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From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	1 October 2019
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	SWD(2019) 367 final
Subject:	COMMISSION STAFF WORKING DOCUMENT For the Council Shipping Working party IMO - Union submission to be submitted to the 7th session of the Sub-Committee on Navigation, Communication and Search and Rescue (NSCR 7) of the IMO in London from 15-24 January 2020 setting out a preliminary draft structure and proposal for a revision of the Guidelines on places of refuge for ships in need of assistance, annexed to resolution A.949 (23)

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Delegations will find attached document SWD(2019) 367 final.

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Brussels, 1.10.2019  
SWD(2019) 367 final

## **COMMISSION STAFF WORKING DOCUMENT**

**For the Council Shipping Working party**

**IMO - Union submission to be submitted to the 7th session of the Sub-Committee on Navigation, Communication and Search and Rescue (NSCR 7) of the IMO in London from 15-24 January 2020 setting out a preliminary draft structure and proposal for a revision of the Guidelines on places of refuge for ships in need of assistance, annexed to resolution A.949 (23)**

## COMMISSION STAFF WORKING DOCUMENT

### For the Council Shipping Working party

**IMO - Union submission to be submitted to the 7th session of the Sub-Committee on Navigation, Communication and Search and Rescue (NSCR 7) of the IMO in London from 15-24 January 2020 setting out a preliminary draft structure and proposal for a revision of the Guidelines on places of refuge for ships in need of assistance, annexed to resolution A.949 (23)**

#### PURPOSE

The Union submission to the 100th session of the Maritime Safety Committee (MSC 100) of the IMO (3 – 7 December 2018), approved a new output for a revision of resolution A.949 (23) on Guidelines on places of refuge for ships in need of assistance. The document in Annex sets out a preliminary draft structure and proposal for a revision of the Guidelines. It is hereby submitted to the appropriate technical body of the Council with a view to achieving agreement on transmission of the document to the IMO prior to the required deadline of 15 October 2019<sup>1</sup>.

Directive (EC) 2002/59 of the European Parliament and the Council establishing a Community vessel traffic monitoring and information system ('VTMIS'), as amended by Directive (EC) 2009/17, provides in Article 20(3) that Member States' competent authorities for the accommodation of ships in need of assistance shall meet regularly to exchange expertise and discuss the implementation of the relevant provisions. Furthermore, Article 23(d) of that Directive provides that Member States and the Commission shall cooperate in attaining the objective of drawing up concerted plans to accommodate ships in need of assistance<sup>2</sup>. The said draft Union submission, based on the EU operational guidelines on Places of Refuge, therefore falls under EU exclusive competence.

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<sup>1</sup> The submission of proposals or information papers to the IMO, on issues falling under external exclusive EU competence, are acts of external representation. Such submissions are to be made by an EU actor who can represent the Union externally under the Treaty, which for non-CFSP (Common Foreign and Security Policy) issues is the Commission or the EU Delegation in accordance with Article 17(1) TEU and Article 221 TFEU. IMO internal rules make such an arrangement absolutely possible as regards existing agenda and work programme items. This way of proceeding is in line with the General Arrangements for EU statements in multilateral organisations endorsed by COREPER on 24 October 2011.

<sup>2</sup> OJ L 208, 5.8.2002, p. 10.

SUB-COMMITTEE ON NAVIGATION,  
COMMUNICATIONS AND SEARCH AND  
RESCUE  
7<sup>th</sup> session  
Agenda item 13

NCSR 7/10/XX  
-- October 2019  
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**REVISION OF THE GUIDELINES ON PLACES OF REFUGE FOR  
SHIPS IN NEED OF ASSISTANCE  
(RESOLUTION A.949(23))**

**Submitted by the European Commission on behalf of the European Union, [ICS, IUMI,  
BIMCO, ISU, INTERTANKO, P&I Clubs, IAPH and WSC]**

**SUMMARY**

*Executive summary:* Following the decision at MSC 100 on a new output for the Sub-Committee on Navigation, Communications and Search and Rescue (NCSR) to revise resolution A.949 (23) on Guidelines on places of refuge for ships in need of assistance, this document sets out a preliminary draft structure and revision of the Guidelines. This is proposed in order to make the Guidelines clearer, up to date and more operational, ensuring that they continue to serve as an effective instrument providing support for all parties involved in handling a ship in need of assistance seeking a place of refuge.

*Strategic direction, if applicable:* 1

*Output:* 1.xx

*Action to be taken:* Paragraph 8

*Related documents:* Resolution A.949(23); MSC 94/20/1; MSC 95/INF.8; MSC 96/24/5; LEG 101/11/4; CCC 1/INF.2, and MSC 100/17/1(and Corr.1), and MSC 100/20

**Background**

1. The Maritime Safety Committee, at its one hundredth session, agreed to include in its post-biennial agenda an output on "Revision of the Guidelines on places of refuge for ships in need of assistance (resolution A.949(23))", with two sessions needed to complete the item, assigning the NCSR Sub-Committee as the coordinating organ (MSC 100/20, paragraph 17.1).

2. The revision of the *Guidelines on places of refuge for ships in need of assistance* (resolution A.949 (23) – hereinafter “the Guidelines”) is required to ensure that the resolution continues to serve as an effective instrument, providing a clear framework to deal with ships in need of assistance seeking a place of refuge in a consistent and harmonized manner.
3. MSC 100 noted the key areas in the Guidelines (in the annex to the resolution) which require revision (MSC 100/17/1, paragraph 17) and invited interested Member States and international organizations to submit proposals to NCSR 7.
4. For ease of reference the key areas identified in MSC 100/17/1 include:
  - .1 places of Refuge coordination and cooperation – the current Guidelines are designed on the premise that there is one and only one coastal State involved in any given incident. Experience shows, however, that many incidents lead to situations involving a neighbouring State or States in the vicinity of the incident. Conversely, States may consider themselves as exempt from any responsibilities when the incident occurs beyond national jurisdiction. Operational procedures for international coordination and decision-making should be provided for situations where more than one State may become involved and for incidents occurring beyond national jurisdiction;
  - .2 designation of a national competent authority – the current Guidelines mention numerous authorities that could be involved in the decision-making process: local authorities, maritime authorities, port authorities, authorities responsible for shoreside safety “and generally all governmental authorities concerned”. This risks leading to confusion and therefore delay in the internal handling and decision-making process. Resolution A.950(23) on *Maritime Assistance Services (MAS)* provides for a single point of contact in the coastal State for masters and those private facilities involved in salvage operations. Depending on internal structure, MAS may or not be the relevant contact for the governmental authorities of another State. Clarity regarding the authority involved can thus enhance communication and efficient coordination and cooperation between neighbouring States. The Guidelines could therefore recommend: the designation of a national competent authority, and appropriate information given to IMO on the identity and contact of this authority, if different, to an electronic link (e.g. MAS section of the Contact Points module in the Global Integrated Shipping Information System (GISIS));
  - .3 involved parties – the current Guidelines focus on masters and/or salvors but there are often other parties involved in support of resolving a situation e.g., insurance (P&I and Hull and Machinery), classification societies (providing emergency response services) etc. This should be fully reflected and roles and responsibilities explained;
  - .4 updating of process, communication and reporting procedures – the current Guidelines could be updated and clarified in relation to how to request a place of refuge, the risk assessment and inspection tools/needs, as well as the decision making, including how to communicate this. They, furthermore, could benefit from including a number of standardized formats and forms to be used, i.e. place of refuge request form, framework for what any “Decision Methodology” could include, SITREP (situational reports) in uniform format, etc.;
  - .5 guidance in the case of rejection and handover to another State – the current Guidelines are silent on any procedure and communication to concerned parties, in the case of a process leading to rejection. Such guidance should be developed and should also include procedure and information to be provided in order to hand over the handling of a ship in need of assistance to another (neighbouring/supporting) State;

.6 media and information handling – the current Guidelines do not cover this aspect at all, but given its role and the way social media is used today, a chapter on media handling should be considered;

.7 learning from experience – the Guidelines should include an encouragement for any party involved in handling ships in need of assistance to share lessons learned; and

.8 administrative amendments – there are references to a number of applicable international conventions in its appendix 1, which is in need of updating following the entry into force of additional relevant conventions. The document would also benefit from an overall rationalization and restructuring.

