint technical inspection of the vessel and finally a passage plan was approved.

### **Conclusions:**

After a thorough check of the passenger vessel, which suffered hull damages, but had not lost structural integrity, power or steering, this vessel was granted a port of refuge to land her passengers and allow further detailed inspection of the damage suffered.

The container ship was initially kept at sea, until the situation was under control. An initial consultation with neighbouring States firmed the approach on how to admit the ship and which port should be selected for refuge. The vessel was closely inspected and a detailed passage plan was developed, which allowed the vessel with sufficient towage and escort capacity at hand to proceed into the port of Zeebrugge in Belgium. One by one, the containers were discharged and either disposed of as waste or delivered to final receivers.

The case study outlines the different steps that had to be taken and demonstrates how an event specific assessment may have to be adapted continually to the development of events on board the vessel.



## Chapter 5

Guidelines on the Decision Making Process

for

granting Access

to a

Place of Refuge for Ships in Need of Assistance.



## 5.1 Introduction

1. In 2001, the then IMO Secretary General reminded us: *“When dealing with ships in distress, the requirement is to find them an area of sheltered water where the situation can be stabilized, the cargo made safe and the salvors and authorities can evaluate what further steps are necessary without the pressure of a crisis hanging over their heads. The concern of port authorities that they should not be exposed to the risks of pollution, fire or explosion is well understood and is not in any way challenged. But equally, this is an issue which will not go away and must be addressed. We cannot continue to permit a situation to unfold in which salvors dealing with a damaged vessel containing a potentially hazardous cargo have nowhere to go.”*<sup>1</sup>

2. And in December 2003, in his opening address to the 23<sup>rd</sup> Assembly<sup>2</sup>, the IMO Secretary General highlighted that a rational view should be taken of any situation that might give rise to a request for a place of refuge and that facts should guide the decision rather than emotion.

## 5.2 Purpose

3. The Guidelines on the decision making process for granting access to a place of refuge for ships in need of assistance ("the Guidelines") are intended to assist the National Maritime Administration in identifying places of refuge suitable to deal with maritime emergencies that cannot be dealt with at sea. The Guidelines can also assist in the appropriate decision making process in deciding to grant or refuse a request for access to a place of refuge.

4. The Guidelines recognise that a distinction has to be made between emergency situations where maritime safety is concerned as opposed to emergency situations where the national security is concerned. The Guidelines have been designed to protect and prevent harm from the national marine environment, to protect its citizens, its coastlines and its maritime industries, including commercial ports.

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<sup>1</sup> Mr. W. O'Neil, Secretary General, IMO, Keynote address, 22<sup>nd</sup> World Ports Conference of the IAPH, Montreal, Canada, May 2001

<sup>2</sup> IMO Document A23/SR1, 7. June 2004

### 5.3 Application

5. The Guidelines apply to any maritime incident which might give rise to circumstances where the National Maritime Administration may need to consider a request for granting access to a place of refuge either within internal waters, within the territorial sea or within the Exclusive Economic Zone (EEZ).
6. The Guidelines intend to insure that decisions on granting access to places of refuge are made in a consistent manner, within the boundaries of international and national maritime law. The Guidelines emphasise that it may be necessary, to balance the interests of a ship in need of assistance and the National interest.
7. The Guidelines aim to take into account a wide variety of causes and circumstances that might arise in the case of a vessel in distress being in need of assistance.
8. The Guidelines propose a case-by-case approach to analysis and decision making.
9. The Guidelines recognise that a cooperative and consensual approach is often necessary to successfully resolve a distress situation where vessel might be in need of assistance.

### 5.4 Definitions

10. The terms "place of refuge" and "ship in need of assistance" are used in these Guidelines with the same definitions as used in the IMO resolution A.949(23):
11. ***Ship in need of assistance*** means a ship in a situation, apart from one requiring rescue of persons on board, that could give rise to loss of the vessel or an environmental or navigational hazard.
12. ***Place of Refuge*** means a place where the ship in need of assistance can take action to enable it to stabilize its condition and reduce the hazards to navigation, and to protect human life and the environment.
13. ***MAS*** means a maritime assistance service as defined in IMO resolution A.950(23), responsible for receiving reports in the event of incidents and serving as the point of contact between the shipmaster and the authorities of the coastal State in the event of an incident.

