



HOUSE OF REPRESENTATIVES FEDERAL REPUBLIC OF NIGERIA

FIRST VOTES AND PROCEEDINGS

Wednesday, 2 June, 2004

1. The House met at 2.03 p.m. Mr Deputy Speaker read Prayers.
2. **Votes and Proceedings:**
Mr Deputy Speaker announced that he had examined and approved the Votes and Proceedings of Tuesday, 1 June, 2004.

By unanimous consent, the Votes and Proceedings were adopted.

3. **Petitions:**
 - (i) **Non payment of Pension Benefits: Mr M. O. Bamigbaye:**
Hon. Taofeek Araoaja presented a petition on behalf of Mr M. O. Bamigbaye a former employee of the Nigerian Postal Services (NIPOST). The petitioner protested the non payment of his pension benefits by the Nigerian Postal Services (NIPOST) and prayed the House to intervene.
 - (ii) **Termination of Appointment: Mr N. Biridi :**
Hon. Claver M. Ikisikpo presented a petition on behalf of Mr N. Biridi of Flat 2, Block J, NSPMC Plc Estate, Garki, Abuja. The petitioner claimed that his appointment was wrongfully terminated by the Nigerian Security Printing and Minting Plc and prayed the House to investigate with a view to reinstating him.
 - (iii) **Appeal for Reinstatement: Mr Ekpo Edet Ekpo:**
Hon. Bassey E. Otu presented a petition on behalf of Mr Ekpo Edet Ekpo of No. 610 Odukpani Road, Ikot Kasuk Town, Calabar, Cross River State. The petitioner protested his suspension from the service of the Nigeria Customs Service and prayed the House to intervene with a view to reinstating him.
 - (iv) **Dismissal from Service: Mr Alphonsus Osondu Celestine:**
Hon. Charles Ugwu presented a petition on behalf of Mr Alphonsus Osondu Celestine a former employee of the Federal Civil Service. The petitioner alleged that he was wrongfully dismissed from the Federal Civil Service in 1991 under Decree 17 of 1984. He prayed the House to investigate the circumstances of his dismissal and ensure that justice was done.
 - (v) **Gross Injustice and abuse of Judicial Power: Hon. Justice Mba Uduma:**
Hon. Mao Ohuabunwa presented a petition on behalf of Justice Mba Uduma. The petitioner claimed that he was compulsorily retired from the Judiciary by the Chief Justice of Nigeria, Justice M. L. Uwais, CON. The petitioner regarded his retirement as premature and malicious. He prayed the House to investigate the matter with a view to granting the reliefs sought in his petition.

Petitions referred to Committee on Public Petitions.

4. Presentation of Reports:***Committee on Agriculture:***

- (i) *Motion made and Question proposed*, "That this House do receive the Report of the House Committee on Agriculture on a Bill for an Act to regulate the Profession of Animal Science and to make provisions for the Establishment, Functions and Administration of the Nigerian Institute of Animal Science and Related Matters, 2003" (*Hon. Ahmed Lawan*).

Question put and agreed to.

Report Laid.

- (ii) *Motion made and Question proposed*, "That this House do receive the Report of the House Committee on Agriculture on a Bill for an Act to Subsidize all Agricultural Inputs by 50 percent of the cost price in the first year with gradual withdrawal of 10 percent for a period of 3 years for 5 Rounds with a Revolving Fund of Thirty Billion Naira, 2003" (*Hon. Ahmed Lawan*).

Question put and agreed to.

Report Laid.

- (iii) *Motion made and Question proposed*, "That this House do receive the Report of the Joint Committee on Agriculture, Finance and Justice on a Bill for an Act to Amend the Agricultural Credit Guarantee Scheme Fund Act, Chapter 13, Laws of the Federation of Nigeria 1990, by Increasing the Membership of the Board and the Number of Members to Form Quorum at a Meeting; Making the Remuneration of Auditors and Solicitors to be in line with the Financial Regulations of the Federation and for Connected Purposes, 2003" (*Hon. Ahmed Lawan*).

Question put and agreed to.

Report Laid.

- (iv) *Motion made and Question proposed*, "That this House do receive the Report of the House Committee on Agriculture on the Invasions Locusts and Queller Birds in Kebbi, Sokoto and Zamfara States" (*Hon. Ahmed Lawan*).

Question put and agreed to.

Report Laid.

5. Recent Increase in Prices of Petroleum Products:***Motion made and Question proposed,***

The House:

- (i) *notes* that Nigerians have been inflicted with another increase in the pump prices of petroleum products;
- (ii) *worried* that for years irregular supply of petroleum products and unpredictability of their availability had become a permanent future in the body politic;
- (iii) *aware* of the establishment of the Petroleum Products Pricing and Regulatory Agency to supervise the de-regulation of the downstream petroleum sector;
- (iv) *further aware* that as a result of the deregulation of that sector, prices of petroleum products would be determined by market forces exemplified by the increase in the price of fuel from ₦25 per litre in May 2003 to ₦42 per litre in May 2004;
- (v) *informed* that due to this unexpected development in the International Oil Market, the price of crude oil has hit \$41 Dollars per barrel affecting the prices of refined products; and that
- (vi) *suspects that*, the NNPC had increased its ex-depot price by 15% recently leading to a quantum leap in the price of petroleum product (PMS) to ₦50 and ₦52 per litre;

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- (vii) considering the critical importance of petroleum products to the national economy and the adverse effects of the recent increase in pump prices on living standards; and in order to cushion consumers from the unsalutary consequences of this increase;

Resolves to:

- (i) urge the Federal Government to direct the NNPC to maintain the current pump prices of Petroleum Products until stability was restored in the World Oil Market;
- (ii) mandate the House Committee on Petroleum Refineries to determine a reasonable pump price for Petroleum Products and the amount of subsidy the Federal Government should pay to the NNPC in the period" (Hon. Tam Brisibe and 4 others).

Debate:

Amendment Proposed:

leave out all the words in Prayer (ii) and insert the following instead thereof:
 "mandate the House Committee on Petroleum Refineries to liaise with the PPPRA on the issue of price increase in the interest of Nigerians" (Hon. Austin Opara).

Question, that the amendment be made, put and agreed to.

Another Amendment Proposed:

insert a new Prayer (iii) as follows:

set up an Ad-hoc Committee of the House to liaise with the Federal Government Agencies responsible for the incessant fuel price increase with a view to complying with the wishes of the Nigerian people" (Hon. Datti Baba-Ahmed).

Question, that the amendment be made, put and negatived.

Other amendment Proposed:

insert a new Prayer (iii) as follows:

"urge the NNPC and the Government to rehabilitate the Refineries to avoid importation of fuel as well as bring the prices of the commodities down" (Hon. Frank Ineke).

Question, that the amendment be made, put and agreed to.

Main Question as amended put and agreed to.

Resolved:

The House:

- (i) noted that Nigerians had been inflicted with another increase in the pump prices of petroleum products;

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Resolved to:

- (i) urge the Federal Government to direct the NNPC to maintain the current pump prices of Petroleum Products until stability is restored in the World Oil Market;
- (ii) mandate the House Committee on Petroleum Refineries to liaise with the PPPRA on the issue of price increase in the interest of Nigerians; and
- (iii) urge the NNPC and the Government to rehabilitate the Refineries to avoid importation of fuel as well as to bring the prices of the commodities down (HR. 8/2004).

6.

Consideration of Report:**Ad-hoc Committee on Pensions Reform Bill:**

Motion made and Question proposed, "That this House do resume consideration of the Report of the Ad-Hoc Committee on the Bill for an Act to Repeal the Pensions Act, 1990 and to Establish a Contributory Pensions Scheme for Employees in the Public and Private Sectors in the Federal Republic of Nigeria and for Matters Connected Therewith, 2003 and approve the recommendation therein" (Hon. Abdul Ningi).

Question put and agreed to.

Question. That the House do resolve into the Committee of Whole to consider the Report of the Ad-Hoc Committee, put and agreed to.

(HOUSE IN COMMITTEE)

(Mr Deputy Speaker in the Chair)

**A BILL FOR AN ACT TO REPEAL THE PENSIONS ACT, 1990 AND TO ESTABLISH
A CONTRIBUTORY PENSIONS SCHEME FOR EMPLOYEES IN THE PUBLIC
AND PRIVATE SECTORS IN THE FEDERAL REPUBLIC OF NIGERIA
AND FOR MATTERS CONNECTED THEREWITH, 2003**

Committee Recommendation:**Clause 53: Closed pension fund administrator.**

- (1) Any employer of an occupational scheme or any occupational scheme that desires to manage its funds or assets that fall under Sections 50 and 54 of this Act may apply to the Commission to be licensed as a closed pension fund administrator to manage the funds and assets of such occupational scheme either directly or through a wholly owned subsidiary of such employer dedicated exclusively for the management of such funds and assets.
- (2) An applicant under Subsection (1) of this section may be licensed by the Commission as a closed pension fund administrator.

(₦5,000,000,000.00), the scheme may apply to the Commission to be licensed as a closed pension fund administrator for the purpose of managing the funds assets of the scheme.

- (2) An applicant under Subsection (1) of this section may be licensed by the Commission as a closed pension fund administrator if it satisfies the requirements stipulated in paragraphs (a), (c), (d), (e) and (f) of Section 65 of this Act.
- (3) Where an occupational scheme is constituted or established pursuant to Section 50 of this Act and the number of employees covered by the scheme is less than one thousand or the total assets of the scheme is less than five billion Naira (₦5,000,000,000.00), the funds of the scheme shall be managed by a licensed independent pension fund administrator appointed by the Board of Trustees of the scheme (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provisions in Clause 54 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 55: Pension fund administrators may be engaged to manage occupational schemes.

Notwithstanding the provisions of this Act permitting occupational schemes to operate as a closed pension fund administrator, any scheme may engage the services of a pension fund administrator to manage its funds and assets on its behalf (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provision in Clause 55 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 56: Any employer in the private sector managing its pension fund assets to be regulated by the Commission.

- (1) Every employer licensed as closed pension fund administrator to manage its pension fund assets under Sections 50 to 54 of this Act shall be subject to supervision and regulation by the Commission and shall be deemed to be pension fund administrator and, unless otherwise expressly provided, all provisions in this Act relating to the conduct and operations of a pension fund administrator shall apply to it.
- (2) Without prejudice to the provisions of Subsection (1) of this section, every occupational scheme in existence before the coming into force of this Act shall register with the Commission within six months of the date of commencement of this Act (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provisions in Clause 56 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 57: Special provisions relating to the Nigeria Social Insurance Trust Fund, 1993 No. 73

- (1) The Nigeria Social Insurance Trust Fund established by the Nigeria Social Insurance Trust Fund Act, 1993 No. 73 shall continue to operate as a social insurance scheme.
- (2) Without prejudice to the generality of Subsection (1) of this section, the Nigeria Social Insurance Trust Fund shall be deemed to be a pension fund administrator and shall be subject to the regulatory and supervisory control of the Commission as any other pension fund administrator licensed under this Act (*Hon. Abubakar Momoh*).

Amendment Proposed:

In Subclause (2), in line 2, *leave out* the words "be deemed to be a pension fund administrator" and *insert* the following instead thereof:

"Establish a company to undertake the business of a pension fund administrator" (*Chidi Duru*).

Question that the amendment be made, put and agreed to.

Question that the provisions in Clause 57 as amended stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 58: **Transfer of pension fund assets of the Police and Paramilitary. 1993 No. 75.**

- (1) Every Board of Trustees established under the Police and Other Agencies Pension Offices (Establishment, etc.) Act dissolved under Section 115 of this Act shall transfer all the pension fund assets being held by it before the commencement of this Act, to the Fund established in respect of the service under Section 25 of this Act.
- (2) The Board established under Sub-Part C of Part I of this Act shall supervise the transfer of all the pension fund assets under Subsection (1) of this section (*Hon. Abubakar Momoh*).

Amendment Proposed:

Retain provisions in Clause 44 of the Principal Bill as follows:

"44. Transfer of pension fund assets of the Police and Paramilitary. 1993 No. 75.

(1) Every Board of Trustees established under the Police and Other Agencies Pension Offices (Establishment, etc.) Act dissolved under Section 112 of this Act shall transfer all the pension fund assets, being held by it before the commencement of this Act, to the Pension Department established in respect of the Federal Government under Section 31 and composed under Section 32 of this Act.

(2) The Commission shall supervise the transfer of all the pension fund assets under Subsection (1) of this section (*Hon. Abubakar Momoh*).

Question that the Clause 44 of the Principal Bill be retained, put and agreed to.

Question that the provisions in Clause 44 of the Principal Bill stand part of the Bill, put and agreed to.

PART IV—PENSION FUND ADMINISTRATORS AND CUSTODIANS

SUB-PART A—LICENSING OF PENSION FUND ADMINISTRATORS AND CUSTODIANS

Committee Recommendation:

Clause 59: **Pension fund administrators.**

As from the commencement of this Act, no person shall carry on the business of pension fund administrator or manage pension funds in Nigeria except it is a company duly incorporated in Nigeria and holds a valid licence issued by the Commission and in accordance with the provisions of this Act (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provision in Clause 59 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 60: **Functions of the pension fund administrator.**

Any pension fund administrator licensed under this Act shall carry out the following functions—

- (a) Open retirement accounts for employees of schemes being managed by it;
- (b) Invest and manage pension funds in accordance with the provisions of this Act;
- (c) Maintain books of account on the transactions relating to pension funds managed by it;
- (d) Provide regular information on investment strategy, market returns and other performance indicators to the Commission, the schemes being managed by it and employees who contribute directly to such schemes or their beneficiaries;
- (e) Provide customer service support to pension funds and schemes being managed by it;
- (f) Cause to be paid retirement benefits to employees in accordance with the provisions of this Act;

- (g) Be responsible for all calculations in relation to retirement benefits being managed or operated by it; and
- (h) Carry out other functions as may be directed, from time to time, by the Commission in accordance with the provisions of this Act (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 60 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 61: Pension assets custodian.

As from the commencement of this Act, no person shall carry on the business of pension assets custodian (in this Act referred to as "the custodian") in Nigeria except it is a company duly incorporated in Nigeria and holds a valid licence issued by the Commission and in accordance with the provisions of this Act (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provision in Clause 61 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 62: Functions of the custodian.

A custodian shall carry out the following functions—

- (a) receive pension fund contributions remitted by pension fund administrators in respect of an occupational scheme to which he has been appointed a custodian by the pension fund administrator;
- (b) hold pension fund assets in safe custody on trust for the occupational scheme, the employees and beneficiaries of the retirement account;
- (c) on behalf of the pension fund administrator, execute transactions and undertake activities relating to the administration of pension fund investments including the collection of dividends and related activities;
- (d) report to the Commission on matters relating to the assets being held by it on behalf of any pension fund administrator at such intervals as may be determined, from time to time, by the Commission;
- (e) undertake statistical analysis on the investments and returns on investments with respect to pension funds in its custody and provide data and information to the pension fund administrator and the Commission; and
- (f) execute in favour of the pension fund administrator relevant proxy for the purposes of voting in relation to the investments (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 62 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 63: Failure of pension fund administrator or custodian to obtain licence.

Any person who contravenes the provisions of Sections 59 and 61 of this Act commits an offence and shall be liable on conviction—

- (a) in the case of an individual, to a fine not less than ₦5,000,000 or imprisonment for a term not exceeding 5 years or to both such fine and imprisonment; or
- (b) in the case of a corporate body, to a fine not less than ₦10,000,000 and in addition, the directors or officers shall each be liable for a fine not less than ₦2,000,000 or a term of imprisonment not less than 5 years or to both such fine and imprisonment (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 63 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 64: Application for a licence as a pension fund administrator.**

- (1) A person proposing to operate as a pension fund administrator shall apply to the Commission for a licence in such form and with the payment of such fees as the Commission may, from time to time, prescribe.
- (2) The Commission may, if satisfied that the applicant meets the requirements set out in Section 65 of this Act, issue a licence to the applicant to operate as a pension fund administrator subject to such terms and conditions as the Commission may consider expedient and necessary in the circumstances (*Hon. Abubakar Momoh*)
— Agreed to.

Question that the provisions in Clause 64 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 65: Requirements for licence as pension fund administrator.**

- (1) No application for a licence to act as a pension fund administrator shall be granted unless the applicant—
 - (a) is a limited liability company incorporated under the Companies and Allied Matters Act whose principal object is to manage pension funds;
 - (b) has a minimum paid up share capital of ₦150,000,000 or such sum as may be prescribed, from time to time, by the Commission;
 - (c) satisfies the Commission that it has the professional capacity to manage pension funds and administer retirement benefits;
 - (d) has never been a manager or administrator of any fund which was mismanaged or has been in distress due to any fault, either fully or partially, of the pension fund administrator or any of its subscribers, directors or officers;
 - (e) undertakes to the satisfaction of the Commission that it shall not be engaged in any business other than the management of pension funds; and
 - (f) satisfies such additional requirements or conditions as may be prescribed, from time to time, by the Commission.
- (2) Where an applicant for a licence to operate as a pension fund administrator is a life insurance company licensed by the National Insurance Commission and does not engage in any other business, it may be granted a licence by the Commission notwithstanding the provisions of paragraph (e) of Subsection (1) of this section provided the applicant meets all other requirements of Subsection (1) of this section and any other requirement for a license under this Act (*Hon. Abubakar Momoh*)
— Agreed to.

Question that the provisions in Clause 65 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 66: Application for licence as a custodian.**

- (1) Any person proposing to act as a custodian of pension funds shall apply to the Commission for a licence in such form and with the payment of such fees as the Commission may, from time to time, prescribe.
- (2) The Commission may, if satisfied that the applicant meets the requirements set out in Section 67 of this Act, issue a licence to the applicant to carry out the functions of a pension assets custodian prescribed under Section 62 of this Act (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 66 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 67: Requirements for a licence as a custodian. Cap. 59 LFN.**

No application for licence to act as a custodian shall be approved by the Commission unless such applicant—

- (a) is a limited liability company incorporated under the Companies and Allied Matters Act whose principal object is to perform the functions of a custodian or hold the pension fund assets on trust for its clients;
- (b) has a minimum paid up share capital of ₦500,000,000 or any such sum as may be prescribed, from time to time, by the Commission;
- (c) belongs to—
 - (i) a group of companies whose consolidated balance sheet is not below ₦250,000,000,000 and guaranteed by its shareholders against any loss of any of the pension fund assets; or
 - (ii) a consortium of companies whose total balance sheet is not less than ₦250,000,000,000 and guaranteed by its shareholders against any loss of any of the pension fund assets;
- (d) satisfies the Commission that it has the professional and technical capacity and adequate operational systems to perform the functions of a custodian;
- (e) undertakes to hold the pension fund assets to the exclusive order of the pension fund administrator on trust for the respective schemes as may be instructed by the pension fund administrator appointed by the schemes;
- (f) undertakes to the satisfaction of the Commission that it shall not be engaged in any business other than the custody of pension fund assets; and
- (g) has never been a custodian of any fund which was mismanaged or has been in distress due to any fault, either fully or partially, of the custodian; and
- (h) satisfies such additional requirement as may be prescribed, from time to time, by the Commission (*Hon. Abubakar Momoh*) — *Agreed to*.

Question that the provisions in Clause 67 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 68: Refusal of licence.**

- (1) The Commission may refuse to issue a licence to any applicant pursuant to an application made under Sections 64 and 66 of this Act if it is satisfied that—
 - (a) the information contained in the application for licence is false or untrue in any material particular; or
 - (b) the application does not meet the requirements prescribed by the Commission for the grant of a licence;
 - (c) the licence of the applicant had earlier been revoked by the Commission under any of the conditions mentioned in Section 67 of this Act.
- (2) Where the Commission refuses to register any pension fund administrator or custodian, it shall forthwith notify the applicant in the prescribed form, specifying the reasons for such refusal (*Hon. Abubakar Momoh*) — *Agreed to*.

Question that the provisions in Clause 68 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 69: Revocation of licence, etc.**

- (1) Subject to Subsection (2) of this section, the Commission may revoke a licence issued to a pension fund administrator or custodian, if—
 - (a) it discovers, after the grant of licence, that a statement was made in connection with the application thereof which the applicant knew to be false or untrue in any material particular; or
 - (b) the pension fund administrator or custodian is subject to any insolvency proceedings or is likely to be wound up or otherwise dissolved; or
 - (c) the conduct of affairs of the pension fund administrator or custodian does not conform with the provisions of this Act or any regulations made pursuant to a direction issued under this Act; or
 - (d) any event occurs which renders the pension fund administrator or custodian ineligible to manage the pension funds or take custody of the pension funds, as the case may be; or
 - (e) the pension fund administrator or custodian is in breach of any of the conditions attached to its licence.
- (2) The Commission shall, before revoking the licence of a pension fund administrator or custodian, give the pension fund administrator or custodian at least 28 days notice of its intention, and shall consider any representations made to it in writing by the pension fund administrator or custodian within that period before the revocation.
- (3) The notice under Subsection (2) of this section shall be in the prescribed form and shall specify the reasons for the intended revocation of licence.
- (4) The revocation of licence of a pension fund administrator or custodian shall not in any way prejudice the entitlements of any beneficiaries of the retirement account under the Scheme.
- (5) The Commission shall—
 - (a) cause the retirement accounts being managed by the pension fund administrator whose licence was revoked under Subsection (1) of this section to be transferred to another pension fund administrator or administrators as the case may be; and
 - (b) transfer the pension fund assets being held by a custodian whose licence was revoked under Subsection (1) of this section to another custodian.
- (6) The Commission shall publish, by Notice in the Federal Gazette, the list of the pension fund administrators or custodians whose licences have been revoked (*Hon. Abubakar Momoh*) — *Agreed to*.

Question that the provisions in Clause 69 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 70: Publication of a list of pension fund administrators.**

The Commission shall, at the end of each calendar year, publish a list of all pension fund administrators and custodians licensed by it in such manner as it considers necessary in the circumstances (*Hon. Abubakar Momoh*) — *Agreed to*.

Question that the provision in Clause 70 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 71: Proper books of accounts and audit of the pension fund administrators and custodians.

- (1) Any pension fund administrator or custodian licensed under this Act shall cause to be kept proper books of accounts and records showing incomes, expenditures, assets, the investment and the returns on investment made with the contributions being managed or held by it.
- (2) The pension fund administrator or custodian shall, not later than four months from the end of each year cause its accounts to be audited by qualified external auditors.
- (3) Every pension fund administrator or custodian shall—
 - (a) submit its audited accounts to the Commission for approval not later than 120 days from the end of its financial year;
 - (b) cause to be published the audited account approved under paragraph (a) of this subsection in at least 2 daily newspapers printed and circulating in Nigeria within one month of the approval by the Commission; and
 - (c) exhibit approved audited accounts in a conspicuous position in each of its offices and branches within 30 days of the approval throughout the year
(Hon. Abubakar Momoh) — Agreed to.

Question that the provisions in Clause 71 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 72: Annual reports by pension fund administrators and custodians.

The pension fund administrator or custodian shall not later than four months from the end of the financial year submit to the Commission an annual report in respect of the immediate preceding year on the pension funds being managed by him and such report shall include the audited accounts and report of the auditors on the accounts (Hon. Abubakar Momoh) — Agreed to.

Question that the provision in Clause 72 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 73: Reporting Obligations of External Auditors

- (1) Any external auditor appointed by a pension fund administrator or custodian under Section 74 of this Act shall have responsibility to the Commission for the protection of pension funds and shall, in the discharge of his duties to the pension fund administrator, report any of the following situations to the Commission, that is—
 - (a) any extreme situation such as evidence of imminent financial collapse of the pension fund administrator or custodian
 - (b) any evidence of an event or occurrence which has led or is likely to lead to a material diminishing of the net assets of the pension fund administrator or custodian;
 - (c) any evidence that there has been a significant weakness in the accounting and other records or the internal control systems of the pension fund administrator or the custodian;
 - (d) any evidence that the management of the pension fund administrator or custodian has reported financial information to the Commission which is misleading in a material particular;
 - (e) where he believes that a fraud or other misappropriation has been committed by the directors or the management of the pension fund administrator or custodian or has evidence of an attempt by the directors or management to commit such fraud or misappropriation; or

- (f) where there has been an event or occurrence which affects or is likely to affect the auditor's confidence in the competence of the directors or the senior management to conduct the business of a pension fund administrator or custodian in a prudent or safe and sound manner.
- (2) Nothing in this section shall be construed to be a breach of the duty of the auditor to a pension fund administrator or a custodian by reason only of his communicating in good faith to the Commission, whether or not in response to a request made by the Commission, any information or opinion on any matter or situation to which this section applies.
- (3) Any auditor of a pension fund administrator or custodian, who acts in contravention of or fails deliberately or negligently to comply with any of the provisions of Subsection (1) of this section commits an offence and shall be liable on conviction to a fine not less than ₦10,000,000 for the auditor and for each of the directors a fine not less than ₦1,000,000 or imprisonment of a term not less than 3 years or to both such fine and imprisonment (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 73 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 74: General Obligations of the Pension Fund Administrator and Custodian.

The pension fund administrator and the custodian shall—

- (a) ensure that the pension fund is at all times managed or held in accordance with the provisions of this Act, any regulations or guidelines made thereunder and any directions given by the Commission;
- (b) take reasonable care to ensure that the management or safe keeping of the pension funds is carried out in the best interests of the employees;
- (c) report to the Commission, as soon as reasonably practicable, any unusual occurrence with respect to the pensions funds which in his view could adversely affect the rights of the owner of a retirement account under the Scheme;
- (d) report to the Commission, as soon as reasonably practicable, if the employer is in default of remittance of any contributions and such remittance remains due for a period of more than 14 days;
- (e) upon the request of a scheme, promptly transfer the account of the scheme to another pension fund administrator designated by the scheme;
- (f) promptly notify the facts of paragraph (e) of this section to the Commission together with its report thereon; and
- (g) notwithstanding any provisions to the contrary in this Act or any other enactment or law, the pension fund administrator and custodian shall submit a report on its transactions in relation to pension fund assets to the Commission on the day such transactions take place (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 74 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 75: Specific Obligation of the Custodian.

- (1) The custodian shall maintain all pension funds in its custody to the exclusive order of the relevant pension fund administrator.
- (2) The custodian shall not utilize any pension fund assets in its custody to meet its own financial obligations to any person whatsoever (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 75 stand part of the Bill —

Committee Recommendation:**Clause 76: Returns on Frauds and Forgeries.**

Every pension fund administrator or custodian shall render to the Commission monthly reports of any fraud, forgery or theft occurring in its organisation (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provision in Clause 76 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 77: Notification of Dismissed Staff, etc.**

- (1) Every pension fund administrator or custodian shall notify the Commission of any staff that is dismissed or terminated on the grounds of fraud.
- (2) The Commission shall maintain a list of persons that have been so dismissed, terminated or advised to retire on the grounds of fraud under Subsection (1) of this section and shall circulate such list to all pension fund administrators and custodians (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 77 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 78: Prohibited Employment.**

No pension fund administrator or custodian shall employ any person whose name is on the list maintained by the Commission under Subsection (2) of Section 77 of this Act, unless with the prior approval of the Commission (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provision in Clause 78 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 79: Penalty for Non-Compliance.**

- (1) Any pension fund administrator or custodian who fails to comply with any of the provisions of Sections 76, 77 and 78 of this Act shall pay a penalty of an amount not less than ₦1,000,000 to the Commission for every violation.
- (2) In addition to the penalty specified in Subsection (1) of this section, the Commission may revoke the licence of the pension fund administrator or the custodian, as the case may be (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 79 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 80: Certain Prohibited Transactions.**

- (1) Except as permitted for closed pension fund administrators, the Board and Fund Investment and Management Committees, no pension fund administrator shall hold any pension fund assets.
- (2) No pension fund administrator shall keep any pension fund assets with a custodian in which the pension fund administrator has any business interest, shares or any link whatsoever.
- (3) No employee of the pension fund administrator shall engage in any business transaction or trade in any manner whatsoever with the pension fund administrator as a counterpart or subsidiary in relation to pension fund assets (*Hon. Abubakar Momoh*).

Amendment Proposed:

In lines 1 and 2 of Subclause (1), *leave out* the words “the Board and Fund Investment and Management Committees” and wherever they occur in the Bill (*Hon. Abubakar Momoh*).

Question that the amendment be made, put and agreed to.

