MEASURES TO ENHANCE MARITIME SECURITY
PIRACY AND ARMED ROBBERY AGAINST SHIPS

Report of the Working Group

1 General

1.1 The Working Group on maritime security including piracy and armed robbery against ships (the Group) met from 14 to 19 May 2010 under the Chairmanship of Mr. Arsenio Domínguez (Panama).

1.2 The Group was attended by delegations from the following Member Governments:

ANTIGUA AND BARBUDA
ARGENTINA
AUSTRALIA
BAHAMAS
BAHRAIN
BELGIUM
BRAZIL
BULGARIA
CANADA
CHILE
CHINA
COOK ISLANDS
CYPRUS
DENMARK
EGYPT
FINLAND
FRANCE
GERMANY
GREECE
INDIA
INDONESIA
IRAN (ISLAMIC REPUBLIC OF)
ITALY
JAMAICA
JAPAN
KUWAIT
LATVIA
LIBERIA
LITHUANIA
LUXEMBOURG
MALAYSIA
MALTA
MARSHALL ISLANDS
NETHERLANDS
NIGERIA
NORWAY
OMAN
PANAMA
PHILIPPINES
POLAND
QATAR
REPUBLIC OF KOREA
RUSSIAN FEDERATION
SAUDI ARABIA
SINGAPORE
SOUTH AFRICA
SPAIN
SWEDEN
and the following Associate Member of IMO:

HONG KONG, CHINA

1.3 The Group was also attended by representatives from the following United Nations specialized agency:

INTERNATIONAL LABOUR ORGANIZATION (ILO)

1.4 The Group was also attended by observers from the following intergovernmental organization:

EUROPEAN COMMISSION (EC)

and by observers from the following non-governmental organizations in consultative status:

INTERNATIONAL CHAMBER OF SHIPPING (ICS)
INTERNATIONAL SHIPPING FEDERATION (ISF)
INTERNATIONAL CHAMBER OF COMMERCE (ICC)
BIMCO
INTERNATIONAL FEDERATION OF SHIPMASTERS’ ASSOCIATIONS (IFSMA)
INTERNATIONAL ASSOCIATION OF INDEPENDENT TANKER OWNERS (INTERTANKO)
CRUISE LINES INTERNATIONAL ASSOCIATION (CLIA)
INTERNATIONAL SAILING FEDERATION (ISAF)
INTERNATIONAL CHRISTIAN MARITIME ASSOCIATION (ICMA)
INTERNATIONAL TRANSPORT WORKERS’ FEDERATION (ITF)
WORLD SHIPPING COUNCIL (WSC)
INTERNATIONAL ASSOCIATION OF AIRPORT AND SEAPORT POLICE (IAASP)

Terms of reference

2 The Group was instructed, taking into account the relevant decisions taken and comments made in plenary:

.1 taking into account the conclusions of Colombia (MSC 87/4/1), to consider ways to improve the implementation of SOLAS chapter XI-2 and the ISPS Code, and advise the Committee accordingly with a view to generating detailed proposals to subsequent sessions of the Committee for consideration;

.2 taking into account the proposals of Austria et al. (MSC 87/4/2) and the draft MSC circular therein, to consider and advise the Committee whether the development and adoption of guidelines on security-related training and familiarization training for both shore-based Company personnel, as defined in SOLAS regulations IX/1 and XI-2/1, and port facility personnel, is warranted and if so, suggest how the matter should be progressed;

.3 using MSC/Circ.1112 as a basis, to develop a new MSC circular to provide guidance on addressing the issue of the denial of shore leave for seafarers;
taking into account the proposals of ICC and the "Industry Group" (MSC 87/19/6 and MSC 87/19/8, respectively), to consider and advise the Committee on the development of guidance to shipowners, masters and crews with respect to the investigation of piracy and armed robbery against ships, including, if appropriate, the development of terms of reference for a correspondence group, in order to facilitate the development of mature proposals for consideration and adoption by MSC 88;

.5 taking into account the proposals of ICMA and the United States (MSC 87/19/5 and MSC 87/INF.14), to consider and advise the Committee on the development of guidelines for the care of seafarers exposed to piracy, including, if appropriate, the development of terms of reference for a correspondence group, in order to facilitate the development of mature proposals for consideration and adoption by MSC 88;

.6 to consider and advise the Committee on the development guidance with respect to the fitness of ships to proceed after having been subject to an act of piracy or armed robbery against ships, including, if appropriate, the development of terms of reference for a correspondence group, in order to facilitate the development of mature proposals for consideration and adoption by MSC 88; and

.7 to submit a report to plenary by Thursday, 20 May 2010.