14. **National Maritime Authority** means the national government agency or department charged with the decision making process in the case of a ship in need of assistance making a request for permission to access a place of refuge. This could also be an ad-hoc committee or a body set-up purely in the event of such an incident and exclusively tasked to assess the request and make a decision on granting or refusing the request.

15. The Master or the person in charge of a ship which is in a situation where the crew and/or passengers are at risk, where her own safety is in grave danger or where she poses a threat to the marine environment or other property should contact the MAS of the coastal State and seek permission to access a place of refuge. Such a request could also come from a salvage master already engaged to tackle the situation on board or from the owner or the manager of the ship in need of assistance.

16. The need to access a place of refuge might arise for the ship as a consequence of

- a maritime disaster, e.g. a fire, a collision, a grounding or an explosion,
- a technical defect, e.g. breakdown of vital machinery items or navigational aids
- a stability incident, e.g. shifting or liquefaction of cargo on board
- a pollution incident
- a medical situation on board, e.g. needing to evacuate a single crew member or an outbreak of disease, needing to isolate a large number of crew members
- *force majeure*, that is an Act of God; or a force or an event beyond reasonable human control such as storms, hurricanes or other natural disasters
- any other incident not listed here, which might give rise to a ship being in need of assistance

17. Requests for access to a place of refuge may also be submitted where a ship is exercising her right of innocent passage through the territorial sea in accordance with UNCLOS Art. 18(2), or Art. 39.1(c) or Art. 54; and seeks to stop and anchor in a case of *force majeure* or distress.

18. These Guidelines do not apply in cases where warships or other vessels owned and operated by a Government and solely engaged on governmental purposes are requesting a permission to access a place of refuge.

## 5.5 Why seeking or providing a place of refuge?

19. It is a long-standing good practice and good seamanship for a master of a ship whose passengers and/or crew and/or vessel are in grave and imminent danger to seek a place of shelter or safety, now commonly referred to as "place of refuge". Indeed and because of the long-standing custom, seafarers often perceive this to be a "right of access" to a place of refuge. It is, however, clear that this was a custom and never a right enshrined in international law.

20. Maritime Custom has evolved and changed over time, and Coastal State Authorities are increasingly reluctant to allow ships in need of assistance access to their coastal or territorial waters.

21. When assessing the request for access to a place of refuge, it should be borne in mind that it is rarely possible to deal swiftly, successfully and effectively with a maritime distress situation with the ship being solely out in the open sea. Cases have been experienced where the condition of a ship forced to remain at sea over a prolonged time and at the mercy of the elements has significantly deteriorated, thereby becoming an even greater potential (or real) hazard to the coastal environment of the State concerned.

22. These Guidelines advocate that a place of refuge should be provided with the intention of protecting and safeguarding:

- the safety of the ship's crew, her passengers and possible salvage crew or teams on board the ship
- the safety of human life and health in the immediate vicinity of the vessel which is in need of assistance
- the marine, coastal and/or terrestrial environments, incl. fish stocks and aquaculture, both in the immediate vicinity of the vessel and in the vicinity of the envisaged place of refuge
- ecological and marine resources both in the immediate vicinity of the vessel and in the vicinity of the envisaged place of refuge
- economic infrastructure and installations, both in the immediate vicinity of the vessel and in the vicinity of the envisaged place of refuge, but also in ports or estuaries
- the vessel as a piece of property
- the ship's cargo as a piece of property

## 5.6 International Law

23. Summarizing the discussion on granting access to places of refuge in IMO and other international fora, it has to be pointed out that at present there is no international instrument granting ships a right to seek refuge in the territorial waters of a coastal State. There is a long-established custom of granting refuge to ships, including warships, which are in distress, whatever its cause. Such access to national territorial waters was always limited by its purpose, to resolve the distress situation, e.g. by swiftly carrying out repairs to the ship's hull or her machinery.

24. If the coastal State applying these guidelines is a signatory to the International Convention on Salvage, 1989, then the obligations placed on the signatory State by Art. 11 of the convention may have to be observed: *“A State Party shall, whenever regulating or deciding upon matters relating to salvage operations such as admittance to ports of vessels in distress or the provision of facilities to salvors, take into account the need for co-operation between salvors, other interested parties and public authorities in order to ensure the efficient and successful performance of salvage operations for the purpose of saving life or property in danger as well as preventing damage to the environment in general.”*

25. If the coastal State applying these guidelines is a signatory to the International Convention for the Safety of Life at Sea, 1974 (SOLAS 1974), as amended, then the obligations imposed on signatories in Chapter V of the SOLAS Convention may have to be observed. Likewise, if the coastal State applying these guidelines is a signatory to the International Convention on Maritime Search and Rescue (SAR), 1979 (as amended), then the obligations imposed on signatories in Chapter 2 of the SAR Convention may have to be observed. Both conventions request signatory States to render assistance to ships in distress, albeit both restrict it to the saving of life aboard the ship.

