

**BAN THƯ KÝ IMO VIỆT NAM
VĂN PHÒNG IMO VIỆT NAM**

**CỘNG HOÀ XÃ HỘI CHỦ NGHĨA VIỆT NAM
Độc lập – Tự do – Hạnh phúc**

Số: 66 /BTK-VPIMOVN

Hà Nội, ngày 05 tháng 12 năm 2014

V/v: Hướng dẫn tạm thời cho việc
soạn thảo các sửa đổi cho Công ước
SOLAS 1974 và các Văn kiện bắt
buộc có liên quan

Kính gửi:

- Cục Đăng kiểm Việt Nam
- Các Thành viên Ban Thư ký IMO Việt Nam

Tổ chức Hàng hải Quốc tế (IMO) gửi các Quốc gia thành viên Thông tri số MSC.1/Circ.1483 ngày 11/6/2013 về “Hướng dẫn tạm thời cho việc soạn thảo các sửa đổi cho Công ước SOLAS 1974 và các Văn kiện bắt buộc có liên quan” (kèm theo Phụ lục của Thông tri).

Tại kỳ họp 93 của Ủy ban An toàn hàng hải (MSC) (tháng 6 năm 2013), nhằm đảm bảo chất lượng của sửa đổi, tính thích hợp toàn diện, tính chi tiết và cụ thể cho việc soạn thảo sửa đổi cho Công ước SOLAS 1974, Ủy ban MSC đã thông qua và ban hành Hướng dẫn tạm thời cho việc soạn thảo các sửa đổi cho Công ước SOLAS 1974. Hướng dẫn bao gồm từ mục tiêu, quy trình, hướng dẫn, lưu ý tới cấu trúc soạn thảo cho tới quy trình đệ trình và thời gian hiệu lực của sửa đổi Công ước.

Văn phòng IMO Việt Nam xin gửi nguyên bản Thông tri MSC.1/Circ.1483 để Quý cơ quan, Quý thành viên xử lý theo thẩm quyền./.

Nơi nhận:

- Như trên;
- TTK - Thứ trưởng Nguyễn Văn Công (đề b/c);
- Lưu: VPIMOVN.

**TL. TỔNG THƯ KÝ
TRƯỞNG VĂN PHÒNG**



Phan Nguyễn Hải Hà

4 ALBERT EMBANKMENT
LONDON SE1 7SR
Telephone: +44 (0)20 7735 7611 Fax: +44 (0)20 7587 3210

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**INTERIM GUIDANCE ON DRAFTING OF AMENDMENTS TO THE 1974 SOLAS
CONVENTION AND RELATED MANDATORY INSTRUMENTS**

1 The Maritime Safety Committee (the Committee), at its ninety-third session (14 to 23 May 2014), having considered a number of issues related to the drafting of amendments to the International Convention for the Safety of Life at Sea, 1974, as amended (the Convention) and related mandatory instruments, from the initial proposal and preparation process to the approval and adoption stages and entry into force of amendments, approved the *Interim guidance on drafting of amendments to the 1974 SOLAS Convention and related mandatory instruments* (the Guidance), as set out in the annex.

2 Without prejudicing the amendments procedure specified in article VIII of the Convention and the provisions set out in MSC-MEPC.1/Circ.4/Rev.2 on *Guidelines on the Organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (the Committee's Guidelines), the information contained in the annex provides relevant guidance for the drafting of amendments to the Convention and related mandatory instruments, including procedural aspects related to the approval and adoption of amendments.

3 Contracting Governments to the Convention are invited to take into account the provisions of the present Guidance when submitting proposals for amendments in accordance with article VIII(b)(i) of the Convention and/or proposals for new planned/unplanned outputs in accordance with paragraph 4.7 of the Committee's Guidelines.

4 The Committee and its subsidiary bodies, including working groups and drafting groups should take into account the present Guidance during the preparation of draft amendments to the Convention and related mandatory instruments, as well as during the approval and adoption stages.

5 Member States and the Committee's subsidiary bodies are invited to bring to the attention of the Committee the results of experience gained from the use of this Guidance and to make recommendations for improvements, as appropriate.

6 Given the number of drafting issues that have been identified so far, the Committee agreed to keep the guidance generic at this stage and to review it and amend it as necessary in the light of experience gained in its application.

ANNEX

INTERIM GUIDANCE ON DRAFTING OF AMENDMENTS TO THE 1974 SOLAS CONVENTION AND RELATED MANDATORY INSTRUMENTS

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1 INTRODUCTION

1.1 This note provides guidance for the drafting of amendments to the International Convention for the Safety of Life at Sea, 1974 (the Convention), and related mandatory instruments (hereinafter referred to as the Guidance). It also contains procedural aspects related to the approval and adoption of related amendments.