## **Progress**

5. In a continued spirit of enhanced cooperation and coordination among all parties involved, with the distinct purpose of providing a place of refuge, in the interest of the protection of human life, maritime safety and the environment, the co-sponsors have, as a starting point, undertaken, and building on from the current structure of the Guidelines, amended as appropriate, a revision of these Guidelines.
6. The preliminary draft revised Guidelines is annexed to this document. The draft is in Track Changes and all text highlighted in grey and in *italics* is new and all text in normal is either kept, or kept with slight modifications (so indicated), from the existing Guidelines. Numbers in [...] refer to numbers in the existing Guidelines.
7. In an attempt to make the Guidelines more operational, it is proposed to amend the structure so that each 'party' has its dedicated 'self-standing' section and therefore any appendixes or forms are directly attached to the section in question. The intent is also to make the document electronic with hyperlinks for quick referencing and guidance

## **Action requested of the Committee**

8. The Committee is invited to consider forwarding this document, with the annexed preliminary draft revision of the Guidelines, to the working group, if established, and take action as appropriate.

Resolution A.949(23) - Adopted on xxx [New Resolution text to be inserted once guidelines are agreed]

## **GUIDELINES ON PLACES OF REFUGE FOR SHIPS IN NEED OF ASSISTANCE**

THE ASSEMBLY,

[RECALLING Article 15(j) of the Convention on the International Maritime Organization concerning the functions of the Assembly in relation to regulations and guidelines concerning maritime safety and the prevention and control of marine pollution from ships,

RECALLING ALSO the obligations and procedures for the master to come to the assistance of persons in distress at sea, established by regulation V/33 of the International Convention for the Safety of Life at Sea, 1974, as amended,

RECALLING FURTHER that the International Convention on Maritime Search and Rescue, 1979, as amended, establishes a comprehensive system for the rescue of persons in distress at sea which does not address the issue of ships in need of assistance,

CONSCIOUS OF THE POSSIBILITY that ships at sea may find themselves in need of assistance relating to the safety of life and the protection of the marine environment,

RECOGNIZING the importance

RECOGNIZING ALSO

RECOGNIZING FURTHER that the provision of a common framework to assist coastal States to determine places of refuge for ships in need of assistance and respond effectively to requests for such places of refuge would materially enhance maritime safety and the protection of the marine environment,

HAVING CONSIDERED the recommendations made by the Maritime Safety Committee, by the Marine Environment Protection Committee, by the Legal Committee and by the Sub-Committee on Safety of Navigation,

1. ADOPTS the Guidelines on places of refuge for ships in need of assistance, the text of which is set out in the annex to the present resolution;
2. INVITES Governments to take these Guidelines into account when determining and responding to requests for places of refuge from ships in need of assistance;
3. REQUESTS the Maritime Safety Committee, the Marine Environment Protection Committee and the Legal Committee to keep the annexed Guidelines under review and amend them as appropriate;
4. REQUESTS the Legal Committee... ]

## ANNEX

### GUIDELINES ON PLACES OF REFUGE FOR SHIPS IN NEED OF ASSISTANCE

***Interactive structure and sections of the guidelines*** ~~Table of Contents~~ [to be updated]

*The structure of these guidelines is such that each 'party' involved has its own section and is hyperlinked for quick reference and guidance to make them more operational. It is therefore recommended to keep these guidelines in an electronic format.*

#### **SECTION 1 – GENERAL INTRODUCTION**

- 1.2 Background – setting
- 1.3 Objectives
- 1.4 Purpose of the guidelines
- 1.5 Definitions

#### **SECTION 2 – ACTION REQUIRED OF MASTERDS AND OTHERS INVOLVED WITH SHIPS IN NEED OF ASSISTANCE SEEKING A PLACE OF REFUGE**

***For master please click [here](#) (or go directly to **page x**)***

- 2.1 The master
- 2.2 The Salvor
- 2.3 Requesting a Place of Refuge – Process
- 2.4 Response actions

*Appendix 1 to section 2 – Risk Analysis factors*

*Appendix 2 to Section 2 - Form A (Formal Place of Refuge Request Form)*

#### **2.5 Other Parties Involved**

- Flag State
- Classification Society
- Insurers
- Port, Harbours and Terminals
- The company/operator

#### **SECTION 3 – ACTIONS EXPECTED [REQUIRED] OF COASTAL STATES**

***For coastal States please click [here](#) (or go directly to **page x**)***

- 3.1 Competent Authority
- 3.2 Plans for accommodating ship(s) in need of assistance seeking a place of refuge
- 3.3 Assessment of places of refuge – generic assessment
- 3.4 Event-specific assessment
- 3.5 Decision-making process for granting a place of refuge

*Appendix 1 to Section 3 - PoR Plans*



**SECTION 4 – INTERNATIONAL/REGIONAL COOPERATION AND COORDINATION FOR PLACES OF REFUGE**

*Appendix 1 to Section 4*

*Appendix 2 to Section 4 – Form B (handover)*

**SECTION 5 – MEDIA AND INFORMATION MANAGEMENT**

**SECTION 6 – LESSONS LEARNED**

Appendix 1 to Section 1 - Applicable international conventions

## SECTION 1 GENERAL INTRODUCTION

.1 [1.2] The issue of places of refuge *cannot be subject to* a purely theoretical or doctrinal debate. *On the contrary, it should be addressed as* a practical problem *needing operational decisions involving both authorities and industry. The key question is what needs to be done* when a ship finds itself in serious difficulty or in need of assistance without, however, presenting a risk to the safety of life of persons involved. *One dilemma is whether* the ship should be brought into shelter near the coast or into a port or, conversely, should it be taken out to sea. *There is often a reluctance on the part of the authorities to bring a ship in need of assistance to a place of refuge. This is not always an informed decision, based on a comprehensive understanding of all the relevant issues. These guidelines seek to address that.*

### 1.2 Background - setting

.1 Situations leading to a request for a place of refuge often involve only one State and will be managed by that State, under the rules applicable in its jurisdiction. There may be cases where a situation may develop to involve neighbouring States or States in the vicinity of the incident. Therefore, these guidelines may also apply to situations where it is possible that more than one State may be involved.

.2 [1.3] When a ship has suffered an incident, the best way of preventing *the risk of* damage or pollution from its progressive deterioration would be to *stabilize the situation allowing preventive actions such as* lighten its cargo and bunkers; and to repair the damage. Such an operation is best carried out in a place of refuge. [1.8] There are circumstances under which it may be desirable to carry out a cargo transfer operation or other operations to prevent or minimize damage or pollution.

.3 [1.6] In some circumstances, the longer a damaged ship is forced to remain at the mercy of the elements in the open sea, the greater the risk of the ship's condition deteriorating or the sea, weather or environmental situation changing and thereby becoming a greater potential hazard.

.4 [1.5] While coastal States may be reluctant to accept damaged or disabled ships into their area of responsibility due primarily to the potential for environmental damage, in fact it is rarely possible to deal effectively with a marine casualty in open sea conditions.