26. If the coastal State applying these guidelines is a signatory to the United Nations Convention on the Law of the Sea (UNCLOS), then Articles 2 and 25(2) should be observed, which grant the signatory State the right to regulate entry into her ports.

27. UNCLOS also grants signatory States the right to protect their coastlines or related interests from pollution or the threat of pollution following a maritime casualty, see Articles 194, 195, 198, 199, 211, 221 and 225.

28. If the coastal State applying these guidelines is a member to the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties, 1969, (The Intervention Convention), as amended by the Protocol of 1973, the State may: *"take such measures on the high seas as may be necessary to prevent, mitigate or eliminate grave and imminent danger to their coastline or related interests from pollution or threat of pollution of the sea by oil following upon a maritime casualty or acts related to such a casualty, which may reasonably be expected to result in major harmful consequences."* (Art. 1 of the Intervention Convention), but it should be noted that two conditions have to be satisfied before the coastal State can intervene: there has to be a "maritime casualty" and there must be grave and imminent danger of a pollution. The wording of the Intervention Convention is such that an intervention is also justified, if grave and imminent danger results from the acts related to such a casualty, e.g. in a case where the salvage attempts are going wrong.

29. It should be noted that intervention powers in internal waters of a coastal State, i.e. ports and harbours, estuaries or canals, etc, may already have been enshrined in national laws and other legal instruments. If this is the case, then these guidelines should be extended and amended to reflect the existing national legal regime for internal waters.

## **5.7 Who has the authority to grant access to a place of refuge?**

30. A State applying these Guidelines should enact national legislation which clearly mandates an existing or newly created body or official, to have powers to decide upon a request for access to a place of refuge. Such a body could be the National Maritime Administration or the National Administration for Ports and Harbours or the Admiral of the Fleet (the Coastguard) or another governmental body. It is important that legislation be clear and precise on who can take the decision, and in what manner. Decisions on a request for access to a place of refuge often have to be taken in the heat of the moment. Throughout these Guidelines, the decision maker is referred to as "Independent Competent Authority" (ICA) and it is recommended to nominate an official who will, after the necessary consultation process has been duly completed, take the final decision on whether to grant or refuse access to a place of refuge. Experience in other coastal States has shown, that this official should preferably not be a politician, but rather a civil servant who has been appointed with the final decision-making authority in such cases.

31. It is possible that the national laws already in force allocate the authority and divide the responsibilities between different bodies, depending on the location of the ship in need of assistance, i.e. within the territorial waters, within the EEZ or on the high seas. In such instances different officials may have to be appointed, who have the final decision-making authority.

## **5.8 Procedures to be employed when deciding on a request for access to a place of refuge**

32. As a first step, national administrations should prepare a detailed inventory of their national coastline, compiling information as listed in Appendix 1 to this chapter. Preferably, such information should be made available referenced to sea charts of the coastline.

33. These guidelines advocate the approach to decide on a suitable place of refuge on a case-by-case basis as opposed to pre-designated places of refuge. The presumption here is that a place of refuge is not a strictly defined fixed location but always depends on the type and characteristics of the ship in need of assistance, the type of incident that led to the distress situation, the prevailing wind and weather conditions and finally the potential consequences of admitting a particular ship in need of assistance to a particular place of refuge. A place of refuge that may be totally unsuitable in one incident may be the ideal place of refuge in another incident.

34. The Independent Competent Authority should as a rule explore the feasibility of dealing with the maritime emergency situation while the ship is at sea, rather than automatically granting permission to access a place of refuge.