MEASURES TO ENHANCE MARITIME SECURITY

Improving the implementation of SOLAS chapter XI-2 and the ISPS Code

3 The Group had a general discussion on possible future methods and strategies to improve the implementation of the provisions of SOLAS chapter XI-2 and the ISPS Code. During these discussions, the Group took note of the conclusions of document MSC 87/4/1 submitted by Colombia. A diverse range of opinions were expressed. However the Group decided that it would not be appropriate to identify or make recommendations on specific issues which may warrant further development of guidance.

4 The delegation of Cyprus, referring to document MSC 87/4/1, requested the Group to invite the Committee to advise how future submissions of a similar nature (i.e. stemming from national, sub-regional and regional conference and meetings) should be handled. The delegation of Cyprus expressed concern about the veracity of their findings and conclusions, believed that such submissions should only be processed as information documents; and stated that there was little merit in general reports on the outcomes of such meetings or conferences unless specific proposals were brought to the attention of the Committee by the SOLAS Contracting Governments which convened or attended such events.

5 During its deliberations the Group took account of the Guidelines on the organization and method of work, its High-level Action Plan and Strategic Plan which set out that the Organization's work had to consider the Human Element as well as the administrative burden which would be imposed if proposals were to be implemented. It was further recalled that these mechanisms had been implemented to structure submissions in a logical and clear manner.

6 The Group agreed to recommend that the Committee should invite proposals, on how to enhance maritime security for future consideration by the Committee. The Group also agreed to request the Committee to reiterate the need for such proposals to be submitted in
accordance with the Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies and, in particular, the guidance on the submission of new work programme items.

7 During the discussions, some Member Governments and observers expressed their opinion that in addition to following the aforesaid guidelines, it was important to emphasize that any such proposals should:

   .1 be supported by a thorough gap analysis;
   .2 identify clearly the issues to be addressed and the intended outcomes;
   .3 assess the implications of the proposed measures, including the potential extra workload for shipboard and port facility personnel; and
   .4 aim to minimize the administrative burden on seafarers, Administrations, Designated Authorities and other Parties concerned, as far as possible, whilst enhancing maritime security.

Guidelines on security-related training and familiarization for shore-based Company and port facility personnel

8 A number of Member Governments and observer organizations were of the opinion that it would not be appropriate to develop such guidance for shore-based company personnel as it was not clear which categories of Company personnel would fall under the proposed new training scheme and the responsibilities of the Company security officer were already sufficiently addressed in the ISPS Code. Furthermore, concerns were expressed that too many security-related training requirements would be imposed on shore-based Company staff.

9 The Group, following a lengthy discussion during which a number of SOLAS Contracting Governments and non-governmental organizations representing the industry argued that the proposal for the development of guidelines for security-related training and familiarization for shore-based Company personnel was not accompanied by related justifications, agreed not to pursue the development of guidelines for the security-related training and familiarization of shore-based Company personnel at this time and to limit its work to the development of such guidelines of port facility personnel with and without security-related duties.

10 The delegation of Japan raised concerns regarding the quality of lecturers as the proposed text in document MSC 87/4/2 requested CSOs and PFSOs to provide familiarization training to shore-based personnel and that the former persons might not be duly qualified.

11 The delegation of Australia pointed out that security awareness was not only a matter of training but comprised a company's security culture and attitude to security threats. The delegation of Australia also stated that the term "port facility personnel without specific security duties" was far too broad and it should be left to the port facility security regime to decide which people fall under this scheme.

