

ANNEX 1

Who prepares the Ship Security Assessment?

Section A/8.2 states that *the company security officer shall ensure that the ship security assessment is carried out by persons with appropriate skills to evaluate the security of a ship, in accordance with this section, taking into account the guidance given in part B of this Code.*

This guidance is set out in paragraph B/8.4 which indicates that *those involved in a SSA should be able to draw upon expert assistance in relation to various aspects which are listed in the aforesaid paragraph.*

Section A/8.3 states that *subject to the provisions of section A/9.2.1, a recognized security organization may carry out the ship security assessment of a specific ship.* However, it is important to note, in this respect, that section A/9.2.1 states that in case *the recognized security organization, undertaking the review and approval of a ship security plan, or its amendments, for a specific ship shall not have been involved in either the preparation of the ship security assessment or of the ship security plan, or of the amendments, under review.*

From the point of view of the Company and the aspect of the review and approval of the SSP, section A/8.3 may be reasonably interpreted as indicating that an RSO is considered as meeting the requirements of section A/8.2 (i.e. that the RSO is considered, in the context of preparation of the SSA, as having the appropriate skills to evaluate the security of the ship) and thus a Company engaging the services of an RSO for the purpose of preparing a SSA does not need to carry out any investigations for the purpose of ascertaining this aspect.

In summary the SSA can be prepared, broadly speaking, by anyone provided it has:

- (1) the appropriate¹ skills and qualifications to evaluate the security of the ship (see sections A/8.2 and A/8.3 and paragraph B/8.4) ; and
- (2) the relevant information and material (see sections A/8.4 and paragraphs B/8.2 and B/8.5).

In effect the combine reading of the aforesaid provisions allows various options, which include the following:

- (1) preparation of the SSA by the Company or the CSO;
- (2) preparation of the SSA by the Company or the CSO and the SSO with external assistance;
- (3) preparation of the SSA by a security consultant;
- (4) preparation of the SSA by an RSO; or

¹ Paragraph B/4.5 also provides useful guidance in this respect.

- (5) preparation of the SSA by the Administration, if the Contracting Government concerned finds necessary to do so for example due to reasons of national security.

However, if the Company engages a third part (e.g. security consultants or an RSO) section A/8.5 states that *the ship security assessment shall be documented, reviewed, accepted and retained by the Company.*

In addition and in this respect paragraph B/8.13 provides that *if the SSA has not been carried out by the Company, the report of the SSA should be reviewed and accepted by the CSO.*

Furthermore, paragraph B/8.1 also indicates that *while the CSO need not necessarily personally undertake all the duties associated with the post, the ultimate responsibility for ensuring that they are properly performed remains with the individual CSO.*

Whilst a Company may use any third party for the preparation of the SSA the combine reading of section A/8.5 and paragraph B/8.13 and section A/8.2 and paragraph B/8.1 imply that, if the Company was to adequately discharge its obligations under section A/8.5 and the CSO under section A/8.2, the Company and in particular the CSO need to have (or able to assemble) the required skills for the preparation, evaluation and acceptance of the SSA.

Section A/8 does not contain any mandatory provision relating to unauthorised access to or disclosure of the SSA (section A/9.7 specifies that *the ship security plan shall be protected from unauthorised access or disclosure*).

However, paragraph B/8.12 indicates (although Part B of the ISPS Code has a recommendatory character) that the report of the SSA *shall be protected from unauthorized access or disclosure.*

It is prudent not only to protect the report of the SSA from unauthorised access or disclosure but also all material relating to the SSA. This aspect needs to be addressed by the Company when it engages any third party for the preparation of the SSA.

Although the SSA does not need to be approved a further aspect, which needs to be noted in connection with the SSA, is set out in section A/9.3 which states that *the submission of a ship security plan, or of amendments to a previously approved plan, for approval shall be accompanied by the security assessment on the basis of which the plan, or the amendments, have been developed.*

The first step in the process of review of the SSP is to examine the SSA with a view of establishing whether it meets the requirements of section A/8.4 and paragraphs B/8.3 and B/8.6 to B/8.10 as well as any other additional national requirements. If at that stage, those reviewing the SSP, find the SSA incorrect or inadequate the submitted SSP will automatically be rejected and the Company has to start anew from the beginning. It is reasonable to assume that the approach of those reviewing the SSA and the associated SSP will be influenced by who has prepared the SSA and not necessarily by the fact that it has been accepted by the Company or the CSO.