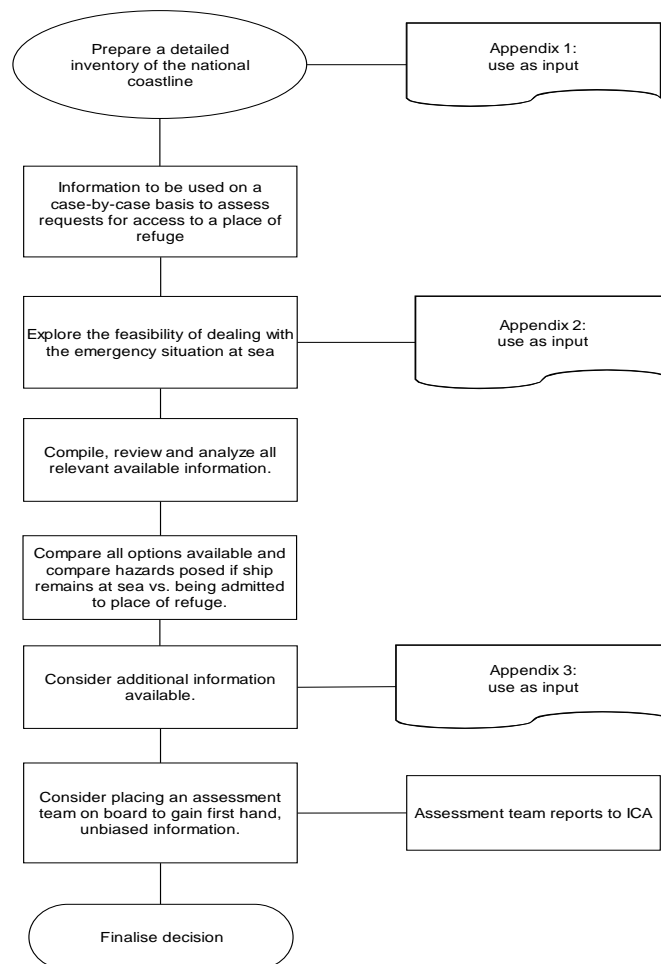
35. The Independent Competent Authority should in the first instance request the MAS to compile basic information on the ship in need of assistance, as outlined in Appendix 2 to this chapter. Almost all of this information would be provided by the Master of the ship in need of assistance or the person requesting access to a place of refuge, e.g. the Salvage Master of the operation.

36. As a second basis for exploring all options, the Independent Competent Authority should aim to compile, review and analyse all relevant available information. Thus it would be possible to compare all options available and compare between the hazards posed by the ship if she remains at sea as opposed to the hazards she poses if she were admitted to a place of refuge on the coastline or in internal waters.

37. In order to come to an informed decision that a response to the casualty can be made while the vessel remains at sea, the Independent Competent Authority should consider additional information, which is listed in Appendix 3 to this chapter. Some of the information may be furnished by the ship in need of assistance, other information will have to be procured from other, relevant government departments/ agencies/ organizations.

38. In many cases, it may be helpful to request that qualified expert staff of the national administration carry-out an on-scene inspection of the ship and an evaluation of the situation on board. If it is not too dangerous, then the Independent Competent Authority might consider placing on board the ship a liaison officer, who can provide advice to the Independent Competent Authority on actions and developments on board and actions or procedures either proposed or undertaken by the Master of the ship or the salvage team. Such a liaison officer would probably best be an experienced marine surveyor with extensive knowledge of ship structures, ship stability and some experience in salvage operations.

Flowchart: Procedures to be employed when deciding on a Request for Access to a Place of Refuge



## **5.9 The decision making process**

39. As recommended in the guidelines on the operation of the Maritime Assistance Service (MAS), it is preferable that all communication with the ship requesting access to a place of refuge should be carried out between the MAS and the ship. In cases where other national agencies receive such a request, they should immediately alert the MAS, who will in turn follow their contingency plans detailing which agency or department or authority should be alerted. This could include the port authority / corporation if they are likely to be a place of refuge.

40. Responsibility for the decision making process rests with the Independent Competent Authority appointed in accordance with section 5.7, paragraphs 30 and 31 of these guidelines.

41. An assessment of the request for granting access to a place of refuge should be made in accordance with these guidelines. The process of assessing requests for granting access to a place of refuge will in all cases involve detailed consultation with the various agencies named and listed in the contingency plan for places of refuge decisions. Agencies involved should also include port authorities/ corporations involved, local or regional conservation agencies, and/ or other government agencies who bear responsibility for the areas which are or are likely to be affected.

42. The final decision on granting or denying the request rests with the official named in the national legislation, who was appointed as recommended in section 5.7, paragraphs 30 and 31 of these guidelines.

