

Palau International Ship Registry



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MARINE CIRCULAR 124.1

To: ALL SHIPOWNERS, MANAGERS, MASTERS, DEPUTY REGISTRARS AND RECOGNIZED ORGANIZATIONS

Subject: GUIDELINES ON THE CONTROL OF SHIPS IN AN EMERGENCY

1. Reference

- 1.1 MSC.1/Circ.1251, dated October 19, 2007
- 1.2 Assembly Resolution A.949(23), dated March 5, 2004
- 1.3 Assembly Resolution A.950(23), dated February 26, 2004

2. Purpose

- 2.1 The purpose of this Marine Circular is to provide guidance to Master, Managers and Operators, salvage companies and other engaged in a maritime emergency with a framework of authority within which they would be expected to operate.
- 2.2 Provide guidance to all parties involved in a maritime emergency on the fair treatment of the seafarers during and after the maritime emergency.

3. Applicability

- 3.1 This Marine Circular applies to all Palau registered ships.

4. General Information

- 4.1 It is imperative that in an emergency situation the lines of control and command are clear and the responsibilities of each of the parties involved must be acknowledged accordingly. Having a clear chain of command in an emergency is essential if efforts to save life and property and prevent pollution are to be maximized
- 4.2 Where safety of life is involved, the provisions of the SAR Convention should be followed. Where a ship is in need of assistance but safety of life is not involved, these Guidelines should be followed. The Technical Department, of the Palau International Ship Registry, acting as the Palau Ship Registry Administrator, must be always kept informed about actions in order to further determine if any further assistances or actions from the Palau Ship Registry Administration is necessary.
- 4.3 In the event that the ship in need of assistance requires a place of refuge, these Guidelines should be followed in conjunction with the Guidelines on places of refuge for ships in need of assistance (Resolution A.949(23))



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5. Definitions

- 5.1 *Ship in need of assistance* means a ship in a situation that could give rise to loss of the vessel or an environmental or navigational hazard.
- 5.2 *Company*: means the owner of the ship or any other organization or person such as the manager, or the bareboat charter, who has assumed the responsibility for operation of the ship from the owner of the ship and who on assuming such responsibility has agreed to take over all duties and responsibilities imposed by the International Safety Management Code.
- 5.3 *IAMSAR MANUAL*: means the International Aeronautical and Maritime Search and Rescue Manual.
- 5.4 *UNCLOS*: means the United Nations Convention on the Law of the Sea, 1982.
- 5.5 *Intervention Convention*: means the International Convention relating to Intervention on the High Seas in Cases of Oil Pollution Casualties (1969) and the Protocol relating to Intervention on the High Seas in Cases of Pollution by Substances other than Oil (1973)
- 5.6 *ISM Code*: means the International Safety Management Code, made mandatory by SOLAS Regulation XI/3.1.
- 5.7 *Place of Refuge* means a place where a ship in need of assistance can take action to enable it to stabilize its condition and reduce the hazards to navigation, and to protect human life and the environment, as defined in Resolution A.949(23).
- 5.8 *MAS* means the Maritime Assistance Service as defined in Resolution A.950(23).
- 5.9 *SAR Convention*: means the International Convention on Maritime Search and Rescue, 1979.

6. General Guidance

- 6.1 During the search and rescue (SAR) phase of a maritime emergency, there is an assumption with the SAR Convention that the co-ordination of the SAR response will be carried out either by the local Maritime Rescue Co-ordination Center (MRCC) or by an on-scene coordinator who will not normally be the Master of the ship in distress. However the underlying premise is that the



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Master remains in command of the ship and co-operation with the SAR operation is assumed.

- 6.2 If, once the SAR phase of an emergency is over, or a ship does not require any action from SAR services but is still in need of assistance, the role and responsibilities of the various parties are less clear. Any actions at sea on salvage should be conducted in close cooperation with the responsible MRCC or other relevant authority as notified by the MRCC to enable them to assess the situation and if needed declare an appropriate emergency phase.
- 6.3 The ISM Code, section 5, Master's Responsibility and Authority, states that: *"The Company should establish in the safety management system that the Master has the overriding authority and the responsibility to make decisions with respect to safety and pollution prevention and to request the Company's assistance as may be necessary."*
- 6.4 This indicates that the Master has the authority and responsibility to take decisions in an emergency and to speak with the Company as necessary. However, it does not deal with the responsibilities and duties of a coastal State which may have legislation governing the conduct of a maritime emergency in waters under its jurisdiction or which wishes to exercise its powers to intervene to avoid pollution arising from maritime casualties, in particular beyond the territorial sea.
- 6.5 At no time should the Master be prohibited from taking action which, in the Master's judgment, is required to protect the lives of the crew and passengers or others on board.