1.2 This Guidance does not fully apply to amendments to an article of the Convention or to chapter I of the annex to the Convention, where an explicit amendment procedure is required.

1.3 This Guidance should always be read with reference to the provisions of article VIII for amending the Convention and in conjunction with MSC-MEPC.1/Circ.4/Rev.2 on *Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (the Committee's Guidelines) and MSC.1/Circ.1481 on *Guidance on entry into force of amendments to the 1974 SOLAS Convention and related mandatory instruments*.

2 GOALS

2.1 The Guidance is meant to ensure that submission and development of new or amended regulations is carried out in an appropriately comprehensive and detailed manner and, in particular, that:

- .1 the application of regulations is sufficiently clear and without the need for additional interpretation;
- .2 the nomenclature related to the application and the structure of chapters are harmonized through the entire Convention;
- .3 the implementation of either amendments or new provisions is improved and facilitated through a specified interval between entry into force of successive sets of amendments; and
- .4 Contracting Governments to the Convention, the Maritime Safety Committee (the Committee) and its subsidiary bodies, including working and drafting groups, as well as other interested parties, are provided with appropriate guidance on drafting of amendments to the Convention and its related mandatory instruments.

2.2 In order to achieve the above goals, the Guidance is based on the following three main principles:

- .1 a harmonized and periodic timing of entry into force of amendments;
- .2 a systematic control process throughout the different stages of the amendments' development; and
- .3 relevant guidance for drafting amendments.

3 PROCEDURAL ASPECTS RELATED TO THE DRAFTING OF AMENDMENTS

3.1 Timing of entry into force of amendments

The Maritime Safety Committee, at its ninety-third session, approved MSC.1/Circ.1481 on *Guidance on entry into force of amendments to the 1974 SOLAS Convention and related mandatory instruments*, which reinstated the four-year cycle of entry into force of amendments to the Convention and related mandatory instruments. In this respect, due attention should be paid to the timeline agreed for the entry into force of amendments when developing amendments to the Convention and related mandatory instruments.

3.2 Amendment control process

3.2.1 Process for amending the Convention (from proposal to adoption)

3.2.1.1 At a proposal stage and in addition to the information to be provided in proposals for planned and unplanned outputs (see annex 1 to the Committee's Guidelines), where possible, the following elements should be addressed when considering proposals for a new work programme items (planned/unplanned output) that may require the preparation of amendments to the Convention and/or related mandatory instruments:

- .1 ship type(s) to which the proposed amendment(s) is/are expected to apply (e.g. scope, size, type, tonnage/length restriction; service areas (international/non-international); activities (e.g. supporting diving activities));
- .2 the extent of application to existing ships¹, along with any relevant safety measures that may be applied to existing ships;
- .3 the intended instrument(s) that should be amended (the Convention, associated mandatory instruments, etc.); and
- .4 the use of the check/monitoring sheet (refer to paragraph 3.2.1.3.15 below).

3.2.1.2 During the consideration of new work programme items and approval of new planned/unplanned outputs, and in addition to the actions to be taken based on the Committee's Guidelines, the Committee should consider the elements listed below and, in this respect, should give clear instructions to the relevant technical subsidiary body/bodies (i.e. sub-committees, including its working/drafting/intersessional groups, as well as those reporting directly to the Committee), as may be applicable:

- .1 target completion date at the Sub-Committee level;
- .2 expected date(s) of entry-into-force and implementation/application date(s) (e.g. possible phase-in arrangement) of the amendment(s) or of the new requirement(s) to be developed;
- .3 whether the proposal should be considered an exceptional circumstance, as specified in MSC.1/Circ.1481; and
- .4 scope of application of the proposed amendment(s) or new requirement(s), along with the instrument(s) which would be required to be amended/developed.

¹ Refer to the *Interim guidelines for the systematic application of the grandfather clauses* (MSC/Circ.765-MEPC/Circ.315).

3.2.1.3 At a subsequent processing stage, but before the conclusion of the approval for adoption, each allocated sub-committee should ensure that:

