

IHB File N° S3/3057

CIRCULAR LETTER 49/1999
28 October 1999**SOLAS - CHAPTER V**

Dear Sir,

For some years, the charting aspects of SOLAS Chapter V have been under discussion at the International Maritime Organization's (IMO) Maritime Safety Committee (MSC) and Navigation Sub-Committee (NAV) meetings. This has resulted in the draft Chapter V as published in Document NAV 45/5. A number of papers have been submitted to both MSC and NAV on this Chapter. At the MSC 72 Meeting, which will be held in May 2000, Chapter V must be finalized.

The Italian delegation had submitted a proposal to MSC 69 concerning the definitions contained in Regulation 2 of NAV 45/5 (Annex A). The IHB polled the IHO Member States for their views on this proposal and there was almost unanimous opposition to it. The IHB advised the NAV Sub-Committee of this result in Document NAV 45/5/2. During July 1999 the United States submitted a note NAV 45/5/9 proposing, essentially, that the text of Chapter V, prior to NAV 45/5, be retained. There was insufficient time for the IHB to obtain the Member States' views but as much correspondence had taken place between some Member States and the US, the IHB convened a number of meetings of these parties in London immediately prior to, and during, the NAV45 meeting. Those persons involved in the initial meeting were from Australia, Denmark, France, Germany, Japan, Norway, Singapore, United Kingdom, United States and the IHB. During the course of NAV45 further discussions were held with the delegations from Brazil, Bulgaria, Chile, Columbia, Italy, Malaysia, Russian Federation, and Spain in an effort to clarify the issues.

The matter was exhaustively discussed at these unofficial meetings, at the Chapter V Working Group meetings and at the Plenary Sessions of NAV 45. Draft proposals (Annex B) were produced during NAV 45, which, it was hoped, would satisfy all parties. Unfortunately, it was not possible to have this draft in either French or Spanish at the meeting and the reticence of some Member States to support these late suggestions is well understood. The French Delegation to NAV 45 pointed out that the proposed wording for the definition in Regulation 2 might create a problem of interpretation when translated into French. The wording of this definition has, therefore, been further refined to facilitate the translation into both French and Spanish. (Annex C).

The reasons behind the suggested draft are as follows:

- a) The IHB and many Member States have been concerned that the two definitions contained in NAV 45/5 are unacceptable to the IHO and the international maritime community. They allow for "nautical charts" to be produced by anyone without any form of control by a Government, its authorized Hydrographic Office or other relevant Government institution. Two definitions appear in Regulation 2, one for a "nautical chart", and one for an "official nautical chart". The term "nautical chart" does not appear again in the proposed amendments to Chapter V. Its inclusion is, therefore, not understood and it is considered undesirable. The foremost concern was to eliminate the first definition and to ensure that the only reference to "nautical chart" in SOLAS applied to those charts that were produced under Government authority. This was done and the advisability of then retaining the term "official" was considered.

- b) A number of Hydrographic Offices have difficulty with their Governments over the use of the word "official". In some countries the term has already been used for the reproduction of official facsimiles and may have been approved for use in other contexts. Even if the first definition is removed from Regulation 2, Member States may still be faced with parties, outside of Government control, producing "unofficial" charts and referring to them as "nautical charts". Some Member States may also face anti-trust and monopolistic accusations against them should the term be used in their country. No other equipment or systems in Chapter V are designated "official".

The wording of the present draft (Annexes B and C) allows for the specific control of nautical charting by Government to be enshrined in SOLAS without the necessity, or advisability, of the term "official" being used. On the assumption that the only outstanding item is the use of the term "official" in relation to charting, the balance of Regulations 2, 9, 19 (previously Regulation 20) and 27 (previously Regulation 25) were approved by NAV 45 for consideration by MSC 72.

This issue has been very seriously considered and it is now felt that the proposed text addresses the concerns of the Member States. It is hoped that positive comments will be received and that it will be possible to submit a unanimous proposal to MSC 72. If the Member States are unable to agree on the charting content of Chapter V, it is possible that, in an effort to finalize Chapter V, MSC 72 may be obliged to accept the views of the majority attending the meeting. This may not be in the interest of the Member States.

A number of Member States have expressed concerns about the control of the data of their waters. It is being used by other Member States and in some instances being made available to third parties by them without their permission. Suggestions were made for phrases to be included in Chapter V dealing with responsibilities and copyright, but IMO have indicated that they may not apportion responsibility or control copyright. The Bureau believes this to be an IHO matter and Member States should consider the XVth I.H. Conference Decision No 12 that amended IHO Technical Resolution A 3.4. It is possible that Member States' concerns on the control of their data have been addressed in this amended Technical Resolution and that it now requires only observance of this Resolution by all Member States. If Member States have concern about the observance of this Technical Resolution, consideration could be given to this being affirmed by the IHO Extraordinary Conference which will take place in March 2000 before the MSC 72 Meeting.