Question that the provisions in Clause 80 as amended stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 81: Risk Management and Investment Committees and their Functions.**

- (1) Every pension fund administrator shall establish the following standing committees to assist it in carrying out its functions and ensuring compliance with the provisions of this Act—
- (a) Risk Management Committee; and
 - (b) Investment Strategy Committee.
- (2) The Risk Management Committee established by the pension fund administrator under Subsection (1) of this section shall—
- (a) determine the risk profile of the investment portfolios of the pension fund administrator;
 - (b) draw up programmes of adjustments in the case of deviations;
 - (c) determine the level of reserves to cover the risks of the investment portfolios;
 - (d) advise the pension fund administrator in maintaining adequate internal control measures and procedures; and
 - (e) carry out such other functions relating to risks management as the board of the pension fund administrator may, from time to time, determine.
- (3) The Investment Strategy Committee established by the pension fund administrator under Subsection (1) of this section shall—
- (a) formulate strategies for complying with investment guidelines issued by the Commission;
 - (b) determine an optimal investment mix consistent with the risk profile agreed by the board of the pension fund administrator;
 - (c) evaluate the value of the daily marked-to market portfolio and make proposals to the board of the pension fund administrator;
 - (d) on periodic basis, review the performance of the major securities of the investments portfolio of the pension fund administrator;
 - (e) carry out such other functions relating to investment strategy as the board of the pension fund administrator may, from time to time, determine
(Hon. Abubakar Momoh) — Agreed to.

Question that the provisions in Clause 81 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 82: Pension Fund Administrator to appoint Independent Directors.**

For the purposes of safeguarding the pension fund assets being managed by it, the board of directors of a pension fund administrator shall include two directors to be known as independent directors one of whom shall serve in the Risk Management Committee and the other in the Investment Strategy Committee (Hon. Abubakar Momoh) — Agreed to.

Question that the provision in Clause 82 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 83: Independent Directors.**

The independent directors of a pension fund administrator shall—

- (a) be members of the board;

- (b) not be shareholders of the pension fund administrator nor have any business or professional relationship with the pension fund administrator;
- (c) possess relevant professional, cognate experience and training; and
- (d) notify, in writing, the board of directors and the Commission of any discrepancies or non-compliance with the provisions of this Act in the conduct of the activities of the pension fund administrator; and the pension fund administrator shall have 30 days to rectify any such discrepancy or non compliance and notify the independent directors and the Commission, in writing, of such rectification (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provisions in Clause 83 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 84: Compliance Officer.

Every pension fund administrator shall employ a compliance officer who shall—

- (a) be responsible for ensuring compliance with the provisions of this Act, any rules and regulations made thereunder and the internal rules and regulations made by the pension fund administrator;
- (b) have relevant professional and cognate experience;
- (c) report to the board of directors of a pension fund administrator and the Commission on any non compliance by the pension fund administrator;
- (d) liaise with the Commission with regard to any matter which in the opinion of the Commission will enhance the compliance of the pension fund administrator with the provisions of this Act and guidelines issued thereunder; and
- (e) carry out any duties as the board of directors or the Commission may direct (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provision in Clause 84 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 85: Pension Fund Administrators to maintain a Compensation Reserve Fund, etc.

- (1) Every pension fund administrator shall maintain a compensation reserve fund which shall be used to meet any shortfall in its returns on investment calculated in accordance with the provisions of Subsection (2) of this section.
- (2) At the end of each financial year the Commission shall, from the audited accounts approved by it under Subsection (3) of Section 71 of this Act, compute a percentage return on investment for the pension fund and calculate the average returns achieved by all pension funds;
- (3) A pension fund whose returns is in excess of the average mentioned under Subsection (2) of this section shall be allowed to retain the return subject to a limit of 2 per cent above that average and any amount in excess of 2 per cent above that average, if any, shall be credited to the compensation reserve fund for that pension fund.
- (4) Where a pension fund whose returns is more than 2 per cent below the average mentioned in Subsection (2) of this section the pension fund shall be required to take from the balance standing to the credit of the compensation reserve fund such amount as will enable it to attain a return of not more than 2 per cent below the average.
- (5) Where the compensation reserve fund is insufficient for a pension fund to achieve a return not exceeding 2 per cent below the average, the pension fund administrator of that pension fund will be required to provide funds from its own capital to meet any shortfall not later than 30 days after notification by the Commission.

- (6) The inability of the pension fund administrator to provide sufficient funds to make up for the shortfall as required under Subsection (5) of this section, shall be a ground for revocation of the licence of the pension fund administrator and the pension fund shall be transferred by the Commission to another pension fund administrator.
- (7) In the event of revocation of the licence of the pension fund administrator under Subsection (6) of this section, the Commission may sue the pension fund administrator for any shortfall under Subsection (6) of this section (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provisions in Clause 85 stand part of the Bill, put and agreed to.

SUB-PART B—INVESTMENT OF PENSION FUNDS

Committee Recommendation:

Clause 86: Investment of Pension Funds.

All assets of pension funds and retirement benefits schemes shall be invested with the objectives of safety and maintenance of fair returns on amount invested (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provision in Clause 86 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 87: How Pension Fund Assets to be Invested.

- (1) Subject to guidelines to be issued by the Commission, from time to time, pension fund assets shall be invested in any of the following—
- (a) bonds, bills and other securities issued or guaranteed by a Federal or State Government Treasury or the Central Bank of Nigeria;
 - (b) equities, bonds, debentures, redeemable preference shares and other debt instruments issued by corporate entities and listed on any recognised stock exchange;
 - (c) bank deposits and bank securities;
 - (d) investment certificates of closed-end investment funds or hybrid investment funds;
 - (e) units sold by open-end investment funds or specialist open-end investment funds listed on any recognised stock exchange;
 - (f) real estate and real estate investment companies;
 - (g) bonds and other debt securities issued by listed companies; and
 - (h) such other instruments as the Commission may, from time to time, prescribe.
- (2) A pension fund administrator may invest the pension fund assets in units of any investment funds; Provided that such investment fund may only be invested in the categories of investments set out in Subsection (1) of this section.
- (3) Until the guidelines referred to in Subsection (1) of this section are issued by the Commission, pension fund administrators shall have due regard to and comply with the provisions of the Trustee Investments Act and the Fourth Schedule to the Personal Income Tax Act, 1993 and any other legislation governing the investment of pension funds (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provisions in Clause 87 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 88: Investment outside Nigeria.**

Subject to Section 86 of this Act, a pension fund administrator may, with the approval of the Commission and in conformity with current foreign exchange regulations in force, invest pension fund assets in investments outside the territory of the Federal Republic of Nigeria (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provision in Clause 88 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 89: Restricted Investment.**

A pension fund administrator or custodian shall not invest pension fund assets in the shares or any other securities issued by—

- (a) the pension fund administrator or custodian;
- (b) a shareholder of the pension fund administrator or custodian; and
- (c) an affiliate of the pension fund administrator, custodian or shareholders of the pension fund administrator, or custodian (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provisions in Clause 89 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 90: Restriction on Sale of Pension Fund Assets.**

The pension fund administrator shall not—

- (a) sell pension fund assets to—
 - (i) itself,
 - (ii) any shareholder, director or affiliate of the pension fund administrator,
 - (iii) any employee of the pension fund administrator,
 - (iv) the spouse of any of the persons referred to in subparagraphs (i) to (iii) of this paragraph or those related to the said persons,
 - (v) affiliates of any shareholder of the pension fund administrator,
 - (vi) the custodian holding pension fund assets to the order of the pension fund administrator
- (b) Purchase any pension fund assets;
- (c) apply pension fund assets under its management by way of loans and credits or as collateral for any loan taken by any person (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provisions in Clause 90 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 91: Additional Restriction on Investment.**

- (1) The Commission may, by regulation, impose additional restrictions on investments by pension fund administrators where such additional restrictions are imposed with the objects of protecting the interest of the beneficiaries of the retirement accounts.
- (2) For the purposes of complying with any guidelines set by the Commission as to the quality of instruments that pension fund assets may be invested in, and to ensure the safety of pension fund assets in general, every pension fund administrator shall have due regard to the risk rating of instrument that has been undertaken by an approved rating company (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provisions in Clause 91 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 92: Penalty for non-compliance.**

Any pension fund administrator or custodian who fails to comply with any provision of this Part of this Act shall be liable to a penalty of an amount to be determined by the Commission but in any case shall not be less than ₦1,000,000 for each day that the non-compliance continues and the pension fund administrator shall forfeit the profit from that investment to the beneficiaries of the retirement accounts and if the investment has led to a loss, the pension fund administrator shall be made to make up for the loss (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provision in Clause 92 stand part of the Bill, put and agreed to.

SUB-PART C—SUPERVISION AND EXAMINATION**Committee Recommendation:****Clause 93: Supervision and examination of pension fund administrator, etc.**

(1) The Commission shall not less than once in each year authorize an inspection or examination or investigation, as the case may be, of—

- (a) the pension fund administrators, custodians,
- (b) Federal Public Service Pensions Board, the Fund Investment and Management Committees,
- (c) Boards of Trustees of Occupational schemes,

for purposes of the Commission determining whether or not the provisions of this Act or any regulations or guidelines made thereunder are being complied with.

(2) Without prejudice to the provisions of Subsection (1) of this section, the Commission may, at any time, authorise one or more of the officers of the Commission or its agent to inspect, examine or investigate any aspect of the activities of any persons or institutions referred to in Subsection (1) of this section (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 93 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 94: Appointment of examiners.**

The Commission may appoint its officers or agents or any other qualified persons as examiners as it may consider expedient to carry out its duties under this Act (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provision in Clause 94 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 95: Powers of examiners.**

(1) In the performance of its duties under this section, the Commission or its officers or agents shall have power to—

- (a) inspect, examine or investigate in accordance with Subsection (1) of Section 93 of this Act or any regulation made under this Act and under conditions of confidentiality, the books, activities and affairs of any pension fund administrator, custodian or any person or body relating to pension funds;
- (b) gain access at all times during working hours to the books, accounts, documents and vouchers of any pension fund administrator or custodian or any person or body relating to pension funds;
- (c) verify or check the balance in the retirement account and the records of deposits made to date;

- (d) verify the investment made by the pension fund administrator with the funds being managed by it; and
 - (e) request from any director, manager or officer of any pension fund administrator or custodian or firm, any information or explanation as the Commission may deem necessary in each case to enable it determine whether or not the provisions of this Act or any regulations made thereunder are being complied with.
- (2) In exercising the powers under Subsection (1) of this section, the examiners shall exercise reasonable care to avoid undue hindrance to the day-to-day activities of any pension fund administrator or custodian or any person or body relating to pension funds (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provisions in Clause 95 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 96: Examination reports.

- (1) The Commission shall, upon the completion of the examination or investigation, forward a copy of its report to the pension fund administrator or custodian or such other person or body with the instruction that the report be placed before the board of directors of the pension fund administrator or custodian or such other person or body.
- (2) The board of directors of the pension fund administrator or custodian or such other body shall, within 14 days of receiving the report mentioned in subsection (1) of this section, convene an extraordinary meeting to consider the report and submit its reactions to the report and proposals for implementing any recommendations to the Commission.
- (3) Any pension fund administrator or custodian or person or body who fails to comply with the provisions of Subsection (2) of this section commits an offence and shall be liable to a fine not less than ₦500,000 for each day during which the offence continues and if the offence continues for more than 30 days, the Commission may, in addition to the fine suspend the licence or certificate of registration of the pension fund administrator or custodian.
- (4) The Commission shall issue quarterly reports of its findings on the supervision and examination of the pension fund administrators and custodian or any other person or body relating to pension funds regulated by it (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provisions in Clause 96 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 97: Power of the Commission to order a special examination.

The Commission may, at any time, order a special examination or investigation of the books and affairs of a pension fund administrator or custodian where—

- (a) it suspects or is satisfied that—
 - (i) it is in the public interest to do so; or
 - (ii) the pension fund administrator or custodian has been carrying on its business in a manner detrimental to the interest of beneficiaries of the retirement accounts; or
 - (iii) the pension fund administrator or custodian does not have sufficient assets to cover its liabilities; or
 - (iv) the pension fund administrator or custodian has contravened the provisions of this Act; or

(b) an application is made thereto by—

- (i) a director, manager or shareholder of the pension fund administrator or custodian to examine its company,
- (ii) a scheme, beneficiary of a retirement account or any client of a pension fund administrator,
- (iii) any pension fund administrator to examine the custodian of the pension fund assets that the pension fund administrator is managing,
- (iv) any custodian to examine the pension fund administrator for whom it is holding pension fund assets (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provisions in Clause 97 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 98: The duty to produce information, to examiners, etc.

It shall be the duty of every employer, pension fund administrator, custodian or any person or institution connected with the management, operation and investment of pension funds to produce and give the examiners such books, accounts, documents, vouchers, information and explanations as the examiners may request for the purpose of carrying out an examination under this Act (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provision in Clause 98 stand part of the Bill, put and agreed to.

PART V—GENERAL PROVISIONS

SUB-PART A—OFFENCES, PENALTIES AND ENFORCEMENT POWERS

Committee Recommendation:

Clause 99: General penalty.

Any person who contravenes any provisions of this Act where no other penalty is prescribed under this Act, commits an offence and shall be liable on conviction to a fine not less than ₦250,000 or to imprisonment for a term not exceeding one year or to both such fine and imprisonment (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provision in Clause 99 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 100: Offences relating to misappropriation of pension funds.

Any pension fund administrator or custodian who misappropriates pension funds commits an offence and shall on conviction be liable to a fine of ₦10,000,000.00 or an amount equal to three times the amount so misappropriated, whichever is higher, and each of its directors or officers shall be liable to a fine not less than ₦5,000,000 or imprisonment for a term not less than 10 years or to both such fine and imprisonment (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provision in Clause 100 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 101: Offences relating to custodian.

Any person who contravenes the provisions of Section 75 commits an offence and shall be liable on conviction to a fine not less than ₦10,000,000 and each of its directors or officers shall be liable to a fine not less than ₦5,000,000 or imprisonment for a term not exceeding 3 years or to both fine and imprisonment (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provision in Clause 101 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 102: Powers of the Commission to apply additional sanctions.

- (1) Notwithstanding the provisions of any other enactment or law and without prejudice to the penalties stipulated under this Act, the Commission shall, in addition to the penalties stipulated under this Act, cause to be removed from office any director or officer of a pension fund administrator or custodian that violates the provision of Sections 75 and 100 of this Act.
- (2) It shall not be a defence against the exercise of the powers of the Board under Section 100 for the director or manager or officer of the pension fund administrator or custodian to state that he had no knowledge of the violation or that he has already been arrested or arraigned before a court for criminal charges in respect of the violation (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 102 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 103: Offence by a body corporate.

Where an offence under the provisions of this Act is committed by a body corporate, the body corporate and every director or officer thereof who had knowledge or should have had knowledge of the offence and who did not exercise due diligence to ensure compliance with this Act commits an offence and shall be proceeded against accordingly (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provision in Clause 103 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 104: Penalty for refusing to give information, etc.

Any employer or pension fund administrator or custodian or any person or body who—

- (a) refuses to—
 - (i) produce any book, accounts, document or voucher, or
 - (ii) give any information or explanation required by an inspector, or
- (b) with intent to defraud—
 - (i) produces any book, accounts, document or voucher, or
 - (ii) gives any information or explanation,

which is false or misleading in any material particular,

commits an offence under this Act and shall on conviction be liable to a fine not less than ₦200,000 or to imprisonment for a term not less than 3 years or to both such fine and imprisonment for every false or misleading information given, and where the offence continues to a fine not less than ₦100,000 for everyday the offence continues (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 104 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 105: Compounding of offences. 1999 No. 24.

Without prejudice to the powers of the Attorney-General of the Federation under Section 174 of the Constitution of Federal Republic of Nigeria, 1999 to continue or discontinue criminal proceedings against any person in any court of law, the Commission may compound any offence punishable under this Act by accepting such sums of money as it thinks fit, not exceeding the amount of the maximum fine to which that person would have been liable if he had been convicted of that offence (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provision in Clause 105 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 106: Jurisdictions. 1999 No. 24.**

- (1) An offence under this Act shall be tried in the Federal High Court.
- (2) Prosecution for offences under this Act shall be instituted before the Court in the name of the Federal Republic of Nigeria by the Attorney-General of the Federation or such officer in the Federal Ministry of Justice as he may authorise so to do, and in addition thereto and without prejudice to the Constitution of the Federal Republic of Nigeria 1999, he may—
 - (a) after consultation with the Attorney-General of any State in the Federation, authorize the Attorney-General or any officer in the ministry of Justice of that State; or
 - (b) if the Commission so requests, authorise any other legal practitioner in Nigeria, to undertake any such prosecution directly or assist therein (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 106 stand part of the Bill, put and agreed to.

SUB-PART B—DISPUTE RESOLUTION**Committee Recommendation:****Clause 107: Referral of disputes to the Commission.**

- (1) Any scheme, employee or beneficiary of a scheme who is dissatisfied with a decision of the pension fund administrator or custodian may request, in writing, that such decision be reviewed by the Commission with a view to ensuring that such decision is made in accordance with the provisions of this Act or any regulations made thereunder.
- (2) A copy of every request under this section shall be served on the relevant pension fund administrator or custodian.
- (3) The Commission shall, in the exercise of its powers under this section, conduct its proceedings in such manner as to avoid undue delays in resolving the dispute and accordingly, the Commission shall dispose of any matter before it finally within a period of 3 months from the date the matter was referred to it (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 107 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 108: Arbitration. Cap. 19 LFN.**

- (1) Where either party is dissatisfied with the decision of the Commission on any matter referred to it under Section 107 of this Act, such party may refer the matter to arbitration in accordance with the Arbitration and Conciliation Act.
- (2) Where any person or body corporate is aggrieved or dissatisfied with any action or decision of the Commission under this Act, the aggrieved person or body corporate may refer the matter to arbitration under the Arbitration and Conciliation Act (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 108 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 109: Arbitral awards.**

Any arbitral award made under section 108 of this Act shall be binding on the parties and shall be enforceable in the Federal High Court (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provision in Clause 109 stand part of the Bill, put and agreed to.

SUB-PART C—LEGAL PROCEEDINGS

Committee Recommendation:**Clause 110: Procedure in respect of suits against the Commission.**

No suit shall be commenced against the Commission before the expiration of a period of 30 days after written notice of an intention to commence the suit shall have been served upon the Commission by the intending plaintiff or his agent; and the notice shall clearly and explicitly state—

- (a) the cause of action;
- (b) the particulars of the claim;
- (c) the name and place of abode of the intending plaintiff; and
- (d) the relief which he claims (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provisions in Clause 110 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 111: Service of notice.**

The notice referred to in Section 110 of this Act and any summons, notice or other document required or authorized to be served upon the Commission under the provisions of this Act or any other law may be served by delivering the same to the Secretary, or by sending it by registered post addressed to the Secretary at the head office of the Commission (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provision in Clause 111 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 112: Protection against adverse claims, etc.**

The Commission, its Commissioners or officers or employees or agents shall not be liable in respect of anything done or omitted to be done in good faith in pursuance or in execution of, or in connection with, the execution of any power conferred by this Act upon the Commission, such director, officer, employee or agent (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provision in Clause 112 stand part of the Bill, put and agreed to.

PART VI—MISCELLANEOUS PROVISIONS

Committee Recommendation:**Clause 113: Power to make regulations.**

The Commission may make regulations generally for the carrying into effect the provisions of this Act (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provision in Clause 113 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 114: Exemption of pensions funds from liquidation process.**

Notwithstanding the provisions of any other enactment or law, no pension fund assets kept with a custodian under this Act shall be used to meet the claims of any of the custodian's creditors in the event of liquidation of the custodian (*Hon. Abubakar Momoh*) — Agreed to.

Question that the provision in Clause 114 stand part of the Bill, put and agreed to.

Committee Recommendation:**Clause 115: Repeal, Savings, etc. Cap. 346 LFN.**

- (1) The following enactments are hereby repealed, that is—

- (a) the Pension Act 1990;

(b) the Police and Other Agencies Pensions Offices (Establishment, etc.) Act, 1993.

(2) Any Board of Trustees established under the enactments repealed in Subsection (1) of this section is hereby dissolved and all the pension funds or assets being held by such Board of Trustees before the Commencement of this Act shall be transferred in accordance with the provisions of Section 58 of this Act.

(3) The Fund Investment and Management Committees created pursuant to Section 26 of this Act may retain any of the staff of the dissolved Board of Trustees.

(4) Where a member of staff of a dissolved Board of Trustees is not retained under Subsection (3) of this section, the appropriate body or authority responsible for appointment or posting of such staff shall post or re-deploy the staff to any appropriate office in the Armed Forces, the Police, paramilitary or public service of the Federation as the case may be.

(5) The repeal of the enactments specified in Subsection (1) of this section shall not affect any additional fringe benefits, other than pension, enjoyable in retirement by any person before the commencement of this Act or any pension exempted under Section 16 of this Act (Hon. Abubakar Momoh).

Amendment Proposed:

Leave out all the words in Subclause (3) (Hon. Abubakar Momoh).

Question that the amendment be made, put and agreed to.

Another Amendment Proposed:

In line 2 of Subclause (4), leave out "Subsection (3)" and insert "Subsection (2) instead thereof (Hon. Abubakar Momoh).

Question that the amendment be made, put and agreed to.

Question that the provision in Clause 115 as amended stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 116: Consequential amendments, 1993 No. 66.

(1) The Police (Pension Right of Inspector-General of Police) Act, 1993 is hereby consequently amended—

(a) by deleting the Section 1 thereto; and

(b) in Section 3 by deleting the word "Constitution" from the interpretation section.

Cap. 231 N.

(2) The Armed Forces Pensions Act, 1990 is hereby consequently amended to bring its provisions in line with the provisions of this Act (Hon. Abubakar Momoh) — Agreed to.

Question that the provision in Clause 116 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 117: Enactments inconsistent with this Act.

If any other enactment or law relating to pensions is inconsistent with this Act, this Act shall prevail (Hon. Abubakar Momoh) — Agreed to.

Question that the provision in Clause 117 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 118: Interpretation.

In this Act, unless the context otherwise requires—

"Armed Forces" means the Nigerian Army, the Nigerian Navy and the Nigerian Air Force; (Hon. Abubakar Momoh).

Question that the meaning of the words "Armed Forces" be as defined in the interpretation to this Act, put and agreed to.

"Board" means the Federal Public Service Pensions Board established under Section 23 of this Act; (Hon. Abubakar Momoh).

Question that the meaning of the word "Board" be as defined in the interpretation to this Act, put and agreed to.

"Board of Trustees" means the body that is entrusted with the management of an occupational scheme or any other pension or retirement benefits scheme; (Hon. Abubakar Momoh).

Question that the meaning of the words "Board of Trustees" be as defined in the interpretation to this Act, put and agreed to.

"closed pension fund administrator" means any employer or its subsidiary licensed by the Commission as closed pension fund administrator under Section 53 of this Act to exclusively manage only pension funds assets for its employees; (Hon. Abubakar Momoh).

Question that the meaning of the words "closed pension fund administrator" be as defined in the interpretation to this Act, put and agreed to.

"Commission" means the National Pensions Commission established under Section 35 of this Act; (Hon. Abubakar Momoh).

Question that the meaning of the word "Commission" be as defined in the interpretation to this Act, put and agreed to.

"Committees" means the Fund Management and Investment Committees established under Section 26 of this Act for the management and investment of the Funds created pursuant to Section 25 of this Act and a reference to "Committee" shall be construed to mean any of the Committees; (Hon. Abubakar Momoh).

Amendment Proposed:

Leave out all the words in the definition (Hon. Abubakar Momoh).

Question that the amendment be made put and agreed to.

"condonation" means to regard a break in service as if the break had never occurred, for the purpose of continuity of service; (Hon. Abubakar Momoh).

Question that the meaning of the word "condonation" be as defined in the interpretation to this Act, put and agreed to.

"contributory pension" means a combined contribution by employer and employee for the benefit of the employee; (Hon. Abubakar Momoh).

Question that the meaning of the words "contributory pension" be as defined in the interpretation to this Act, put and agreed to.

"Court" means the Federal High Court; (Hon. Abubakar Momoh).

Question that the meaning of the word "Court" be as defined in the interpretation to this Act, put and agreed to.

"Custodian" means a company incorporated under the Companies and Allied Matters Act, that has been licensed by the Commission under this Act whose business includes taking responsibility for the safe custody of the funds, securities, financial instruments and documents of title of the pension fund assets; (Hon. Abubakar Momoh).

Question that the meaning of the word "Custodian" be as defined in the interpretation to this Act, put and agreed to.

"death in service" means the natural death of an officer while in service; (Hon. Abubakar Momoh).

Question that the meaning of the words "death in service" be as defined in the interpretation to this Act, put and agreed to.

"death in the course of duty" means the death of an officer caused by another person or any other cause in the course of performing his official duty; (Hon. Abubakar Momoh).

Question that the meaning of the words "death in the course of duty" be as defined in the interpretation to this Act, put and agreed to.

"employee" means any person who is in the service of an employer operating an occupational scheme or other retirement benefits scheme provided for or approved under this Act whether in the public or private sector; (Hon. Abubakar Momoh).

Question that the meaning of the word "employee" be as defined in the interpretation to this Act, put and agreed to.

"employer" means an organisation that engages the services of an employee and operating a scheme provided for or approved under this Act; (Hon. Abubakar Momoh).

Question that the meaning of the word "employer" be as defined in the interpretation to this Act, put and agreed to.

"Fund" means the Public Service Pension Funds established under Section 25 of this Act and a reference to "Committee" shall be construed to mean any of the Committees; (Hon. Abubakar Momoh).

Amendment Proposed:

Leave out all the words in the definition (Hon. Abubakar Momoh).

"gratuity" means lump-sum payment of benefits by the employer to the employee on leaving the service; (Hon. Abubakar Momoh).

Question that the meaning of the word "gratuity" be as defined in the interpretation to this Act, put and agreed to.

"mental incapacity" means a state of unsound mind capable of rendering the officer unproductive; (Hon. Abubakar Momoh).

Question that the meaning of the words "mental incapacity" be as defined in the interpretation to this Act, put and agreed to.

"merger of service" means combination of two or more services for the purposes of continuity of service; (Hon. Abubakar Momoh).

Question that the meaning of the words "merger of service" be as defined in the interpretation to this Act, put and agreed to.

"military service" means any or all of the following—

- (a) service in the Armed Forces after 27th May, 1967 and ending immediately before 15th January, 1970,
- (b) service in connection with internal security operation, that is, all operation in aid of civil authority in the maintenance of law and order,
- (c) any other service as may be so declared, from time to time, by the President as military service; (Hon. Abubakar Momoh).

Question that the meaning of the words "military service" be as defined in the interpretation to this Act, put and agreed to.

"Monthly emoluments" means a total sum of basic salary, housing allowance and transport allowance; (Hon. Abubakar Momoh).

Question that the meaning of the words "Monthly emoluments" be as defined in the interpretation to this Act, put and agreed to.

"next-of-kin" means those persons whose names are furnished by a retiree as his next-of-kin in his record of service for the purpose of inheriting his retirement benefits; (Hon. Abubakar Momoh).

Question that the meaning of the words "next-of-kin" be as defined in the interpretation to this Act, put and agreed to.

"occupational scheme" includes a pension fund, provident fund or other retirement benefits scheme set up for the purpose of providing benefits for employees upon retirement or disengagement from the service of the employer; (Hon. Abubakar Momoh).

Question that the meaning of the words "occupational scheme" be as defined in the interpretation to this Act, put and agreed to.

"pension" means regular payment to an officer who retired from the public service after the attainment of fifteen years qualifying service or sixty years of age or thirty-five years of service as the case may be; (Hon. Abubakar Momoh).

Question that the meaning of the word "pension" be as defined in the interpretation to this Act, put and agreed to.

"pension fund" means a society, fund, contract or scheme the assets of which are held under irrevocable trusts and any scheme established under this Act or by any instrument or law, the main objects of which are the provision of non-assignable and non-commutable retirement pensions or annuities for an individual or his dependents after his death, or for any group or class of individuals and their dependents; (Hon. Abubakar Momoh).

Question that the meaning of the words "pension fund" be as defined in the interpretation to this Act, put and agreed to.

"Pension fund administrator" means any body corporate under the Companies and Allied Matters Act and licensed by the Commission under this Act; (Hon. Abubakar Momoh).

Question that the meaning of the words "Pension fund administrator" be as defined in the interpretation to this Act, put and agreed to.