[1.9] Taking *a ship in need of assistance* to a place of refuge would have the advantage of limiting the extent of coastline *at risk*, but the specific area *of coastline* chosen may be *at greater risk*. Consideration must also be given to the possibility of taking the affected ship to a port or terminal where the transfer *of cargo* or repair work could be done relatively easily. For this reason the decision on the choice and use of a place of refuge will have to be carefully considered *case-by-case and based on risk-assessment*.

.6 [1.10] The use of places of refuge *may* encounter local opposition and involve *difficult* decisions. The coastal States should recognize that *an evidenced-based comprehensive risk assessment is indispensable for safe and efficient handling and decision. Regional cooperation agreements could, depending on circumstances, support the accommodation of a ship in need of assistance or seeking a place of refuge.*

*.7 Coastal States and Ports that accommodate a ship that has been granted a place of refuge should receive prompt and appropriate compensation in respect of liabilities that arise from the accommodation of a damaged ship. To that end, it is important that the relevant international conventions, and, if available, risk-sharing mechanisms, be applied.*

*.8 [1.11] At the international level, the Conventions listed in Appendix 1 to Section 1, as may be amended, constitute, inter alia, the legal context within which coastal States and ships act in the envisaged circumstances.*

*Against this background it is necessary to lay down provisions for accommodating ships in need of assistance in order to ensure a harmonised and effective implementation of this measure and to make them more operational in supporting States, ships' masters and other parties involved in meeting the objectives.*

### **1.3 Objectives**

*.1 The objective is to provide a uniform, transparent process leading to well informed quicker decision-making. This will benefit a State, ships' masters, operator and/or salvor or other parties where a ship in need of assistance requests a place of refuge in the interest of the protection of human life, maritime safety, security and the environment.*

*.2 The process should promote co-operation and constructive engagement within and between Governments, authorities, and Industry.*

*.3 Based upon the services required by the master or any other person in charge of the ship. (i.e. salvors), a State which may be asked to provide assistance should consider designating a place of refuge. This is particularly important if there is a risk that a ship will sink or ground resulting in environmental damage or a navigational hazard.*

*.4 The objective is also [and the guidelines support] that national plans for the accommodation of ships in need of assistance include procedures for international coordination and decision-making and where possible or appropriate, cooperation in drawing up concerted plans to accommodate ships in need of assistance. This may be desirable, or become necessary, for regional areas or sea basins shared with several littoral States.*

*.5[1.7] Granting access to a place of refuge involves a decision which can only be taken on a case-by-case basis with due consideration given to the balance between the advantage for the affected ship, its crew and the environment resulting from bringing the ship into a place of refuge and the risk to the environment resulting from that ship being near the coast or if it is taken or ordered away from the coast.*

*1.4 However, to bring such a ship into a place of refuge near a coast may endanger the coastal State, both economically and from the environmental point of view, and local authorities and populations may strongly object to the operation.*

### **1.4 Purpose of the Guidelines**

.1 The purpose of these guidelines is to provide the basis of an operational framework for coastal States, ships' masters, operators and/or salvors as well as other involved parties, to handle and take a decision when a ship is in need of assistance or it seeks a place of refuge.

.2 Such framework could involve establishing an authority in a State, depending on the internal structure of that State, which has relevant expertise and the necessary powers to take independent decisions as regards the accommodation of a ship in a place of refuge – hereinafter referred to as a competent authority (CA).

.3 This also involves guidance to such a competent authority on how and what should be done to efficiently deal with a ship in need of assistance requesting a place of refuge. Guidance should also be provided for the master to assist him/her in clearly identifying the services or facilities, if any, they require in a place of refuge situation. These guidelines should therefore also include guidance on what is expected of them, suggested procedures and information flows to be used.

.4 However, such cases also normally involve other parties such as the salvor, classification society, insurer etc, and these guidelines also include guidance to such parties.

.5 The guidelines address situations where only one competent authority is involved, as well as more than one jurisdiction. Hence, they include the strong recommendation for coastal States to establish regional cooperation and coordination in order to develop common frameworks for assessing ships that need assistance, including, where appropriate, putting concerted actions and plans into practice.

.6 [1.12] In any given situation, the efforts of the Member Governments, shipmasters, companies<sup>3</sup>, and salvors and any other parties involved, should respond effectively and in such a way that efforts are complementary, and in ensuring that if one CA is not in a position to manage the situation or grant a request for a place of refuge (hereinafter PoR) another CA should be informed and prepared to take over the decision making for that request.

.7 [1.1] Where a ship is in need of assistance but safety of life is not involved, these guidelines should be followed. [1.13] These Guidelines do not address the issue of operations for the rescue of persons at sea. ~~those on board have already been rescued, with the possible exception of those who have stayed on board or have been placed on board in an attempt to deal w~~

.8 [1.14] If, however, in an evolving situation, the persons on board find themselves in distress, the rules applicable to rescue operations under the SAR Convention, the IAMSAR Manual and documents arising therefrom have priority over the present Guidelines (and procedures arising therefrom).

.9 [1.16] Even though a rescue operation, as defined in the International Convention on Maritime Search and Rescue (SAR) is not the case, the safety of persons must nevertheless be constantly borne in mind in the application of these Guidelines.

.10 [1.15] In any case the competent MAS/MRCC should be informed about any situation which may develop into a SAR incident.

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<sup>3</sup> As defined in the ISM Code.

.11 [1.17] These Guidelines do not address the issue of liability and compensation for damage resulting from a decision to grant or deny a ship a place of refuge.

~~—if persons voluntarily stay (master, etc.) or go (fire fighters and other experts, personnel of marine salvage or towage companies, etc.) on board to attempt to overcome the difficulties experienced by the ship.~~

## 1.5 Definitions [to be updated at the end]

.1 [1.18] 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 **ship** or an environmental or navigational hazard.

.2 *'Party' means an entity involved in support of resolving a situation when a ship in need of assistance seeks a place of refuge*

.3 [1.19] Place of refuge means a place where a 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.

.4 [1.20] MAS means a maritime assistance service, as defined in 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.

.5 *MRCC means ...Maritime Rescue Coordination Centre [as defined in the in the SAR Convention]*

.6 *Competent Authority means ...an authority in a State, depending on the internal structure of that State, having the required expertise and the power to take independent decisions as regards the accommodation of a ship in a place of refuge*

.7 *Parties involved means...[those mentioned in section...] [parties mentioned in the ISM code?]*

...

## SECTION 2 ACTION REQUIRED OF MASTERS AND/OR SALVORS **AND OTHERS INVOLVED WITH SHIPS IN NEED OF ASSISTANCE SEEKING A PLACE OF REFUGE**

### 2.1 *The master*

.1 *In the event of any maritime incident, the ship's master and/or the salvor shall contact the appropriate MRCC/MAS, as designated in each State, to report the incident and initiate the necessary follow-up actions. A list of MAS/MRCCs can be found [here](#)<sup>4</sup>*

[\[http://www.imo.org/en/OurWork/Safety/Navigation/Pages/PlacesOfRefuge.aspx\]](http://www.imo.org/en/OurWork/Safety/Navigation/Pages/PlacesOfRefuge.aspx)

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<sup>4</sup> On this webpage, the circular can be downloaded by clicking on the circular number on the right hand side of the page.

**Attention** is drawn for the need to consult the latest revision of the IMO Circular, as it may have been revised.

.2 The master of a ship to which the provisions of the ISM Code are applicable shall, in accordance with that Code, inform the company of any incident or accident, which occurs at sea. As soon as it has been informed of such a situation, the company must contact the competent coastal station and place itself at its disposal as necessary.