This aspect needs to be borne in mind by the Company when selecting the third party to prepare the SSA, as well as, when the SSA is to be prepared by the Company or the CSO with or without external assistance.

Who prepares the Ship Security Plan?

The answer to this question is similar to that for the question on who prepares the Ship Security Assessment.

Section A/9 does not state any specific mandatory requirements relating to those who may prepared the SSP and paragraph B/9 does not indicate any specific guidance in this respect.

Nevertheless, it is a prudent approach for those engaged in the preparation of the SSP to have appropriate skills.

In fact section A/9.1.1 states that *subject to the provisions of section A/9.2.1, a recognized security organization may prepare the ship security plan for a specific ship.*

This can be interpreted as providing guidance in this respect (i.e. that they should meet to the extent that is necessary the requirements of paragraph B/4.5 relating to RSOs) and a reference for assessing the skills of those involved in the preparation of the SSP.

A Company may use this reference in deciding by whom the SSP should be prepared (e.g. in setting up a team to prepare the SSP or in selecting a consultant in this respect).

In the absence of specific explicit mandatory provisions, another approach may be to consider paragraph B/8.4 (relating to ship security assessments) as providing guidance and reference in this respect.

Section A/9.1.1, as already indicated above, states that *subject to the provisions of section A/9.2.1, a recognized security organization may prepare the ship security plan for a specific ship.*

However, it is important to note that section A/9.2.1 states that *in case the recognized security organization, undertaking the review and approval of a ship security plan, or its amendments, for a specific ship shall not have been involved in either the preparation of the ship security assessment or of the ship security plan, or of the amendments, under review.*

These aspects are also addressed and reiterated in paragraph B/9.4 which indicates that *all SSPs should be approved by, or on behalf of, the Administration. If an Administration uses a Recognized Security Organization (RSO) to review or approve the SSP the RSO should not be associated with any other RSO that prepared, or assisted in the preparation of, the plan.*

The various options available include:

- (1) preparation of the SSP by the Company or the CSO;
- (2) preparation of the SSP by the Company or the CSO with external assistance;
- (3) preparation of the SSP by a security consultant;
- (4) preparation of the SSP by an RSO; or
- (5) preparation of the SSP by the Administration, if the Contracting Government concerned finds necessary to do so for example due to reasons of national security.

Who approves the Ship Security Plan?

Section A/9.1 states that *each ship shall carry on board a ship security plan approved by the Administration.*

Section A/9.2 states that *the Administration may entrust the review and approval of ship security plans, or of amendments to a previously approved plan, to recognized security organizations.*

However, in connection with the authorisation of RSOs to approve plans on behalf of the Administration it is important to note that section A/9.2.1 states that *in case the recognized security organization, undertaking the review and approval of a ship security plan, or its amendments, for a specific ship shall not have been involved in either the preparation of the ship security assessment or of the ship security plan, or of the amendments, under review.*

These aspects are also addressed and reiterated in paragraph B/9.4 which indicates that *all SSPs should be approved by, or on behalf of, the Administration. If an Administration uses a Recognized Security Organization (RSO) to review or approve the SSP the RSO should not be associated with any other RSO that prepared, or assisted in the preparation of, the plan.*

The various options are available include:

- (1) approval of the SSP by Administration;
- (2) approval of the SSP by an RSO acting on behalf of the Administration;
- (3) approval of the SSP by another Contracting Government, if the Contracting Government concerned finds that this is acceptable and reasons of national security do not dictate otherwise.

The latter option (i.e. the approval of the SSP by another Contracting Government) is not explicitly address in the ISPS Code.

