



MARITIME SAFETY COMMITTEE
81st session
Agenda item 5

MSC 81/5/8
4 February 2006
Original: ENGLISH

MEASURES TO ENHANCE MARITIME SECURITY

The effective implementation of SOLAS chapter XI-2 and the ISPS Code

Submitted by the ICFTU

SUMMARY

<i>Executive summary:</i>	This document is to bring to the attention of the Committee the problems experienced by crew in obtaining shore leave following the implementation of SOLAS chapter XI-2 and the ISPS Code
<i>Action to be taken:</i>	Paragraph 12
<i>Related documents:</i>	MSC 78/26, paragraph 7.88; MSC 80/24, section 1; 2002 SOLAS Conference resolution 11; and MSC/Circ.1112 and 1156

General

1 The Secretary-General of the IMO in his opening address at the eightieth session of the Committee stated he was concerned that “information suggested that the level of stringency of implementing, adhering to and enforcing the provisions of SOLAS chapter XI-2 and the ISPS Code seemed to have been relaxed in some instances”. He therefore recommended that all States concerned should seriously examine their level of implementation of the security measures and take any corrective action without delay.

2 The ICFTU shared these concerns, particularly in respect to the failure of port facilities, terminals and administrations, facilitating crew shore leave and ensuring the access of legitimate visitors to the vessels.

3 The International Transport Workers’ Federation in response to the general concerns of seafarers conducted a questionnaire on maritime security of union affiliates and seafarers. The report¹ of their response entitled “Access Denied” was made available by ICFTU at the twenty-fourth regular session of the Assembly.

4 This report conservatively covered 165,000 seafarers and responses were from unions representing 700,000 members. It indicated that SOLAS chapter XI-2 and the ISPS Code had a negative effect on 56% of seafarers with 86% registering an increased pressure and workload.

¹ The report is also available online at International Transport Workers' Federation web-site at the following address <http://www.itfglobal.org/files/seealsodocs/ENG/1446/accessdenied.pdf>

Current situation

5 The most disturbing aspect of the implementation, identified in this report, is that 58% of respondents had been denied shore leave and for seafarers from the Philippines this was as high as 70%. In a study by the Norwegian Maritime Officers Association whilst only 30% reported denied shore leave, they felt that maritime administrations in many countries, look upon seafarers as potential terrorists, not partners, and two of their masters have quit the sea due to the way they have been treated in the United States.

6 Since the report was compiled in 2005 there has been ongoing actions against crew or unrealistic measures to prevent crew coming ashore particularly in the United States. These include a fee of US\$200 per seafarer for transiting a terminal, the “lock down” of crews for extensive periods on vessels as small as tugs, and placing a crewmember under 24 hour guard for the duration of the vessels stay in port, for failing a short technical questionnaire.

7 There are recent incidences where crew have been refused access to telephones or even medical advice and companies have been unable to carry out a crew change or are fined for allowing crew to load stores. It is impossible to list all the incidents or express the anger these actions are invoking in seafarers, but there is no doubt that there is an overall significant detrimental effect on seafaring as a profession.

8 The ISPS Code made clear provision for the protection of seafarers’ rights and the need for the facilitation by port facilities of shore leave are contained in the paragraph 11 of the Preamble, section A/16.3.15 and paragraph B/16.8.14 of the ISPS Code.

Paragraph 11 of the Preamble

“Recognizing that the Convention on the Facilitation of Maritime Traffic, 1965, as amended, provides that foreign crew members shall be allowed ashore by the public authorities while the ship on which they arrive is in port, provided that the formalities on arrival of the ship have been fulfilled and the public authorities have no reason to refuse permission to come ashore for reasons of public health, public safety or public order. Contracting Governments, when approving ship and port facility security plans, should pay due cognizance to the fact that ship’s personnel live and work on the vessel and need shore leave and access to shore-based seafarer welfare facilities, including medical care.”

ISPS Code section A/16.3.15 on Port facility security plan

The PFSP shall address, at least the following:

“.15 procedures for facilitating shore leave for ship’s personnel or personnel changes, as well as access of visitors to the ship, including representatives of seafarers’ welfare and labour organizations.”

ISPS Code paragraph B/16.8.14 on Port facility security plan

The PFSP should establish the following, which relate to all security levels:

“.14 the procedures for facilitating shore leave for ship’s personnel or personnel changes, as well as access of visitors to the ship, including representatives of seafarers’ welfare and labour organizations.”

9 The 2002 SOLAS Conference adopted Conference resolution 11 on Human element-related aspects and shore leave for seafarers which:

- recalling that the Assembly adopted resolution A.907(22) recognized that the human element is an important item of the long-term work programme of the Organization;
- recalling also the provisions of the Convention on Facilitation of International Maritime Traffic, 1965, as amended, *inter alia*, entitled foreign crew to shore leave in the port they arrived in;
- accepting principles of international human rights applicable to all workers, including seafarers,
- being aware that access to shore facilities and shore leave are vital elements of seafarers' general well-being and is essential for joining and leaving a ship after the agreed period of service,
- urges SOLAS Contracting Governments to take the importance of shore leave into account when implementing the provisions of SOLAS chapter XI-2 and the ISPS Code;
- encourages SOLAS Contracting Governments, Member States of the Organization and non-governmental organizations with consultative status at the Organization 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 or the ISPS Code; and
- requests the Secretary-General to bring to the attention of the Committee and the Facilitation Committee, any human element-related problems, which have been communicated to the Organization as a result of the implementation of SOLAS chapter XI-2 or the ISPS Code.

Conclusion

10 The Committee, as its seventy-eighth session, recognizing that there was a need to give further guidance on the rights to shore leave approved MSC/Circ.1112 on Shore leave and access to ships under the ISPS Code. The Committee, at its eightieth session, recognizing the broader problems of access approved MSC/Circ.1156 on Guidance on the access of public authorities, emergency response services and pilots on board ships to address the ongoing problem. Unfortunately, the problem continues unabated in these same ports and this guidance has either not reached those who control these matters or has been ignored.

11 Clearly in many cases when the port facility security plan is approved, the requirement to facilitate shore leave and access to the vessel is not being taken into consideration by the appropriate administration. This has been evident in the blatant disregard of seafarers' rights by some port facilities. The ongoing distress that the continued denial of shore leave is having on the individual seafarer and the long-term detriment to the industry as a whole is incalculable and indisputable.

Action requested of the Committee

12 The Committee is asked to consider the undertakings contained within 2002 SOLAS Conference resolution 11 and, taking into consideration the failure of past guidance to influence some port facilities to undertake more appropriate and effective action, co-operate with the International Labour Organization to further promote the ratification and adoption of Seafarers' Identity Documents Convention (Revised), 2003 (No.185).
