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Ref. T2-MSS/2.11.1

MSC/Circ.1133
14 December 2004

**REMINDER OF THE OBLIGATION TO NOTIFY FLAG STATES
WHEN EXERCISING CONTROL AND COMPLIANCE MEASURES**

1 The Maritime Safety Committee (the Committee), at its seventy-ninth session (1 to 10 December 2004), noted that in a number of cases SOLAS Contracting Governments, when taking control measures or steps against ships, pursuant to the provisions of SOLAS regulation XI-2/9, did not notify, as required by the aforesaid regulation, either the Administration or the Organization or both. As a result the Committee, recognizing the need and the importance of informing all parties concerned and the Organization when a SOLAS Contracting Government has taken control measures or steps against a ship, approved the Reminder of the obligation to notify flag States when exercising control and compliance measures (the Reminder), as set out at annex.

2 SOLAS Contracting Governments are invited to bring the attached Reminder to the attention of those officers they have authorized or they may authorize to carry out control and compliance measures pursuant to the provisions of SOLAS regulation XI-2/9.

3 Member Governments, international organizations and non-governmental organizations with consultative status are also invited to bring to the attention of the Committee any instance where SOLAS Contracting Governments or duly authorized officers have failed to notify them that they have taken control measures or steps against a ship pursuant to the provisions of SOLAS regulation XI-2/9.

ANNEX

REMINDER OF THE OBLIGATION TO NOTIFY FLAG STATES WHEN EXERCISING CONTROL AND COMPLIANCE MEASURES

BACKGROUND

1 The special measures to enhance maritime security contained in SOLAS chapter XI-2 and the ISPS Code specify and delineate, *inter alia*, obligations of a SOLAS Contracting Government (Contracting Government) as a port and as a coastal State.

2 The enforcement of the provisions of either SOLAS chapter XI-2 or the ISPS Code confers specific responsibilities with respect to notification and involvement of the Administration (i.e. the State whose flag the ship is entitled to fly or the flag State) when control measures or steps are taken against one of its ships (SOLAS regulation XI-2/9.3.1).

3 In such cases the Contracting Government taking control measures or steps against a ship is also required to notify the Organization (SOLAS regulation XI-2/9.3.1).

4 Since the entry into force of the special measures to enhance maritime security on 1 July 2004, there have been a number of reported instances where those obligations have not been met.

REMINDER

5 SOLAS Contracting Governments and all duly authorized officers are reminded of the obligation of each and every Contracting Government when it takes control measures or steps against a ship to notify, as required by SOLAS regulation XI-2/9.3.1:

- the Administration; and
- the recognized security organization which has issued the International or the Interim International Ship Security Certificate of the ship, if appropriate; and
- the International Maritime Organization.

6 This reminder should be read in association with SOLAS regulation XI-2/9, paragraphs B/4.29 to B/4.40 of the ISPS Code and resolution MSC.159(78) on Interim guidance on control and compliance measures to enhance maritime security.

WHERE TO FIND THE CONTACT DETAILS OF THE ADMINISTRATIONS

7 SOLAS regulation XI-2/13.1.4 requires Contracting Governments to communicate to the Organization and to make available for the information of Companies and ships the names and contact details of those who have been designated to be available at all times to receive and act upon any communications from Contracting Governments exercising control and compliance measures, referred to in SOLAS regulation XI-2/9.3.1.

8 The information communicated to the Organization pursuant to the provision of SOLAS regulation XI-2/13.1.4 are made available on the ISPS Code Database which may be accessed through either the IMO web site (URL <http://www.imo.org>) or through the URL <http://www2.imo.org/ISPSCode>.

TO WHOM THE NOTIFICATIONS SHOULD BE SENT

9 With respect to Administrations, the required notifications should be sent to those whose names and contact details each Contracting Government has posted on the ISPS Code Database.

10 With respect to the Organization, the required notifications should be sent to:

International Maritime Organization
Maritime Security Section
4 Albert Embankment
London SE1 7SR
United Kingdom
Facsimile number : +44 20 7587 3210
E-mail address : marsec@imo.org