- .1 at an initial engagement, sufficient time is allocated for technical research and discussion before the target completion date, especially, when the issue is needed to be addressed by more than one sub-committee where timing of meetings of relevant sub-committees and exchanges of the result of considerations need to be carefully examined;
- .2 the intended scope of application agreed by the Committee (refer to paragraph 3.2.1.2 above) is not changed without approval of the Committee, providing clear justification for such change (e.g. in case of unintended omissions);
- .3 the technical base document or draft amendment addresses the proposal's issue(s) through the suggested instrument(s) and, if not, an alternative method is offered to the Committee for addressing the problem raised by the proposal;
- .4 if application to existing ships is agreed by the Committee under 3.2.1.1.2 above, due attention is paid to MSC/Circ.765-MEPC/Circ.315 on *Interim guidelines for the systematic application of the grandfather clause*;
- .5 all references have been examined against the text that would be valid if the proposed amendment enters into force (refer to section 4.2.4 below);
- .6 the location of the inserted or modified text is correct with regard to the text that would be valid when the proposed amendment enters into force on a four-year cycle of entry-into-force date, as there may be other relevant amendments adopted that might enter into force on the same date;
- .7 there are no inconsistencies in the scope of application between the technical regulation and the application statement of the relevant chapter that may be given in regulation 1 or 2, and application is specifically addressed for existing and/or new ships, as necessary;
- .8 if a new term is introduced in a regulation and a clear definition is necessary, the definition is given in the relevant article of the Convention or at the beginning of the chapter, as appropriate;
- .9 when any of the terms "fitted", "provided", "installed" or "installation" are used, a clear understanding of the intended meaning of the term is provided;
- .10 all necessary related and consequential amendments to other existing instruments, in particular, the forms of certificates and records of equipment, including non-mandatory instruments, required in the instrument being amended, have been examined and included as a part of the amendment(s);
- .11 the forms of certificates and records of equipment are harmonized, where appropriate, between the Convention and its Protocols²;

² Refer to the Committee's decision, as reported in document MSC 72/23, paragraph 3.10.

- .12 attention is paid with regard to the possible application's criteria using contract date, keel laying date or delivery date, as and where appropriate, and to the possible impact of that decision (refer to section 4.2.1 below);
- .13 draft amendments are presented for consideration, as far as practically possible, as tracked changes within the context of the relevant provisions to be amended (refer to section 3.2.3 below);
- .14 due attention is paid to the "application" and "definition" regulations of the chapter where these are likely to affect or be affected by the proposed amendments;
- .15 the check/monitoring sheet given in annex 2 is observed and completed throughout the progress at each one of the above stages. In this respect, it is intended that:
 - .1 parts I and II should be completed by the submitter of a new work programme (planned/unplanned output), as far as possible, as an annex to the submission document (refer to paragraph 3.2.1.1.4 above); and
 - .2 part III and the record format should be completed by the drafting or working group that prepares the draft amendment(s);
- .16 the final draft text of proposed amendments to the Convention or any related mandatory instrument is reviewed by either a drafting group or by a working group to properly address the issues listed in part III of the check/monitoring sheet, as given in paragraph 3.2.2.2 below; and
- .17 the check/monitoring sheet, including the record format, is presented along with the draft amendments submitted for approval.

3.2.1.4 At the approval and adoption stages:

- .1 the Committee should:
 - .1 carefully review the draft amendments submitted for approval, using the associated check/monitoring sheet and the record format prepared by the subsidiary body. In doing so, issues requiring further drafting consideration may be identified. Under those circumstances, the Committee may consider instructing the drafting group on amendments to review the draft amendments and the associated check/monitoring sheet before approval of the related amendments; and
 - .2 agree on which session of the Committee the amendments should be adopted as well as the dates on which the amendments would be accepted and would enter into force, taking into account the four-year cycle or the exceptional circumstance as per MSC.1/Circ.1481, as may be the case; and

- .2 the Secretariat should:
 - .1 ensure that the draft amendments submitted for approval, as well as those contained in the annexes of the Committee's report after approval, are presented in tracked changes, as appropriate (refer to section 3.2.3 below);
 - .2 prepare the appropriate text of draft amendments without tracked changes for circulation to all Members of the Organization and all SOLAS Contracting Governments after approval, in accordance with the provisions of article VIII of the Convention;
 - .3 prepare a working paper consolidating all draft amendments submitted for adoption with tracked changes, including proposals for modifications or editorial improvements, if any, as well as notes and comments, as appropriate (refer to section 3.2.3 below). This document should be made available in IMODOCS as soon as possible after the deadline for commenting documents and should be used as the base document for the preliminary consideration by the expanded Committee and final revision by the drafting group on amendments; and
 - .4 ensure that, after adoption, the final text of the amendments are presented without tracked changes.

3.2.2 Drafting group arrangements

3.2.2.1 Drafting groups have a relevant role in the amendment control process. Although drafting groups cannot change the essence of the amendments, they should ensure that the drafting of amendments is carried out in accordance with the present Guidance. Therefore, this Guidance should be included as a standing reference in the terms of reference of these groups.

3.2.2.2 The first stage of the engagement in the control process of drafting works should be undertaken by a drafting group or by a working group of the subsidiary body or by those reporting directly to the Committee. In doing so, the check/monitoring sheet set out in annex 2 should be observed and completed before submitting the draft amendments for approval.

