

MARITIME SAFETY COMMITTEE
99th session
Agenda item 10

MSC 99/10/4
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SHIP DESIGN AND CONSTRUCTION

Comments on document MSC 99/10

Submitted by Marshall Islands, United States, Vanuatu and ICS

SUMMARY

Executive summary: This document comments on the report of the fifth session of the Sub-Committee on Ship Design and Construction (SDC 5), in particular, on its progress with the development of a mandatory instrument and/or provisions addressing safety standards for the carriage of more than 12 industrial personnel on board vessels engaged on international voyages; and proposes that the Committee consider several important issues that emerged at SDC 5 requiring policy decisions from the Committee, with a view to clarifying the desired outcome of the work under this output

Strategic direction, if applicable: 2

Output: 2.4

Action to be taken: Paragraph 19

Related documents: MSC 95/22; MSC 96/25; SDC 4/16; SDC 5/7, SDC 5/7/2, SDC 5/7/3, SDC 5/7/4, SDC 5/7/5, SDC 5/WP.4, SDC 5/15 and MSC 99/10

General

1 This document is submitted in accordance with the provisions of paragraph 6.12.5 of the *Organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.5), and comments on document MSC 99/10 (Secretariat), in particular, on the Sub-Committee's progress with the development of a mandatory instrument and/or provisions addressing safety standards for the carriage of more than 12 industrial personnel on board vessels engaged on international voyages.

Background

2 The co-sponsors consider that significant progress was made at SDC 5 to further develop the new SOLAS chapter [XV] and the draft new code of safety for ships carrying industrial personnel (IP Code).

3 The co-sponsors are, however, concerned that several important issues emerged at SDC 5 but were not fully considered, which will affect the application, technical provisions, and general progress of the development of a new SOLAS chapter [XV] and the IP Code. Several issues were submitted for consideration at SDC 5 (SDC 5/7, SDC 5/7/2, SDC 5/7/3, SDC 5/7/4 and SDC 5/7/5) and also raised in the Working Group, however, they could not be considered due to concerns they were not within the principles agreed by the Sub-Committee (SDC 5/15, paragraphs 7.9 and 7.10).

4 In response to the issues raised at SDC 5, the Sub-Committee invited interested Member States and international organizations to provide proposals for consideration at MSC 99, as comments on the report of SDC 5 (SDC 5/15, paragraph 7.10). As such, the attention of the Committee has been drawn to this invitation in paragraph 2.6 of document MSC 99/10.

5 As requested, this document brings some of the issues raised at SDC 5 to the attention of the Committee, and provides a proposal for consideration and policy decisions.

Discussion

6 The co-sponsors are concerned that the principles agreed at SDC 5 will not enable sufficient consideration of the inevitable interaction of the new SOLAS chapter [XV] and the IP Code with other IMO instruments that are applied by Administrations to ships engaged in or supporting offshore industrial activities.

7 The co-sponsors recall that MSC 95, when considering the proposed justification for the new output, agreed that "due consideration should be given to ensure that any proposed standards do not conflict with other requirements of other organizations and/or conventions" (MSC 95/22, paragraph 19.24).

8 The co-sponsors also recall that MSC 96 endorsed a recommendation of the Working Group that "the SDC Sub-Committee should take into consideration the impact on other IMO instruments while developing the code" (MSC 96/25, paragraph 7.14).

9 The co-sponsors welcome the development of a matrix identifying the relevant aspects of the existing IMO regulatory framework, in order to ensure that the new SOLAS chapter [XV] and the IP Code are consistent with, and avoid unnecessary duplication of, the existing IMO instruments (SDC 5/15, paragraph 7.6.1). However, since the matrix has not yet been used as intended and the principle that non-mandatory instruments should not be referenced in the new SOLAS chapter [XV] or the IP Code has been used to justify that approach, the new SOLAS chapter [XV] and the IP Code will be developed in complete isolation from the relevant IMO regulatory framework.

10 To illustrate the possible issues, the co-sponsors note that there has been little consideration of the actual ships or operations most likely to be addressed by the IP Code. It will be important for ships certified under the IP Code to be able to:

- .1 carry other categories of persons defined in other relevant IMO instruments (e.g. special personnel, as defined in the 2008 SPS Code); and
- .2 be certified under other IMO instruments more appropriate for their design and operations that may be applied by Administrations (e.g. 2008 SPS and 2009 MODU Codes, OSV Guidelines, etc.).

11 In many cases ships associated with "offshore industrial activities" are multi-mission capable and likely to carry additional personnel that would not be considered IP, but also undertake work and activities in support of "offshore industrial activities". These could include, but are not limited to, personnel engaged in activities such as inspection, equipment or service technical representation, repair and maintenance work. If there is a possibility that a ship certified in accordance with the IP Code will be permitted to carry several other categories of persons, then the question of how the numbers of persons should be aggregated will be highly pertinent and essential to establishing thresholds specifying the application of various requirements. The co-sponsors note that the number of passengers is included whenever the number of special personnel appears as a parameter in the 2008 SPS Code, according to the definition of the term "special personnel" in paragraph 1.3.11. Therefore, to maintain consistency of the new IP Code with the current treatment within the 2008 SPS Code, the co-sponsors recommend that whenever the total number of IP (at least one), and any other categories of persons (not including the master or crew) exceeds 12 persons, the ship should be certified under the IP Code.

