

## ANNEX

### INTERIM GUIDELINES FOR THE SYSTEMATIC APPLICATION OF THE GRANDFATHER CLAUSES

*A systematic approach towards improving  
the safety standards, including pollution prevention standards,  
of existing ships in the case when new constructional requirements  
have been proposed for new ships*

#### Preamble

1 Article VIII(e) of the International Convention for the Safety of Life at Sea (SOLAS), 1974 and article 16(6) of the International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 relating thereto (MARPOL 73/78), state that, unless expressly provided otherwise, any amendment to the Conventions, which relates to the structure of a ship, shall apply only to ships which can be considered to be built on or after the date on which the amendment enters into force. These so called "grandfather clauses" provide the shipping industry with some certainty when making investments.

2 In recent times, however, the acceptability of the grandfather clauses has been queried. With each constructional improvement of new ships, the gap in standards, i.e. safety and pollution prevention standards, between new and existing ships increases. Recognizing that it is often the record of existing ships that demonstrates the compelling need to improve on certain aspects of their standards, it seems quite unjustifiable that existing ships should be deliberately exempted from improvements of their standards. So, on the one hand, extensive and costly constructional modifications should be avoided on existing ships, while on the other hand, the standards of existing ships may become unacceptable when compared to requirements adopted for new ships only.

3 The *Interim guidelines for the systematic application of the grandfather clauses*, hereafter "the guidelines", provide a strategy for avoiding undue gaps in standards between new and existing ships. The strategy aims to ensure that when such gaps could increase through the adoption of more stringent constructional requirements for new ships, the standards of existing ships would be likewise improved to an acceptable extent, although the measures to be taken may differ in nature from those agreed for new ships. Ideally, this would in the long run result in equivalent standards for new and existing ships.

4 In order to close or minimize the safety gap and evaluate requirements proposed for existing ships, a number of *relevant aspects* (paragraph 1.4 of the guidelines) have been introduced in the guidelines. These relevant aspects should be taken into account when making a decision whether or not a safety or pollution prevention requirement proposed for existing ships can be considered to be consistent with the intent of resolution A.500(XII) concerning costs to the marine industry and the burden on Member States. To facilitate a more systematic and objective way of decision-making, a method of weighing has been introduced in appendix 2 of the guidelines.

Irrespective of proposals made for new ships, the method of weighing may also be used as a stand-alone tool to assist in determining whether or not a safety or pollution prevention requirement can be considered to be an appropriate requirement for existing ships within the context of resolution A.500(XII).

5 The guidelines also aim to implement the essence of resolution A.777(18), in ensuring a fuller, more active and more informed participation by all Member States in the work of the Organization, in

particular in any decision-making process. In particular, the guidelines ensure that relevant documentation (paragraph 1.5 of the guidelines) will be available in order to facilitate that well-informed decisions can be made.

6 The guidelines, in particular paragraphs 2.1 to 2.3 and appendix 1, have been developed as a complementary instrument so as to safeguard consistency with the relevant provisions of the Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies.

7 The guidelines will assist the Committees and their subsidiary bodies in following a uniform decision-making process on the complex issue of the application of grandfather clauses. The way in which the guidelines resolve this may be rather unfamiliar. The guidelines should therefore be applied on an interim, case-by-case trial basis, so that experience may be gained on their application and necessary modifications be made when the need arises.

## 1 INTRODUCTION

### 1.1 Purpose

The purpose of the guidelines is to facilitate the complex decision-making process wherein a well-informed decision should be made on the question as to what extent the improvement of the safety, i.e. the safety of life, property or the environment, that would result from the implementation of proposed constructional measures on new ships, should be achieved on existing ships as well. The guidelines provide a decision-making tool aimed at improving the safety of existing ships in the case when improvements of the safety of new ships are proposed. The purpose of the guidelines is also to indicate which actions should be taken by the relevant Committee and sub-committee(s) respectively.

### 1.2 Scope

In the case when the relevant Committee is satisfied that it is appropriate to consider proposals for new requirements or amendments to existing requirements for new ships and when such proposals relate to the construction of the ship, the Committee may decide that these guidelines should be used. After confirming that a compelling need has been demonstrated as required by resolutions A.500(XII) and A.777(18) in accordance with the Guidelines on the organization and method of work of the Maritime Safety Committee and Marine Environment Protection Committee and their subsidiary bodies, the guidelines may then serve to enable the Committees to make well-informed decisions on suitable measures for existing ships.