Section A/19.2.3 states that *another Contracting Government may, at the request of the Administration, cause the ship to be verified and, if satisfied that the provisions of section 19.1.1 are complied with, shall issue or authorize the issue of an International Ship Security Certificate to the ship and, where appropriate, endorse or authorize the endorsement of that certificate on the ship, in accordance with this Code* and does not refer to the approval of the SSP.

It may be argued that the involvement of another Contracting Government in the verification and certification process presupposes that the SSP has been approved by the Administration.

It may also be argued that if the Administration and another Contracting Government have agreed this arrangement the approval of the SSP is valid.

It is reasonable to expect that a number of Contracting Governments, due to reasons of national security, find it undesirable to engage in the process of approval of SSPs or in the process of verification or certification of ships flying their flag other Contracting Governments.

Also, a number of Contracting Governments may, for reasons known to them, be unwilling to deal with requests in this respect.

In this context one should note the provisions of section A/9.8 and A/9.8.1 in connection with aspects of the SSP which are open for inspection during control and compliance measures under the provisions of regulation XI-2/9 (i.e. in simple terms port State control).

Who issues the International Ship Security Certificate?

In order to answer this question one has to look on the process leading to the issue of the International Ship Security Certificate (ISSC). This processes, broadly speaking, consists of three aspects, namely:

- (1) the approval of the SSP;
- (2) the initial verification; and
- (3) the issue of the certificate.

The aspect relating to the approval of the SPP has already been discussed in the previous question.

Section A/19.2.1 states that an *International Ship Security Certificate shall be issued after the initial or renewal verification in accordance with the provisions of section A/19.1.*

Section A/19.1.2 states that the *verifications of ships shall be carried out by officers of the Administration. The Administration may, however, entrust the verifications to a recognized security organization referred to in regulation XI-2/1.*

Section A/19.2.2 states that the International Ship Security Certificate *shall be issued or endorsed either by the Administration or by a recognized security organization acting on behalf of the Administration.*

Section A/19.2.3 states that *another Contracting Government may, at the request of the Administration, cause the ship to be verified and, if satisfied that the provisions of section 19.1.1 are complied with, shall issue or authorize the issue of*

an International Ship Security Certificate to the ship and, where appropriate, endorse or authorize the endorsement of that certificate on the ship, in accordance with this Code.

The companioned reading of the aforesaid provisions allows various options, which include the following:

- (1) an RSO approves the SSP, carries the initial verification and issues the ISSC on behalf of the Administration concerned;
- (2) an RSO approves the SSP, carries the initial verification and the Administration issues the ISSC;
- (3) an RSO approves the SSP, the Administration carries the initial verification and issues the ISSC;
- (4) the Administration approves the SSP, carries the initial verification and issues the ISSC; and
- (5) another Contracting Government approves the SSP, carries the initial verification and issues the ISSC at the request of the Administration concerned (see comments under the question who approves the plan), if reasons of national security do not dictate otherwise.

In connection with the RSO it should be noted that this need not necessarily be the classification society (in case the classification society meets the requirements of paragraph B/4.5, thus qualifies and can be recognised and authorised as an RSO) with which the ship is classed or which issues, on behalf of the Administration, the Passenger or Cargo Ship Safety Certificates.

During the process of verification of compliance with the ISM Code and the issue of the Safety Management Certificates (SMC) and Document of Compliance (DoC), a considerable number of Companies choose, as a recognised organisation (RO) for the issue of SMCs, ROs which were not the ROs which were issuing the other statutory certificates to the ships they operate.

A Company may decide, for reasons best known to them (e.g. as a result of confidentiality agreements reach with an RO in connection protection of the details contained in their safety management system or as a result of fees other service agreements) to use the RO issuing the SMC (which may not be issuing the other statutory certificates) as an RSO (provided that RO qualifies as an RSO) for the approval of the SSP, or for verifications and for the issue of the ISSC.

The ISPS Code does not prohibit any of the above. In fact it affords such flexibility. The important aspect in this process is, except where national security requirements dictate otherwise, the approval of the SSP and the initial verification for the issue of the ISSC to be carried out by the same entity.