

Speech by Ringo Lakeman at the 3<sup>rd</sup> MASRWG Conference 2017 – Ocean Village, Southampton

### **Update on the IMO Regulatory Scoping Exercise**

Good morning ladies and gentlemen,

And thank you James for introducing me.

My contribution to this conference will discuss the developments within the IMO with regard to the regulation of Maritime Autonomous Surface Ships, the IMO being the prime global standard-setting authority for the safety, security and environmental performance of international shipping.

I will outline the results of endeavours to put the subject on the agenda of the IMO, including the efforts undertaken by the Netherlands, and I'll give a prospect on how the issue might be carried forward within the IMO.

It is only twelve months ago that we met here, at the same venue, discussing the same topic, and without any concrete indication of whether the international maritime community, in particular the IMO, would be prepared to address the regulation of Maritime Autonomous Surface Ships.

And I must admit that I myself was not only uncertain on what to expect when I accepted the invitation to attend last years conference, but I was also very much surprised during the conference about the leap that the development of MASS had already taken in terms of technological progress and R&D initiatives worldwide.

And it made me realize that the time had come to address the regulation of MASS within IMO in order not to hamper, or loose the grip on this development. Or as Sir Alan Massey, in his keynote speech at last years conference, eloquently put it: "we need to start to manure the ground". And so we did!

So after I consulted with colleagues, other government representatives, the IMO secretariat and others, and thanks to the awareness and momentum that was generated by last years conference, and last but not least the persistence of James, a document was established for consideration by the IMO. It was submitted by the United Kingdom,

and co-sponsored by a number of member states from all over the world, amongst which the Netherlands. The proposal was broadly discussed in the 98<sup>th</sup> meeting of the Maritime Safety Committee (MSC 98), and requested that MSC approves a new output on IMO's Work Programme for a Regulatory Scoping Exercise, in order to enable the safe, secure and sustainable operation of autonomous ships (amongst which unmanned ships).

The scoping exercise envisaged should provide us an insight of which regulatory instruments and which elements of those instruments will have to be considered, in order to accommodate the development of MASS.

The aim of the scoping exercise is to identify:

- .1 firstly IMO regulations which, as currently drafted, preclude unmanned operations;
- .2 secondly IMO regulations that would have no application to unmanned operations (as they relate purely to a human presence on board); and
- .3 finally IMO regulations which do not preclude unmanned operations but may need to be amended in order to ensure that the construction and operation of MASS are carried out safely, securely, and in an environmentally sound manner.

And apart from the request for a scoping exercise, MSC 98 also considered a document complementing the scoping exercise, which was submitted by Finland and other member states. It informs about the impact and possibilities of advanced technologies in shipping, and calls upon member states and organizations to submit information on studies, research and testing projects to future sessions of the committee, related to technical, legal, operational, training and maintenance aspects of autonomous shipping. This would enable IMO to make evidence based decisions with regard to possible future regulatory work in a timely manner, and as such would support the scoping exercise.

And in this respect I believe that many of you present here today could contribute to this appeal of collecting and evaluating information, through collaboration with your government or sector organization which is represented in the IMO. I understand that some parties have already, or are in the process of, undertaking regulatory gap analyses. These could be submitted to IMO in order to speed up the process.

Finally a document was submitted by ITF commenting on the paper of the United Kingdom et al on the output for a scoping exercise, and proposing an expansion of the output, amongst others related to the human element factors.

Having considered the submitted documents, which by the way generated an immense response showing the importance and topicality of the issue, MSC amongst others:

1. **agreed that there was a need for a work plan** where also a proper consideration of the comments referred to in the ITF document should be taken into account;
2. further MSC agreed that proper consideration should be taken into account on the legal aspects [including where the responsibility would lie in case of an accident involving an MASS, its consequences to the cargo, and also the implications to the shoreside];
3. MSC also agreed on the need to define MASS when embarking on the process of the regulatory scoping exercise;
4. And agreed on the need to address different levels of automation, including semi-autonomous and unmanned ships, in the regulatory scoping exercise;
5. **Finally MSC agreed to include in the 2018-2019 biennial agenda of the Maritime Safety Committee and the provisional agenda for MSC 99, an output on "Regulatory scoping exercise for the use of Maritime Autonomous Surface Ships (MASS)", with a target completion date of 2020;**
6. And encouraged Member States and international organizations to submit substantive proposals and comments on this agenda item to MSC 99. And for your information, MSC 99 is envisaged to take place in May next year.

So now it is up to the IMO members to come up with ideas and input for the scoping exercise.

Now in order to maintain a pragmatic approach, my personal view is that submissions to MSC 99 on the scoping exercise should be focussed on the process first, i.e. the development of a work plan for the scoping exercise, including identification of the relevant sub-committees involved, and with clear deliverables and a time plan. Furthermore the different

levels of automation should be addressed, including the development of at least a working definition for MASS, in order to support the scoping exercise.

And we will need to identify other committees within IMO that will possibly need to be consulted (e.g. Legal Committee and/or Facilitation Committee) at a certain stage.

And although the scoping exercise is primarily intended to identify the instruments and relevant sections and regulations thereof that affect or hamper MASS operation, I personally believe it is also sensible to already start thinking about the desired or proper way of adapting the regulatory framework to cater for MASS operation.

There are several ways to do this:

- a) by amending the relevant instruments (i.e. convention texts), which is quite cumbersome **and** usually requires an amendment cycle of 4 years. Besides the present conventions are mostly still pretty prescriptive and detailed, which I think does not suit the incorporation of MASS. Taking into account the pace of evolution of digital technology, if the Organization goes down the path of developing a regulatory regime for MASS in a prescriptive manner, it would be outdated by the time it comes into force;
- b) Another way to adapt the regulatory framework would be by developing a complete new convention, which could be equally cumbersome **and** the entry into force of which is uncertain as regards the ratification process (even though there are people thinking otherwise);
- c) the third and in my personal view preferred option is by developing a goal based and functional Code which refers to relevant conventions and contains alternative or equivalent provisions for MASS. And in my view this last option is merely cumbersome, because the adoption process within IMO would be much simpler than the other options.

I should also inform you that, just like some of you, I have been in Copenhagen the previous two days, witnessing a very interesting conference on MASS, and also discussing the way ahead in IMO, on the scoping exercise, with other member states.

This discussion was very fruitful and will probably result in a well thought submission to MSC 99, focussing primarily on the process of the scoping exercise, and taking account of the discussion and concerns raised at MSC 98. The momentum is very positive now to carry the subject forward, amongst others thanks to the initiatives by the industry and others in the maritime sector.

Finally, concerns have been raised, also at the Copenhagen conference, that IMO is very slow in adapting the regulatory framework to new developments. We should not forget though that IMO needs the cooperation of over 170 member states and many NGO's and IGO's, and that the process of developing such new regulations needs to be well orchestrated, and needs to abide by established rules and procedures within the Organization. We should also recognize the complex and disruptive nature of this development in a variety of aspects, in which we should also not forget the business case. Therefore patience is really a virtue in this respect, as Sir Alan Massey already addressed in his speech.

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