3.2.2.3 At the approval stage of amendments, the Committee should carefully review the draft amendments submitted for approval, along with the related check/monitoring sheet and record format (refer to paragraph 3.2.1.4.1.1).

3.2.2.4 Depending upon the findings in the check/monitoring sheet, the Committee may consider tasking the drafting group established for reviewing the amendments submitted for adoption (refer to paragraph 3.2.2.6 below) to review the draft amendments submitted for approval and the related check/monitoring sheet, including the record format.

3.2.2.5 After the approval of draft amendments by the Committee, the Secretariat should review the approved draft amendments from the drafting and editorial point of view. Any findings by the Secretariat should be submitted to the session of the Committee that would adopt the amendments as part of the working paper consolidating the amendments, comments and proposals for modifications, which would be prepared in advance by the Secretariat (see paragraph 3.2.1.4.2.3).

3.2.2.6 At the adoption stage, the above-mentioned working paper should be used as the basis document for consideration of the draft amendments by the expanded Committee and by the drafting group that would conduct the final review of the draft amendments, along with any comments provided in any of the documents submitted to that session for consideration.

3.2.3 Use of tracked changes

3.2.3.1 The use of tracked changes during the preparation, approval and adoption of draft amendments may facilitate the consideration of proposed amendments. It may also assist the work of translators and reduce the number of misinterpretations.

3.2.3.2 Tracked changes should mainly be used, as far as practically possible, for draft amendments amending the text of existing regulations, paragraphs or tables, in order to easily identify the changes proposed with respect to the original text. In this respect, only the relevant part(s) of the original text should be reproduced.

3.2.3.3 For insertions of new regulations, paragraphs or tables, or deletion of existing ones, the use of tracked changes may not be required.

3.2.3.4 Tracked changes should be created using "strikeout" for deleted text and "grey shading" to highlight all modifications and new insertions, including deleted text, in order to ensure that such changes are not lost during further editorial work (e.g. cut and paste).

3.2.3.5 Tracked changes should be made against the text that has already entered into force. However, subject to section 3.3.1 below, if the draft amendments under development are expected to be adopted after the entry-into-force date of other related amendments, then the adopted amendments should be included using a different colour and including a note indicating the number of the resolution by which the amendments were adopted. The note should be used as a drafting tool only and should not be considered as part of the related draft amendments.

3.3 Points for attention in preparing an amendment

3.3.1 An amendment to a pending amendment

3.3.1.1 A further amendment to an already adopted amendment which is still pending entry into force may be approved by the Committee but should not be adopted until the previous adopted amendment enters into force.

3.3.1.2 Other elements of the same regulation which are not related to a previous adopted amendment which is still pending entry into force may be amended accordingly, in accordance with the procedures for amending the Convention.

3.3.2 Work of other bodies of the Organization

3.3.2.1 In drafting an amendment, due attention should be paid to any possible related amendments being prepared by other bodies of the Organization based upon the information provided by the Secretariat or as may be advised.

4 GUIDANCE FOR DRAFTING AMENDMENTS

4.1 Principles

4.1.1 A comprehensive revision of a chapter

4.1.1.1 A comprehensive revision is a revision of a chapter which fundamentally alters the structure of the chapter and resets its application date.

4.1.1.2 A comprehensive revision should take place only if the entire philosophy or basis of the chapter is restructured (e.g. from ship's type-based requirements to functional based requirements, or based on a new concept).

4.1.1.3 As far as possible, comprehensive revisions should be avoided since they can make historical tracking of regulations difficult.

4.1.1.4 When a chapter of the Convention is comprehensively revised, the following principles should be followed:

- .1 Application date of the chapter: The application date of the chapter should be reset. The application date (e.g. date 1 in annex 1) in the statement of regulation 1.1.1 "Unless expressly provided otherwise, this chapter shall apply to ships constructed on or after (date 1)" should be kept until the next comprehensive revision of the chapter. This date should be aligned with one of the four-year cycle dates;
- .2 List of resolutions: A list of resolutions that apply to ships constructed prior to the comprehensive revision (e.g. regulation 1.2 in annex 1) should be included in the text of the chapter; and
- .3 Additional requirements contained in the chapter that apply to ships constructed before the application date of the chapter: When a comprehensive revision is carried out, some of the requirements applicable to ships constructed on or after the application date of the chapter may also be applicable to ships constructed before that date. These regulations should be recorded in the list of regulations applicable to existing ships (see regulation 1.4 in annex 1).

