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MSC-FAL.1/Circ.2
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**QUESTIONNAIRE ON INFORMATION ON PORT AND COASTAL STATE
REQUIREMENTS RELATED TO PRIVATELY CONTRACTED ARMED SECURITY
PERSONNEL ON BOARD SHIPS**

1 The Maritime Safety Committee, at its eighty-ninth session (11 to 20 May 2011) (MSC 89), having noted the increasing use of armed personnel on board ships operating in the High Risk Area¹, decided, on the understanding that the carriage of armed personnel was a matter to be decided by the shipowner within the framework of the national legislation and policies of the flag State concerned, that there was an urgent need for a consistent approach to the issue and the avoidance of an escalation of violence due to the inappropriate use of force. In this respect MSC 89 approved MSC.1/Circ.1405² on Interim Guidance to shipowners, ship operators, and shipmasters on the use of privately contracted armed security personnel on board ships in the High Risk Area, and MSC.1/Circ.1406³ on Interim Recommendations for Flag States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area.

2 Given the importance and urgent nature of these issues, MSC 89 agreed also that there was an urgent need to develop further recommendations to Governments and, in particular for coastal and port States, on aspects related to the embarkation, disembarkation and carriage of privately contracted armed security personnel (PCASP) and of firearms and security-related equipment⁴ for use by PCASP. In this respect MSC 89, inter alia:

- (1) requested the Facilitation Committee at its thirty-seventh session (5 to 9 September 2011) (FAL 37) to consider the above-mentioned issues; and
- (2) approved, subject to authorization by the Council, the convening of an intersessional meeting of the Maritime Security and Piracy Working Group (the Group).

3 FAL 37 considered the above-mentioned issues and, inter alia, decided that both Committees should liaise with the various national authorities responsible for regulating the embarkation, disembarkation and carriage of firearms and security-related equipment through their territory and the movement of PCASP, and should collect and disseminate information on the relevant national legislation, policies and procedures. In this respect and

¹ High Risk Area: an area as defined in the Best Management Practices for Protection against Somalia Based Piracy (MSC.1/Circ.1339) unless otherwise defined by the flag State.

² Revoked and replaced by MSC.1/Circ.1405/Rev.1.

³ Revoked and replaced by MSC.1/Circ.1406/Rev.1.

⁴ In this questionnaire, all references to firearms include the associated ammunition, consumables, spare parts and maintenance equipment for use by PCASP, and all references to security-related equipment includes protective and communication equipment for use by PCASP.

with a view to collecting the relevant information in a systematic manner FAL 37 developed a draft questionnaire for consideration and completion by Member Governments.

4 The Group, which met from 13 to 15 September 2011, taking into account the discussions during MSC 89 and FAL 37, the draft questionnaire developed by FAL 37 and the result of its deliberation, finalized and decided to circulate the Questionnaire on information on port and coastal State requirements related to privately contracted armed security personnel on board ships set out in the annex.

5 In the present circular and on the attached questionnaire, all references to firearms include the associated ammunition, consumables, spare parts and maintenance equipment for use by PCASP, and all references to security-related equipment includes protective and communication equipment for use by PCASP.

6 In view of the growing use of PCASP in the High Risk Area and the need to enhance the protection of ships navigating in the High Risk Area, flag States, the shipping industry and the private maritime security companies (PMSC) who provide PCASP need to know whether and under what conditions the embarkation and disembarkation of PCASP and/or of firearms and security-related equipment for use by PCASP is allowed. In addition, the shipping industry, masters of ships and the PCASP service providers need to know what requirements they have to comply with when, during its voyage, a ship carrying a PCASP is arriving in, staying at and departing from ports, offshore terminals, anchorage or roadstead located areas within the territory or under the jurisdiction of a port or a coastal State.

7 As a result Member Governments, and, in particular, those of the coastal States bordering the Indian Ocean, Arabian Sea, Gulf of Aden and Red Sea either as SOLAS Contracting Governments or as FAL Contracting Governments, or both, should raise awareness of their relevant national legislation, policies and procedures relating to the carriage, embarkation and disembarkation of firearms and security-related equipment through their territory and the movement of PCASP.

8 Member Governments are urged to complete the attached questionnaire and submit it to the Organization at their earliest convenience and preferably not later than 30 November 2011, if possible with a copy of their related national legislation, policies and procedures. The responses to the questionnaire and any related national legislation, policies and procedures provided will be posted by the Secretariat, in the language received⁵, on IMO's public website. In view of the importance of the issue, Member Governments are also urged to provide to the Organization follow-up information in case of changes in their national legislation, policies and procedures on the issue, as and when such changes occur.

⁵ If the information provided by Member States is not in one of the official languages of the Organization, Member States are encouraged to provide a summary of the legislation in English.

ANNEX

QUESTIONNAIRE ON INFORMATION ON PORT AND COASTAL STATE REQUIREMENTS RELATED TO PRIVATELY CONTRACTED ARMED SECURITY PERSONNEL ON BOARD SHIPS

(The present questionnaire should be read in conjunction with MSC.1/Circ.1408 on the Interim Recommendations for port and coastal States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area¹)

1 Requirements regarding ships intending to enter in or depart from your ports, anchorages, roadstead or offshore terminals when carrying firearms and/or security-related equipment and/or PCASP².

