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**GUIDANCE ON THE ACCESS OF PUBLIC AUTHORITIES, EMERGENCY
RESPONSE SERVICES AND PILOTS ON BOARD SHIPS TO WHICH
SOLAS CHAPTER XI-2 AND THE ISPS CODE APPLY**

1 The Maritime Safety Committee (the Committee), at its seventy-ninth session (1 to 10 December 2004) agreed that under certain circumstances the strict application of access control measures by a ship might not be conducive to the safety of the ship or of persons on board, or of other ships in the vicinity, and might even be construed as preventing officials from exercising their statutory functions.

2 The Committee, at its eightieth session (11 to 20 May 2005), in an effort to assist those concerned with the matter, approved the Guidance on the access of public authorities, emergency response services and pilots on board ships to which SOLAS chapter XI-2 and the ISPS Code apply (the Guidance) as set out at annex.

3 SOLAS Contracting Governments are invited to bring the Guidance to the attention of all parties concerned with matters addressed therein.

4 SOLAS Contracting Governments, international organizations and non-governmental organizations with consultative status which encounter difficulties with the implementation of the Guidance should bring, at the earliest opportunity, the matter to the attention of the Committee for consideration of the issues involved and decision on the actions to be taken.

5 The present circular should be read in conjunction with MSC/Circ.1112 on Shore leave and access to ships under the ISPS Code to which it relates.

ANNEX

GUIDANCE ON THE ACCESS OF PUBLIC AUTHORITIES, EMERGENCY RESPONSE SERVICES AND PILOTS ON BOARD SHIPS TO WHICH SOLAS CHAPTER XI-2 AND THE ISPS CODE APPLY

1 INTRODUCTION

1.1 The purpose of this guidance is to provide recommended practice in relation to the access of public authorities, emergency response services and pilots on board ships to which SOLAS chapter XI-2 and the ISPS Code apply, in order to facilitate the activities and responsibilities of ships, ports facilities and of the authorities of SOLAS Contracting Government.

1.2 During routine and normal ship/port interface and ship-to-ship activities it is usual for a variety of commercial, private and Governmental personnel to require access to a ship. Access control measures incorporated in Ship Security Plans (SSPs) that implement the requirements of the ISPS Code should, during routine ship/port interface and ship-to-ship activities, normally be respected by everyone, including officials seeking access to ships and restricted areas on board them.

1.3 In addition to routine and normal access, under ordinary circumstances, there are a variety of situations where law enforcement or emergency response personnel need to conduct law enforcement functions to address specific security problems or to respond to emergency situations such as fires. In such situations it may not be possible or reasonable for the ship's security personnel to implement the normal access control provisions required by the SSP. The security and safety of the ship and of the port facilities require that practices be established that expedite access control for public authorities, emergency response services and pilots. The observance of such practices should not be construed as a failure of the ship to implement or to maintain appropriate security measures nor used by officials as an excuse for circumventing a ship's security measures when conducting routine and normal operations requiring access to ships.

1.4 It is noted that paragraph B/9.12 of the ISPS Code states that those unwilling or unable to establish their identity and/or to confirm the purpose of their visit when requested to do so should be denied access to the ship and their attempt to obtain access should be reported, as appropriate, to the Ship Security Officer, the Company Security Officer, the Port Facility Security Officer and to the national or local authorities with security responsibilities.

2 DEFINITIONS

2.1 For the purpose of this guidance:

- .1 *Public authorities* means the agencies or officials in a State responsible for the application and enforcement of the laws, regulations, orders and decrees of that State; and
- .2 *Emergency response services* means the medical, paramedical and ambulance personnel, fire and rescue personnel, and at sea search and rescue (SAR) units responding to or participating in SAR operations.

2.2 Public authorities include but are not limited to immigration, customs and health officials, police, military and coast guard officers, surveyors and inspectors authorized by that State to exercise - pursuant to the provision of international treaties the State is party to control (port State control) or control and compliance measures (in accordance with SOLAS regulation XI-2/9) or to carry out investigations into alleged violations of the provisions of the national legislation or to carry out marine accident investigations or judicial enquiries. Public authorities also include the security services of the State. In addition, public authorities include surveyors, inspectors, auditors, marine accident investigators and persons investigating alleged violations of the international treaties and the provision of the national legislation of the State the flag of which is entitled to fly, directly employed by the flag State.

2.3 Public authorities and emergency response services and pilots may be uniformed officials or persons in civilian clothing.

Related reference: MSC/Circ.1132, paragraphs 18, 19, 20 and 21.

3 THE POSITION OF SOLAS CHAPTER XI-2 AND OF THE ISPS CODE

3.1 The Special measures to enhance maritime security contained in SOLAS chapter XI-2 and in the ISPS Code have been developed for the purpose of enhancing the security in the international maritime transport sector and should not be used to unnecessary or unjustified delay or inhibit the access on board of public authorities and emergency response services.

