

The Collision Regulations through a Translator's Eyes

from S. A. Azad

It is not often that the exact meaning of the Collision Regulations is the subject of a dispute in a court of law. However, a translator would be shirking his duty if he were to put the easiest interpretation upon each phrase.

The author recently attempted to translate the Collision Regulations into the Urdu language. This article presents his main findings on the subject of drafting.

Two defects recur too often to be greeted at each encounter and it would be convenient to deal with them collectively. They are:

- (1) The use of unnecessary words, and
- (2) The use of different words to convey the same purport.

The defects occur together as often as not and have therefore been dealt with together.

1. Some of the lights are required to be 'clear'; by inference others may be cloudy, foul, foggy, complicated or whatever constitutes the unclear state.

2. Some of the lights are required to show an 'unbroken light', which is tautological to say the least, and at the worst could be deemed to permit lights to be broken or to have blind arcs unless they are required to be unbroken.

3. Some of the lights are required to be 'bright'; by inference others may be dim.

It can be shown that the words 'clear', 'unbroken' and 'bright' do not add anything to the substance.

4. Lights are required to be:

- (i) 'kept at hand lighted and ready for immediate use' (Rule 6a);
- (ii) 'kept ready for immediate use' (Rule 7c);
- (iii) 'lighted ready for use' (Rule 8a, ii); and
- (iv) 'at hand ready for use' (Rule 8a, iii).

Very likely the mariner sees no difference between these expressions, but surely the translator cannot take that for granted when the words clearly admit of the construction that:

- (a) in cases (ii) and (iii) the lanterns need not be kept at hand;
- (b) in cases (ii) and (iv) the lanterns need not be kept lit; and
- (c) in cases (iii) and (iv) the lanterns need not be available for immediate use.

Once again the remedy lies in extensive deletions, for so long as the light is shown in sufficient time to prevent collision it is immaterial whether or not it was kept lighted or kept at hand or kept ready for immediate use.

5. Rule 7c requires certain small craft to carry: 'a lantern showing a green *light* on one side and a red light on the other'. Rule 8a, iii, requires certain pilot vessels to have ready at hand: 'a lantern with a green *glass* on the one side and a red glass on the other'. Now a piece of glass is not a light, and the word 'lantern' does not mean 'a lantern carrying a light' as we can verify from Rules 9e, ii and 11a. Are we to conclude then that the draftsmen intended the first

lantern to have two lamps and the latter to have two pieces of coloured glass which were to shine by reflected light?

6. There are references to:

- (i) an 'all round light' (Rule 9c);
- (ii) lights or lights 'of such a character as to be visible all round the horizon' (Rule 4a, 4b and 4c);
- (iii) 'light in a lantern so constructed as to show a clear, uniform and unbroken light *visible* all round the horizon' (Rules 11a and 11b);
- (iv) 'light in a lantern so constructed as to show a clear, uniform and unbroken light all round the horizon' (Rule 9e, i and 9e, ii); and
- (v) light or lights 'visible all round the horizon' (Rules 8a, i, 8b, 9d, 11b and 11g).

Careful examination of these phrases in the context in which they occur can leave no doubt that, for all their diversity, expressions (i) to (iv) are identical in content: they regulate only the construction of the lantern and do not demand all round visibility. Such lanterns will show all round the horizon only if they are carried in a position which ensures all round visibility. As a rule the Regulations prescribe the position in which the lanterns are to be carried, and Rule 11b makes the further provision: 'Both these lights shall be visible all round the horizon'; this lends support to the view that, except in the case cited, there is no onus to make such lights visible all round the horizon; sufficient that they are constructed so as to permit all round visibility and that they are carried in the position stipulated. But this leaves us with a few all round lights which we are required to carry somewhere, anywhere, but nowhere in particular—viz. the lights prescribed in Rules 4c and 9e, ii.

The lights referred to in (v) above need not be constructed so as to show a clear, uniform and unbroken light all round the horizon; but they must be visible all round the horizon to the prescribed distance. In other words it is permissible to take several lanterns none of which shows an unbroken light all round the horizon, and to mount them together in such a way as to make the light visible all round the horizon; but it is not permissible to carry safely locked up in the lamp locker (see Rules 4c and 9e, ii) a light in a lantern so constructed as to show a clear, uniform and unbroken light all round the horizon. This is so because the words concern themselves with the end and not with the means by which the end is to be obtained—and therein, surely, lies a moral for the draftsmen.

Now it is not suggested that in the examples given, an excess of words or the diversity of expression is such as to give rise to serious doubt or to distortion of the sense intended, but it will be conceded that the defects have detracted both from clarity and from precision; or at the very least, that the draftsmen have used a mouthful of additional words to no constructive purpose and created quite unnecessary work for a translator in Pakistan!

