

ANNEX I

AMENDMENTS TO THE ANNEX TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974 AS AMENDED

'CHAPTER XI-2

SPECIAL MEASURES TO ENHANCE MARITIME SECURITY

Regulation 1

Definitions

- 1 For the purpose of this chapter, unless expressly provided otherwise:
- .1 Bulk carrier means a bulk carrier as defined in regulation IX/1.6.
 - .2 Chemical tanker means a chemical tanker as defined in regulation VII/8.2.
 - .3 Gas carrier means a gas carrier as defined in regulation VII/11.2.
 - .4 High-speed craft means a craft as defined in regulation X/1.2.
 - .5 Mobile offshore drilling unit means a mechanically propelled mobile offshore drilling unit, as defined in regulation IX/1, not on location.
 - .6 Oil tanker means an oil tanker as defined in regulation II-1/2.12.
 - .7 Company means a Company as defined in regulation IX/1.
 - .8 Ship/port interface means the interactions that occur when a ship is directly and immediately affected by actions involving the movement of persons, goods or the provisions of port services to or from the ship.
 - .9 Port facility is a location, as determined by the Contracting Government or by the Designated Authority, where the ship/port interface takes place. This includes areas such as anchorages, waiting berths and approaches from seaward, as appropriate.
 - .10 Ship to ship activity means any activity not related to a port facility that involves the transfer of goods or persons from one ship to another.
 - .11 Designated Authority means the organisation(s) or the administration(s) identified, within the Contracting Government, as responsible for ensuring the implementation of the provisions of this chapter pertaining to port facility security and ship/port interface, from the point of view of the port facility.
 - .12 International Ship and Port Facility Security (ISPS) Code means the International Code for the Security of Ships and of Port Facilities consisting of Part A (the provisions of which shall be treated as mandatory) and part B (the provisions of which shall be treated as recommendatory), as adopted, on 12 December 2002, by resolution 2 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 as may be amended by the Organisation, provided that:
 - .1 amendments to part A of the Code are adopted, brought into force and take effect in accordance with article VIII of the present Convention concerning the amendment procedures applicable to the Annex other than chapter I; and
 - .2 amendments to part B of the Code are adopted by the Maritime Safety Committee in accordance with its Rules of Procedure.
 - .13 Security incident means any suspicious act or circumstance threatening the security of a ship, including a mobile offshore drilling unit and a high speed craft, or of a port facility or of any ship/port interface or any ship to ship activity.
 - .14 Security level means the qualification of the degree of risk that a security incident will be attempted or will occur.

- .15 Declaration of security means an agreement reached between a ship and either a port facility or another ship with which it interfaces specifying the security measures each will implement.
- .16 Recognised security organisation means an organisation with appropriate expertise in security matters and with appropriate knowledge of ship and port operations authorised to carry out an assessment, or a verification, or an approval or a certification activity, required by this chapter or by part A of the ISPS Code.
- 2 The term “ship”, when used in regulations 3 to 13, includes mobile offshore drilling units and high-speed craft.
- 3 The term “all ships”, when used in this chapter, means any ship to which this chapter applies.
- 4 The term “Contracting Government”, when used in regulations 3, 4, 7, 10, 11, 12 and 13 includes a reference to the “Designated Authority”.

Regulation 2

Application

- 1 This chapter applies to:
- .1 the following types of ships engaged on international voyages:
 - .1.1. passenger ships, including high-speed passenger craft;
 - .1.2. cargo ships, including high-speed craft, of 500 gross tonnage and upwards; and
 - .1.3. mobile offshore drilling units; and
 - .2 port facilities serving such ships engaged on international voyages.
- 2 Notwithstanding the provisions of paragraph 1.2, Contracting Governments shall decide the extent of application of this chapter and of the relevant sections of part A of the ISPS Code to those port facilities within their territory which, although used primarily by ships not engaged on international voyages, are required, occasionally, to serve ships arriving or departing on an international voyage.
- 2.1 Contracting Governments shall base their decisions, under paragraph 2, on a port facility security assessment carried out in accordance with the provisions of part A of the ISPS Code.
- 2.2 Any decision which a Contracting Government makes, under paragraph 2, shall not compromise the level of security intended to be achieved by this chapter or by part A of the ISPS Code.
- 3 This chapter does not apply to warships, naval auxiliaries or other ships owned or operated by a Contracting Government and used only on Government non-commercial service.
- 4 Nothing in this chapter shall prejudice the rights or obligations of States under international law.

