

4 ALBERT EMBANKMENT
LONDON SE1 7SR
Telephone: +44 (0)20 7735 7611 Fax: +44 (0)20 7587 3210

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**INTERIM RECOMMENDATIONS FOR PORT AND COASTAL STATES REGARDING
THE USE OF PRIVATELY CONTRACTED ARMED SECURITY PERSONNEL
ON BOARD SHIPS IN THE HIGH RISK AREA¹**

1 The Maritime Safety Committee (the Committee), at its eighty-ninth session (11 to 20 May 2011), having approved:

- (1) MSC.1/Circ.1405 on Interim guidance to shipowners, ship operators, and shipmasters on the use of privately contracted armed security personnel on board ships in the High Risk Area²; and
- (2) MSC.1/Circ.1406 on Interim recommendations for flag States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area³,

agreed that there was an urgent need to develop further recommendations to Governments and, in particular, for coastal and port States, on aspects related to the embarkation, disembarkation and carriage of privately contracted armed security personnel (PCASP) and of firearms and security-related equipment for use by PCASP⁴.

2 In this respect the Committee recognized that the facilitation of the movement of PCASP and of the firearms and security-related equipment for use by PCASP was affected by the national legislation and policies of port and coastal States and in this connection there was also a need to address the concerns of port and coastal States with respect to the presence of PCASP and of firearms and security-related equipment for use by PCASP on ships entering, transiting or leaving their territorial sea(s).

3 Given the importance and urgent nature of the issue, and the need to develop and promulgate detailed guidance and recommendations as soon as possible, the Committee approved and the Council authorized the convening of an intersessional meeting of the Maritime Security and Piracy Working Group (13 to 15 September 2011) to update and expand upon the guidance previously issued.

¹ High Risk Area: an area as defined in the Best Management Practices for Protection against Somalia Based Piracy (MSC.1/Circ.1339), unless otherwise defined by the flag State.

² Revoked and replaced by MSC.1/Circ.1405/Rev.1.

³ Revoked and replaced by MSC.1/Circ.1406/Rev.1.

⁴ In the present recommendations, all references to firearms include the associated ammunition, consumables, spare parts and maintenance equipment for use by PCASP, and all references to security-related equipment include protective and communication equipment for use by PCASP.

4 The interim recommendations for port and coastal States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area are set out in the annex.

5 The interim recommendations should be read in conjunction with the interim guidance and recommendations set out in MSC.1/Circs.1405/Rev.1 and 1406/Rev.1, the information provided in MSC-FAL.1/Circ.2 on Questionnaire on information on port and coastal State requirements related to PCASP on board ships, as well as the other recommendations and guidance developed by the Organization for preventing and suppressing piracy and armed robbery against ships.

6 Member Governments are urged to bring this circular to the attention of all national authorities concerned with anti-piracy activities and/or border control issues, shipowners, ship operators, shipping companies, shipmasters and crews.

7 Member Governments, international organizations and non-governmental organizations with consultative status are invited to bring to the attention of the Committee, at the earliest opportunity, the results of the experience gained from the use of the interim recommendations so as to assist the Committee in deciding on any action to be taken.

ANNEX

INTERIM RECOMMENDATIONS FOR PORT AND COASTAL STATES REGARDING THE USE OF PRIVATELY CONTRACTED ARMED SECURITY PERSONNEL ON BOARD SHIPS IN THE HIGH RISK AREA¹

1 These interim recommendations have been developed to address the growing use of privately contracted armed security personnel (PCASP) in the High Risk Area to counter Somali-based piracy, and specifically to provide further recommendations on aspects related to the embarkation, disembarkation and carriage of PCASP and of firearms and security-related equipment for use by PCASP. These recommendations do not address all the legal issues that might be associated with the movement of PCASP or of the firearms or equipment intended for use by them.

2 The recommendations contained in this document are not intended in any manner to override or otherwise interfere with the implementation and enforcement of the national legislation of a State or to interfere with that State's rights under international law. However, at the same time, they recognize the concerns and interests of the owners and operators of ships navigating in or through the High Risk Area to provide means for enhancing the security of their ships so as to protect the seafarers working on board, the passengers and cargo being carried and their assets from being hijacked.

3 In the present recommendations, all references to firearms include the associated ammunition, consumables, spare parts and maintenance equipment for use by PCASP, and all references to security-related equipment include protective and communication equipment for use by PCASP.

4 In view of the growing use of PCASP in the High Risk Area and the need to enhance the protection of ships navigating there, flag States, the shipping industry and the private maritime security companies (PMSC) who provide PCASP need to know whether and under what conditions the embarkation and disembarkation of PCASP and/or of firearms and security-related equipment for use by PCASP is allowed. In addition, the shipping industry, masters of ships and the PCASP service providers need to know what requirements have to be complied with when, during its voyage, a ship carrying PCASP is arriving in, staying at and departing from ports, offshore terminals, anchorage or roadstead located areas within the territory or under the jurisdiction of a port or a coastal State.

5 As a result Member Governments, and, in particular, those of the coastal States bordering the Indian Ocean, Arabian Sea, Gulf of Aden and Red Sea, should have in place relevant policies and related procedures. Such policies and procedures, whilst addressing the concerns of the State which has promulgated them, should facilitate the movement of PCASP and of their firearms and security-related equipment and be made known to the shipping industry and to the PCASP service providers. In addition, they should be communicated to the Organization for the information of all Member Governments, in order to enable flag States to act accordingly.

6 The use of PCASP for enhancing the security of ships navigating in or through the High Risk Area is a very recent and still evolving development. Hence, it is recognized that existing national legislation, policies and procedures may not have been developed taking into account or to cater for the various scenarios related to the embarkation or disembarkation of PCASP or of their firearms or security-related equipment or for the arrival, stay or departure of ships carrying PCASP or their firearms or security-related equipment, during their voyage. Thus, when developing their policies and procedures on the issue, Governments, aside from ensuring internal coordination and coherence amongst the approaches of the different ministries, departments, authorities or

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agencies within whose competency the various matters may fall, should not establish policies and procedures which hinder or may hinder the continuation of maritime trade or interfere with the navigation of ships and should ensure that all are consistent with international law.

7 In developing such policies and related procedures, Governments are encouraged to take into account the following considerations:

Embarkation

- requirements regarding notification of firearms and security-related equipment proposed for embarkation;
- arrangements and requirements relating to firearms in transit, including pre-embarkation storage and security;
- requirements regarding identification and notification of PCASP;
- requirements regarding documentation of flag State authorization of PCASP, firearms and security-related equipment, as applicable; and
- requirements regarding arrangements for storage, security and control of firearms and security-related equipment on board the ship prior to departure, and within the territorial sea.

Disembarkation

- requirements relating to pre-arrival notification of ships carrying PCASP, firearms and security-related equipment;
- requirements relating to notification of intention to disembark firearms and security-related equipment;
- requirements regarding identification and notification of PCASP;
- requirements regarding documentation of flag State authorization of PCASP, firearms and security-related equipment, as applicable; and
- requirements relating to post-disembarkation storage, security and control of firearms and security-related equipment.

Vessel calling

- requirements regarding notification of PCASP, firearms and security-related equipment retained on board;
- requirements regarding storage, security and control of firearms and security-related equipment retained on board; and
- requirements regarding documentation of flag State authorization of PCASP, firearms and security-related equipment, as applicable.
