

**5th CSPCWG MEETING
Sydney, 18-21 November 2008**

Paper for Consideration by CSPCWG

Explanation of 'Recommended' in INT1

Submitted by:	Secretary (on behalf of France)
Executive Summary:	A discussion of the appropriate wording for a note in INT1 explaining the term 'Recommended' to the chart user, further to discussions between FR and WG Officers.
Related Documents:	CSPCWG Letters 7 & 11/2008; M-4; INT1
Related Projects:	None

Introduction / Background

Extract from the CSPCWG4 record:

The meeting was concerned about the possible interpretation that the chart user may put on the term 'recommended' track. AU uses the term 'preferred route' where tracks do not fully meet the IMO definition. The meeting agreed that the Secretary should draft a clarification for M-4, **with a suitable précis for use in INT1**, using words similar to 'established by precedent/usage'.

(Bold added)

Wording was proposed in CSPCWG Letter 07/2008. The proposed wording for M-4 was agreed by all responding WG members, except FR, and the wording for INT1 by all except FR and US. This was reported in Letter 11/2008.

Subsequently, FR and WG Secretary and Chairman engaged in correspondence and agreed some minor changes to the wording for M-4. This has now been proposed to Member States by IHO CL ??/2008 (see email from Secretary to IHB dated 15/09/08). If any WG member has reservations about the minor changes, they are free to raise those either through their national response to the IHO CL, or directly with the CSPCWG Chairman.

The correspondence between France and WG officers failed to resolve the differences relating to the wording for INT1. As FR produces an official INT1, ideally its wording should be the same as in the German and Spanish versions. It is therefore necessary for the WG to consider the arguments set out below, and advise the subWG members of what common wording should be used in future editions of INT1

Analysis / Discussion

FR proposed to introduce a note for INT1 associated with the term "recommended" which appears in M1 ("track to be followed" to be changed to "recommended track"), M3, M4:
 'Occasionally, the recommendation is established by precedent and the track shown on chart is then a reported information.'

The following is an email chain between Yves Le Franc and the Secretary. To help follow, Secretary's comments are in upright, Yves' in sloping text.

Exchange 1:

Dear Yves

[Secretary and Chairman] have discussed this. Here is our view, as requested:
Re M-4. Although your version is shorter, we think that it does not sufficiently make the point that the charting authority is not responsible for the recommendation. However, thank you for your excellent wording in bullet 2, which we have now used in the following M-4 redraft, which hopefully clarifies the situation very well.

'It is important to recognise that it is not the role of cartographers to create 'recommended' tracks and other 'recommended' routing measures; such recommendations are made by other authorities. The word 'Recommended', used in connection with recommended tracks and other recommended routing measures (see B-432, B-435.4, B-435.5) usually implies that it has been recommended by a competent authority (such as a port authority within its port limits or a national maritime safety authority) and may be adopted by IMO. Occasionally, the recommendation may be based on advice directly from a competent surveyor or established by precedent'.

Very good!

Re INT1. We feel that your proposal for INT1 may undermine the importance of advising the chart user that a 'recommendation' implied by a symbol is not the responsibility of the chart producer;

In fact, I think that the symbol is the responsibility of the HO (as chart producer) and even if we state that it is not, I doubt that a judge will easily adopt this opinion (if it is our problem). As charts producer, we select and show a lot of information not arising from our HO (for example restricted areas, dredged areas, maintained depths...). And we assume that. It will be strange to explicitly state that we don't assume some information. Should we apply this type of advice to some other cases?

But another responsibility for us is to explain the meaning of "recommended" and make it clear (if possible!). Furthermore, as HO are surveyor and as some recommendations are based on advice directly from a competent surveyor, we can't say for any case (at least for SHOM) "The term 'Recommended' used in connection with tracks and routing measures does not imply recommendation by the [country] hydrographic office".

I feel also that we have a responsibility for recommended tracks established by precedent that we show on charts since years and years. Even if we are not very confident with this information difficult to assume.

Beyond these cases, for navigation (not for lawsuit), I think that to say "...does not imply recommendation by the [country] hydrographic office" is a poor (strange) explanation for the mariner. To explain that the recommendation is made by a regulatory authority (or more appropriate "a competent authority") does not give much more information about "recommended". And that "it may be established by precedent" give not enough information.