Regulation 3

Obligations of Contracting Governments with respect to security

- 1 Administrations shall set security levels and ensure the provision of security level information to ships entitled to fly their flag. When changes in security level occur, security level information shall be updated as the circumstance dictates.
- 2 Contracting Governments shall set security levels and ensure the provision of security level information to port facilities within their territory, and to ships prior to entering a port or whilst in a port within their territory. When changes in security level occur, security level information shall be updated as the circumstance dictates.

Regulation 4

Requirements for Companies and ships

- 1 Companies shall comply with the relevant requirements of this chapter and of part A of the ISPS Code, taking into account the guidance given in part B of the ISPS Code.
- 2 Ships shall comply with the relevant requirements of this chapter and of part A of the ISPS Code, taking into account the guidance given in part B of the ISPS Code, and such compliance shall be verified and certified as provided for in part A of the ISPS Code.
- 3 Prior to entering a port or whilst in a port within the territory of a Contracting Government, a ship shall comply with the requirements for the security level set by that Contracting Government, if such security level is higher than the security level set by the Administration for that ship.
- 4 Ships shall respond without undue delay to any change to a higher security level.
- 5 Where a ship is not in compliance with the requirements of this chapter or of part A of the ISPS Code, or cannot comply with the requirements of the security level set by the Administration or by another Contracting Government and applicable to that ship, then the ship shall notify the appropriate competent authority prior to conducting any ship/port interface or prior to entry into port, whichever occurs earlier.

Regulation 5

Specific responsibility of Companies

The Company shall ensure that the master has available on board, at all times, information through which officers duly authorised by a Contracting Government can establish:

- .1 who is responsible for appointing the members of the crew or other persons currently employed or engaged on board the ship in any capacity on the business of that ship;
- .2 who is responsible for deciding the employment of the ship; and
- .3 in cases where the ship is employed under the terms of charter party(ies), who are the parties to such charter party(ies).

Regulation 6

Ship security alert system

- 1 All ships shall be provided with a ship security alert system, as follows:
 - .1 ships constructed on or after 1 July 2004;
 - .2 passenger ships, including high-speed passenger craft, constructed before 1 July 2004, not later than the first survey of the radio installation after 1 July 2004;
 - .3 oil tankers, chemical tankers, gas carriers, bulk carriers and cargo high speed craft, of 500 gross tonnage and upwards constructed before 1 July 2004, not later than the first survey of the radio installation after 1 July 2004; and
 - .4 other cargo ships of 500 gross tonnage and upward and mobile offshore drilling units constructed before 1 July 2004, not later than the first survey of the radio installation after 1 July 2006.
2. The ship security alert system, when activated, shall:
 - .1 initiate and transmit a ship-to-shore security alert to a competent authority designated by the Administration, which in these circumstances may include the Company, identifying the ship, its location and indicating that the security of the ship is under threat or it has been compromised;
 - .2 not send the ship security alert to any other ships;
 - .3 not raise any alarm on-board the ship; and
 - .4 continue the ship security alert until deactivated and/or reset.

- 3 The ship security alert system shall:
 - .1 be capable of being activated from the navigation bridge and in at least one other location; and
 - .2 conform to performance standards not inferior to those adopted by the Organisation.
- 4 The ship security alert system activation points shall be designed so as to prevent the inadvertent initiation of the ship security alert.
- 5 The requirement for a ship security alert system may be complied with by using the radio installation fitted for compliance with the requirements of chapter IV, provided all requirements of this regulation are complied with.
- 6 When an Administration receives notification of a ship security alert, that Administration shall immediately notify the State(s) in the vicinity of which the ship is presently operating.
- 7 When a Contracting Government receives notification of a ship security alert from a ship which is not entitled to fly its flag, that Contracting Government shall immediately notify the relevant Administration and, if appropriate, the State(s) in the vicinity of which the ship is presently operating.