43. Once a decision has been made on whether to grant or deny access to a place of refuge, this decision should be immediately communicated to the MAS, who in turn will communicate the decision to the person who requested the permission. The MAS will also inform the national or regional MRCC. The MAS will inform neighbouring Nation States, whose territories or coastlines might be affected by the casualty or the decision and the reasons for granting or denying the request.

## **5.10 Implications of denying a request for granting access to a place of refuge**

44. When assessing the request for access to a place of refuge, the Independent Competent Authority should assess the other options available to the ship. These may be limited, because of the remoteness of the location of the ship, the prevailing weather conditions at the time of the accident or even the level of traffic in the area of the casualty.

45. The Independent Competent Authority should also take into account the effect a denial of the request could have on the maritime coastal environment of other, neighbouring coastal States. The decision has to balance the right of the coastal State to protect her coastline or internal waters versus the duty of the coastal State as outlined in UNCLOS Art. 195 not to transfer directly or indirectly damage or hazards from one area to another. The application of the London Convention prohibiting dumping at sea, might also have to be taken into consideration.

46. In the case of a denial, the Independent Competent Authority should attempt to consider other, alternative arrangements, that could be made to assist the vessel in need of assistance.

## **5.11 Handing over the communication and decision making process to another jurisdiction**

47. During the response to a distress situation with a request for granting access to a place of refuge, there is the possibility that the coordination process may have to be handed over to a neighbouring jurisdiction. For example, a disabled ship without propulsion may, while in the EEZ and not yet in reach of a salvage tug, be drifting along the coastline and leave the jurisdiction of one coastal State. But it is also possible that there may have been a decision to seek refuge in a different, more suitable place.

48. In such cases, there should be a clear and unambiguous procedure in place, how the communication and coordination process can be handed over to another, neighbouring State. As a general rule, neighbouring States should always be alerted through their MAS about the fact that a ship is in need of assistance and has requested permission to seek refuge. When the situation develops further, the MAS of the State into whose territory the casualty might or is drifting or moving, should be alerted as early as possible to the fact that the casualty might enter their territorial waters or EEZ.

49. Once the casualty is no longer within the jurisdiction of the State applying these guidelines, the MAS should formally contact the MAS of the neighbouring State and hand-over all available information so far collected.

50. Neighbouring States, which are in the vicinity of a heavily trafficked shipping lanes, where the probability of a request for access to a place of refuge is high, might consider setting up a Memorandum of Agreement, which outlines, how such cases should be handled, when the neighbouring State should be contacted and which procedures should be followed in the "hand-over" process.

## **5.12 Liability and compensation**

51. The IMO has developed a number of conventions regulating the liability and compensation following a pollution incident. When applying these guidelines, the coastal State should undertake a comprehensive review of which convention the State has acceded to and as a consequence which liability regime(s) apply. The relevant conventions all contain provisions detailing the geographical boundaries, within which the respective convention applies as well as the type of ship and / or cargo. Such convention would continue to apply if a pollution incident were to occur in a place of refuge.

52. However, a prudent administration would seek to verify that the ship carries a valid insurance cover which would be available should a pollution incident occur. In addition, a Nation State granting access to a place of refuge may consider requesting the owner or managers of the ship which is in need of assistance to provide an indemnity or a letter of undertaking or a security in form of a bond, a guarantee or a cash deposit to cover necessary costs and compensation claims associated with the ship accessing the place of refuge.

53. The contingency plans should contain background information on the various insurance covers or bonds available to assist during the decision making process. Likewise, a proper procedure should be developed and be part of the contingency plans outlining what form the indemnity should have which might be requested.

**Appendix 1:**

**Inventory of the National Coastline to identify potential Places of Refuge**

<b>Natural and Physical Conditions</b>	<b>Ecology</b>	<b>Socio-economic factors</b>
<p>Weather and sea conditions precluding or favouring the use of the area, i.e. during which weather is the area sheltered from wind, waves or currents</p> <p>Sea surface conditions at different weather conditions</p> <p>Bathymetry</p> <p>Seasonal effects</p> <p>Seabed conditions (anchoring ground)</p> <p>On-shore conditions</p> <p>Shoreline conditions</p> <p>Accessibility, both from sea and land</p> <p>Impediments to handling large ships with restricted manoeuvring capabilities</p>	<p>Plankton</p> <p>Benthos</p> <p>Fish species</p> <p>Seabirds</p> <p>Waterfowl</p>	<p>Coastal conservation areas</p> <p>Marine conservation areas</p> <p>Underwater archaeology</p> <p>Fishing grounds</p> <p>Aquaculture</p> <p>Other sea users</p> <p>Stakeholder concerns</p> <p>Existing shipping lanes through the area or nearby</p> <p>Seabed cables</p> <p>Proximity to local residential areas</p> <p>Military use</p> <p>Coastal recreation and tourism</p> <p>Vulnerable installations, e.g. cooling water inlets of power plants</p> <p>Availability of contingency plans for the area</p> <p>Availability of emergency response equipment</p> <p>Availability of tugs, lighters, salvage equipment, storage facilities, etc.</p> <p>Availability of waste disposal facilities</p> <p>Availability of repair facilities</p> <p>Impact of potential closure of the port on the local or national economy</p>