"Pension fund assets" means assets, which collectively constitute a pension fund; (Hon. Abubakar Momoh).

Question that the meaning of the words "Pension fund assets" be as defined in the interpretation to this Act, put and agreed to.

"pensionable service" means service in an established post in the public service or any approved service which qualifies an officer for payment of pension under this Act; (Hon. Abubakar Momoh).

Question that the meaning of the words "pensionable service" be as defined in the interpretation to this Act, put and agreed to.

"physical incapacity" means the state of physical disability capable of affecting negatively the output of an officer; (Hon. Abubakar Momoh).

Question that the meaning of the words "physical incapacity" be as defined in the interpretation to this Act, put and agreed to.

"President" means the President of the Federal Republic of Nigeria; (Hon. Abubakar Momoh).

Question that the meaning of the word "President" be as defined in the interpretation to this Act, put and agreed to.

"provident fund" means a society, fund or scheme, not being a pension fund, established under irrevocable trusts or a law in Nigeria or elsewhere, the objects of which are the provision of retirement benefits for an individual or benefits for his dependents, after his death, or for any group or class of individuals and their dependents; (Hon. Abubakar Momoh).

Question that the meaning of the words "provident fund" be as defined in the interpretation to this Act, put and agreed to.

"public interest" means that which concerns or is for the mutual benefit of all the citizens of a state, nation, city, or community; (Hon. Abubakar Momoh).

Question that the meaning of the words "public interest" be as defined in the interpretation to this Act, put and agreed to.

"public service" means service in—

- (a) the "civil service of the Federation", and
- (b) the "public service of the Federation",

as defined in Section 318 of the Constitution of the Federal Republic of Nigeria 1999; (Hon. Abubakar Momoh).

Question that the meaning of the words "public service" be as defined in the interpretation to this Act, put and agreed to.

"qualifying service" means the minimum period of service an employee in the public service has to put in to qualify for the payment of pension and gratuity; (Hon. Abubakar Momoh).

Question that the meaning of the words "qualifying service" be as defined in the interpretation to this Act, put and agreed to.

"resignation" means cessation from service by an officer who has not qualified for pension or gratuity; (Hon. Abubakar Momoh).

Question that the meaning of the word "resignation" be as defined in the interpretation to this Act, put and agreed to.

"Retirement account" means an account opened with the board or a pension fund administrator into which are paid the contributions of both the employee and the employer; (Hon. Abubakar Momoh).

Question that the meaning of the words "Retirement account" be as defined in the interpretation to this Act, put and agreed to.

"retirement benefit" means a retiree's terminal benefit of pension and gratuity; (Hon. Abubakar Momoh).

Question that the meaning of the words "retirement benefit" be as defined in the interpretation to this Act, put and agreed to.

"retirement" means cessation from service by an officer after qualifying for pension and gratuity; (Hon. Abubakar Momoh).

Question that the meaning of the word "retirement" be as defined in the interpretation to this Act, put and agreed to.

"Scheme" means the Contributory Pension Scheme established under Section 1 of this Act; (Hon. Abubakar Momoh).

Question that the meaning of the word "Scheme" be as defined in the interpretation to this Act, put and agreed to.

"statutory retirement" means retirement from service on grounds of attainment of sixty years of age or thirty-five years of service; (Hon. Abubakar Momoh).

Question that the meaning of the words "statutory retirement" be as defined in the interpretation to this Act, put and agreed to.

"survivors" or "designated survivors" means those persons whose names are furnished by the officer in his record of service other than the next-of-kin as beneficiaries of his retirement benefits; (Hon. Abubakar Momoh).

Question that the meaning of the words "survivors" or "designated survivors" be as defined in the interpretation to this Act, put and agreed to.

"total emolument" means the basic salary attached to the established post held by the officer and the following allowances, where applicable—

- (a) rent subsidy,
- (b) transport allowance,
- (c) meal subsidy,
- (d) entertainment allowance,
- (e) utility allowance
- (f) domestic staff allowance; (Hon. Abubakar Momoh).

Question that the meaning of the words "total emolument" be as defined in the interpretation to this Act, put and agreed to.

"voluntary retirement" means cessation from service by an officer having attained the qualifying service for pension and gratuity; (Hon. Abubakar Momoh).

Question that the meaning of the words "voluntary retirement" be as defined in the interpretation to this Act, put and agreed to.

"withdrawal" means cessation from service by an officer who has qualified for gratuity but not pension (Hon. Abubakar Momoh).

Question that the meaning of the word "withdrawal" be as defined in the interpretation to this Act, put and agreed to.

Question that Clause 118 stand part of the Bill, put and agreed to.

Committee Recommendation:

Clause 119: Short title.

This Act may be cited as the Pension Reform Bill, 2004 (Hon. Abubakar Momoh) — Agreed to.

Question that the provision in Clause 119 stand part of the Bill, put and agreed to.

SCHEDULES

FIRST SCHEDULE

Year of qualifying service *Gratuity as % of final pay* *Pension as % of final pay*

10	100%	—
11	110%	—
12	120%	—
13	130%	—
14	140%	—
15	100%	30%
16	110%	32%
17	120%	34%
18	130%	36%
19	140%	38%
20	150%	40%
21	160%	42%
22	170%	44%
23	180%	46%
24	190%	48%
25	200%	50%
26	210%	52%
27	220%	54%
28	230%	56%
29	240%	56%
30	250%	60%
31	260%	62%
32	270%	64%
33	280%	66%
34	290%	68%
35	300%	70% (Hon. Abubakar Momoh) — Agreed to.

Question that the provisions of Table A of the First Schedule stand part of the Bill, put and agreed to.

TABLE B

Section

INCAPACITY PENSION PAYABLE

<i>Category</i>	<i>Degree of Incapacitation</i>	<i>Incapacity Pension Payable</i>
A	Not less than 70%	30% of final pay at date of injury
B	50% to 69%	15% of final pay at date of injury
C	30% to 49%	10% of final pay at date of injury (Hon. Abubakar Momoh) — Agreed to.

Question that the provisions of Table B of the First Schedule stand part of the Bill, put and agreed to.

SECOND SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE COMMISSION

Proceedings of the Board

1. Subject to this Act and Section 27 of the Interpretation Act, the Commission shall have power to regulate its proceedings and may make standing orders with respect to the holding of its meetings, and those of its committees, notices to be given, the keeping of minutes of its proceedings, the custody and production for inspection of such minutes and other matters as the Commission may, from time to time, determine (Hon. Abubakar Momoh) — Agreed to.

Question that the provision in paragraph 1 of the Schedule stand part of the Bill, put and agreed to.

2. (1) There shall be at least four ordinary meetings of the Commission in every calendar year and subject thereto, the Commission shall meet whenever it is convened by the Chairman, and if the Chairman is requested to do so by notice given to him by not less than 3 other members, he shall convene a meeting of the Commission to be held within 14 days from the date on which the notice was given.
- (2) Every meeting of the Commission shall be presided over by the Chairman and if the Chairman is unable to attend a particular meeting, the Commissioners present at the meeting shall elect one of their number to preside at the meeting.
3. The quorum of any meeting of the Commission shall consist of the Chairman (or in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule) and two other Commissioners.
4. The Commission shall meet for the conduct of its business at such places and on such days as the Chairman may appoint.
5. A question put before the Commission at a meeting shall be decided by consensus and where this is not possible, by a majority of the votes, of the Commissioners present and voting.
6. The Chairman shall, in the case of an equality of votes, have a casting vote in addition to his deliberative vote.
7. Where the Commission seeks the advice of any person on a particular matter, the Commission may invite that person to attend for such period as it thinks fit, but a person who is invited by virtue of this paragraph shall not be entitled to vote at any meeting of the Commission and shall not count towards the quorum.

Committees

8. The Commission may appoint one or more committees to carry out on behalf of the Commission such of its functions as it may determine and report on any matter with which the Commission is concerned.
9. A committee appointed under paragraph 8 of this Schedule shall be presided over by a Commissioner and consist of such number of persons (not necessarily all Commissioners) as may be determined by the Commission, and a person other than a Commissioner shall hold office on the committee in accordance with the terms of his appointment.
10. A decision of a committee of the Commission shall be of no effect until it is confirmed by the Commission.

Miscellaneous

11. The fixing of the seal of the Commission shall be authenticated by the signature of the Chairman and the Secretary or the Secretary and such other person authorised by the Commission to act for that purpose.
12. A contract or an instrument which, if made or executed by any person being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Commission by the Chairman or the Secretary or by any person generally or specifically authorised to act for that purpose by the Commission.
13. A document purporting to be a contract, an instrument or other document signed or sealed on behalf of the Commission shall be received in evidence and, unless the contrary is proved, be presumed without further proof, to have been properly signed or sealed.
14. The validity of any proceedings of the Commission or its committees shall not be affected by—
 - (a) any vacancy in the membership of the Commission or its committees, or
 - (b) reason that a person not entitled to do so took part in the proceedings, or

- (c) any defect in the appointment of member.
15. Any member of the Commission or committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Commission or any committee thereof—
- (a) shall forthwith disclose his interest to the Commission or committee; and
- (b) shall not vote on any question relating to the contract or arrangement (*Hon. Abubakar Momoh*) — *Agreed to.*

Question that the provisions of the Second Schedule stand part of the Bill, put and agreed to.

Committee Recommendation:

Long Title: That the words "An Act to Repeal the Pensions Act, Cap. 346, LFN 1990, to Establish a Contributory Pension Scheme for Employees in the Federal Public Service, Regulate Pension Schemes in the Federal Republic of Nigeria and for Matters Connected Therewith, be the Long Title to the Bill (*Hon. Abubakar Momoh*)— *Agreed to.*

Chairman to report Bill.

(HOUSE IN PLENARY)

Mr Deputy Speaker in the Chair, reported that the House in the Committee of Whole consider the Report of the *Ad-Hoc* Committee on the Pensions Reform Bill and approved Clauses 53, 54, 55, 56, 57 as amended, retained Clause 44 in the Principal Bill, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80 as amended, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 112, 113, 114, 115 as amended, 116, 117, 118 as amended, 119, the Schedules and the Long Title to the Bill.

Question that the House do adopt the Report of the Committee of Whole, agreed to.

7. **Presentation and Laying of Treaty:**
International Convention for the Safety of Life at Sea (Ratification and Enforcement) Bill, 2004 — *First Reading.*
8. **Suspension Order XII, Rule 3 (1):**
Motion made and Question proposed, "The Order XII, Rule 3 (1) be suspended to enable the House read the Bill for an Act to Repeal the Pensions Act, 1990 and to Establish a Contributory Pensions Scheme for Employees in the Public and Private Sectors in the Federal Republic of Nigeria and for Matters Connected Therewith, 2003 the Third Time" (Hon. Abdul Ningi).

Question put and agreed to.

9. **A Bill for an Act to Repeal the Pensions Act, 1990 and to Establish a Contributory Pensions Scheme for Employees in the Public and Private Sectors in the Federal Republic of Nigeria and for Matters Connected Therewith, 2003 — Third Reading:**

Motion made and Question proposed, "That the Bill for an Act to Repeal the Pensions Act, 1990 and to Establish a Contributory Pensions Scheme for Employees in the Public and Private Sectors in the Federal Republic of Nigeria and for Matters Connected Therewith, 2003 be now read the Third Time" forthwith (Hon. Abdul Ningi).

Question put and agreed to.

Bill read the Third Time and Passed.

10. **Conferees—Pension Reform Bill:**

Mr Deputy Speaker named the following Conferees pursuant to Order XII, Rule 14:

- (i) Hon. Chidi Duru
(ii) Abubakar Momoh
(iii) Hon. Ruth Ango
(iv) Hon. Abdul Azeez Ango
(v) Hon. Mudasiru Hussain

(vi) Hon. Usman Bapparu

11. **A Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the International Convention for the Safety of Life at Sea 1974 as Amended and for Purposes Connected Therewith:**
Motion made and Question proposed, "That the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the International Convention for the Safety of Life at Sea 1974 as Amended and for Purposes Connected Therewith be now read the Second Time" (Hon. Abdul Ningi).

12. **Suspension of Order XII, Rule 3 (1):**
Motion made and Question proposed, "That Order XII, Rule 3 (1) be suspended to enable the House read the International Convention for the Safety of Life at Sea (Ratification and Enforcement) Bill, 2004, the Second and Third Time forthwith" (Hon. Abdul Ningi).

Question put and agreed to.

Bill read the Second Time and referred to the Committee of Whole.

13. **Suspension of Order XVII, Rule (2) (a) and (b):**
Motion made and Question proposed, "That Order XVII, Rule (2) (a) and (b) be suspended to enable the House consider the International Convention for the Safety of Life at Sea in the Committee of whole" (Hon. Abdul Ningi).

Question put and agreed to.

Question, that the House do resolve into the Committee of Whole to consider the International Convention for the Safety of Life at Sea (Ratification and Enforcement) Bill, 2004 (Hon. Abdul Ningi).

Question put and agreed to.

(HOUSE IN COMMITTEE)

(Mr Deputy Speaker in the Chair)

A BILL FOR AN ACT TO ENABLE EFFECT TO BE GIVEN IN THE FEDERAL REPUBLIC OF NIGERIA TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA 1974 AS AMENDED AND FOR PURPOSES CONNECTED THEREWITH

WHEREAS the Federal Republic of Nigeria acceded to the International Convention for the Safety of Life at Sea 1974 in May 1981;

AND WHEREAS the Federal Republic of Nigeria acceded to the 1978 Protocol and the subsequent amendments to the International Convention for the Safety of Life at Sea up to December 2002;

AND WHEREAS it is necessary and expedient to make legislative provisions for the enforcement in the Federal Republic of Nigeria of the said International Convention for the Safety of Life at Sea 1974, as amended;
(Hon. Abdul Ningi)

Question that the Preamble to the Act stand part of the Convention, put and agreed to.

NOW THEREFORE BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows—

1. As from the commencement of this Act, the provisions of the International Convention for the Safety of Life at Sea, 1974, as amended, as set out in the Schedule to this Act, respectively shall, subject as thereunder provided, have the force of law in Nigeria, be given full recognition and effect and be applied by all authorities and persons exercising Legislative, Executive and Judicial powers in Nigeria (Hon. Abdul Ningi).

Question that the provision Clause 1 stand part of the Convention, put and agreed to.

2. This Act may be cited as the International Convention for the Safety of Life at Sea (Ratification and Enforcement) Act, 2004. (Hon. Abdul Ningi).

Question that the provision Clause 2 stand part of the Convention, put and agreed to.

SCHEDULES

**INTERNATIONAL CODE FOR THE SECURITY OF SHIPS
AND OF PORT FACILITIES (ISPS CODE)**

(By virtue of the amendments to the annex to the International Convention for the Safety of Life at Sea, 1974, adopted by Resolution 1 of the Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974, on 12 December, 2002, the international Code for the Security of Ships and of Port Facilities is to be made mandatory under that Convention)

**CODE INTERNATIONAL POUR LA SURETE DES NAVIRES
ET DES INSTALLATIONS PORTUAIRES (CODE ISPS)**

(En vertu des amendements à l'Annexe à la Convention Internationale de 1974 pour la sauvegarde de la vie humaine en mer, adoptés par la résolution 1 de la Conférence des Gouvernements contractants à la Convention Internationale de 1974 pour la sauvegarde de la vie humaine en mer le 12 décembre 2002, le Code international pour la sûreté des navires et des installations portuaires est obligatoire en vertu de cette Convention)

**CODIGO INTERNACIONAL PARA LA PROTECCION DE LOS BUQUES Y
DE LAS INSTALACIONES PORTUARIAS (CODIGO PBIP)**

(En virtud de las enmiendas al anexo del Convenio internacional para la seguridad de la vida humana en el mar, 1974, adoptadas el 12 de diciembre de 2002 mediante la resolución 1 de la Conferencia de los Gobiernos Contratantes del Convenio internacional para la seguridad de la vida humana en el mar, 1974, el Código internacional para la protección de los buques y de las instalaciones portuarias será de obligado cumplimiento de conformidad con dicho Convenio)

**RESOLUTION 2 OF THE CONFERENCE OF CONTRACTING GOVERNMENTS TO THE
INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974
(adopted on 12 December 2002)**

**THE INTERNATIONAL CODE FOR THE SECURITY OF SHIPS
AND OF PORT FACILITIES**

THE CONFERENCE,

HAVING ADOPTED amendments to the International Convention for the Safety of Life at Sea, 1974, as amended (hereinafter referred to as "the Convention"), concerning special measures to enhance maritime safety and security,

CONSIDERING that the new chapter XI-2 of the Convention makes a reference to an International Ship and Port Facility Security (ISPS) Code and requires ships, companies and port facilities to comply with the relevant requirements of part A of the International Ship and Port Facility Security (ISPS) Code as specified in Part A of the ISPS Code,

BEING OF THE OPINION that the implementation by Contracting Governments of the said chapter will greatly contribute to the enhancement of maritime safety and security and safeguarding those on board and ashore,

HAVING CONSIDERED a draft of the International Code for the Security of Ships and of Port Facilities prepared by the Maritime Safety Committee of the International Maritime Organization (hereinafter referred to as "the Organization"), at its seventy-fifth and seventy-sixth sessions, for consideration and adoption by the Conference,

1. ADOPTS the International Code for the Security of Ships and of Port Facilities (hereinafter referred to as "the Code"), the text of which is set out in the annex to the present resolution;
2. INVITES Contracting Governments to the Convention to note that the Code will take effect on 1 July, 2004 upon entry into force of the new chapter XI-2 of the Convention;

3. REQUESTS the Maritime Safety Committee to keep the Code under review and amend it, as appropriate;

4. REQUESTS the Secretary-General of the Organization to transmit certified copies of the present resolution and the text of the Code contained in the annex to all Contracting Governments to the Convention;

5. FURTHER REQUESTS the Secretary-General to transmit copies of this resolution and its annex to all Members of the Organization which are not Contracting Governments to the Convention (Hon. Abdul Ningi).

Question that the Preamble to Resolution 2 of the Act stand part of the Convention, put and agreed to.

ANNEX

INTERNATIONAL CODE FOR THE SECURITY OF SHIPS AND OF PORT FACILITIES

PREAMBLE

1. The Diplomatic Conference on Maritime Security held in London in December 2002 adopted new provisions in the International Convention for the Safety of Life at Sea, 1974 and this Code to enhance maritime security. These new requirements form the international framework through which ships and port facilities can co-operate to detect and deter acts which threaten security in the maritime transport sector.

2. Following the tragic events of 11th September, 2001, the twenty-second session of the Assembly of the International Maritime Organization ("the Organization"), in November 2001, unanimously agreed to the development of new measures relating to the security of ships and of port facilities for adoption by a Conference of Contracting Governments to the International Convention for the Safety of Life at Sea, 1974 (known as the Diplomatic Conference on Maritime Security in December 2002). Preparation for the Diplomatic Conference was entrusted to the Organization's Maritime Safety Committee (MSC) on the basis of submissions made by Member States, intergovernmental organizations and non-governmental organizations in consultative status with the Organization.

3. The MSC, at its first extraordinary session, held also in November 2001, in order to accelerate the development and the adoption of the appropriate security measures, established an MSC Intersessional Working Group on Maritime Security. The first meeting of the MSC Intersessional Working Group on Maritime Security was held in February 2002 and the outcome of its discussions was reported to, and considered by, the seventy-fifth session of the MSC in May 2002, when an ad hoc Working Group was established to further develop the proposals made. The seventy-fifth session of the MSC considered the outcome of that Working Group and recommended that work should be taken forward through a further MSC Intersessional Working Group, which was held in September 2002. The seventy-sixth session of the MSC considered the outcome of the September 2002 session of the MSC Intersessional Working Group and the further work undertaken by the MSC Working Group held in conjunction with the Committee's seventy-sixth session in December 2002, immediately prior to the Diplomatic Conference, and agreed the final version of the proposed texts to be considered by the Diplomatic Conference.

4. The Diplomatic Conference (9 to 13 December 2002) also adopted amendments to the existing provisions of the International Convention for the Safety of Life at Sea, 1974 (SOLAS 74) accelerating the implementation of the requirement to fit Automatic Identification Systems, and adopted new regulations in chapter XI-1 of SOLAS 74 covering marking of the Ship Identification Number and the carriage of a Continuous Synopsis Record. The Diplomatic Conference also adopted a number of Conference resolutions, including those covering implementation and revision of this Code, technical co-operation, and co-operative work with the International Labour Organization and World Customs Organization. It was recognized that review and amendment of certain of the new provisions regarding maritime security may be required on completion of the work of these two Organizations.

5. The provisions of chapter XI-2 of SOLAS 74 and this Code apply to ships and to port facilities. The extension of SOLAS 74 to cover port facilities was agreed on the basis that SOLAS 74 offered the speediest means of ensuring the necessary security measures entered into force and given effect quickly. However, it was further agreed that the provisions relating to port facilities should relate solely to the ship/port interface. The wider issue of the security of port areas will be the subject of further joint work between the International Maritime Organization and the International Labour Organization. It was also agreed that the provisions should not extend to the actual response to attacks or to any necessary clear-up activities after such an attack.

6. In drafting the provision, due has been taken to ensure compatibility with the provisions of the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers, 1978, as amended, the International Safety Management (ISM) Code and the humanized system of survey and certification.

7. The provisions represent a significant change in the approach of the international maritime industries to the issue of security in the maritime transport sector. It is recognized that they may place a significant additional burden on certain Contracting Governments. The importance of technical co-operation to assist Contracting Governments implement the provisions is fully recognized.

8. Implementation of the provisions will require continuing effective co-operation and understanding between all those involved with, or using ships and port facilities, including ship's personnel, part personnel, passengers, cargo interests, ship and port management and those in National and Local Authorities with security responsibilities. Existing practices and procedures will have to be reviewed and changed if they do not provide an adequate level of security. In the interests of enhanced maritime security, additional responsibilities will have to be carried by the shipping and port industries and by National and Local Authorities.

9. The guidance given in Part B of this Code should be taken into account when implementing the security provisions set out in chapter XI-2 of SOLAS 74 and in Part A of this Code. However, it is recognized that the extent to which the guidance applies may vary depending on the nature of the port facility and of the ship, its trade and/or cargo.

10. Nothing in this Code shall be interpreted or applied in a manner inconsistent with the proper respect of fundamental rights and freedoms as set out in international instruments, particularly those relating to maritime workers and refugees, including the International Labour Organization Declaration of Fundamental Principles and Rights at Work as well as international standards concerning maritime and port workers.

11. Recognizing that the Convention on the Facilitation of Maritime Traffic, 1965, as amended, provides that foreign crew members shall be allowed ashore by the public authorities while the ship on which they arrive is in port, provided that the formalities on arrival of the ship have been fulfilled and the public authorities have no reason to refuse permission to come ashore for reasons of public health, public safety or public order, Contracting Governments, when approving ship and port facility security plans, should pay due cognisance to the fact that ship's personnel live and work on the vessel and need shore leave and access to shore-based seafarer welfare facilities, including medical care (*Hon. Abdul Ningi*).

Question that the Preamble in the Annex of the International Code for the Security of Ships and of Port Facilities stand part of the Convention, put and agreed to.

PART A

MANDATORY REQUIREMENTS REGARDING THE PROVISIONS OF CHAPTER XI-2 OF THE ANNEX TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974, AS AMENDED

1. GENERAL

1.1 Introduction

This part of the International Code for the Security of Ships and of Port Facilities contains mandatory provisions to which reference is made in chapter XI-2 of the International Convention for the Safety of Life at Sea, 1974, as amended.

1.2 Objectives

The objectives of this Code are:

1. to establish an international framework involving co-operation between Contracting Governments, Government agencies, local administrations and the shipping and port industries to detect security threats and take preventive measures against security incidents affecting ships or port facilities used in international trade;

2. to establish the respective roles and responsibilities of the Contracting Governments, Government agencies, local administrations and the shipping and port industries, at the national and international level, for ensuring maritime security;
3. to ensure the early and efficient collection and exchange of security-related information;
4. to provide a methodology for security assessments so as to have in place plans and procedures to react to changing security levels; and
5. to ensure confidence that adequate and proportionate maritime security measures are in place.

1.3. Functional requirements

In order to achieve its objectives, this Code embodies a number of functional requirements. These include, but are not limited to:

1. gathering and assessing information with respect to security threats and exchanging such information with appropriate Contracting Governments;
2. requiring the maintenance of communication protocols for ships and port facilities;
3. preventing unauthorized access to ships, port facilities and their restricted areas;
4. preventing the introduction of unauthorized weapons, incendiary devices or explosives to ships or port facilities;
5. providing means for raising the alarm in reaction to security threats or security incidents;
6. requiring ship and port facility security plans based upon security assessments; and
7. requiring training, drills and exercises to ensure familiarity with security plans and

2 DEFINITIONS

2.1 For the purpose of this part, unless expressly provided otherwise:

1. **Convention** means the International Convention for the Safety of Life at Sea, 1974, as amended;
2. **Regulation** means a regulation of the Convention;
3. **Chapter** means a chapter of the Convention;
4. **Ship security plan** means a plan developed to ensure the application of measures on board the ship designed to protect persons on board, cargo, cargo transport units, ship's stores or the ship from the risks of a security incident;
5. **Port facility security plan** means a plan developed to ensure the application of measures designed to protect the port facility and ships, persons, cargo, cargo transport units and ship's stores within the port facility from the risks of a security incident;

6. **Ship security officer** means the person on board the ship, accountable to the master, designated by the Company as responsible for the security of the ship, including implementation and maintenance of the ship security plan, and for liaison with the company security officer and port facility security officers.

7. **Company security officer** means the person designated by the Company for ensuring that a ship security assessment is carried out, that a ship security plan is developed, submitted for approval, and thereafter implemented and maintained, and for liaison with port facility

and company officers and the ship security officer.

- .8 *Port facility security officer* means the person designated as responsible for the development, implementation, revision and maintenance of the port facility security plan and for liaison with the ship security officers and company security officers.
- .9 *Security level 1* means the level for which minimum appropriate protective security measures shall be maintained at all times.
- .10 *Security level 2* means the level for which appropriate additional protective security measures shall be maintained for a period of time as a result of heightened risk of a security incident.
- .11 *Security level 3* means the level for which further specific protective security measures shall be maintained for a limited period of time when a security incident is probable or imminent, although it may not be possible to identify the specific target.

2.2 The term "ship", when used in this Code, includes mobile offshore drilling units and high-speed craft as defined in regulation XI-2/1.

2.3 The term "Contracting Government" in connection with any reference to a port facility, when used in sections 14 to 18, includes a reference to the Designated Authority.

2.4 Terms not otherwise defined in this part shall have the same meaning as the meaning attributed to them in chapters I and XI-2.

3. APPLICATION

3.1 This Code applies to:

- .1 the following types of ships engaged on international voyages:
 - .1 passenger ships, including high-speed passenger craft;
 - .2 cargo ships, including high-speed craft, of 500 gross tonnage and upwards; and
 - .3 mobile offshore drilling units; and
- .2 port facilities serving such ships engaged on international voyages.

3.2 Notwithstanding the provisions of section 3.1.2, Contracting Governments shall decide the extent of application of this Part of the Code to those port facilities within their territory which, although used primarily by ships not engaged on international voyages, are required, occasionally, to serve ships arriving or departing on an international voyage.

3.2.1 Contracting Governments shall base their decisions, under section 3.2, on a port facility security assessment carried out in accordance with this Part of the Code.

3.2.2 Any decision which a Contracting Government makes, under section 3.2, shall not compromise the level of security intended to be achieved by chapter XI-2 or by this Part of the Code.

3.3 This Code does not apply to warships, naval auxiliaries or other ships owned or operated by a Contracting Government and used only on Government non-commercial service.

3.4 Sections 5 to 13 and 19 of this part apply to Companies and ships as specified in regulation XI-2/4.

3.5 Sections 5 and 14 to 18 of this part apply to port facilities as specified in regulation

3.6 Nothing in this Code shall prejudice the rights or obligations of States under international law.

4. RESPONSIBILITIES OF CONTRACTING GOVERNMENTS

4.1 Subject to the provisions of regulation XI-2/3 and XI-2/7, contracting Governments shall set security levels and provide guidance for protection from security incidents. Higher security levels indicate greater likelihood of occurrence of a security incident. Factors to be considered in setting the appropriate security level include:

1. the degree that the threat inflation is credible;

2. the degree that the threat information is corroborated;

3. the degree that the threat information is specific or imminent; and

4. the potential consequences of such a security incident.

