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Ordinance on Shipboard Security Measures (SeeEigensichV)

Ordinance on Shipboard Security Measures of 19 September 2005 (Federal Law Gazette I,
p. 2787), as most recently amended by Article 2 of the Ordinance of 13 December 2023
(Federal Law Gazette 2023 I, no. 373)

This Ordinance has been adopted as Article 1 of the Ordinance of 19 September 2005
(Federal Law Gazette I, p. 2787) by the Federal Ministry of Transport, Building and Housing
after consulting the Federal Ministries of the Interior and of Finance. In accordance with
Article 5 of this Ordinance, it entered into force with effect from 24 September 2005.

Section 1

Purpose of the Ordinance and responsibility of the Federation

(1) This Ordinance shall govern the establishment and monitoring of the security systems
necessary for the security of shipping traffic as defined by:

1. section 1(13) of the Maritime Shipping Responsibilities Act (SeeAufgG) in
conjunction with chapters XI-1 and XI-2 of the Annex to the International Convention for
the Safety of Life at Sea (Federal Law Gazette 1979 II, p. 141); and
2. the International Code for the Security of Ships and Port Facilities (Federal Law
Gazette 2003 II, p. 2018, 2043 and Federal Ministry of Transport Gazette 2004, p. 32);

as amended.

(2) For the purposes of this Ordinance:

1. "SOLAS Convention" means the International Convention for the Safety of Life
at Sea, 1974; and
2. "ISPS Code" means the International Code for the Security of Ships and of Port
Facilities.

(3) The functions incumbent on the Federation shall be assumed by the Federal Maritime
and Hydrographic Agency (Federal Agency) in accordance with the para. 4b of the second
sentence of section 5(1) of the Maritime Shipping Responsibilities Act (SeeAufgG), unless
otherwise provided for below.

Section 2

Obligations of private sector companies

(1) Companies as defined by regulation 1.1.7 of chapter XI-2 of the Annex to the SOLAS
Convention shall be obliged to provide the following to the competent staff members of the
Federal Agency as well as to the authorities authorized or the bodies tasked by the Federal
Agency for the performance of their functions relating to maritime security:

1. upon request, the necessary information;

2. upon request, the necessary documents; and
3. access to the ships operated by them which are subject to the scope of application of chapter XI-2 of the Annex to the SOLAS Convention. This shall not apply to enclosed spaces for private use.

The staff members of the Federal Agency and of the authorities authorized or the bodies tasked by it shall provide the appropriate identification.

(2) The master of a ship as defined by regulation 2.1.1 of chapter XI-2 of the Annex to the SOLAS Convention shall be obliged, within the framework of control measures in accordance with regulation 9 paragraphs 1 and 2 of chapter XI-2 of the Annex to the SOLAS Convention, to provide the following to the persons designated in paragraph 1 of that regulation:

1. access to the ship operated by him or her which is subject to the scope of application of chapter XI-2 of the Annex to the SOLAS Convention. This shall not apply to enclosed spaces for private use;
2. upon request, the necessary information;
3. upon request, the necessary documents and papers;
4. to comply with any instructions given.

The second sentence of subsection 1 shall apply mutatis mutandis.

Section 3 **Recognized security organization**

(1) The Federal Agency may:

1. for the verification of the ship security plan in accordance with section 19 of part A of the ISPS Code; and
2. for the verification of the actual implementation of this plan on board the ship in accordance with section 19 of part A of the ISPS Code;

make use of a recognized security organization in accordance with regulation 1.1.16 of chapter XI-2 of the Annex to the SOLAS Convention and section 4.3 of part A of the ISPS Code.