## Appendix 2:

### **Initial Information to be supplied with a Request for granting Access to a Place of Refuge**

A vessel requesting a place of refuge should supply the following information to assist in the decision making process:

- Name of the vessel
- Flag of the vessel
- IMO number of the ship
- Call sign
- MMSI number
- Type of vessel
- Number of passengers on board the vessel
- Classification of cargo(es) carried on board
- Cause of damage and the nature and extent of damage
- Nature and quantity of hazardous or harmful substances carried
- Type and quantity of bunker fuel on board
- Actual pollution or potential for pollution
- Risk/ presence of fire, explosion or emission or discharge of dangerous substances; and if so, the source, nature and quantity of those substances
- Does vessel have ballast on board
- Size (tonnage), length, beam and draft of vessel
- Engine power and type and number of propellers
- Vessel afloat or aground, anchor(s) ready for use
- Whether disabled or fully in control of manoeuvring, whether auxiliary power is available, whether rudder is functioning
- Crew data (size of crew, nationality, etc.)
- Name(s) of the registered owner(s), the registered bareboat charter(s) and their registered address(es)
- Name of the company registered as managers within the definitions of the ISM Code, its registered address and the address(es) from where it carries out the safety management activities and its contact details
- Name(s) and contact details of the "Designated Person Ashore" (DPA)
- Name and address of the local agent (if any)

- Identification details of the ship's P&I Insurers
- Identification details of the ship's Hull and Machinery Insurers
- Name(s) and contact details of the local P&I Club representative
- Position of vessel (and how determined: GPS, dead reckoning, best guess)
- Course and speed (steaming, adrift or at anchor)
- Is a pilot or escorting assistance required
- Weather and sea conditions prevailing at the position of the ship
- Details of any casualties on board or in the vicinity of the ship
- Nature of immediate assistance required
- Whether evacuation of the crew is necessary or not
- Whether ship has to be abandoned or not, are there alternatives
- Response actions/ precautionary measures initiated by the vessel's crew  
for example: whether salvors have been contacted or engaged; who will be the contractor; what is the ETA of the salvage contractor
- Have these response actions/ precautionary measures been successful or not
- What are the next steps planned
- How is the operational safety situation on board
- Details of place of refuge request (area, coordinates, etc.)
- Distance to preferred place of refuge, limitations
- Person on the ship making request
- Preferred language for communications
- Details of all vessels' satellite communication numbers  
(e.g.: INMARSAT C / Satphone / mobile / fax, etc., numbers)
- Date and time of request
- A priority ranking of assistance measures requested
- The anticipated time frame for decisions
- The type of expertise and equipment needed for response measures
- Any further assistance required to be on stand-by

## Appendix 3

### Issues to Be Considered in Continuing to Respond to a Maritime Casualty at Sea

The Independent Competent Authority should initially consider and pursue the option of continuing to respond to a marine casualty at sea.

In these situations, the following aspects should be considered:

- Prevailing and forecast weather conditions for the time the vessel is expected to remain at sea.
- Structural integrity of the vessel, in particular of the hull in the vicinity of cargo tanks or holds.
- Seaworthiness of the vessel, in particular buoyancy and stability.
- Availability of means of propulsion and power generation.
- If the vessel is without own propulsion, is it possible to stabilize her sea position using tugs or other assisting vessels.
- Adequate sea room and depth of water available to allow ship to drift
- Traffic density in the incident area
- Possibility to anchor the vessel at the current location
- Current and tidal conditions at sea
- Adequate persons (in number and qualifications) on board to fulfil all functions on board and an assessment of human factors including fatigue. If not, is it safe to supply such personnel from shore and can they safely be placed on board?
- Is a salvor at the scene and has a commercial salvage contract been concluded between the relevant parties?
- Is salvage equipment available and can it be transported to the casualty while at sea?
- If salvage equipment is available, can this be used to stabilize the condition of the ship so as to reduce the hazard of pollution?
- Can the vessel be reached by helicopter?
- Availability of sufficient tugs and support vessels and where are they stationed

