

FORUM

Some Comments on the Regulations for Preventing Collisions at Sea, 1972

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A CAREFUL study of Parts A and B of the new Regulations as far as the application of the Steering and Sailing Rules is concerned leaves one disappointed and apprehensive. The first because an opportunity for considerable rationalization has not been fully used and the second because the corner-stone of the edifice of safety which for many years has supported the careful seaman has been knocked out. Apart from these there is a number of ambiguities.

It will be realized at once, of course, that these words are being written by one of the old school who has for several years opposed the more fundamental changes and to whom, since he first went to sea some sixty years ago, the old Rules covered with a minimum of verbiage the infinite variety of maritime circumstances and conditions. Additionally, having studied most of the collisions which have brought shipowners to Court, he has found none in which the Rules were faulted, but a vast majority in which human frailty in the form of misappraisal of the circumstances or conscious disobedience of one or more of the simple Rules had been the cause of disaster.

The corner-stone referred to above was the clear division of responsibility between the two parties to a situation involving collision risk in both the crossing and overtaking encounters. To some of the moderns this was a source of weakness rather than strength, in that they considered the movements of the stand-on ship were too restricted while the give-way ship had too much freedom of action. Reasons which also were adduced concerned the changing characteristics of ships and of trade. While agreeing that, to an extent, these factors represent changes in the imponderables of the maritime scene, nothing which demanded fundamental changes in the structure of the Rules seemed to have transpired or been brought forward.

However, these changes have been made and, in the retrospect of some of the ghastly disasters of the last few years and their probable causes, they seem to justify the gravest misgivings and a fair but ruthless examination of the text, which will have to serve the mariners of many countries and the safety of their ships, passengers and cargoes for several years.

It may be wondered why it is thought that such a degree of precision is needed in the wording of these Rules. The reason is simple. There are at present two authoritative texts; the English and the French are equally so. But as will be seen from the following examination there are a number of places where they do not agree. One or other of these texts will have to be used as a basis for translating the Rules into many languages; if there are ambiguities what will be the result? The same trouble will arise in foreign vessels which having no translation in their own tongue will use, say, the English text with an imperfect knowledge

of that language. Again in the Navigation schools in England, will they have to identify the ambiguities and explain how to circumvent them?

Before commenting on the Rules individually, it will be of some interest to see how the linking of the various Rules has been changed. In the 1960 Rules, there are three anti-collision Rules of a general nature, meeting head-on (Rule 18), crossing (Rule 19) and overtaking (Rule 24). Linked with these and qualifying them are Rules 21, 22, 23, 27 and 29. All the five qualifying Rules are considered equally applicable to any of the three anti-collision Rules. Although an assertion has been heard that Rule 21 does not apply to Rule 24, there is no logical reason for it nor any evidence to support it, on the contrary, there is legal opinion to refute it in the *Brott-Nassau* case (this *Journal*, 18, 403, lines 16/17).

In the 1972 Rules it is less easy to follow the pattern of anti-collision and qualifying Rules, but the former are Rules 13, 14 and 15 while Rules 5, 6, 8, 16, 17 and 18 contain the qualifications. Reference in these comments to conduct in reduced visibility has been omitted to avoid confusion, but it should be noted that Rule 16 (1960) has been moved into the Steering and Sailing Rules as Rule 19, which will presumably cause it to be linked with any of the qualifying Rules which are applicable in poor visibility, e.g. those in Section II, Rules 6, 7 and 8.

The transference of the qualifying Rules from the 1960 to the 1972 text has been done as follows:

1960	1972	
Rule 21, first part;	Rule 17(a) (i)	Without change
Rule 21, second part;	Rule 17(b)	Without change
Rule 22, first part;	Rule 16	No significant change
Rule 22, second part;	Rule 15	Change; see below
Rule 23,	Rule 8(e)	Now applicable to any vessel and fog and clear
Rule 27,	Rule 2(a)	Little change
Rule 29,	Rule 2(b) and 6	Without change

In addition to these transfers, some of which are referred to later, there are those of parts of the Annex 1960, which dealt with the use of radar information in fog. These have been turned into Steering and Sailing Rules for all states of visibility and included in Rule 6(b), 7(c) and 8(b), (c), (d) and (e), so they also form qualifying Rules.

In the transfer numerous minor changes have been made and a few large ones. Of the latter, the main one is in Rule 17(a) (ii) which virtually abolishes the Stand-on Rule and is dealt with below under that Rule number. By moving the restriction on crossing ahead from Rule 22 (1960) into Rule 15 (1972) it confines its application to crossing cases; it will no longer apply in overtaking cases. Rule 23 used to apply only in clear weather and only to ships directed to keep out of the way of others; now that it has been moved to Rule 8(e) it will apply to all ships and any visibility.