3.2 The ISPS Code, in order to achieve its objectives, embodies a number of functional requirements. These include, but are not limited to preventing unauthorized access to ships, port facilities and their restricted areas (section A/1.3.3 of the ISPS Code).

3.3 The fact that a ship security plan (SSP) has been approved by the Administration or by a recognized security organization acting on its behalf does not create a right for either the ship or for those on board to invoke its provisions, and to claim, in any circumstance and regardless of what is required by the applicable security level, that they have authority to prevent any public authority from boarding the ship when that ship is within the territory of another SOLAS Contracting Government or of another State.

3.4 It should be noted that SOLAS regulation XI-2/8 on Master's discretion for ship safety and security provides that:

“The master shall not be constrained by the Company, the charterer or any other person from taking or executing any decision which, in the professional judgement of the master, is necessary to maintain the safety and security of the ship. This includes denial of access to persons (except those identified as duly authorized by a Contracting Government) or their effects and refusal to load cargo, including containers or other closed cargo transport units.”

3.5 Delaying unnecessarily the arrival of the pilot on the bridge, especially when the ship is underway, is detrimental to the safety of navigation and may lead to situations where the safety of the ship and of other ships or of people in the vicinity may be jeopardized.

3.6 Inhibiting the access of public authorities on board may be construed as obstructing them from executing their duties or obstructing judicial or other statutory proceedings or the administration of justice, when public authorities are lawfully seeking to board a ship. In such a case, the public authority should inform the master of the ship of the laws, regulations, decrees or orders which gives the public authority the legal right to access the ship in accordance with international or national law. In accordance with the paragraphs 4.4 and 9.1.5 the public authority should present an identity document when seeking to board a ship and the ship may seek to verify its authenticity.

4 IDENTIFICATION

4.1 SOLAS Contracting Governments should issue appropriate identification documents, which should include a photograph of the holder, where appropriate, to Government officials entitled to board ships or enter port facilities when performing their official duties and to establish procedures whereby the authenticity of such documents might be verified. Government officials should present their identification documents when requested to do so at access control points to port facilities and ships and if challenged when on board.

4.2 SOLAS Contracting Governments should ensure that the method of verifying the authenticity of identification documents carried by public authorities and emergency response services is available to ships directly through information provided by the port State or the coastal State.

4.3 The form, format and language of identity documents, of public authorities, and of emergency response services and of pilots are regulated by national or local legislations and there is no international standard to this end. In some cases, such identity documents do not bear the name of the individual but simply an identification number which may be alphanumeric or may not include the name of the individual but simply a photograph of the holder. If the language of the identity documents is not in English, French or Spanish these should have a translation, in one of the three, preferably English, included in the same document of identity.

4.4 Public authorities, emergency response services and pilots whether in uniform or not, should present an identity document when seeking to board a ship. Section A/17.2.13 of the ISPS Code requires the port facility security officer (PFSO) to assist ship security officer (SSOs) in confirming the identity of those seeking to board the ship when requested and the port facility plan (PFSP) should, in accordance with paragraph B/16.8.13 of the ISPS Code, establish for all security levels, the procedures for assisting SSOs in confirming the identity of those seeking to board the ship. When presenting identity documents the person concerned should be ready to provide contact details which allow the validity of the identification document to be verified, in addition to the information provided to the ship, in accordance with the paragraph 4.2 above.

4.5 Emergency response services need to show only the identity document of the person-in-charge of the team responding to the incident, where practicable. The person-in-charge should be able to inform the ship the number of emergency response personnel who are boarding.

4.6 The issue of visitor identification documents by the ship to public authorities, emergency response services and pilots who have provided, when seeking to board the ship, verifiable identity may not be warranted and may exhibit, in lieu of visitor identification documents issued by the ship, their official identification documents. If the aforesaid do not display visitor identification documents issued by the ship, this fact should not be construed as a failure of the

ship to implement or to maintain appropriate security measures. Public authorities, emergency response services and pilots should not be required to surrender their official identification documents when boarding a ship.

Related reference: Section A/17.2.13 and paragraphs B/4.18, B/9.11 and B/16.8.13 of the ISPS Code and paragraph 2.7 of the Interim guidance on control and compliance measures to enhance maritime security (resolution MSC.159(78)).

5 SEARCHES

5.1 Public authorities properly identified and acting in the course of their duties should not be subject to searches by the shipboard personnel when boarding the ship.

5.2 At the discretion of the master or of the SSO, properly identified emergency response personnel who are responding to an emergency, for example a fire onboard, should not be subject to search by shipboard personnel when boarding the ship.