12 The observer from the ITF noted that there were inconsistencies in the application of the requirements for access through some port facilities depending upon the personnel on duty. This demonstrated a need for knowledge, understanding and proficiencies (KUP) by port facility personnel on the requirements under the ISPS Code for access between the ship and shore for ship's personnel and other persons authorized under the ISPS Code.
The observer from the ITF suggested adding a KUP to Table 2 requiring "Knowledge of requirements for access between the ship and shore through the port facility for ship's personnel and other authorized personnel". However, the proposal was not supported by the Group.

13 The Group agreed to recommend to the Committee for approval the draft MSC.1 circular on Guidelines for security-related training and familiarization for port facility personnel with and without security-related duties as set out in annex 1.

14 Taking into account the work done by the Committee in connection with the development of model courses for security-related subjects, the Group agreed to advise the Committee that the development of model courses for the attached guidelines would be conducive to the enhancement of maritime security.

15 The Group extensively discussed the alleged inconsistencies in the ISPS Code and, in particular, the apparent mismatching in the numbering of related sections in part A with paragraphs of part B of the code referred to in document MSC 87/4/2. During the discussions it transpired that the SOLAS Contracting Governments had divergent opinions as to the alleged inconsistencies and the need to address these. As a result the Group agreed, at this stage, not to propose any action in response to the alleged inconsistencies identified in document MSC 87/4/2.

16 As a result of the discussion, a number of SOLAS Contracting Governments were of the opinion that the time had come to conduct an editorial review of the ISPS Code and, in particular, part B of the ISPS Code, with a view to addressing any apparent inconsistencies. In addition, they suggested that it would be useful to consolidate the guidance provided in the various MSC circulars, to delete any outdated provisions and, where it is found necessary, to transfer them to part B of the ISPS Code provisions.

17 A number of SOLAS Contracting Governments proposed to recommend that the Committee should consider inviting proposals for the editorial review of the ISPS Code and the various guidance, guidelines and recommendations which the Committee has adopted or approved in connection with the implementation of the provisions of SOLAS chapter XI-2 and of the ISPS Code, on the understanding that the scope and extent of the review would not entail any amendment of the objectives (section A/1.2) and functional requirements (section A/1.3) of the ISPS Code or of any provisions of part A of the ISPS Code, as this may have serious consequences for SOLAS Contracting Governments, ships and/or port facilities.

Shore leave for seafarers

18 The Group recalled the discussion in Plenary and agreed that MSC.1/Circ.1194 need not be taken into account in developing an interim MSC circular to update MSC.1/Circ.1112 as MSC.1/Circ.1194 refers to the effective implementation of SOLAS chapter XI-2 and the ISPS Code. The proposed interim circular could be issued pending further consideration of the facilitation and immigration issues, which should be brought to the attention of the Facilitation Committee for further consideration and possible development into a joint MSC/FAL circular. However, the Group reiterated the need to address problems related to the denial of shore leave of seafarers, and access to ships by seafarers' welfare and labour organizations, especially bearing in mind that 2010 was the Year of the Seafarer.

19 The Group agreed to recommend to the Committee the approval of the draft MSC circular on Reminder in connection with shore leave and access to ships which is set out in annex 2, and to bring it to the attention of the Facilitation Committee for its consideration at its next session.
PIRACY AND ARMED ROBBERY AGAINST SHIPS

Development of guidance to shipowners, masters and crews with respect to the investigation of piracy and armed robbery against ships

20 The Group considered documents MSC 87/19/6 and MSC 87/19/8 in the context of the development of guidance to shipowners, masters and crews with respect to the investigation of piracy and armed robbery against ships.

21 The observer from ICC stated that forensic evidence provided the link between attempted and successful attacks and attackers and, as such, it was important that guidance on the preservation of crime scenes be included in any guidelines for investigation of piracy. However, collecting evidence in general represented a conflict as crews would want to bring the ship back to into service as soon as possible, which in itself would be detrimental to the collection of forensic evidence on board.

22 The delegation of Cyprus stated that the full range of guidance which is required to support the implementation of the Code of practice for the investigation of the crimes of piracy and armed robbery against ships should be identified, and the related guideline should be developed as soon as possible in order to ensure the investigation and reporting of such crimes.

