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IMO activities to enhance maritime security *

by

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SUMMARY

IMO has, as an integral part of its mandate, the duty to make travel and transport by sea as safe as possible. In the wake of the tragic events of 11 September 2001 in the United States of America, the 22nd session of the Assembly of the International Maritime Organization (IMO), which met at the Organization's London Headquarters in November 2001, adopted resolution A.924(22) on the Review of measures and procedures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships.

Since then a number of meetings of the Maritime Safety Committee (MSC) and its Working Group on maritime security were held and new maritime security regulations were developed. These mandatory provisions are detailed in the new Chapter XI-2 of the SOLAS Convention and the new International Ship and Port Facility Security (ISPS) Code, which was subsequently adopted by a Diplomatic Conference on Maritime Security, held at the IMO headquarters in London from 9 to 13 December 2002, for formal entry into force on 1 July 2004 (if deemed accepted on 1 January 2004).

Following its meeting in May 2003, the MSC issued further clarification and guidance on a number of security related topics.

A Memorandum of Understanding (MoU) has been signed between the World Customs Organization (WCO) and the IMO in July 2001 to ensure closer co-operation. In addition to the work that the International Labour Organization (ILO) is undertaking regarding the development of a new seafarer's Identity Document, further co-operation has resulted in a Joint ILO/IMO Working Group developing comprehensive guidelines and a draft Code of Practice for the security of all port areas.

HISTORY

In the aftermath of the **Achille Lauro** incident in October 1985, the fourteenth session of the IMO Assembly, in November of that year, adopted resolution A.584(14) on Measures to prevent unlawful acts which threaten the safety of ships and the security of their passengers and crews. This resolution noted "with great concern the danger to passengers and crews resulting from the increasing number of incidents involving piracy, armed robbery and other unlawful acts against or on board ships, including small craft, both at anchor and under way".

Through that resolution, the Assembly requested the MSC to develop detailed and practical technical measures to ensure the security of passengers and crews on board ships. In doing so, the MSC was instructed to take into account the work of the International Civil Aviation Organization (ICAO) *vis-à-vis* standards and recommended practices for airport and aircraft security.

Following this meeting of the IMO Assembly, the United Nations General Assembly, in December 1985, called upon IMO "to study the problem of terrorism aboard or against ships with a view to making recommendations on appropriate measures".

This resulted in an MSC Circular “**Measures to prevent unlawful acts against passengers and crew on board ships**” (MSC/Circ.443), for application on passenger ships engaged on international voyages of 24 hours or more and the port facilities which service them. The circular recommends that Governments, port authorities, administrations, ship owners, shipmasters and crews should take appropriate measures to prevent unlawful acts which may threaten passengers and crews; stresses the need for port facilities and individual ships to have a security plan and appoint a security officer; describes in detail the way in which security surveys should be conducted and the security measures and procedures which should be adopted; and addresses security training. It is interesting to note the basic similarity between the list of issues addressed in this sixteen-year-old recommendation that applies only to passenger ships, and the list of issues that were considered for incorporation in the new mandatory provisions that will apply to all ship types.

SUA Convention and Protocol

In November 1986, the Governments of Austria, Egypt and Italy proposed that the IMO should prepare a convention on the subject of unlawful acts against the safety of maritime navigation. The proposers submitted the draft text of such a convention providing comprehensive requirements for the suppression of unlawful acts committed against the safety of maritime navigation which endanger innocent human lives; jeopardize the safety of persons and property; seriously affect the operation of maritime services and, thus, are of grave concern to the international community as a whole

Following elaboration of the draft convention by the Organization’s Legal Committee, IMO convened, in March 1988, a conference in Rome, which adopted the **Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (SUA)**. Together with the SUA Convention, the Rome Conference adopted a protocol which extends the provisions of the convention to unlawful acts against fixed platforms located on the Continental Shelf (Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf, 1988). The two instruments entered into force on 1 March 1992.

The main purpose of the SUA treaties is to ensure that appropriate action is taken against persons committing unlawful acts against ships (and fixed platforms on the continental Shelf). In this context, unlawful acts include the seizure of ships by force; acts of violence against persons on board ships; and the placing of devices on board a ship which are likely to destroy or damage it. The treaties include provisions for the absolute and unconditional application of the principle either to punish or to extradite persons who commit or have allegedly committed offences specified in the convention.

The SUA treaties are kept under periodic review by IMO’s Legal Committee, in accordance with the Assembly’s requests in resolution A.924(22).

