

MARITIME SAFETY COMMITTEE
104th session
Agenda item 17

MSC 104/17/6
30 July 2021
Original: ENGLISH
Pre-session public release:

ANY OTHER BUSINESS

On the need to clarify the terms "make" and "type" within resolution MSC.402(96)

Submitted by CESA

SUMMARY

Executive summary: This document raises concern regarding non-uniform interpretations of the terms "make" and "type". CESA emphasizes the significance of competent personnel, which are trained and certified for individual LSA models and perform services based on type specific maintenance manuals. Uncertainties of the mandatory requirements should be rectified by clear definitions within a revised resolution MSC.402(96). A reference to a preliminary deliverable of the ISO standardization process is considered inappropriate to interpret public international law.

Strategic direction, if applicable: Not applicable

Output: Not applicable

Action to be taken: Paragraph 19

Related documents: MSC 103/20/15, MSC 103/20/17; MSC 102/22/6; resolution MSC.402(96) and ISO/PAS 23678 (series)

Background

1 At MSC 102, ISO notified the Committee of the publication of the "Publicly Available Specification" ISO/PAS 23678 (series) "Service personnel for the maintenance, thorough examination, operational testing, overhaul and repair of lifeboats (including free-fall lifeboats) and rescue boats (including fast rescue boats), launching appliances and release gear", providing draft guidance on the training and certification of LSA service personnel. ISO requested the Committee to note the status of the PAS and proposed to refer to it by means of a footnote to paragraph 7.1.1 of resolution MSC.402(96). ISO characterized the proposed footnote as a minor correction in accordance with paragraph 3.2(vi) of document C/ES.27/D. Due to urgent matters related to the COVID-19 pandemic consideration of this submission was postponed to MSC 103.

2 At MSC 103, ICS et al. supported the ISO proposal and highlighted difficulties experienced by the industry due to non-uniform interpretation of the terms "make and type" as used in resolution MSC.402(96) and welcomed ISO/PAS 23678 as an appropriate recognized international standard. Document MSC 103/20/17 specifically supports the ISO interpretation of the term "type", defined as category of LSA equipment having common characteristics. ICS et al. rejects referencing to specific models and states that approval of the proposed footnote would clarify that ISO/PAS definition prevails.

3 Document MSC 103/20/15 (IACS) comments on the ISO submission, noting inter alia the preliminary status of an ISO/PAS, representing the consensus of experts in an ISO working group or in an organization outside ISO, and the generic nature of the type definition not being specific to models/series.

4 Again, due to time constraints, the Committee was not in a position to consider the input by ISO, IACS and ICS et al. and to decide on the need to clarify the interpretation of the terms "make" and "type" with a view to ensure uniform training of LSA service personnel and certification of LSA service providers.

Discussion

5 Shipbuilders and equipment manufacturers would like to emphasize the significance of regular inspection and maintenance, thorough examination, operational testing, overhaul and repair of LSA by qualified and certified personnel in order to maintain the highest safety standards for passengers and crew members. CESA has scrutinized the issue in detail in consultation with members and would like to bring the following observations and conclusions to the attention of the Committee.

6 The safety intention of resolution MSC.402(96) is clear and has not been disputed yet, although the resolution does not contain explicit definitions of "make" and "type" as the meaning of these terms appear to be self-explanatory, if considered in the context of the general objectives and individual safety requirements. The resolution establishes standards for type approved LSA equipment and requires maintenance, examination, testing, overhaul and repair to be performed by adequately trained personnel according to maintenance manuals developed by the manufacturer. Manuals and associated technical documentation are, for good reasons, type specific and cannot be substituted by generic information for broad categories of LSA equipment that might have common characteristics, which are nevertheless difficult to establish and to maintain permanently.

7 The interpretation and implementation of the term "type" is not homogenous despite the clear intention certificates of authorisation of service providers are not uniform and differ significantly between Member States. While some national maritime Administrations issue certificates incorporating detailed annexes comprising manufacturer/make, type/model, equipment category and sometimes even sub-categories, other flags just display generic equipment categories without disclosing the makes and types the company service providers is required to provide ISO accreditation or documentation regarding service engineer qualifications for.

8 MSC.1/Circ.1392 defines the term "type" for lifeboat release and retrieval system, and it should be noted that for lifeboat release and retrieval system the definition of type is rather detailed and related to the term "identical", making it unlikely that types can successfully be consolidated into generic categories, even for the purpose of authorizing service providers or certifying the competency and training service personnel:

"9.6 Type, in relation to the design of a lifeboat release and retrieval system, means an identical lifeboat release and retrieval system of given safe working load, make and model (thus any change to the materials of construction, design arrangement or dimensions constitutes a change of type)."