Considering the new Rules individually:

Rule 3(g) (vi) and (h). In each case I would have expected a more suitable word than 'course' to be used, e.g. 'route'. Only in exceptional conditions will a tug be able to depend on remaining on the course she is trying to make the tow follow; also both the tug and the deep-draught vessel have to change course to

follow the chosen route. The French text uses route in one case and course in the other.

Rule 5. It is not possible to construe intelligibly the words 'so as to make'. Is a full appraisal demanded 'at all times'? This would be unlikely in a Rule headed 'LOOKOUT'. The French text is quite clear; it says 'in such a manner as to permit a full appraisal of the situation and of the risk of collision'.

Rule 6(a). It would have been reasonable to expect a ship's choice of 'safe speed' to bear some relation to the movements, e.g. closing rates, of other ships, since, to an extent, safety must depend on these. However, this consideration is confined to ships using radar: Rule 6(b) (v).

Rule 6(b). The word 'operational' means 'fit or ready for action'. See Chambers's Twentieth Century Dictionary, Webster's 3rd New International Dictionary, Longman's English Larousse, &c. It is used in this Rule to mean vessels using radar. This is not its meaning; the French text says 'vessels which are using radar'.

Rule 7(a). I have searched through the new Rules to discover whether there is any guidance given when radar should be used. There is nothing but 'all available means appropriate to the existing circumstances and conditions'. No one will say that it is inappropriate to use radar in clear weather and very many ships are seen to do so. With an empty sea and a clear horizon one might be safe not to use it, but 'all available means appropriate' covers most other situations; further, there is little doubt that 7(a) makes it incumbent on ships to be continuously aware of the current risk of collision.

Rule 7(b). If 'operational' is used here to mean 'in use' as in 6(b), the Rule is an injunction to plot whenever there is something to plot. If it is so intended it is wrongly used. The French text says 'a radar equipment ready to use'.

Rule 7(c). The words 'shall not' are really rather out of place in this imprecise context. The French text uses the words of the 1960 Annex from which this Rule has been evolved 'One should avoid drawing conclusions from insufficient information.' This is much preferred.

Rule 8 is composed largely of items taken from the 1960 Annex, which concerned the use of radar information in restricted visibility. In the Annex use was made of the expression 'close quarters' to show that, in such circumstances, as much danger might be apprehended as when the condition for risk of actual collision was present. However, these injunctions have now been transferred into the context of all states of visibility, so there is little point in retaining the distinction close quarters in 8(c). Course action may be just as effective in a collision risk situation as in one of close quarters, but, as 8(c) is the only one of the five parts not to mention 'avoiding collision', it suggests that there is some special relationship between course alterations and close quarters.

Rule 8(d). The absence of the phrase 'if the circumstances of the case admit' from this Rule is remarkable. It will be obvious that the avoidance of close quarters is not always possible in fog and presumably no one will want to generalize on the safety of such situations. Perhaps the most important aspect of this Rule is the new injunction that action must result in passing at a safe distance and the implication that it must continue until the other vessel is finally past and clear. The application of this Rule is evidently quite general and so it will bind stand-on vessels acting under Rule 17(a) (ii). But see under 17(d) below.

Rule 8(e). A comma after 'necessary' would clear the mystery of the first five words and mark the beginning of the parenthesis.

TABLE I. THE REGULATIONS FOR PREVENTING COLLISIONS, 1972

CONSIDERATIONS			PERMITTED ACTION					
How detected	Situation	Which ship	Activating circumstance	May turn to port	May turn to starboard	May cross ahead	Speed	Responsibility terminates ³
	Crossing	Give-way	Risk of collision	Yes (15)	Yes (15)	No (15)	Safe (6 and 8(e))	When finally past and clear (8(d) and 17(d))
		Stand-on		Yes ¹ (17(a)(ii)), except for a ship on port side (17(c)), other than in emergency (17(b))	Yes ¹ (17(a)(ii))	Yes ¹ (17(a)(ii))	Safe (6 and 8(e))	When finally past and clear (8(d)) ³
In sight of one another	Head-on	Both	Risk of collision	No (14)	Yes (must) (14)	—	Safe (6 and 8(e))	When finally past and clear (8(d))
	Overtaking	Overtaking	Approaching from more than 22.5° abaft beam	Yes (13)	Yes (13)	Yes (13)	Safe (6 and 8(e))	When finally past and clear (8(d), 13(d) and 17(d))
Being overtaken		Being approached from more than 22.5° abaft beam	Yes ¹ (17(a)(ii))	Yes ¹ (17(a)(ii))	Yes ¹ (17(a)(ii))	Yes (17(a)(ii))	Safe (6 and 8(e))	When finally past and clear (8(d)) ³

