Input paper: [[1]](#footnote-1) VTS48-8.1.1

Input paper for the following Committee(s): check as appropriate Purpose of paper:

**□** ARM **□** ENG **□** PAP **□** Input

**□** ENAV **X** VTS **X** Information

Agenda item [[2]](#footnote-2) 8.1

Technical Domain / Task Number 2 1.1.1

Author(s) / Submitter(s) IALA Secretariat

IMO NCSR 7 consideration of the revised Resolution A.857(20) on Guidelines for Vessel Traffic Services

# Summary

At VTS47, the Committee approved the draft revised IMO Resolution A.857(20) on Guidelines for Vessel Traffic Services. The IMO Sub-Committee on Navigation, Communication and Search and Rescue considered the document in January 2020. After discussion and review of the document, changes were approved by the Sub-Committee based on the advice of the IMO Legal and External Affairs Division, the content of a commenting input paper submitted by ICS and BIMCO and general comments from Member States and Non-Government Organisations.

The relevant extracts of the report of the NCSR Sub-Committee and the Navigation Working Group are contained within the annex to this paper. The draft Resolution and Guidelines for Vessel Traffic Services, as approved by the Sub-Committee are contained in input paper VTS48-8.1.1.1

The draft Resolution and Guidelines for Vessel Traffic Services will now be forwarded to the 102nd meeting of the Maritime Safety Committee for further approval prior to submission to the IMO Assembly for adoption in 2021.

# Action requested of the Committee

The Committee is requested to note the information provided.

# ANNEX 1 – extracts from imo ncsr 7 reports

**Extract from NCSR7/WP.1 – Draft Report to the Maritime Safety Committee**

**7 REVISION OF THE GUIDELINES FOR VESSEL TRAFFIC SERVICES (RESOLUTION A.857(20))**

7.1 The Sub-Committee recalled that MSC 99 had agreed to include, in the post-biennial agenda of the Committee, an output on "Revision of the Guidelines for vessel traffic services (resolution A.857(20))", with one session needed to complete the item, assigning the NCSR Sub-Committee as the coordinating organ.

7.2 The Sub-Committee considered the proposal by Australia et al. (NCSR 7/7) containing a draft revision of *the Guidelines for vessel traffic services* (resolution A.857(20)). The proposed revision provided a high-level framework for vessel traffic services (VTS) in line with the provisions of SOLAS regulation V/12, recognizing IALA standards, guidelines and recommendations.

7.3 The Sub-Committee considered comments on document NCSR 7/7 by ICS and BIMCO (NCSR 7/7/1) regarding the proposed text on the establishment of VTS beyond the territorial seas of a coastal State on the basis of voluntary participation; and on the responsibilities of the master with regard to the protection of the marine environment as stipulated in SOLAS regulation V/34-1.

7.4 During the consideration, the delegations that took the floor supported in general the draft revision of resolution A.857(20), as contained in document NCSR 7/7. The proposed amendment to paragraph 6.1.3 of the draft resolution related to marine environment protection reasons, as contained in document NCSR 7/7/1, was also supported.

7.5 Regarding the proposal to delete paragraph 4.4 from the draft resolution related to the establishment of VTS beyond the territorial seas of a coastal State on the basis of voluntary participation, some delegations supported retaining the text, while others expressed concerns, recommending either deleting or amending the text, and referring to the need for a detailed legal analysis, as well as to the current provisions in resolution A.857(20), annex 2, paragraph 2.2.2. Views were also expressed regarding the need to clarify the scope of ʺvoluntaryʺ participation.

7.6 With regard to some of the legal implications, the Secretariat, in providing preliminary thoughts, advised that the text in paragraph 4.4 of the draft revised resolution was consistent with international law, in particular, SOLAS regulation V/12 and Articles 94 and 211.1 of the United Nations Convention on the Law of the Sea (UNCLOS), and indicated that, if necessary, a further detailed comprehensive advice could be provided by the Legal Affairs and External Relations Division to MSC 102, or the matter could be referred to the Legal Committee.

7.7 After consideration, the Sub-Committee referred the matter to the Navigation Working Group for review and finalization, including further consideration of paragraph 4.4 of the draft revised resolution and the need for further legal advice.