4.1.2 Amendments adopted between comprehensive revisions or after the approval of the present Guidance

4.1.2.1 For amendments adopted between comprehensive revisions or after the approval of the present Guidance, the following principles should be observed:

- .1 the application date of a new amendment should be clearly stated under each specific new or amended regulation, in the format given in paragraph 4.2.1 below;
- .2 if an amendment revises a regulation, or part of a regulation, the original part of the regulation which would continue being applicable to ships constructed on or after the original application date of the revised regulation should be retained with a clear statement of its application dates (i.e. from and to);

- .3 regardless of the dates included in the amended regulation(s), the chapter's application should include a list of amended regulations that contain provisions that apply to ships constructed on or after the general application date of the chapter (e.g. regulation 1.3 in annex 1); and
- .4 if the new or amended regulation is also applicable to ships constructed before the general application date of the chapter, then that regulation should also be added to the list referred to in paragraph 4.1.1.4.3 (e.g. regulation 1.4 in annex 1).

4.1.3 Amendments adopted at subsequent comprehensive revision

4.1.3.1 In the event of a second or a subsequent comprehensive revision to a chapter, the following principles should also be observed:

- .1 the application date of the chapter given in paragraph 4.1.1.4.1 above should be reset;
- .2 the list of resolutions referred to in paragraph 4.1.1.4.2 should be updated by adding any further resolutions relevant to the chapter adopted after the previous comprehensive revision; and
- .3 application dates introduced in the regulations that entered into force between the comprehensive revisions should be removed, and the list indicated in paragraph 4.1.2.1.3 should also be reset. Moreover, the list indicated in paragraph 4.1.1.4.3 should be reset and completed with requirements contained in the revised chapter that apply to ships constructed before the subsequent revision date, if any.

4.1.4 Referencing other instruments

4.1.4.1 When referencing other mandatory/non-mandatory instruments in a mandatory instrument, the *Guidelines on methods for making reference to IMO and other instruments in IMO conventions and other mandatory instruments*, as set out in the annex to resolution A.911(22) on *Uniform wording for referencing IMO documents*, should be applied.

4.1.4.2 The above Guidelines provide standard text for references for inclusion in new IMO conventions and other mandatory instruments relating to maritime safety and pollution prevention and in future amendments to existing conventions and other instruments, in order to ensure that, where reference is made to IMO Conventions and other instruments, a uniform wording is used. This is to indicate clearly the legal status of the instrument in question after the IMO body concerned has decided on the status. Therefore, references to standards which are intended to be mandatory should not be included as a footnote. They should instead be included explicitly in the text of relevant regulations or amendments.

4.1.5 Relationships among regulations, codes and performance standards

4.1.5.1 In drafting amendments to the Convention or other related mandatory instruments, careful consideration should be given to the potential consequential effect on, or amendments that may be required to, related instruments.

4.1.5.2 Due attention should also be paid to section 4.1.4 above.

4.1.6 Relaxation/dispensation

4.1.6.1 General relaxation/dispensation clauses should be given at the beginning of the chapter.

4.1.6.2 Specific relaxation/dispensation clauses applicable to specific requirements should be given under the technical regulations.

4.2 Specific details

4.2.1 Format of application dates

4.2.1.1 Format of application dates should be defined, as applicable, using the criteria based on "three dates"³ or the "keel laying date based on a single date".

4.2.1.2 At a comprehensive revision, a decision should be made so as to whether to use the criteria based on three dates or the keel laying date based on a single date. Depending on that decision, one of the following definitions of the chapter's application for "ship constructed" should be inserted as regulation 2.x:

- .1 In case the three dates criteria is used, the following should be the definition inserted in regulation 2:

"Regulation 2.x

.XX The expression *ship constructed on or after DDMMYYYY* means:

- .1 for which the building contract is placed on or after (date 1); or
- .2 in the absence of a building contract, the keel of which is laid or which is at a similar stage of construction on or after (date 2); or
- .3 the delivery of which is on or after (date 3)"

Note: As guidance, date 2 is 6 months after date 1, and date 3 is 48 months after date 1.

- .2 In case the single ship's construction/keel laying date criteria is used, the following should be the definition inserted in regulation 2:

"Regulation 2.x

.XX The expression *ship constructed on or after DDMMYYYY* means:

- .1 the keel of which is laid or which is at a similar stage of construction on or after DDMMYYYY;

³ Refer to MSC-MEPC.5/Circ.8 on *Unified Interpretation of the application of regulations governed by the building contract date, the keel laying date and the delivery date for the requirements of the SOLAS and MARPOL conventions.*

- .2 *Similar stage of construction* means the stage at which:
 - .1 construction identifiable with a specific ship begins; and
 - .2 assembly of that ship has commenced comprising at least 50 tonnes or 1% of the estimated mass of all structural material, whichever is less."

4.2.1.3 Subsequent amendments between comprehensive revisions should also address the options given in paragraph 4.2.1.2 above.

4.2.2 All ships

4.2.2.1 A clear definition of "all ships" for the purpose of the chapter should be given in the "definition" part of the chapter.

