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REMINDER 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, in adopting SOLAS chapter XI-2 and the ISPS Code, also adopted 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, 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 relevant provisions 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 The Committee, at its eighty-seventh session (12 to 21 May 2010), considered the issue further and it emerged from the discussions 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 reviewed and updated the Guidance annexed to MSC/Circ.1112 and approved the Guidance on shore leave and access to ships, set out in the annex.

4 SOLAS Contracting Governments are strongly urged to bring the annexed 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 The Committee revoked MSC/Circ.1112 and resolved that any reference to MSC/Circ.1112 should be read as a reference to this circular.

ANNEX

GUIDANCE ON 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 should 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, paragraph A/16.3.15 of the ISPS Code provides that a port facility security plan (PFSP) shall 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 provisions of 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 PFSPs and amendments thereto, Contracting Governments should ensure that PFSPs address the procedures described in paragraph 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 should 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, SOLAS 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.