**Instructions for the Navigation Working Group**

7.8 The Sub-Committee instructed the Navigation Working Group, taking into account comments and decisions made in plenary, to prepare a draft revision of *the Guidelines for vessel traffic services* (resolution A.857(20)), using document NCSR 7/7 as the base document, taking into account document NCSR 7/7/1, and in particular, consider paragraph 4.4 of the draft resolution, for approval by the Sub-Committee.

**Extract from NCSR7/WP.4 – Report of the Navigation Working Group**

**5 REVISION OF THE GUIDELINES FOR VESSEL TRAFFIC SERVICES (RESOLUTION A.857(20)) (item 7)**

5.1 The Group considered the draft revision of the Guidelines for Vessel Traffic Services (VTS) (resolution A.857(20)), using document NCSR 7/7 as the base document, taking into account document NCSR 7/7/1, and in particular, recalling the discussions in plenary, on paragraph 4.4 of the draft revised resolution relating to the establishment of VTS beyond territorial seas.

5.2 Noting the overwhelming support to retain a paragraph outlining the principle of the establishment of VTS beyond territorial seas, and noting also the concerns expressed, the Group considered alternative text to replace paragraph 4.4 of the draft Guidelines.

5.3 During consideration, the following views were expressed:

.1 clarifications would be needed to answer the concerns expressed for the establishment of VTS beyond territorial seas;

.2 the lack of a clear policy on VTS beyond territorial seas had been a concern of competent authorities and VTS providers for many years;

.3 VTS beyond territorial seas could only provide information and advice as it would have no legal basis for issuing instructions, and VTS, in providing information and advice, would have to take into account the fact that other ships may be present that are not participating and may be unaware of any communication between VTS and any participating ships;

.4 VTS beyond territorial seas, established on a voluntary basis, has no authority to issue requirements or instructions and can only offer information and advice. This should be clearly reflected in the Guidelines in line with the Standard Marine Communication Phrases (SMCP) defined message markers; and

.5 in order to address the concerns expressed for the possible establishment of more than a single VTS, possibly conflicting near the borders of a State, a paragraph addressing this in the existing resolution (paragraph 2.2.1) could be retained to section 7 as a "Guiding Principle", noting that it applies to any VTS and not only to a voluntary VTS.

5.4 Recalling the discussion in plenary on a possible need for clarifications by legal experts, the Group, in presence of a legal advisor from the Legal Affairs and External Relations Division of the Secretariat, considered possible insertion of a paragraph in the guiding principle section confirming that the establishment of a VTS beyond the territorial seas does not confer additional rights to the coastal States beyond what is provided for under international law. Differing views were expressed in this connection, however the majority of the Group supported that such a paragraph was not necessary.

5.5 After ensuing discussions, the Group concluded that this matter was adequately captured in the proposed revised text and other publications and did not need any additional paragraph in the guiding principle section, and therefore no further input from legal experts was required.

5.6 In concluding the discussion on the possible insertion of this confirmatory paragraph, the Group noted a view expressed by the observer of BIMCO for their preference to include such a paragraph in the guiding principle section.

5.7 On the issue of marine environment protection, the Group agreed to the insertion of protection of the marine environment reasons in paragraph 6.1.3 of the draft text, as proposed by BIMCO and ICS in document NCSR 7/7/1.

5.8 Accordingly, the Group made some minor modifications to the draft and finalized the revised *Guidelines for Vessel Traffic Services* (resolution A.857(20)), as set out in annex 3.

5.9 In doing so, the Group invited the Sub-Committee to note the Group's view that the Committee could recommend the adoption of the resolution by the Assembly without any particular request for approval by the Legal Committee or the Marine Environment Protection Committee.

**10 ACTION REQUESTED OF THE SUB-COMMITTEE**

10.1 The Sub-Committee is invited to:

.4 approve the draft Assembly resolution on Guidelines for Vessel Traffic Services, for subsequent approval by the Committee and adoption by the Assembly (paragraph 5.8 and annex 3);

.5 endorse the view of the Group that no particular involvement of the Legal Committee or the Marine Environment Protection Committee would be required with respect to the draft Assembly resolution on Guidelines for Vessel Traffic Services, and consider advising the Committee accordingly (paragraph 5.9);

1. Input document number, to be assigned by the Committee Secretary [↑](#footnote-ref-1)
2. Leave open if uncertain [↑](#footnote-ref-2)