4.2.3 Conversion

4.2.3.1 A clear definition of "conversion" and "alteration or modification of major character" for the purpose of application provisions of the chapter or a specific regulation should be given.

4.2.4 Consequential amendments to the Convention and/or other instruments

4.2.4.1 An amendment to the Convention occasionally introduces a change to the regulation number or paragraph number. As far as possible, this practice should be avoided because the number might be referred to in the Convention itself or in other instruments. MSC 71, when discussing the situation regarding cross-reference of regulations in and between IMO instruments, agreed to (MSC 71/23, paragraph 16.10):

- .1 request the sub-committees, in the course of preparation of amendments to IMO instruments, to also check the references in the provisions of the instruments concerned which may not be within their purview; and
- .2 invite Member Governments to inform the Secretariat, at an early stage, of any modifications to cross-references they would identify when introducing new amendments in their legislation, in order that necessary rectification could be made by the Secretariat.

4.2.5 Other best practices for the drafting of amendments

4.2.5.1 In addition to principles specified in section 4.1, the following best practices should be taken into account during the preparation and drafting of amendments to the Convention:

- .1 General format of regulations:
 - .1 Titles of regulations: for consistency, all regulations should have a title;
 - .2 Subtitles within regulations should be numbered accordingly; and

- .3 Numbering of paragraphs and tables within a regulation: unless the regulation contains only one paragraph or table, all paragraphs and tables should be numbered accordingly within the regulation. For tables, the format "X.x" should be used, where "X" represents the number of the regulation and "x" is a correlative number within the regulation.
- .2 New regulations: Whenever possible, new regulations should be inserted at the end of the corresponding chapter. However, due to the nature of the regulation and/or the structure of the chapter, new regulations may be inserted sometimes between existing regulations. In these cases and in order to avoid renumbering existing regulations, the new regulation should be inserted using an existing regulation number by adding "-1" after the number. For further insertions, correlative numbers should be used.
- .3 Deletion of regulations: To avoid renumbering existing regulations, the number of deleted regulations should be kept. A footnote could be added indicating that the regulation was intentionally deleted and left blank.
- .4 Amending or replacing existing regulations, paragraphs or tables: Given the diversity of situations that could be presented under the current structure of the Convention, special attention should be paid to the definition of the scope of application of new amendments, as appropriate. Under these circumstances, the scope of application of new amendments should be specified as follows:
 - .1 within the amended text of the existing regulation; or
 - .2 using a dedicated separate paragraph within the same regulation; or
 - .3 adding a note within parentheses under the title of the regulation.

When modifying or replacing contents of existing tables, a note under the table or a dedicated separate paragraph should be used to clarify the application of existing requirements, as appropriate.

Duplication of regulations, paragraphs or tables should be avoided as much as possible.

4.3 Example of regulation 1

- 4.3.1 An example of regulation 1 is given in annex 1.

5 OTHERS – REMINDER OF THE BASIC ARCHITECTURE OF THE CONVENTION

5.1 Application provisions

- 5.1.1 Application provisions in the Convention are given in three layers:

- .1 Article II (Application): Article II of the Convention states that:

"The present Convention shall apply to ships entitled to fly the flag of States the Governments of which are Contracting Governments."

- .2 Chapter I, regulation 1 (Application): regulation I/1 of the Convention states that:
 - "(a) Unless expressly provided otherwise, the present regulations apply only to ships engaged on international voyages.
 - (b) The classes of ships to which each chapter applies are more precisely defined, and the extent of the application is shown, in each chapter."
- .3 Each chapter: Each chapter, in regulation 1, provides application of that chapter.
- .4 Each regulation: Each regulation may provide further specific application details of the requirement.

5.2 Application to new/existing ships

5.2.1 In drafting a regulatory text, there should be a clear understanding of the nature of modifications to the technical regulations and of the scope of application of newly introduced or additional technical measures, e.g. whether they should be applied to "new ships", or "existing ships" (i.e. ships which are not new ships), or both; as well as the time frame for the amendments introducing the technical measures to come into force. It is essential to have proper understanding of the following:

- .1 Article VIII (Amendments)
 - "(e) Unless expressly provided otherwise, any amendment to the present Convention made under this article, which relates to the structure of a ship, shall apply only to ships the keel of which are laid or which are at a similar stage of construction, on or after the date on which the amendment enters into force."
- .2 The Committees' Guidelines

In paragraph 4.26, these guidelines also provide some guidance on the application to new/existing ships.

5.3 Ship type

5.3.1 For ship types, it is noted that, unless expressly provided otherwise, regulation 1/2 applies. If a regulation/paragraph applies to a particular ship type, this should be clearly stated in the regulation/paragraph. If a ship type, other than that stated in regulation 1/2, or as may be specified in the chapter under amendment, is introduced, then a corresponding definition for that ship type should be specified within that chapter.