- Are there additional safety measures that have to be taken to ensure the ship can safely remain at sea?
- How will all imposed prevention and pre-cautionary measures such as navigation instructions, bridge complement, manning of engine room, number of tugs, etc, be complied with (e.g. representatives, inspectors or salvors on board) ?
- Possibility of lightering at sea and availability of appropriate equipment (barges, cranes, cargo gear, etc.) and personnel
- Availability of fire fighting, oil and chemical pollution combating equipment and sufficient qualified personnel
- Can such combating equipment be used in an at sea environment or is its use restricted to near-shore/ internal waters?
- Can such combating equipment, if suitable, be transported in a reasonable time frame to the casualty location?
- Option to restrict or prohibit access of ships/craft and personnel and to enforce it, if circumstances so require (establishment of sea safety zones)
- Requirement for restrictions regarding the use of the sea area in the vicinity of the vessel and the use of air space above or in the vicinity of the vessel – have these been imposed by the competent authorities and how are they enforced
- Sustainability/availability of an anchorage or berth in a port and any potential environmental or other effects
- Which financial indemnities/bonds have been or have to be requested to cover personal injuries and other damages such as damages to the environment, port channels and installations, costs for combating the incident, costs for entering a port (pilot, tugs, crew, etc.), port dues, delays to other vessels/cargoes in the port, leased berth usage, cargo handling, repairs, disposal of any types of wastes, wreck removal, etc. ?
- Is there a need for financial bonds, etc., to cover costs associated with environmental / socio-economic / cultural assessments?
- How and up to which amount have these indemnities been secured (e.g. bonds, bank guarantee, letter of indemnity, etc.). ?

## Chapter 6

Procedure for the development

of a

Contingency Plan

to be used in connection with

Requests for Access

to a

Place of Refuge



## **6.1 Organisational Structure**

1. This section should contain sufficient information on the structure of the various organisations which are involved or will have to be involved in responding to emergencies that could follow from the decision to designate a particular place of refuge for a ship in need of assistance:

- The Independent Competent Authority (ICA)
- The National Maritime Safety Authority
- Marine Pollution Controller for the area concerned
- Port Authority/ Corporation
- Spill response unit management
- Hazardous Materials response unit
- Fire Brigade
- Police
- any other relevant emergency services
- Environmental Protection Authority
- Pollution Management Authority
- Fisheries Management Authority
- Natural Resources/ Wildlife Protection Authority
- Health and Safety Authorities
- Others

## **6.2 Responsibilities and capabilities**

2. A general section should outline:

- The roles, relationships and procedures to be followed to achieve a cooperation and co-ordination between the various governmental agencies.
- The co-ordination and co-operation between governmental and private entities.
- What procedures are to be followed to institute relationship between the various parties concerned, e.g. standing framework agreement; model contract, to be instituted by written or verbal instructions.
- The procedure to be followed for the Independent Competent Authority to gain access to funds necessary to involve private sector operators or how the access can be triggered.

3. This section should outline separately for each organisation:
  - planning and prevention (prior to an incident)
  - the plan to be followed during a response to an incident
  - clean-up and restoration (after the response to an incident)
  - To whom does the organisation report and take orders from.
  - How does the organisation organise its internal control of the operation and how is communication effected.

### **6.3 Expert guidance and advice**

4. This section should contain detailed advice on which agency or department or private sector organisation or individual will provide technical expertise or guidance during the management of an incident. If necessary, the section will outline the different advisers depending on the nature or type of the incident. The section should also contain details on the location of such advisers, i.e. locally available, or overseas or in neighbouring States.

5. The plan should outline what the response activation time period will be.

6. An appropriate structure should be devised to ensure that regular meetings are conducted so that the response includes proper planning, execution and coordination.

### **6.4 Review and exchange**

7. After the conclusion of an incident, successful or unsuccessful, a comprehensive structure review should be carried out by the Independent Competent Authority. The 'lessons learnt' from this review should be communicated to all or selected organisations or participants.