### 1.3 Definitions

The following definitions apply:

1.3.1 *Safety issue*: an issue relating to the safety of life, property or the environment for which safety measures have been proposed for new ships. If nothing would be done to resolve the safety issue on existing ships as well, the implementation of a proposed constructional requirement on new ships will result in a safety gap, possibly on top of already existing safety gaps between the various categories of existing ships.

1.3.2 *Safety measure*: a means that contributes in resolving the safety issue. A safety measure may be an operational requirement, a requirement for an item of equipment or a constructional requirement.

1.3.3 *Relevant aspect*: an aspect that should be considered in determining the acceptability of a proposed safety measure for existing ships. The relevant aspects to be considered are listed in paragraph 1.4.

1.3.4 *Acceptable safety measure*: a safety measure for existing ships which the relevant sub-committee, after balancing all relevant aspects of paragraph 1.4 (step 11 of the step-by-step procedure given in appendix 1), considers acceptable for implementation on existing ships. An acceptable safety measure contributes in resolving the safety issue on existing ships and, thereby, bridging the safety gap that will be brought about by the implementation of a proposed constructional requirement on new ships.

1.3.5 *Contribution in resolving the safety issue*: the predicted improvement of the safety, resulting from the implementation of a particular safety measure proposed for resolving the safety issue, expressed as an estimated percentage, i.e. "this particular safety measure will resolve the safety issue for 25%".

#### 1.4 Relevant aspects

In determining the acceptability of a safety measure proposed for the purpose of resolving elements of the safety issue on existing ships, the following relevant aspects should be considered;

- .1 cost of measures, demonstration of the need for, and effectiveness of the measure in relation to its contribution in resolving the safety issue;
- .2 availability of an item of equipment on which the measure depends;
- .3 enforceability of the measure;
- .4 burden on the legislative and administrative resources of Member States;
- .5 undesirability of modifying conventions too frequent or too soon;
- .6 time for implementation;
- .7 ease of maintaining the measure;
- .8 reliability of the measure; and
- .9 whether it would be more appropriate to apply specific requirements relying on improved operational standards.

#### 1.5 Documentation

1.5.1 The sub-committee, instructed to consider proposed construction-related safety measures for new ships, should use the following documentation in following the step-by-step procedure given in appendix 1:

- .1 clearly described elements of the safety issue to be resolved by the safety measures proposed for new ships, that should also be resolved for existing ships; and
- .2 clear description of safety measures proposed for existing ships to resolve those elements of the safety issue referred to in paragraph 1.5.1.1, including data to allow the assessment of the acceptability of each such measure.

1.5.2 The sub-committee referred to in paragraph 1.5.1 should submit the following documentation to the Committee for its consideration and to facilitate a well-informed decision:

- .1 clear description of safety measures proposed for existing ships to resolve those elements of the safety issue referred to in paragraph 1.5.1.1. It should include for each such measure:
  - .1.1 the outcome of the assessment of its acceptability; and
  - .1.2 a clear indication of its contribution in resolving the safety issue; and
- .2 clear explanation and justification of the lacking of acceptable safety measures for a particular element of the safety issue.

## 2 ACTIONS TO BE TAKEN BY THE MEMBER STATES, COMMITTEES AND

## **SUB-COMMITTEE(S) RESPECTIVELY**

2.1 In accordance with the scope (paragraph 1.2), the Committee should decide whether or not these guidelines are to be used. When it has been decided in a particular case to use the guidelines, the Committee should:

- .1 decide on the question to what extent the safety issue should be resolved on existing ships as well. To that end, the Committee should, where possible, identify those elements of the safety issue that should be resolved on existing ships as well. When the safety issue under consideration makes it not readily possible to identify elements of the safety issue, the Committee may choose to postpone its decision. It should then instruct the relevant sub-committee to advise how the safety issue could be fully resolved on existing ships. This would enable the Committee to make its decisions after having received the advice of the relevant sub-committee;
- .2 invite Member States and the industry to propose safety measures for existing ships to resolve elements of the safety issue. As a rule these measures should be submitted for consideration on the next session of the sub-committee(s) involved. However, the Committee may extend the period for submission by deciding that such measures may be submitted for consideration on any later session of the sub-committee(s) involved;
- .3 clearly instruct the relevant sub-committee(s) in accordance with its decision. Further instructions may be needed to facilitate the work in the relevant sub-committee(s), such as instructions on the target dates, the priority, the type and size of the existing ships on which the identified elements of the safety issue should be resolved. The Committee may consider to set target completion dates in such a way that the constructional measures for new ships and equivalent measures for existing ships will be developed sufficiently in parallel. This would allow for a possible reconsideration as intended in the next paragraph; and
- .4 reconsider the necessity for resolving the element of the safety issue on existing ships, in those cases when the sub-committee(s) could not found acceptable safety measures for resolving a particular element of the safety issue as instructed. It may then also reconsider whether the particular element of the safety issue should be resolved on new ships.