12 The co-sponsors note that the *Interim recommendations on the safe carriage of more than 12 industrial personnel on board vessels engaged on international voyages* (resolution MSC.418(97)) provide that "industrial personnel may be carried on board ships meeting the provisions of the 2008 SPS Code or other standards, providing they meet an equivalent level of safety acceptable to the Administration, taking into consideration the number of persons on board". It is recalled that MSC 96 also endorsed the recommendation of the working group that the draft new code "should be based on the 2008 SPS and the 2000 HSC Codes" (MSC 96/25, paragraph 7.11.2).

13 The co-sponsors are therefore concerned that SDC 5 commenced drafting requirements for the new SOLAS chapter [XV] that include a requirement that "ships of 500 gross tonnage and above shall comply with the provisions of the present Convention for cargo ships" and "be certified in accordance with chapter[s] I [or X]" (SDC 5/WP.4, annex 1). In addition, the working group, established at SDC 5, "considered the need for a separate certificate, in addition to the Safety Certificate for Cargo Ships, for ships carrying industrial personnel and agreed to have a separate certificate for compliance with the draft new code" (SDC 5/WP.4, paragraph 23). As such, a cargo ship safety certificate appears likely to be specified as a minimum requirement in the new SOLAS chapter [XV] for certification under the IP Code.

14 The co-sponsors consider that the requirement to have a cargo ship safety certificate will have consequences that warrant further consideration by the Committee, in particular, that this approach would have the effect of:

- .1 excluding a substantial number of ships from the application of the new SOLAS chapter [XV], notably many of the ships actually engaged in or supporting "offshore industrial activities" elaborated in both the Interim Recommendations (resolution MSC.418(97)) and the draft new SOLAS chapter [XV]; and
- .2 complicating, or even preventing, the development of the envisaged grandfathering provisions (SDC 5/7, paragraph 9; and SDC 5/WP.4, paragraph 12) to accept continued service of ships certified in accordance with the Interim Recommendations, specifically those that meet provisions of other standards acceptable to Administrations, ships that meet SOLAS passenger ship standards, or any ships of less than 500 gross tonnage.

15 As an example to illustrate these issues, the co-sponsors note that this approach would prevent an Administration from leveraging equivalent standards more appropriate for the design and operations of many vessels engaged in or supporting offshore industrial activities. This includes column-stabilized, semi-submersible accommodation support vessels (ASVs), which are designed to support offshore industrial activities. As this type of vessel has not typically been considered when developing SOLAS requirements, the most appropriate existing IMO instrument is likely to be the 2009 MODU Code. The persons accommodated on board these ASVs would certainly fall within the definition of IP, and, therefore, the new SOLAS chapter [XV] and the IP Code should apply. However, given their unique design, ASVs will likely not receive a cargo ship safety certificate. Similarly, offshore support vessels (OSVs) certified in accordance with the OSV Guidelines may not hold cargo ship safety certificates. As such, the co-sponsors would caution against specifying a cargo ship safety certificate as a minimum requirement in the new SOLAS chapter [XV] for certification under the IP Code.

16 The co-sponsors do not recall that the intent was to limit the application of the new SOLAS chapter [XV] and the IP Code to ships holding cargo ship safety certificates, whereas it was understood from the outset that the guiding principle of work would be to consider add-ons to the requirements for cargo ships, using the provisions of the 2008 SPS and 2000 HSC Codes as a basis for the development of the draft IP Code. This was essentially a two-part process. First, develop the required standard, based on the matrix of existing instruments (SDC 5/15, paragraph 7.6.1) and using SOLAS cargo ship standard as a baseline. Then second, develop a certification scheme appropriate for the standard specified. Therefore, the co-sponsors recommend that the proposed minimum requirement for a cargo ship safety certificate in the application of the draft new SOLAS chapter [XV] should be carefully evaluated in order to avoid unintended consequences.

Proposal

17 The co-sponsors propose two discrete questions to facilitate the consideration and policy decisions requested of the Committee:

- .1 Should a ship certified under the IP Code also be able to carry other categories of persons, such as special personnel (SP), so long as no more than 12 passengers are carried?

If "Yes", the Committee is requested to make a decision on the aggregated total number of passengers, IP and SP which may be carried before the ship will be required to comply with the IP Code. As presented in paragraph 11 above, the co-sponsors recommend that this number should be 12, and also emphasize that this would not require any reference to non-mandatory instruments in the new SOLAS chapter [XV] or the IP Code; and

- .2 Should the application of the new SOLAS chapter [XV] and the IP Code be limited to ships holding cargo ship safety certificates?

18 Based on the above decisions, the co-sponsors would request the Committee to clarify that the output for this work item includes considering application to vessels other than cargo ships by endorsing the two-part process described in paragraph 16 above, and provide direction on how the work should account for the various categories of personnel being envisaged for carriage on ships that will be subject to the IP Code.

Action requested of the Committee

19 The Committee is invited to consider the discussion in paragraphs 6 to 16 and the proposals in paragraphs 17 and 18, and take action as appropriate.