7. Guidelines for Masters

- 7.1 At the earliest possible stage in an emergency, the Master should inform the appropriate coastal State authorities, including that of the nearest coastal State, the flag State and the Company, of the nature of the emergency and what assistance is required.
- 7.2 If the Company engages a salvor to attempt to save the ship, a contract will be signed which sets out the respective responsibilities of the parties involved. When a salvage Master has been appointed to supervise the salvaging of a ship, the Master should co-operate with the salvage Master to the maximum extent.



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7.3 When a ship requiring assistance is in waters which are under the jurisdiction of a coastal State and that State has laws allowing it to intervene in an emergency and wishes to do so, then the Master should:

- 7.3.1 ask for clarification as to who is exercising the coastal States powers;
- 7.3.2 if necessary and time permits, speak with Company as in paragraph 3.3;
- 7.3.3 seek clarification of the extent to which the Master can still exercise authority in relation to the operation and salvage of the ship;
- 7.3.4 ask the coastal State for an expert assessment of the condition of the ship if in doubt about the actions being taken; and
- 7.3.5 if still in doubt or in disagreement with the actions or instructions given by the coastal State, clearly state so and notify the flag State.

7.4 It is most important that a ship should keep the most accurate records of events possible. Where a VDR is fitted, the limitations of the period of time covered by its recording should be borne in mind. A separate chronological order of events should also be kept.

8. Guidelines for Coastal States

8.1 Resolution A.950(23) outlines the situations in which the services of the MAS are involved; they are:

- 8.1.1 the ship is involved in an incident (e.g., loss of cargo, accidental discharge of oil, etc.) that does not impair its seakeeping ability but nevertheless has to be reported;
- 8.1.2 the ship, according to its Master's assessment, is in need of assistance but not in a distress situation (about to sink, fire developing, etc.) that requires the rescue of those on board; and
- 8.1.3 the ship is found to be in a distress situation and those on board have already been rescued, with the possible exception of those who had remained aboard or have been placed on board to attempt to deal with the ship's situation.

8.2 The MAS serves mainly as the point of contact during the resolution of the situation, however, the resolution recommends that national instructions should at least indicate to the organization discharging MAS functions:

- 8.2.1 the authority or organization to which it transmits the information obtained from a ship; and



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- 8.2.2 the authority or organization from which it receives instructions concerning its action and the particulars to be transmitted to the ship.
- 8.3 When more than one coastal State is involved, the States concerned should agree between themselves which will co-ordinate the operation and be responsible for transmitting orders and information.
- 8.4 Article 221 of UNCLOS recognizes the right of coastal States “pursuant to international law, both customary and conventional, to take and enforce measures beyond the territorial sea proportionate to the actual or threatened damage to protect their coastline or related interests, including fishing, from pollution or threat of pollution following upon a maritime casualty, which may be reasonably expected to result in major harmful consequences.” The right of States to intervene in the high seas to prevent or reduce pollution damage as a consequence is also regulated by the Intervention Convention. States may take measures beyond their territorial sea in accordance with customary international law of the sea.
9. Guidelines for the Salvage Company
- 9.1 The first requirement of any salvor is to be provided with the most reliable information about the vessel, the nature of the casualty, the situation of the persons, cargo and bunkers on board.
- 9.2 In particular this information will include:
- 9.2.1 vessel plans;
 - 9.2.2 cargo manifest, including hazardous cargo list;
 - 9.2.3 stowage plan and nature/position of dangerous goods on board;
 - 9.2.4 position and quantity of remaining bunkers on board;
 - 9.2.5 general casualty information relating to position, damage and condition of the vessel; and
 - 9.2.6 any emergency towing procedures adopted by the Organization.
- 9.3 The salvor should communicate and co-ordinate with the Master and the coastal State to the maximum extent possible.



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- 9.4 The salvor should advise the Company/Master and the coastal State authorities as soon as possible of their salvage plan, and the personnel and equipment that will be utilized to carry out the salvage operations.
- 9.5 The salvor should nominate a focal point to provide 24-hour contact with the Master Company and coastal State authorities.
- 9.6 The salvor should ensure that the salvage plan and actions represent the best environmental option for the Company and the coastal State(s) concerned.
- 9.7 In the event that the casualty needs to be taken to a place of refuge in order to carry out necessary salvage operations, such as diving, patching, transfer of cargo, etc., the salvor should comply with section 2 of the IMO Guidelines on places of refuge for ships in need of assistance, as should the Master/Company and seek similar compliance by the coastal State(s) as under section 3 of the same Guidelines.

10. Contact

- 10.1 Any inquiries concerning the subject for this Marine Circular should be directed to the Palau Ship Registry Administrator at technical@palaureg.com

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