4.2 Contracting Governments, when they set security level 3, shall issue, as necessary, appropriate instructions and shall provide security-related information to the ships and port facilities that may be affected.

4.3 Contracting Governments may delegate to a recognized security organization certain of their security-related duties under chapter XI-2 and this Part of the Code with the exception of—

1. setting of the applicable security level;

2. approving a port facility security assessment and subsequent amendments to an approved assessment;

3. determining the port facilities which will be required to designate a port facility security officer;

4. approving a port facility security plan and subsequent amendments to an approved plan;

5. exercising control and compliance measures pursuant to regulation XI-2/9; and

6. establishing the requirements for a Declaration of Security.

4.4 Contracting Governments shall, to the extent they consider appropriate, test the effectiveness of the ship security plans or the port facility security plans, or of amendments to such plans, they have approved, or, in the case of ships, of plans which have been approved on their behalf.

5. DECLARATION OF SECURITY

5.1 Contracting Governments shall determine when a Declaration of Security is required by assessing the risk the ship/port interface or ship-to-ship activity poses to persons, property or the environment.

5.2 A ship can request completion of a Declaration of Security when:

1. the ship is operating at a higher security level than the port facility or another ship it is interfacing with;

2. there is an agreement on a Declaration of Security between Contracting Governments covering certain international voyages or specific ships on those voyages;

3. there has been a security threat or a security incident involving the ship or involving the port facility, as applicable;

4. the ship is at port which is not required to have and implement an approved port facility security plan; or

5. the ship is conducting ship-to-ship activities with another ship not required to have and implement an approved ship security plan.

5.3 Requests for the completion of a Declaration of Security, under this section, shall be acknowledged by the applicable port facility or ship.

5.4 The Declaration of Security shall be completed by:

1. the master or the ship security officer on behalf of the ship(s); and, if appropriate,

2. the port facility security officer or, if the Contracting Government determines otherwise, by any other body responsible for shore-side security, on behalf of the port facility.

5.5 The Declaration of Security shall address the security requirements that could be shared between a port facility and a ship (or between ships) and shall state the responsibility for each.

5.6 Contracting Governments shall specify, bearing in mind the provisions of regulation XI-2/9.2.3, the minimum period for which Declarations of Security shall be kept by the port facilities located within their territory.

5.7 Administrations shall specify, bearing in mind the provisions of regulation XI-2/9.2.3, the minimum period for which Declarations of Security shall be kept by ships entitled to fly their flag.

6. OBLIGATIONS OF THE COMPANY

6.1 The Company shall ensure that the ship security plan contains a clear statement emphasizing the master's authority. The Company shall establish in the ship security plan that the master has the overriding authority and responsibility to make decisions with respect to the safety and security of the ship and to request the assistance of the Company or of any Contracting Government as may be necessary.

6.2 The Company shall ensure that the company security officer, the master and the ship security officer are given the necessary support to fulfil their duties and responsibilities in accordance with chapter XI-2 and this Part of the Code.

7 SHIP SECURITY

7.1 A ship is required to act upon the security levels set by Contracting Governments as set out below.

7.2 At security level 1, the following activities shall be carried out, through appropriate measures, on all ships, taking into account the guidance given in part B of this Code, in order to identify and take preventive measures against security incidents:

- .1 ensuring the performance of all ship security duties;
- .2 controlling access to the ship;
- .3 controlling the embarkation of persons and their effects;
- .4 monitoring restricted areas to ensure that only authorized persons have access;
- .5 monitoring of deck areas and areas surrounding the ship;
- .6 supervising the handling of cargo and ship's stores; and
- .7 ensuring that security communication is readily available.

7.3 at security level 2, additional protective measures, specified in the ship security plan, shall be implemented for each activity detailed in section 7.2, taking into account the guidance given in Part B of this Code.

7.4 At security level 3, further specific protective measures, specified in the ship security plan, shall be implemented for each activity detailed in section 7.2, taking into account the guidance given in part B of this Code.

7.5 Whenever security level 2 or 3 is set by the Administration, the ship shall acknowledge receipt of the instructions on change of the security level.

7.6 Prior to entering a port or whilst in a port within the territory of a Contracting Government that has set security level 2 or 3, the ship shall acknowledge receipt of this instruction and shall confirm to the port facility security officer the initiation of the implementation of the appropriate measures and procedures as detailed in the ship security plan, and in the case of security level 3, in instructions issued by the Contracting Government which has set security level 3. The ship shall report any difficulties in implementation. In such cases, the port facility security officer and ship security officer shall liaise and co-ordinate the appropriate actions.

7.7 If a ship is required by the Administration to set, or is already at, a higher security level than that set for the port it intends to enter or in which it is already located, then the ship shall advise, without delay, the competent authority of the Contracting Government within whose territory the port facility is located and the port facility security officer of the situation.

7.7.1 In such cases, the ship security officer shall liaise with the port facility security officer and co-ordinate appropriate actions, if necessary.

7.8 An Administration requiring ships entitled to fly its flag to set security level 2 or 3 in a port of another Contracting Government shall inform that Contracting Government without delay.

7.9 When Contracting Governments set security levels and ensure the provision of security-level information to ships operating in their territorial sea, or having communicated an intention to enter their territorial sea, such ships shall be advised to maintain vigilance and report immediately to their Administration and any nearby coastal States any information that comes to their attention that might affect maritime security in the area.

7.9.1 When advising such ships of the applicable security level, a Contracting Government shall, taking into account the guidance given in Part B of this Code, also advise those ships of any security measure that they should take and, if appropriate, of measures that have been taken by the Contracting Government to provide protection against the threat.

8 SHIP SECURITY ASSESSMENT

8.1 The ship security assessment is an essential and integral part of the process of developing and updating the ship security plan.

8.2 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.

8.3 Subject to the provisions of section 9.2.1, a recognized security organization may carry out the ship security assessment of a specific ship.

8.4 The ship security assessment shall include an on-scene security survey and, at least, the following elements:

- 1 identification of existing security measures, procedures and operations;
- 2 identification and evaluation of key shipboard operations that it is important to protect;
- 3 identification of possible threats to the key shipboard operations and the likelihood of their occurrence, in order to establish and prioritize security measures; and
- 4 identification of weaknesses, including human factors, in the infrastructure, policies and procedures.

8.5 The ship security assessment shall be documented, reviewed, accepted and retained by the Company.

9 SHIP SECURITY PLAN

9.1 Each ship shall carry on board a ship security plan approved by the Administration. The plan shall make provisions for the three security levels as defined in this Part of the Code.

9.1.1 Subject to the provisions of section 9.2.1, a recognized security organization may prepare the ship security plan for a specific ship.

9.2 The Administration may entrust the review and approval of ship security plans, or of amendments to a previously approved plan, to recognized security organizations.

9.2.1 In such cases, 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.

9.3 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, has been developed.

9.4 Such a plan shall be developed, taking into account the guidance given in Part B of this Code, and shall be written in the working language or languages of the ship. If the language or languages used is not English, French or Spanish, a translation into one of these languages shall be included. The plan shall address, at least the following:

- .1 measures designed to prevent weapons, dangerous substances and devices intended for use against persons, ships or ports and the carriage of which is not authorized from being taken on board the ship;
- .2 identification of the restricted areas and measures for the prevention of unauthorized access to them;
- .3 measures for the prevention of unauthorized access to the ship;
- .4 procedures for responding to security threats or breaches of security, including provisions for maintaining critical operations of the ship or ship/port interface;
- .5 procedures for responding to any security instructions Contracting Governments may give at security level 3;
- .6 procedures for evacuation in case of security threats or breaches of security;
- .7 duties of shipboard personnel assigned security responsibilities and of other shipboard personnel on security aspects;
- .8 procedures for auditing the security activities;
- .9 procedures for training, drills and exercises associated with the plan;
- .10 procedures for interfacing with port facility security activities;
- .11 procedures for the periodic review of the plan and for updating;
- .12 procedures for reporting security incidents;
- .13 identification of the ship security officer;
- .14 identification of the company security officer, including 24-hour contact details;
- .15 procedures to ensure the inspection, testing, calibration, and maintenance of any security equipment provided on board;
- .16 frequency for testing or calibration of any security equipment provided on board;
- .17 identification of the locations where the ship security alert system activation points are provided; and
- .18 procedures, instructions and guidance on the use of the ship security alert system, including the testing, activation, deactivation and rescuing and to limit false alerts.

9.4.1 Personnel conducting internal audits of the security activities specified in the plan or evaluating its implementation shall be independent of the activities being audited unless this is impracticable due to the size and the nature of the Company or of the ship.

9.5 The Administration shall determine which changes to an approved ship security plan or to any security equipment specified in an approved plan shall not be implemented unless the relevant amendments to the plan are approved by the Administration. Any such changes shall be at least as effective as those measures prescribed in chapter XI-2 and this Part of the Code.

9.5.1 The nature of the changes to the ship security plan or the security equipment that have been specifically approved by the Administration, pursuant to section 9.5, shall be documented in a manner that clearly indicates such approval. This approval shall be available on board and shall be presented together with the International Ship Security Certificate (or the Interim International Ship Security Certificate). If these changes are temporary, once the original approved measures or equipment are reinstated, this documentation no longer needs to be retained by the ship.

9.6 The plan may be kept in an electronic format. In such a case, it shall be protected by procedures aimed at preventing its unauthorized deletion, destruction or amendment.

9.7 The plan shall be protected from unauthorized access or disclosure.

9.8 Ship security plans are not subject to inspection by officers duly authorized by a Contracting Government to carry out control and compliance measures in accordance with regulation XI-2/9, save in circumstances specified in section 9.8.1.

9.8.1 If the officers duly authorized by a Contracting Government have clear grounds to believe that the ship is not in compliance with the requirements of chapter XI-2 or Part A of this Code, and the only means to verify or rectify the non-compliance is to review the relevant requirements of the ship security plan, limited access to the specific sections of the plan relating to the non-compliance is exceptionally allowed, but only with the consent of the Contracting Government of, or the master of, the ship concerned. Nevertheless, the provisions in the plan relating to section 9.4 subsections .2, .4, .5, .7, .15, .17 and .18 of this Part of the Code are considered as confidential information, and cannot be subject to inspection unless otherwise agreed by the Contracting Governments concerned.

10 RECORDS

10.1 Records of the following activities addressed in the ship security plan shall be kept on board for at least the minimum period specified by the Administration, bearing in mind the provisions of regulation XI-2/9.2.3:

.1 training, drills and exercises;

.2 security threats and security incidents;

.3 breaches of security;

.4 changes insecurity level;

.5 communications relating to the direct security of the ship such as specific threats to the ship or to port facilities the ship is, or has been in;

.6 internal audits and reviews of security activities;

.7 periodic review of the ship security assessment;

.8 periodic review of the ship security plan;

.9 implementation of any amendments to the plan; and

.10 maintenance, calibration and testing of any security equipment provided on board, including testing of the ship security alert system.

10.2 The records shall be kept in the working language or languages of the ship. If the language or languages used are not English, French or Spanish, a translation into one of these languages shall be included.

10.3 The records may be kept in an electronic format. In such a case, they shall be protected by procedures aimed at preventing their unauthorized deletion, destruction or amendment.

10.4 The records shall be protected from unauthorized access or disclosure.

11 COMPANY SECURITY OFFICER

11.1 The Company shall designate a company security officer. A person designated as the company security officer may act as the company security officer for one or more ships, ~~depending on the number or~~ persons as company security officers provided it is clearly identified for ~~which ships each person is~~ responsible.

11.2 In addition to those specified elsewhere in this Part of the Code, the duties and responsibilities of the company security officer shall include, but are not limited to:

- .1 advising the level of threats likely to be encountered by the ship, using appropriate security assessments and other relevant information;
- .2 ensuring that ship security assessments are carried out;
- .3 ensuring the development, the submission for approval, and thereafter the implementation and maintenance of the ship security plan,
- .4 ensuring that the ship security plan is modified, as appropriate, to correct deficiencies and satisfy the security requirements of the individual ship;
- .5 arranging for internal audits and reviews of security activities;
- .6 arranging for the initial and subsequent verifications of the ship by the Administration or the recognized security organization;
- .7 ensuring that deficiencies and non-conformities identified during internal audits, periodic reviews, security inspections and verifications of compliance are promptly addressed and dealt with;
- .8 enhancing security awareness and vigilance;
- .9 ensuring adequate training for personnel responsible for the security of the ship;
- .10 ensuring effective communication and co-operation between the ship security officer and the relevant port facility security officers;
- .11 ensuring consistency between security requirements and safety requirements;
- .12 ensuring that, if sister-ship or fleet security plans are used, the plan for each ship reflects the ship-specific information accurately; and
- .13 ensuring that any alternative or equivalent arrangements approved for a particular ship or group of ships are implemented and maintained.

12 SHIP SECURITY OFFICER

12.1 A ship security officer shall be designated on each ship.

12.2 In addition to those specified elsewhere in this Part of the Code, the duties and responsibilities of the ship security officer shall include, but are not limited to:

- .1 undertaking regular security inspections of the ship to ensure that appropriate security measures are maintained;
- .2 maintaining and supervising the implementation of the ship security plan, including any amendments to the plan;
- .3 coordinating the security aspects of the handling of cargo and ship's stores with other shipboard personnel and with the relevant port facility security officers;
- .4 proposing modifications to the ship security plan;

5. reporting to the company security officer any deficiencies and non-conformities identified during internal audits, periodic reviews, security inspections and verifications of compliance and implementing any collective actions;

6. enhancing security awareness and vigilance on board;

7. ensuring that adequate training has been provided to shipboard personnel, as appropriate;

8. reporting all security incidents;

9. coordinating implementation of the ship security plan with the company security officer and the relevant port facility security officers; and

10. ensuring that security equipment is properly operated, tested, calibrated and maintained, if any.

13. TRAINING, DRILLS AND EXERCISES ON SHIP SECURITY

13.1 The company security officer and appropriate shore-based personnel shall have knowledge and have received training, taking into account the guidance given in Part B of this Code.

13.2 The ship security officer shall have knowledge and have received training, taking into account the guidance given in Part B of this Code.

13.3 Shipboard personnel having specific security duties and responsibilities shall understand their responsibilities for ship security as described in the ship security plan and shall have sufficient knowledge and ability to perform their assigned duties, taking into account the guidance given in Part B of this Code.

13.4 To ensure the effective implementation of the ship security plan, drills shall be carried out at appropriate intervals taking into account the ship type, ship personnel changes, port facilities to be visited and other relevant circumstances, taking into account the guidance given in Part B of this Code.

13.5 The company security officer shall ensure the effective co-ordination and implementation of ship security plans by participating in exercises at appropriate intervals, taking into account the guidance given in Part B of this Code.

14. PORT FACILITY SECURITY

14.1 A port facility is required to act upon the security levels set by the Contracting Government within whose territory it is located. Security measures and procedures shall be applied at the port facility in such a manner as to cause a minimum of interference with, or delay to, passengers, ship, ship's personnel and visitors, goods and services.

14.2 At security level 1, the following activities shall be carried out through appropriate measures in all port facilities, taking into account the guidance given in part B of this Code, in order to identify and take preventive measures against security incidents:

1. ensuring the performance of all port facility security duties;

2. controlling access to the port facility;

3. monitoring the port facility, including anchoring and berthing area(s);

4. monitoring restricted areas to ensure that only authorized persons have access;

5. supervising the handling of cargo;

6. supervising the handling of cargo;

7. ensuring that security communication is readily available.

14.3 At security level 2, additional protective measures, specified in the port facility security plan, shall be implemented for each activity detailed in section 14.2, taking into account the guidance given in Part B of this Code.

14.4 At security level 3, further specific protective measures, specified in the port facility security plan, shall be implemented for each activity detailed in section 14.2, taking into account the guidance given in Part B of this Code.

14.4.1 In addition, at security level 3, port facilities are required to respond to and implement any security instructions given by the Contracting Government within whose territory the port facility is located.

14.5 When a port facility security officer is advised that a ship encounters difficulties in complying with the requirements of chapter XI-2 or this Part or in implementing the appropriate measures and procedures as detailed in the ship security plan, and in the case of security level 3 following any security instructions given by the Contracting Government within whose territory the port facility is located, the port facility security officer and the ship security officer shall liaise and co-ordinate appropriate actions.

14.6 When a port facility security officer is advised that a ship is at a security which is higher than that of the port facility, the port facility security officer shall report the matter to the competent authority and shall liaise with the ship security officer and co-ordinate appropriate actions, if necessary.

15 PORT FACILITY SECURITY ASSESSMENT

15.1 The port facility security assessment is an essential and integral part of the process of developing and updating the port facility security plan.

15.2 The port facility security assessment shall be carried out by the Contracting Government within whose territory the port facility is located. A Contracting Government may authorize a recognized security organization to carry out the port facility security assessment of a specific port facility within its territory.

15.2.1 When the port facility security assessment has been carried out by a recognized security organization, the security assessment shall be reviewed and approved for compliance with this section by the Contracting Government within whose territory the port facility is located.

15.3 The persons carrying out the assessment shall have appropriate skills to evaluate the security of the port facility in accordance with this Section, taking into account the guidance given in Part B of this Code.

15.4 The port facility security assessments shall periodically be reviewed and updated, taking account of changing threats and/or minor changes in the port facility, and shall always be reviewed and, updated when major changes to the port facility take place.

15.5 The port facility security assessment shall include, at least, the following elements:

- .1 identification and evaluation of important assets and infrastructure it is important to protect;
- .2 identification of possible threats to the assets and infrastructure and the likelihood of their occurrence, in order to establish and prioritize Security Measures;
- .3 identification, selection and prioritization of countermeasures and procedural changes and their level of effectiveness in reducing vulnerability; and
- .4 identification of weaknesses, including human factors, in the infrastructure, policies and procedures.

15.6 The Contracting Government may allow a port facility security assessment to cover more than one port facility if the operator, location, operation, equipment, and design of these port facilities are similar. Any Contracting Government which allows such an arrangement shall communicate to the Organization particulars thereof.

15.7 Upon completion of the port facility security assessment, a report shall be prepared, consisting of a summary of how the assessment was conducted, a description of each vulnerability found during the assessment and a description of countermeasures that could be used to address each vulnerability. The report shall be protected from unauthorized access or disclosure.

16 PORT FACILITY SECURITY PLAN

16.1 A port facility security plan shall be developed and maintained, on the basis of a port facility security assessment for each port facility, adequate for the ship/port interface. The plan shall make provisions for the three security levels, as defined in this Part of the Code.

16.1.1 Subject to the provisions of section 16.2, a cognized security organization may prepare the port facility security plan of a specific port facility.

16.2 The port facility security plan shall be approved by the Contracting Government in whose territory the port facility is located

16.3 Such a plan shall be developed taking into account the guidance given in Part B of this Code and shall be in the working language of the port facility. The plan shall address, at least, the following:

- .1 measures designed to prevent weapons or any other dangerous substances and devices intended for use against persons, ships or ports, and the carriage of which is not authorized, from being introduced into the port facility or on board a ship;
- .2 measures designed to prevent unauthorized access to the port facility, to ships moored at the facility, and to restricted areas of the facility;
- .3 procedures for responding to security threats or breaches of security, including provisions for maintaining critical operations of the port facility or ship/port interface;
- .4 procedure for responding to any security instructions the Contracting Government in whose territory the port facility is located may give at security level 3;
- .5 procedures for evacuation in case of security threats or breaches of security;
- .6 duties of port facility personnel assigned security responsibilities and of other facility personnel on security aspects;
- .7 procedures for interfacing with ship security activities;
- .8 procedures for the periodic review of the plan and updating;
- .9 procedures for reporting security incidents;
- .10 identification of the port facility security officer, including 24-hour contact details;
- .11 measures to ensure the security of the information contained in the plan;
- .12 measures designed to ensure effective security of cargo and the cargo handling equipment at the port facility;
- .13 procedures for auditing the port facility security plan;
- .14 procedures for responding in case the ship security alert system of a ship at the port facility has been activated; and
- .15 procedures for facilitating shore leave for ship's personnel or personnel changes, as well as access of visitors to the ship, including representatives of seafarers' welfare and labour organizations.

16.4 Personnel conducting internal audits of the security activities specified in the plan or evaluating its implementation shall be independent of the activities being audited unless this is impracticable due to the size and the nature of the port facility.

16.5 The port facility security plan may be combined with, or be part of, the port security plan or any other port emergency plan or plans.

16.6 The Contracting Government in whose territory the port facility is located shall determine which changes to the port facility security plan shall not be implemented unless the relevant amendments to the plan are approved by them.

16.7 The plan may be kept in an electronic format. In such a case, it shall be protected by procedures aimed at preventing its unauthorized deletion, destruction or amendment.

16.8 The plan shall be protected from unauthorized access or disclosure.

16.9 Contracting Governments may allow a port facility security plan to cover more than one port facility if the operator, location, operation, equipment, and design of these port facilities are similar. Any Contracting Government which allows such an alternative arrangement shall communicate to the Organization particulars thereof.

17 PORT FACILITY SECURITY OFFICER

17.1 A port facility security officer shall be designated for each port facility. A person may be designated as the port facility security officer for one or more port facilities.

17.2 In addition to those specified elsewhere in this Part of the Code, the duties and responsibilities of the port facility security officer shall include, but are not limited to:

- .1 conducting an initial comprehensive security survey of the port facility, taking into account the relevant port facility security assessment;
- .2 ensuring the development and maintenance of the port facility security plan;
- .3 implementing and exercising the port facility security plan;
- .4 undertaking regular security inspections of the port facility to ensure the continuation of appropriate security measures;
- .5 recommending and incorporating, as appropriate, modifications to the port facility security plan in order to correct deficiencies and to update the plan to take into account relevant changes to the port facility;
- .6 enhancing security awareness and vigilance of the port facility personnel;
- .7 ensuring adequate training has been provided to personnel responsible for the security of the port facility;
- .8 reporting to the relevant authorities and maintaining records of occurrences which threaten the security of the port facility;
- .9 coordinating implementation of the port facility security plan with the appropriate Company and ship security officer(s);
- .10 coordinating with security services, as appropriate;
- .11 ensuring that standards for personnel responsible for security of the port facility are met;
- .12 ensuring that security equipment is properly operated, tested, calibrated and maintained, if any; and
- .13 assisting ship security officers in confirming the identity of those seeking to board the ship when requested.

17.3 The port facility security officer shall be given the necessary support to fulfil the duties and responsibilities imposed by chapter XI-2 and this Part of the Code.

18 TRAINING, DRILLING AND EXERCISES ON PORT FACILITY SECURITY

18.1 The port facility security officer and appropriate port facility security personnel shall have knowledge and have received training, taking into account the guidance given in Part B of this Code.

18.2 Port facility personnel having specific security duties shall understand their duties and responsibilities for port facility security, as described in the port facility security plan, and shall have sufficient knowledge and ability to perform their assigned duties, taking into account the guidance given in Part B of this Code.

18.3 To ensure the effective implementation of the port facility security plan, drills shall be carried out at appropriate intervals, taking into account the types of operation of the port facility, port facility personnel changes, the type of ship the port facility is serving and other relevant circumstances, taking into account guidance given in Part B of this Code.

18.4 The port facility security officer shall ensure the effective co-ordination and implementation of the port facility security plan by participating in exercises at appropriate intervals, taking into account the guidance given in Part B of this Code.

19 VERIFICATION AND CERTIFICATION FOR SHIPS

19.1 Verifications

19.1.1 Each ship to which this Part of the Code applies shall be subject to the verifications specified below:

- .1 an initial verification before the ship is put in service or before the certificate required under section 19.2 is issued for the first time, which shall include a complete verification of its security system and any associated security equipment covered by the relevant provisions of chapter XI-2, of this Part of the Code and of the approved ship security plan. This verification shall ensure that the security system and any associated security equipment of the ship fully complies with the applicable requirements of chapter XI-2 and this Part of the Code, is in satisfactory condition and fit for the service for which the ship is intended;
- .2 a renewal verification at intervals specified by the Administration, but not exceeding five years, except where section 19.3 is applicable. This verification shall ensure that the security system and any associated security equipment of the ship fully complies with the applicable requirements of chapter XI-2, this Part of the Code and the approved ship security plan, is in satisfactory condition and fit for the service for which the ship is intended;
- .3 at least one intermediate verification. If only one intermediate verification is carried out it shall take place between the second and third anniversary date of the certificate as defined in regulation 1/2(n). The intermediate verification shall include inspection of the security system and any associated security equipment of the ship to ensure that it remains satisfactory for the service for which the ship is intended. Such intermediate verification shall be endorsed on the certificate;
- .4 any additional verifications as determined by the Administration.

19.1.2 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.

19.1.3 In every case, the Administration concerned shall fully guarantee the completeness and efficiency of the verification and shall undertake to ensure the necessary arrangements to satisfy this obligation.

19.1.4 The security system and any associated security equipment of the ship after verification shall be maintained to conform with the provisions of regulations XI-2/4.2 and XI-2/6, of this Part of the Code and of the approved ship security plan. After any verification under section 19.1.1 has been completed, no changes shall be made in the security system and in any associated security equipment or the approved ship security plan without the sanction of the Administration.

19.2 Issue or endorsement of Certificate

19.2.1 An International Ship Security Certificate shall be issued after the initial or renewal verification in accordance with the provisions of section 19.1.

19.2.2 Such Certificate shall be issued or endorsed either by the Administration or by a recognized security organization acting on behalf of the Administration.

19.2.3 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.

19.2.3.1 A copy of the Certificate and a copy of the verification, report shall be transmitted as soon as possible to the requesting Administration.

19.2.3.2 A Certificate so issued shall contain a statement to the effect that it has been issued at the request of the Administration and it shall have the same force and receive the same recognition as the Certificate issued under section 19.2.2.

19.2.4 The International Ship Security Certificate shall be drawn up in a form corresponding to the model given in the appendix to this Code. If the language used is not English, French or Spanish, the text shall include a translation into one of these languages.

19.3 Duration and validity of Certificate

19.3.1 An International Ship Security Certificate shall be issued for a period specified by the Administration, which shall not exceed five years.

19.3.2 When the renewal verification is completed within three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal verification to a date not exceeding five years from the date of expiry of the existing Certificate.

19.3.2.1 When the renewal verification is completed after the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal verification to a date not exceeding five years from the date of expiry of the existing Certificate.

19.3.2.2 When the renewal verification is completed more than three months before the expiry date of the existing Certificate, the new Certificate shall be valid from the date of completion of the renewal verification to a date not exceeding five years from the date of completion of the renewal verification.

19.3.3 If a Certificate is issued for a period of less than five years, the Administration may extend the validity of the Certificate beyond the expiry date to the maximum period specified in section 19.3.1, provided that the verifications referred to in section 19.1.1 applicable when a Certificate is issued for a period of five years are carried out as appropriate.

19.3.4 If a renewal verification has been completed and a new Certificate cannot be issued or placed on board the ship before the expiry date of the existing Certificate, the Administration or recognized security organization acting on behalf of the Administration may endorse the existing Certificate and such a Certificate shall be accepted as valid for a further period which shall not exceed five months from the expiry date.

19.3.5 If a ship, at the time when a Certificate expires, is not in a port in which it is to be verified, the Administration may extend the period of validity of the Certificate but this extension shall be granted only for the purpose of allowing the ship to complete its voyage to the port in which it is to be verified, and then only in cases where it appears proper and reasonable to do so. No Certificate shall be extended for a period longer than three months, and the ship to which an extension is granted shall not, on its arrival in the port in which it is to be verified, be entitled by virtue of such extension to leave that port without having a new Certificate. When the renewal verification is completed, the new Certificate shall be valid to a date not exceeding five years from the expiry date of the existing Certificate before the extension was granted.

19.3.6 A Certificate issued to a ship engaged on short voyages which has not been extended under the foregoing provisions of this section may be extended by the Administration for a period of grace of up to one month from the date of expiry stated on it. When the renewal verification is completed the new Certificate shall be valid to a date not exceeding five years from the date of expiry of the existing Certificate before the extension was granted.

19.3.7 If an intermediate verification is completed before the period specified in section 19.1.1, then:

1. the expiry date shown on the Certificate shall be amended by endorsement to a date which shall not be more than three years later than the date on which the intermediate verification was completed;
2. the expiry date may remain unchanged provided one or more additional verifications are carried out so that the maximum intervals between the verifications prescribed by section 19.1.1 are not exceeded.