(2) The Federal Agency shall, upon application, recognize an organization in accordance with regulation 1.1.16 of chapter XI-2 of the Annex to the SOLAS Convention and section 4.3 of part A of the ISPS Code if it:

1. has been recognized in accordance with Article 4 of Council Directive 94/57/EC of 22 November 1994 on common rules and standards for ship inspection and survey organizations and for the relevant activities of maritime administrations (OJ EC No L 319, p. 20), as most recently amended by Directive 2002/84/EC of the European Parliament and of the Council of 5 November 2002 (OJ EC No L 324, p. 53);
2. is reliable;
3. complies with the minimum criteria set out in the Annex to Directive 94/57/EC;
4. furnishes proof of compliance with the conditions set out in section 4.5 of part B of the ISPS Code;
5. complies with the requirements mentioned in Appendix 1 of the Interim Guidelines for authorization of recognized security organizations acting on behalf of the administration and/or designated authority of a contracting government (MSC/Circ. 1074 of 10 June 2003, Federal Ministry of Transport Gazette 2004, p. 411) adopted by the Maritime Safety Committee of the International Maritime Organization, in particular:

- a) has extensive experience concerning the survey of ships;
 - b) maintains a worldwide network of staff members working exclusively for it or of staff members working for it in collaborative schemes with other recognized organizations;
 - c) maintains an internationally recognized quality assurance system certified by an independent body which is compliant with the provisions of ISO 9001:2000 and ensures in particular the observance of the requirements of the SOLAS Convention and of the ISPS Code; and
 - d) can furnish proof of the conclusion of an adequate third-party insurance; as well as
6. ensures that it can perform the functions worldwide independently and on its own responsibility due to its experience and capacity.
- (3) The recognized organization as defined by subsection 1 must be independent of other commercial enterprises, in particular:
1. shipowners;
 2. shipbuilders and other enterprises which equip, maintain or operate ships on a commercial basis.
- (4) Functions shall be assigned by the Federal Agency to the recognized organization on the basis of a written agreement. This agreement must comply with the following requirements:
1. The agreement is subject to German law.
 2. The agreement is concluded for a period of not more than five years.
 3. The recognized organization releases the Federal Republic of Germany from all liability claims by third parties that may arise as a result of the assignment of functions.
 4. For the purpose of performing the functions set out in subsection 1, the recognized organization maintains a local representation on the territory of the Federal Republic of Germany and ensures that the latter can be contacted at all times.
- (5) The recognized organization shall verify whether the measures required in Sections 7 and 8 have been implemented on the ship in a proper manner. It shall confirm to the Federal Agency whether the conditions mentioned there for the issuance of the International Ship Security Certificate are met.
- (6) The Federal Agency may, at any time and without prior announcement, satisfy itself that the recognized organization is performing the functions assigned to it in a proper manner. To this end, the Federal Agency may conduct verifications and request information. The Federal Agency, or a body designated by it, shall, in a formalized procedure, check at least every two years that the assigned functions are being performed in a proper manner. If deficiencies in execution are identified which are not corrected by the recognized organization within a deadline set by the Federal Agency, the assignment of functions can be terminated without notice.
- (7) In addition, nos. 3.6, 3.7 and 3.8 of section B of Annex 2 to the Ship Safety Regulations (SchSV) of 18 September 1998 (Federal Law Gazette I, p. 3013, 3023), as most recently amended by Article 6 of the Ordinance of 6 August 2005 (Federal Law Gazette I, p. 2288), shall apply mutatis mutandis to the assignment of functions.

Section 4 **Company and Ship Security Officers**

- (1) The Company Security Officers in accordance with section 11 of part A of the ISPS Code and the Ship Security Officers in accordance with section 12 of part A of the ISPS Code

shall, to perform their functions, furnish proof that they have the necessary skills in accordance with section 13 of part A of the ISPS Code, after participating in a training course recognized in accordance with Section 5. It shall also be possible to designate persons who furnish proof of their skills by participating in a training course abroad which corresponds to the requirements of the IMO model courses mentioned in the first sentence of Section 5(1).

(2) Every company as defined by regulation 1.1.7 of chapter XI-2 of the Annex to the SOLAS Convention shall, immediately after their designation, communicate to the Federal Agency the names of the Company Security Officers in accordance with section 11 of part A of the ISPS Code, including the details for contacting them at all times. The Federal Agency shall be informed about changes without delay. The Company Security Officers shall ensure that the ship can be contacted at all times for the purposes of Section 10(7).