Other security-related instruments

Other security-related instruments include MSC/Circ.754 on **Passenger ferry security**, providing a set of recommendations on security measures for passenger ferries on international voyages shorter than 24 hours, and ports; Assembly resolution A.871(20) on **Guidelines on the allocation of responsibilities to seek the successful resolution of stowaway cases**; and resolution A.872(20) on **Guidelines for the prevention and suppression of the smuggling of**

drugs, psychotropic substances and precursor chemicals on ships engaged in international maritime traffic.

RECENT ACTIVITIES AT THE IMO SINCE '9/11'

In the wake of the tragic events of 11 September 2001 in the United States of America, Assembly resolution A.924(22) (November 2001) called for a review of the existing international legal and technical measures to prevent and suppress terrorist acts against ships at sea and in port, and to improve security aboard and ashore. The aim was to reduce risks to passengers, crews and port personnel on board ships and in port areas and to the vessels and their cargoes and to enhance ship and port security and avert shipping from becoming a target of international terrorism.

The Assembly also agreed to a significant boost to the Organization's technical co-operation programme of GB £1.5 million, to help developing countries address maritime security issues. Subsequently seven regional seminars and workshops on the enhancement of maritime and port security have already been held in Kenya, Singapore, Australia, Egypt, Uruguay, Panama and Poland in 2002 and a further seven will be held initially in the remaining regions of the globe in 2003. In addition fact-finding and assessment missions and advisory services have been and will be conducted upon request of the countries concerned.

As a result of the adoption of resolution A.924(22), a Diplomatic Conference on Maritime Security, held at the London headquarters of the International Maritime Organization (IMO) from 9 to 13 December 2002, was attended by 109 Contracting Governments to the 1974 SOLAS Convention, observers from two IMO Member States and observers from the two IMO Associate Members. United Nations specialized agencies, intergovernmental organizations and non-governmental international organizations also sent observers to the Conference.

The Conference adopted a number of amendments to the International Convention for the Safety of Life at Sea (SOLAS), 1974, as amended, the most far-reaching of which enshrines the new International Ship and Port Facility Security Code (ISPS Code). The Code contains detailed security-related requirements for Governments, port authorities and shipping companies in a mandatory section (Part A), together with a series of guidelines about how to meet these requirements in a second, non-mandatory section (Part B). The Conference also adopted a series of resolutions designed to add weight to the amendments, encourage the application of the measures to ships and port facilities not covered by the Code and pave the way for future work on the subject.

REGULATORY FRAMEWORK FOR MARITIME SECURITY

General

SOLAS chapter XI has been amended to include special measures for maritime security. Specifically, SOLAS Chapter XI has been divided into two parts: Chapter XI-1: Special Measures to Enhance Maritime Safety; and Chapter XI-2: Special Measures to Enhance Maritime Security. In principle chapter XI-2 incorporates new regulations regarding definitions and the requirements for ships and port facilities. These regulations are supported by the **International Ship and Port Facility Security Code (ISPS Code)** which has a mandatory section (Part A) and a recommendatory section (Part B).. The guidance given in Part B of the ISPS Code will be taken into account when implementing the SOLAS XI-2 regulations and the provisions of Part A.

However, it is recognised that the extent to which the guidance on ships applies will depend on the type of ship, its cargoes and/or passengers, its trading pattern and the characteristics of the Port Facilities visited by the ship. Similarly, in relation to the guidance on Port Facilities, the extent to which this guidance applies will depend on the types of cargoes and/or passengers and the trading patterns of visiting vessels. In principle, the new requirements will be applicable to Mobile Offshore Drilling Units (MODUs) in transit and in port and will not apply to fixed and floating platforms and MODUs on site.

The rationale behind the new requirements

In essence, the new SOLAS chapter XI-2 and the ISPS Code take the approach that ensuring the security of ships and port facilities is basically a risk management activity and that to determine what security measures are appropriate, an assessment of the risks must be made in each particular case. The purpose of the ISPS Code is to provide a standardized, consistent framework for evaluating risk, enabling governments to offset changes in threat levels with changes in vulnerability for ships and port facilities.

This risk management concept will be embodied in the ISPS Code through a number of minimum functional security requirements for ships and port facilities. For ships, such requirements will include:

- .1 ship security plans;
- .2 ship security officers;
- .3 company security officers; and
- .4 certain onboard equipment.

For port facilities, the requirements will include:

- .1 port facility security plans; and
- .2 port facility security officers.

In addition the requirements for ships and for port facilities will include:

- .1 monitoring and controlling access;
- .2 monitoring the activities of people and cargo; and
- .3 ensuring that security communications are readily available.

To ensure implementation of all these new requirements, training and drills will obviously play an important role.

Responsibilities of Contracting Governments

Under SOLAS chapter XI-2 and Part A of the Code *Contracting Governments* can establish *Designated Authorities* within Government to undertake their security responsibilities under the Code. Governments or Designated Authorities may also delegate the undertaking of certain responsibilities to *Recognised Security Organizations (RSOs)* outside Government.