So, I propose :

'The term 'Recommended' used in connection with tracks and routing measures imply recommendation by a competent authority //(which is not necessary the //[country] hydrographic office) /or may be established by precedent (track frequently used by*

some ships). Generally, the use of the "recommended" tracks and routing measures will depend on the vessel's draught, the state of the tide, adequacy of navigational aids and so on. Mariners are also advised to report to chart's source diagram when it exists."

(): optional!*

this applies not just to the 'occasional' case of recommendations established by precedent, but in all cases where a recommendation is implied. So, the recommendations at M11, 26.2, 27.3 and 28.1 also need to be covered by the explanatory note. Further, we are reluctant to add the term 'recommended' to all leading lines, as you suggest for M1, as this will greatly widen the problem we are trying to contain.

I feel that a lot of leading lines are established by precedent and that we are not very confident with this information difficult to assume. I presumed that it was the main problem that we wanted to treat. Perhaps, I misunderstood the topic of the WG. Please, could you clarify for me?

So we prefer to continue with:

'The term 'Recommended' used in connection with tracks and routing measures does not imply recommendation by the [country] hydrographic office. It is usually by a regulatory authority, but may be established by precedent'.

Exchange 2

It seems we have agreement on the wording for M-4, so we will include that in the next IHO CL for MS approval (and send a covering note around the WG to explain why it is a little different from what we originally sent out). [NB: This was done by email 15/09/08].

As far as the note for INT1 is concerned, we remain of a different opinion. We do not think that 'restricted areas, dredged areas, maintained depths, etc cause the same potential problem for hydrographic offices. As you rightly explain, most of what is put on the chart is 'assumed' by the HO to be valid according to its source; if not, we would usually give some indication of unreliability, such as 'PA', upright soundings, dashed contours, an explanatory note, etc. However, it is the actual word 'recommended', in any context, which causes a potential problem (ie, from a liability point of view). We dealt with this as far as 'recommended anchorages' are concerned by changing the term to 'reported anchorages', which are really the same as 'established by precedent'. A possible option would be to introduce a separate symbol for tracks 'established by precedent' which do not fulfil exactly the IMO definition, as AU has done with its 'preferred track'. However, we should be very cautious about introducing yet more, marginally different, symbols or terms for routes and tracks, as it is doubtful that the chart user is able to understand the subtle differences.

We still think the important thing to explain to the chart user is that, whatever the origin of a 'recommended track (or route)', it is NOT the hydrographic office that is responsible for the recommendation (at least for UKHO). We also think that your proposed note is rather long for INT1.

Perhaps it would be best to simply add a line in M-4 suggesting HOs consider adding an explanation in their version of INT1, and leave them to construct their own text (or

copy from another version). If this were agreed, the official INT1s would have to be allowed to diverge. UK has already included such text in the new edition of chart 5011, to be published in October

[Note: The version of the note that UK included in its new edition (October 2008) of 5011 (INT1) reads:

'The term 'recommended' in connection with tracks and routing measures does not imply recommendation by the United Kingdom Hydrographic Office. It is usually by a regulatory authority, but may be established by precedent.'].]

As the official INT1s have had recent new editions, it will be some time before this decision has an impact. We therefore suggest it would be better to reopen this subject for further and wider discussion at C5PCWG5. Will you take the lead with an explanatory note, or would you prefer us to do so?

The different options that you propose are very interesting and I think that the best is to discuss on them at the next meeting. Unfortunately, I'll likely have no time to write an explanatory note and I would be very happy if you do so.

Perhaps, another solution is to associate a note on chart to the tracks 'established by precedent' to explain what it is (or what it isn't!).

It seems that a difficulty is that, for some recommended tracks, some hydrographic offices are responsible for the recommendation and some others are not responsible. Although, here is the special case of the tracks 'established by precedent' for which no HO would like to assume the recommendation.

Conclusions

There are significant differences between France and UK in the degree of responsibility which applies to the HO. This may mean that the wording in INT has to differ. If no brief, but common, wording can be agreed, then the official INT1s may have to diverge.

Recommendations

None yet developed.

Justification and Impacts

We have tried hard and largely successfully to make the official INT1s much more consistent. This issue could undermine the consistency.

Action required of C5PCWG

The C5PCWG to discuss the issue and try to draft a note that is suitable for all official versions of INT1 without losing the purpose of having a note.