

SOLAS CHAPTER XI-2 AND THE ISPS CODE

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Introduction

This section contains a broad overview of the scope of both the SOLAS chapter XI-2 and the ISPS Code, with a focus on the Master's compliance during port state control inspections. However, the SOLAS chapter XI-2 and the complete ISPS code should be read in conjunction with this chapter, which cannot stand alone. These publications should be purchased directly from IMO via the IMO website: www.imo.org as the documents are too comprehensive to print as part of this manual.

Control of ships

Governments or recognised security organisations, (RSOs) which have been authorised to act on their behalf, are responsible for inspecting and auditing compliance with the rules found in SOLAS Chapter XI-2 and Part A of the ISPS Code. Failure to comply may result in sanctions from port authorities such as fines, detentions, restriction of operations etc.

IMO Resolution MSC.159(78) outlines interim guidance on control and compliance measures to enhance maritime security. This resolution describes which provisions are in place for:

- control of ships prior to entering port, and
- control of ships when in port.

The resolution is recommended reading because it contains a lot of valuable information regarding the Master's interaction with port state control (PSC) officers. It can be viewed via the link below.

PSC officers will carry out inspections to verify compliance with the ISPS Code. Some states pursue such inspections more aggressively than others, and to avoid possible delays and detentions, it is important to avoid providing PSC inspectors with any 'clear grounds' of non-compliance with the ISPS Code. If, for example PSC inspectors can board a ship without any identity checks at the gangway, it will be obvious that no measures are in place to prohibit unauthorised access. Inspectors might randomly ask crew members to describe their security duties under the Ship Security Plan (SSP). Should any members of the crew not be able to describe their security duties, PSC officers would assume that the Ship Security Officer has failed to establish awareness amongst the crew of their duties. Circumstances such as these would be considered as 'clear grounds' of non-compliance and would most likely result in more rigorous control measures. Such control measures could include inspection of the ship, inspection of certain elements of the SSP (see ISPS Code part 9.8.1, which describes which elements of the plan can be inspected), delaying the ship, detention of the ship, restriction of operations (including movement within the port) or expulsion of the ship from port.

Furthermore, there may be instances, where 'clear grounds' can be determined prior to a ship entering port, for example reliable intelligence indicating non-compliance such as interaction with a helicopter or ship is known to be non-compliant.

The concept of 'clear grounds'

The concept of 'clear grounds' for believing the ship does not comply with chapter XI-2 or part A of the ISPS Code is applicable in different ways, so it is useful to describe the concept in more detail.

Evidence or reliable information of 'clear grounds' may arise from the PSC officer's professional judgement or observations gained while verifying the ship's International Ship Security Certificate (ISSC) or Interim ISSC issued in accordance with part A of the ISPS Code, or from other sources. Even if a valid ISSC is on board the ship, the duly authorized officer may still find 'clear grounds' on which to assess that the ship is not in compliance, based on their professional judgment.

The PSC officer will normally consider the following aspects of the ship's general security arrangements:

Check if a valid ISSC or interim ISSC is on board

Evaluate if the ship is operating at a security level at least equivalent to that of the port • Ability to identify the Ship Security Officer

Evidence that security exercises are conducted as required

Record of the last ten port calls (security level, additional security measures taken, appropriate security measures taken)

Assess if key members of the ship's security personnel can communicate effectively with each other on security-related matters

Examples of possible 'clear grounds' under SOLAS Chapter XI-2 regulation 9.1 and 9.2 include:

Invalid or expired ISSC or interim ISSC

Serious deficiencies of security equipment

Reliable reports or complaints by third parties that the ship is not in compliance with SOLAS Chapter XI-2 or Part A of the ISPS Code

Crew is unfamiliar with shipboard security procedures

Inability of crew to carry out ship security drills

Ship security drills have not been carried out as required

Inability between key members of ship's crew to establish communications with one another.

If the ship – without taking appropriate security measures – has embarked persons, stores or goods from a port or a ship, which was either in violation of SOLAS Chapter XI-2 or Part A of the ISPS Code or was not required to comply with same

If an interim ISSC is held with the apparent purpose to avoid full compliance SOLAS Chapter XI-2 or Part A of the ISPS Code.