5.4 Status of footnotes

5.4.1 With regard to the status of footnotes in mandatory instruments, MSC 59 decided, with that decision being reiterated at MSC 61, that footnotes do not form part of the text of mandatory instruments and that the IMO Secretariat should omit footnotes from the authentic texts and certified copies circulated to Member Governments, but that they may be included in all other documents and sales publications.

5.4.2 Therefore, texts intended to be mandatory should be explicitly included in the text of relevant regulations, and not in footnotes.

5.5 Human element

5.5.1 Reference is made to paragraph 4.27 of the Committees' Guidelines, which states that, recognizing the human factor as an integral part of any effort to enhance maritime safety, maritime security or protection of the marine environment, the subsidiary bodies should consider the involvement of the human factor whenever new requirements are developed and existing requirements are reviewed, taking into account the Human element principles for the work of the MSC, the MEPC and their subsidiary bodies (MSC/Circ.763-MEPC/Circ.313).

Annex 1

EXAMPLE OF REGULATION 1

Regulation 1 should be expressed as:

"Regulation 1 – Application

1 Application (refer to section 4.1.1.4.1 – Application date of the chapter)

1.1 Unless expressly provided otherwise, this chapter shall apply to ships constructed on or after [*date 1*] (refer to section 4.1.1.4.1)

2 Resolutions applicable to ships constructed before [*date 1*] (refer to section 4.1.1.4.2)

Unless expressly provided otherwise, for ships constructed before [*date 1*], the Administration shall ensure that the requirements which are applicable under chapter [xx] of the International Convention for Safety of Life at Sea, 1974, as amended by resolutions MSC.[xxx] ([xx]) (the resolution of the previous revision) are complied with. (Note: this should be the previous comprehensive revision).

3 Additional or revised regulations applicable to ships constructed on or after [*date 1*] (refer to section 4.1.2.1.3)

Regulation	Application date	Adopted by
II-2/1.2.4	first renewal survey on or after 1 January 2011	MSC.269(85)
II-2/4.5.2.3	on or after 1 July 2008	MSC.216(82)
II-2/5.3.4	first survey on or after 1 July 2008	MSC.216(82)

4 Requirements contained in this chapter that are applicable to ships constructed before [*date 1*] (refer to section 4.1.1.4.3)

Regulation	Application date	Adopted by	Applicable ship types
II-2/1.2.2	See paragraph 2.2.1 to 2.2.4	MSC. 99(73)	as applicable
II-2/4.5.7.1	1 January 2012	MSC. 291(87)	in all tankers
II-2/15, heading, 1st sentence	1 July 2010	MSC.201(81)	applicable to passenger ships and cargo ships from 500 GT with contract date between 1 February 1992 and 1 July 1998

Annex 2

**CHECK/MONITORING SHEET FOR THE PROCESS OF AMENDMENTS TO THE
CONVENTION AND RELATED MANDATORY INSTRUMENTS
(PROPOSAL/DEVELOPMENT)**

Part I – Submitter of the proposal (refer to section 3.2.1.1)*

1	<i>Submitted by (Document Number and submitter)</i>
2	<i>Meeting session</i>
3	<i>Date (date of the submission)</i>

Part II – Details of the proposed amendment(s) or new mandatory instrument (refer to sections 3.2.1.1 and 3.2.1.2)*

1	<i>High-level action plan</i>
2	<i>Planned output</i>
3	<i>Recommended type of amendments (MSC.1/Circ.1481) (delete as appropriate)</i> <ul style="list-style-type: none"> • Four-year cycle of entry into force • exceptional circumstance
4	<i>Intended instrument(s) to be amended (SOLAS, LSA code, etc.)</i>
5	<i>Intended application (scope, size, type, tonnage/length restriction, service (International/non-international), activity, etc.)</i>
6	<i>Application to new/existing ships (i.e. if intended to be a retro-active application)</i>
7	<i>Proposed coordinating sub-committee</i>
8	<i>Anticipated supporting sub-committees</i>
9	<i>Time scale for completion</i>
10	<i>Expected date(s) for entry into force and implementation/application</i>
11	<i>Any relevant decision taken or instruction given by the Committee</i>

Part III – Process monitoring to be completed during the work process at the sub-committee and checked as part of the final approval process by the Committee (Refer to section 3.2.1.3) **