2.2 A sub-committee instructed according to paragraph 2.1.3 should:

- .1 follow the instructions of the Committee closely. When a sub-committee is unable to reach unanimous agreement, each minority view should be presented to the Committee;
- .2 determine the acceptability of each safety measure proposed for existing ships by balancing the relevant aspects given in paragraph 1.4;
- .3 communicate to the Committee in detail why an acceptable safety measure for resolving a particular element of the safety issue could not be agreed upon; and
- .4 feel encouraged to use a method of weighing with the aim of balancing the various relevant aspects in a more objective way and gaining experience with such methods in order to improve the guidelines. For this purpose an outline of a method of weighing has been introduced in appendix 2.

2.3 So as not to delay the adoption of safety measures for new ships, Member States proposing such measures for new ships relating to the construction of a ship, are encouraged to simultaneously submit possible measures for existing ships, together with data that would facilitate the application of the guidelines.

## APPENDIX 1

### A STEP-BY-STEP PROCEDURE

1 To facilitate the process of making a well-informed decision on the question to what extent the safety issue should be resolved on existing ships as well, the step-by-step procedure given in this appendix may be used. Following the procedure step-by-step will contribute in making the decision in a fair and balanced way.

2 The procedure should be regarded as a tool to reach a fair compromise in situations in which the views of the Member States may differ substantially.

<b>On agreeing that a safety issue should be resolved on new ships, the Committee should:</b>	
Step	Action
1	identify elements of the safety issue, if possible
2	decide on which elements of the safety issue should be resolved (When such elements can not be identified, the Committee may regard the safety issue itself as the one element that should be resolved)
3	decide on which categories of existing ships those elements should be resolved (e.g. which type, age and size of ships)
4	decide on the lead sub-committee, probably the sub-committee instructed to consider proposed construction-related safety measures for new ships
5	set the target date, priority, etc. The Committee may consider to set target completion dates in such a way that the constructional measures for new ships and equivalent measures for existing ships will be developed sufficiently in parallel. This would allow for a possible reconsideration as intended in step 14
6	instruct the relevant sub-committees in accordance with the outcome of step 2 to step 5
7	set the final date for submitting proposals for resolving the selected elements of the safety issue on existing ships
8	invite Member States and the industry to submit proposals for resolving the selected elements of the safety issue on existing ships

**On instruction of the Committee, the sub-committee(s) should:**

Step	Action
9	collect and complement the relevant data, i.e. the proposals and data to allow the assessment of the acceptability of these proposals (paragraph 1.5.1 of the guidelines)
10	decide on the application of a method of weighing. If the sub-committee so decides, it may be guided by appendix 2
11	agree on the acceptability of each proposed safety measure by balancing the relevant aspects given in paragraph 1.4 of the guidelines
12	prepare and submit the documentation as described in paragraph 1.5.2 of the guidelines

**On receiving the data from the sub-committee(s), the Committee should:**

Step	Action
13	decide on the adoption of the acceptable safety measures for existing ships
14	decide on the necessity to resolve the element(s) of the safety issue for which the sub-committee could not find acceptable safety measures. The Committee may even reconsider whether those elements should be resolved on new ships.

## APPENDIX 2

### AN OUTLINE OF A METHOD OF WEIGHING

1 Bearing in mind the intent of the grandfather clauses as well as resolution A.500(XII), every *safety measure* proposed for resolving elements of the *safety issue* on existing ships should be checked so as to determine whether the measure is suited for existing ships. In determining this suitability the relevant sub-committee should consider and balance carefully the *relevant aspects* given in paragraph 1.4 of the guidelines. However, balancing the relevant aspects is a difficult task of a subjective nature. To facilitate this balancing and to reduce the subjectivity, an outline of a method of weighing have been given in this appendix.

2 The presented outline of a method of weighing attempts to put a *total score* to a safety measure. If the total score of a safety measure exceeds a predetermined *acceptability level*, the measure is considered to be an *acceptable safety measure*, i.e. suited for implementation on existing ships.