Regulation 7

Threats to ships

- 1 Contracting Governments shall set security levels and ensure the provision of security level information to ships operating in their territorial sea or having communicated an intention to enter their territorial sea.
- 2 Contracting Governments shall provide a point of contact through which such ships can request advice or assistance and to which such ships can report any security concerns about other ships, movements or communications.
- 3 Where a risk of attack has been identified, the Contracting Government concerned shall advise the ships concerned and their Administrations of:
 - .1 the current security level;
 - .2 any security measures that should be put in place by the ships concerned to protect themselves from attack, in accordance with the provisions of part A of the ISPS Code; and
 - .3 security measures that the coastal State has decided to put in place, as appropriate.

Regulation 8

Master's discretion for ship safety and security

- 1 The master shall not be constrained by the Company, the charterer or any other person from taking or executing any decision which, in the professional judgement of the master, is necessary to maintain the safety and security of the ship. This includes denial of access to persons (except those identified as duly authorised by a Contracting Government) or their effects and refusal to load cargo, including containers or other closed cargo transport units.
- 2 If, in the professional judgement of the master, a conflict between any safety and security requirements applicable to the ship arises during its operations, the master shall give effect to those requirements necessary to maintain the safety of the ship. In such cases, the master may implement temporary security measures and shall forthwith inform the Administration and, if appropriate, the Contracting Government in whose port the ship is operating or intends to enter. Any such temporary security measures under this regulation shall, to the highest possible degree, be commensurate with the prevailing security level. When such cases are identified, the Administration shall ensure that such conflicts are resolved and that the possibility of recurrence is minimised.

Regulation 9

Control and compliance measures

1 Control of ships in port

- 1.1 For the purpose of this chapter, every ship to which this chapter applies is subject to control when in a port of another Contracting Government by officers duly authorised by that Government, who may be the same as those carrying out the functions of regulation I/19. Such control shall be limited to verifying that there is onboard a valid International Ship Security Certificate or a valid Interim International Ship Security Certificate issued under the provisions of part A of the ISPS Code (Certificate), which if valid shall be accepted, unless there are clear grounds for believing that the ship is not in compliance with the requirements of this chapter or part A of the ISPS Code.
- 1.2 When there are such clear grounds, or when no valid Certificate is produced when required, the officers duly authorised by the Contracting Government shall impose any one or more control measures in relation to that ship as provided in paragraph 1.3. Any such measures imposed must be proportionate, taking into account the guidance given in part B of the ISPS Code.
- 1.3 Such control measures are as follows: inspection of the ship, delaying the ship, detention of the ship, restriction of operations including movement within the port, or expulsion of the ship from port. Such control measures may additionally or alternatively include other lesser administrative or corrective measures.

2 Ships intending to enter a port of another Contracting Government

- 2.1 For the purpose of this chapter, a Contracting Government may require that ships intending to enter its ports provide the following information to officers duly authorised by that Government to ensure compliance with this chapter prior to entry into port with the aim of avoiding the need to impose control measures or steps:
 - .1 that the ship possesses a valid Certificate and the name of its issuing authority;
 - .2 the security level at which the ship is currently operating;
 - .3 the security level at which the ship operated in any previous port where it has conducted a ship/port interface within the timeframe specified in paragraph 2.3;
 - .4 any special or additional security measures that were taken by the ship in any previous port where it has conducted a ship/port interface within the timeframe specified in paragraph 2.3;
 - .5 that the appropriate ship security procedures were maintained during any ship to ship activity within the timeframe specified in paragraph 2.3; or
 - .6 other practical security related information (but not details of the ship security plan), taking into account the guidance given in part B of the ISPS Code.

If requested by the Contracting Government, the ship or the Company shall provide confirmation, acceptable to that Contracting Government, of the information required above.

- 2.2 Every ship to which this chapter applies intending to enter the port of another Contracting Government shall provide the information described in paragraph 2.1 on the request of the officers duly authorised by that Government. The master may decline to provide such information on the understanding that failure to do so may result in denial of entry into port.
- 2.3 The ship shall keep records of the information referred to in paragraph 2.1 for the last 10 calls at port facilities.