1	The sub-committee, at an initial engagement, determined the allocation of sufficient time for technical research and discussion before the target completion date. Especially, for issues needed to be addressed by more than one sub-committee, timing of meetings of relevant sub-committees and exchanges of the result of consideration were carefully examined.	
2	The scope of application agreed at the proposal stage was not changed without approval of the Committee.	
3	The technical base document/draft amendment addressed the proposal's issue(s) through the suggested instrument(s) and, if not, the sub-committee offered an alternative method to the Committee for addressing the problem raised by the proposal.	
4	Due attention was paid to the <i>Interim guidelines for the systematic application of the grandfather clause</i> (MSC/Circ.765).	
5	All references have been examined against the text that would be valid if the proposed amendment enters into force.	
6	The location of the insertion or modified text is correct for the text that would be valid when the proposed text enters into force on a four-year cycle of entry-into-force date, as other relevant amendments adopted might enter into force on the same date.	
7	There are no inconsistencies in the scope of application between the technical regulation and application statement of the relevant chapter that may be given in regulation 1 or 2, and application is specifically addressed for existing and/or new ships, as necessary.	
8	If a new term is introduced in a regulation and a clear definition is necessary, the definition is given in the article of the Convention or at the beginning of the chapter.	
9	Consideration is given when any of the terms "fitted", "provided", "installed" or "installation" are used with a view to providing a clear understanding of the intended meaning of the term.	
10	All necessary related and consequential amendments to the forms of certificates and records of equipment and other instruments, including non-mandatory instruments forms required in the instrument being amended, have been examined and were included as part of the proposed amendments.	
11	The forms of certificates and records of equipment are harmonized, where appropriate, between the Convention and its Protocols.	
12	Confirm that an amendment is carried out on currently valid text and that no other bodies are concurrently making change proposals to the same text.	
13	Ensure that all entry-into-force criteria (contract, keel laying and delivery) are considered and addressed.	

14	Other impacts of the implementation of the proposed/approved amendment are fully analysed.	
15	Amendments presented for adoption clearly indicate changes made with respect to the original text in order to facilitate their consideration.	

- * Parts I and II should be completed by the submitter of a proposed new amendment, to the fullest extent possible.
- ** Part III should be completed by the drafting/working group that prepared the draft text.

GUIDANCE NOTES FOR COMPLETING THE CHECK/MONITORING SHEET

Part I – Submitter of the proposal

This part should be completed by the submitter of a proposed new amendment, to the fullest extent possible.

The original proposal for amendment(s) should be sponsored by, at least, a Contracting Government to the Convention. The Contracting Government (or in the case of a number of Contracting Governments, a nominated lead Contracting Government) should complete part I.

Part II – Details of the proposed amendment(s) or of the proposed new mandatory instrument

This part should be completed by the submitter of a proposed new amendment, to the fullest extent possible.

Details of the proposal should be complete and as detailed as possible. If the proposal is related to a casualty, a full explanation of the factors involved or the safety analysis should be appended to the proposal, especially, when the submitter considers a case of "exceptional circumstance", as per MSC.1/Circ.1481. Consideration of the size of the affected fleet or number of affected mariners, or both, should form part of the justification of the proposal.

Part III – Process monitoring to be completed during the work process at the sub-committee and checked as part of the final approval process by the Committee

This part should be completed by the drafting/working group that prepared the draft text.

This checklist should be completed to the fullest extent possible at each stage of the regulatory project process. Each time the regulatory project receives a set of terms of reference for a correspondence group, working group or drafting group, the Chairman or the Secretariat should review the checklist with the group at the completion of that group's report.

Each process means:

- Initial engagement at the sub-committee (items 1 - 2)
- During the discussion at the sub-committee (items 3 - 6)
- Finalization stage at the sub-committee (items 7 - 15)

The concept is to create a tracking mechanism, by a complete synopsis record of the regulatory process, to assure those delegations unable to participate in the work of working/drafting groups due to personnel and/or time constraints, that the strictures of the process method are complied with in accordance with the dictates of the Committee(s).

RECORD FORMAT

The following records should be created for each regulatory development and submitted to the Committee when the draft amendments are submitted for approval.

1	Title (number and title of regulation(s))
2	Origin of the requirement (original proposal document)
3	Main reason of the development (extract of the proposal document)
4	History of the discussion (approval of the work programmes, sessions of the sub-committees, including CG/DG/WG arrangements)
5	Impact on the other instruments (e.g. codes, performance standards, guidance circulars, certificates/records format, etc.)
6	Technical background
6.1	Scope and objective (to cross check with items 4 and 5 in part II of the checklist)
6.2	Technical/operational background and rationale (summary of FSA study, etc., if available or, engineering challenge posed, etc.)
6.3	Source/derivation of the requirement (non-mandatory instrument, industry standard, national/regional requirement)
6.4	Short summary of the requirement (what is the new requirement – in short and lay terms)
6.5	Points of discussions (controversial points and conclusion)