

SUB-COMMITTEE ON SHIP DESIGN AND  
CONSTRUCTION  
5th session  
Agenda item 7

SDC 5/7/5  
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**MANDATORY INSTRUMENT AND/OR PROVISIONS ADDRESSING SAFETY STANDARDS  
FOR THE CARRIAGE OF MORE THAN 12 INDUSTRIAL PERSONNEL ON BOARD  
VESSELS ENGAGED ON INTERNATIONAL VOYAGES**

**Comments on document SDC 5/7**

**Submitted by Vanuatu and ICS**

**SUMMARY**

*Executive summary:* This document comments on the report of the Correspondence Group on Carriage of more than 12 Industrial Personnel on board Vessels engaged on International Voyages and identifies a number of further considerations to be taken into account, when developing 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

*Strategic direction:* 5.2

*High-level action:* 5.2.1

*Output:* 5.2.1.4

*Action to be taken:* Paragraph 21

*Related documents:* MSC 97/6; SDC 4/16 and SDC 5/7

**Introduction**

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 provides comments on the report of the Correspondence Group on Carriage of more than 12 industrial personnel on board vessels engaged on international voyages, as set out in document SDC 5/7 (Norway).

2 The Sub-Committee, at its fourth session, established the Correspondence Group on Carriage of more than 12 industrial personnel on board vessels engaged on international voyages, with the terms of reference set out in paragraph 8.8 of document SDC 4/16. The report of the Correspondence Group (SDC 5/7) provides the outcome of its work.

3 The co-sponsors thank the Correspondence Group for its excellent efforts, which have substantially progressed this important work.

### **Discussion**

4 The co-sponsors have identified a number of issues that should be considered and addressed at this stage to ensure the drafts of the new SOLAS chapter [XV] and new IP Code will be fit for purpose and, in particular, to:

- .1 provide appropriate and functional IMO standards for the safe transportation or accommodation of industrial personnel (IP) for the purpose of performing offshore industrial activities on board other vessels and/or offshore facilities;
- .2 avoid unintended consequences or impacts on other IMO instruments; and
- .3 minimize consequential amendments to other IMO instruments.

### ***Impacts on other IMO instruments and guidance***

5 The co-sponsors note that the proposed IP Code will co-exist with the existing IMO instruments and guidance addressing ships operating in support of offshore industrial activities, some of which are non-mandatory, such as the 2008 SPS, 2009 MODU and OSV Codes, and the OSV Guidelines. These non-mandatory instruments have been extensively applied by Administrations and should be taken into account when introducing a new mandatory instrument which may have an impact on them.

6 The co-sponsors are concerned that the draft new SOLAS chapter [XV] and proposed IP Code are being developed in isolation from the wider international regulatory framework provided by relevant IMO instruments. The existing IMO position is understood to be that a mandatory requirement cannot refer to a non-mandatory instrument, making it difficult to address certain matters unless such a reference is permitted, or alternatively, by considering consequential amendments to them.

7 A matrix identifying relevant aspects of the existing IMO regulatory framework intended to assist in ensuring that the draft new SOLAS chapter [XV] and the proposed IP Code are consistent with, and avoid unnecessary duplication of, the existing IMO instruments is set out in annex 1 of document SDC 5/7. There has been neither analysis of the information provided by the matrix nor consideration of how it may impact the development of the draft new SOLAS chapter [XV] and proposed IP Code.

8 The co-sponsors are of the view that any impact on other IMO instruments should be considered and addressed at this stage in order to avoid unintended consequences for other instruments and to minimize consequential amendments to these other instruments by employing the matrix.

### ***Impacts on other categories of persons defined in IMO instruments and guidance***

9 The co-sponsors note that the distinctions being made in this IMO work item between different categories of persons was extensively considered in the development of the *Interim Recommendations on the safe carriage of more than 12 industrial personnel on board vessels engaged on international voyages* (resolution MSC.418(97)). This work specifically concerns the safe carriage of a new category of persons called "industrial personnel" (IP), as defined in the Interim Recommendations. The categories of persons that provide the foundation for IMO instruments governing international shipping are found in SOLAS chapter I, however, other

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categories of person are defined in non-mandatory instruments, such as "special personnel" (SP) in the 2008 SPS Code and "offshore personnel" in the 2009 MODU Code and the associated *Recommendations for the training and certification of personnel on mobile offshore units (MOUs)* (resolution A.1079(28)).

10 The co-sponsors are concerned that an inconsistent approach is emerging at IMO on the issue of categories of persons. It may leave IMO in a position where:

- .1 persons being carried to their place of work and who do not work on board the vessel transporting or accommodating them will be IP and subject to a new SOLAS chapter and mandatory code; and
- .2 persons who are not "crew or other persons employed or engaged in any capacity on board a ship on the business of that ship",<sup>1</sup> as defined in SOLAS chapter I, but who work on board the vessel, are SP outside the scope of the 1974 SOLAS Convention and subject to a non-mandatory code.