23 The delegation of Denmark, supported by the delegation of the United States, stated that any guidelines developed in respect of the investigation of piracy and armed robbery should consider the commenced work of Working Group 2 of the Contact Group on Piracy off the Coast of Somalia (CGPCS) and should complement that work.

24 The delegation of Cyprus indicated that work done by the CGPCS can be taken into account, for example, by the Committee when it is properly, and in accordance with the established practices of the Organization, introduced. In addition, the delegation pointed out that there is a need to clarify and coordinate what work is done by the CGPCS and how this conflicts and/or competes with the work of the Organization.

25 In discussing the need for the establishment of a correspondence group to progress the issue, the Group agreed that, due to the absence of concrete proposals and formal support for establishing such a correspondence group, it would not be prudent to develop terms of reference at this time. The Group instead proposed to invite the Committee to request submissions for the development of guidelines for shipowners, masters and crews with respect to the investigation of piracy and armed robbery against ships to the next session of the Committee.

26 The ICC informed the Group of its intention to submit to the next session of the Committee a document outlining the content and structure of such guidance for further consideration and work.

Development of guidelines for the care of seafarers and other persons on board who have been subjected to acts of piracy and armed robbery against ships

27 The Group noted the statement by the observer from ICMA that the draft Preliminary Guidelines for Post-Piracy Care developed by the Seamen’s Church Institute (MSC 87/INF.14) were kept under constant review and that ICMA welcomed any input for improving these guidelines. The Group agreed to invite the Committee to request proposals for the development of Guidelines for the care of seafarers and other persons on board who have been subjected to acts of piracy and armed robbery against ships to the next session of the Committee; and also to invite Member Governments and interested parties to provide
comments and advice to ICMA for further development of their guidelines, prior to their submission to the next session of the Committee.

Development of guidance with respect to the fitness of ships to proceed

28 The Group recalled the discussion in Plenary on the issue of the fitness of ships to proceed after having been hijacked, during which the delegations of Cyprus, Denmark and the United States argued against the development of such guidelines.

29 The Group agreed that the fitness of ships to proceed was predominantly a flag State issue for consideration on a case-by-case basis, and there would therefore be little merit in developing generic guidelines for ships which had been either attacked or hijacked. The Group concluded by agreeing that the development of such guidance should not be recommended at the present time.

Action requested of the Committee

30 The Committee is invited to note the contents of the report in general and, in particular, to:

.1 invite proposals on how to enhance maritime security for future consideration by the Committee and reiterate the need for such proposals to be submitted in accordance with the Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies and, in particular, the guidance on the submission of new work programme items (paragraph 6);

.2 approve the draft MSC circular on Guidelines on security-related training and familiarization for port facility personnel (paragraph 13 and annex 1);

.3 approve the draft MSC circular on Reminder in connection with shore leave and access to ships, and to bring the issue of shore leave and access to ships to the attention of the Facilitation Committee for its consideration at its next session (paragraphs 18 and 19 and annex 2);

.4 invite proposals on the development of guidance to shipowners, masters and crews with respect to the investigation of piracy and armed robbery against ships for future consideration by the Committee (paragraph 25);

.5 invite proposals for the development of Guidelines for the care of seafarers and other persons on board who have been subjected to acts of piracy and armed robbery against ships to the next session of the Committee (paragraph 27);

.6 invite Member Governments and interested parties to provide comments and advice to ICMA for further development of their guidelines, prior to their submission to the next session of the Committee (paragraph 27); and

.7 approve the report in general.

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GUIDELINES ON SECURITY-RELATED TRAINING AND FAMILIARIZATION FOR PORT FACILITY PERSONNEL

1 The Maritime Safety Committee (the Committee), at its eighty-seventh session (12 to 21 May 2010) considered the need to enhance maritime security and encourage consistent and harmonized implementation of SOLAS chapter XI-2 and the ISPS Code and the related provisions of the ILO/IMO Code of practice on security in ports and the IMDG Code.

2 As a result, the Committee approved Guidance on security-related training and familiarization training for port facility personnel (the Guidance), as set out in the annex.