19.3.8 A Certificate issued under section 19.2 shall cease to be valid in any of the following cases:

1. if the relevant verifications are not completed within the periods specified under section 19.1.1;
2. if the Certificate is not endorsed in accordance with section 19.1.1.3 and 19.3.7.1, if applicable;
3. when a Company assumes the responsibility for the operation of a ship not previously operated by that Company; and
4. upon transfer of the ship to the flag of another State.

19.3.9 In the case of:

1. a transfer of a ship to the flag of another Contracting Government, the Contracting Government whose flag the ship was formerly entitled to fly shall as soon as possible, transmit to the receiving Administration copies of, or all information relating to, the International Ship Security Certificate carried by the ship before the transfer and copies of available verification reports, or
2. a Company that assumes responsibility for the operation of a ship not previously operated by that Company, the previous Company shall, as soon as possible, transmit to the receiving Company copies of any information related to the International Ship Security Certificate or to facilitate the verifications described in section 19.4.2.

19.4 Interim certification

19.4.1 The Certificates specified in section 19.2 shall be issued only when the Administration issuing the Certificate is fully satisfied that the ship complies with the requirements of section 19.1. However, after 1 July, 2004, for the purposes of:

1. a ship without a Certificate, on delivery or prior to its entry or re-entry into service;
2. transfer of a ship from the flag of a Contracting Government to the flag of another Contracting Government;
3. transfer of a ship to the flag of a Contracting Government from a State which is not a Contracting Government; or
4. a Company assuming the responsibility for the operation of a ship not previously operated by that Company,

until the Certificate referred to in section 19.2 is issued, the Administration may cause an Interim International Ship Security Certificate to be issued, in a form corresponding to the model given in the appendix to this Part of the Code.

19.4.2 An Interim International Ship Security Certificate shall only be issued when the Administration or recognized security organization, on behalf of the Administration, has verified that:

1. the ship security assessment required by this Part of the Code has been completed;
2. a copy of the ship security plan meeting the requirements of chapter XI-2 and part A of this Code is provided on board, has been submitted for review and approval, and is being implemented on the ship;

3. the ship is provided with a ship security alert system meeting the requirements of regulation XI-2/6, if required;
4. the complex security officer:
 1. has ensured:
 1. the review of the ship security plan for compliance with this Part of the Code;
 2. that the plan has been submitted for approval; and
 3. that the plan is being implemented on the ship; and
 2. has established the necessary arrangements, including arrangements for drills, exercises and internal audits, through which the company security officer is satisfied that the ship will successfully complete the required verification in accordance with section 19.1.1.1, within 6 months;
5. arrangements have been made for carrying out the required verifications under section 19.1.1.1;
6. the master, the ship security officer and other ship's personnel with specific security duties are familiar with their duties and responsibilities as specified in this Part of the Code; and with the relevant provisions of the ship security plan placed on board; and have been provided such information in the working language of the ship's personnel or languages understood by them; and
7. the ship security officer meets the requirements of this Part of the Code.

19.4.3 An Interim International Ship Security Certificate may be issued by the Administration or by a recognized security organization authorized to act on its behalf.

19.4.4 An Interim International Ship Security Certificate shall be valid for 6 months, or until the Certificate required by section 19.2 is issued, whichever comes first, and may not be extended.

19.4.5 No Contracting Government shall cause a subsequent, consecutive Interim International Ship Security Certificate to be issued to a ship if, in the judgement of the Administration or the recognized security organization, one of the purposes of the ship or a Company in requesting such certificate is to avoid full compliance with chapter XI-2 and this Part of the Code beyond the period of the initial Interim Certificate as specified in section 19.4.4.

19.4.6 For the purposes of regulation XI-2/9, Contracting Governments may, prior to accepting an Interim International Ship Security Certificate as a valid Certificate, ensure that the requirements of sections 19.4.2.4 to 19.4.2.6 have been met (*Hon. Abdul Ningi*).

Question that the Part A of the provisions of Chapter XI-2 of the annex to the Convention as amended stand part of the Convention, put and agreed.

APPENDIX TO PART A

APPENDIX 1

Form of the International Ship Security Certificate

INTERNATIONAL SHIP SECURITY CERTIFICATE

(Official seal)

(State)

Certificate Number

Issued under the provisions of the

INTERNATIONAL CODE FOR THE SECURITY OF SHIPS AND OF PORT FACILITIES
(ISPS CODE)

Under the authority of the Government of

(name of State)

by

(person(s) or organization authorized)

Name of ship	
Distinctive number or letters	
Port of registry	
Type of ship	
Gross tonnage	
IMO Number	
Name and address of the Company	

THIS IS TO CERTIFY:

- 1 that the security system and any associated security equipment of the ship has been verified in accordance with section 19.1 of Part A of the ISPS Code;
- 2 that the verification showed that the security system and any associated security equipment of the ship is in all respects satisfactory and that the ship complies with the applicable requirements of chapter XI-2 of the Convention and Part A of the ISPS Code;
- 3 that the ship is provided with an approved ship security plan.

Date of initial/renewal verification on which this Certificate is based

This Certificate is valid until
subject to verifications in accordance with section 19.1.1 of Part A of the ISPS Code.

Issued at

(Place of issue of the Certificate)

Date of issue (signature of the duly authorized official

issuing the Certificate)

(Hon. Abdul Ningi).

Question that the Appendix to Part "A" stand part of the Convention, put and agreed to.

(Seal or stamp of issuing authority, as appropriate)

ENDORSEMENT FOR INTERNATIONAL VERIFICATION

THIS IS TO CERTIFY that at an intermediate verification required by section 19.1.1 of Part A of the ISPS Code the ship was found to comply with the relevant provisions of chapter XI-2 of the Convention and Part A of the ISPS Code.

Intermediate verification

Signed.....
(Signature of authorized official)
Place
Date

(Seal or stamp of issuing authority, as appropriate) (Hon. Abdul Ningi).

Question that the Endorsement for Immediate Verification stand part of the Convention, put and agreed to.

ENDORSEMENT FOR ADDITIONAL VERIFICATION*

Additional verification

Signed.....
(Signature of authorized official)
Place
Date

(Seal or stamp of issuing authority, as appropriate)

Additional verification

Signed.....
(Signature of authorized official)
Place
Date

(Seal or stamp of issuing authority, as appropriate)

Additional verification

Signed.....
(Signature of authorized official)
Place
Date

(Seal or stamp of issuing authority, as appropriate)

ADDITIONAL VERIFICATION IN ACCORDANCE WITH SECTION A/19.3.7.2 OF THE ISPS CODE

THIS IS TO CERTIFY that at an additional verification required by section 19.3.7.2 of Part A of the ISPS Code the ship was found to comply with the relevant provisions of chapter XI-2 of the Convention and Part A of the ISPS Code

Signed
(Signature of authorized official)
Place
Date

(Seal or stamp of issuing authority, as appropriate) (Hon. Abdul Ningi).

Question that the Additional Verification in accordance with Section A/19.3.7.2 of the ISPS Code stand part of the Convention, put and agreed to.

ENDORSEMENT TO EXTEND THE CERTIFICATE IF VALID FOR LESS THAN 5 YEARS WHERE SECTION A/19.3.3 OF THE ISPS CODE APPLIES

The ship complies with the relevant provisions of Part A of the ISPS Code, and the Certificate shall, in accordance with section 19.3.3 of Part A of the ISPS Code, be accepted as valid until

Signed
(Signature of authorized official)
Place
Date

(Seal or stamp of issuing authority, as appropriate)

ENDORSEMENT WHERE THE RENEWAL VERIFICATION HAS BEEN COMPLETED AND SECTION A/19.3.4 OF THE ISPS CODE APPLIES

The ship complies with the relevant provisions of Part A of the ISPS Code, and the Certificate shall, in accordance with section 19.3.4 of Part A of the ISPS Code, be accepted as valid until

Signed

(Signature of authorized official)

Place

Date

(Seal or stamp of issuing authority, as appropriate)

ENDORSEMENT TO EXTEND THE VALIDITY OF THE CERTIFICATE UNTIL REACHING THE PORT OF VERIFICATION WHERE SECTION A/19.3.5 OF THE ISPS CODE APPLIES OR FOR A PERIOD OF GRACE WHERE SECTION A/19.3.6 OF THE ISPS CODE APPLIES

This Certificate shall, in accordance with section 19.3.5/19.3.6* of Part A of the ISPS Code, be accepted as valid until

Signed

(Signature of authorized official)

Place

Date

(Seal or stamp of issuing authority, as appropriate)

ENDORSEMENT FOR ADVANCEMENT OF EXPIRY DATE WHERE SECTION A/19.3.7.1 OF THE ISPS CODE APPLIES

In accordance with section 19.3.7.1 of Part A of the ISPS Code, the new expiry date** is

Signed

(Signature of authorized official)

Place

Date

(Seal or stamp of issuing authority, as appropriate) (Hon. Abdul Ningi).

Question that the Endorsement to Extend the Validity of the Certificate until Reaching the Port of Verification where Section A/19.3.5 of the ISPS Code Applies or for a Period of Grace where Section A/19.3.6 of the ISPS Code Applies stand part of the Convention, put and agreed to.

* Delete as appropriate

** In case of completion of this part of the Certificate, the expiry date shown on the front of the Certificate shall also be amended.

APPENDIX 2

Form of the Interim International Ship Security Certificate

INTERIM INTERNATIONAL SHIP SECURITY CERTIFICATE

(Official seal)

(State)

Certificate No.

Issued under the provisions of the

INTERNATIONAL CODE FOR THE SECURITY OF SHIPS AND OF PORT FACILITIES
(ISPS CODE)

Under the authority of the Government of _____
(name of State)

by _____
(person(s) or organization authorized)

Name of ship
Distinctive number or letters
Port of registry
Type of ship
Gross tonnage
IMO Number
Name and address of the Company
Is this a subsequent, consecutive Interim Certificate? Yes/No*
If Yes, date of issue of initial Interim Certificate

THIS IS TO CERTIFY THAT the requirements of section A/19.4.2 of the ISPS Code have been complied with.

This Certificate is issued pursuant to section A/19.4 of the ISPS Code.

This Certificate is valid until

Issued at
(Place of issue of the Certificate)

Date of issue
(signature of the duly authorized official
issuing the Certificate)

(Seal or stamp of issuing authority, as appropriate) (Hon. Abdul Ningi)

Question that Appendix 2 (Form of the Interim International Ship Security Certificate) stand part of the Convention, put and agreed to.

* Delete as appropriate

PART B

GUIDANCE REGARDING THE PROVISIONS OF CHAPTER XI-2 OF THE ANNEX TO THE INTERNATIONAL CONVENTION FOR THE SAFETY OF LIFE AT SEA, 1974 AS AMENDED AND PART A OF THE CODE

1 INTRODUCTION

General

1.1 The preamble of this Code indicates that chapter XI-2 and Part A of this Code establish the new international framework of measures to enhance maritime security and through which ships and port facilities can cooperate to detect and deter acts which threaten security in the maritime transport sector.

1.2 This introduction outlines, in a concise manner, the processes envisaged in establishing and implementing the measures and arrangements needed to achieve and maintain compliance with the provisions of chapter XI-2 and of part A of this Code and identifies the main elements on which guidance is offered. The guidance is provided in paragraphs 2 through to 19. It also sets down essential considerations which should be taken into account when considering the application of the guidance relating to ships and port facilities.

1.3 If the reader's interest relates to ships alone, it is strongly recommended that this Part of the Code is still read as a whole, particularly the paragraphs relating to port facilities. The same applies to those whose primary interest is port facilities; they should also read the paragraphs relating to ships.

1.4 The guidance provided in the following paragraphs relates primarily to protection of the ship when it is at a port facility. There could, however, be situations when a Ship may pose a threat to the port facility, e.g. because, once within the port facility, it could be used as a base from which to launch an attack. When considering the appropriate security measures to respond to ship-based security threats, those completing the port facility security assessment or preparing the port facility security plan should consider making appropriate adaptations to the guidance offered in the following paragraphs.

1.5 The reader is advised that nothing in this Part of the Code should be read or interpreted in conflict with any of the provisions of either chapter XI-2 or Part A of this Code and that the aforesaid provisions always prevail and override any unintended inconsistency which may have been inadvertently expressed in this Part of the Code. The guidance provided in this Part of the Code should always be read, interpreted and applied in a manner which is consistent with the aims, objectives and principles established in chapter XI-2 and part A of this Code.

Responsibilities of Contracting Governments

1.6 Contracting Governments have, under the provisions of chapter XI-2 and part A of this Code, various responsibilities, which, amongst others, include:

- setting the applicable security level;
- 1. approving the ship security plan (SSP) and relevant amendments to a previously approved plan;
- verifying the compliance of ships with the provisions of chapter XI-2 and Part A of this Code and issuing to ships the International Ship Security Certificate;
- determining which of the port facilities located within their territory are required to designate a port facility security officer (PFSO) who will be responsible for the Preparation of the port facility security plan;
- ensuring completion and approval of the port facility security assessment (PFSA) and of any subsequent amendments to a previously approved assessment;
- approving the port facility security plan (PFSP) and any subsequent amendments to a previously approved plan;
- 2. exercising control and compliance measures;
- 2. testing approved plans; and
- (c) communicating information to the International Maritime Organization and to the shipping and port industries.

1.7 Contracting Governments can designate, or establish, Designated Authorities within Government to undertake with respect to port facilities, their security duties under chapter XI-2 and Part A of this Code and allow recognized security organizations to carry out certain work with respect to port facilities, but the final decision on the acceptance and approval of this work should be given by the Contracting Government or the Designated Authority. Administrations may also delegate the undertaking of certain security duties, relating to ships, to recognized security organizations. The following duties or activities cannot be delegated to a recognized security organization:

- © setting of the applicable security level;
- (e) determining which of the port facilities located within the territory of a Contracting Government are required to designate a PFSO and to prepare a PFSP;
- approving a PFSA or any subsequent amendments to a previously approved assessment;
- approving a PFSP or any subsequent amendments to a previously approved plan; exercising control and compliance measures; and
- establishing the requirements for a Declaration of Security.

Setting the security level

1.8 The setting of the security level applying at any particular time is the responsibility of Contracting Governments and can apply to ships and port facilities. Part A of this Code defines three security levels for international use. These are:

- Ⓢ Security level 1, normal; the level at which ships and port facilities normally operate;
- (g) Security level 2, heightened; the level applying for as long as there is a heightened risk of a security incident; and
- (8) Security level 3, exceptional; the level applying for the period of time when there is the probable or imminent risk of a security incident.

The Company and ship

1.9 Any Company operating ships to which chapter XI-2 and Part A of this Code apply has to designate a CSO for the Company and a SSO for each of its ships. The duties, responsibilities and training requirements of these officers and requirements for drills and exercises are defined in part A of this Code.

1.10 The company security officer's responsibilities include, in brief amongst others, ensuring that a ship security assessment (SSA) is properly carried out, that a SSP is prepared and submitted for approval by, or on behalf of, the Administration and thereafter is placed on board each ship to which Part A of this Code applies and in respect of which that person has been appointed as the CSO.

1.11 The SSP should indicate the operational and physical security measures the ship itself should take to ensure it always operates at security level 1. The plan should also indicate the additional, or intensified, security measures the ship itself can take to move to and operate at security level 2 when instructed to do so. Furthermore, the plan should indicate the possible preparatory actions the ship could take to allow prompt response to the instructions that may be issued to the ship by those responding at security level 3 to a security incident or threat thereof.

1.12 The ships to which the requirements of chapter XI-2 and Part A of this Code apply are required to have, and operated in accordance with, a SSP approved by, or on behalf of, the Administration. The CSO and the SSO should monitor the continuing relevance and effectiveness of the plan, including the undertaking of internal audits. Amendments to any of the elements of an approved plan, for which the Administration has determined that approval is required, have to be submitted for review and approval before their incorporation into the approved plan and their implementation by the ship.

1.13 The ship has to carry an International Ship Security Certificate indicating that it complies with the requirements of chapter XI-2 and part A of this Code. Part A of this Code includes provisions relating to the verification and certification of the ship's compliance with the requirements on an initial, renewal and intermediate verification basis.

1.14 When a ship is at a port or is proceeding to a port of a Contracting Government, the Contracting Government has the right, under the provisions of regulation XI-2/9, to exercise various control and compliance measures with respect to that ship. The ship is subject to port State control inspections but such inspections will not normally extend to examination of the SSP itself except in specific circumstances. The ship may also be subject to additional control measures if the Contracting Government exercising the control and compliance measures has reason to believe that the security of the ship has, or the port facilities it has served have, been compromised.

1.15 The ship is also required to have on board information, to be made available to Contracting Governments upon request, indicating who is responsible for deciding the employment of the ship's personnel and for deciding various aspects relating to the employment of the ship.

The port facility

1.16 Each Contracting Government has to ensure completion of a PFSA for each of the port facilities, located within its territory, serving ships engaged on international voyages. The Contracting Government, a Designated Authority or a recognized security organization may carry out this assessment. The completed PFSA has to be approved by the Contracting Government or the Designated Authority concerned. This approval cannot be delegated. Port facility security assessments should be periodically reviewed.

1.17 The PFSA is fundamentally a risk analysis of all aspects of a port facility's operation in order to determine which part(s) of it are more susceptible, and/or more likely, to be the subject of attack. Security risk is a function of the threat of an attack coupled with the vulnerability of the target and the consequences of an attack.

The assessment must include the following components:

9. determination of the perceived threat to port installations and infrastructure;
10. identification of the potential vulnerabilities; and
11. calculation of the consequences of incidents.

On completion of the analysis, it will be possible to produce an overall assessment of the level of risk. The PFSA will help determine which port facilities are required to appoint a PFSO and prepare a PFSP.

1.18 The port facilities which have to comply with the requirements of chapter XI-2 and part A of this Code are required to designate a PFSO. The duties, responsibilities and training requirements of these officers and requirements for drills and exercises are defined in Part A of this Code.

1.19 The PFSP should indicate the operational and physical security measures the port facility should take to ensure that it always operates at security level 1. The plan should also indicate the additional, or intensified, security measures the port facility can take to move to and operate at security level 2 when instructed to do so. Furthermore, the plan should indicate the possible preparatory actions the port facility could take to allow prompt response to the instructions that may be issued by those responding at security level 3 to a security incident or threat thereof.

1.20 The port facilities which have to comply with the requirements of chapter XI-2 and Part A of this Code are required to have, and operate in accordance with, a PFSP approved by the Contracting Government or by the Designated Authority concerned. The PFSO should implement its provisions and monitor the continuing effectiveness and relevance of the plan, including commissioning internal audits of the application of the plan. Amendments to any of the elements of an approved plan, for which the Contracting Government or the Designated Authority concerned has determined that approval is required, have to be submitted for review and approval before their incorporation into the approved plan and their implementation at the port facility. The Contracting Government or the Designated Authority concerned may test the effectiveness of the plan. The PFSA covering the port facility or on which the development of the plan has been based should be regularly reviewed. All these activities may lead to amendment of the approved plan. Any amendments to specified elements of an approved plan will have to be submitted for approval by the Contracting Government or by the Designated Authority concerned.

1.21 Ships using port facilities may be subject to the port State control inspections and additional control measures outlined in regulation XI-2/9. The relevant authorities may request the provision of information regarding the ship, its cargo, passengers and ship's personnel prior to the ship's entry into port. There may be circumstances in which entry into port could be denied.

Information and communication

1.22 Chapter XI-2 and part A of this Code required Contracting Governments to provide certain information to the International Maritime Organization and for information to be made available to allow effective communication between Contracting Governments and between company security officers/ship security officers and the port facility security officers.

2 DEFINITIONS

2.1 No guidance is provided with respect to the definitions set out in chapter XI-2 or Part A of this Code.

2.2 For the purpose of this Part of the Code:

- .1 "section" means a section of Part A of the Code and is indicated as "*section A* / *<followed by the number of the section>*";
- .2 "paragraph" means a paragraph of this Part of the Code and is indicated as "*paragraph* *<followed by the number of the paragraph>*"; and

- .3 "Contracting Government", when used in paragraphs 14 to 18, means the "Contracting Government within whose territory the port facility is located" and includes a reference to the Designated Authority.

3 APPLICATION

General

3.1 The guidance given in this Part of the Code should be taken into account when implementing the requirements of chapter XI-2 and Part A of this Code.

3.2 However, it should be recognized that the extent to which the guidance on ships applies will depend on the type of ship, its cargoes and/or passengers, its trading pattern and the characteristics of the port facilities visited by the ship.

3.3 Similarly, in relation to the guidance on port facilities, the extent to which this guidance applies will depend on the port facilities, the types of ships using the port facility, the types of cargo and/or passengers and the trading patterns of visiting ships.

3.4 The provisions of chapter XI-2 and Part A of this Code are not intended to apply to port facilities designed and used primarily for military purposes.

4. RESPONSIBILITIES OF CONTRACTING GOVERNMENTS

Security of assessments and plans

4.1 Contracting Governments should ensure that appropriate measures in place to avoid unauthorized disclosure of, or access to, security-sensitive material relating to ship security assessments (SSAs), ship security plans (SSPs), port facility security assessments (PFSAs), and port facility security plans (PFSPs), and to individual assessments or plans.

Designated Authorities

4.2 Contracting Governments may identify a Designated Authority within Government to undertake their security duties relating to port facilities as set out in chapter XI-2 or part A of this Code.

Recognized security organizations

4.3 Contracting Governments may authorize a recognized security organization (RSO) to undertake certain security-related activities, including:

- .1 approval of ship security plans, or amendments thereto, on behalf of the Administration;
- .2 verification and certification of compliance of ships with the requirements of chapter XI-2 and Part A of this Code on behalf of the Administration; and
- .3 conducting port facility security assessments required by the Contracting Government.

4.4 An RSO may also advise or provide assistance to Companies or port facilities on security matters, including ship security assessments, ship security plans, port facility security assessments and port facility security plans. This may include completion of a SSA or SSP or PFSA or PFSP. If an RSO has done so in respect of a SSA or SSP, that RSO should not be authorized to approve that SSP.

4.5 When authorizing an RSO, Contracting Governments should give consideration to the competency of such an organization. An RSO should be able to demonstrate:

- .1 expertise in relevant aspects of security;
- .2 appropriate knowledge of ship and port operations, including knowledge of ship design and construction if providing services in respect of ships and of port design and construction if providing services in respect of port facilities;

- .3 their capability to assess the likely security risks that could occur during ship and port facility operations, including the ship/port interface, and how to minimize such risks;
- .4 their ability to maintain and improve the expertise of their personnel;
- .5 their ability to monitor the continuing trustworthiness of their personnel;
- .6 their ability to maintain appropriate measures to avoid unauthorized disclosures of, or access to, security-sensitive material;
- .7 their knowledge of the requirements of chapter XI-2 and Part A of this Code and relevant national and international legislation and security requirements;
- .8 their knowledge of current security threats and patterns;
- .9 their knowledge of recognition and detection of weapons, dangerous substances and devices;
- .10 their knowledge of recognition, on a non-discriminatory basis, of characteristics and behavioural patterns of persons who are likely to threaten security;
- .11 their knowledge of techniques used to circumvent security measures; and
- .12 their knowledge of security and surveillance equipment and systems and their operational Invitations.

When delegating specific duties to a RSO, Contracting Governments, including Administrations, should ensure that the RSO has the competencies needed to undertake the task.

4.6 A recognized organization, as referred to in regulation 1/6 and fulfilling the requirements of regulation XI-1/1, may be appointed as a RSO provided it has the appropriate security-related expertise listed in paragraph 4.5.

4.7 A port or harbour Authority or port facility operator may be appointed as a RSO provided it has the appropriate security-related expertise listed in paragraph 4.5.

Setting the security level

4.8 In setting the security level, Contracting Governments should take account of general and specific threat information. Contracting Governments should set the security level applying to ships or port facilities at one of three levels:

- Security level 1, normal; the level at which the ship or port facility normally operates;
- Security level 2, heightened; the level applying for as long as there is a heightened risk of a security incident; and
- security level 3, exceptional; the level applying for the period of time when there is the probable or imminent risk of a security incident.

4.9 Setting security level 3 should be an exceptional measure applying only when there is credible information that a security incident is probable or imminent. Security level 3 should only be set for the duration of the identified security threat in actual security incident. While the security levels may change from security level 1, through security level 2 to security level 3, it is also possible that the security levels will change directly from security level 1 to security level 3.

4.10 At all times the master of a ship has the ultimate responsibility for the safety and security of the ship. Even at security level 3 a master may seek clarification or amendment of instructions issued by those responding to a security incident, or threat thereof, if there are reasons to believe that compliance with any instruction may imperil the safety of the ship.

4.11 The CSO or the SSO should liaise at the earliest opportunity with the PFSO of the port facility the ship is intended to visit to establish the security level applying for that ship at the port facility. Having established contact with a ship, the PFSO should advise the ship of any subsequent change in the port facility's security level and should provide the ship with any relevant security information.

4.12 While there may be circumstances when an individual ship may be operating at a higher security level than the port facility it is visiting, there will be no circumstances when a ship can have a lower security level than the port facility it is visiting. If a ship has a higher security level than the port facility it intends to use, the CSO or SSO should advise the PFSO without delay. The PFSO should undertake an assessment of the particular situation in consultation with the CSO or SSO and agree on appropriate security measures with the ship, which may include completion and signing of a Declaration of Security.

4.13 Contracting Governments should consider how information on changes in security levels should be promulgated rapidly. Administrations may wish to use NAVTEX messages or Notices to Mariners as the method for notifying such changes in security levels to the ship and to CSO and SSO. Or, they may wish to consider another methods of communication that provide equivalent or better speed and coverage. Contracting Governments should establish means of notifying PFSOs of changes in security levels. Contracting Governments should compile and maintain the contact details for a list of those who need to be informed of changes in security levels. Whereas the security level need not be regarded as being particularly sensitive, the underlying threat information may be highly sensitive. Contracting Governments should give careful consideration to the type and detail of the information conveyed and the method by which it is conveyed to SSOS, CSOs and PFSOs.

Contact points and information on port facility security plans

4.14 Where a port facility has a PFSP, that fact has to be communicated to the Organization and that information must also be made available to CSOs and SSOS. No further details of the PFSP have to be published other than that it is in place. Contracting Governments should consider establishing either central or regional points of contact, or other means of providing up-to-date information on the locations where PFSPs are in place, together with contact details for the relevant PFSO. The existence of such contact points should be publicized. They could also provide information on the recognized security organizations appointed to act on behalf of the Contracting Government, together with details of the specific responsibility and conditions of authority delegated to such recognized security organizations.

4.15 In the case of a port that does not have a PFSP (and therefore does not have a PFSO), the central or regional point of contact should be able to identify a suitably qualified person ashore who can arrange for appropriate security measures to be in place, if needed, for the duration of the ship's visit.

4.16 Contracting Governments should also provide the contact details of Government officers to whom an SSO, a CSO and a PFSO can report security concerns. These Government officers should assess such reports before taking appropriate action. Such reported concerns may have a bearing on the security measures falling under the jurisdiction of another Contracting Government. In that case, the Contracting Governments should consider contacting their counterpart in the other Contracting Government to discuss whether remedial action is appropriate. For this purpose, the contact details of the Government officers should be communicated to the International Maritime Organization.

4.17 Contracting Governments should also make the information indicated in paragraphs 4.14 to 4.16 available to other Contracting Governments on request

Identification documents

4.18 Contracting Governments are encouraged to issue appropriate identification documents to Government officials entitled to board ships or enter port facilities when performing their official duties and to establish procedures whereby the authenticity of such documents might be verified.

Fixed and floating platforms and mobile offshore drilling units n location

4.19 Contracting Governments should consider establishing appropriate security measures for fixed and floating platforms and mobile offshore drilling units on location to allow interaction with ships which are required to comply with the provisions of chapter XI-2 and Part A of this code.

Ships which are not required to comply with Part A of this Code

4.20 Contracting Governments should consider establishing appropriate security measures to enhance the security of ships to which chapter XI-2 and Part A of this Code do not apply and to ensure that any security provisions applying to such ships allow interaction with ships to which Part A of this Code applies.

Threats to ships and other incidents at sea

4.21 Contracting Governments should provide general guidance on the measures considered appropriate to reduce the security risk to ships flying their flag when at sea. They should provide specific advice on the action to be taken in accordance with security levels 1 to 3, if:

- .1 there is a change in the security level applying to the ship while it is at sea, e.g. because of the geographical area in which it is operating relating to the ship itself; and
- .2 there is a security incident or threat thereof involving the ship while at sea.