The setting of the *security level* applying at any particular time will be the responsibility of Contracting Governments and will apply to their ships and Port Facilities. The Code defines three security levels for international use:

- **Security Level 1**, normal;
- **Security Level 2**, lasting for the period of time when there is a heightened risk of a **security incident**; and
- **Security Level 3**, lasting for the period of time when there is the probable or imminent risk of a security incident.

SOLAS chapter XI-2 and the ISPS Code will require certain **information** to be provided to the IMO and information to be made available to allow effective communication between Company/Ship Security Officers and the Port Facility Security Officers responsible for the Port Facility their ships serve.

The Company and the Ship

Any shipping company operating ships to which the Code applies will have to appoint a **Company Security Officer (CSO)** for the company and a **Ship Security Officer (SSO)** for each of its ships. The responsibilities of these officers are defined, as are the requirements for their training and drills. The training needs and requirements of the SSO are being developed in the context of the STCW Convention. The CSO's responsibilities include ensuring that a **Ship Security Assessment (SSA)** is undertaken and that a **Ship Security Plan (SSP)** is prepared for each ship to which the Code applies.

The **Ship Security Plan** will indicate the operational and physical security measures the ship shall take to ensure it always operates at security level 1. The plan will also indicate the additional, or intensified, security measures the ship itself can take to move to security level 2. Furthermore, the Plan will indicate the possible preparatory actions the ship could take to allow prompt response to the instructions that may be issued to the ship by the authorities responding at security level 3 to a security incident or threat. The need for these plans to be ultimately incorporated in the ISM Code has been acknowledged. The Ship Security Plan has to be approved by, or on behalf of, the ship's Administration. The Company and Ship Security Officer will be required to monitor the continuing relevance and effectiveness of the Plan, including the undertaking of independent internal audits. Any amendments to specified elements of an approved Plan will have to be resubmitted for approval.

The ISPS Code includes provisions relating to the verification and certification of the ship's compliance with the requirements of the Code on an initial, renewal and intermediate basis. The ship will have to carry an **International Ship Security Certificate (ISSC)** indicating that it complies with the Code. The ISSC will be subject to **Port State Control (PSC)** inspections but such inspections will not extend to examination of the Ship Security Plan itself. The ship may be subject to additional control measures if there is reason to believe that the security of the ship has, or the port facilities it has served have, been compromised. The ship may be required to provide information regarding the ship, its cargo, passengers and crew prior to port entry and it is the responsibility of the company that up to date information relating to the ownership and control of the vessel is available on board. There may be circumstances in which entry into port could be denied, if the ship itself, or the port facility it served before, or another ship it interfaced with previously, are considered to be in violation with the provisions of SOLAS chapter XI-2 or part A of the ISPS Code.

The implementation of the mandatory fitting of ship-borne **Automatic Identification Systems (AIS)** for all ships of 500 gross tonnage and above, on international voyages has been

accelerated, through amendments to Regulation 19 of SOLAS Chapter V, to the first safety equipment survey after 1 July 2004 or to 1 December 2004, whichever occurs earlier.

There is also a requirement for fitting a *ship security alert system* (SSAS) for seafarers to use to notify authorities and other ships of a terrorist hijacking, and appropriate performance standards and procedures for fitting such systems on board ships have been developed. Further guidance on SSAS is given in MSC/Circ.1072 on “**Guidance on provision of ship security alert systems**” and MSC/Circ.1073 on “**Directives for maritime rescue co-ordination centres (MRCCs) on acts of violence against ships**”.

IMO is maritime security equipment and measures to prevent unauthorised boarding in ports and at sea. It is recognised that the type of equipment to be used on board would depend largely on risk assessment (e.g. ship types, trading areas). The section of the ISPS Code addressing the Ship Security Plan includes the consideration of such equipment and measures.

It was recognised that urgent action on an up-to-date **seafarer identification document** was needed. A new protocol to amend the ILO Seafarers’ Identity Documents Convention of 1958 (No. 108) is being developed for adoption by the ILO General Conference.

The Port Facility

Contracting Governments will have to undertake a *Port Facility Security Assessment (PFSA)* of its Port Facilities. This assessment is to be undertaken by the Contracting Government, a Designated Authority, or the Recognised Security Organization. The Port Facility Security Assessments will need to be reviewed over time. The results of the Port Facility Security Assessment have to be approved by the Government or Designated Authority and will be used to help determine which Port Facilities are required to appoint a *Port Facility Security Officer (PFSO)*.