3 The Committee, when developing the present guidelines, took into consideration MSC.1/Circ.1188 on Guidelines on training and certification for port facility security officers.

4 The Committee agreed that the sole purpose of the Guidance was to assist SOLAS Contracting Governments and Designated Authorities in the implementation of the relevant provisions of:
   .1 ISPS Code, sections A/18.1 and A/18.2, and paragraphs B/18.2 and B/18.3;
   .2 ILO/IMO Code of practice on security in ports, chapter 10; and
   .3 IMDG Code, section 1.4.1.

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

6 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 action to be taken.

Related documents: MSC.1/Circ.1188 and [MSC.1/Circ.[...]]
ANNEX

GUIDELINES ON SECURITY-RELATED TRAINING AND FAMILIARIZATION FOR PORT FACILITY PERSONNEL

1 APPLICATION

1.1 The present Guidance applies to personnel, other than port facility security officers and persons appointed to act on behalf of the port facility security officer, employed in a port facility which is required to comply with the provisions of SOLAS chapter XI-2 and the ISPS Code, and who should have received training in accordance with section A/18.1 of the ISPS Code, MSC.1/Circ.1188 on Guidelines on training and certification for port facility security officers and paragraph 1.4.1.4 of the IMDG Code.

1.2 The term "port facility personnel" means any persons employed or engaged in a port facility having specific security-related duties and all other port facility personnel working in the port facility identified in the approved port facility security plan as requiring training or instruction and familiarization training.

2 GENERAL PRINCIPLES

2.1 Port facility personnel are not security experts and it is not the aim of the provisions of the Guidance to convert them into security specialists.

2.2 Port facility personnel should receive adequate security-related training or instruction and familiarization training so as to acquire the required knowledge and understanding to perform their assigned duties or perform their jobs and to contribute collectively to the enhancement of maritime security.

2.3 Categories of port facility personnel designated as being with and without security duties should be detailed in the approved port facility security plan.

2.4 Port facility personnel should receive adequate security-related training or instruction at least one time in their career.

2.5 The security-related familiarization training should be conducted by the port facility security officer or by an equally qualified person.

3 TERMINOLOGY

3.1 ISPS Code, section A/16.3.6, states that the port facility security plan shall address the "duties of port facility personnel … on security aspects". ISPS Code, section A/18.2 and paragraph B/18.2, make reference to "port facility personnel having specific duties" and ISPS Code, paragraph B/18.3, makes reference, in relation to ISPS Code, paragraph B/18.2, to "all other port facility personnel".

3.2 ILO-IMO Code of practice on security in ports, paragraph 10.1, states that "appropriate training of personnel working in the port should maximize personal awareness and … additional or special training may be required for people in particular roles".

3.3 IMDG Code, paragraph 1.4.1.3, states that "port facility personnel engaged in the transport of dangerous goods should be aware of the security requirements for such goods, in addition to those specified in the ISPS Code, and commensurate with their responsibilities".
Moreover, IMDG Code, paragraph 1.4.1.4, states, *inter alia*, that "the training of port facility personnel having specific duties, engaged in the transport of dangerous goods, should also include elements of security awareness related to those goods".

3.4 As a result this Guidance uses the following expressions:

.1 port facility personnel "with designated security duties" to denote those having specific security duties and responsibilities in accordance with the approved port facility security plan; and

.2 port facility personnel "without designated security duties" is used to denote all other port facility personnel.

4 PORT FACILITY PERSONNEL WITHOUT DESIGNATED SECURITY DUTIES

4.1 Basic training or instruction in security awareness

4.1.1 Port facility personnel without designated security duties should be able to demonstrate competence to undertake the tasks, duties and responsibilities listed in column 1 of table 1.

4.1.2 The level of knowledge of the subjects listed in column 2 of table 1 should be sufficient to enable the person to collectively contribute to the enhancement of maritime security.

4.1.3 Persons who have satisfactorily completed approved security awareness training based on the knowledge, understanding and proficiency (KUP) set out in table 1, should be considered to have met the requirements. Those completing such training should be provided with documentary evidence to this effect to the satisfaction of the relevant SOLAS Contracting Government or Designated Authority.

