

## PLACES OF REFUGE

### 27.1 RATIONAL APPROACH FOR THE DESIGNATION AND USE OF PLACES OF REFUGE

27.1.1 The Contracting Parties endorsed the following rational approach in events involving:

- fire,
- explosion,
- damage to the ship,
- collision,
- pollution,
- impaired vessel stability,
- grounding,

for the designation and use of places of refuge.

27.1.2 In such cases, a careful assessment of risks related to the identified event and accompanying circumstances must take into account:

- safety of those on board,
- threats to public safety,
- designated environmental areas,
- sensitive habitats and species,
- fisheries,
- economic/industrial facilities,
- amenity resources,
- facilities and manpower available,
- weather, sea and geographical conditions,
- bathymetry,
- tides and seasonal effects.

27.1.3 Contingency planning for an area suitable for a place of refuge should include:

- roles and responsibilities of authorities and the responders in charge,
- response equipment needs and availability,
- response techniques required and permitted,
- international, regional or bilateral co-operation,
- existing logistics for emergency response, such as lightening, towage, stowage, salvage and storage,
- customs and financial implications to be considered in response operations;
- the vulnerability of the area concerned.

27.1.4 The Contracting Parties noted that the designation and use of places of refuge could encounter local opposition and involve political decisions. Therefore, granting access to a place of refuge could involve a political decision. Such a decision can only be taken on a case-by-case basis, with due consideration given to the balance between:

- a. the advantages for the affected ship and for the environment resulting from bringing the ship into a place of refuge; and
- b. the risk to the environment resulting from that ship being near the coast.

27.1.5 It should be made clear to the authorities and the public involved that a well defined place of refuge can limit the extent of coastline threatened by the scale of dangers arising from the casualty.

27.1.6 International guidelines, such as those agreed by IMO (Assembly resolution No A.949(23)) aim to provide internationally approved checklists both for the authorities requested to designate places of refuge and for the master of a ship in need of such a place because of her specific situation. The wording of the following guidelines uses phrases from the body and annexes of the IMO Assembly Resolution

No. A.949(23). Contracting Parties which are EU Member States will need to take account of Article 20 of Directive 2002/59/EC and they and other Contracting Parties will need to take account of national legislation in this field.

27.1.7 Structured information on the incident, on the ship's specifics, on the accompanying safety questions, on the kind of assistance needed, on the insurance coverage and so forth will enable coastal States to identify more easily the risks involved. Decisions on suitable methodology and on how to respond, as well as the identification of suitable places of refuge (both for general types of incident and on a case-by-case basis), will be speeded up by such structured information.

27.1.8 In an evolving situation where persons on board find themselves in distress, the rules applicable to rescue operations under the SAR Convention and the IAMSAR Manual and the documents derived from those instruments have priority over the present guidelines and the procedures derived from them.

## **27.2 PRINCIPLES OF DECISION-MAKING FOLLOWING A REQUEST FOR A PLACE OF REFUGE**

27.2.1 Under international law, a coastal State may require the ship's master (or the company owning or managing the ship) to take appropriate action within a prescribed time limit with a view to halting a threat of danger. In cases of failure or urgency, the coastal State can exercise its authority by taking response action appropriate to the threat. It is therefore important that coastal States establish procedures to address these issues, even if no established damage and/or pollution has occurred, preferably through a maritime assistance service. For each place of refuge, maritime authorities and, where necessary, port authorities should make an objective analysis of the advantages and disadvantages of allowing a ship in need of assistance to proceed to the place of refuge, taking into consideration the result of its event-specific analysis.

27.2.2 An event-specific assessment should analyse the following points:

- the seaworthiness of the ship concerned (buoyancy, stability, availability of means of propulsion and power generation, docking ability etc.);
- the nature and condition of cargo, stores, bunkers, in particular hazardous goods;
- the distance and estimated transit time to a place of refuge;
- whether the master 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;
- whether the ship concerned is insured or not;
- if the ship is insured, the identity of the insurer, and the limits of liability available;
- whether there is agreement by the master of the ship and the company owning or managing the ship to the proposals of the coastal State/salvor to proceed, or to be brought, to a place of refuge;
- the provisions of the financial security required;
- any commercial salvage contracts already concluded by the master of the ship or the company owning or managing the ship;
- information on the intention of the master and/or salvor;
- the designation of a representative of the company owning or managing the ship in the coastal State concerned;
- the risk evaluation factors identified in Appendix 2 of IMO Assembly Resolution No. A.949(23); and
- any measures already taken.

27.2.3 When appropriate, and if time allows, an inspection team designated by the coastal State should board the ship, for the purpose of gathering evaluation data. The team should be composed of persons with expertise appropriate to the situation.

