

From: Gilbinc@*****
Sent: Friday, December 02, 2005 6:57 AM
To: Andy_Fuller@imso.org; Res.888RevisionGroup@imso.org
Subject: Re: Draft Report to COMSAR 10

Andy: Thank you for all the hard and sincere work you have done on this project.

The existing Resolution A. 888 (21) provides a satisfactory process for additional providers to join the GMDSS; our effort was to improve and update it, but we have not been successful in that the combined actions by our group and the IMSO Advisory Committee have erected barriers to such an extent that the identified prospective additional providers are not interested in seeking certification in the present environment. In this context, the "perfect alignment" of all the processes has not produced a satisfactory outcome. This should be communicated to the COMSAR.

At the Advisory Committee Meeting potential providers expressed concerns regarding the appeal process, legal provisions in the draft PSA, the Group of Experts provision, and costs to join and continue in the GMDSS. The Advisory Committee was unable to address these concerns satisfactorily as viewed by the potential providers. Given that maritime safety could be enhanced by their participation within reasonable guidelines, we must find a way to make this happen. Thus far we have not.

We started this effort with the fairly simple objectives to clarify and update the existing procedures for joining the GMDSS. A number of other issues have been introduced. These include:

- a. Introduction of legal issues regarding possible immunity differences regarding the IMO and the IMSO. I for one have no idea if there is a difference or not, or if there is a difference is there a distinction? Resolution of this issue, if it is an issue, will require additional work.
- b. The issue of fairness among potential providers has been introduced. While all will profess fairness as an objective; few will agree on what is fair in the commercial market place. Is the IMO able or empowered to address the fairness issue among commercial organizations?
- c. The suggested procedures empower a "Group of Experts" to evaluate an administration's submission. Do governments really approve of such a process? It would appear to raise sovereignty issues.
- d. A new requirement has been added to section 2.2.2.3 saying, in effect Governments proposing these new systems, should provide evidence that, "There is a well-founded confidence that the Company concerned will remain viable for the foreseeable future and will remain in a position to deliver the required services over an extended period in keeping with the expectations of the organization and the maritime industry on the continuity, durability and reliability of the service." This section should be removed for a number of reasons. There is no such requirement for the existing provider, and the provision is impossible to meet. "Expectations" cannot be known or satisfied definitively.
- e. At the Advisory Committee Meeting, the U. S. Delegate noted our position that governments should be able to provide oversight if they choose. If they are to make the assurances discussed above, surely they can provide oversight.

My best, Ed Gilbert

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