.3 The master has the command of the ship and remains in command of the ship even when a salvage operation is underway. The master may decide to relinquish command, after which it comes under the responsibility of the salvor.

.4 The master shall:

- inform the competent authorities (of the nearest coastal State(s)) as soon as possible, issuing [where possible] an incident report with at least the following details:

- (1) the ship's identity,

- (2) the ship's position,

- (3) the port of departure,

- (4) the port of destination,

- (5) Information about the on-board cargo,

- (6) the address from which additional information may be obtained on any oil and dangerous cargo on board (i.e. copy of cargo manifest) to the extent known,

- (7) quantity, location and type of bunkers on board,

- (8) the number of persons on board, and

- (9) details of the incident;

- cooperate fully with the CAs;

- communicate all requested or pertinent information to CAs.

5. The master shall further (with the assistance of the company and/or the salvor where necessary):

assess the situation and identify the reasons why the ship needs assistance;

carry out an analysis of the risks, threats, and hazards identified (to the best of the masters's ability or knowledge at the time of the situation) considering, inter alia, the following:

- Fire
- Explosion

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**Attention** is also drawn to the need for each coastal State to ensure that the shipping industry is properly informed and regularly updated, notably via nautical publications, regarding the authorities and stations designated, including where appropriate the geographical area for which they are competent.

- damage to the ship, including mechanical and/or structural failure
- collision
- pollution
- impaired ship stability
- grounding

*and on the basis of Appendix 1 to Section 2 – risk analysis factors, estimate the consequences of the potential casualty, if the ship were to:*

- remain in the same position;
- continue on its voyage;
- reach a place of refuge; or
- be taken out to sea

*Identify the assistance required from the coastal State in order to overcome the inherent danger of the situation (refer to Appendix 2 to Section 2, part 3);*

*Inform if there is an emergency response services (ERS) onboard and make any information available to the CA;*

*Undertake any relevant response actions to minimize the consequences of the casualty.*

## **2.2 The Salvor<sup>5</sup>**

*.1 In a situation where the master has relinquished his/her command, the salvor is responsible for:*

- *Keeping the CA fully informed about the condition of the ship and the progress of the salvage operation.*
- *Cooperating fully with the CA in ensuring the safety of the ship, of persons, and the protection of the marine environment, by taking all appropriate measures.*
- *Submitting an outline salvage plan showing immediate intentions (detailed plan to be provided later) to the CA for approval before operations commence.*
- *(If there is an ERS in place), the salvors will be in direct contact with the classification society to provide them with updates on the condition of the ship.*

## **2.3 Requesting a Place of Refuge - Process**

*.1 When a decision has been taken by the party in charge of the ship to make a formal PoR request, without prejudice to the CA's right to take the decision, the following process should be followed:*

*.2 The formal request should include the information in Form A (Appendix 2 to section 2) and should be made in writing via electronic transmission. Any other information that the CA might require, for example, to ensure compliance with local legislation, such as cargo manifests, stowage plans and the salvor's outline salvage plan should also be forwarded, together with Form A.*

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<sup>5</sup> The duties of the Salvor are set out in Article 8 of the International Convention on Salvage 1989, which is incorporated into Lloyd's Open Form, and will apply when no contract is in place. If a contract other than Lloyd's Open Form is in place responsibilities will be different and will be specific to each casualty.

.3 The formal request for a place of refuge should be transmitted by the master using the fastest means available to the coastal State as a CA or to MAS/MRCC, as the case may be, as designated. [(see link in point 2.1/MAS section of the Contact Points module in the Global Integrated Shipping Information System (GISIS))]

.4 A formal request for a place of refuge may also be made by:

- Ship operator / company Designated Person Ashore (DPA)/contracted salvor
- Any other person who is in charge of the ship at the time, and is recognised by national law

.5 Unless in extremis, formal requests should be made to one CA only, through the national point of contact (MAS or MRCC), and should not be forwarded directly to ports or harbours, unless agreed with the MAS / MRCC and CA. The CA should always be informed if a third party was involved.

.6 Simultaneous requests to other CAs or MAS/MRCC should be avoided.

### Response actions

.1 [2.7] Subject, where necessary, to the coastal States prior consent, the ship's master and the shipping company concerned should take any necessary response actions, such as signing a salvage or towage agreement or the provision of any other service for the purpose of dealing with the ship's situation. *When granting access, the coast State may establish additional or different measures to be complied with by the master and/or salvor.*

.2 [2.8] The master, the company and, where applicable, the salvor of the ship should comply with the practical requirements resulting from the coastal States decision-making process referred to in paragraph 3.7.

## APPENDIX 1 to Section 2

### Risk Analysis Factors

When conducting the risk analysis described in paragraphs 2.1.5 and 3.3 the following should be considered:

#### 1 Assessment of risks

.1 Environmental and social factors, such as:



- safety of those on board
- **risk** to public safety
  - What is the nearest distance to populated areas?
- pollution caused by the ship
- designated environmental areas
  - Are the place of refuge and its approaches located in sensitive areas such as areas of high ecological value which might be affected by possible pollution?
  - Is there, on environmental grounds, a better choice of place of refuge close by?
- sensitive habitats and species
- fisheries
  - Are there any offshore and fishing or shellfishing activities in the transit area or in the approaches to the place of refuge or vicinity which can be endangered by the incoming ship in need of assistance?
- economic/industrial facilities
  - What is the nearest distance to industrial areas?
- amenity resources and tourism
- facilities available
  - Are there any specialist **ships** and aircraft and other necessary means for carrying out the required operations or for providing necessary assistance?
  - Are there transfer facilities, such as pumps, hoses, barges, pontoons?
  - Are there reception facilities for harmful and dangerous cargoes?
  - Are there repair facilities, such as dockyards, workshops, cranes?

.2 Natural conditions, such as:

- Prevailing winds in the area.
  - Is the place of refuge safely guarded against heavy winds and rough seas?
- Tides and tidal currents.
  - weather and sea conditions
    - Local meteorological statistics and number of days of inoperability or inaccessibility of the place of refuge.
  - bathymetry
    - Minimum and maximum water depths in the place of refuge and its approaches.
- The maximum draught of the ship to be admitted.
  - Information on the condition of the bottom, i.e., hard, soft, sandy, regarding the possibility to ground a problem **ship** in the haven or its approaches.
- seasonal effects including ice
- navigational characteristics
  - In the case of a non-sheltered place of refuge, can salvage and

lightering operations be

safely conducted?

Is there sufficient space to manoeuvre the ship, even without propulsion?

What are the dimensional restrictions of the ship, such as length, width and draught?

Risk of stranding the ship, which may obstruct channels, approaches or ship navigation.

Description of anchorage and mooring facilities in the place of refuge.

- operational conditions, particularly in the case of a port

Is pilotage compulsory and are pilots available?

Are tugs available? State their number and horsepower.

Are there any restrictions? If so, whether the ship will be allowed in the place of refuge,

e.g. escape of poisonous gases, danger of explosion, etc.

Is a bank guarantee or other financial security needed and if so, acceptable to the coastal State before admission is granted into the place of refuge?

.3 Contingency planning, such as:

- competent MAS

- roles and responsibilities of authorities and responders

Fire-fighting capability

- response equipment needs and availability

- response techniques

Is there a possibility of containing any pollution within a compact area?

- international/regional co-operation and coordination (reference to section 4)

- evacuation facilities

.4 Foreseeable consequences (including in the media) of the different scenarios envisaged with regard to safety of persons and pollution, fire, toxic and explosion risks.

Appendix 2 to Section 2 (point 2.3.2)

**FORM A**

**Formal Place of Refuge Request Form**

**Note:** For Places of Refuge requests following SAR action it is likely that much of the ship/cargo/bunker information will already be held by the MRCC / MAS.