3 A total score is merely the summation of the *weighted scores* of the safety measure on the relevant aspects, whereas each weighted score is the outcome of the multiplication of the *relative weight* of the relevant aspect under consideration and the *score* of the safety measure on that particular relevant aspect. Each score is, therefore, just a value indicating, for instance, how costly or enforceable a safety measure is. To give an example, the range of the costs might be divided in several sub-ranges, say sub-ranges "A" to "E". Let sub-range "A" be the sub-range indicating the lowest cost, whereas sub-range "E" indicates the highest cost. A proposed safety measure involving high costs that would fall within the limits of sub-range "E" should then be given a score 0. With that the contribution of such a costly safety measure in determining its acceptability will be minimal. If the costs would have been nominal, a score "4" should have been given, resulting in a maximum contribution.

4 To assist the sub-committee in establishing such ranges, sub-ranges and, eventually, scores, a range for each relevant aspect is suggested:

- cost of the measure in relation to its contribution in resolving the element of the safety issue  
*Range: nominal - high but not excessive*
- availability of an item of equipment on which the measure depends  
*Range: available on one continent only, one manufacturer - available on all continents, many manufacturers*
- enforceability of the measure  
*Range: enforceable through visual examination - not enforceable, e.g. a procedure which can not be witnessed nor verified*
- time for implementation  
*Range: implementation simultaneously with the implementation of measure(s) for new ships - implementation 12 or more years later than the implementation of measure(s) for new ships*
- burden on the legislative and administrative resources of Member States  
*Range: amendment restricted to only one provision of one IMO-instrument and one category of ships - for several categories of ships, different amendments to several*

*provisions of several IMO-conventions, coming into force on different dates*

- undesirability of modifying conventions too frequent

*Range: more than 5 years of experience with a provision of a convention to be modified to resolve the safety issue - relevant provision of a convention to be modified for resolving the issue at hand has been modified recently, for other purposes, but not yet been put in force*

- ease of maintaining the measure

*Range: the measure can be maintained at nominal cost - the measure can only be maintained at high costs*

- reliability of the measure

*Range: the measure is not susceptible to breakdown in a marine environment - the measure is highly susceptible to breakdown*

The suggested ranges should be divided in a number of sub-ranges. In many cases, the sub-committee may find that three to five sub-range suffice.

5 The relative weights of the relevant aspects and the acceptability level should be chosen by the sub-committee. The relative weights indicate how important the sub-committee finds the particular relevant aspect. To give an example, where the sub-committee chooses a relative weight of 1 for the relevant aspect "enforceability", it may value the relevant aspect "costs" at 5. In choosing these values, the sub-committee may determine the outcome of the method of weighing for a number of safety measures proposed for existing ships. The sub-committee may adjust the values until it is satisfied with the outcome. The sub-committee can then use the established values to determine the acceptability of all other proposed safety measures.

6 Establishing the *contribution in resolving the safety issue* of a safety measure is very difficult and of a subjective nature. The sub-committee may, therefore, consider the use of more objective techniques like Formal Safety Assessment or risk assessment and event trees.

**A CALCULATION SHEET FOR WEIGHING THE RELEVANT ASPECTS  
 FOR A PARTICULAR SAFETY MEASURE**

Description of the safety issue to be resolved:

Description of the element of the safety issue to be resolved by the safety measure:

Description of the safety measure:

Scope of ships to which the safety measure applies:

Type of existing ships:

Size of existing ships:

Age of existing ships :

Number of passenger allowed to be carried:

Relevant aspect	Relative weight	Score	Weighted score
Costs of the measure (in relation to its contribution in resolving the element of the safety or pollution prevention issue)	$rw_1$	$S_1$	$rw_1 \times S_1$
Availability of an item of equipment on which the measure depends	$rw_2$	$S_2$	$rw_2 \times S_2$
Enforceability of the measure	$rw_3$	$S_3$	$rw_3 \times S_3$
Time for implementation	$rw_4$	$S_4$	$rw_4 \times S_4$
Burden on the legislative and administrative resources of Member States	$rw_5$	$S_5$	$rw_5 \times S_5$
Undesirability of modifying conventions too frequent or too soon	$rw_6$	$S_6$	$rw_6 \times S_6$
Ease of maintaining the measure	$rw_7$	$S_7$	$rw_7 \times S_7$
Reliability of the measure	$rw_8$	$S_8$	$rw_8 \times S_8$
			Total score: $\sum_{i=1}^8 rw_i \times S_i$
Contribution of the particular measure in resolving the safety issue			<input type="text"/>
Acceptable safety measure?: yes/no			