

MARITIME SAFETY COMMITTEE  
102nd session  
Agenda item 17

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## SHIP DESIGN AND CONSTRUCTION

### Comments on document MSC 102/17

#### Submitted by Vanuatu and IMCA

#### SUMMARY

<i>Executive summary:</i>	This document comments on the report of the Working Group on the Carriage of more than 12 Industrial Personnel (IP) on board Vessels engaged on International Voyages, which met during SDC 7, in respect of its' discussions on grandfathering provisions under the draft new SOLAS chapter XV and the draft IP Code
<i>Strategic direction, if applicable:</i>	2
<i>Output:</i>	2.4
<i>Action to be taken:</i>	Paragraph 14
<i>Related documents:</i>	MSC 102/17; SDC 7/16, SDC 7/WP.3 and SDC 7/6/4

#### Background

1 This document is submitted in accordance with 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/Rev.1) and comments on the report of SDC 7 (SDC 7/16 and MSC 102/17) in relation to the report of the Working Group on the Carriage of more than 12 Industrial Personnel (IP) on board Vessels engaged on International Voyages (SDC 7/WP.3).

#### Discussion

2 As part of the discussions in plenary, prior to establishing the Working Group, the Sub-Committee considered document SDC 7/6/4 (Vanuatu and ICS) containing, inter alia, a proposal to include grandfathering provisions for ships where Administrations have applied the *Interim Recommendations on the safe carriage of more than 12 industrial personnel on board vessels engaged on international voyages* (resolution MSC.418(97)). As indicated in

paragraph 9 of document SDC 7/6/4, during the development of the draft IP Code, the need for some kind of grandfathering had been recognized as an issue to be considered "at a later stage of the development" with a view to addressing ships currently transporting industrial personnel based on the provisions of the Interim Recommendations (SDC 5/15, paragraph 7.6.3).

3 In considering the scope of application of the draft new SOLAS chapter XV, the Working Group agreed, in principle, taking into account the report of the Correspondence Group established at SDC 6 (SDC 6/7/1) and document SDC 7/6/4, that there were three options of application, as follows:

- .1 ships constructed on or after the date of entry into force of the new chapter;
- .2 ships currently transporting industrial personnel in accordance with the provisions 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)); and
- .3 ships constructed before the date of entry into force of the new chapter that may start carrying industrial personnel after the date of entry into force of the new chapter.

4 While it was accepted that the draft new SOLAS chapter XV, hence the draft new IP Code will apply from the date of entry into force in relation to options in paragraphs 3.1 and 3.3 above, the position with option 2 was considered to be a policy decision; hence, its' referral to this session of the Committee.

### **International voyages**

5 During its deliberations, the Working Group questioned whether there were actually any vessels currently carrying industrial personnel in international waters. IMCA has consulted its membership (some 800 member companies from over 60 countries) on this and the feedback confirms that there are frequent international voyages carried out by Service Operation Vessels (SOV) meeting the SPS Code and engaged in the construction, maintenance, decommissioning, operation or servicing of offshore wind installations, whether or not equipped with Walk-2-Work safe transfer arrangements.

Examples of such international voyages include:

- .1 loading monopiles or turbines in the Netherlands for installation in Belgium or the United Kingdom; and
- .2 loading in Denmark for installation in the Netherlands or Germany.

### **Carriage of industrial personnel in accordance with the Interim Recommendations**

6 Paragraph 6 of the Interim Recommendations permits industrial personnel (IP) to 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". Further approval of the flag State is not required. Without grandfathering provisions, this practice would cease to be permitted once the new IP Code enters into force. If this is considered to be a safe practice at present, then why should it be considered unsafe once the new IP Code enters into force?

7 Some of the vessels carrying industrial personnel on international voyages under the Interim Recommendations will not meet the requirements of the new IP Code and, therefore, if grandfathering provisions are not introduced, these vessels will no longer be permitted to operate in the way they currently do. By way of example:

- .1 there are SPS certified to carry IP on international voyages where the Administration, based on the design of the vessel, recognized that the MODU Code provides an equivalent level of safety which is acceptable to the Administration; and
- .2 some vessels currently carrying IP have been certified under the previous SPS Code and not the 2008 SPS Code or the MODU Code.

8 These situations are currently permitted because the SPS Code provides flag States with the option to grant an exemption or equivalence to its requirements, provided an equivalent level of safety is achieved. The current draft text of the IP Code does not provide for exemptions or equivalences. This, in combination with the absence of grandfathering provisions being introduced, means these vessels will no longer be able to carry IP.

9 The number of ships affected by the entry into force of the IP Code is far greater than just the vessels that have been reported to be operating under the Interim Recommendations, not least because the Interim Recommendations are not mandatory and the implementation (e.g. reporting requirements) differs between flag States. Furthermore, for many offshore installation/decommissioning vessels, the distinction between special personnel (SP) and IP may not be as clear as some Member States believe.

### **Carriage of industrial personnel outside the scope of the Interim Recommendations**

10 Because the Interim Recommendations apply to the carriage of "more than 12 IP on board vessels engaged on international voyages" and do not include any aggregation provisions. Currently there are ships carrying up to 12 IP under their SPS/cargo ship certification, which do not fall under the scope of the Interim Recommendations. However, in the absence of grandfathering provisions being introduced, these vessels will have to meet the full requirements of the IP Code in order to continue to carry IP, based on the aggregate number of industrial and special personnel and passengers on board.

### **Grandfathering provisions**

11 Whenever new requirements are introduced, consideration is given to how this change will impact the existing fleet. Paragraph 1 of the preamble of the annex to the *Interim guidelines for the systematic application of the grandfather clauses* (MSC/Circ.765-MEPC/Circ.315) states:

"... unless provided otherwise, any amendment to the Conventions, which relates to the structure of a ship, shall apply only to ships which can be considered to be built on or after the date on which the amendment enters into force. These so called 'grandfather clauses' provide the shipping industry with some certainty when making investments."

12 Despite the draft IP Code being a new mandatory Code, the reality is that IP are currently being transported internationally on vessels which do not meet the standard of the IP Code, yet they have a level of structural safety acceptable to flag States and are permitted to operate. Consequently, there is a need for grandfathering provisions to be introduced in order for these vessels to remain in operation.

### **Proposal**

13 The co-sponsors request the Committee to concur that grandfathering, exemption and equivalence provisions should be developed in order to enable existing vessels permitted by the Administration to carry IP in accordance with the Interim Recommendations or other standards, provided that they meet an equivalent level of safety which is acceptable to the Administration, and instruct the SDC Sub-Committee accordingly.

### **Action requested of the Committee**

14 The Committee is invited to consider the information provided in paragraphs 2 to 12 and the proposal in paragraph 13 and take action, as appropriate.

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