	<b>Request for Place of Refuge</b>
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Date:	.....
From	Master: .....[MV NONSUCH] Xxxx Salvage PLC
To	Competent Authority (or via MAS/MRCC) .....
	For attention of: Competent Authority
Part 1	<b>Appraisal of the situation (ref to paragraph xx)</b> The master should, where necessary with the assistance of the company and/or the salvor, identify the reasons for his/her ship's need of assistance.
Part 2	<b>Identification of Hazards and Assessment of Associated Risks (ref to paragraph xx)</b> Having made the appraisal above the master, where necessary with the assistance of the company and/or the salvor, should estimate the consequences of the potential casualty, in the following hypothetical situations, taking into account both the casualty assessment factors in their possession and also the cargo and bunkers on board: - if the ship remains in the same position; - if the ship continues on its voyage; - if the ship reaches a place of refuge; or - if the ship is taken out to sea.
Part 3	<b>Identification of the required actions (ref to paragraph xx)</b> The master and/or the salvor should identify the assistance they require from the coastal State in order to overcome the inherent danger of the situation. [paragraph 3 of Appendix 2 refers].
Part 4	<b>Supporting Documentation</b> Annexes ....
Part 5	<b>Any other coastal States / Ports Contacted to Date</b>
Part 6	<b>AS/Port contacted</b> [At the end of its assessment process] The recipient CA should inform the requestor of its action

## 2.5 Other Parties Involved

### .1 The Flag State [if different from the coastal State]

The Flag State should be asked to cooperate with the competent authority (CA), if there is a need for specific information on the ship's certificates and any other relevant documentation (i.e. safety and pollution prevention). The flag State should also facilitate for any ERS information to be made available. The CA [coastal State] should keep the Flag State aware of developments.

### .2 Classification Society

*It is strongly recommended that the classification society is involved in the information gathering and risk assessment stage, in particular when a formal request for a place of refuge has been made, and to provide any information.*

*Many classification societies have set up emergency response services (ERS). ERS can provide information on damage stability and residual strength etc to the ship's crew, salvors or the CA. From the early critical stages through to repair, ERS may provide support by evaluating the technical aspects of the casualty and identifying concerns and possible courses of action in support to the master/salvor and/or the CA.*

#### *Emergency Response Service (ERS)*

*Where the ship has been enrolled in a shore-based ERS service, the service should be activated to assess the vessel damage condition and the availability of ERS resources should be notified to the CA by the master or operator, as soon as possible.*

*The CA should have access to all information that it deems necessary, i.e. ERS reports and/or support information, where provided, cargo manifests, etc. The International Association of Classification Societies (IACS) recommends<sup>6</sup> that ERSs provide rapid technical assistance to the master and, at the master or operator's request, to other authorities.*

#### *.3 Insurers*

*Protection & Indemnity ('P&I') Insurance covers a wide range of liabilities including personal injury to crew, passengers and others on board, cargo loss and damage, oil pollution, wreck removal and dock damage. Generally, P&I Clubs also provide a wide range of services to their members on claims, legal issues and loss prevention, and often play a leading role in the management of casualties. Hence, establishing communication with the P&I Club as early as possible during an incident is important as they can be instrumental in obtaining relevant information from the ship operator.*

*In an incident, they may be asked to provide financial guarantees which may include guarantees for damages or losses to ports during the accommodation of a ship in need of assistance.*

*Hull & Machinery ('H&M') Insurance covers damage to the ship's hull, machinery and equipment. This is often covered by two or more underwriters; hence, it is sufficient to obtain the contact details of the lead hull insurer, who is authorised to act on behalf of all followers and often play a leading role during a salvage situation.*

*Cargo insurance covers damages to the cargo on board the ship, including cargo contributions to the general average.*

#### *.4 Port , Harbours & Terminals*

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<sup>6</sup> IACS Recommendation N.145 (May 2016): <http://www.iacs.org.uk/Publications/recommendations/141-160>

Depending on circumstances and following the risk assessment a port or harbour or a specific terminal may be identified as a potential PoR.

If a port or harbour is identified as a potential PoR for a ship in need of assistance, the following issues will, inter alia, need to be considered:

- The availability of a suitable Berth, designated Emergency Reception Berth, or otherwise, place to accommodate the ship .
- The risk to safety and/or human health, particularly if the port or harbour is in close proximity to populated areas.
- Technical considerations of the port's operations (e.g. assessment of the potential risk of lengthy disruption, the ship blocking or restricting access through navigation channels, damage to infrastructure).

#### 5 Company/operator

- Provide a point of contact for any information required by the CA / MAS if the Master is unable to do so, for whatever reason or to reduce the requests for information to the Master, allowing the Master to manage the situation on board.
- Support the CA / MAS if requested during and post the situation.

Coordinate the provision of ERS information between the CA and the Classification Society.

### SECTION 3 ACTIONS [REQUIRED] EXPECTED OF COASTAL STATES

When a ship is in need of assistance seeking a place of refuge, a decision has to be taken as regards the accommodation of that ship in a place of refuge. Each coastal State should therefore examine their ability to provide a place of refuge.

*This is particularly important in the event of a situation that could give rise to the loss of a ship or an environmental or navigational hazard.*

### **3.1 Competent Authority**

*.1 When a ship is in need of assistance seeking a place of refuge, it is necessary to be able to call on an authority in that coastal State, depending on the internal structure of that State, having the required expertise and the power to take independent decisions as regards the accommodation of a ship in a place of refuge.*

*.2 Therefore, coastal States should designate one competent authority (CA) - The CA should have the required expertise and the power to take independent decisions on their own initiative concerning the accommodation of ships in need of assistance seeking a place of refuge.*

*It is desirable that the CA should be permanent in nature.*

*.3 Coastal States should establish and maintain a Maritime Assistance Service (MAS) and/or, as appropriate, to make the necessary arrangements for a joint service with neighbouring States.*

*.4 Coastal States should make the name and contact details of the competent authorities and MAS/MRCC available to the public [in MSC.5/Circ.13/Rev.2][GISIS...].*

### **3.2 Plans for accommodating ship(s) in need of assistance seeking a place of refuge**

*.1 [3.1] Under international law, a coastal State may require the ships master or company to take appropriate action within a prescribed time limit with a view to mitigating a risk or danger. In cases of failure or urgency, the coastal State can exercise its authority in taking responsive action appropriate to the threat.*

*.2 [3.2] It is therefore important that coastal States establish plans with clear procedures to address these issues, even if no established damage and/or pollution has occurred.*

*[3.4] It is recommended that coastal States establish plans and procedures consistent with these Guidelines for the accommodation of ship(s) in order to respond to risks presented by ships in need of assistance in the waters under their jurisdiction. The CA should participate in drawing up and carrying out those plans.*

*.4 The plans should describe precisely the decision-making chain with regard to alerting and dealing with the situation in question. The authorities concerned and their specific role/competence should be clearly described, as should the means of communication between the parties involved. The applicable procedures should ensure that an appropriate decision can be taken quickly on the basis of specific maritime expertise and best possible information available to the competent authority.*

*.5 When drawing up the plans, Coastal states should gather the information on potential places of refuge to allow the competent authority to identify clearly and quickly the most suitable place for accommodating a ship in need of assistance. It can be a sheltered area, a port or any other suitable place; it may be any appropriate place, depending on the situation, along the entire coast of a State.*

.6 Information about potential places should include a description of certain characteristics of the sites as well as any equipment and installations available to accommodate a ship in need of assistance.

