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MEASURES TO HARMONIZE PORT STATE CONTROL (PSC) ACTIVITIES AND PROCEDURES WORLDWIDE

The rightful flag States' interpretations of mandatory provisions

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SUMMARY

Executive summary: The document discusses the obligation of port State control (PSC) to observe the rightful flag States' interpretations of mandatory provisions.

*Strategic direction, 1
if applicable:*

Output: 1.11

Action to be taken: Paragraph 15

Related documents: SDC 11/10/2, SDC 11/WP.1/Rev.1; MSC.1/Circ.1511/rev.1; resolutions A.1185(33) and A.1070(28)

Introduction

1 While a port State has the right to inspect any ship in its national ports to verify that the condition and equipment of the ship comply with the requirements of international regulations and that the ship is manned and operated in compliance with these rules, the flag State is the responsible party to give full and complete effect to IMO and other relevant conventions to which it is a party, so that ships flying its flag meet all international rules and standards.

2 Although it is ultimately up to each port State to decide when to conduct a port State control (PSC) inspection, in accordance with the *IMO Instruments Implementation (III) Code* (resolution A.1070(28)), the inspection should be performed consistently with the *IMO Procedures for Port State Control, 2023* (resolution A.1185(33)). These procedures provide a solid basis and guiding framework for inspections conducted by port States and cooperating PSC regimes (MoUs).

Background

3 SOLAS regulations II-2/13.4.1 and 13.4.2 specify the requirements for the means of escape from machinery spaces on passenger and cargo ships, respectively. Those regulations require one of the two means of escape from machinery spaces to be located inside a protected enclosure from the "lower part of the space".

4 The term "lower part" used in connection with the protected enclosure is not clearly defined in SOLAS. In this regard, IACS has proposed a unified interpretation which was approved by MSC 95 through MSC.1/Circ.1511. This Unified Interpretation applies to ships with a keel laying date on or after 1 January, 2016 and specifies the "lower part" as the lowest deck level, platform or passageway within the space.

5 The Maritime Safety Committee, at its 108th session, with a view to providing more specific guidance on the "safe position" in SOLAS regulation II-2/13.4, approved amendments to the unified interpretation through MSC.1/Circ.1511/Rev.1.

6 In January 2025, the Sub-Committee on Ship Design and Construction (SDC 11) re-confirmed that the "lower part" of the space should be considered to be either the lowest deck level or a platform or passageway within the space, by further noting that the majority of delegations were of the view that the unified interpretation of MSC.1/Circ.1511/Rev.1 was not intended to be understood as "whichever is lowest" of the lowest deck level, platform or passageway.

7 SDC 11 emphasized that according to paragraph 6.1 of appendix 6 of the *Procedures for Port State Control, 2023* (resolution A.1185(33)), the flag State should retain the authority to determine structural protection based on specific assessments of the ship whereas PSC is meant to confine their inspection solely to the effectiveness of the arrangement.

8 Furthermore, SDC 11 raised the question of rightful flag States' interpretations of mandatory provisions being potentially challenged by PSC officers (PSCO), as inappropriate, and stressed the need for potential guidance in the context of the harmonization of PSC activities.

The issue and the need for the harmonization of PSC activities

9 The shipping industry is currently facing challenges where ships are detained, or conditions are issued, following PSC inspections for issues which arise due to differences of understanding between the PSC authority and the flag State in considering the adequacy of structural escape arrangements from machinery spaces. In particular, regarding the "lower part" of the machinery space, some PSCs consider "the lower part of the space" to refer to the lowest deck level only, while the flag State has considered passageways and platforms in the lower part of the space when approving the arrangement.

10 The detained ships have been released under the condition to undergo modifications at the time of the next dry-docking survey.

11 To date, there has been no record of adverse cases and/or incidents on any ships, that relate to the position/location of the protected enclosure.

12 Noting the above, the proponents strongly believe that the cases described in paragraph 9, clearly reflect an improper implementation by PSC authorities of paragraph 6.1 of appendix 6 of resolution A.1185(33), with deficiencies or detentions being unfair and unjustified actions. As such, there is an urgent need to harmonize PSC activities to prevent interruptions in ship operations caused by subjective interpretations of the requirements.

Proposal

13 Consistent with paragraph 1.2.5 of resolution A.1185(33), where the flag State approves arrangements relating to provisions of relevant IMO conventions which are not specific or for which flexibility can be expected, PSCO should in principle accept the design arrangement approved by the flag State and not take control actions based on a unilateral interpretation of the requirements. If there are questions or concerns regarding the suitability of an arrangement, consultation with the flag State granting the approval may be appropriate.

14 Accordingly, the co-sponsors propose that suitable guidance to promote adherence to the principles in paragraph 13 should be developed in the context of the harmonization of PSC activities, either by updating the Procedures for Port State Control with further clarifications or by issuing a separate recommendation on the subject.

Action requested of the Sub-Committee

15 The Sub-Committee is invited to note the information and discussion provided in this document and, in particular, consider paragraph 8 which raised the question of rightful flag States' interpretations of mandatory provisions being potentially challenged by PSC officers, including the proposal in paragraph 14, and take immediate action, as appropriate.
