



MARITIME SAFETY COMMITTEE
85th session
Agenda item 5

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GOAL-BASED NEW SHIP CONSTRUCTION STANDARDS

Consideration of the protection of intellectual property rights (IPR)

Submitted by Japan and the Community of European Shipyards' Associations (CESA)

SUMMARY

<i>Executive summary:</i>	This document proposes some amendments to Tier III in order to appropriately reflect the requirement regarding intellectual property rights (IPR) mentioned in Tier II
<i>Strategic direction:</i>	10
<i>High-level action:</i>	10.1.1
<i>Planned output:</i>	10.1.1.2
<i>Action to be taken:</i>	Paragraph 9
<i>Related document:</i>	MSC 85/5/1

1 This document is submitted in accordance with the provisions of paragraph 4.10.5 of the Guidelines on the organization and method of work of the MSC and MEPC and their subsidiary provides (MSC-MEPC.1/Circ.2) and comments on the report of the Pilot Panel on the trial application of the Tier III verification process using IACS Common Structural Rules (CSR) (MSC 85/5/1).

Introduction

2 Draft information/documentation requirements and evaluation criteria for Tier III.10 "Design transparency" included in the report of the Pilot Panel on the second trial application of Tier III verification process of Goal-Based Standards for New Ship Construction (GBS-NSC) using IACS Common Structural Rules (MSC 85/5/1, annex 1, Part B, Tier III) states that the rules shall establish clear and auditable procedures to provide for ships' structural related design information to be made available to the classification society, the owner and/or the flag State.

3 The co-sponsors of this document support this statement in general since explicit requirements leading to the realization of "design transparency" are quite important in order to ensure the structural safety of the ship under the GBS-NSC regime.

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4 It must, however, be brought to the attention of the Committee that while “design transparency” is a matter of great importance to ensure structural safety, the encouragement of technical development and innovation is equally essential for the improvement of safety. The co-sponsors also believe that sustaining development and innovation in all the shipbuilding technology fields should be essential for the attainment of our goal to improve maritime safety and environment protection. Therefore, a level playing field that facilitates fair competition should be maintained.

5 Assuming that GBS-NSC regime is approved and brought into force following the draft Tier III.10 in the report of the Pilot Panel, such as 10.2.5 quoted below, more extensive design information than ever becomes available, and hence frequent infringements on the intellectual property rights (IPR) or impediments to fair competition would arise more frequently.

Tier III.10 Design transparency

“10.2.5 Description of the procedures to ensure that ships’ structural related technical correspondence between shipyard and subcontractors is made available at the request of classification society, owner and/or flag State.”

6 In reality, the discomfort arising from this kind of lack of IPR protection could easily create serious confusion at any time when an attempt is made to access the design information of each individual ship, such as advanced hull form and structural design methodologies. Since such a confusing situation would result in undesired obstacles in attaining “design transparency”, some guidance for the parties is desirable.

7 The Committee is invited to recall that a well-balanced consideration of the protection of IPR is given in the higher Tier II.10 “Design transparency” as quoted below. The corresponding requirement needs to be added in Tier III.10 from a consistency point of view. While IPR is not an issue to be pursued by IMO, the IPR issue is inseparable to achieve the design transparency objective. Therefore, an appropriate and balanced environment which ensures design transparency while providing due consideration of IPR should be established.

Tier II.10 Design transparency

*“Ships shall be designed under a reliable, controlled and transparent process made accessible to the extent necessary to confirm the safety of the new as-built ship, **with due consideration to intellectual property rights**. Readily available documentation shall include the main goal-based parameters and all relevant design parameters that may limit the operation of the ship.”*

Proposal

8 In this context, the co-sponsors propose to harmonize Tier III.10 with Tier II.10 which has been already agreed by the Committee as mentioned in paragraph 7 above; that is to add the same wordings into Tier III.10 based on those appeared in Tier II.10 as underlined in the annex to this document, so that the rules provide for due consideration of IPR as an inseparable set, with the intention of eliminating the subject obstruction factor.

Action requested of the Committee

9 The Committee is invited to consider the proposal contained in this document and take action as appropriate.

ANNEX

PROPOSAL FOR MODIFICATIONS OF TIER III.10

It is proposed to add the following underlined words:

TIER III

PART B

**INFORMATION/DOCUMENTATION REQUIREMENTS
AND EVALUATION CRITERIA**

III.10 – Design transparency***III.10.1 Statement of intent***

Confirm the design and construction process is transparent, and that design information is clearly stated and made available to the classification society, the owner and the flag State, **with due consideration to intellectual property rights.**

III.10.2 Information and documentation requirements

10.2.1 Description of how the Rules require design specific information to be included in the Ship Construction File, including:

- .1 Areas requiring special attention throughout the ship's life.
- .2 All design parameters limiting the operation of a ship.
- .3 Any alternatives to the Rules, including structural details and equivalency calculations.
- .4 Approved and stamped "as-built" drawings and information.
- .5 Procedures for updating the Ship Construction File over the lifetime of the ship.
- .6 Net (renewal) scantlings for all the structural members.
- .7 Minimum hull girder section modulus along the length of the ship which has to be maintained throughout the life of the ship.

10.2.2 Description of the process, requirements and criteria for assessing, documenting and communicating alternate methods as being equivalent to specific Rule requirements.

10.2.3 Description of procedures for ensuring that relevant design information, e.g., net scantlings, corrosion margins used, etc., is available to the owner and flag State during the construction process.

10.2.4 Description of the procedures to ensure that structural design and construction related correspondence and data exchanged between the shipyard and the classification society is made available at the request of the owner and/or flag State.

10.2.5 Description of the procedures to ensure that ships' structural related technical correspondence between shipyard and subcontractors is made available at the request of classification society, owner and/or flag State.

10.2.6 Descriptions of the procedures to ensure the protection of intellectual property rights.

III.10.3 Evaluation criteria

10.3.1 Do the Rules establish clear and auditable requirements for including and updating design specific and critical information, including limitations, in the Ship Construction File?

10.3.2 Do the Rules establish clear criteria and techniques for assessing alternate methods used in the design? Are all equivalencies documented in the Ship Construction File and made available to the owner and/or flag State?

10.3.3 Do the Rules establish clear and auditable procedures to provide for ship's structural related design and technical correspondence and data pertaining to the ship to be made available to the owner, classification society and/or flag State upon request?

10.3.4 Do the Rules establish clear and auditable procedures to provide for the protection of intellectual property rights covering the information and data as mentioned above?