Contracting Governments should establish the best methods and procedures for these purposes. In the case of an imminent attack, the ship should seek to establish direct communication with those responsible in the flag State for responding to security incidents.

4.22 Contracting Governments should establish a point of contact for advice on security for any ship:

- .1 entitled to fly their flag; or
- .2 operating in their territorial sea or having communicated an intention to enter their territorial sea.

4.23 Contracting Governments should offer advice to ships operating in their territorial sea or having communicated an intention to enter their territorial sea, which could include advice:

- .1 to alter or delay their intended passage;
- .2 to navigate on a particular course or proceed to a specific location;
- .3 on the availability of any personnel or equipment that could be placed on the ship;
- .4 to co-ordinate the passage, arrival into port or departure from port, to allow escort by patrol craft or aircraft (fixed-wing or helicopter).

Contracting Governments should remind ships operating in their territorial sea, or having communicated an intention to enter their territorial sea, of any temporary restricted areas that they have published.

4.24 Contracting Governments should recommend that ships operating in their territorial sea, or having communicated an intention to enter their territorial sea, implement expeditiously, for the ship's protection and for the protection of other ships in the vicinity, any security measure the Contracting Government may have advised.

4.25 The plans prepared by the Contracting Governments for the purposes given in paragraph 4.22 should include information on an appropriate point of contact, available on a 24-hour basis, within the Contracting Government including the Administration. These plans should also include information on the circumstances in which the Administration considers assistance should be sought from nearby coastal States, and a procedure for liaison between PFSOs and SSOs.

Alternative security agreements

4.26 Contracting Governments, in considering how to implement chapter XI-2 and Part A of this Code, may conclude one or more agreements with one or more Contracting Governments. The scope of an agreement is limited to short international voyages on fixed routes between port facilities in the territory of the parties to the agreement. When concluding an agreement, and thereafter, the Contracting Governments should consult other Contracting Governments and Administrations with an interest in the effects of the agreement. Ships flying the flag of a State that is not party to the agreement should only be allowed to operate on the fixed routes covered by the agreement if their Administration agrees that the ship should comply with

the provisions of the agreement and requires the ship to do so. In no case can such an agreement compromise the level of security of other ships and port facilities not covered by it, and specifically, all ships covered by such an agreement may not conduct ship-to-ship activities with ships not so covered. Any operational interface undertaken by ships covered by the agreement should be covered by it. The operation of each agreement must be continually monitored and amended when the need arises and in any event should be reviewed every 5 years.

Equivalent arrangements for port facilities

4.27 For certain specific port facilities with limited or special operations but with more than occasional traffic, it may be appropriate to ensure compliance by security measures equivalent to those prescribed in chapter XI-2 and in Part A of this Code. This can, in particular, be the case for terminals such as those attached to factories, or quaysides with no frequent operations.

Manning level

4.28 In establishing the minimum safe manning of a ship, the Administration should take into account that the minimum safe manning provisions established by regulation V/14 only address the safe navigation of the ship. The Administration should also take into account any additional workload which may result from the implementation of the SSP and ensure that the ship is, sufficiently and effectively manned. In doing so, the Administration should verify that ships are able to implement the hours of rest and other measures to address fatigue which have been promulgated by national law, in the context of all shipboard duties assigned to the various shipboard personnel.

Control and compliance measures

General

4.29 Regulation XI-2/9 describes the control and compliance measures applicable to ships under chapter XI-2. It is divided into three distinct sections; control of ships already in a port, control of ships intending to enter a port of another Contracting Government, and additional provisions applicable to both situations.

4.30 Regulation XI-2/9.1, Control of ships in port, implements a system for the control of ships while in the port of a foreign country where duly authorized officers of the Contracting Government ("duly authorized officers") have the right to go on board the ship to verify that the required certificates are in proper order. Then, if there are clear grounds to believe the ship does not comply, control measures such as additional inspections or detention may be taken. This reflects current control systems. Regulation XI-2/9.1 builds on such systems and allows for additional measures (including expulsion of a ship from a port to be taken as a control measure) when duly authorized officers have clear grounds for believing that a ship is in non-compliance with the requirements of chapter XI-2 or part A of this Code. Regulation XI-2/9.3 describes the safeguards that promote fair and proportionate implementation of these additional measures.

4.31 Regulation XI-2/9.2 applies control measures to ensure compliance to ships intending to enter a port of another Contracting Government and introduces an entirely different concept of control within chapter XI-2, applying to security only. Under this regulation, measures may be implemented prior to the ship entering port, to better ensure security. Just as in regulation XI-2/9.1, this additional control system is based on the concept of clear grounds for believing the ship does not comply with chapter XI-2 or part A of this Code, and includes significant safeguards in regulations XI-2/9.2.2 and XI-2/9.2.5 as well as in regulation XI-2/9.3.

4.32 Clear grounds that the ship is not in compliance means evidence or reliable information that the ship does not correspond with the requirements of chapter XI-2 or Part A of this Code, taking into account the guidance given in this Part of the Code. Such evidence or reliable information may arise from the duly authorized officer's professional judgment or observations gained while verifying the ship's International Ship Security Certificate or Interim International Ship Security Certificate issued in accordance with Part A of this Code ("Certificate") or from other sources. Even if a valid Certificate is on board the ship, the duly authorized officers may still have clear grounds for believing that the ship is not in compliance based on their professional judgment.

4.33 Examples of possible clear grounds under regulations XI-2/9.1 and XI-2/9.2 may include, when relevant:

- .1 evidence from a review of the certificate that it is not valid or it has expired;

- .2 evidence or reliable information that serious deficiencies exist in the security equipment, documentation or arrangements required by chapter XI-2 and part A of this Code;
- .3 receipt of a report or complaint which, in the professional judgement of the duly authorized officer, contains reliable information clearly indicating that the ship does not comply with the requirements of chapter XI-2 or Part A of this Code;
- .4 evidence or observation gained by a duly authorized officer using professional judgement that the master or ship's personnel is not familiar with essential shipboard security procedures or cannot carry out drills related to the security of the ship or that such procedures- or drills have not been carried out;
- .5 evidence or observation gained by a duly authorized officer using professional judgement that key members of ship's personnel are not able to establish proper communication with any other key members of ship's personnel with security responsibilities on board the ship;
- .6 evidence or reliable information that the ship has embarked persons or loaded stores or goods at a port facility or from another ship where either the port facility or the other ship is in violation of chapter XI-2 or part A of this Code, and the ship in question has not completed a Declaration of Security, nor taken appropriate, special or additional security measures or has not maintained appropriate ship security procedures;
- .7 evidence or reliable information that the ship has embarked persons or loaded stores or goods at a port facility or from another source (e.g., another ship or helicopter transfer) where either the port facility or the other source is not required to comply with chapter XI-2 or Part A of this Code, and the ship has not taken appropriate, special or additional security measures or has not maintained appropriate security procedures; and
- .8 the ship holding a subsequent, consecutively issued Interim International Ship Security Certificate as described in section A/19.4, and, in the professional judgement of an officer duly authorized, one of the purposes of the ship or a Company in requesting such a Certificate is to avoid full compliance with chapter XI-2 and part A of this Code beyond the period of the initial Interim Certificate as described in section A/19.4.4.

4.34 The international law implications of regulation XI-2/9 are particularly relevant, and the regulation should be implemented with regulation XI-2/2.4 in mind, as the potential exists for situations where either measures will be taken which fall outside the scope of chapter XI-2, or where rights of affected ships, outside chapter XI-2, should be considered. Thus, regulation XI-2/9 does not prejudice the Contracting Government from taking measures having a basis in, and consistent with, international law to ensure the safety or security of persons, ships, port facilities and other property in cases where the ship, although in compliance with chapter XI-2 and Part A of this Code, is still considered to present a security risk.

4.35 When a Contracting Government imposes control measures on a ship, the Administration should, without delay, be contacted with sufficient information to enable the Administration to fully liaise with the Contracting Government.

Control of ships In port

4.36 Whom the non-compliance is either a defective item of equipment or faulty documentation leading to the ship's detention and the non-compliance cannot be remedied in the port of inspection, the Contracting Government may allow the ship to sail to another port provided that any conditions, agreed between the port States and the Administration or master are met.

Ships intending to enter the port of another Contracting Government

4.37 Regulation XI-2/9.2.1 lists the information Contracting Governments may require from a ship as a condition of entry into port. One item of information listed is confirmation of any special or additional measures taken by the ship during its last 10 calls at a port facility. Examples could include:

- .1 records of the measures taken while visiting a port facility located in the territory of a State which is not a Contracting Government, especially those measures that would normally have been provided by port facilities located in the territories of Contracting Governments; and

.2 any Declarations of Security that were entered into with port facilities or other ships.

4.38 Another item of information listed, that may be required as a condition of entry into port, is confirmation that appropriate ship security procedures were maintained during ship-to-ship activity conducted within the period of the last 10 calls at a port facility. It would not normally be required to include records of transfers of pilots or of customs, immigration or security officials nor bunkering, lightering, loading of supplies and unloading of waste by ship within port facilities as these would normally fall within the auspices of the PFSP. Examples of information that might be given include:

- .1 records of the measures taken while engaged in a ship-to-ship activity with a ship flying the flag of a State which is not a Contracting Government, especially those measures that would normally have been provided by ships flying the flag of Contracting Governments;
- .2 records of the measures taken while engaged in a ship-to-ship activity with a ship that is flying the flag of a Contracting Government but is not required to comply with the provisions of chapter XI-2 and part A of this Code, such as a copy of any security certificate issued to that ship under other provisions; and
- .3 in the event that persons or goods rescued at sea are on board, all known information about such persons or goods, including their identities when known and the results of any checks run on behalf of the ship to establish the security status of those rescued. It is not the intention of chapter XI-2 or Part A of this Code to delay or prevent the delivery of those in distress at sea to a place of safety. It is the sole intention of chapter XI-2 and Part A of this Code to provide States with enough appropriate information to maintain their security integrity.

4.39 Examples of other practical security-related information that may be required as a condition of entry into port in order to assist with ensuring the safety and security of persons, port facilities, ships and other property include:

- .1 information contained in the Continuous Synopsis Record;
- .2 location of the ship at the time the report is made;
- .3 expected time of arrival of the ship in port;
- .4 crew list;
- .5 general description of cargo aboard the ship;
- .6 passenger list; and
- .7 information required to be carried under regulation XI-2/5.

4.40 Regulation XI-2/9.2.5 allows the master of a ship, upon being informed that the coastal or port State will implement control measures under regulation XI-2/9-2, to withdraw the intention for the ship to enter port. If the master withdraws that intention, regulation XI-2/9 no longer applies, and any other steps that are taken must be based on, and consistent with international law.

Additional provisions

4.41 In all cases where a ship is denied entry or is expelled from a port, all known facts should be communicated to the authorities of relevant States. This communication should consist of the following, when known:

- .1 name of ship, its flag, the Ship Identification Number, call sign, ship type and cargo;
- .2 reason for denying entry or for expulsion from port or port areas;
- .3 if relevant, the nature of any security non-compliance;
- .4 if relevant, details of any attempts made to rectify any non-compliance, including any conditions imposed on the ship for the voyage;

- .5 past port(s) of call and next declared port of call;
- .6 time of departure and likely estimated time of arrival at those ports;
- .7 any instructions given to the ship, e.g., reporting on its mule;
- .8 available information on the security level at which the ship is currently operating;
- .9 information regarding any communications the port State has had with the Administration;
- .10 contact point within the port State making the report for the purpose of obtaining further information;
- .11 crew list; and
- .12 any other relevant information.

4.42 Relevant States to contact should include those along the ship's intended passage to its next port, particularly if the ship intends to enter the territorial sea of that coastal State. Other relevant States could include previous ports of call, so that further information might be obtained and security issues relating to the previous ports resolved.

4.43 In exercising control and compliance measures, the duly authorized officers should ensure that any measures or steps imposed are proportionate. Such measures or steps should be reasonable and of the minimum security and duration necessary to rectify or mitigate the non-compliance.

4.44 The word "delay" in regulation XI-2/9.3.5.1 also refers to situations where, pursuant to actions taken under this regulation⁴ the ship is unduly denied entry into port or the ship is unduly expelled from port.

Non-Party ships and ships below Convention size

4.45 With respect to ships flying the flag of a State which is not a Contracting Government to the Convention and not a Party to the 1988 SOLAS Protocol¹, Contracting Governments should not give more favourable treatment to such ships. Accordingly, the requirements of regulation XI-2/9 and the guidance provided in this Part of the Code should be applied to those ships.

4.46 Ships below Convention size are subject to measures by which States maintain security. Such measures should be taken with due regard to the requirements in chapter XI-2 and the guidance provided in this Part of the Code.

5. DECLARATION OF SECURITY

General

5.1 A Declaration of Security (DoS) should be completed when the Contracting Government of the port facility deems it to be necessary or when a ship deems it necessary.

5.1.1 The need for a DoS may be indicated by the results of the port facility security assessment (PFSA) and the reasons and circumstances in which a DoS is required should be set out in the port facility security plan (PFSP).

5.2 It is likely that a DoS will be requested at higher security levels, when a ship has a higher security level than the port facility, or another ship with which it interfaces, and for ship/port interface or ship-to-ship activities that pose a higher risk to persons, property or the environment for reasons specific to that ship, including its cargo or passenger or the circumstances at the port facility or a combination of these factors.

¹ Protocol of 1998 relating to the International Convention for the Safety of Life at Sea, 1974.

5.2.1 In the case that a ship or an Administration, on behalf of ships entitled to fly its flag, requests completion of a DoS, the port facility security officer (PFSO) or ship security officer (SSO) should acknowledge the request and discuss appropriate security measures.

5.3 A PFSO may also initiate a DoS prior to ship/port interfaces that are identified in the approved PFSA as being of particular concern. Examples may include embarking or disembarking passengers and the transfer, loading or unloading of dangerous goods or hazardous substances. The PFSA may also identify facilities at or near highly populated areas or economically significant operations that warrant a DoS.

5.4 The main purpose of a DoS is to ensure agreement is reached between the ship and the port facility or with other ships with which it interfaces as to the respective security measures each will undertake in accordance with the provisions of their respective approved security plans.

5.4.1 The agreed DoS should be signed and dated by both the port facility and the ship(s), as applicable, to indicate compliance with chapter XI-2 and part A of this Code and should include its duration, the relevant security level or levels and the relevant contact details.

5.4.2 A change in the security level may require that a new or revised DoS be completed.

5.2 The DoS should be completed in English, French or Spanish or in a language common to both the port facility and the ship or the ships, as applicable.

5.6 A model DoS is included in appendix 1 to this Part of the Code. This model is for a DoS between a ship and a port facility. If the DoS is to cover two ships this model should be appropriately adjusted.

6 OBLIGATIONS OF THE COMPANY

General

6.1 Regulation XI-2/5 requires the Company to provide the master of the ship with information to meet the requirements of the Company under the provisions of this regulation. This information should include items such as:

- .1 parties responsible for appointing shipboard personnel, such as ship management companies, manning agents, contractors, concessionaries (for example, retail sales outlets, casinos, etc.);
- .2 parties responsible for deciding the employment of the ship, including time, or bareboat charter(s) or any other entity acting in such capacity; and
- .3 in cases when the ship is employed under the terms of a charter party, the contact details of those parties, including time or voyage charterers.

6.2 In accordance with regulation XI-2/5, the Company is obliged to update and keep this information current as and when changes occur.

6.3 This information should be in English, French or Spanish language.

6.4 With respect to ships constructed before 1 July, 2004, this information should reflect the actual condition on that date.

6.5 With respect to ships constructed on or after 1 July, 2004 and for ships constructed before 1 July, 2004 which were out of service on 1 July, 2004, the information should be provided as from the date of entry of the ship into service and should reflect the actual condition on that date.

6.6 After 1 July, 2004, when a ship is withdrawn from service, the information should be provided as from the date of re-entry of the ship into service and should reflect the actual condition on that date.

6.7 Previously provided information that does not relate to the actual condition on that date need not be retained on board.

6.8 When the responsibility for the operation of the ship is assumed by another Company, the information relating to the Company which operated the ship is not required to be left on board.

In addition, other relevant guidance is provided under sections 8, 9 and 13.

7. SHIP SECURITY

Relevant guidance is provided under sections 8, 9 and 13.

8. SHIP SECURITY ASSESSMENT

Security assessment

8.1 The company security officer (CSO) is responsible for ensuring that a ship security assessment (SSA) is carried out for each of the ships in the Company's fleet which is required to comply with the provisions of chapter XI-2 and Part A of this Code for which the CSO is responsible. 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.

8.2 Prior to commencing the SSA, the CSO should ensure that advantage is taken of information available on the assessment of threat for the ports at which the ship will call or at which passengers embark or disembark and about the port facilities and their protective measures. The CSO should study previous reports on similar security needs. Where feasible, the CSO should meet with appropriate persons on the ship and in the port facilities to discuss the purpose and methodology of the assessment. The CSO should follow any specific guidance offered by the Contracting Governments.

8.3 A SSA should address the following elements on board or within the ship:

- .1 physical security;
- .2 structural integrity;
- .3 personnel protection systems;
- .4 procedural policies;
- .5 radio and telecommunication systems, including computer systems and networks; and
- .6 other areas that may, if damaged or used for illicit observation, pose a risk to persons, property, or operations on board the ship or within a port facility.

8.4 Those involved in conducting a SSA should be able to draw upon expert assistance in relation to:

- .1 knowledge of current security threats and patterns;
- .2 recognition and detection of weapons, dangerous substances and devices;
- .3 recognition, on a non-discriminatory basis, of characteristics and behavioural patterns of persons who are likely to threaten security;
- .4 techniques used to circumvent security measures;
- .5 methods used to cause a security incident;
- .6 effects of explosives on ship's structures and equipment;
- .7 ship security;
- .8 ship/port interface business practices;
- .9 contingency planning, emergency preparedness and response;
- .10 physical security;
- .11 radio and telecommunications systems, including computer systems and networks;

- .12 marine engineering; and
 - .13 ship and port operations.
- 8.5 The CSO should obtain and record the information required to conduct an assessment, including:
- .1 the general layout of the ship;
 - .2 the location of areas which should have restricted access, such as navigation bridge, machinery spaces of category A and other control stations as defined in chapter XI-2, etc.;
 - .3 the location and function of each actual or potential access point to the ship;
 - .4 changes in the tide which may have an impact on the vulnerability or security of the ship;
 - .5 the cargo spaces and stowage arrangements;
 - .6 the locations where the ship's stores and essential maintenance equipment is stored;
 - .7 the locations where unaccompanied baggage is stored;
 - .8 the emergency and stand-by equipment available to maintain essential services;
 - .9 the number of ship's personnel, any existing security duties and any existing training requirement practices of the Company;
 - .10 existing security and safety equipment for the protection of passengers and ship's personnel;
 - .11 escape and evacuation routes and assembly stations which have to be maintained to ensure the orderly and safe emergency evacuation of the ship;
 - .12 existing agreements with private security companies providing ship/water-side security services; and
 - .13 existing security measures and procedures in effect, including inspection and, control procedures, identification systems, surveillance and monitoring equipment, personnel identification documents and communication, alarms, lighting, access control and other appropriate systems.
- 8.6 The SSA should examine each identified point of access, including open weather decks, and evaluate its potential for use by individuals who might seek to breach security. This includes points of access available to individuals having legitimate access as well as those who seek to obtain unauthorized entry.
- 8.7 The SSA should consider the continuing relevance of the existing security measures and guidance, procedures and operations, under both routine and emergency conditions, and should determine security guidance including:
- .1 the restricted areas;
 - .2 the response procedures to fire or other emergency conditions;
 - .3 the level of supervision of the ship's personnel, passengers, visitors, vendors, repair technicians, dock workers, etc.;
 - .4 the frequency and effectiveness of security patrols;
 - .5 the access control systems, including identification systems;
 - .6 the security communications systems and procedures;
 - .7 the security doors, barriers and lighting; and
 - .8 the security and surveillance equipment and systems, if any.

8.8 The SSA should consider the persons, activities, services and operations that it is important to protect. This includes:

- .1 the ship's personnel;
- .2 passengers, visitors, vendors, repair technicians, port facility personnel, etc.;
- .3 the capacity to maintain safe navigation and emergency response;
- .4 the cargo, particularly dangerous goods or hazardous substances;
- .5 the ship's stores;
- .6 the ship security communication equipment and systems, if any; and
- .7 the ship's security surveillance equipment and systems, if any.

8.9 The SSA should consider all possible threats, which may include the following types of security incidents:

- .1 damage to, or destruction of, the ship or of a port facility, e.g. by explosive devices, arson, sabotage or vandalism;
- .2 hijacking or seizure of the ship or of persons on board;
- .3 tampering with cargo, essential ship equipment or systems or ship's stores;
- .4 unauthorized access or use, including presence of stowaways;
- .5 smuggling weapons or equipment, including weapons of mass destruction;
- .6 use of the ship to carry those intending to cause a security incident and/or their equipment;
- .7 use of the ship itself as a weapon or as a means to cause damage or destruction;
- .8 attacks from seaward whilst at berth or at anchor; and
- .9 attacks whilst at sea.

8.10 The SSA should take into account all possible vulnerabilities, which may include:

- .1 conflicts between safety and security measures;
- .2 conflicts between shipboard duties and security assignments;
- .3 watch-keeping duties, number of ship's personnel, particularly with implications on crew fatigue, alertness and performance;
- .4 any identified security training deficiencies; and
- .5 any security equipment and systems, including communication systems.

8.11 The CSO and ship security officer (SSO) should always have regard to the effect that security measures may have on ship's personnel who will remain on the ship for long periods. When developing security measures, particular consideration should be given to the convenience, comfort and personal privacy of the ship's personnel and their ability to maintain their effectiveness over long periods.

8.12 Upon completion of the SSA, a report shall be prepared, consisting of a summary of how the assessment was conducted, a description of each vulnerability found during the assessment and a description of countermeasures that could be used to address each vulnerability. The report shall be protected from unauthorized access or disclosure.

8.13 If the SSA has not been carried out by the Company, the report of the SSA should be reviewed and accepted by the CSO.

On-scene security survey

8.14 The on-scene security survey is an integral part of any SSA. The on-scene security survey should examine and evaluate existing shipboard protective measures, procedures and operations for:

- .1 ensuring the performance of all ship security duties;
- .2 monitoring restricted area!; to ensure that only authorized persons have access;
- .3 controlling access to the ship, including any identification systems;
- .4 monitoring of deck areas and areas surrounding the ship;
- .5 controlling the embarkation of persons and their effects (accompanied and unaccompanied baggage and ship's personnel personal effects);
- .6 supervising the handling of cargo and the delivery of ship's stores; and
- .7 ensuring that ship security communication, information, and equipment are readily available.

9 SHIP SECURITY PLAN

General

9.1 The company security officer (CSO) has the responsibility not ensuring that a ship security plan (SSP) is prepared and submitted for approval. The content of each individual SSP should vary depending on the particular ship it covers. The ship security assessment (SSA) will have identified the particular features of the ship and the potential threats and vulnerabilities. The preparation of the SSP will require these features to be addressed in detail. Administrations may prepare advice on the preparation and content of a SSP.

9.2 All SSPs should:

- .1 detail the organizational structure of security for the ship;
- .2 detail the ship's relationships with the Company, port facilities, other ships and relevant authorities with security responsibility;
- .3 detail the communication systems to allow effective continuous communication within the ship and between the ship and others, including port facilities;
- .4 detail the basic security measures for security level 1, both operational and physical, that will always be in place;
- .5 detail the additional security measures that will allow the ship to progress without delay to security level 2 and, when necessary, to security level 3;
- .6 provide for regular review, or audit, of the SSP and for its amendment in response to experience or changing circumstances; and
- .7 detail reporting procedures to the appropriate Contracting Government's contact points.

9.3 Preparation of an effective SSP should rest on a thorough assessment of all issues that relate to the security of the ship, including, in particular, a thorough appreciation of the physical and operational characteristics, including the voyage pattern, of the individual ship.

9.4 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, that RSO should not be associated with any other RSO that prepared, or assisted in the preparation of, the plan.

9.5 CSOs and SSOs should develop procedures to:

- .1 assess the continuing effectiveness of the SSP; and
- .2 prepare amendments of the plan subsequent to its approval.

9.6 The security measures included in the SSP should be in place when the initial verification for compliance with the requirements of chapter XI-2 and part A of this Code will be carried out. Otherwise the process of issue to the ship of the required International Ship Security Certificate cannot be carried out. If there is any subsequent failure of security equipment or systems, or suspension of a security measure for whatever reason, equivalent temporary security measures should be adopted, notified to, and agreed by the Administration.

Organization and performance of ship security duties

9.7 In addition to the guidance given in paragraph 9.2, the SSP should establish the following, which relate to all security levels:

- .1 the duties and responsibilities of all shipboard personnel with a security role;
- .2 the procedures or safeguards necessary to allow such continuous communications to be maintained at all times;
- .3 the procedures needed to assess the continuing effectiveness of security procedures and any security and surveillance equipment and systems, including procedures for identifying and responding to equipment or systems failure or malfunction;
- .4 the procedures and practices to protect security-sensitive information held in paper or electronic format;
- .5 the type and maintenance requirements of security and surveillance equipment and systems, if any;
- .6 the procedures to ensure the timely submission, and assessment, of reports relating to possible breaches of security or security concerns; and
- .7 procedures to establish, maintain and update an inventory of any dangerous goods or hazardous substances carried on board, including their location.

9.8 The remainder of section 9 addresses specifically the security measures that could be taken at each security level covering:

- .1 access to the ship by ship's personnel, passengers, visitors, etc.;
- .2 restricted areas on the ship;
- .3 handling of cargo;
- .4 delivery of ship's stores;
- .5 handling unaccompanied baggage; and
- .6 monitoring the security of the ship.

Access to the ship

9.9 The SSP should establish the security measures covering all means of access to the ship identified in the SSA. This should include any:

- .1 access ladders;
- .2 access gangways;

- .3 access ramps;
- .4 access doors, sides-cuttles, windows and ports;
- .5 mooring lines and anchor chains; and
- .6 cranes and hoisting gear.

9.10 For each of these the SSP should identify the appropriate locations where access restrictions or prohibitions should be applied for each of the security levels. For each security level the SSP should establish the type of restriction or prohibition to be applied and the means of enforcing them.

9.11 The SSP should establish for each security level the means of identification required to allow access to the ship and for individuals to remain on the ship without challenge. This may involve developing an appropriate identification system allowing for permanent and temporary identifications, for ship's personnel and visitors respectively. Any ship identification system should, when it is practicable to do so, be coordinated with that applying to the port facility. Passengers should be able to prove their identity by boarding passes, tickets, etc., but should not be permitted access to restricted areas unless supervised. The SSP should establish provisions to ensure that the identification systems are regularly updated, and that abuse of procedures should be subject to disciplinary action.

9.12 Those unwilling or unable to establish their identity and/or to confirm the purpose of their visit when requested to do so should be denied access to the ship and their attempt to obtain access should be reported, as appropriate, to the SSO, the CSO, the port facility security officer (PFSO) and to the national or local authorities with security responsibilities.

9.13 The SSP should establish the frequency of application of any access controls, particularly if they are to be applied on a random, or occasional, basis.

Security level 1

9.14 At security level 1, the SSP should establish the security measures to control access to the ship, where the following may be applied:

- .1 checking the identity of all persons seeking to board the ship and confirming their reasons for doing so by checking, for example, joining instructions, passenger tickets, boarding passes, work orders, etc.;
- .2 in liaison with the port facility, the ship should ensure that designated secure areas are established in which inspections and searching of persons, baggage (including carry-on items), personal effects, vehicles and their contents can take place;
- .3 in liaison with the port facility, the ship should ensure that vehicles destined to be loaded on board car carriers, ro-ro and other passenger ships are subjected to search prior to loading, in accordance with the frequency required in the SSP;
- .4 segregating checked persons and their personal effects from unchecked persons and their personal effects;
- .5 segregating embarking from disembarking passengers;
- .6 identifying access points that should be secured or attended to prevent unauthorized access;
- .7 securing, by locking or other means, access to unattended spaces adjoining areas to which passengers and visitors have access; and
- .8 providing security briefings to all ship personnel on possible threats, the procedures for reporting suspicious persons, objects or activities and for need for vigilance.