.7 The coastal State shall also include procedures or agreements for international/regional coordination and decision-making, which should be consistent with these Guidelines for the handling of requests for assistance and authorising, where appropriate, the use of a suitable place of refuge. They may therefore include availability of information on plans for other neighbouring States and all parties involved in a response operation.

.8 Appendix 1 to Section 3 contains a non-exclusive list of what such plans may include.

### **3.3 Assessment of places of refuge - Generic assessment**

[3.5] The CA, and, where necessary, in consultation with the port authorities *and, as appropriate, terminal operators*, should, for each place of refuge request, make an objective analysis of the advantages and disadvantages of allowing a ship in need of assistance to proceed to a place of refuge, taking into consideration the risk analysis factors listed in Appendix 1 to Section 2.

### **3.4 Event-specific assessment**

**Expert Analysis/Inspection**— [3.11] The analysis or inspection should include a comparison between the risks involved if the ship remains at sea and the risks that it would pose to the place of refuge and its environment. Such comparison should cover each of the following points:

- safeguarding of human life at sea;
- safety of persons at the place of refuge and its industrial and urban environment (risk of fire or explosion, toxic risk, etc.);
- risk of pollution (particularly in designated areas of environmental sensitivity);
- if the place of refuge is a port, risk of disruption to the port's operation (channels, docks, equipment, *terminals*, other installations);
- evaluation of the consequences if a request for place of refuge is refused, including the possible effect on neighbouring States; and
- due regard should be given, when drawing the analysis, to the preservation of the hull, machinery and cargo of the ship in need of assistance, as well as possible risks to navigation.

### **.2 Analysis factors**

[3.9] The *event specific* analysis should include the following *analysis factors*:

- seaworthiness of the ship concerned, in particular buoyancy, stability, availability of means of propulsion and power generation, docking ability, etc.;
- nature and condition of cargo, stores, bunkers, in particular hazardous goods;
- distance and estimated transit time to a place of refuge;
- whether the master (*or representative of the master e.g. chief mate*) is still on board;
- the number of other crew and/or salvors and other persons on board and an assessment of human factors, including fatigue;

- the legal authority of the country concerned to require action of the ship in need of assistance;
- agreement by the master and company of the ship to the proposals of the coastal State/salvor to proceed or be brought to a place of refuge;
- provisions on the financial security, *if* required;
- commercial salvage contracts already concluded by the master or company of the ship;
- information on the intention of the master and/or salvor;
- designation of a representative of the company at the coastal State concerned;
- risk evaluation factors identified in **Appendix 1 to section 2**; and
- any measures already taken.

### **3 Expert Inspection**

*Where it is deemed safe to do so and where time permits, an inspection team designated by the CA should board the ship requesting a PoR, for the purpose of gathering evaluation data to support the decision making process [(c.f. Analysis factors)].*

*A team composed of persons with expertise appropriate to the situation should be established. Where one or more coastal States may be involved with the incident, and where other parties may be potentially involved, then the formation of a multi-national or 'regional' inspection team should be considered. The coastal State CA receiving the request for a PoR will retain responsibility for selecting the appropriate team members and inviting participation from other States/competent authorities. Due care should be exercised to ensure that formation of a multi-national / regional team does not delay the deployment of the inspection team.*

### **3.5 Decision-making process for *granting* a place of refuge**

*.1 The competent authority [referred to in...] should decide on the acceptance of a ship in a place of refuge following a prior assessment of the situation carried out on the basis of the plans [referred to in...] and any expert analysis/inspection. The competent authority should ensure that ships are admitted to a place of refuge if they consider such an accommodation the best course of action for the purpose of the protection of human life, the environment or the ship, cargo. [3.12] When permission to access a place of refuge is requested, there is no obligation for the CA to grant it, but before taking any decision, the necessary risk assessments and/ or inspection visits should always be completed. As a general principle - Unless deemed unsafe, there should be no rejection without inspection.*

The CA should weigh all the factors and risks in a balanced manner and give shelter whenever reasonably possible.

*.2 The competent authority may verify whether the ship is covered by insurance or some other effective form of financial security permitting appropriate compensation for costs and damages associated with its accommodation in a place of refuge; the act of requesting this information must not delay operations.*

*The absence of insurance or financial security does not exonerate a coastal State from its obligation to perform the risk assessment and to decide on the acceptance of the ship in a place of refuge. The*



State that receives a request to provide a place of refuge cannot refuse for commercial, financial or insurance reasons alone.

The decision by a State to grant a place of refuge on their territory should be immediately communicated to all parties involved and should include any practical requirements set as a condition of entry.

.4 Whilst each State should remain independent in making their decision, if a competent authority is unable to accept a request for place of refuge, it should immediately communicate to the shipowner/operator the information on the basis of which its decision has been made and including any assessment relating to:

- Safety persons on board and risks to public safety on shore;
- Environmental Sensitivities;
- Lack of availability of suitable resources at desired PoR and concern over structural stability and ability for ship to make successful safe transit to same;
- Prevailing and forecast weather conditions, ie. Lack of sheltered area for proposed works;
- Physical limitations and constraints incl. bathymetry, navigational characteristics;
- Foreseeable consequences escalation, i.e. pollution, fire, toxic and explosion risk;
- Any other applicable reason.

.5 In situations where regional agreements are in place, the same information should be communicated to the other parties involved. Copies of the State's Risk Assessment and/or Inspection Report(s) should also be made available, as appropriate, through such regional agreements.

.6 [3.14] The action of the coastal State does not prevent the company or its representative from being called upon to take steps, within the framework of international law, that are necessary to avert, lessen or remove a serious and imminent risk to its coastline or related interests, the safety of other ships and their crews and passengers or of persons on shore or to protect the marine environment, that competent authority may, inter alia:

- restrict the movement of the ship or direct it to follow a specific course. This requirement does not affect the master's responsibility for the safe handling of his ship;
- give official notice to the master of the ship to put an end to the threat to the environment or maritime safety;
- instruct the master to put in at a place of refuge in the event of imminent peril, or cause the ship to be piloted or towed.

In the case of a ship that is towed under a towage or salvage agreement, the measures taken by the competent authority of a State under the first and third indent may also be addressed to the assistance, salvage and towage companies involved.

### **Appendix 1 to Section 3**

#### *Places of Refuge Plans*

*The plans referred to in paragraph 3.2 shall be prepared after consultation of the parties concerned, and shall contain at least the following:*

- (a) the identity of the authority or authorities responsible for receiving and handling alerts;*
- (b) the identity of the competent authority for assessing the situation and taking a decision on acceptance or refusal of a ship in need of assistance seeking a place of refuge;*
- (c) information on the coastline of State and all elements facilitating a prior assessment and rapid decision regarding the place of refuge for a ship, including a description of environmental, economic and social factors and natural conditions;*
- (d) the assessment procedures for acceptance or refusal of a ship in need of assistance in a place of refuge;*
- (e) the resources and installations suitable for assistance, rescue and combating pollution;*
- (f) procedures for international coordination and decision-making (see section 4);*
- (g) the financial guarantee and liability procedures in place for ships accommodated in a place of refuge.*

#### **SECTION 4 – INTERNATIONAL/REGIONAL COOPERATION AND COORDINATION FOR PLACES OF REFUGE**

*Any State where the competent authorities of which have been informed , pursuant to these guidelines or in any other way, of facts which involve or increase the risk for another State of a hazard being posed to certain shipping areas or coastal zones, should take appropriate measures to inform, as soon as possible, such States thereof.*

*Where appropriate, States [sharing an area or a sea; neighbouring States] should cooperate with a view to consult each other regarding necessary action to be taken and pooling their capacities for joint action. Establishing regional cooperation arrangements to this end may lead to quicker response. **Appendix 1 to Section 4***