2.4 If, after receipt of the information described in paragraph 2.1, officers duly authorised by the Contracting Government of the port in which the ship intends to enter have clear grounds for believing that the ship is in non-compliance with the requirements of this chapter or part A of the ISPS Code, such officers shall attempt to establish communication with and between the ship and the Administration in order to rectify the non-compliance. If such communication does not result in rectification, or if such officers have clear grounds otherwise for believing that the ship is in non-compliance with the requirements of this chapter or part A of the ISPS Code, such officers may take steps in relation to that ship as provided in paragraph 2.5. Any such steps taken must be proportionate, taking into account the guidance given in part B of the ISPS Code.

2.5 Such steps are as follows:

- .1 a requirement for the rectification of the non-compliance;
- .2 a requirement that the ship proceed to a location specified in the territorial sea or internal waters of that Contracting Government;
- .3 inspection of the ship, if the ship is in the territorial sea of the Contracting Government the port of which the ship intends to enter; or
- .4 denial of entry into port.

Prior to initiating any such steps, the ship shall be informed by the Contracting Government of its intentions. Upon this information the master may withdraw the intention to enter that port. In such cases, this regulation shall not apply.

3. Additional provisions

3.1 In the event:

- .1 of the imposition of a control measure, other than a lesser administrative or corrective measure, referred to in paragraph 1.3; or
- .2 any of the steps referred to in paragraph 2.5 are taken, an officer duly authorised by the Contracting Government shall forthwith inform in writing the Administration specifying which control measures have been imposed or steps taken and the reasons thereof. The Contracting Government imposing the control measures or steps shall also notify the recognised security organisation, which issued the Certificate relating to the ship concerned and the Organisation when any such control measures have been imposed or steps taken.

3.2 When entry into port is denied or the ship is expelled from port, the authorities of the port State should communicate the appropriate facts to the authorities of the State of the next appropriate ports of call, when known, and any other appropriate coastal States, taking into account guidelines to be developed by the Organisation. Confidentiality and security of such notification shall be ensured.

3.3 Denial of entry into port, pursuant to paragraphs 2.4 and 2.5, or expulsion from port, pursuant to paragraphs 1.1 to 1.3, shall only be imposed where the officers duly authorised by the Contracting Government have clear grounds to believe that the ship poses an immediate threat to the security or safety of persons, or of ships or other property and there are no other appropriate means for removing that threat.

3.4 The control measures referred to in paragraph 1.3 and the steps referred to in paragraph 2.5 shall only be imposed, pursuant to this regulation, until the non-compliance giving rise to the control measures or steps has been corrected to the satisfaction of the Contracting Government, taking into account actions proposed by the ship or the Administration, if any.

3.5 When Contracting Governments exercise control under paragraph 1 or take steps under paragraph 2:

- .1 all possible efforts shall be made to avoid a ship being unduly detained or delayed. If a ship is thereby unduly detained, or delayed, it shall be entitled to compensation for any loss or damage suffered; and
- .2 necessary access to the ship shall not be prevented for emergency or humanitarian reasons and for security purposes.

Regulation 10

Requirements for port facilities

- 1 Port facilities shall comply with the relevant requirements of this chapter and part A of the ISPS Code, taking into account the guidance given in part B of the ISPS Code.
- 2 Contracting Governments with a port facility or port facilities within their territory, to which this regulation applies, shall ensure that:
 - .1 port facility security assessments are carried out, reviewed and approved in accordance with the provisions of part A of the ISPS Code; and
 - .2 port facility security plans are developed, reviewed, approved and implemented in accordance with the provisions of part A of the ISPS Code.
3. Contracting Governments shall designate and communicate the measures required to be addressed in a port facility security plan for the various security levels, including when the submission of a Declaration of Security will be required.

Regulation 11

Alternative security agreements

- 1 Contracting Governments may, when implementing this chapter and part A of the ISPS Code, conclude in writing bilateral or multilateral agreements with other Contracting Governments on alternative security arrangements covering short international voyages on fixed routes between port facilities located within their territories.
- 2 Any such agreement shall not compromise the level of security of other ships or of port facilities not covered by the agreement.
- 3 No ship covered by such an agreement shall conduct any ship-to-ship activities with any ship not covered by the agreement.
- 4 Such agreements shall be reviewed periodically, taking into account the experience gained as well as any changes in the particular circumstances or the assessed threats to the security of the ships, the port facilities or the routes covered by the agreement.

