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SHORE LEAVE AND ACCESS TO SHIPS UNDER THE ISPS CODE

1 The Conference of Contracting Governments to the International Convention for the Safety of Lives at Sea (SOLAS), 1974 (London, 9 to 12 December 2002), adopted, *inter alia*, amendments to the Annex to the Convention, as amended, in particular new chapter XI-2 on Special measures to enhance maritime security and the new International Code for the Security of Ships and Port Facilities (ISPS Code).

2 The Conference also adopted Conference resolution 11 on Human-element-related aspects and shore leave for seafarers which, *inter alia*, urged 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.

3 The Maritime Safety Committee, at its seventy-eighth session (12 to 21 May 2004), recognizing and considering the need for additional information to assist Contracting Governments and the industry to comply with the spirit of Conference resolution 7, while at the same time meeting their obligations under SOLAS chapter XI-2 and the ISPS Code, directed its Maritime Security Working Group to examine and provide additional guidance on specific aspects of shore leave and access to ships under the ISPS Code.

4 The Guidance relating to shore leave and access to ships, as approved by the Committee, is given at annex.

5 Member Governments and international organizations are invited to bring this circular to the attention of national Designated Authorities, Administrations, port facility security officers, maritime industry and all other parties concerned responsible for the implementation of maritime security measures.

ANNEX**SHORE LEAVE AND ACCESS TO SHIPS UNDER THE ISPS CODE**

1 The 2002 SOLAS Conference that adopted SOLAS chapter XI-2, the ISPS Code, and associated conference resolutions, was aware of potential human aspect problems affecting the fundamental human rights of seafarers with 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 new security regime for ships. At the same time, there was concern that the emphasis on port facility security may result in the ship and seafarers being viewed as a potential threat to security rather than partners in the new 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 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 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 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 onboard 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 PFSPs, 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.

6 From a practical perspective, it is also important that port facilities seek a balance between the needs of security and the needs of the ship and its crew. A port facility operator should ensure co-ordination 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 ship operators 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 the ISPS Code and will have 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 of the 2002 SOLAS Conference, 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 requests that they bring such instances to the attention of the Maritime Safety Committee and the Facilitation Committee.