9.15 At security level 1, all those seeking to board a ship should be liable to search. The frequency of such searches, including random searches, should be specified in the approved SSP and should be specifically approved by the Administration. Such searches may best be undertaken by the port facility in close co-operation with the ship and in close proximity to it. Unless there are clear security grounds for doing so,

members of the ship's personnel should not be required to search their colleagues or their personal effects. Any such search shall be undertaken in a manner which fully takes into account the human rights of the individual and preserves their basic human dignity.

Security level 2

9.16 At security level 2, the SSP should establish the security measures to be applied to protect against a heightened risk of a security incident to ensure higher vigilance and tighter control, which may include:

- .1 assigning additional personnel to patrol deck areas during silent hours to deter unauthorized access;
- .2 limiting the number of access points to the ship, identifying those to be closed and the means of adequately securing them;
- .3 deterring waterside access to the ship, including, for example, in liaison with the port facility, provision of boat patrols;
- .4 establishing a restricted area on the shore side of the ship, in close co-operation with the port facility;
- .5 increasing the frequency and detail of searches of persons, personal effects, and vehicles being embarked or loaded onto the ship;
- .6 escorting visitors on the ship;
- .7 providing additional specific security briefings to all ship personnel on any identified threats, re-emphasizing the procedures for reporting suspicious persons, objects, or activities and stressing the need for increased vigilance; and
- .8 carrying out a full or partial search of the ship.

Security level 3

9.17 At security level 3, the ship should comply with the instructions issued by those responding to the security incident or threat thereof. The SSP should detail the security measures which could be taken by the ship, in close co-operation with those responding and the port facility, which may include:

- .1 limiting access to a single, controlled, access point;
- .2 granting access only to those responding to the security incident or threat thereof;
- .3 directing persons on board;
- .4 suspension of embarkation or disembarkation;
- .5 suspension of cargo handling operations, deliveries, etc.;
- .6 evacuation of the ship;
- .7 movement of the ship; and
- .8 preparing for a full or partial search of the ship.

Restricted areas on the ship

9.18 The SSP should identify the restricted areas to be established on the ship, specify their extent, times of application, the security measures to be taken to control access to them and those to be taken to control activities within them. The purposes of restricted areas are to:

- .1 prevent unauthorized access;

- .2 protect passengers, ship's personnel, and personnel from port facilities or other agencies authorized to be on board the ship;
- .3 protect security-sensitive areas within the ship; and
- .4 protect cargo and ship's stores from tampering.

9.19 The SSP should ensure that there are clearly established policies and practices to control access to all restricted areas.

9.20 The SSP should provide that all restricted areas should be clearly marked, indicating that access to the area is restricted and that unauthorized presence within the area constitutes a breach of security.

9.21 Restricted areas may include:

- .1 navigation bridge, machinery spaces of category A and other control stations as defined in chapter XI-2;
- .2 spaces containing security and surveillance equipment and systems and their controls and lighting system controls;
- .3 ventilation and air-conditioning systems and other similar spaces;
- .4 spaces with access to potable water tanks, pumps, or manifolds;
- .5 spaces containing dangerous goods or hazardous substances;
- .6 spaces containing cargo pumps and their controls;
- .7 cargo spaces and spaces containing ship's stores;
- .8 crew accommodation; and
- .9 any other areas as determined by the CSO, through the SSA, to which access must be restricted to maintain the security of the ship.

Security level 1

9.22 At security level 1, the SSP should establish the security measures to be applied to restricted areas, which may include:

- .1 locking or securing access points;
- .2 using surveillance equipment to monitor the areas;
- .3 using guards or patrols; and
- .4 using automatic intrusion-detection devices to alert the ship's personnel of unauthorized access.

Security level 2

9.23 At security level 2, the frequency and intensity of the monitoring of, and control of access to, restricted areas should be increased to ensure that only authorized persons have access. The SSP should establish the additional security measures to be applied, which may include:

- .1 establishing restricted areas adjacent to access points;
- .2 continuously monitoring surveillance equipment; and
- .3 dedicating additional personnel to guard and patrol restricted areas.

16 PORT FACILITY SECURITY PLAN

General The Contracting Government should ensure that the port facility security plan (PFSP) is developed and maintained in accordance with the relevant international and national standards.

16.1 Preparation of the port facility security plan (PFSP) is the responsibility of the port facility security officer (PFSO). While the PFSO 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 PFSO.

16.2 The content of each individual PFSP should vary depending on the particular circumstances of the port facility, or facilities, it covers. The port facility security assessment (PFSA) will have identified the particular features of the port facility, and of the potential security risks, that have led to the need to appoint a PFSO and to prepare a PFSP. The preparation of the PFSP will require these features, and other local or national security considerations, to be addressed in the PFSP and for appropriate security measures to be established so as to minimise the likelihood of a breach of security and the consequences of potential risks. Contracting Governments may prepare advice on the preparation and content of a PFSP.

16.3 All PFSPs should:

- 1 detail the security organization of the port facility;
- 2 detail the organization's links with other relevant authorities and the necessary communication systems to allow the effective continuous operation of the organization and its links with others, including ships in port;
- 3 detail the basic security level 1 measures, both operational and physical, that will be in place;
- 4 detail the additional security measures that will allow the port facility to progress without delay to security level 2 and, when necessary, to security level 3;
- 5 provide for regular review, or audit, of the PFSP and for its amendment in response to experience or changing circumstances; and
- 6 detail reporting procedures to the appropriate Contracting Government's contact points.

16.4 Preparation of an effective PFSP will rest on a thorough assessment of all issues that relate to the security of the port facility, including, in particular, a thorough appreciation of the physical and operational characteristics of the individual port facility.

16.5 Contracting Governments should approve the PFSPs of the port facilities under their jurisdiction. Contracting Governments should develop procedures to assess the continuing effectiveness of each PFSP and may require amendment of the PFSP prior to its initial approval or subsequent to its approval. The PFSP should make provision for the retention of records of security incidents and threats, reviews, audits, training, drills and exercises as evidence of compliance with those requirements.

16.6 The security measures included in the PFSP should be in place within a reasonable period of the PFSP's approval and the PFSP should establish when each measure will be in place. If there is likely to be any delay in their provision, this should be discussed with the Contracting Government responsible for approval of the PFSP and satisfactory alternative temporary security measures that provide an equivalent level of security should be agreed to cover any interim period.

16.7 The use of firearms on or near ships and in port facilities may pose particular and significant safety risks, in particular in connection with certain dangerous or hazardous substances, and should be considered very carefully. In the event that a Contracting Government decides that it is necessary to use armed personnel in these areas, that Contracting Government should ensure that these personnel are duly authorized and trained in the use of their weapons and that they are aware of the specific risks to safety that are present in these areas. If a Contracting Government authorizes the use of firearms they should issue specific safety guidelines on their use. The PFSP should contain specific guidance on this matter, in particular with regard to application to ships carrying dangerous goods or hazardous substances.

Organization and performance of port facility security duties

16.8 In addition to the guidance given under paragraph 16.3, the PFSP should establish the following, which relate to all security levels:

- .1 the role and structure of the port facility security organization;
- .2 the duties, responsibilities and training requirements of all port facility personnel with a security role and the performance measures needed to allow their individual effectiveness to be assessed;
- .3 the port facility security organization's links with other national or local authorities with security responsibilities;
- .4 the communication systems provided to allow effective and continuous communication between port facility security personnel, ships in port and, when appropriate, with national or local authorities with security responsibilities;
- .5 the procedures or safeguards necessary to allow such continuous communications to be maintained at all times;
- .6 the procedures and practices to protect security-sensitive information held in paper or electronic format;
- .7 the procedures to assess the continuing effectiveness of security measures, procedures and equipment, including identification of, and response to, equipment failure or malfunction;
- .8 the procedures to allow the submission, and assessment, of reports relating to possible breaches of security or security concerns;
- .9 procedures relating to cargo handling;
- .10 procedures covering the delivery of ship's stores;
- .11 the procedures to maintain, and update, records of dangerous goods and hazardous substances and their location within the port facility;
- .12 the means of alerting and obtaining the services of waterside patrols and specialist search teams, including bomb searches and underwater searches;
- .13 the procedures for assisting ship security officers in confirming the identity of those seeking to board the ship when requested; and
- .14 the procedures for facilitating shore leave for ship's personnel or personnel changes, as well as access of visitors to the ship, including representatives of seafarers' welfare and labour organizations.

16.9 The remainder of section 16 addresses specifically the security measures that could be taken at each security level covering:

- .1 access to the port facility;
- .2 restricted areas within the port facility;
- .3 handling of cargo;
- .4 delivery of ship's stores;
- .5 handling unaccompanied baggage; and
- .6 monitoring the security of the port facility.

Security level 3

9.24 At security level 3, the ship should comply with the instructions issued by those responding to the security incident or threat thereof. The SSP should detail the security measures which could be taken by the ship, in close co-operation with those responding and the port facility, which may include:

- .1 setting up of additional restricted areas on the ship in proximity to the security incident, or the believed location of the security threat, to which access is denied; and
- .2 searching of restricted areas as part of a search of the ship.

Handling of cargo

9.25 The security measures relating to cargo handling should:

- .1 prevent tampering; and
- .2 prevent cargo that is not meant for carriage from being accepted and stored on board the ship.

9.26 The security measures, some of which may have to be applied in liaison with the port facility, should include inventory control procedures at access points to the ship. Once on board the ship, cargo should be capable of being identified as having been approved for loading onto the ship. In addition, security measures should be developed to ensure that cargo, once on board, is not tampered with.

Security level 1

9.27 At security level 1, the SSP should establish the security measures to be applied during cargo handling, which may include:

- .1 routine checking of cargo, cargo transport units and cargo spaces prior to, and during, cargo handling operations;
- .2 checks to ensure that cargo being loaded matches the cargo documentation;
- .3 ensuring, in liaison with the port facility, that vehicles to be loaded on board car-carriers, ro-ro and passenger ships are subjected to search prior to loading, in accordance with the frequency required in the SSP; and
- .4 checking of seals or other methods used to prevent tampering.

9.28 Checking of cargo may be accomplished by the following means:

- .1 visual and physical examination; and
- .2 using scanning/detection equipment, mechanical devices, or dogs.

9.29 When there are regular or repeated cargo movements, the CSO or SSO may, in consultation with the port facility, agree arrangements with shippers or others responsible for such cargo covering off-site checking, sealing, scheduling, supporting documentation, etc. Such arrangements should be communicated to and agreed with the PFSO concerned.

Security level 2

9.30 At security level 2, the SSP should establish the additional security measures to be applied during cargo handling, which may include:

- .1 detailed checking of cargo, cargo transport units and cargo spaces;
- .2 intensified checks to ensure that only the intended cargo is loaded;
- .3 intensified searching of vehicles to be loaded on car carriers, ro-ro and passenger ships; and

- .4 increased frequency and detail in checking of seals or other methods used to prevent tampering.
- 9.31 Detailed checking of cargo may be accomplished by the following means:
- .1 increasing the frequency and detail of visual and physical examination;
 - .2 increasing the frequency of the use of scanning/detection equipment, mechanical devices, or dogs; and
 - .3 coordinating enhanced security measures with the shipper or other responsible party in accordance with an established agreement and procedures.

Security level 3

9.32 At security level 3, the ship should comply with the instructions issued by those responding to the security incident or threat thereof. The SSP should detail the security measures which could be taken by the ship, in close co-operation with those responding and the port facility, which may include:

- .1 suspending the loading or unloading of cargo; and
- .2 verifying the inventory of dangerous goods and hazardous substances carried on board, if any, and their location.

Delivery of ship's stores

9.33 The security measures relating to the delivery of ship's stores should:

- .1 ensure checking of ship's stores and package integrity;
- .2 prevent ship's stores from being accepted without inspection;
- .3 prevent tampering; and
- .4 prevent ship's stores from being accepted unless ordered.

9.34 For ships regularly using the port facility, it may be appropriate to establish procedures involving the ship, its suppliers and the port facility covering notification and timing of deliveries and their documentation. There should always be some way of confirming that stores presented for delivery are accompanied by evidence that they have been ordered by the ship.

Security level 1

9.35 At security level 1, the SSP should establish the security measures to be applied during delivery of ship's stores, which may include:

- .1 checking to ensure stores match the order prior to being loaded on board; and
- .2 ensuring immediate secure stowage of ship's stores.

Security level 2

9.36 At security level 2, the SSP should establish the additional security measures to be applied during delivery of ship's stores by exercising checks prior to receiving stores on board and intensifying inspections.

Security level 3

9.37 At security level 3, the ship should comply with the instructions issued by those responding to the security incident or threat thereof. The SSP should detail the security measures which could be taken by the ship, in close co-operation with those responding and the port facility, which may include:

- .1 subjecting ship's stores to more extensive checking;

- .2 preparation for restriction or suspension of handling of ship's stores; and
- .3 refusal to accept ship's stores on board the ship.

Handling unaccompanied baggage

9.38 The SSP should establish the security measures to be applied to ensure that unaccompanied baggage (i.e. any baggage, including personal effects, which is, not with the passenger or member of ship's personnel at the point of inspection or search) is identified and subjected to appropriate screening, including searching, before it is accepted on board the ship. It is not envisaged that such baggage will be subjected to screening by both the ship and the port facility, and in cases where both are suitably equipped, the responsibility for screening should rest with the port facility. Close co-operation with the port facility is essential and steps should be taken to ensure that unaccompanied baggage is handled securely after screening.

Security level 1

9.39 At security level 1, the SSP should establish the security measures to be applied when handling unaccompanied baggage to ensure that unaccompanied baggage is screened or searched up to and including 100 percent, which may include use of x-ray screening.

Security level 2

9.40 At security level 2, the SSP should establish the additional security measures to be applied when handling unaccompanied baggage, which should include 100 per cent x-ray screening of all unaccompanied baggage.

Security level 3

9.41 At security level 3, the ship should comply with the instructions issued by those responding to the security incident or threat thereof. The SSP should detail the security measures which could be taken by the ship, in close co-operation with those responding and the port facility, which may include:

- .1 subjecting such baggage to more extensive screening, for example x-raying it from at least two different angles;
- .2 preparation for restriction or suspension of handling of unaccompanied baggage; and
- .3 refusal to accept unaccompanied baggage on board the ship.

Monitoring the security of the ship

9.42 The ship should have the capability to monitor the ship, the restricted areas on board and areas surrounding the ship. Such monitoring capabilities may include use of:

- .1 lighting;
- .2 watch-keepers, security guards and deck watches, including patrols; and
- .3 automatic intrusion-detection devices and surveillance equipment.

9.43 When used, automatic intrusion-detection devices should activate an audible and/or visual alarm at a location that is continuously attended or monitored.

9.44 The SSP should establish the procedures and equipment needed at each security level and the means of ensuring that monitoring equipment will be able to perform continually, including consideration of the possible effects of weather conditions or of power disruptions.

Security level 1

9.45 At security level 1, the SSP should establish the security measures to be applied, which may be a combination of lighting, watch-keepers, security guards or use of security and surveillance equipment to allow ship's security personnel to observe the ship in general, and barriers and restricted areas in particular.

9.46 The ship's deck and access points to the ship should be illuminated during hours of darkness and period of low visibility while conducting ship/port interface activities or at a port facility or anchorage when necessary. While under way, when necessary, ships should use the maximum lighting available consistent with safe navigation, having regard to the provisions of the International Regulations for the Prevention of Collisions at Sea in force. The following should be considered when establishing the appropriate level and location of lighting:

- .1 the ship's personnel should be able to detect Activities beyond the ship, on both the shore side and the water side;
- .2 coverage should include the area on and around the ship;
- .3 coverage should facilitate personnel identification at access points; and
- .4 coverage may be provided through co-ordination with the port facility.

Security level 2

9.47 At security level 2, the SSP should establish the additional security measures to be applied to enhance the monitoring and surveillance capabilities, which may include:

- .1 increasing the frequency and detail of security patrols;
- .2 increasing the coverage and intensity of lighting or the use of security and surveillance equipment;
- .3 assigning additional personnel as security look-outs; and
- .4 ensuring co-ordination with water-side boat patrols, and foot or vehicle patrols on the shore side, when provided.

9.48 Additional lighting may be necessary to protect against a heightened risk of a security incident. When necessary, the additional lighting requirements may be accomplished by co-ordinating with the port facility to provide additional shore side lighting.

Security level 3

9.49 At security level 3, the ship should comply with the instructions issued by those responding to the security incident or threat thereof. The SSP should detail the security measures which could be taken by the ship, in close co-operation with those responding and the port facility, which may include:

- .1 switching on of all lighting on, or illuminating the vicinity of, the ship;
- .2 switching on of all on-board surveillance equipment capable of recording activities on, or in the vicinity of, the ship;
- .3 maximizing the length of time such surveillance equipment can continue to record;
- .4 preparation for underwater inspection of the hull of the ship; and
- .5 initiation of measures, including the slow revolution of the ship's propellers, if practicable, to deter underwater access to the hull of the ship.

Differing security levels

9.50 The SSP should establish details of the procedures and security measures the ship could adopt if the ship is at a higher security level than that applying to a port facility.

Activities not covered by the Code

9.51 The SSP should establish details of the procedures and security measures the ship should apply when:

- .1 it is at a port of a State which is not a Contracting State

- .2 it is interfacing with a ship to which this Code does not apply;
- .3 it is interfacing with fixed or floating platforms or a mobile drilling unit on location; or
- .4 it is interfacing with a port or port facility which is not required to comply with chapter XI-2 and Part A of this Code.

Declarations of Security

9.52 The SSP should detail how requests for Declarations of Security from a port facility will be handled and the circumstances under which the ship itself should request DoS.

Audit and review

9.53 The SSF should establish how the CSO and the SSO intend to audit the continued effectiveness of the SSP and the procedure to be followed to review, update or amend the SSP.

10 RECORDS

General

10.1 Records should be available to duly authorized officers of Contracting Governments to verify that the provisions of ship security plans are being implemented.

10.2 Records may be kept in any format but should be protected from unauthorized access or disclosure.

11 COMPANY SECURITY OFFICER

Relevant guidance is provided under sections 8, 9 and 13.

12 SHIP SECURITY OFFICER

Relevant guidance is provided under sections 8, 9 and 13.

13 TRAINING, DRILLS AND EXERCISES ON SHIP SECURITY

Training

13.1 The company security officer (CSO) and appropriate shore-based Company personnel, and the ship security officer (SSO), should have knowledge of, and receive training, in some or all of the following, as appropriate:

- .1 security administration;
- .2 relevant international conventions codes and recommendations;
- .3 relevant Government legislation and regulations;
- .4 responsibilities and functions of other security organizations;
- .5 methodology of ship security assessment;
- .6 methods of ship security surveys and inspections;
- .7 Ship and port operations and conditions;
- .8 ship and port facility security measures;
- .9 emergency preparedness and response and contingency planning;
- .10 instruction techniques for security training and education, including security measures and procedures;

- .11 handling sensitive security-related information and security-related communications;
- .12 knowledge of current security threats and patterns;
- .13 recognition and detection of weapons, dangerous substances and devices;
- .14 recognition, on a non-discriminatory basis, of characteristics and behavioural patterns of persons who are likely to threaten security;
- .15 techniques used to circumvent security measures;
- .16 security equipment and systems and their operational limitations;
- .17 methods of conducting audits, inspection, -control and monitoring;
- .18 methods of physical searches and non-intrusive inspections;
- .19 security drills and exercises, including drills and exercises with port facilities; and
- .20 assessment of security drills and exercises.

13.2 In addition, the SSO should have adequate knowledge of, and receive training in, some or an of the following, as appropriate:

- .1 the layout of the ship;
- .2 the ship security plan and related procedures (including scenario-based training on how to respond);
- .3 crowd management and control techniques;
- .4 operations of security equipment and systems; and
- .5 testing, calibrations and at-sea maintenance of security equipment and systems.

13.3 Shipboard personnel having specific security duties should have sufficient knowledge and ability to perform their assigned duties, including, as appropriate:

- .1 knowledge of current security threats and patterns;
- .2 recognition and detection of weapons, dangerous substances and devices;
- .3 recognition of characteristics and behavioural patterns of persons who are likely to threaten security;
- .4 techniques used to circumvent security measures;
- .5 crowd management and control techniques;
- .6 security-related communications;
- .7 knowledge of the emergency procedures and contingency plans;
- .8 operations of security equipment and systems;
- .9 testing, calibration and at-sea maintenance of security equipment and systems;
- .10 inspection, control, and monitoring techniques; and
- .11 methods of physical searches of persons, personal effects, baggage, cargo, and ship's stores.

13.4 All other shipboard personnel should have sufficient knowledge of and be familiar with relevant provisions of the ship security plan (SSP), including:

- .1 the meaning and the consequential requirements of the different security levels;
- .2 knowledge of the emergency procedures and contingency plans;
- .3 recognition and detection of weapons, dangerous substances and devices;
- .4 recognition, on a non-discriminatory basis, of characteristics and behavioural patterns of persons who are likely to threaten security; and
- .5 techniques used to circumvent security measures.

Drills and exercises

13.5 The objective of drills and exercises is to ensure that shipboard personnel are proficient in all assigned security duties at all security levels and the identification of any security-related deficiencies which need to be addressed.

13.6 To ensure the effective implementation of the provisions of the ship security plan, drills should be conducted at least once every three months. In addition, in cases where more than 25 percent of the ship's personnel has been changed, at any one time, with personnel that has not previously participated in any drill on that ship within the last 3 months, a drill should be conducted within one week of the change. These drills should test individual elements of the plan such as those security threats listed in paragraph 8.9.

13.7 Various types of exercises, which may include participation of company security officers, port facility security officers, relevant authorities of Contracting Governments as well as ship security officers, if available, should be carried out at least once each calendar year with no more than 18 months between the exercises. These exercises should test communications, co-ordination, resource availability, and response. These exercises may be:

- .1 full-scale or live;
- .2 tabletop simulation or seminar; or
- .3 combined with other exercises held, such as search and rescue or emergency response exercises.

13.8 Company participation in an exercise with another Contracting Government should be recognized by the Administration.

14 PORT FACILITY SECURITY

Relevant guidance is provided under sections 15, 16 and 18.

15 PORT FACILITY SECURITY ASSESSMENT

General

15.1 The port facility security assessment (PFSA) may be conducted by a recognized security organization (RSO). However, approval of a completed PFSA should only be given by the relevant Contracting Government.

15.2 If a Contracting Government uses a RSO to review or verify compliance of the PFSA, the RSO should not be associated with any other RSO that prepared or assisted in the preparation of that assessment.

15.3 A PFSA should address the following elements within a port facility:

- .1 physical security;
- .2 structural integrity;

- .3 personnel protection system;
- .4 procedural policies;
- .5 radio and telecommunication systems, including computer systems and networks;
- .6 relevant transportation infrastructure;
- .7 utilities; and
- .8 other areas that may, if damaged or used for illicit observation, pose a risk to persons, property, or operations within the port facility.

15.4 Those involved in a PFSA should be able to draw upon expert assistance in relation to:

- .1 knowledge of current security threats and patterns;
- .2 recognition and detection of weapons, dangerous substances and devices;
- .3 recognition, on a non-discriminatory basis, of characteristics and behavioural patterns of persons who are likely to threaten security;
- .4 techniques used to circumvent security measures;
- .5 methods used to cause a security incident;
- .6 effects of explosives on structures and port facility services;
- .7 port facility security;
- .8 port business practices;
- .9 contingency planning, emergency preparedness and response;
- .10 physical security measures, e.g. fences;
- .11 radio and telecommunications systems, including computer systems and networks;
- .12 transport and civil engineering; and
- .13 ship and port operations.

Identification and evaluation of important assets and infrastructure It is important to protect

15.5 The identification and evaluation of important assets and infrastructure is a process through which the relative importance of structures and installations to the functioning of the port facility can be established. This identification and evaluation process is important because it provides a basis for focusing mitigation strategies on those assets and structures which it is more important to protect from a security incident. This process should take into account potential loss of Life, the economic significance of the port, symbolic value, and the presence of Government installations.

15.6 Identification and evaluation of assets and infrastructure should be used to prioritize their relative importance for protection. The primary concern should be avoidance of death or injury. It is also important to consider whether the port facility, structure or installation can continue to function without the asset, and the extent to which rapid reestablishment of normal functioning is possible.

15.7 Assets and infrastructure that should be considered important to protect may include:

- .1 accesses, entrances, approaches, and anchorages, maneuvering and berthing areas;
- .2 cargo facilities, terminals, storage areas, and cargo handling equipment;

- .3 systems such as electrical distribution systems, radio and telecommunication systems and computer systems and networks;
- .4 port vessel traffic management systems and aids to navigation;
- .5 power plants, cargo transfer piping, and water supplies;
- .6 bridges, railway, roads;
- .7 port service vessels, including pilot boats, tugs, lighters, etc.;
- .8 security and surveillance equipment and systems; and
- .9 the waters adjacent to the port facility.

15.8 The clear identification of assets and infrastructure is essential to the evaluation of the port facility's security requirements, the prioritization of protective measures, and decisions concerning the allocation of resources to better protect the port facility. The process may involve consultation with the relevant authorities relating to structures adjacent to the port facility which could cause damage within the facility or be used for the purpose of causing damage to the facility or for illicit observation of the facility or for diverting attention,

Identification of the possible threats to the assets and infrastructure and the likelihood of their occurrence, in order to establish and prioritize security measures

15.9 Possible acts that could threaten the security of assets and infrastructure, and the methods of carrying out those acts, should be identified to evaluate the vulnerability of a given asset or location to a security incident, and to establish and prioritize security requirements to enable planning and resource allocations. Identification and evaluation of each potential act and its method should be based on various factors, including threat assessments by Government agencies. By identifying and assessing threats, those conducting the assessment do not have to rely on worst-case scenarios to guide planning and resource allocations.

15.10 The PFSA should include an assessment undertaken in consultation with the relevant national security organizations to determine:

- .1 any particular aspects of the port facility, including the vessel traffic using the facility, which make it likely to be the target of an attack;
- .2 the likely consequences intent of loss of life, damage to property and economic disruption, including disruption to transport systems, of an attack on, or at, the port facility;
- .3 the capability and intent of those likely to mount such an attack; and
- .4 the possible type, or types, of attack,

producing an overall assessment of the level of risk against which security measures have to be developed.

15.11 The PFSA should consider all possible threats, which may include the following types of security incidents

- .1 damage to, or destruction of, the port facility or of the ship, e.g. by explosive devices, arson, sabotage or vandalism;
- .2 hijacking or seizure of the ship or of persons on board;
- .3 tampering with cargo, essential ship equipment or systems or ship's stores;
- .4 unauthorized access or use, including presence of stowaways;
- .5 smuggling weapons or equipment, including weapons of mass destruction;
- .6 use of the ship to carry those intending to cause a security incident and their equipment;

the ship itself as a weapon or as a means to cause damage or destruction;

- .8 blockage of port entrances, locks, approaches, etc.; and
- .9 nuclear, biological and chemical attack.

15.12 The process should involve consultation with the relevant authorities relating to structures adjacent to the port facility which could cause damage within the facility or be used for the purpose of causing damage to the facility or for illicit observation of the facility or for diverting attention.

Identification, selection, and prioritization of countermeasures and procedural changes and their level of effectiveness In reducing vulnerability

15.13 The identification and prioritization of counter measures is designed to ensure that the most effective security measures are employed to reduce the vulnerability of a port facility or ship/port interface to the possible threats.

15.14 Security measures should be selected on the basis of factors such as whether they reduce the probability of an attack and should be evaluated using information that includes:

- .1 security surveys, inspections and audits;
- .2 consultation with port facility owners and operators, and owners/operators of adjacent structures if appropriate;
- .3 historical information on security incidents; and
- .4 operations within the port facility.

Identification of vulnerabilities

15.15 Identification of vulnerabilities in physical structures, personnel protection Systems, processes, or other areas that may lead to a security incident can be used to establish options to eliminate or mitigate those vulnerabilities. For example, an analysis might reveal vulnerabilities in a port facility's security systems or unprotected infrastructure such as water supplies, bridges, etc. that could be resolved through physical measures, e.g. permanent barriers, alarms, surveillance equipment, etc.