27.2.4 The analysis 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 a comparison should cover the following points:

- the safeguarding of human life at sea;
- the safety of persons at the place of refuge and in its industrial and urban surroundings (risk of fire or explosion, toxic risk, etc.);
- the risk of pollution;
- if the place of refuge is a port, the risk of disruption to the port's operation (channels, docks, equipment, other installations);
- an evaluation of the consequences if a request for a place of refuge is refused, including the possible effect on neighbouring States.

27.2.5 Due regard should be given, when drawing up the analysis, to the preservation of the hull, machinery and cargo of the ship in need of assistance.

27.2.6 When the final analysis has been completed, the maritime authorities concerned should be informed about it. When permission to access a place of refuge is being considered, there is no obligation on the coastal State to grant it, but the coastal State should weigh all factors and risks in a balanced manner, and give shelter whenever that is reasonably possible.

27.2.7 In the light of the outcome of the assessment provided for above, the coastal State should decide whether to allow or to refuse admittance, and reach decisions, where necessary, on any practical requirements. The action of the coastal State does not prevent the company owning or managing the ship, or its representative, from being called upon to take steps to arrange for the ship in need of assistance to proceed to a place of refuge. As a general rule, if the place of refuge is a port, a security in favour of the port will be required to guarantee payment of all expenses which may be incurred in connection with its operations, such as: measures to safeguard the operation, port dues, pilotage, towage, mooring operations, miscellaneous expenses, etc.

### **27.3 INFORMATION-CHECKLIST FOR AN AUTHORITY WHICH HAS RESPONSIBILITIES OF THIS KIND**

An authority responsible for drawing-up an event-specific analysis, or for taking a decision on whether to permit access to a place of refuge, should use the following check-list of relevant information:

- vessel identification data;
- flag state, crew data;
- cargo, bunker, ballast data;
- position of casualty, meteorological and tidal situation;
- distance to preferred place of refuge, limitations;
- geographic and hydrographic data for place of refuge and approaches;
- what communication means are available;
- owner, local agent, insurer, embassy/consulate;
- assistance/salvage contract in existence/intended, who is/will be contractor;
- type of accident/distress, risks involved;
- priority ranking of assistance measures, time frame for decisions;
- type of expertise and equipment for response measures needed;
- availability of equipment and manpower, transport means;
- definition of maximum risks for the coastline/population/connected interests and possible responses;
- involvement of other responsible agencies in the decision-making process;
- access to place of refuge for assistance/salvage/cargo lightening operations from the shore/from the sea;
- limitations on anchorage or berthing at place of refuge;
- is there an imminent threat from a risk of accidental emission of hazardous substances,
- expected public acceptance of measures;
- what can be done to assist the media and how they can participate;

- whether a disaster relief/response plan exists for place of refuge;
- to what extent are risks involved in response measures covered financially by insurance;
- provision of bank guarantee by owner/manager,
- other interests possibly touched by response measures (amenity, tourism, fisheries, wildlife protection, etc.)

#### **27.4 CHECKLIST FOR THE PROVISION OF INFORMATION BY A VESSEL IN DISTRESS**

Except in extreme circumstances, a vessel in need of assistance can be expected to provide the following information:

- vessel identification data;
- flag state, crew data;
- cargo, bunker, ballast data;
- present position, meteorological and tidal situation, forecast;
- distance to preferred place of refuge, limitations on;
- pilot/escorting assistance required;
- what communication means are available;
- type and state of the engine and propulsion gear; what auxiliary power is available; whether the rudder is functioning or not;
- whether the ship is afloat or aground; whether the anchor is ready for dropping;
- what hull or other damage has occurred;
- risk/presence of fire, explosion, or emission or discharge of dangerous substances; and, if so, the source, nature and quantity of those substances;
- details of the owner, local agent, cargo recipient(s), insurer, and embassy/consulate;
- whether a contract of assistance/salvage exists or is intended; and, if so, the name and address of the contractor;
- the estimated time of arrival (ETA) of the salvor/contractor;
- the types of accident/distress and risks involved;
- whether evacuation of crew is necessary or not;
- whether abandonment of the ship intended or not; what alternatives are available;
- what response/precautionary measures have been initiated by crew; whether these measures have been successful or not; the next steps planned to be taken; the operational safety situation on board;
- a priority ranking of assistance measures;
- the anticipated time frame for decisions;
- the type of expertise and equipment needed for response measures;
- any further assistance required to be on stand-by.

#### **27.5 FINAL REMARKS**

27.5.1 Maritime authorities, port authorities, authorities responsible for shore-side safety and generally all government authorities concerned should ensure that:

- a. an appropriate system for information-sharing exists;
- b. communications and alert procedures are established as appropriate, and
- c. a plan exists for the modalities for a joint assessment of the situation.

27.5.2 In sea areas where bilateral or multilateral co-operation between States has been established by an agreement, appropriate information-sharing formats, communication and alert procedures and plans for a joint assessment of the situation should be incorporated in the agreement.