It is vital, therefore, that serious consideration be given to the implications of the above and that the IHB be advised by Member States of their comments before 15 January 2000.

On behalf of the Directing Committee
Yours sincerely,

Rear Admiral Neil GUY
Director

Encls: - Annex A
- Annex B
- Annex C

Document: NAV 45/5

Regulation 2

Definitions and Clarifications

3) *Nautical chart* is a special purpose map or a specially compiled digital database, from which such a map can be derived, designed to meet the requirements of marine navigation.

4) *Official nautical chart* or *other official nautical publication* is a nautical chart or other nautical publication that has been issued by or on the authority of a Government, authorized Hydrographic office or other relevant government institution and is designed to meet the requirements of marine navigation.

IHB Comment.

Both definitions conclude with the words 'designed to meet the requirements of marine navigation'. Clearly, there is no guarantee that the product available in paragraph 3 will meet this requirement and if it does what is the purpose of the product specified in paragraph 4).

Regulation 20

Carriage requirements and performance standards for shipborne navigational systems and equipment

5) The equipment shall conform to the relevant standards adopted by the Organization*. Equipment fitted prior to the adoption of the relevant performance standards may be exempted from full compliance at the discretion of the Administration, having due regard to the recommended criteria, which the Organization might adopt in connection with the standards concerned.

*Refer to the following recommendations adopted by the Organization by the resolutions indicated;

including

Recommendation on performance standards for Electronic Chart Display and Information Systems (ECDIS) (Resolution A.817(19) as amended)

IHB Comment

This regulation is entitled "Carriage Requirements and Performance Standards". At present, the requirement to conform to the ECDIS Performance Standards is contained in Regulation 25 but the ECDIS Performance Standards are referred to in the Footnote of Regulation 20. The Drafting Group felt that it would be better to have the reference to ECDIS in Regulation 20 with all the other equipment specified provided that the requirement to comply with the ECDIS Performance Standards were applied to both equipment and 'systems'.

Regulation 25

Nautical charts and publications

- 1) All ships shall carry adequate and up to date nautical charts, sailing directions, lists of lights, notices to mariners, tide tables, and all other nautical publications necessary for the intended voyage.
- 2) Where the requirement to carry a chart is satisfied by a specially compiled database displayed on an electronic chart display system, the system and its back-up arrangements shall meet the standards which are not inferior to those adopted by the Organization*.

* Resolution A.817(19)-Performance Standards for Electronic Chart Display and Information Systems (ECDIS)

IHB Comment

Member States were concerned that the specification only required that systems "shall meet the standards that are not inferior to those adopted...." It was felt that phrase was ambiguous and could lead to unacceptable interpretation. The US proposal to place paragraph 2) as a Footnote would have removed any obligation to comply with the ECDIS Performance Standard at all.

Document: Draft Report of NAV 45 to MSC 72

Regulation 2

Definitions and clarifications

2. [Official] Nautical chart or [Official] Nautical publication is a special-purpose map or book, or a specially compiled database from which such a map or book is derived, that is issued by or on the authority of a Government, authorized Hydrographic Office or other relevant government institution and is designed to meet the requirements of marine navigation.

IHB Comment

It is felt that by eliminating the previous definition of "nautical chart" we have ensured that the only nautical chart definition contained in SOLAS, which covers all vessels down to zero-tonnage, is for charts produced by or under the authority of a Government. The term "official" is therefore unnecessary and if used could entitle a non-governmental organization to produce unofficial charts or just nautical charts. At present "official" is the only word still in square brackets.

Regulation 9

Hydrographic Services

1 Contracting Governments undertake to arrange for the collection and compilation of hydrographic data and the publication, dissemination and keeping up to date of all nautical information necessary for safe navigation.

2 In particular, Contracting Governments undertake to co-operate in carrying out, as far as possible, the following nautical and hydrographic services, in the manner most suitable for the purpose of aiding navigation:

- .1 to ensure that hydrographic surveying is carried out, as far as possible, adequate to the requirements of safe navigation;
- .2 to prepare and issue [official] nautical charts, sailing directions, lists of lights, tide tables and other [official] nautical publications, where applicable, satisfying the needs of safe navigation;
- .3 to promulgate notices to mariners in order to keep [official] nautical charts and publications, as far as possible, up to date.
- .4 to provide data management arrangements to support these services.