8. A schedule should be devised within which regular simulation exercises are being conducted and which will test the organisational structure as well as the communication and co-ordination structures between the various actors involved. If expert advisers are nominated, they should preferably be part of the simulation exercise to test their familiarity with the organisational structure and procedures.

9. A mechanism should be developed to review the organisational structure and the outcome of exercises to ensure that shortcomings or deficiencies are corrected. The section should also contain a procedure outlining to whom the review results will be reported.

10. A mechanism should be developed to review the competencies of participants in the contingency plan and to identify any possible training needs.

## **6.5 Hazard Analysis**

11. This section should start with an inventory of available Hazard Analysis for the area prepared by other agencies. If such analyses exist, the date of preparation and the responsible agency should be reported.

12. The review should focus on the usefulness of the analysis for any places of refuge incident, i.e. is it broad enough to include maritime hazards. If not, a supplement may have to be prepared which covers the potential risks evolving from a place of refuge request situation. For example it may have to cover the safety of navigation of ships entering or manoeuvring within the port limits or in channels leading to the place of refuge.

13. Under the assumption that a ship entering the area with a need for assistance might pose an additional risk to the area, it will be necessary to review any shore-based activities that manufacture, process, use, dispose of, or store hazardous material in the vicinity together with detailed information on: location of such substances, quantity and type of hazardous substances. This could be vital information as the shore-based or the marine side hazard, when assessed on its own could be within controllable limits, but a comprehensive risk assessment of the combined hazards may come to the result that the combined risk is outside the 'acceptable' range. Included in this section could also be significant transport activities going through the vicinity of the place of refuge. Temporary exclusion zones might have to be established on land, at sea or in the air.

14. Since the safety of local residents should be one of the primary areas of concern, the contingency plan should address the issue of public health for residents and visitors.

15. In the generic assessment of the coastline, environmentally sensitive areas will have been identified. Such information should be tabulated in comprehensive form in this contingency plan, including detailed maps or charts of the areas.

16. To facilitate a risk assessment, information on the traffic patterns on the coastline (shipping routes and frequencies) should be included.

## **6.6 Communication**

17. Procedures for a coordination of information gathering and sharing should be outlined in this section.

18. The section should outline which communication equipment will be used during the incident to ensure that all actors can share information. Radio frequencies or other means should be considered. If the plan relies on public mobile phone communication, the operators of networks should be involved to give input on how to ensure that priority traffic can gain access to the network. If open radio frequencies are to be used, the plan should outline how privacy can be maintained.

19. This section should also contain alternative means of communication should the preferred way of communication break down.

20. If available, this section should also contain detailed information on data-bases from which additional information on the cargo on board the ship could be extracted. Response planning might be greatly facilitated by the availability of data hazards to personnel involved, the physical or chemical characteristics of certain types of cargo or the treatment necessary. The information should detail where it is available, on a 24 hours basis or as a portable software package.

21. A detailed list of contact numbers, regularly up-dated, should be included in this section.

## **6.7 Dissemination of information to the general public, the press and other players**

22. Depending on the general practice in the coastal State applying these guidelines, one organisation may have been tasked with handling and coordinating all communications activities. If this is not the case, then this section should outline how an effective public relations section can be established in a reasonable time frame. Examples from other nations include the model that initially the permanent government press officer's office handles all press releases until after a pre-determined time period an ad-hoc assembled team supporting the MAS and the ICA takes over such tasks.

## **6.8 Resources and equipment**

23. This section should outline the resources in terms of numbers and location of trained personnel available for deployment in different types of hazardous incidents. In addition, the section should outline how long the response can be maintained with these first-alert personnel and where additional resources can be found, if any.

24. In combination with para. 3, this section should outline the availability of specialist or expert adviser on different aspects, e.g. chemists, toxicologists, health physicians, marine biologists, experts of different types of ship operation, spill combating procedures or salvage operations. If there are limitations in the use of such personnel, they should be identified and discussed in this section.

25. The section should also contain a review of training needs, if any, for the personnel mentioned under para. 22 or any other staff employed during a response to a request for a place of refuge assessment.

26. If no local contingency plan exists, such as mentioned under para. 10, it will be necessary to compile a detailed review and inventory of technical and response equipment available in the area or nearby of the selected place of refuge. Such a review should probably be part of the review of the coastline for a generic assessment of potential places of refuge on the coastline and data could be exchanged or gathered in conjunction.

Flowchart: Procedure for the Development of a Contingency Plan to be used in connection with Requests for Access to a Place of Refuge

