

Forum

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When Do Collision Regulations Begin to Apply?

John Kemp

(Email: prof.kemp@talk21.com)

We are indebted to Jinsong Zhao for his exhaustive and erudite study of case law relating to the time at which the steering and sailing rules of the Collision Regulations begin to apply. His time-consuming identification and analysis of so many relevant cases, and the clarity with which he sets out his conclusions are exemplary. As he says, “having reviewed the cases related to the time when the rules apply, it still seems difficult to answer the question: when do the rules begin to apply?” In fact, it appears that, despite the entertainment that many legal minds have enjoyed in considering this question, their collective pronouncements provide little help for the practical mariner.

Some of the rulings quoted by Jinsong Zhao suggest that the steering and sailing rules (except possibly the overtaking rule) begin to apply when risk of collision exists. Other rulings, by equally eminent jurists, suggest that these rules apply just before risk of collision exists, and that it is risk of collision itself that should be avoided. This latter contention seems to be not only unhelpful, but logically dubious. If, at a certain point, there is a risk of risk of collision developing, then surely there is already risk of collision. Logically, if A implies B, and B implies C, then A implies C.

When two ships are on converging courses towards a collision point or a close quarters situation, there is a risk of collision which increases continuously until their courses begin to diverge. There is generally no discernable point of time “just before risk of collision.” Instead, it must surely be a matter of reasonable judgement by a competent and alert seaman as to when the risk of collision has increased to a point such that the steering and sailing rules apply.

Looking at comments by seamen rather than lawmen, we find, from Cockcroft and Lameijer that, “The distance must depend very much on circumstances and particularly on the speed of approach. In rivers and harbours, where vessels frequently have to change course, risk of collision may only be considered to exist at relatively short distances.”

It is, of course, instructive to consider case law as applied to collisions at sea, but a limitation is that it only deals with situations in which there was a collision. Of at least equal importance to the seaman is a knowledge of the actions taken, and the timing of them, in the many more cases where collisions have been successfully avoided. Experience appears to be the principle method by which such knowledge can be acquired, although teaching, textbooks and the use of ship simulators also have their place.

Despite the limited scope for deriving practical advice from case law on the point at which the COLREGS come into force, a competent and experienced seaman on the

high seas can be expected to comply with the steering and sailing rules at an appropriate time. Given that ability, and just a touch of good fortune, he will avoid both a collision and an appearance in a court where case law would become much more relevant.

Jinsong Zhao is to be congratulated on undertaking such a detailed study and analysis of an important subject, and in providing such a substantial basis for further discussion.

REFERENCES

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The Use of AIS for Collision Avoidance

Ivica Tijardovic

(Chairman Croatia Branch RIN)
 (Email: ivica.tijardovic@st.htnet.hr)

1. INTRODUCTION. As a captain with many plaudits including three nominations for Shipmaster of the Year I understand that people are different, they come from different countries, with different cultures, with different ways of thinking. This is very important to remember at sea in time of collision or close collision situations. It is correct and important to act according to the International Regulations for Preventing Collisions at Sea, but the most important thing is to **prevent collision**. So officers should not just think “*I will keep my present course, because she is the one who has to change her course*”, but communicate (by AIS message and/or by calling on VHF Channel 16) with her in time and make themselves sure of her intentions. This paper offers some suggestions on how to use AIS in such situations. It should be remembered that AIS is not 100% reliable and is not a substitute for VHF or radar.

2. ANALYSIS. Suppose that an identified vessel is 12 nautical miles ahead of you and the Closest Point of Approach (CPA) is zero or too small for safe navigation. Write/send her an AIS message, such as: *Starboard to Starboard!* or *Green to Green!* or *Port to Port!* or *Red to Red!* (If your AIS does not already have these messages stored in the Predefined Safety Related Messages (SRM) List, then save the messages, so you can quickly use them any time they are needed). If she doesn't answer to your AIS message or does not call you or keeps her present (collision) course, call her by name on Channel 16 (VHF), when she is more than 8 nautical miles away from you. You gave her enough time – from 12 to 8 nautical miles – to do something.

3. SUGGESTIONS FOR USE OF AIS. What AIS message should you send to an identified conflicting vessel in a particular situation? I have outlined a