PART A—RULE 1

1. The definition of vessel excludes buoyant cargoes such as timber logs bridled together and taken in tow or left at anchor or adrift. A power-driven vessel towing such cargoes should carry only the lights required for a vessel under way and the tow is not required to be illuminated in any manner.

2. The exclusion of seaplane from the definition of vessel creates several anomalies which could have been avoided.

3. The 'height above the hull' cannot be measured in an undecked vessel, and a continuous deck fitted, say 10 ft. below the gunwale, would make nonsense of the definition. Why not the height above the 'load waterline'; for surely every vessel has a load waterline!

4. The rule does not define a vessel at anchor. Is a vessel at anchor:

- (i) when she is dragging her anchor?
- (ii) when she has her anchor down but is using her means of propulsion?
- (iii) when she is moored to a buoy or to a floating landing stage?

5. The Rule does not define the term 'making way through the water'. A vessel at anchor in a tideway is undoubtedly making way through the water, but it would take a rash seaman to utter such heresy.

PART B—RULES 2 TO 16

Rule 2a (iii)

If only one white light is required it need not be carried over the keel. This impression is confirmed by Rule 7b (i).

Rule 3a

1. The two white lights are to be carried *not less than 6 ft. apart* but the third or 'additional' light is to be carried exactly 6 ft. above or 6 ft. below the first two lights. One of these two lights is to be carried in the same position as the white light mentioned in Rule 2a (i), the second may be carried below the first; and since no minimum height is prescribed for the second white light (a minimum height is prescribed only for the 'additional' light) it may be carried pretty nearly on the deck so long as it is clear of obstructing superstructures.

2. The last sentence of this sub-section is at first sight obscure, but it means that if a ship has only one mast then the light may be carried on that mast *regardless of the position of the mast*—that is to say the mast need not be in the forepart of the vessel. On the other hand if the towing vessel has two masts, one amidships and the other aft, then the lights may not be carried on either mast for neither of them is in the forepart of the vessel and cannot therefore be the foremast—unless one argues that the foremast is the leading mast regardless of its position; but on this view the 'only mast' is the leading mast and the last sentence of Rule 3a is redundant.

Rule 4b

This section permits a seaplane not under command to carry two red lights but does not make the exercise of that option conditional upon the removal of the white light prescribed by Rule 2b (i); the white light must therefore be carried together with the two red lights. Surely this was not the intention of the draftsmen.

Rule 7c

The green and red side lights may be visible over an arc of 180° each and a stern light must be carried; this poses quite a nice little problem for the overtaking vessel.

Rule 8

Sub-section (a) (i). 1. Pilot vessels are not permitted to carry stern lights. This follows from sub-section (a) (i) and section (b).

2. The flare-up light may be of any colour. (This seems to be the case with all flare-up lights mentioned in the Regulations. The use of red flares, except by vessels in distress, ought to be prohibited.)

Sub-section (a) (ii). The green and red lights are to be shown more than two points abaft the beam if necessary.

Rule 9

Section (a). 1. Vessels when fishing must show only the lights and shapes prescribed by Rule 9. It follows that if Rule 9 does not prescribe special lights for any particular type of fishing vessel, then such a vessel must show no light at all—except that she may use working lights.

2. Fishing vessels must not carry a stern light. Exceptions are power-driven trawlers and vessels fishing with trolling lines.

3. When under sail as well as being propelled by machinery a fishing vessel must not show the signal prescribed by Rule 14, and when aground and engaged in fishing they should not carry the signal prescribed by Rule 11e. This applies *inter alia* to vessels fishing with trolling lines.

4. All shapes prescribed by Rule 9 are to be visible for two miles. It would have been preferable to prescribe the size and colour of the shape in each case.

Section (f). This section permits the use of 'working lights' but the permission cannot be deemed to confer a privilege for, subject to the requirements of Rule 1b any vessel may use working lights.

Section (h). When a fishing vessel becomes fast by her gear to a rock or other obstruction she is required:

- (i) by day to haul down the basket and to hoist the anchor ball; (the cone required by section (d) is therefore to be left up.)
- (ii) by night to 'show' the anchor light;
- (iii) on the near approach of other vessels to make the signal 'D' to indicate that she is manœuvring with difficulty—even though she may not be manœuvring at all; and
- (iv) in poor visibility to make the same signal to indicate that she is a hampered vessel *under way*.

The inconsistency of anchor lights with the fog signal for a vessel under way is at once apparent; the other inconsistencies are not so obvious.