5.3 The engagement of pilots is in various locations compulsory and pilotage is subject in certain countries to local regulations and practices. Pilots boarding at sea and at the dock are subject to access control measures at the discretion of the master or the SSO in accordance with the provisions of SSP. The master or the SSO should communicate with the pilots to ensure that access control measures for pilots boarding at sea are conducted in such a way that the pilot is not precluded from reaching the bridge in time to conduct the master-pilot information exchange and begin providing piloting services necessary for the safety of the ship and for the safety of navigation. If necessary to ensure that the pilot has timely access to the bridge, verifications of employment and other access control measures, such as searches, in accordance with the provisions of the SSP may be waived once the identity of the pilot has been verified to the satisfaction of the master or SSO. Pilot organizations are encouraged to develop pre-authorization and pre-clearance procedures with ships to facilitate the boarding of pilots.

Related reference: Paragraphs B/9.14, B/9.15 and B/9.16.5 of the ISPS Code.

6 ESCORTING

6.1 It is a customary practice to escort the pilot from the deck to the navigation bridge on arrival and from the navigation bridge to the deck during the departure of the pilot.

6.2 It is reasonable to expect that public authorities and emergency response service may not be familiar with the layout of the ship and thus escorting them whilst on board might be the prudent course of action. However, it is recognized that in certain cases, either due to the number of the shipboard personnel or due to the prevailing circumstances at the time, it might not be possible or practicable to escort public authorities through the duration of their stay on board. In such a case, the master and/or the SSO should have a general understanding as to the movements of public authorities and emergency response services on board. The fact that public authorities and emergency response services might conduct their duties unescorted should not be construed as a failure of the ship to implement appropriate security measures, neither a case to prevent public authorities and emergency response services to perform their duties.

6.3 When the arrangements to be made for the escort of public authorities and of emergency response services and of the pilots are provided, they should be such as not to unnecessarily delay, in any way, the performance of their duties.

Related reference: Paragraph B/9.16.6 of the ISPS Code.

7 ACCESS TO RESTRICTED AREAS ON BOARD

7.1 In the course of routine, emergency, or law enforcement duties, public authorities and emergency response services may require access to restricted areas identified by the SSP according to the paragraph B/9.1 of the ISPS Code, it is expected, once the reasons for seeking access to a restricted area have been established or if they indicate that such establishment would amount to the obstruction of the performance of their duties, that the ship would immediately make arrangements for the access to such areas.

7.2 Although the navigation bridge is likely designated as a restricted area, pilots require access to the bridge to perform their essential safety activities. Pilots should be granted access to the bridge without the need to establish any other reason once the identity of the pilot has been established to the satisfaction of the master and/or SSO.

Related reference: Paragraph B/9.20 of the ISPS Code.

8 FIREARMS

8.1 The national legislation of each State provides which public authorities and under what circumstances are to carry firearms during the performance of their duties. The master and the SSO should expect that various public authorities will be armed when on board.

8.1.1 These officials should not be asked to surrender their firearms when boarding a ship.

8.2 Paragraph B/16.7 of the ISPS Code recommends that the use of firearms on or near ships and in port facilities may pose particular and significant safety risks, in particular in connection with certain dangerous or hazardous substances and should be considered very carefully. Armed public authority officials should seek, when boarding a ship, to be advised whether the ship is carrying any dangerous goods or hazardous substance and if unfamiliar with the hazards associated with such materials, should seek specific advice on safety precautions to be observed. SOLAS Contracting Governments should ensure that public authorities that are authorized to carry weapons are aware of the specific risks to safety that are present in respect to the carriage of dangerous goods or hazardous substances on board ships and port facilities.

8.3 The presence of any firearms on board belonging to public authorities, whether such arms were declared or not when boarding the ship, should not be construed as a failure of the ship to implement or to maintain appropriate security measures.

9 RECOMMENDED PRACTICE

9.1 The shipboard personnel responsible for controlling the access to the ship should:

- .1 unless other arrangements have been previously made by, or through, the agent of the ship, seek from the public authorities, the emergency response services and the pilots when boarding the ship, the presentation of their identification document and from the public authorities and the emergency response services the purpose of their intended visit;
- .2 record the details of the identification document presented, if such a recording would not amount to obstruction of the person in question in the performance of his or her duties;
- .3 escort, when necessary and without unnecessary delay, the public authorities or emergency response services to their intended destination on board;
- .4 advise, if appropriate, without delay, the master and the SSO as to the arrival of the public authorities, the emergency response services or of the pilot; and
- .5 verify the authenticity of the identity, or identification document if the ship has serious reasons for doubting the authenticity of the identification document presented, without obstructing any public authority or the emergency response services from the performance of their duties.
