



MARITIME SAFETY COMMITTEE
84th session
Agenda item 11

MSC 84/11/3
29 February 2008
Original: ENGLISH

SHIP DESIGN AND EQUIPMENT

Definition of the term “bulk carrier”

Note by the Secretariat

SUMMARY

<i>Executive summary:</i>	The document presents background information with regard to the issue of the definition of the term “bulk carrier”
<i>Strategic direction:</i>	2
<i>High-level action:</i>	2.1.1
<i>Planned output:</i>	2.1.1.2
<i>Action to be taken:</i>	Paragraph 22
<i>Related documents:</i>	MSC 81/25, paragraphs 8.9 to 8.17; MSC 81/8/3; MSC.1/Circ.1199; DE 50/25/1; DE 50/25/4; DE 50/25/6; DE 50/25/10; DE 50/WP.9; DE 50/27, paragraphs 25.2 to 25.7; MSC 83/9/1/Rev.1; MSC 83/28, paragraph 9.28; DE 51/27; DE 51/28, section 27; and MSC 84/11/2

1 In order to facilitate the discussion of the Committee on the subject, the Secretariat has assembled pertinent background information and proposals for a way forward as outlined in the following paragraphs.

Outcome of MSC 81

2 MSC 81 considered the views, recommendations and decisions of the FSI Sub-Committee concerning the definition of “bulk carrier”, based on the fact that from 1 July 2006, with the entry into force of the revised SOLAS chapters II-1, III and XII (resolution MSC.170(79)), there would be a definition of the term in the revised regulations II-1/2 and XII/1.1 which differs from the existing definition contained in regulation IX/1.6.

3 FSI 13 had recognized that, while the revised regulation II-1/2 makes reference to regulation XII/1.1, the revised regulation III/31 makes reference to SOLAS regulation IX/1.6, for ships constructed on or after 1 July 2006, thereby creating a possible distinction between two different types of bulk carriers. Consequently, FSI 13 recommended that the definition of “bulk carrier” in chapter IX and the reference in the revised regulation III/31 should be checked and harmonized with the definition in regulation XII/1.1.

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4 MSC 81 acknowledged the concern of the FSI Sub-Committee that, while a ship is identified as a bulk carrier through its Safety Construction and Safety Equipment Certificates and its Safety Management Certificate, the status of a ship which is not certified as a bulk carrier, but nevertheless carries cargo in bulk might cause problems and be questioned by port State control (PSC) officers for non-compliance with SOLAS chapter XII.

5 In this context, MSC 81 noted that FSI 13 had recommended that further consideration of the definition of “bulk carrier” should be directed to an appropriate IMO body other than itself, also taking into account the question on whether a ship which is not a bulk carrier, as shown by its statutory certificates, but carries cargo in bulk, is in compliance with SOLAS if the corresponding loading case is part of its loading and stability manual approved by the Administration.

6 MSC 81 also considered a related submission by IACS (MSC 81/8/3) which recommended that, owing to the entry into force of the 2004 amendments to SOLAS on 1 July 2006, some issues needed to be clarified, including the terms “constructed generally” and “intended primarily to carry dry cargo in bulk” and the requirements/standards to be applied for compliance with the revised chapter XII for non-conventional bulk carriers.

7 MSC 81 agreed in principle with the need to develop a suitable working definition of bulk carrier and a common interpretation thereof, and supported in principle a moving away from design- and profile-based definitions. Consequently, MSC 81 referred the recommendations of the FSI Sub-Committee concerning the definition of bulk carrier and the approval for the carriage of dry cargoes in bulk and document MSC 81/8/3 to DE 50 for consideration and reporting to MSC 83.

8 Regarding potential problems with port State control officers concerning alleged non-compliance of ships with SOLAS chapter XII, MSC 81 reaffirmed that, in the interim, the appropriate interpretation and application of the relevant SOLAS requirements were the responsibility of flag Administrations and approved MSC.1/Circ.1199 on Interim Guidance on compliance of ships carrying dry cargo in bulk with requirements of SOLAS chapters II-1, III, IX, XI-1 and XII.

Outcome of DE 50

9 DE 50 considered a number of submissions on the matter, i.e. DE 50/25/1 (Secretariat), DE 50/25/4 (Chairman), DE 50/25/6 (IACS), DE 50/25/10 (United Kingdom) and, noting the difficulties experienced by the industry, agreed that this issue needed to be urgently resolved, not only with regard to port State control but also with a view to providing guidance to Administrations regarding the identification of ships carrying dry cargoes in bulk as bulk carriers to which the requirements of the revised SOLAS chapter XII should apply. In this context, DE 50 considered that, for PSC purposes, the ship type is stated in the relevant SOLAS safety certificates issued by Administrations and, therefore, officials exercising port State control should accept the relevant statement in the certificate and act accordingly.

10 Noting the limited time available to discuss the issue and being of the view that any clarification should better be prepared by experts, DE 50 requested a group of experts to develop an interpretation of the term “bulk carrier” and, having received their report (DE 50/WP.9), considered the proposed interpretation of the term “bulk carrier” as defined in SOLAS regulation XII/1.1, but could not agree on the interpretation and invited the Committee to note this outcome of its considerations.