(3) The company shall be responsible for the reliability, qualification and continuous training of the Company Security Officers.

(4) The company shall be obliged to provide to the Company Security Officers at any time all resources and information necessary for the performance of their functions.

Section 5

Recognition of improvement courses

(1) National improvement courses as defined by Section 4(1) shall be recognized by the Federal Agency upon application if they comply with the requirements of the model courses 3.19 "Ship Security Officer" and 3.20 "Company Security Officer" (Federal Ministry of Transport Gazette 2004, p. 519) issued by the International Maritime Organization. More details shall be laid down by the Federal Agency in administrative regulations.

(2) The Federal Agency shall issue official evidence of the recognition in accordance with the first sentence of subsection 1, valid for a period of not more than five years. The Federal Agency shall conduct random checks of compliance with the requirements in accordance with subsection 1. To this end, the Federal Agency shall be granted access to the improvement courses. Upon request, any necessary documents shall be submitted to the Federal Agency for inspection. If the conditions the recognition is based on are no longer met, it shall be revoked and the corresponding evidence withdrawn or declared invalid.

Section 6

Security assessment

(1) The Company Security Officer in accordance with section 11 of part A of the ISPS Code shall be responsible for the preparation and verification of the security assessment of the ship in accordance with section 8 of part A of the ISPS Code. For the elaboration of the security assessment, he or she may receive assistance from third parties having the relevant experience as defined by section 8.2 of part A of the ISPS Code.

(2) The ship security assessment shall be submitted to the Federal Agency together with the security plan.

(3) In the event of security-relevant modifications on board the ship, the security assessment shall be updated accordingly by the Company Security Officer in accordance with section 8.2 in conjunction with section 11.2.2 of part A of the ISPS Code.

Section 7

Ship security plan

(1) The Company Security Officer shall be responsible for the elaboration and updating of the ship security plan. For the elaboration of this plan, he or she may receive assistance from third parties having the relevant experience as defined by section 9 of part A of the ISPS Code.

(1a) The ship security plan shall, as a procedure for responding to security threats as defined by section 9.4.4 of part A of the ISPS Code, provide as a minimum for the use of reporting and warning systems established at international level when entering or transiting a sea area classified as security level 2 or 3 under section 1(14) of the Maritime Shipping Responsibilities Act (SeeAufgG).

(1b) When the company provides for the use of privately contracted armed security personnel on board a sea-going ship while the ship is in an area seaward of the boundary of the German exclusive economic zone, an approved addendum to the ship security plan shall be required.

(2) The ship security plan shall be approved by the Federal Agency upon application, provided that the plan complies with the conditions listed in section 9.4 of part A of the ISPS Code, taking into account the guidance given in part B of the Code. The approval shall be revoked if the conditions required for its issuance are no longer met.

(2a) Upon application, the Federal Agency shall approve the addendum to the ship security plan in accordance with subsection 1b for a period of not more than two years, provided that:

1. the use of privately contracted armed security personnel has been included as a procedure for responding to security threats as defined by section 9.4.4 of part A of the ISPS Code; and
2. the Company Security Officer has submitted to the Federal Agency a written declaration to the effect that the following requirements are complied with:
 - a) the privately contracted armed security personnel are staff members of maritime security companies approved under the provisions of section 31(1) of the Industrial Code in the version promulgated on 22 February 1999 (Federal Law Gazette I, p. 202), as most recently amended by Article 3 of the Act of 15 July 2013 (Federal Law Gazette I, p. 2390); and
 - b) IMO's "Revised interim guidance to shipowners, ship operators and shipmasters on the use of privately contracted armed security personnel on board ships in the High Risk Area" in the version promulgated by the Federal Ministry of Transport and Digital Infrastructure of 15 May 2013 (Federal Ministry of Transport Gazette 2013, p. 640) is observed by the personnel during such missions.

