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**FACILITATING SHORE LEAVE AND ACCESS TO SHIPS, REMOVING
UNNECESSARY RESTRICTIONS IMPOSED BY DIVERGENCES
IN THE IMPLEMENTATION OF THE ISPS CODE**

The Facilitation Committee, at its thirty-sixth session, from 6 to 10 September 2010, considered the matter of shore leave and access to ships, and approved the circular on Facilitating shore leave and access to ships, removing unnecessary restrictions imposed by divergences in the implementation of the ISPS Code, as set out in the annex.

The Committee remains concerned about the potential adverse effects of inappropriate references to the ISPS Code when deciding the shore leave status of ship's personnel during the entry formalities of a Member State. The Committee again draws attention to the need to recognize the human element and the importance of shore leave and appropriate access to ships, without prejudice to the immigration procedures of Member States.

Member States are urged to bring this circular to the attention of all parties concerned, including, but not limited to, public authorities, administrations, ports and terminals.

ANNEX

FACILITATING SHORE LEAVE AND ACCESS TO SHIPS, REMOVING UNNECESSARY RESTRICTIONS IMPOSED BY DIVERGENCES IN THE IMPLEMENTATION OF THE ISPS CODE

1 The Facilitation Committee, at its thirty-sixth session (6 to 10 September 2010), was informed of difficulties encountered by seafarers who had been refused shore leave, access to shore-based facilities, and complications related to crew personnel changes and the gaining of access to ships by representatives of seafarers' welfare, labour organizations, and other authorized personnel. The problems stem mainly from divergences in the implementation of the IMO instruments adopted to ensure uniform interpretation and execution of SOLAS chapter XI-2 and the ISPS Code.

2 The Committee noted discussions which took place at the twenty-sixth session of the IMO Assembly and at the eighty-seventh session of the Maritime Safety Committee (MSC) with relation to the shore leave of seafarers. The Committee also noted with appreciation MSC.1/Circ.1342 on Reminder in connection with shore leave and access to ships, adopted by the MSC at its eighty-seventh session which once again draws the attention of SOLAS Contracting Governments to the necessity to give full effect to existing IMO instruments and guidance which regulate implementation of the ISPS Code whilst ensuring that adequate consideration is given to the human element.

3 The Committee agreed, however, that further work is necessary in this area, especially regarding the practice of providing less favourable treatment based upon the flag of the vessel or restrictions based upon the nationalities of individual crew members. The Committee further agreed that improvements in terms of uniformity in formalities, documentary requirements and procedures would provide for the consistent application of port security measures, provided that such uniformity does not bypass or eliminate the authority of Member States.

4 The Committee acknowledged that port States, while giving effect to the special measures envisaged to prevent security incidents affecting ships or port facilities and to exercise control over access to their territories, have to recognize that shore leave for seafarers constitutes their right – not a privilege. The Committee further acknowledged the necessity of access by authorized personnel to the ship.

5 The Committee encourages IMO Member States to establish measures and procedures to provide better coordination and co-operation among public authorities, administrations, ports and terminals to enable the full implementation of conventions and other instruments, and the IMO and ILO recommendations which define conditions and procedures related to shore leave for seafarers, and to promote a balanced approach towards ISPS Code-prescribed security measures and the right of seafarers to satisfy their social needs and requirements, especially the right for access to the shore-based social facilities and shore leave.

6 Towards the establishment of a balanced approach to the ISPS-related issues and the giving of due attention to the fulfilment of the rights of seafarers through an ongoing tripartite social dialogue, the Committee invites SOLAS Contracting Governments, while ensuring the needs of seafarers for shore leave and ship-shore communications, to envisage the effective functioning of mechanisms for approval and review of Port Facility Security Plans, especially in establishing national procedures for examining complaints, including those filed by seafarers' and shipowners' representative organizations and other representatives of authorized personnel, with regard to discrepancies in the implementation of the ISPS Code.

7 As provided in Conference resolution 11 of the 2002 SOLAS Conference, Contracting Governments are urged to take the human element need to afford special protection to the rights of seafarers and the critical importance of shore leave into account when implementing the provisions of SOLAS chapter XI-2 and the ISPS Code. The Committee urges SOLAS Contracting Governments to ensure that adequate training is provided for the ISPS-responsible personnel in ports/terminals so as to be fully aware of the necessity to provide an adequate protection of seafarers' rights, the great significance of shore leave in relation to the human element and its influence on maritime safety and security while implementing provisions of SOLAS chapter XI-2 and the ISPS Code.

8 States should endeavour to establish standard practices regarding requirements related to the identity documents which provide public authorities with information about the individual member of the crew seeking access to the shore-based facilities. States are invited to consider whether seafarers' identity documents serve for better facilitation and unification of requirements related to seafarers' identification in the international maritime trade.¹

9 Administrations should pay particular attention to ensuring unbiased and non-discriminatory practice in exercising control and allowing access to shore, irrespective of vessels' flags and nationalities of individual crew members. Member States, representative organizations of seafarers and shipowners are encouraged to inform the FAL and MSC Committees of unfair and selective practices in providing shore leave and access to the shore-based facilities in foreign ports.

10 IMO Member States are urged to bring this circular to the attention of all parties concerned, including, but not limited to, public authorities, administrations, ports and terminals.

¹ Refers, *inter alia*, to the ILO Convention No. 185, Seafarers' Identity Documents Convention (Revised), 2003 (No. 185).