9 ISO Publicly Available Specifications differ significantly from finalized ISO Standards as an ISO/PAS is an early deliverable in the complex development process of internationally agreed and recognized standards (step 2 out of 6 in the TC/SC route displayed in figure 1 below). ISO explains the status and objectives of an ISO/PAS as follows (Source: ISO homepage, Developing Standards – Deliverables, retrieved on 21 July 2021, <https://www.iso.org/deliverables-all.html>):

"A Publicly Available Specification is published to respond to an urgent market need, representing either the consensus of the experts within a working group, or a consensus in an organization external to ISO. As with Technical Specifications, Publicly Available Specifications are published for immediate use and also serve as a means to obtain feedback for an eventual transformation into an International Standard. Publicly Available Specifications have a maximum life of six years, after which they can be transformed into an International Standard or withdrawn."

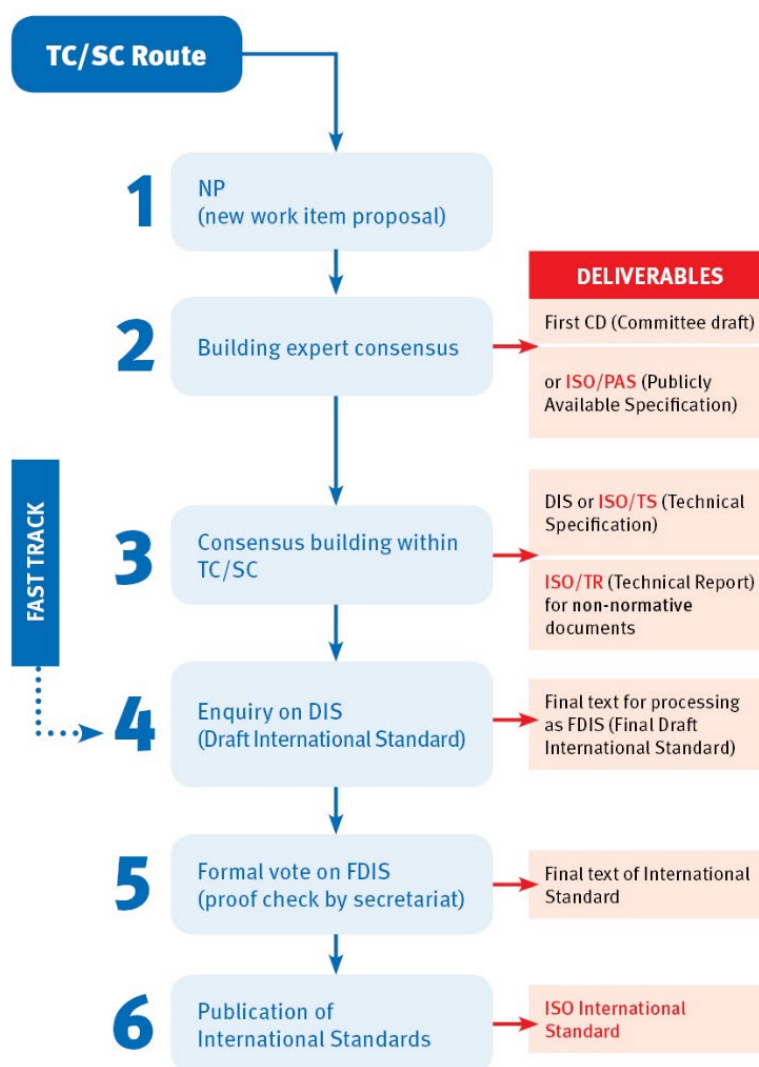


Figure 1: Schematic diagram describing the development of ISO Standards

10 Publicly Available Specifications are inappropriate to interpret mandatory instruments. CESA welcomes an ISO/PAS as a tool to facilitate the technical consideration and consensus building among experts but fails to see how such an intermediate deliverable could be utilized for the interpretation of mandatory public international law. This skepticism is amplified by the fact that a PAS issued by ISO and IEC are potentially not unique. The ISO/IEC Directives, Part 2, notes in section 3.1.6 that:

"Competing Publicly Available Specifications on the same subject are permitted".

The homogenous application of IMO requirements worldwide would obviously be hampered if competing ISO specifications could be developed by other expert groups or organizations outside ISO. In the interest of legal certainty, CESA recommends clarifying the meaning of important terms at IMO level by means of appropriate modifications to resolution MSC.402(96).