The approval has to contain conditions obliging the applicant:

1. to report to the central point of contact in accordance with Section 10(1), through the Company Security Officer, not later than 24 hours before entering a sea area classified as security level 2 or 3 the intended use of privately contracted armed security personnel employed by maritime security companies approved under section 31(1) of the Industrial Code (GewO);
2. to keep, for two years, in his or her archives the reports and records to be prepared in accordance with the provisions contained in "Reporting and record-keeping" of the guidance mentioned in para. 2(b) of the first sentence, such period of record-keeping commencing at the end of the calendar year in which the relevant report or record was prepared; and
3. to submit such reports and records without delay, through the Company Security Officer or the Ship Security Officer, to the Federal Agency, the Federal Office for Economic Affairs and Export Control and the office of the Federal Police which is responsible in accordance with section 1(3)(3) of the Ordinance on Jurisdiction of the Federal Police Agencies (BPolZV) of 22 February 2008 (Federal Law Gazette I, p. 250), as most recently amended by Article 1 of the Ordinance of 27 June 2013 (Federal Law Gazette I, p. 1952), when using firearms or upon request.

The approval of the addendum to the security plan shall be revoked if the Federal Agency becomes aware of facts indicating that privately contracted armed security personnel is used who are not staff members of a security company authorized in accordance with section 31(1) of the Industrial Code (GewO).

(3) The Ship Security Officer shall immediately address the items provided for in the ship security plan in accordance with section 9.4(1) to (18) of part A of the ISPS Code. He shall be responsible for conducting drills and exercises of the ship's crew in accordance with sections 9.4(9) and 13.4 of part A of the ISPS Code, taking into account sections 13.5 and 13.6 of part B of the ISPS Code.

(4) Any changes on board the ship which are relevant to security shall be continuously documented by the Ship Security Officer and communicated to the Federal Agency by the Company Security Officer. Any substantial changes shall be subject to the approval of the Federal Agency. These are especially changes to the measures relating to sections 9.4(1) to (3), (5) and (14) of part A of the ISPS Code. Amendments to the addendum to the security plan shall not be admissible.

(5) In accordance with section 9.7 of part A of the ISPS Code, the Company Security Officer and the Ship Security Officer shall be responsible for the protection of the plan from unauthorized access by or unauthorized disclosure to unauthorized third parties. The Company Security Officer shall ensure that any security-relevant information obtained by a third party when preparing the security assessment or the plan is treated as confidential.

(6) If, during a control measure in accordance with regulation 9 of chapter XI-2 of the Annex to the SOLAS Convention, there are clear grounds to believe that a security measure has not been properly performed, the officers duly authorized to conduct control measures as defined by section 9.8.1 of part A of the ISPS Code shall, with the consent of the ship's master or the Federal Agency, be granted the right to inspect that part of the ship security plan relating to the measure in question, unless the sections designated in the second sentence of section 9.8.1 of part A are concerned.

(7) Notwithstanding Section 9(4), any documentation relating to the ship security plan as defined by section 10 of part A of the ISPS Code shall be kept on board the ship by the Ship Security Officer for at least three years in a place that is inaccessible to unauthorized third parties.

Section 8

International Ship Security Certificate

(1) If the conditions of section 19.1 of part A of the ISPS Code are met, the Federal Agency shall issue an international certificate in accordance with section 19.2 in conjunction with section 19.3 of part A of the ISPS Code, the validity of which is limited to a maximum of five years. Notwithstanding section 19.3.8 of part A of the ISPS Code, the certificate shall be withdrawn if the conditions required for its issuance are no longer met. If the conditions of section 19.4 of part A of the ISPS Code are met, the Federal Agency shall issue an interim certificate.

(2) The initial verification in accordance with section 19.1.1.1. of part A of the ISPS Code can be performed 30 days after approval of the ship security plan at the earliest.

(3) Between the second and third anniversary date of the issuance of the international certificate, an intermediate verification in accordance with section 19.1.1.3 of part A of the ISPS Code shall be carried out. The Federal Agency shall be entitled to order and carry out additional verifications if there are reasons to believe that the stated conditions for the issuance of the certificate are no longer met.