15.16 Identification of vulnerabilities should include consideration of:

- .1 water-side and shore-side access to the port facility and ships berthing at the facility;
- .2 structural integrity of the piers, facilities, and associated structures;
- .3 existing security measures and procedures, including identification systems;
- .4 existing security measures and procedures relating to port services and utilities;
- .5 measures to protect radio and telecommunication equipment, port services and utilities, including computer systems and networks;
- .6 adjacent areas that may be exploited during, or for, an attack;
- .7 existing agreements with private security companies providing water-side/shore-side security services;
- .8 any conflicting policies between safety and security measures and procedures;
- .9 any conflicting port facility and security duty assignments;
- .10 any enforcement and personnel constraints;
- .11 any deficiencies identified during training and drills; and
- .12 any deficiencies identified during daily operation, following incidents or alerts, the report of security concerns, the exercise of control measures, audits, etc.

Access to the port facility

16.10 The PFSP should establish the security measures covering all means of access to the port facility identified in the PFSA.

16.11 For each of these the PFSP should identify the appropriate locations where access restrictions or prohibitions should be applied for each of the security levels. For each security level the PFSP should specify the type of restriction or prohibition to be applied and the means of enforcing them.

16.12 The PFSP should establish for each security level the means of identification required to allow access to the port facility and for individuals to remain within the port facility without challenge. This may involve developing an appropriate identification system, allowing for permanent and temporary identifications, for port facility personnel and for visitors respectively. Any port facility identification system should, when it is practicable to do so, be coordinated with that applying to ships that regularly use the port facility. Passengers should be able to prove their identity by boarding passes, tickets, etc., but should not be permitted access to restricted areas unless supervised. The PFSP should establish provisions to ensure that the identification systems are regularly updated, and that abuse of procedures should be subject to disciplinary action.

16.13 Those unwilling or unable to establish their identity and/or to confirm the purpose of their visit when requested to do so should be denied access to the port facility and their attempt to obtain access should be reported to the PFSP and to the national or local authorities with security responsibilities.

16.14 The PFSP should identify the locations where persons, personal effects, and vehicle searches are to be undertaken. Such locations should be covered to facilitate continuous operation, regardless of prevailing weather conditions, in accordance with the frequency laid down in the PFSP. Once subjected to search, persons, personal effects and vehicles should proceed directly to the restricted holding, embarkation or car loading areas.

16.15 The PFSP should establish separate locations for checked and unchecked persons and their effects and if possible separate areas for embarking/disembarking passengers, ship's personnel and their effects to ensure that unchecked persons are not able to come in contact with checked persons.

16.16 The PFSP should establish the frequency of application of any access controls, particularly if they are to be applied on a random, or occasional, basis.

Security level 1

16.17 At security level 1, the PFSP should establish the control points where the following security measures may be applied:

1. restricted areas, which should be bounded by fencing or other barriers to a standard which should be approved by the Contracting Government;
2. checking identity of all persons seeking entry to the port facility in connection with a ship, including passengers, ship's personnel and visitors, and confirming their reasons for doing so by checking, for example, joining instructions, passenger tickets, boarding passes, work orders, etc.;
3. checking vehicles used by those seeking entry to the port facility in connection with a ship;
4. verification of the identity of port facility personnel and those employed within the port facility and their vehicles;
5. restricting access to exclude those not employed by the port facility or working within it, if they are unable to establish their identity;
6. undertaking searches of persons, personal effects, vehicles and their contents; and
7. identification of any access points not in regular use, which should be permanently closed and locked.

16.18 At security level 1, all those seeking access to the port facility should be liable to search. The frequency of such searches, including random searches, should be specified in the approved PFSP and should

be specifically approved by the Contracting Government. Unless there are clear security grounds for doing so, members of the ship's personnel should not be required to search their colleagues or their personal effects. Any such search shall be undertaken in a manner which fully takes into account the human rights of the individual and preserves their basic human dignity.

Security level 2

16.19 At security level 2, the PFSP should establish the additional security measures to be applied, which may include:

- .1 assigning additional personnel to guard access points and patrol perimeter barriers;
- .2 limiting the number of access points to the port facility, and identifying those to be closed and the means of adequately securing them;
- .3 providing for means of impeding movement through the remaining access points, e.g. security barriers;
- .4 increasing the frequency of searches of persons, personal effects, and vehicles;
- .5 denying access to visitors who are unable to provide a verifiable justification for seeking access to the port facility; and
- .6 using patrol vessels to enhance water-side security.

Security level 3

16.20 At security level 3, the port facility should comply with instructions issued by those responding to the security incident or threat thereof. The PFSP should detail the security measures which could be taken by the port facility, in close co-operation with those responding and the ships at the port facility, which may include:

- .1 suspension of access to all, or part, of the port facility;
- .2 granting access only to those responding to the security incident or threat thereof;
- .3 suspension of pedestrian or vehicular movement within all, or part, of the port facility;
- .4 increased security patrols within the port facility, if appropriate;
- .5 suspension of port operations within all, or part, of the port facility;
- .6 direction of vessel movements relating to all, or part of the port facility; and
- .7 evacuation of all, or part, of the port facility.

Restricted areas within the port facility

16.21 The PFSP should identify the restricted areas to be established within the port facility and specify their extent, times of application, the security measures to be taken to control access to them and those to be taken to control activities within them. This should also include, in appropriate circumstances, measures to ensure that temporary restricted areas are security swept both before and after that area is established. The purpose of restricted areas is to:

- .1 protect passengers, ship's personnel, port facility personnel and visitors, including those visiting in connection with a ship;
- .2 protect the port facility;
- .3 protect ships using, and serving, the port facility;
- .4 protect security-sensitive locations and areas within the port facility;

5. protect security and surveillance equipment and systems; and
6. protect cargo and ship's stores from tampering.
- 16.22 The PFSP should ensure that all restricted areas have clearly established security measures to control:

1. access by individuals;
2. the entry, parking, loading and unloading of vehicles;
3. movement and storage of cargo and ship's stores; and
4. unaccompanied baggage or personal effects.

16.23 The PFSP should provide that all restricted areas should be clearly marked, indicating that access to the area is restricted and that unauthorized presence within the area constitutes a breach of security.

16.24 When automatic intrusion-detection devices are installed they should alert a control centre which can respond to the triggering of an alarm.

16.25 Restricted areas may include:

1. shore and water-side areas immediately adjacent to the ship;
2. embarkation and disembarkation areas, passenger and ship's personnel holding and processing areas, including search points;
3. areas where loading, unloading or storage of cargo and stores is undertaken;
4. locations where security-sensitive information, including cargo documentation, is held;
5. areas where dangerous goods and hazardous substances are held;
6. vessel traffic management system control rooms, aids to navigation and port control buildings, including security and surveillance control rooms;
7. areas where security and surveillance equipment are stored or located;
8. essential electrical, radio and telecommunication, water and other utility installations; and
9. other locations in the port facility where access by vessels, vehicles and individuals should be restricted.

16.26 The security measures may extend, with the agreement of the relevant authorities, to restrictions on unauthorized access to structures from which the port facility can be observed.

Security level 1

16.27 At security level 1, the PFSP should establish the security measures to be applied to restricted areas, which may include:

1. provision of permanent or temporary barriers to surround the restricted area, whose standard should be accepted by the Contracting Government;
2. provision of access points where access can be controlled by security guards when in operation and which can be effectively locked or barred when not in use;
3. providing passes which must be displayed to identify individual's entitlement to be within the restricted area;
4. clearly marking vehicles allowed access to restricted areas;
5. providing guards and patrols;

- .6 providing automatic intrusion-detection devices, or surveillance equipment or systems to detect unauthorized access into, or movement within, restricted areas; and
- .7 control of the movement of vessels in the vicinity of ships using the port facility.

Security level 2

16.28 At security level 2, the PFSP should establish the enhancement of the frequency and intensity of the monitoring of, and control of access to, restricted areas. The PFSP should establish the additional security measures, which may include:

- .1 enhancing the effectiveness of the barriers or fencing surrounding restricted areas, including the use of patrols or automatic intrusion-detection devices;
- .2 reducing the number of access points to restricted areas and enhancing the controls applied at the remaining accesses;
- .3 restrictions on parking adjacent to berthed ships;
- .4 further restricting access to the restricted areas and movements and storage within them;
- .5 use of continuously monitored and recording surveillance equipment;
- .6 enhancing the number and frequency of patrols, including water-side patrols, undertaken on the boundaries of the restricted areas and within the areas;
- .7 establishing and restricting access to areas adjacent to the restricted areas; and
- .8 enforcing restrictions on access by unauthorized craft to the waters adjacent to ships using the port facility.

Security level 3

16.29 At security level 3, the port facility should comply with the instructions issued by those responding to the security incident or threat thereof. The PFSP should detail the security measures which could be taken by the port facility in close co-operation with those responding and the ships at the port facility, which may include:

- .1 setting up of additional restricted areas within the port facility in proximity to the security incident, or the believed location of the security threat, to which access is denied; and
- .2 preparing for the searching of restricted areas as part of a search of all, or part, of the port facility.

Handling of cargo

16.30 The security measures relating to cargo handling should:

- .1 prevent tampering; and
- .2 prevent cargo that is not meant for carriage from being accepted and stored within the port facility.

16.31 The security measures should include inventory control procedures at access points to the port facility. Once within the port facility, cargo should be capable of being identified as having been checked and accepted for loading onto a ship or for temporary storage in a restricted area while awaiting loading. It may be appropriate to restrict the entry of cargo to the port facility that does not have a confirmed date for loading.

Security level 1

16.32 At security level 1, the PFSP should establish the security measures to be applied during cargo handling, which may include:

- .1 routine checking of cargo, cargo transport units and cargo storage areas within the port facility prior to, and during, cargo handling operations;
 - .2 checks to ensure that cargo entering the port facility matches the delivery note or equivalent cargo documentation;
 - .3 searches of vehicles; and
 - .4 checking of seals and other methods used to prevent tampering upon entering the port facility and upon storage within the port facility.
- 16.33 Checking of cargo may be accomplished by some or all of the following means:
- .1 visual and physical examination; and
 - .2 using scanning/detection equipment, mechanical devices, or dogs.
- 16.34 When there are regular or repeated cargo movements, the CSO or the SSO may, in consultation with the port facility, agree arrangements with shippers or others responsible for such cargo covering off-site checking, sealing, scheduling, supporting documentation, etc. Such arrangements should be communicated to and agreed with the PFSP concerned.

Security level 2

- 16.35 At security level 2, the PFSP should establish the additional security measures to be applied during cargo handling to enhance control, which may include:
- .1 detailed checking of cargo, cargo transport units and cargo storage areas within the port facility;
 - .2 intensified checks, as appropriate, to ensure that only the documented cargo enters the port facility, is temporarily stored there and is then loaded onto the ship;
 - .3 intensified searches of vehicles; and
 - .4 increased frequency and detail in checking of seals and other methods used to prevent tampering.

16.36 Detailed checking of cargo may be accomplished by some or all of the following means:

- .1 increasing the frequency and detail of checking of cargo, cargo transport units and cargo storage areas within the port facility (visual and physical examination);
- .2 increasing the frequency of the use of scanning/detection equipment, mechanical devices, or dogs; and
- .3 coordinating enhanced security measures with the shipper or other responsible party in addition to an established agreement and procedures.

Security level 3

16.37 At security level 3, the port facility should comply with the instructions issued by those responding to the security incident or threat thereof. The PFSP should detail the security measures which could be taken by the port facility in close co-operation with those responding and the ships at the port facility, which may include:

- .1 restriction or suspension of cargo movements or operations within all or part of the port facility or specific ships; and
- .2 verifying the inventory of dangerous goods and hazardous substances held within the port facility and their location.

Delivery of ship's stores

16.38 The security measures relating to the delivery of ship's stores should:

- .1 ensure checking of ship's stores and package integrity;
- .2 prevent ship's stores from being accepted without inspection;
- .3 prevent tampering;
- .4 prevent ship's stores from being accepted unless ordered;
- .5 ensure searching the delivery vehicle; and
- .6 ensure escorting delivery vehicles within the port facility

16.39 For ships regularly using the port facility it may be appropriate to establish procedures involving the ship, its suppliers and the port facility covering notification and timing of deliveries and their documentation. There should always be some way of confirming that stores presented for delivery are accompanied by evidence that they have been ordered by the ship.

Security level 1

16.40 At security level 1, the PFSP should establish the security measures to be applied to control the delivery of ship's stores, which may include:

- .1 checking of ship's stores,
- .2 advance notification as to composition of load, driver details and vehicle -registration; and
- .3 searching the delivery vehicle.

16.41 Checking of Ship's Stores may be accomplished by some or all of the following means:

- .1 visual and physical examination; and
- .2 using scanning/detection equipment, mechanical devices or dogs.

Security level 2

16.42 At security level 2, the PFSP should establish the additional security measures to be applied to enhance the control of the delivery of ship's stores, which may include:

- .1 detailed checking of ship's stores;
- .2 detailed searches of the delivery vehicles;
- .3 co-ordination with ship personnel to check the order against the delivery note prior to entry to the port facility; and
- .4 escorting the delivery vehicle within the port facility.

16.43 Detailed checking of ship's stores may be accomplished by some or all of the following means:

- .1 increasing the frequency and detail of searches of delivery vehicles;
- .2 increasing the use of scanning/detection equipment, mechanical devices, or dogs; and
- .3 restricting, or prohibiting, entry of stores that will not leave the port facility within a specified period.

Security level 3

16.44 At security level 3, the port facility should comply with the instructions issued by those responding to the security incident or threat thereof. The PFSP should detail the security measures which could be taken by the port facility, in close co-operation with those responding and the ships at the port facility, which may include preparation for restriction, or suspension, of the delivery of ship's stores within all, or part, of the port facility.

Handling unaccompanied baggage

16.45 The PFSP should establish the security measures to be applied to ensure that unaccompanied baggage (i.e. any baggage, including personal effects, which is not with the passenger or member of ship's personnel at the point of inspection or search) is identified and subjected to appropriate screening, including searching, before is allowed in the port facility and, depending on the storage arrangements, before it is transferred between the port facility and the ship. It is not envisaged that such baggage will be subjected to screening by both the port facility and the ship, and in cases where both are suitably equipped, the responsibility for screening should rest with the port facility. Close co-operation with the ship is essential and steps should be taken to ensure that unaccompanied baggage is handled securely after screening.

Security level 1

16.46 At security level 1, the PFSP should establish the security measures to be applied when handling unaccompanied baggage to ensure that unaccompanied baggage is screened or searched up to and including 100 percent, which may include use of x-ray screening.

Security level 2

16.47 At security level 2, the PFSP should establish the additional security measures to be applied when handling unaccompanied baggage which should include 100 percent x-ray screening of all unaccompanied baggage.

Security level 3

16.48 At security level 3, the port facility should comply with the instructions issued by those responding to the security incident or threat thereof. The PFSP should detail the security measures which could be taken by the port facility in close co-operation with those responding and the ships at the port facility, which may include:

1. subjecting such baggage to more extensive screening, for example x-raying it from at least two different angles;
2. preparations for restriction or suspension of handling of unaccompanied baggage; and
3. refusal to accept unaccompanied baggage into the port facility.

Monitoring the security of the port facility

16.49 The port facility security organization should have the capability to monitor the port facility and its nearby approaches, on land and water, at all times, including the night hours and periods of limited visibility, the restricted areas within the port facility, the ships at the port facility and areas surrounding ships. Such monitoring can include use of:

1. fighting;
2. security guards, including foot, vehicle and waterborne patrols; and
3. automatic intrusion-detection devices and surveillance equipment.

16.50 When used, automatic intrusion-detection devices should activate an audible and/or visual alarm at a location that is continuously attended or monitored.

16.51 The PFSP should establish the procedures and equipment needed at each security level and the means of ensuring that monitoring equipment will be able to perform continually, including consideration of the possible effects of weather or of power disruptions.

Security level 1

16.52 At security level 1 the PFSP should establish the security measures to be applied, which may be a combination of fighting, security guards or use of security and surveillance equipment to allow port facility security personnel to:

- .1 observe the general port facility area, including shore and water-side accesses to it;
- .2 observe access points, barriers and restricted areas; and
- .3 allow port facility security personnel to monitor areas and movements adjacent to ships using the port facility including augmentation of lighting provided by the ship itself.

Security level 2

16.53 At security level 2, the PFSP should establish the additional security measures to be applied to enhance the monitoring and surveillance capability, which may include;

- .1 increasing the coverage and intensity of lighting and surveillance equipment including the provision of additional lighting and surveillance coverage;
- .2 increasing the frequency of foot, vehicle or waterborne patrols; and
- .3 assigning additional security personnel to monitor and patrol.

Security level 3

16.54 At security level 3, the port facility should comply with the instructions issued by those responding to the security incident or threat thereof. The PFSP should detail the security measures which could be taken by the port facility in close co-operation with those responding and the ships at the port facility, which may include:

- .1 switching on all lighting within, or illuminating the vicinity of the port facility;
- .2 switching on all surveillance equipment capable of recording activities within, or adjacent to, the port facility; and
- .3 maximizing the length of time such surveillance equipment can continue to record.

Differing security levels

16.55 The PFSP should establish details of the procedures and security measures the port facility could adopt if the port facility is at a lower security level than that applying to a ship.

Activities not covered by the Code

16.56 The PFSP should establish details of the procedures and security measures the port facility should apply when:

- .1 it is interfacing with a ship which has been at a port or a State which is not a Contracting Government;
- .2 it is interfacing with a ship to which this Code does not apply; and
- .3 it is interfacing with fixed or floating platforms or mobile offshore drilling units on location.

Declarations of Security

16.57 The PFSP should establish the procedures to be followed when, on the instructions of the Contracting Government, the PFSO requests a Declaration of Security (DoS) or when a DoS is requested by a ship.

Audit, review and amendment

16.58 The PFSP should establish how the PFSO intends to audit the continued effectiveness of the PFSP and the procedure to be followed to review, update or amend the PFSP.

16.59 The PFSP should be reviewed at the discretion of the PFSO. In addition it should be reviewed:

- .1 if the PFSA relating to the port facility is altered;
- .2 if an independent audit of the PFSP or the Contracting Government's testing of the port facility security organization identifies failings in the organization or questions the continuing relevance of significant elements of the approved PFSP;
- .3 following security incidents or threats thereof involving the port facility; and
- .4 following changes in ownership or operational control of the port facility.

16.60 The PFSO can recommend appropriate amendments to the approved plan following any review of the plan. Amendments to the PFSP relating to:

- .1 proposed changes which could fundamentally alter the approach adopted to maintaining the security of the port facility; and
- .2 the removal, alteration or replacement of permanent barriers, security and surveillance equipment and systems, etc., previously considered essential in maintaining the security of the port facility,

should be submitted to the Contracting Government that approved the original PFSP for their consideration and approval. Such approval can be given by, or on behalf of, the Contracting Government with, or without, amendments to the proposed changes. On approval of the PFSP, the Contracting Government should indicate which procedural or physical alterations have to be submitted to it for approval.

Approval of port facility security plans

16.61 PFSPs have to be approved by the relevant Contracting Government, which should establish appropriate procedures to provide for:

- .1 the submission of PFSPs to them;
- .2 the consideration of PFSPs;
- .3 the approval of PFSPs, with or without amendments;
- .4 consideration of amendments submitted after approval; and
- .5 procedures for inspecting or auditing the continuing relevance of the approved PFSP.

At all stages, steps should be taken to ensure that the contents of the PFSP remain confidential.

Statement of Compliance of a Port Facility

16.62 The Contracting Government within whose territory a port facility is located may issue an appropriate Statement of Compliance of a Port Facility (SOCPF) indicating:

- .1 the port facility;
- .2 that the port facility complies with the provisions of chapter XI-2 and Part A of the Code;
- .3 the period of validity of the SOCPE, which should be specified by the Contracting Governments but should not exceed five years; and
- .4 the subsequent verification arrangements established by the Contracting Government and a confirmation when these are carried out.

16.63 The Statement of Compliance of a Port Facility should be in the form set out in the appendix to this Part of the Code. If the language used is not Spanish, French or English, the Contracting Government, if it considers it appropriate, may also include a translation into one of these languages.

17 PORT FACILITY SECURITY OFFICER

General

17.1 In those exceptional instances where the ship security officer has questions about the validity of identification documents of those seeking to board the ship for official purposes, the port facility security officer should assist.

17.2 The port facility security officer should not be responsible for routine confirmation of the identity of those seeking to board the ship.

In addition, other relevant guidance is provided under sections 15, 16 and 18.

18 TRAINING, DRILLS AND EXERCISES ON PORT FACILITY SECURITY

Training

18.1 The port facility security officer should have knowledge and receive training, in some or all of the following, as appropriate:

- .1 security administration;
- .2 relevant international conventions, codes and recommendations;
- .3 relevant Government legislation and regulations;
- .4 responsibilities and functions of other security organizations;
- .5 methodology of port facility security assessment
- .6 methods of ship and port facility security surveys and inspections;
- .7 ship and port operations and conditions;
- .8 ship and port facility security measures;
- .9 emergency preparedness and response and contingency planning;
- .10 instruction techniques for security training and education, including security measures and procedures;
- .11 handling sensitive security-related information and security-related communications;
- .12 knowledge of current security threats and patterns;
- .13 recognition and detection of weapons, dangerous substances and devices;
- .14 recognition, on a non-discriminatory basis, of characteristics and behavioural patterns of persons who are likely to threaten the security;
- .15 techniques used to circumvent security measures;
- .16 security equipment and, systems, and their operational limitations;
- .17 methods of conducting audits, inspection, control and monitoring;
- .18 methods of physical searches and non-intrusive inspections;

- 19 security drills and exercises, including drills and exercises with ships; and
- 20 assessment of security drills and exercises.
- 18.2 Port facility personnel having specific security duties should have knowledge and receive training in some or all of the following, as appropriate:
- 1 knowledge of current security threats and patterns;
 - 2 recognition and detection of weapons, dangerous substances and devices;
 - 3 recognition of characteristics and behavioural patterns of persons who are likely to threaten security;
 - 4 techniques used to circumvent security measures;
 - 5 crowd management and control techniques;
 - 6 security-related communications;
 - 7 operations of security equipment and systems;
 - 8 testing, calibration and maintenance of security equipment and systems;
 - 9 inspection, control, and monitoring techniques; and
 - 10 methods of physical searches of persons, personal effects, baggage, cargo, and ship's stores.

18.3 All other port facility personnel should have knowledge of and be familiar with relevant provisions of the port facility security plan in some or all of the following, as appropriate:

- 1 the meaning and the consequential requirements of the different security levels;
- 2 recognition and detection of weapons, dangerous substances and devices;
- 3 recognition of characteristics and behavioural patterns of persons who are likely to threaten the security; and
- 4 techniques used to circumvent security measures.

Drills and exercises

18.4 The objective of drills and exercises is to ensure that port facility personnel are proficient in all assigned security duties, at all security levels, and to identify any security-related deficiencies which need to be addressed.

18.5 To ensure the effective implementation of the provisions of the port facility security plan, drills should be conducted at least every three months, unless the specific circumstances dictate otherwise. These drills should test individual elements of the plan such as those security threats listed in paragraph 15.1.1.

18.6 Various types of exercises, which may include participation of port facility security officers, in conjunction with relevant authorities of Contracting Governments, company security officers, or ship security officers, if available, should be carried out at least once each calendar year with no more than 18 months between the exercises. Requests for the participation of company security officers or ship security officers in joint exercises should be made, bearing in mind the security and work implications for the ship. These exercises should test communication, co-ordination, resource availability and response. These exercises may be:

- 1 full-scale or live;
- 2 tabletop simulation or seminar; or

- .3 combined with other exercises held, such as emergency response of other port State authority exercises.

19 VERIFICATION AND CERTIFICATION FOR SHIPS

No additional guidance (Hon. Abdul Ningi).

Question that Part B (Guidance Regarding the Provisions of Chapter XI-2 of the Annex to the International Convention for the Safety of Life at Sea, 1974 as Amended and Part A of the Code) stand part of the Convention, put and agreed to.

APPENDIX TO PART B

APPENDIX 1

Form of a Declaration of Security between a ship and a port facility²

DECLARATION OF SECURITY

Name of ship:	
Port of registry:	
IMO Number:	
Name of port facility:	

This Declaration of Security is valid from until, for the following activities:

.....
(list the activities with relevant details)

under the following security levels

Security level(s) for the ship:	
Security level(s) for the port facility:	

The port facility and ship agree to the following security measures and responsibilities to ensure compliance with the requirements of part A of the International, Code for the Security of Ships and of Port Facilities.

The affixing of the initials of the SSO or PFSO under these columns indicates that the activity will be done, in accordance with the relevant approved plan, by		
Activity	The port facility:	The ship:
Ensuring the performance of all security duties		
Monitoring restricted areas to ensure that only authorized personnel have access		
Controlling access to the port facility		
Controlling access to the ship		
Monitoring of the port facility, including berthing areas and areas surrounding the ship		

²This form of Declaration of Security is for use between a ship and a port facility. If the Declaration of Security is to cover two ships, this model should be appropriately modified.

Monitoring of the ship, including berthing areas and areas surrounding the ship		
Handling of cargo		
Delivery of ship's stores		
Handling unaccompanied baggage		
Controlling the embarkation of persons and their effects		
Ensuring that security communication is readily available between the ship and the port facility		

The signatories to this agreement certify that security measures and arrangements for both the port facility and the ship during the specified activities meet the provisions of chapter XI-2 and Part A of the Code that will be implemented in accordance with the provisions already stipulated in their approved plan or the specific arrangements agreed to and set out in the attached annex.

Dated at _____ on the _____

Signed for and on behalf of	
the port facility:	the ship:
(Signature of Port Facility Security Officer)	(Signature of Master of Ship Security Officer)

Name and title of person who signed		Date of issue
Name:	Name:	Date of issue:
Title:	Title:	

Contact details (to be completed as appropriate) (indicate the telephone numbers or the radio channels or frequencies to be used)	
for the port facility:	for the ship:

[illegible]

Port facility security officer ~~CONFIDENTIAL~~ Ship security officer

Company security officer, **Hong Kong**

Question that Appendix 1 to Part B (Form of a Declaration of Security between a Ship and a Port Facility)

APPENDIX 2

Form of a Statement of Compliance of a Port Facility

STATEMENT OF COMPLIANCE OF A PORT FACILITY

(Official seal)

Republic of Nigeria to the International Convention for the Suppression of Terrorism and

Statement Number

Question has not been agreed to.

Issued under the provisions of Part B of the

INTERNATIONAL CODE FOR THE SECURITY OF SHIPS AND OF PORT
FACILITIES (ISPS CODE)

The Government of _____
(name of the State)

Name of the port facility:
Address of the port facility:

THIS IS TO CERTIFY that the compliance of this port facility with the provisions of chapter XI- 2 and Part A of the International Code for the Security of Ships and of Port Facilities (ISPS Code) has been verified and that this port facility operates in accordance with the approved port facility security plan. This plan has been approved for the following <specify the types of operations, types of ship or activities or other relevant information> (delete as appropriate):

Passenger ship
Passenger high-speed craft
Cargo high-speed craft
Bulk carrier
Oil tanker
Chemical tanker
Gas carrier
Mobile offshore drilling units
Cargo ships other than those referred to above

This Statement of Compliance is valid until subject to
verifications (as indicated overleaf)

Issued at
(place of issue of the statement)

Date of issue
(Signature of the duly authorized official
issuing the document)

(Seal or stamp of issuing authority, as appropriate) (Hon. Abdul Ningi).s

Question that Appendix 2 (Form a Statement of Compliance of a Port Facility) stand part of the Convention,
put and agreed to.

Chairman to report Convention.

(HOUSE IN PLENARY)

Mr Deputy Speaker in the Chair, reported that the House in the Committee Whole, considered the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the International Convention for the Safety of Life at Sea, 1974 as Amended and for Purposes Connected Therewith and approved Clauses 1 and 2 and ratified the Convention.

Question that the House do adopt the Report of the Committee of Whole, agreed to.

14. Ratification of Convention:

A Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the International Convention for the Safety of Life at Sea 1974 as Amended and for Purposes Connected Therewith—
Third Reading:

Motion made and Question proposed, "That the Bill for an Act to Enable Effect to be Given in the Federal Republic of Nigeria to the International Convention for the Safety of Life at Sea 1974 as Amended and for Purposes Connected Therewith be now read the Third Time" (Hon. Abdul Ningi).

Question put and agreed to.

Bill read the Third Time and Passed.

15. **Adjournment:**
That this House do now adjourn till 3.10 p.m., This Day (Hon. Abdul Ningi).

Adjourned accordingly at 3.05 p.m.

Austin A. Opara
Deputy Speaker