Radar alone	Any	Risk of collision or close-quarter situation	Yes, ² except to avoid ship forward of either beam other than one being overtaken (19(d)(i)), and except to avoid ship on or abaft port beam (19(d)(ii))	Yes, ² except to avoid ship on or abaft starboard beam (19(d)(ii))	Yes ²	Safe (6(e) and 19(b)) Engines ready to manoeuvre	When finally past and clear (8(d))
Hearing	Any	Except when sure that no risk of collision exists: (i) Fog signal forward of beam (ii) Inability to avoid close-quarter situation with ship forward of beam	Navigate with extreme caution (19(e))			Reduce to steerage way or take all way off (8(e), 19(b), (c) and (e)) Engines READY	When finally past and clear (8(d) and 19(e))
Radar		Closing in restricted visibility with close-quarter situation imminent					

¹ Provided that it is seen that the give-way ship herself is not making an appropriate alteration (17(a)(ii)); also that action is sufficient in itself to result in passing at a safe distance (17(a)(i) and 8(d)).

² If the circumstances of the case admit/so far as possible.

³ If action is taken under 17(a)(ii).

The use of the word YES in the table means that the manoeuvre is permissible, not that it is recommended. Rule 14 contains the only mandatory direction of turn.

TABLE II. THE REGULATIONS FOR PREVENTING COLLISIONS AT SEA, 1960

CONSIDERATIONS			PERMITTED ACTION				Responsibility terminates	
How detected	Situation	Which ship	Activating circumstance	May turn to port	May turn to starboard	May cross ahead		Speed
Sight	Crossing	Give-way	Risk of collision	Yes (19)	Yes (19)	No ¹ (22)	Any ²	When risk of collision ceases (19)
		Stand-on		No change of course or speed (21) ³				
Sight	Head-on	Both	Risk of collision	No (18)	Yes (must) (18)	—	Any ²	When risk of collision ceases (18)
		Overtaking	Approaching from more than 22½° abaft beam	Yes (24)	Yes (24)	No ¹ (22)	Any ²	When finally past and clear (24)
	Overtaking	Being overtaken	Being approached from more than 22½° abaft beam	No change of course or speed (21) ³				When finally past and clear (24)

Independent of detection	Reduced visibility	Every	Reduced visibility	—	—	—	Moderate (16(a))	When visibility clears (16(a))
Hearing	Closing in restricted visibility	Any	Fog signal forward of beam, but vessel's position not ascertained	Navigate with caution (16(b))			Stop engines then proceed with caution (16(b))	When danger of collision is over (16(c))
Radar		Any	Detection forward of beam before hearing fog signal or sighting	May take early substantial action to avoid close-quarter situation. Failing this stop in time to avoid collision and then navigate with caution (16(c))			Moderate (16(a)) then as in previous column	When danger of collision is over (16(c))

¹ If circumstances admit. ² Limited by (23) and (29). ³ Except in emergency (21).

Rule 9(e) (i). The overtaking *can* only take place if the vessel to be overtaken *takes* action to permit &c. The words 'has to' are really meaningless and suggest a compulsion which does not exist since agreement is required. The French text is clear.

Rule 15. The addition of the injunction against crossing ahead has already been mentioned.

Rule 16. This Rule contains nothing which is not in Rule 8.

Rule 17. This Rule contains the most fundamental change. Replacing Rule 21 (1960) and endeavouring to stop the gaps opened by the virtual destruction of the Stand-on Rule are its main purposes. Other weaknesses and ambiguities are mentioned below.

Rule 17(a) (i) is the first part of Rule 21 (1960) unchanged.

Rule 17(a) (ii). This virtually cancels the foregoing Rule and thus strips the Steering Rules of the undoubted safety promoted by the allocation of specific mutual responsibilities to the two vessels. By 17(a) (ii) the stand-on ship is permitted to manoeuvre from the beginning to the end of a crossing situation, provided only that the give-way ship is not seen to make an appropriate alteration. In common with other Steering Rules, this one is governed by Rule 8 which, particularly in 8(d), adds some important qualifications, as does 17(c). Although in a situation involving only two ships on an otherwise empty ocean it may be simple to identify an alteration by the give-way ship as being related to their mutual situation, it may not by any means be so in ordinary multi-ship circumstances. Such ambiguity will give the stand-on ship even more freedom of action.

Rule 17(b). This is the second part of Rule 21 (1960) unchanged.