Section 9

Declaration of security

(1) The Ship Security Officer shall ensure that the exchange of persons and goods only commences after a declaration of security in accordance with section 5.5 of part A of the ISPS Code has been issued if:

1. the ship or the port facility used for the direct exchange of persons and goods is not subject to the provisions of chapter XI-2 of the Annex to the SOLAS Convention;

2. the operation of the ship is subject to a security level which is different from that of the ship used for the direct exchange of persons and goods; or
 3. the operation of the ship is subject to a security level which is different from that of the port facility used for the direct exchange of persons and goods.
- (2) The responsibilities between the ship and the port facility or the other ship must be laid down in the declaration of security in accordance with section 5.5 of part A of the ISPS Code. The responsibilities shall be oriented towards the security plan approved in accordance with Section 7(2). The declaration of security shall be prepared in duplicate in accordance with the models published in the Federal Ministry of Transport Gazette 2004, p. 383 and exchanged between the parties involved.
- (3) If two of the parties involved mentioned in subsection 1 cooperate regularly under unchanged and recurring conditions, the declaration of security may be agreed upon for a fixed period but, in any event, for no longer than one year. Such an agreement shall require the consent of the Federal Agency. If one party involved changes the security level, the declaration of security shall be suspended for the period concerned.
- (4) The Federal Agency may approve measures deviating from the relevant security plans for a fixed period, in any event for a maximum of one year, if corresponding bilateral or multilateral agreements as defined by regulation 11 of chapter XI-2 of the Annex to the SOLAS Convention have been concluded with other states.
- (5) The validity of a declaration of security in accordance with subsection 3 shall cease if the provisions of chapter XI-2 of the Annex to the SOLAS Convention are infringed.
- (6) The declarations of security in accordance with subsections 1 to 3 shall be kept on board the ship by the Ship Security Officer for a period of one year following their issuance.

Section 10 Communication

- (1) In accordance with regulation 7 of chapter XI-2 of the Annex to the SOLAS Convention, a central point of contact of the Federation shall be established at the Joint Maritime Emergency Reporting and Assessment Centre of the Maritime Security Centre in Cuxhaven.
- (2) Apart from enquiries and reports from the shipping sector, the central point of contact shall also receive the security alerts mentioned in regulation 6 of chapter XI-2 of the Annex to the SOLAS Convention and forward them to the competent authorities in order to provide assistance to the ship under threat as soon as possible.
- (3) On ships as defined by regulation 2.1.1 of chapter XI-2 of the Annex to the SOLAS Convention which intend to call at one or several port facilities in the Federal Republic of Germany, the shipmaster must transmit to the central point of contact, via the Federation's national single window (www.national-single-window.de) on the Internet, the data mentioned in the Appendix to the Guidance on the requirements relating to the submission of security-related information prior to the entry of a ship into port of the Maritime Safety Committee (MSC/Circ.1130 of 14 December 2004, Federal Ministry of Transport Gazette 2005, p. 143). He or she may assign this function to the Ship Security Officer, the Company Security Officer or to his or her agent.
- (4) The data in accordance with subsection 3 shall be submitted:
1. at least 24 hours in advance; or
 2. at the latest when leaving the previous port if the voyage takes not more than 24 hours; or
 3. if the port of call is not known or changes during the voyage, as soon as the port of call is known.
- (5) If changes occur after the transmission of the data until the entry of the ship into the port of destination, they shall be transmitted without delay in accordance with subsection 3.

(6) Shipping traffic as defined by regulation 11.1 of chapter XI-2 of the Annex to the SOLAS Convention may be exempted from the obligation to provide the information in accordance with subsections 3 and 4 to the extent that the Company Security Officer records, updates and keeps the list containing the data required under subsection 3 available at any time.

(7) Any company as defined by regulation 1.1.7 of chapter XI-2 of the Annex to the SOLAS Convention shall be obliged to ensure that its ships flying the German flag can be contacted at all times. In the event that fundamental difficulties occur, the company shall provide for alternative forms of communication. The company shall communicate the up-to-date contact details of the Company Security Officer to the central point of contact without delay.

