**Summary comments round 3 –proposals/comments coordinator**

**1 Subject – New definition of passengers applicable to the new SOLAS chapter XV only**

**Discussion:** There is very little support for including a new definition of passenger applicable to the new chapter XV only. I note that UK remains its position that it is needed, however the vast majority of the group disagree.

That IPs are not to be treated or considered as passengers in accordance with SOLAS regulation 1/2(e) has been decided by our parent body.

It is my understanding, and also the understanding of other members of the CG that a new definition is not needed in order to meet the “Unless expressly provided otherwise” “criteria” in SOLAS chapter 1, Part A regulation 2, Definitions, which states:

For the purpose of the present regulations, unless expressly provided otherwise

(e) A passenger is every person other than:

(i) the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship; and

(ii) a child under one year of age.

It is my understanding, based on this, that SOLAS regulation 1/2(e) only remains in force in chapters that do not expressly provide otherwise.

As long as the new chapter XV makes it clear that IPs are not to be treated or considered as passengers in accordance with SOLAS regulation1/2(e), the majority of the group is of the opinion that we meet the criteria “Unless expressly provided otherwise”.

However, UK is of the opinion that even if we state that IPs are not passengers, without a new definition of passenger in the new chapter XV, by default, an IP is either a member of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship.

It has also been agreed that IP is not other persons employed or engaged in any capacity on board a ship on the business of that ship, ref definition of IPs in res. MSC.418(97).

Personally, I tend to agree with the US that this has been decided, and that we should not overcomplicate things and I also agree that a new definition of Passenger in the new chapter XV may create problems.

However, I do want to try to find a solution acceptable to all of you.

**Conclusion**: I am not a lawyer, and I do not know if this will fly, but I have included the following text in the draft SOLAS amendments for your consideration:

For the purpose of this chapter IPs are considered an additional category of persons that are not passengers in accordance with regulation 1/2(e) of the present Convention.

In addition, we have a couple of proposals on the table on how to solve the issue (none of them will solve UK’s issue) which are included in the draft text for your consideration.

**2 Subject - IACS proposal to use the HSC approach.**

(UK indicated that this proposal could solve their problem with definitions.)

**Discussion:** In this round, you have agreed that we should have a multiple certification solution.

SOLAS Cargo ship certification as the bottom line and then an additional IP certificate (alternatively IP endorsement as proposed by ITF).

With this decision in mind, I find it difficult to accept IACS’ proposal to include similar wording to that of SOLAS chapter X:

“1 Notwithstanding the provisions of chapters I to IV and regulations V/18, 19 and 20:

.1 a high-speed craft constructed on or after 1 January 1996 but before 1 July 2002 which complies with the requirements of the High-Speed Craft Code, 1994 in its entirety and which has been surveyed and certified as provided in that Code shall be deemed to have complied with the requirements of chapters I to IV and regulations V/18, 19 and 20. For the purpose of this regulation, the requirements of that Code shall be treated as mandatory;

.2 a high-speed craft constructed on or after 1 July 2002 which complies with the requirements of the High-Speed Craft Code, 2000 in its entirety and which has been surveyed and certified as provided in that Code shall be deemed to have complied with the requirements of chapters I to IV and regulations V/18, 19 and 20.

.3 The certificates and permits issued under the High-Speed Craft Code shall have the same force and the same recognition as the certificates issued under chapter I.”

We have agreed to require SOLAS cargo ship certification either issued under SOLAS chapter 1 or under SOLAS chapter X.

I therefore cannot see how we first can say they are deemed to comply and then require them to comply. How such a proposal will apply to HSC are also unclear to me.

**Conclusion:** Unless I am missing something here, I would propose not to follow the proposed approach.

**3 Subject – Carriage of passengers and IPs.**

**Discussion:** A cargo ship may carry 12 passengers without being considered a passenger ship. Even if we should concentrate on requirements for cargo ships carrying IPs, the issue of having both passengers and IPs on board may be a relevant scenario.

The question would then be, are we happy with having as much as 12 passengers and 12 IPs on board before the IP-code kicks in?

This may be solved by using number of persons on board, as proposed by some of you, but as pointed out by the US, we may find ourselves in a position where a ship with a minimum of crew may be allowed to carry a higher number of IPs than a similar ship with a larger number of crew.

I am in your hands, but one solution could be to state in the application section that

Unless expressly provided otherwise, this chapter applies to cargo ships constructed on or after [dd.mm.yyyy] carrying more than an aggregated number of 12 passengers and industrial personnel.

Then in the IP code, we could consider if and when the total number of persons on board should be a criteria.

**Conclusion:** I have included various options for your consideration in the draft text.

**4 Subject - Ship size to be considered**

**Discussion:** I have a majority in favour of concentrating our work on cargo ships of 500 GT and above.

However, some of you are not happy with that limitation. I am a bit puzzled by the fact that some support the multiple certification solution and wants cargo ships below 500 GT included. We do not have SOLAS certification for cargo ship below 500 GT (except for radio). Any cargo ship certification for ships below 500 GT will be a flag state certificate with various requirements and standards.

Having said that, in order to allow cargo ships of less than 500 GT to carry more than 12 IPs, we need as paragraph on the smaller ships, but I find it difficult to require them to be SOLAS certified.

**Conclusion:** I have kept the proposals related to ships below 500 GT with some amendments proposed and additional proposals in the draft text of the new SOLAS chapter. I propose we leave it for now, and revert to it once we have a draft IP Code. However, I have amended the proposals and moved them to the application part where I believe it should be, and made the proposals more generic, as I read your comments that you want any specific requirements to be in the IP Code.

**5 Subject – New versus existing cargo ships**

**Discussion:** It is proposed that similar to the Polar Code, the IP Code should apply to new and existing ships unless expressly provided otherwise in the IP Code.

**Conclusion**: I propose that we have this in mind in developing the IP-code, and at the end of the day, we will revert to the issue of existing ships. I have kept proposals related to existing ships in the draft SOLAS amendments and I propose we leave it for now, and revert to it once we have a draft IP Code. However, I have amended the proposals and moved them to the application part where I believe it should be, and made the proposals more generic, as I read your comments that you want any specific requirements to be in the IP Code.

**6 Subject – Inclusion of a definition of “International voyages” solely for the new chapter**

It is proposed to include a definition of “International voyages in this chapter, different from the one already in SOLAS chapter 1 reg 2(d), to clarify that a ship is not on an international voyage as long as it leaves a port in one country and return to a port in the same country. The proposal reads:

“For the purpose of the IP code, an International Voyage is exclusively one that departs a Port State, and transits to a place outside of that Port State.”

For the same reason as with the proposed definition of “passenger”, I am hesitant to include a different definition of international voyages. SOLAS 1/2(d) in my view is clear, and I am not sure what a “place” is. However, as always, I am in your hands, so I have included the proposal for your consideration.

For other issues and the draft SOLAS text please see the matrix summary of comments round 3.