Rule 17(c). In a crossing situation, to which this part of Rule 17 is confined, the give-way ship cannot but be on the port side of the stand-on ship. By the wording of the English text, in the last eight words, however, any ship on the port side might be referred to, even one not involving risk of collision. The French text speaks of 'the other vessel', which does suggest that the give-way ship is referred to. The last eight words in the English text seem to be quite unnecessary and misleading.

I find the 'permissive negative' wording used in this Rule very confusing. As action under Rule 17(a) (ii) is quite voluntary, the circumstances of the case will always admit of doing nothing about it; assuming, of course, that action under Rules 2 or 17(b) is not needed. If the word 'unless' were to be substituted for the word 'if' and the wording read 'shall not, unless the &c.' the implications would at least be clear.

Rule 17(d). As already mentioned, if the stand-on ship takes the action permitted by Rule 17(a) (ii), she becomes bound by Rule 8 and by 8(d) in particular. The implication of Rules 8(d) and 17(a)(ii) is that whichever ship disengages must make a manoeuvre which, in one action, will remove the risk of collision. As soon as this is complete, the motivation of Rules 15, 16 and 17(a) ceases to exist. The vessel which was the 'give way ship' will be ready to resume her role, if still applicable, should the bearing again become steady. Beyond that, her responsibility would seem to be covered by Rules 5, 6 and 7. Because of this, the use of the phrase 'finally past and clear' in Rule 8(d) and the obligation in 17(d) are not comprehensible in the context of the crossing case. In the overtaking case, Rule 13, the words 'finally past and clear' are, of course,

essential because the motivation is not risk of collision but the original relative bearing and the closing range. The overtaking ship cannot avoid this responsibility whatever the other ship does. But if the ship being overtaken invokes Rule 17(a)(ii) and, therefore, 8(d), are both equally responsible?

Rules 17(a), (b) and (d) apply as much to Overtaking cases as to crossing but the safety restriction in 17(c) does not. I find that I am by no means alone in thinking that unadvertised wandering by a ship being overtaken is far more embarrassing and dangerous than similar behaviour by a stand-on ship in a crossing situation. This is particularly so in heavy weather (*Nassau-Brott* collision) and in constricted waters. The complete freedom given to the stand-on ship in the Overtaking case is thought to be highly dangerous, while the concurrent application of Rules 13(d) and 8(d) is equivocal to say the least.

Rule 19. Rule 19(a) is a peculiarly worded statement. Rule 19(b) applies obviously in varying degrees of visibility and must include circumstances of less than good visibility in which ships can still see other ships. Rule 19(c) applies similarly whether or not the vessels are in sight of others. Rule 19(a) as worded does apply to Rules 19(d) and (e). As the requirements of Rules 19(b) and (c) are amply covered by Section I, the matter could be rectified by omitting them from Rule 19. Alternatively 19(a) could be omitted.

Rule 19(d). Although the practice of cross-referencing in Rules of this kind should be avoided (19(c) is quite unnecessary), the heavy responsibilities involved in Rule 8 might well be drawn attention to in 19(d).

Rule 19(e). It seems that, hidden away here, is that well known and dangerous assumption of identity between a fog signal and a radar echo. No positive solution to that problem has yet been reached. There is also the implication in 19(e) that a close-quarter situation between two ships under way in fog can exist without any danger of collision. This possibility seems to be so remote as to be hardly worth writing into a Rule.

Apart from the above commentary on the 1972 Regulations, Parts A and B, it may be of interest to compare the Steering Rules as a whole with the 1960 Rules. They have been summarized in Tables I and II, and this enables the complexity and the contribution to safety of the two sets of Rules to be compared. He would be a brave man who would say that sufficient manoeuvring guidance is given in the new Rules to balance the undoubtedly great increase in freedom to manoeuvre or that the new balance is an improvement on the old.

A Voyage Towards the South Pole

DR. DAVID LEWIS, a Fellow of this Institute and occasional contributor to the *Journal*, arrived at Palmer Station in the Antarctic, under jury rig, on 29 January having left Sydney on 20 October 1972 and stopped twenty-four hours at Stewart Island, N.Z., on the way. His long-term objective is to circumnavigate the Antarctic Continent, single-handed. He was twice capsized, in the course of which his gloves disappeared which resulted in badly frost-bitten fingers. After two months day and night in insulated boots, the warmth in the U.S. base when he arrived made his feet balloon and crack.

In a letter dated 12 February and addressed jointly to three friends ('one-finger typing is all my frost-bitten but healing fingers will allow . . .'), amongst whom the Executive Secretary, he explains some of the circumstances of his