#### **Appendix 1 to Section 4**

##### ***International/regional cooperation and co-ordination for Places of Refuge***

*For circumstances where there are coastal States sharing a common area or sea and want to jointly address situations of places of refuge.*

*On many occasions, situations leading to a request for a place of refuge involves only one State and will be managed by the same State, under their jurisdiction. There may however be situations involving neighbouring States or States in the vicinity of the incident. This section should complement national plans and apply to situations where it is likely that more than one State may become involved, or where it is outside of the jurisdiction of any one State.*

*When there is a regional arrangement in place, the principle is that each State involved starts to examine their ability to provide a place of refuge and that, in the interest of resolving the situation, there is direct contact between those CAs involved to decide who is best placed to take the coordinating role. Regional arrangements may cover additional specifics related to granting a place of refuge.*

##### ***Deciding which coastal State's competent authority to be in the lead***

*If a PoR is requested when no SAR operation has taken place, the deciding factor should be the Maritime Assistance Service (MAS) declared by the state in whose area of jurisdiction the ship is located. If there is no MAS declared, in the first instance the State with jurisdiction over the waters in*

which the ship is located (eg. through a declared EEZ) should co-ordinate the PoR request unless and until an agreement has been reached to transfer coordination to another coastal state.

For PoR requests arising from an incident commencing outside the jurisdiction of any one coastal State, the Search and Rescue Region (SRR) will be the deciding criterion for determining who should take on the co-ordination role in the first instance. The state in whose SRR the vessel is located will be deemed in charge of the coordination of the event in the first instance, even though there may or may not be a SAR component to the operation.

The coastal State in whose SRR the vessel is located at the time of the PoR request should retain the coordination of the response to that request unless and until an agreement has been reached to transfer coordination to another coastal State in the region, which might grant a place of refuge.

Coastal States who are involved by virtue of geography, or because they are home to some of the vessel's interests, support the action by co-operating with the co-ordinating state to: gather information; share expertise; provide logistical assets; participate in the risk assessment; and search for potential places of refuge in their territory.

#### **Co-ordinating Authority and Neighbouring Coastal States**

When it has been decided that taking the ship to a place of refuge is the most appropriate course of action, the Co-ordinating coastal State should work with neighbouring states to identify the nearest, most appropriate PoR, which may be in another State.

At all times, the principal focus should remain the protection of human life, the environment, the ship and cargo and the reduction of the hazard to navigation.

#### **Co-ordinating and Supporting Coastal States**

The authority (or authorities) as referred to in [ref to point above] which has assumed co-ordination, will be known as the Co-ordinating coastal State (CCS). Other States supporting the CCS will be known, for the purpose of these Guidelines, as Supporting coastal States (SCS).

The CCS will be responsible for:

- Ensuring that the competent authority (CA) is in charge of overall co-ordination of the incident;
- Initiating their national PoR procedure, in order to identify a potential site on their territory;
- Being the main point of contact for liaison with representatives of the involved parties, including the ship owner and/or operator, master, P&I club, salvors, and if necessary, the operator of a port of refuge and, where applicable, the terminal operator;
- Where necessary, coordinating the response to the PoR request with potential Supporting coastal States (SCS), in order to gain their assistance;
- Issuing SITREPS and alerting SCS, actions taken to date and proposed plans;
- Determining whether a coastal State Co-operation Group and a Secretariat should be set up for the incident;
- Organising evaluation teams: search for transportation, constitution of teams, in collaboration with the other states involved;

- Undertaking a thorough analysis of the factors listed in these Guidelines in order to decide whether to allow a ship in need of assistance to proceed to a place of refuge within their jurisdiction (see point above ); and
- Communicating the results of that analysis, once complete, to the other authorities concerned and to the shipowner.

Ensuring that those authorities who may become responsible for the ship once in a place of refuge are:

- informed as early as possible of that possibility;
- involved in the risk assessment process and are given all relevant information.

Following an assessment of all the factors (as in section 3 paragraphs 3.3 – 3.5), ensure that ships are admitted to a place of refuge if they consider such an accommodation the best course of action for the purpose of the protection of human life, the environment or the ship, cargo ; Or

Where appropriate, initiating a dialogue to formalise the transfer of co-ordination to another State.

NB: The CCS considering a formal PoR request should not enter into direct contact with different port authorities or shore based authorities in another State. All information exchanges must go through the competent maritime authorities in the State concerned.

### **Responsibilities of the Supporting Coastal States (SCS)**

The States supporting the CCS in handling the PoR request procedures include:

- those nearest in the vicinity of the ship in need of assistance;

and, if necessary,

- The flag State.

Each SCS should:

- Ensure that any relevant incident related information is passed to the CCS without delay;
- Be prepared to examine any requests from the CCS for assistance (logistical, expertise or evaluation);
- Be prepared to examine a request for a place of refuge within their jurisdiction by the CCS;
- Be prepared to plan in parallel and proactively assess any possible alternative options should the CCS be unable to grant a PoR.

In particular, Neighbouring States should examine the possibility of granting a place of refuge in their territory – even though the incident, at the time, is taking place outside their area of jurisdiction.

### **Transfer of co-ordination**

Responsibility for co-ordinating the incident may be transferred, depending on the evolution of the situation aboard the ship, or depending on agreements reached between the States involved i.e. the State able to offer a place of refuge. However, for reasons of operational continuity, it may be appropriate for the initial CCS to assume coordination throughout the entire process, with the agreement of the other coastal State(s) concerned.

The transfer of coordination to another coastal state is accomplished with a formal notification, preferably in an electronic format, from the state taking over coordination to the state initially in charge of the event. Form B in appendix 2 to section 4 can be used for that purpose.

## **Decision Making & Outcomes**

Shall be done as guided in **section 3 paragraph 3.7**

### **Subsequent Request to another CS to grant a POR**

When the risk assessment carried out following an incident concludes that a place of refuge on another State's territory is the only solution in order to preserve the safety of the ship involved, the safety of navigation and to protect or mitigate the risks to the environment, the CCS unable to accept the request for a place of refuge for objective reasons shall forward all information relevant to the circumstances on which their decision is based to the State or States to whom the subsequent request is made. That coastal State then become CCS (and the previous CCS becomes SCS). Forwarding all relevant information should greatly facilitate the risk assessment and decision making on the subsequent request if a hand-over has not been already agreed and a passage plan arranged between the CCS and the SCS.

### **Passage Plan and Monitoring**

When a suitable place of refuge has been determined and agreed the CCS will assume responsibility for agreeing a passage plan with the requesting party and will engage with the SCSs as necessary, but in particular where the casualty may have to pass through or transit in close proximity to another coastal State's jurisdiction<sup>7</sup>.

In order to be prepared to face potential difficulties during the transit to the designated place of refuge, coastal States should consider on one or more backup places of refuge en route.

## **Appendix 2 to Section 4**

### **FORM B**

#### **Coastal State Handover Co-ordination Form**

All sections are to be completed to ensure that information has not been mistakenly omitted, if a section is not required or not applicable an entry to that effect should be made.

<b>Identifier</b>	<b>Function</b>	<b>Information Required</b>
<b>A</b>	<b>Identity of Casualty Ship</b>	
	Name and call-sign of the ship	
	IMO Number	
	Flag State	
<b>B</b>	<b>Reason for refuge</b> (Brief details of issue affecting the ship)	
<b>C</b>	<b>Coastal State Transferring Co-ordination</b>	
	Identity of Coastal State	
	Name and title/position of the Competent Authority	

<sup>7</sup> In accordance with relevant UNCLOS provisions - Articles 194 and 195 of UNCLOS establish obligations of coastal States to prevent, reduce and control pollution to the marine environment caused – among other factors – by shipping, as well as not to transfer environmental hazards on to other sea areas. In addition, Articles 198 and 199 of UNCLOS lay down coordination rules for neighbouring States dealing with pollution incidents, including a duty to notify each other and to draw up joint contingency plans.