11 ISO/PAS 23678-1:2020 proposes a generic approach to the categorization of LSA. Section 3 of Part 1 contains a misleading definition of the term "type", which conflicts with the intention of resolution MSC.402(96) described in paragraph 7 of this submission:

"3.18 type

Category of LSA equipment (3.6) having common characteristics, including lifeboats (including free-fall lifeboats) and rescue boats (including fast rescue boats), launching appliances and release gear"

The intention of this definition to group individual models of original equipment manufacturers into generic categories constitutes an obvious deviation from the make and type specific approach of resolution MSC.402(96). The motivation of the authors to depart from the IMO approach is clearly described in the introduction to ISO/PAS 23678-1:2020 stating on page v:

"This document has been developed by identifying common design features in relation to survival craft, davits, winches and release gear makes and types for which service is provided. This has been achieved by professional discussions with disciplined experts to obtain the appropriate information to develop a training programme that is fit for purpose. Successfully completing the service technician training in ISO/PAS 23678-2, ISO/PAS 23678-3 and ISO/PAS 23678-4 enables personnel certified by an authorized service provider to meet the IMO requirements, section 7, paragraph 7.1.1., and section 8."

12 Although the ISO intention to standardize training programmes according to the sub-categories provided in annex D to ISO/PAS 23678-1 is well understood and supported in principle, CESA doubts that the complex relation between specific makes and types and generic trainings requirements can be adequately regulated by means of a footnote. In order to achieve and maintain compatibility of individual product with standardized training modules several conditions would need to be fulfilled:

- .1 availability of detailed information on functionalities, materials, dimensions and any other specifics required for the definition of suitable training modules for all LSA systems;
- .2 robust verification and transparent documentation of the appropriate cross-referencing of system peculiarities with standardized ISO training modules by IMO; and
- .3 regular review and update of both product information and training requirements in order to integrate novel systems entering the LSA market and to ensure that the ISO categorization remains compatible with the state-of-the-art.

- 13 In summary, CESA is of the view that:
- .1 resolution MSC.402(96) and ISO/PAS 23678 are incompatible due to differences in intention, approach and definition;
 - .2 standards should be used cautiously to complement mandatory requirements, but should never prevail over safety regulations by changing definitions or modifying intentions;
 - .3 IMO instruments should only reference unique and finalized Standards that have been carefully reviewed by the Organization;
 - .4 LSA safety could in future benefit from technical standardization of equipment designs but standardization of education and training programmes should not overtake and hurry ahead of the standardization of products; and
 - .5 continuous compatibility between individual products and standardized training provisions requires a detailed cross-referencing of the functionalities of equipment with the technical content of training modules.

Proposals and Way forward

14 Based on the above considerations, CESA offers the following proposals to amend and improve resolution MSC.402(96) (additional wording is underlined):

2.2 For the purpose of these Requirements:

"(...)

.8 "Make" means the name of the original equipment manufacturer;

.9 "Type" means the [specific][unique] brand name of the equipment model or series of the original equipment manufacturer provided in conjunction with the make in order to clearly identify and distinguish individual [type approved] equipment [to be maintained, examined, tested, overhauled and repaired in accordance with the Requirement]."

15 In order to improve the transparency of the scope of the certification of service providers defined in paragraph 7.1 should also be clarified in paragraphs 7.2ff as follows:

"7.2 The Administration shall ensure that make and type specific information regarding authorized service providers is made available.

(...)

7.4 Issuance and maintenance of authorization document:

.1 upon successful initial audit of a service provider, an authorization document shall be issued by the Administration defining the scope of services provided (e.g. makes and types of equipment). The expiry date shall be clearly written on the document;

.1bis the document issued shall contain a list of specific LSA equipment defining the scope of expertise of the service provider providing for each entry the name of the manufacturer (make) as well as the name of model or

series (type) to be serviced. It is not sufficient to refer to generic groups of LSA equipment, such as lifeboats, rescue boats etc., or to generic elements of the system, such as different propulsion systems, davits, winches or release gear."

16 The scope of the certification of personnel provided in paragraph 8.1 should also be clarified as follows:

"8.1 Personnel for the work specified in paragraphs 4.2 and 4.3 shall be certified by the manufacturer or authorized service provider for each make and type of the equipment to be worked on in accordance with the provisions in this section. In order to clarify the scope for which the personnel have been educated and trained the Certificate issued shall contain a list of specific LSA equipment providing for each entry the name of the manufacturer (make) as well as the name of model or series (type) to be serviced. It is not sufficient to refer to generic groups of LSA equipment, such as lifeboats, rescue boats etc., or to generic elements of the system, such as different propulsion systems, davits, winches or release gear."

17 In addition, the clarified interpretation could be illustrated by a model certificate to be annexed to resolution MSC.402(96). Such guidance could harmonize and significantly improve readability of certificates as well as the transparency of the authorization process.

18 In order to further facilitate clarity and consistency in the naming of products a database of existing make and types could be developed and made available as an additional GISIS module.

Action requested of the Committee

19 The Committee is invited to consider the assessment summarized in paragraph 13 as well as the proposals provided in paragraphs 14 to 18 and take action, as appropriate.