Outcome of MSC 83

11 MSC 83 noted that DE 50 had not been able to agree on a definition of the term “bulk carrier” and, in this connection, considered document MSC 83/9/1/Rev.1 (Austria *et al*), proposing that the issue of the definition of the term “bulk carrier” should be referred back to the DE Sub-Committee for further discussion and clarification. Following a brief discussion, MSC 83 instructed DE 51 to reconsider the issue, taking into account the documents that had already been submitted on the issue to previous sessions of the Committee and the Sub-Committee.

Outcome of DE 51

12 DE 51 had for its consideration document DE 51/27 (Austria *et al*), resubmitting proposals previously submitted by the United Kingdom (DE 50/25/10), with the addition of new proposals intended to overcome certain objections raised during DE 50. It proposed to develop an MSC resolution interpreting the SOLAS definitions of bulk carrier; consequential amendments to SOLAS regulation XI-1/2; and consequential amendments to the relevant footnotes in SOLAS chapters IX and XII.

13 Following discussion, DE 51 agreed to the proposals to develop an MSC resolution interpreting the SOLAS definitions of “bulk carrier” and consequential amendments to SOLAS regulation XI-1/2, whereby any impact on the ongoing work of the Committee regarding the development of goal-based new ship construction standards for bulk carriers should be taken into account. In respect of the proposal for consequential amendments to the relevant footnotes in SOLAS chapters IX and XII, views were expressed that it would be better to harmonize the SOLAS requirements themselves instead of the footnotes.

14 DE 51 requested a group of experts on the matter to develop, on the basis of document DE 51/27 and taking into account the documents submitted on the issue to previous sessions of the Committee and the DE Sub-Committee, a draft MSC resolution interpreting the SOLAS definitions of “bulk carrier”; consequential draft amendments to SOLAS regulation XI-1/2; and consequential amendments to the relevant footnotes in SOLAS chapters IX and XII.

15 Having received the report of the group (DE 51/WP.8), DE 51 noted that the group had prepared a draft resolution (DE 51/WP.8, annex 1) based on the existing resolution MSC.79(70) and the proposals made in document DE 51/27. There was broad support in the group for the general approach taken in the draft resolution with respect to interpreting the term “bulk carrier” as currently defined within SOLAS, and also agreement with the consequential need to establish a means of clarifying the requirements for situations where ships, either not of traditional “bulk carrier” form or not intended primarily to carry dry cargo in bulk, are used to carry such cargoes. This is reflected in the general framework of the draft resolution, which attempts to define the operational functions, etc., which lead to the bulk carrier designation and then defines specific ship types which may need to be excluded from the requirements as appropriate.

16 DE 51 also noted that detailed discussion had taken place on consequential issues which might arise, particularly the difficulties encountered in the interpretation of the word “primarily”. The group was not able to come to a final consensus on such issues although there was general agreement that the problem was not so much the issue of defining bulk carriers of “traditional” form and operation, but rather how the definition could be structured to meet the needs of other ships which carry dry bulk cargo in bulk.

17 With respect to the carriage of such cargoes by ships not primarily intended for that purpose, DE 51 noted paragraph 1.6 of the draft resolution which the group had agreed could possibly form the basis of a solution to this issue, subject to further development of the resolution by the Sub-Committee, noting that concern was raised by some delegates as to the application of the freeboard requirement as a defining parameter.

18 DE 51 noted that, due to time constraints, the group had not been able to consider a possible amendment to SOLAS (DE 51/WP.8, annex 2) and consequential amendments to the relevant footnotes in SOLAS chapters IX and XII.

19 Noting the view of the group that further, more formal, work should be undertaken by the Sub-Committee to finalize this effort, DE 51 invited the Committee to include the item on “Definition of the term ‘bulk carrier’” in the work programme of the Sub-Committee, with a target completion date of 2010, and in the provisional agenda for DE 52, whereby the draft MSC resolution on Revised interpretation of the term “bulk carrier” as defined in SOLAS regulation IX/1.6, as prepared by the group (DE 51/WP.8, annex 1) could serve as a basis for further consideration.

Proposed way forward

20 In view of the urgent need for a solution to the issue, i.e., the development of a workable interpretation of the definition of the term “bulk carrier”, and taking into account that the DE Sub-Committee was not able to come to a consensus decision during two consecutive sessions, the Committee may wish to resolve the matter at MSC 84.

21 In this context, Member Governments and international organizations are invited to include experts on this matter in their delegations to MSC 84, so that the plenary of the Committee would be able to conduct fruitful and meaningful discussions towards resolving the issue at MSC 84. Once principal decisions have been taken by plenary, in particular with regard to the draft MSC resolution interpreting the SOLAS definitions of “bulk carrier”, a drafting group could prepare the final text of the draft resolution for adoption at this session, so that the Committee may resolve, in principle, the matter. If consequential draft amendments to SOLAS regulation XI-1/2 and to the relevant footnotes in SOLAS chapters IX and XII are required, the Committee may wish to request the DE Sub-Committee to prepare such amendments.

Action requested of the Committee

22 The Committee is invited to note the information provided, to consider, in particular, the course of action suggested in paragraphs 20 and 21 and to take action as appropriate.