

SUB-COMMITTEE ON IMPLEMENTATION
OF IMO INSTRUMENTS
7th session
Agenda item 15

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REVIEW THE MODEL AGREEMENT FOR THE AUTHORIZATION OF RECOGNIZED ORGANIZATIONS ACTING ON BEHALF OF THE ADMINISTRATION

Proposal on paragraph 6.5.5 of the draft Model agreement for the authorization of recognized organizations acting on behalf of the Administration

Submitted by Austria, Belgium, Bulgaria, Croatia, Cyprus, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Ireland, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Norway, Poland, Portugal, Romania, Russian Federation, Slovakia, Slovenia, Spain, Sweden, United Arab Emirates, European Commission and IACS

SUMMARY

Executive summary: This document provides an assessment of paragraph 6.5.5 of the draft model agreement (III 6/15, annex 8) with paragraph 5.3.2.4 of the recommendatory part 3 of the Code for Recognized Organization (RO Code), and proposes amendments to paragraph 6.5.5 of the draft model agreement to achieve alignment with paragraph 5.3.2.4 of the recommendatory part 3 of the RO Code

Strategic direction, if applicable: 1

Output: 1.35

Action to be taken: Paragraph 7

Related documents: III 6/15 (annex 8); MSC 102/14/1 and MSC 102/24 (paragraph 14.8)

Background

1 The Maritime Safety Committee, at its 102nd session, considered the draft MSC-MEPC.5 circular on Model agreement for the authorization of recognized organizations acting on behalf of the Administration (III 6/15, annex 8), together with document MSC 102/14/1 (Norway et al.), proposing either the deletion of, or amendments to, paragraph 6.5.5 of the draft model agreement.

2 After extensive debate, MSC 102, having noted that views on the matter were almost evenly divided, instructed III 7 to further consider only the text of paragraph 6.5.5., taking into

account the amended text proposed in paragraph 10 of document MSC 102/14/1, and in this context to also consider paragraph 5.3.2.4 of the recommendatory part 3 of the Code for Recognized Organization (RO Code), with a view to advising MSC and MEPC on whether the text of both paragraphs should be aligned.

Discussion

3 In offering its advice to the Committees on the alignment of the two paragraphs referred to in paragraph 2 above, the co-sponsors consider it important to read paragraph 5.3.2.4 of part 3 of the RO Code in its full context (i.e. including the chapeau):

"5.3 Verification and monitoring

The flag State should establish a system to ensure the adequacy of statutory certification and services provided. Such a system should, inter alia, include the following items:

...

.2 procedures for reporting to the flag State by the RO and the processing of such reports by the flag State. The following reporting requirements should be considered:

...

.4 the RO should inform the flag State, as soon as possible, of any dangerous occurrences, accidents, machinery or structural breakdowns, or failures that they are aware of on a ship;

..."

4 Paragraph 6.5.5 of the draft model agreement reads:

"6.5 Other reporting:

...

.5 the RO shall inform the Administration, as soon as possible, of any dangerous occurrences, accidents, machinery or structural breakdowns, or failures that they are aware of on a ship;

..."

5 Comparing the text referenced in paragraphs 3 and 4 above, the co-sponsors consider that "dangerous occurrences" and "accidents" in paragraph 5.3.2.4 of part 3 of the RO Code are with respect to the "statutory certification and services" provided by the RO on behalf of the flag State; whereas the same "dangerous occurrences" and "accidents" in paragraph 6.5.5 of the draft model agreement are undefined and go beyond the scope of responsibilities of RO's relating to "statutory certification and services" as laid out in paragraph 5.3.2.4 of part 3 of the RO Code.

Proposal

6 While paragraph 10 of document MSC 102/14/1 proposing a clarification that linked "dangerous occurrences" and "accidents" with incidents that required "immediate repair or repair by a given due date", the co-sponsors consider that in order to fully align paragraph 6.5.5 of the draft Model agreement with paragraph 5.3.2.4 of part 3 of the RO Code, paragraph 6.5.5 of the draft Model agreement should be revised (and clarified) to read*:

"6.5 Other reporting:

...

.5 the RO shall inform the Administration, as soon as possible, of any dangerous occurrences, accidents, machinery or structural breakdowns, or failures, which relate to the scope of statutory certification and services as defined in the RO Code, that they are aware of on a ship;

..."

Action requested of the Sub-Committee

7 The Sub-Committee is invited to consider the foregoing, and in particular the proposal in paragraph 6, and to take action, as appropriate.

* Tracked changes are indicated using "strikeout" for deleted text and "grey shading" to highlight all modifications and new insertions, including deleted text.