It is a general principle of law that a specific provision made for a special case overrides a more general provision made for ordinary circumstances. At first sight, therefore, the provisions of section (h) would appear to override the provisions of sections (c), (d), (f) and (g). (It will be seen that a vessel cannot be engaged in 'dragging' the apparatus if she is held fast to the bottom by that same apparatus; and therefore the provisions of sections (e) and (h) cannot come into mutual conflict.) The case against the view expressed above is that section (h) can only override the provisions of other sections if it can be shown to supersede and not merely to supplement or modify them. It has already been remarked that section (h) does not require the removal of the black cone required by section (d) and therefore section (h) does not supersede the remaining sections.

And surely what goes by day will also hold by night; if so, the three white lights in a triangle must be shown in addition to anchor lights. Should such a vessel be manœuvring to free herself she will clearly be making way through the water and must show the side lights prescribed by section (d)—this in addition to her anchor lights!

This is no doubt absurd and unreasonable and unseamanlike, but the instruction to construe these Rules with due regard to observance of good seamanship applies only to Part C of the Regulations—i.e. to Rules 17–27—and the use of commonsense is not permissible elsewhere. Now section (h) cannot at the same time supersede and not supersede the other sections, and if it does not supersede them it is merely supplementary. It follows that it is permissible for a vessel manœuvring to free her gear to display:

- (i) working lights;
- (ii) three white lights in a triangle and the side lights under section (d);
- (iii) a set of anchor lights under section (h); and if we may stretch a point
- (iv) a second set of anchor lights under section (g); and when approached by another vessel
- (v) to show an additional white light in the direction of the gear, and
- (vi) make 'D' on the whistle.

If this should fail to persuade the approaching vessel of the necessity to keep clear, there still remains the option of showing a flare-up light as authorized by section (f).

Rule 10

Sailing vessels of less than 20 tons are required to carry a stern light visible at a distance of two miles, while they need only 'show' in lieu of the side lights a combined lantern having a visibility of one mile—thus the visibility required from aft is twice the visibility required from forward.

Rule 15c

Clause (iv). 1. No special signal has been provided for a vessel at anchor laying or picking up a telegraph cable. (The signal prescribed in clause (v) applies, in the writer's opinion, only to vessels under way; but it must be conceded that some doubt remains.)

2. Vessels at anchor are encouraged to sound 'R'. The signal indicates that the vessel making it is at rest in the water and invites the approaching vessel to cross her bows at slow speed. This signal appears to the writer to be singularly unsuitable, for a vessel at anchor may be making considerable way through the water and the invitation may easily prove to be the prelude to a collision.

Clause (ix). All vessels of 20 tons or more, when fishing, are required to make the same fog signal; it follows that vessels fishing with trolling lines must make the same signal.

PART C—STEERING AND SAILING RULES

Rule 17

The terms 'running free' and 'close-hauled' have not been defined. The writer understands 'close-hauled' to mean that the vessel is sailing as close to the

wind as she can lie without her sails shaking. By 'running free' he understands that the vessel has the wind abaft the beam. In between these two conditions she is 'reaching to windward'; she is still on the starboard or port tack within the meaning of Rule 15 but not close-hauled within the meaning of Rule 17. The writer may be mistaken in his views but it is important to remember that he is using these words in the sense stated.

1. Rules 15 and 17 employ different terms presumably to convey a different sense. If so the following cases are not covered by Rule 17:

- (1) Vessels reaching to windward but not close-hauled meeting each other:
 - (i) when on the same tack; and
 - (ii) when on opposite tacks.
- (2) Vessels reaching to windward but not close-hauled meeting vessels close-hauled:
 - (i) on the same tack; and
 - (ii) on opposite tacks.
- (3) Vessels sailing close-hauled on the same tack. (Risk of collision may be present if one of the vessels is either lying closer to the wind than the other, or making more leeway.)

2. The expression 'wind aft' is for once over precise. Just how many degrees from right astern must the wind be before a vessel ceases to have the wind aft?

Rule 18

Section (a) can with advantage be confined to the first sentence for we can never hope to make a complete list of cases to which a given rule does not apply.

Rule 25b

It is difficult to see why this section has been confined to power-driven vessels when sailing vessels could easily make the same signal on the foghorn.

Rule 26

A vessel fishing with trolling lines is a vessel fishing with lines within the meaning of Rule 26 and is entitled to right of way even though she shows no distinctive lights or signals.

A fuller list of defects than has been given would be of interest to the draftsmen commissioned to revise the Regulations; it would be premature and out of place here. Sufficient has been said to make out a case for a revision of the Regulations. The petty defects can be catalogued for the benefit of the draftsmen when the need arises.

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