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MSC.1/Circ.1444
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**INTERIM GUIDANCE FOR FLAG STATES ON MEASURES
TO PREVENT AND MITIGATE SOMALIA-BASED PIRACY**

1 The Maritime Safety Committee, at its ninetieth session (16 to 25 May 2012), determined it would be useful to place, in a single reference document, the recommended practices that flag States are encouraged to apply, taking into account their own circumstances and subject to their national law, in order to maximize their efforts to implement counter-piracy measures.

2 The Interim guidance for flag States on measures to prevent and mitigate Somalia-based piracy is set out in the annex.

3 Member Governments are urged to bring this circular to the attention of all national agencies concerned with anti-piracy activities, including shipowners, ship operators, shipping companies, shipmasters and crews.

4 Member Governments are also urged to take any necessary action to implement, as appropriate, the interim guidance given in the annex.

5 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 guidance so as to assist the Committee in deciding on any action to be taken.

ANNEX

INTERIM GUIDANCE FOR FLAG STATES ON MEASURES TO PREVENT AND MITIGATE SOMALIA-BASED PIRACY

1 Introduction

1.1 The purpose of this guidance is to place, in a single reference document, the best practices, codes and standards developed by the Organization to date and to be consistent with obligations under international law. The guidance lists recommended practices that flag States are encouraged to apply, taking into account their own circumstances and subject to their national law, in order to maximize their efforts to implement counter-piracy measures. The guidance has been prepared pursuant to decisions of the IMO Assembly and Council referring to best management practices, codes and standards as tools that can assist flag States in their implementation of, inter alia, IMO resolutions and which support the wider international counter-piracy effort.

2 Counter-piracy policy

2.1 Flag States should develop, implement, publicize and apply a national counter-piracy policy consistent with the customary international law of the sea and national law. Such a policy could include the introduction of systems and mechanisms that will facilitate the protection of ships and permit them to take proportionate and reasonable measures to avoid being hijacked by pirates and mitigate the risk to seafarers serving on such ships. The policy should take into account the changing nature of piracy in the High Risk Area¹ and have in place processes and procedures to ensure it can be adapted to changing threats. Flag State Administrations will be aware of the substantial existing guidance and will incorporate it as appropriate into their own counter-piracy policy. The policy could include, but not be limited to, existing guidance² established in:

- .1 MSC.1/Circ.1333, Recommendations to Governments for preventing and suppressing piracy and armed robbery against ships;
- .2 MSC.1/Circ.1334, Guidance to shipowners and ship operators, shipmasters and crews on preventing and suppressing acts of piracy and armed robbery against ships;
- .3 MSC.1/Circ.1390, Guidance for company security officers (CSOs) – Preparation of a Company and crew for the contingency of hijack by pirates in the Western Indian Ocean and the Gulf of Aden;
- .4 MSC.1/Circ.1405/Rev.2, Revised interim guidance to shipowners, ship operators, and shipmasters on the use of privately contracted armed security personnel on board ships in the High Risk Area;
- .5 MSC.1/Circ.1406/Rev.2, Revised interim recommendations for flag States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area;

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 As they may be revised.

- .6 MSC.1/Circ.1408/Rev.1, Revised interim recommendations for port and coastal States regarding the use of privately contracted armed security personnel on board ships in the High Risk Area;
- .7 MSC.1/Circ.1443, Interim guidance to private maritime security companies providing privately contracted armed security personnel on board ships in the High Risk Area;
- .8 MSC-FAL.1/Circ.2 on Questionnaire on information on port and coastal State requirements related to privately contracted armed security personnel on board ships;
- .9 Best Management Practices for Protection against Somalia-based piracy (BMP4), promulgated as MSC.1/Circ.1339;
- .10 Resolution A.1044(27) on *Piracy and armed robbery against ships in waters off the coast of Somalia*;
- .11 Resolution A.1025(26) on *Code of Practice for the investigation of crimes of piracy and armed robbery against ships*;
- .12 SN.1/Circ.281 on Piracy and armed robbery against ships in waters off the coast of Somalia – Information on Internationally Recommended Transit Corridor (IRTC) for ships transiting the Gulf of Aden;
- .13 Resolution MSC.324(89) on *Implementation of Best Management Practice Guidance*;
- .14 Resolution MSC.298(87) on *Establishment of a Distribution Facility for the provision of LRIT information to security forces operating in waters of the Gulf of Aden and the Western Indian Ocean to aid their work in the repression of piracy and armed robbery against ships (the Distribution Facility)*; and
- .15 Resolution MSC.305(87) on *Guidelines on Operational Procedures for the promulgation of Maritime Safety Information concerning acts of Piracy and Piracy counter-measure operations*.

2.2 Flag State Administrations may also wish to take into account the Good Practice Guide for Shipping Companies and Manning Agents for the Humanitarian Support of Seafarers and their Families (<http://www.mphrp.org/MPHRP-Good-Practice-Guide.pdf>).

2.3 Further guidance related to Somalia-based piracy and general guidance from the Organization related to piracy and armed robbery can be found on the IMO website at: http://www.imo.org/Documents/IMO_Piracy_Guidance_2.pdf.

3 Best Management Practices and Pre-Transit Preparation

3.1 A State's counter-piracy policy should ensure that ships entitled to fly its flag are aware of, and comply with, all relevant aspects of the latest version of BMP, and in particular, ships should:

- .1 complete a risk analysis prior to entering the High Risk Area (as provided for in BMP); and

- .2 register each transit with Maritime Security Centre – Horn of Africa (MSCHOA) and report to United Kingdom Marine Trade Operations (UKMTO).

3.2 The policy should also describe follow-up procedures for cases where ships are reported as being non-compliant by military authorities in the region.

4 Capture and humanitarian response

4.1 A State's counter-piracy policy should contain measures regarding the eventuality that a ship entitled to fly its flag is captured, and to ensure that, as far as possible, the humanitarian needs of the crew and families are addressed during the period of captivity and after release. In particular, it should ensure that:

- .1 shipowners operating ships entitled to fly its flag are aware of and implement the guidance contained in MSC.1/Circ.1390, Guidance for company security officers (CSOs) – Preparation of a Company and crew for the contingency of hijack by pirates in the Western Indian Ocean and the Gulf of Aden;
- .2 the shipowner or operator of a ship captured by pirates keeps the families of hijacked seafarers informed of relevant developments; and
- .3 shipowners look after the welfare of captured seafarers and their families.

4.2 The Administration should establish, as necessary, plans and procedures to assist owners, managers and operators of ships entitled to fly its flag in the speedy resolution of hijacking cases occurring in the waters off the coast of Somalia, including the Gulf of Aden and the western Indian Ocean.

5 Suppression of piracy in the High Risk Area

5.1 In order to cooperate to the fullest possible extent in the suppression of Somalia-based piracy, all flag States should exercise their jurisdiction and prosecute pirates and, to the extent possible, contribute appropriate military assets or take equivalent measures.

6 Reporting

6.1 Flag States should provide information to the Organization on the measures they have taken to implement this MSC circular, for circulation to Member Governments, international organizations and non-governmental organizations with consultative status.