4.2 Security-related familiarization training

4.2.1 Before being assigned to their duties, port facility personnel without designated security duties should receive security-related familiarization training sufficient to enable them to:

.1 report a security incident;

.2 know the procedures to follow when they recognize a security threat also in relation to dangerous goods in the meaning of the IMDG Code, as applicable; and

.3 take part in security-related emergency and contingency procedures.

4.3 Standing *vis-à-vis* the requirements of the ISPS Code and the IMDG Code

4.3.1 Port facility personnel without designated security duties complying with the requirements of paragraphs 4.1 and 4.2 should be considered as having met the requirements of ISPS Code, paragraph B/18.3 and IMDG Code, paragraph 1.4.1.5.
5 PORT FACILITY PERSONNEL WITH DESIGNATED SECURITY DUTIES

5.1 Training or instruction in designated security duties

5.1.1 Port facility personnel with designated security duties should be able to demonstrate competence to undertake the tasks, duties and responsibilities listed in column 1 of table 2.

5.1.2 The level of knowledge of the subjects listed in column 2 of table 2 should be sufficient to enable the person to perform their designated security duties.

5.1.3 Persons who have satisfactorily completed an approved training based on the knowledge, understanding and proficiency (KUP) set out in table 2, should be considered to have met the requirements. Those completing such training should be provided with documentary evidence to this effect to the satisfaction of the relevant SOLAS Contracting Government or Designated Authority.

5.2 Security-related familiarization training

5.2.1 Port facility personnel with designated security duties should, before being assigned such duties, receive security-related familiarization training in their assigned duties and responsibilities taking into account the relevant provisions of the port facility security plan.

5.3 Standing vis-à-vis the requirements of the ISPS Code and the IMDG Code

5.3.1 Port facility personnel with designated security duties who comply with the requirements of paragraphs 5.1 and 5.2 should be considered as having met the requirements of ISPS Code, section A/18.2 and paragraph B/18.2 as well as IMDG Code, paragraph 1.4.1.4.

6 ALTERNATIVE METHODS FOR DEMONSTRATING COMPETENCY

6.1 SOLAS Contracting Governments or Designated Authorities, as applicable, may allow port facility personnel to demonstrate competence to undertake the tasks, duties and responsibilities listed in column 1 of tables 1 or 2, as the case may be, by:

.1 evidence of service as port facility personnel without or with designated duties, as the case may be, for a period of at least six months in total during the preceding three years; or

.2 having performed during the preceding three years security functions considered to be equivalent, as the case may be, to the service required in paragraph 6.1.1; or

.3 passing an approved test; or

.4 successfully completing approved training.