1.1 Do you require specific notification from ships intending to enter in or depart from your ports, anchorages, roadstead or offshore terminals?

- .1 If yes,
- What information do you require?
 - When do you require it?
 - To whom is it required to be sent?

Note: FAL Standard 2.2, establishes the principle that the "General Declaration" (IMO FAL Form 1) shall be the document providing data required by public authorities relating to the ship.

1.2 Do you require information regarding flag State authorization for use of PCASP and/or the firearms and/or the security-related equipment for use by the PCASP from ships intending to enter in or depart from your ports, anchorages, roadstead or offshore terminals?

- .1 If yes,
- What information do you require?
 - When do you require it?
 - To whom is it required to be sent?

Note: MSC.1/Circ.1406/Rev.1 establishes the principle that "Flag States should have in place a policy on whether or not the use of PCASP will be authorized and, if so, under which conditions." This policy "may include a process for authorizing the use of PCASP which have been found to meet minimum requirements for ships flying its flag."

¹ High Risk Area: an area as defined in the Best Management Practices for Protection against Somalia Based Piracy (MSC.1/Circ.1339) unless otherwise defined by the flag State.

² All references to firearms include the associated ammunition, consumables, spare parts and maintenance equipment for use by PCASP, and all references to security-related equipment includes protective and communication equipment for use by PCASP.

1.3 Do you require specific notification regarding firearms for use by the PCASP carried on board ships intending to enter in or depart from your ports, anchorages, roadstead or offshore terminals?

.1 If yes,

- What information do you require?
- When do you require it?
- To whom is it required to be sent?

Note: FAL Standard 2.4 establishes the principle that the "Ship's Stores Declaration" (IMO FAL Form 3) shall be the document providing data required by public authorities.

1.4 Do you require specific notification regarding security-related equipment for use by the PCASP carried on board ships intending to enter in or depart from your ports, anchorages, roadstead or offshore terminals?

.1 If yes,

- What information do you require?
- When do you require it?
- To whom is it required to be sent?

Note: FAL Standard 2.4, establishes the principle that the "Ship's Stores Declaration" (IMO FAL Form 3) shall be the document providing data required by public authorities.

1.5 Do you require specific notification regarding PCASP carried on board ships intending to enter in or depart from your ports, anchorages, roadstead or offshore terminals?

.1 If yes,

- What information do you require?
- When do you require it?
- To whom is it required to be sent?

Note: FAL Standard 2.6 establishes the principle that the "Crew List" (FAL Form 5) shall be the document providing data required by public authorities.

1.6 What requirements, if any, do you have in place for ships carrying firearms and/or the security-related equipment for use by the PCASP or PCASP when transiting through your territorial seas and/or contiguous zones before arrival in or after departure from your ports, anchorages, roadstead or offshore terminals?

2 Requirements regarding ships intending to enter in or depart from your ports, anchorages, roadstead or offshore terminals for the purpose of embarking or disembarking firearms and/or security-related equipment and/or PCASP.

2.1 Do you allow the embarkation or disembarkation of firearms and/or the security-related equipment for use by the PCASP or of PCASP in your ports, anchorages, roadstead or offshore terminals or elsewhere in your territorial sea(s)?

- .1 If yes,
- What information do you require?
 - When do you require it?
 - To whom is it required to be sent?

2.2 Do you require information regarding flag State authorization for use of PCASP and/or the firearms and/or the security-related equipment for use by the PCASP from ships intending to enter in or depart from your ports for the purpose of embarking or disembarking firearms and/or the security-related equipment for use by the PCASP or PCASP?

- .1 If yes,
- What information do you require?
 - When do you require it?
 - To whom is it required to be sent?

Note: MSC.1/Circ.1406/Rev.1 establishes the principle that "Flag States should have in place a policy on whether or not the use of PCASP will be authorized and, if so, under which conditions." This policy "may include a process for authorizing the use of PCASP which have been found to meet minimum requirements for ships flying its flag."

2.3 What requirements, if any, do you have in place in connection with the import or arrival in and/or export or departure from your territory of firearms and/or security-related equipment for use by PCASP?

2.4 What requirements, if any, do you have in place in connection with the storage, security or control of the firearms and/or security-related equipment for use by the PCASP prior to their embarkation or after their disembarkation?

2.5 What requirements, if any, do you have in place in connection with the storage, security or control of the firearms and/or security-related equipment carried on board for use by the PCASP after their embarkation or prior to their disembarkation, when the ship is in your port, anchorage, roadstead or territorial waters?

2.6 What requirements, if any, do you have in place for ships carrying firearms and/or the security-related equipment for use by the PCASP or of PCASP (which they have embarked your anchorages, roadstead or offshore terminals) when transiting through your territorial seas and/or contiguous zones after departure from your ports, anchorages, roadstead or offshore terminals?

3 Reporting of security-related incidents in territorial seas.

3.1 What do you consider to constitute a security incident in your territorial sea(s)?

3.2 Do you require information regarding security-related incidents occurring in your territorial sea(s)?

- .1 If yes,
- What information do you require?
 - When do you require it?
 - To whom is it required to be sent?