Regulation 12

Equivalent security arrangements

- 1 An Administration may allow a particular ship or a group of ships entitled to fly its flag to implement other security measures equivalent to those prescribed in this chapter or in part A of the ISPS Code, provided such security measures are at least as effective as those prescribed in this chapter or part A of the ISPS Code. The Administration, which allows such security measures, shall communicate to the Organisation particulars thereof.
- 2 When implementing this chapter and part A of the ISPS Code, a Contracting Government may allow a particular port facility or a group of port facilities located within its territory, other than those covered by an agreement concluded under regulation 11, to implement security measures equivalent to those prescribed in this chapter or in Part A of the ISPS Code, provided such security measures are at least as effective as those prescribed in this chapter or part A of the ISPS Code. The Contracting Government, which allows such security measures, shall communicate to the Organisation particulars thereof.

Regulation 13

Communication of information

- 1 Contracting Governments shall, not later than 1 July 2004, communicate to the Organisation and shall make available for the information of Companies and ships:
 - .1 the names and contact details of their national authority or authorities responsible for ship and port facility security;
 - .2 the locations within their territory covered by the approved port facility security plans;
 - .3 the names and contact details of those who have been designated to be available at all times to receive and act upon the ship-to-shore security alerts, referred to in regulation 6.2.1;
 - .4 the names and contact details of those who have been designated to be available at all times to receive and act upon any communications from Contracting Governments exercising control and compliance measures, referred to in regulation 9.3.1; and
 - .5 the names and contact details of those who have been designated to be available at all times to provide advice or assistance to ships and to whom ships can report any security concerns, referred to in regulation 7.2; and thereafter update such information as and when changes relating thereto occur. The Organisation shall circulate such particulars to other Contracting Governments for the information of their officers.
- 2 Contracting Governments shall, not later than 1 July 2004, communicate to the Organisation the names and contact details of any recognised security organisations authorised to act on their behalf together with details of the specific responsibility and conditions of authority delegated to such organisations. Such information shall be updated as and when changes relating thereto occur. The Organisation shall circulate such particulars to other Contracting Governments for the information of their officers.
- 3 Contracting Governments shall, not later than 1 July 2004 communicate to the Organisation a list showing the approved port facility security plans for the port facilities located within their territory together with the location or locations covered by each approved port facility security plan and the corresponding date of approval and thereafter shall further communicate when any of the following changes take place:
 - .1 changes in the location or locations covered by an approved port facility security plan are to be introduced or have been introduced. In such cases the information to be communicated shall indicate the changes in the location or locations covered by the plan and the date as of which such changes are to be introduced or were implemented;
 - .2 an approved port facility security plan, previously included in the list submitted to the Organisation, is to be withdrawn or has been withdrawn. In such cases, the information to be communicated shall indicate the date on which the withdrawal will take effect or was implemented. In these cases, the communication shall be made to the Organisation as soon as is practically possible; and
 - .3 additions are to be made to the list of approved port facility security plans. In such cases, the information to be communicated shall indicate the location or locations covered by the plan and the date of approval.
- 4 Contracting Governments shall, at five year intervals after 1 July 2004, communicate to the Organisation a revised and updated list showing all the approved port facility security plans for the port facilities located within their territory together with the location or locations covered by each approved port facility security plan and the corresponding date of approval (and the date of approval of any amendments thereto) which will supersede and replace all information communicated to the Organisation, pursuant to paragraph 3, during the preceding five years.

- 5 Contracting Governments shall communicate to the Organisation information that an agreement under regulation 11 has been concluded. The information communicated shall include:
- .1 the names of the Contracting Governments which have concluded the agreement;
 - .2 the port facilities and the fixed routes covered by the agreement;
 - .3 the periodicity of review of the agreement;
 - .4 the date of entry into force of the agreement; and
 - .5 information on any consultations which have taken place with other Contracting Governments;
- and thereafter shall communicate, as soon as practically possible, to the Organisation information when the agreement has been amended or has ended.
- 6 Any Contracting Government which allows, under the provisions of regulation 12, any equivalent security arrangements with respect to a ship entitled to fly its flag or with respect to a port facility located within its territory, shall communicate to the Organisation particulars thereof.
- 7 The Organisation shall make available the information communicated under paragraph 3 to other Contracting Governments upon request.
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