<b>D</b>	<b>Coastal State Accepting Co-ordination</b>	
	Identity of Coastal State	
	Name and title/position of Competent Authority	
<b>E</b>	<b>Dates and times</b>	
	Date and time of agreement to transfer co-ordination	
	Agreed date and time of actual co-ordination transfer – if different from above	
<b>F</b>	<b>Position of co-ordination transfer</b>	
	Latitude & Longitude	
	Bearing and distance from conspicuous point landmark/port/harbour etc.	
	Anchorage latitude and longitude	
<b>G</b>	<b>Place of Refuge (if known)</b>	
	Name of agreed destination – port/harbour/anchorage	
<b>H*</b>	<b>Other Coastal State(s) if there is a requirement for transit through other CS territorial waters</b>	
	Identity of coastal State	
	Identity of coastal State	
<b>I</b>	<b>Transfer Completion - Coastal State Accepting Coordination</b>	
	Identity of Coastal State	
	Name and title/position of Competent Authority	
	Date and time of completion	
<b>J</b>	<b>Transfer Completion - Coastal State Transferring Coordination</b>	
	Identity of Coastal State	
	Name and title/position of Competent Authority	
	Date and time of completion	
<b>K</b>	<b>Reason for not granting a Place of Refuge</b>	

H\* - Template to allow for additional coastal states to be inserted if/as required.

### **Guidance**

#### **Transfer of Co-ordination**

A formal transfer of co-ordination is required to ensure a seamless transition of co-ordination from one state to another when a ship is in need of a place of refuge to ensure the safety of the ship, its crew and cargo, thereby minimizing the risk to personnel, potential pollution damage to the environment or a hazard to navigation.

A transfer of co-ordination should include relevant information focusing on the actual transfer of co-ordination between coastal states and should not include detailed information. Detailed and essential information relating to the incident and the casualty ship (s) should have been previously, and continually, distributed by the use of the Place of Refuge Situation Report(s) and discussed prior to reaching an agreement to transfer co-ordination.

If a collision occurs and both vessel ships were in need of a place of refuge two separate templates would be required, one for each ship. The inclusion of both ships on the same template would only be appropriate if both ships were being provided with a place of refuge by the same coastal state and be given refuge at the same location.



If a transfer of co-ordination is required on more than one occasion for the same incident, for example a casualty ship passing through other coastal States waters, the format should be repeated rather than attempting to include any additional transfers on one document.

There is a requirement to identify an agreed position, date and time of the proposed transfer of co-ordination. There is also a condition to acknowledge and document that the transfer of co-ordination has been completed and retained on file by both coastal States.

There are four steps required to complete the transfer of co-ordination.

Procedure for completion of the Transfer of Co-ordination template:

- Transferring coastal State is to complete the template up to and including section 'H', when done so they are to send to the Accepting coastal State (and other coastal States if applicable) preferably in an electronic format.
- When the actual transfer of co-ordination has been completed the Accepting coastal State is to complete section 'I' when done so send to the Transferring coastal State.
- Transferring coastal State to complete section 'J'.
- The completed template is to be sent back to the Accepting coastal State as a formal notification and record of transfer completion.
- At the end of the assessment process, when transferring the coordination to another CS the reason(s) for not granting a PoR should be stated by completing section 'K'.

## **SECTION 5      MEDIA AND INFORMATION MANAGEMENT**

In today's situation using social media for spreading information, it is recommended that States include in their organisation capacities (incl training) for managing media and requests for information in connection to managing a ship in need of assistance seeking a place of refuge. The following are some key guidance points (non-exhaustive):

### **.1      Media and Information Management**

The delivery of accurate, clear, timely and up to date information and advice to the public and other key stakeholders is an important aspect of the successful management of any shipping incident. It is recommended that media management should be incorporated into national contingency planning and a media management procedure should be developed.

## **.2 Key Principles**

- Media activity must not interfere with the management of the incident in any way; particularly it should not impede the operational activities of the emergency services. Media speculation should not be considered when making the decision to grant a place of refuge

- All steps should be taken to protect victims from press intrusion.

- Only factual information should be provided. There should be no speculation about causes, future developments, or actions.

- Information and advice should not be released by one organisation if it covers the area of responsibility of another, UNLESS the information (and its release) has been agreed by the responsible organisation.

## **.3 Key interest groups**

- Press and Media
- General public, including NGOs and civil society
- Ministers, national and local authorities, international organisations
- Shipping and insurance industries, ports, harbours, terminal operators

## **.4 Key actions for persons managing the incident**

- KNOW who is responsible for activating the media management process/establishment of Media Team for the incident (on the understanding that the media team may be required for a longer duration)
- ARRANGE regular briefings between different response cells (eg. Salvage Control, MRCC, onshore clean-up team etc.)
- IDENTIFY the designated responsible person(s), who will:
  - o liaise between CA and press;
  - o take the lead in providing strategic SITREPS;
  - o communicate with key interest groups contacts when there are significant developments to report
- FOLLOW Key Principles at all times

## **SECTION 6 LESSONS LEARNED**

### **.1 National & Regional De-briefs**

States may consider to hold a de-brief session after each significant incident.

De-briefs could consider the incident background, response factors (e.g. co-ordination, communications, risk assessment, decision making and any other aspects considered relevant. Depending on the nature of the incident, the debrief could either be for all the authorities and stakeholders involved, or smaller sub-groups could be convened to focus on particular aspects of the incident.

*Where appropriate, neighbouring or other regional coastal States should be invited to participate. If the debrief identifies issues that might be of wider interest, the outcomes from the debrief process could be shared with the organisation for information.*

*If it is thought appropriate, lessons learned from an incident could be the subject of a regional or national exercise, or a smaller exercise at a more local level.*

*For regional cooperation in relation to section 4, exercises to test national and regional arrangements, either as 'live' or as table top exercises, should be considered and planned at regular intervals.*

#### APPENDIX 1 to section 1

##### APPLICABLE INTERNATIONAL CONVENTIONS [*to be updated by the IMO secretariat*]

At the international level, the following Conventions and Protocols are in force and constitute, inter alia, the legal context within which coastal States and ships act in the envisaged circumstances<sup>3</sup>:

- United Nations Convention on the Law of the Sea (UNCLOS), in particular article 221 thereof;<sup>4</sup>

- International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (the Intervention Convention), 1969, as amended;
- Protocol relating to Intervention on the High Seas in Cases of Pollution by substances other than Oil, 1973;
- International Convention for the Safety of Life at Sea, 1974 (SOLAS 1974), as amended, in particular chapter V thereof;
- International Convention on Salvage, 1989 (the Salvage Convention);<sup>5</sup>
- International Convention on Oil Pollution Preparedness, Response and Co-operation, 1990 (the OPRC Convention);
- International Convention for the Prevention of Pollution from Ships, 1973, as modified by the Protocol of 1978 (MARPOL 73/78);
- International Convention on Maritime Search and Rescue, 1979 (SAR 1979), as amended. - Convention on the Prevention of Marine Pollution by Dumping of Wastes and Other Matter, 1972
- Convention Relating to Civil Liability in the Field of Maritime Carriage of Nuclear Material, 1971
- Convention on Limitation of Liability for Maritime Claims (LLMC), 1976
- International Convention on Civil Liability for Oil Pollution Damage (CLC), 1969
- International Convention on Civil Liability for Oil Pollution Damage (CLC), 1992
- International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage (FUND), 1992.