(8) The Company Security Officer shall be responsible for ensuring that any change of the security level by the flag state is communicated to the Ship Security Officers concerned. If the measures provided for in the security plan cannot be implemented or if the ship is berthed in a foreign port when the security level is changed, the Company Security Officer shall communicate this to the central point of contact without delay.

Section 11

Drills and exercises

(1) In accordance with section 13.4 of part A in conjunction with section 13.6 of part B of the ISPS Code, drills shall be carried out on the responsibility of the Ship Security Officer.

(2) In accordance with section 13.5 of part A in conjunction with section 13.7 of part B of the ISPS Code, ship security exercises shall be carried out by the company at least once each calendar year, at the latest every 18 months. Upon request, the Company Security Officer shall provide information about the exercises to the Federal Agency, among other things, to make it possible for the authorities in accordance with section 13.7 of part B of the ISPS Code to participate.

(3) The Federal Ministry of Transport and Digital Infrastructure may initiate full-scale exercises to check the maritime security system as defined by the ISPS Code. If bodies or authorities outside the Federal Ministry of Transport and Digital Infrastructure and its executive agencies participate in such exercises, they shall require the prior consent of the relevant top-level federal authority.

(4) To the extent that sea-going ships flying the German flag participate in an exercise in accordance with subsection 3, this can accordingly be counted towards the obligation under subsection 2 if the company assumes the cost incurred by it.

(5) Proof of participation of a company in an exercise of another flag state shall be recognized as equivalent.

Section 12

Administrative offences

(1) An administrative offence as defined by section 15(1)(2) of the Maritime Shipping Responsibilities Act (SeeAufgG) shall be deemed to have been committed by anyone who, either intentionally or negligently:

1. in contravention of para. 1 or 2 of the first sentence of Section 2(1) or the first sentence of para. 3 of the first sentence of Section 2(1) or the first sentence of para. 1 of the first sentence of Section 2(2) or para. 2 or 3 of the first sentence of Section 2(2), does not provide information, provides information incorrectly or incompletely, or does not provide information in a timely manner, does not submit a document or a paper or does not submit it in a timely manner or does not grant access;

2. in contravention of the first sentence of Section 4(2), does not provide the name of the Security Officer or any information mentioned there, provides the name or information incorrectly or incompletely or does not provide it in a timely manner;

3. in contravention of the second sentence of Section 4(2), does not give notification, gives notification incorrectly or incompletely, or does not give it in a timely manner;

4. in contravention of the third sentence of Section 4(2), does not ensure that the ship can be contacted at all times;
 5. uses privately contracted armed security personnel without an approved addendum to the ship security plan in accordance with Section 7(1b);
 6. fails to comply with an enforceable requirement imposed under the second sentence of Section 7(2a);
 7. in contravention of the first sentence of Section 7(3), does not address the issues provided for in the ship security plan or does not address them in a timely manner;
 8. in contravention of Section 9(1), does not ensure that the exchange of persons and goods only commences once the requirements set out there have been met;
 9. in contravention of Section 9(6), does not keep a declaration of security or does not keep it for a minimum of one year; or
 10. in contravention of the first sentence of Section 10(7), does not ensure that the ship can be contacted at all times.
- (2) The responsibility for the prosecution and punishment of administrative offences in accordance with subsection 1 shall be transferred to the Federal Maritime and Hydrographic Agency.

Section 13 **ISO standards**

ISO standards to which reference is made in this Ordinance have been published by the Beuth-Verlag GmbH, Berlin, and have been securely deposited in the archives of the German Patent and Trademark Office in Munich.

Section 14 **Transitional provision concerning Section 7(2a)**

Applications in accordance with Section 7(2a) for the approval of the addendum to the ship security plan in accordance with Section 7(1b) of the version applicable as from 1 December 2013 can already be processed before 1 December 2013. Approvals shall be granted with effect from 1 December 2013 at the earliest.