Related documents: MSC.1/Circ.1188 and […]
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<td>Knowledge, Understanding and proficiency</td>
<td>Methods for demonstrating competence</td>
<td>Criteria for evaluating competence</td>
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<td>Contribute to the enhancement of maritime</td>
<td>Basic working knowledge of maritime security terms and definitions</td>
<td>Assessment of evidence obtained from approved instruction or during</td>
<td>Requirements relating to enhanced maritime security are correctly</td>
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<td>security through heightened awareness</td>
<td>Basic knowledge of international maritime security policy and responsibilities of Government/Designated Authority, port facility security officer and designated persons</td>
<td>attendance at an approved course</td>
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<td>Basic knowledge of security-related provisions for dangerous goods</td>
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<td>Recognition of security threats</td>
<td>Basic knowledge enabling recognition of potential security threats</td>
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<td>Basic knowledge of procedures for security-related communications</td>
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<td>Assessment of evidence obtained from approved instruction or during</td>
<td>Requirements relating to enhanced maritime security are correctly</td>
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<td>conventions and codes</td>
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<td>Working knowledge of maritime security terms and definitions</td>
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<td>Knowledge of international maritime security policy and responsibilities of Governments/Designated Authorities, RSOs, port facilities security officer and designated persons</td>
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<td>Knowledge of maritime security levels and their impact on security measures and procedures in the port facility and aboard ships</td>
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<td>Knowledge of security reporting procedures</td>
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<td>Knowledge of security-related contingency plans and the procedures for responding to security incidents, including provisions for maintaining critical operations of port facility and ship/port interface</td>
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<td>Procedures and actions are in accordance with the principles established by the SOLAS Convention, ISPS Code and the relevant provisions of the IMDG Code</td>
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<td></td>
<td>Knowledge enabling recognition of weapons, dangerous substances, dangerous goods, and devices and awareness of damage they can cause</td>
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<td></td>
<td>Knowledge of security-related provisions for dangerous goods</td>
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<tr>
<td></td>
<td>Knowledge of crowd management and control techniques, where appropriate</td>
<td></td>
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<tr>
<td></td>
<td>General knowledge of methods for recognition, on a non-discriminatory basis, of patterns who are likely to threaten security</td>
<td></td>
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</tr>
<tr>
<td>Inspection, control and monitoring activities</td>
<td>Knowledge of controlling access to the port facility and its restricted areas</td>
<td>Assessment of evidence obtained from approved instruction or during attendance at an approved course</td>
<td>Procedures and actions are in accordance with the principles established by the SOLAS Convention, ISPS Code and the relevant provisions of the IMDG Code</td>
</tr>
<tr>
<td></td>
<td>Knowledge of the techniques for monitoring restricted areas</td>
<td></td>
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<tr>
<td></td>
<td>Knowledge of methods for effective monitoring ship/port interface and areas surrounding the port facility</td>
<td></td>
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<tr>
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<td>Knowledge of inspection methods relating to the cargo and stores</td>
<td></td>
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<tr>
<td></td>
<td>Knowledge of the methods for physical searches and non-intrusive inspections</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Proper usage of security equipment and systems, if any</td>
<td>General knowledge of various types of security equipment and systems, including their limitations</td>
<td>Assessment of evidence obtained from approved instruction or during attendance at an approved course</td>
<td>Equipment and systems operations are carried out in accordance with established equipment operating instructions and taking into account the limitations of the equipment and systems</td>
</tr>
<tr>
<td></td>
<td>Knowledge of the need for testing, calibrating and maintaining security systems and equipment</td>
<td></td>
<td>Procedures and actions are in accordance with the principles established by the SOLAS Convention and the ISPS Code</td>
</tr>
</tbody>
</table>

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ANNEX 2

Ref. T2-MSS/2.11

REMAINDER IN CONNECTION WITH
SHORE LEAVE AND ACCESS TO SHIPS

1 The 2002 Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 adopted, together with SOLAS chapter XI-2 and the ISPS Code, Conference resolution 11 on Human-element-related aspects and shore leave for seafarers which, inter alia, urged SOLAS Contracting Governments to take the human element, the need to afford special protection to seafarers and the critical importance of shore leave into account when implementing the provisions of SOLAS chapter XI-2 and the ISPS Code.

2 The Maritime Safety Committee (the Committee), at its seventy-eighth session (12 to 21 May 2004), recognizing the need for additional information to assist SOLAS Contracting Governments and the industry to comply with the spirit of Conference resolution 11, while at the same time meeting their obligations under SOLAS chapter XI-2 and the ISPS Code, approved Guidance relating to shore leave and access to ships which was promulgated under cover of MSC/Circ.1112.

3 From the discussions it also emerged that some SOLAS Contracting Governments might have not implemented in an appropriate manner the related provisions of the ISPS Code, Conference resolution 11 and the aforesaid guidance which the Committee had approved in this respect, or might have not put in place effective measures to monitor that these were being implemented adequately. The Committee, at its eighty-seventh session (12 to 21 May 2010), considered the issue further. As a result, the Committee reviewed and updated the aforesaid guidance as set out in the annex and approved this circular.

4 SOLAS Contracting Governments are strongly urged to bring this circular and the attached guidance to the attention of the Designated Authorities, port and port facility operators, port facility security officers and security personnel and all national authorities responsible for the implementation, and the monitoring of the implementation, of the provisions of SOLAS chapter XI-2 and the ISPS Code and national authorities with influence over shore leave for seafarers.