3 Contracting Governments undertake to ensure the greatest possible uniformity in charts and nautical publications and to take into account, whenever possible, relevant international resolutions and recommendations.**

4. Contracting Governments undertake to co-ordinate their activities to the greatest possible degree in order to ensure that hydrographic and nautical information is made available on a world-wide scale as timely, reliably, and unambiguously as possible.

** Refer to the resolutions and recommendations of the International Hydrographic Organization

Regulation 18
(Previously Regulation 19)

Approval and surveys of navigational systems and equipment

1. Navigational systems and equipment required to meet the requirements of this chapter shall be of a type approved by the Administration.
2. Navigational systems and equipment, including associated back-up arrangements where applicable, required to perform the functional requirements of this chapter on board ships on or after [1 July 2002] shall conform to appropriate performance standards not inferior to those adopted by the Organization.¹
3. Navigational systems and equipment fitted prior to the adoption by the Organization of related performance standards, except for Electronic Chart Display and Information Systems (ECDIS) fitted to comply with 19.1.2.4, may be exempted from full compliance with those standards at the discretion of the Administration, having due regard to the recommended criteria which the Organization might adopt in connection with the standards concerned.

IHB Comment

The reference to ECDIS was specifically introduced into this regulation to ensure that obsolete electronic chart system were not authorised by a Government in accordance with this Regulation.

Regulation 19
(Previously Regulation 20)

**Carriage requirements and performance standards
for shipborne navigational systems and equipment**

Shipborne navigational equipment and systems

- 1.2 All ships shall have:
 - .1 a properly adjusted magnetic compass, or other means independent of any power supply to determine the ship's heading and display the reading at the main steering position;
 - .2 a pelorus or compass bearing device, or other means independent of any power supply to take bearings over an arc of the horizon of 360°;
 - .3 means of correcting heading and bearings to true at all times;
 - .4 paper [official] nautical charts or an Electronic Chart Display and Information System (ECDIS) and [official] nautical publications to plan and display its route for the intended voyage and to plot and monitor positions throughout the voyage;

IHB Comment

Member States thought it necessary to emphasize the fact that paper charts had to be carried by all vessels unless they were replaced by an ECDIS, which was fuelled by an ENC in accordance with the ECDIS Performance Standard. If RNCs or any other alternative is used the system is not an ECDIS and adequate and up-to-date paper charts have to be used as well. (See also Regulation 25)

- .5 means to back up the functional requirements of .4, if this function is partly or fully fulfilled by electronic means;

¹ Refer to the following recommendations adopted by the Organization by the resolutions indicated:

.....

Recommendation on performance standards for Electronic Chart Display and Information Systems (ECDIS) (resolution A.817(19) as amended;

etc

- .6 a receiver for a global navigation satellite system or a terrestrial radionavigation system, or other means suitable for use at all times throughout the intended voyage to establish and update the ship's position by automatic means;
- .7 if less than 150 gross tonnage and if practicable, a radar reflector², or other means to enable detection by ships navigating by radar at either 9 or 3 GHz;
- .8 when its bridge is totally enclosed, and unless the Administration determines otherwise, a sound reception system, or other means to enable the officer in charge of the navigational watch to hear sound signals and determine their direction;
- .9 an echo sounding device, or other electronic means to measure and display the available depth of water; and
- .10 a telephone, or other means to communicate heading information to the emergency steering position, if provided.

Regulation 27
(Previously Regulation 25)

[Official] **Nautical charts and publications**

[Official] Nautical charts and [official] nautical publications, such as sailing directions, lists of lights, notices to mariners, tide tables, and all other [official] nautical publications necessary for the intended voyage shall be adequate and up to date.

IHB Comment

It may have been possible to include this paragraph in Regulation 20.1.2.4 but Member States felt that a separate Regulation should list the publications and emphasise the fact that they must be up-to-date and adequate.

² Reference is made to resolution A.384(10) – Performance Standards for Radar Reflectors

Revised Text of Definition to Facilitate Translation into French and Spanish

Regulation 2

Definitions and clarifications

- 3) [Official] Nautical chart or [official] nautical publication means a special-purpose map or book, or a specially compiled database from which such a map or book can be derived, issued by a Government, an authorised Hydrographic Office or any other relevant Government institution, or under the authority of a Government, an authorised Hydrographic Office or any relevant Government institution, and designed to meet the requirements of marine navigation.

IHB Comment

Concern was expressed that the text of the proposed English definition could be ambiguous when translated into French. The definition has therefore been restructured to take this into account while retaining the original content as agreed to at NAV 45. The exclusion or inclusion of the word 'official' has yet to be decided.