The responsibilities of the *Port Facility Security Officers* are defined in the ISPS Code, as are the requirements for the training they require and the drills they will be responsible for undertaking. The Port Facility Security Officer is responsible for the preparation of the *Port Facility Security Plan (PFSP)*.

Like the Ship Security Plan, the *Port Facility Security Plan* shall indicate the operational and physical security measures the Port Facility shall take to ensure that it always operates at security level 1. The plan should also indicate the additional, or intensified, security measures the Port Facility can take to move to security level 2. Furthermore the plan should indicate the possible preparatory actions the Port Facility could take to allow prompt response to the instructions that may be issued by the authorities responding at security level 3 to a security incident or threat.

The Port Facility Security Plan has to be approved by, or on behalf of, the port facility’s Contracting Government. The Port Facility Security Officer must ensure that its provisions are implemented and monitor the continuing effectiveness and relevance of the approved plan, including commissioning independent internal audits of the application of the plan. The effectiveness of the plan may also be tested by the relevant Authorities. The Port Facility Security Assessment covering the Port Facility may also be reviewed. All these activities may lead to amendments to the approved plan. Major amendments to an approved plan will have to be submitted to the approving authority for re-approval.

CONFERENCE RESOLUTIONS

A number of other longer-term maritime security-related issues were also raised during the discussions at IMO in the last year. As a result, apart from the resolutions adopting the SOLAS amendments and the ISPS Code, nine Conference resolutions were adopted, which address:

- .1 Further work by the International Maritime Organization pertaining to the enhancement of maritime security;
- .2 Future amendments to Chapters XI-1 and XI-2 of the 1974 SOLAS Convention on special measures to enhance maritime safety and security;
- .3 Promotion of technical co-operation and assistance;
- .4 Early implementation of the special measures to enhance maritime security;
- .5 Establishment of appropriate measures to enhance the security of ships, port facilities, mobile offshore drilling units on location and fixed and floating platforms not covered by chapter XI-2 of the 1974 SOLAS Convention;
- .6 Enhancement of security in co-operation with the International Labour Organization;
- .7 Enhancement of security in co-operation with the World Customs Organization;
- .8 Early implementation of long-range ships' identification and tracking; and
- .9 Human element-related aspects and shore leave for seafarers.

FUTURE DEVELOPMENTS

Pursuant to the adoption of draft SOLAS chapter XI-2 and the draft ISPS Code by the Diplomatic Conference, work is underway by IMO, or in co-operation with other relevant international organizations, on the development of:

- .1 requirements for long-range tracking and identification systems;
- .2 the seafarers' identity document (in co-operation with ILO);
- .3 measures to enhance security in the multi modal movement of CTUs (in co-operation with WCO); and
- .4 comprehensive port security requirements (in co-operation with ILO).

In accordance with the Conference resolution on Further work by the International Maritime Organization pertaining to the enhancement of maritime security other work is needed to:

- .1 develop training guidance such as model courses for ship security officers, company security officers, port facility security officers and company, ship and port security personnel;
- .2 review the Organization's Assembly resolution A.787(19) as amended by resolution A.882(21) on Procedures for port State control and, if found necessary, develop appropriate amendments thereto;
- .3 consider the need and, if necessary, develop further guidance on control and compliance measures on aspects other than those already addressed in part B of the ISPS Code;
- .4 consider the need and, if necessary, develop guidelines on Recognized security organizations;
- .5 review the Organization's Assembly resolution A.890(21) on Principles of safe manning and, if found necessary, develop appropriate amendments thereto;
- .6 review the aspect of security of ships to which chapter XI-2 applies when interfacing with floating production storage units and floating storage units and take action as appropriate;
- .7 consider, in the context of security, relevant aspects of facilitation of maritime traffic such as, for example, port arrivals and departures, standardized forms of reporting and electronic data interchange and take action as appropriate;
- .8 review the Organization's Assembly resolution A.872(20) on Guidelines for the Prevention and Suppression of the Smuggling of Drugs, Psychotropic Substances and Precursor Chemicals on Ships Engaged in International Maritime Traffic and, if necessary, develop appropriate amendments thereto; and
- .9 consider the need and, if necessary, develop any other guidance or guidelines to ensure the global, uniform and consistent implementation of the provisions of chapter XI-2 or part A of the ISPS Code;

and to adopt them in time before the entry into force of the amendments to the Convention adopted by the Conference or as and when the Organization considers appropriate.

ANNEX 1

SOLAS Chapter XI-2

SPECIAL MEASURES TO ENHANCE MARITIME SECURITY

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REGULATION 2 - APPLICATION

**REGULATION 3 - OBLIGATIONS OF CONTRACTING GOVERNMENTS WITH
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INTERNATIONAL CODE FOR THE SECURITY OF SHIPS AND PORT FACILITIES

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it is important to protect

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