5 MSC/Circ.1112 is hereby revoked. Any reference to MSC/Circ.1112 should be read as a reference to this circular.
ANNEX

SHORE LEAVE AND ACCESS TO SHIPS

1 The 2002 SOLAS Conference that adopted SOLAS chapter XI-2, the ISPS Code, and the associated Conference resolutions, was aware of the potential human aspect problems affecting the fundamental human rights of seafarers which may stem from the imposition of a security regime on international shipping on a global basis. It was recognized that seafarers would have the primary duties and responsibilities for implementing the security regime for ships. At the same time, there was concern that the emphasis on port facility security may result in ships and seafarers being viewed as a potential threat to security rather than partners in the effective implementation of the security regime.

2 In this regard, it was recognized that there may be conflicts between security and human rights, as well as between security and the efficient movement of ships and cargoes in international trade that is essential to the global economy. There must be a proper balance between the needs of security, the protection of the human rights of seafarers and port workers, and the requirement to maintain the safety, security and working efficiency of the ship by allowing access to ship support services such as the taking on of stores, repair and maintenance of essential equipment, and other vital activities that are appropriately undertaken while moored at port facilities.

3 The 2002 SOLAS Conference incorporated the protection of the fundamental human rights of seafarers into SOLAS chapter XI-2 and the ISPS Code. The Preamble to the ISPS Code clearly states that the ISPS Code shall not be interpreted in a manner that is inconsistent with existing international instruments protecting the rights and freedoms of maritime and port workers. The Preamble also called to the attention of Contracting Governments that in approving port facility security plans they should be aware of the need for seafarer's shore leave and access to shore-based welfare facilities and medical care.

4 To address these concerns and principles, section A/16.3.15 of the ISPS Code provides that a port facility security plan (PFSP) must contain procedures for facilitating shore leave, crew changes and access for visitors including representatives of seafarers' welfare and labour organizations. This should be construed as including shore-based ship support personnel and the taking on board of ship's stores. The guidance contained in paragraph B/16.8.14 of the ISPS Code reinforces this requirement by providing that the PFSP should contain such procedures relating to all security levels.

5 In approving, and when reviewing and reapproving PFSPs and amendments thereto, Contracting Governments must ensure that PFSPs address the procedures described in section A/16.3.15 of the ISPS Code, taking into account the guidance in paragraph B/16.8.14 of the ISPS Code. Contracting Governments must also ensure that the arrangements and measures which have been put in place in order to monitor the effective implementation of the provisions of the approved plans also verify that provisions of such plans in connection with shore leave and access to ships are correctly implemented. The need to have in place adequate and effective national oversight programmes has been reiterated on a number of occasions and the Contracting Governments which do not have such programmes in place should address the issue forthwith.

6 From a practical perspective, it is also important that port and port facility operators and security personnel seek a balance between the needs of security and the needs of the ship and its crew. Port facility operators and the port facility security officers should ensure coordination of shore leave for ship personnel or crew change-out, as well as access through the port facility for visitors to the ship, including representatives of seafarers' welfare and labour organizations and those concerned with the maintenance of ships' equipment and safe operation, with the
Company in advance of the ship’s arrival. A singular focus on the security of the port facility is contrary to the letter and spirit of SOLAS chapter XI-2 and the ISPS Code and has serious consequences for the international maritime transportation system that is a vital component of the global economy. It is further noted that the ILO/IMO Code of Practice for Port Security recommends that all port stakeholders work co-operatively to make such arrangements and advance plans.

7 As provided in Conference resolution 11, Contracting Governments are urged to take the human element, the need to afford special protection to seafarers and the critical importance of shore leave into account when implementing the provisions of SOLAS chapter XI-2 and the ISPS Code. Therefore, Contracting Governments, Member States of the Organization, and non-governmental organizations in consultative status with the Organization are encouraged to report to the Organization any instances where the human element has been adversely impacted by the implementation of the provisions of SOLAS chapter XI-2 and the ISPS Code and are requested to bring such instances to the attention of the Maritime Safety Committee and the Facilitation Committee.