11 This inconsistency is based on a distinction as to whether or not the person works on board, and there will often be no difference in training or medical fitness between IP and SP. In many cases, an individual will change from being an IP to being an SP upon transferring between vessels; however, there is a fundamental difference between these persons in regulatory terms. Persons other than crew who work on board are covered by other IMO instruments (e.g. the 2008 SPS and 2009 MODU Codes). The draft IP Code should recognise that IP, who do not work on board, are a distinct category of person but persons with the same risk profile as SP.

12 As such, the co-sponsors are of the opinion that the question of aggregating persons remains pertinent, as indicated in paragraph 12 of the report of the Correspondence Group (SDC 5/7), and should not be left until later in the development of the proposed IP Code.

### ***Considerations related to ship design and construction***

13 The co-sponsors note that high-speed craft are defined in SOLAS chapter X and that paragraph 1.2.1.1 of the 2000 HSC Code explicitly states that it is to be "applied in its entirety". Therefore, there is no requirement for the draft IP Code to provide any requirements for high-speed IP vessels other than referencing the 2000 HSC Code, unless the intention is also to amend SOLAS chapter X and the 2000 HSC Code. The co-sponsors are of the opinion that this would be a significant escalation of this work and would require careful analysis to differentiate between passengers and IP, as well as an identification of any areas where standards might differ for cargo and passenger high-speed craft carrying IP.

14 For "displacement-type" ships, since the risk profile of IP and SP (notwithstanding the unique status of IP which necessitates creating this new category of person) will effectively be the same in the offshore sector and considering that safety requirements for ships carrying SP are already defined in the non-mandatory SPS Code, any ship design and construction standards of the draft IP Code should be aligned with those provided by the 2008 SPS Code. Introducing variations would question safety standards applied for SP on board special purpose ships. As such, the co-sponsors are of the view that there is only a limited need to develop ship construction standards in the proposed IP Code.

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<sup>1</sup> See supplemental legal advice regarding the introduction of mandatory safety standards for the carriage of more than 12 industrial personnel provided in paragraph 9 of document MSC 97/6.

***Considerations related to the transfer of persons to ships or offshore installations***

15 Requirements in section 4.5 of the OSV Code (on transferring personnel between OSVs and offshore installations) may need to be amended if the draft IP Code includes provisions on IP transfers, as well as appendix 1 of the OSV Code on what can, and what should not be, considered an offshore installation. Since the OSV Code provides an international standard to avoid or reduce to a minimum the hazards which affect OSVs in their daily operation of carrying cargoes and persons to, from and between offshore installations, the co-sponsors are of the opinion that some revision to align it with the proposed draft IP Code would seem to be inevitable.

16 The *Guidance on safety when transferring persons at sea* (MSC-MEPC.7/Circ.10) also provides guidance on personnel transfers. The co-sponsors consider that it should be determined at an early stage whether the draft IP Code should reference this guidance, or requirements for IP transfer be provided within the draft IP Code and referenced in other IMO instruments. The co-sponsors note that many personnel transfers at sea will not involve persons who will be categorized as IP, however since it could be argued that this is the most hazardous aspect of carrying IP to their workplace, it is essential for this to be given the highest priority.

***Considerations related to certification of ships***

17 The co-sponsors note that the report of the Correspondence Group states (SDC 5/7, paragraph 13):

"Regarding the potential future carriage of special personnel on ships to which the IP Code applies, it is recommended that this could be considered at a later stage of the development of the IP Code. If, at that point, it is agreed that special personnel safely can be carried on an IP Code certified ship, recommendations to that effect could be prepared for the Committee's consideration."

The co-sponsors are concerned that the limited consideration of this matter to date could have unforeseen ramifications for the proposed IP Code.

18 Owing to the nature of offshore industrial activities, vessels may be certified to carry IP and also to be certified in accordance with the 2008 SPS Code in order to carry SP engaged on board on the business of the ship. As such, the proposed IP Code should facilitate and enable dual certification of ships as able to carry IP and SP. Detailed analysis of the suite of cargo ship certificates is needed to identify any potential clashes with provisions of the draft IP Code.

19 The Interim Recommendations are based on defining IP and then stating that these persons "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". The co-sponsors consider that this approach should also underpin the development of a draft new SOLAS chapter [XV] and the proposed IP Code.

20 The Correspondence Group has considered that there will be no "new ships" or "existing ships" in terms of their normal meaning under the 1974 SOLAS Convention, as amended, or other IMO instruments (SDC 5/7, paragraphs 8 and 9). However, the co-sponsors suggest that agreement on "some kind of grandfathering" of ships certified in accordance with the Interim Recommendations should not be left to a later stage.

**Action requested of the Sub-Committee**

21 The Sub-Committee is invited to note the discussion provided in paragraphs 4 to 20 above, and take action as deemed appropriate.

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