

ANNEX 5

DRAFT MSC CIRCULAR

**DUE DILIGENCE CHECKLIST IN IDENTIFYING PROVIDERS OF
CTU-RELATED SERVICES**

1 The Maritime Safety Committee, at its ninety-fourth session (17 to 21 November 2014) noted that the 322nd session of the ILO Governing Body, which met from 30 October to 13 November 2014, had approved the IMO/ILO/UNECE Code of Practice for Packing of Cargo Transport Units (CTU Code) without changes and, having taken into account that all three United Nations organizations had formally approved the CTU Code, approved MSC.1/Circ.1497 on the *IMO/ILO/UNECE Code of Practice for Packing of Cargo Transport Units (CTU Code)**.

2 Subsequently, the Committee approved MSC.1/Circ.1498 on *Informative material related to the IMO/ILO/UNECE Code of Practice for Packing of Cargo Transport Units (CTU Code)*.

3 The Maritime Safety Committee, at its [ninety-sixth session (11 to 20 May 2016)], having considered the proposal by the Sub-Committee on Carriage of Cargoes and Containers, at its second session, approved the *Due diligence checklist in identifying providers of CTU-related services*, as set out in the annex.

4 Member Governments and international organizations are invited to bring the Due diligence checklist to the attention of all parties concerned.

* The CTU Code and the Informative Material can be found at:
www.unece.org/trans/wp24/guidelinespackingctus/intro.html

ANNEX

DUE DILIGENCE CHECKLIST IN IDENTIFYING PROVIDERS OF CTU-RELATED SERVICES

Introduction

The CTU Code outlines various parties' roles and responsibilities regarding the packing, storage, handling and transport of CTUs.

Companies causing CTUs to be transported would want to be assured that the activities undertaken by a service provider are carried out in compliance with international and national regulatory frameworks, and conform with the CTU Code. It should be noted that this document applies to international traffic, users of this document should be aware that national regulations may also apply.

The following example of a due diligence checklist for the provision of packing services is intended to serve as a guide to what companies causing CTUs to be transported in maritime traffic should consider when selecting a provider of CTU-related services (hereinafter referred to as "the Provider").¹ The checklist may be modified to reflect the roles and responsibilities of other service providers, as described in the annex.

1 Provider name and contact details

Examples of additional information elements that might be requested of the Provider:

- Main activity of company
- Number of employees
- Key personnel and responsibilities
- Services offered
- Membership of professional associations
- Public listing

2 Certification²

Is the Provider certified to a quality management system (e.g. ISO 9000) or other externally audited programmes, e.g. Authorized Economic Operator (AEO)? If "yes", for which standards and/or programmes has certification been obtained? Is confirmation of the certification publicly available on websites or are certificates available?

When was the Provider's compliance with the applicable standards and/or programmes last audited?

Is the Provider working towards certification? If "yes", certification to which standards and/or programmes and by when?

If no, does the Provider have any written procedures?

¹ Nothing in this guide should be interpreted to infringe on or supersede prevailing regulatory requirements or the ultimate responsibility of the shipper to ensure that the CTU is safely packed and that its content and verified gross mass has been correctly established and documented.

² Certification means confirmation by an accredited organization that applicable national or international standards have been met.

3 Written procedures

Does the Provider have written procedures covering the services to be provided, including for the detection and reporting of non-compliance with prevailing regulatory requirements?

Does the Provider have written procedures to ensure that any equipment required and used in the services to be provided is maintained and calibrated in accordance with prevailing regulatory requirements?

4 Packing CTUs

(Note: The following points only apply to service provider involved in packing CTUs.)

Does the Provider have a copy of the CTU Code and access to the Informative Material?

Does the Provider have planning procedures to ensure the correct packing and securing of the CTU?

Are employees and any subcontractors of the Provider trained in accordance with the CTU Code?

Does the Provider maintain training records? In what form are the records maintained and accessible?

Is there a designated person responsible for ensuring compliance with CTU Code and, if appropriate, other related IMO codes and conventions?

5 Dangerous goods

(Note: The following points only apply for shipments that include dangerous goods to be packed into and transported in CTUs in maritime traffic. Other modes of transport will be regulated through the national or international regulations.)

Does the Provider have a copy of a currently valid amendment to the IMDG Code?

Are employees and any subcontractors of the Provider trained in accordance with chapter 1.3 of the IMDG Code?

Does the Provider maintain training records? In what form are the records maintained and accessible?

6 General health and safety

Does the Provider have documented health and safety procedures?

7 Supply chain management and sub-contracting

Has the Provider documented procedures for maintaining CTU integrity?

Are security measures applied in accordance with the role of the Provider in the CTU supply chain?

Are these security measures documented in verifiable records?

Does the Provider use subcontractors?

Are sub-contractors selected and assessed in accordance with written procedures?

Are contractual agreements in place with the sub-contractors used by the Provider?

Are these agreements maintained and accessible?

Are procedures in place to ensure compliance by the subcontractors used with such agreements?

ANNEX

**TABLE OF THE ROLES OF ENTITIES INVOLVED IN THE CARGO TRANSPORT UNIT
(CTU) SUPPLY CHAIN**

The CTU Code and other industry specific guidance documents and enforcement activities have an important part to play in CTU supply chain safety. Entities involved with this supply chain are reminded of their roles and how they can effect a culture change, promoting the safety of workers and third parties while maintaining the integrity of the cargo.

The table below outlines the various functions in the CTU supply chain that can effect a culture change. Due to the complexity of the supply chain one or more of the functions listed in 1 to 1d of the table may be performed by the same entity/party.

Bringing about a culture change in the supply chain requires not only fulfilment of individual functions but also encouraging all other functions to fulfil their responsibilities appropriately.

Note: The definitions of functions 1 to 6 of the table are reproduced from the CTU Code.

Order	Function	Definition	Role in effecting a culture change within the supply chain	Aid
1	Shipper	The party named on the bill of lading or waybill as shipper and/or who (or in whose name or on whose behalf) a contract of carriage has been concluded with a carrier. Also known as the sender.	Ensure staff and those parties with whom the shipper interacts (e.g. 1a, 1b, 1c and 1d below) are trained, aware of, and use the CTU Code.	<p>The CTU Code should be available and easily accessible to staff.</p> <p>Identify cargo types (e.g. Case study of how to pack steel / bananas, etc. etc.) prepared by the shipper for easy reference to other supply chain parties.</p> <p>Utilize due diligence checklists.</p>
1a	Consignor	The party who prepares a consignment for transport. If the consignor contracts the transport operation with the carrier, the consignor will undertake the function of the shipper and may also be known as: the shipper (maritime) the sender (road transport)	<p>Ensure the consignment complies with appropriate Regulations for the journey to be undertaken</p> <p>If the consignor contracts the packer: ensure due diligence checks are carried out on the packer and that the packer has all the appropriate resources (e.g. material and competent personnel) to enable tasks to be fulfilled to the required standard.</p>	Utilize due diligence checklist.
1b	Consolidator	The party performing a consolidation service for others.	<p>Ensure customers are informed of best practice and raise awareness, (e.g. where packaging deficiencies are noted).</p> <p>If the consolidator contracts the packer: ensure due diligence checks are carried out on the packer and that the packer has all the appropriate resources (e.g. material and</p>	<p>The CTU Code should be available and easily accessible to staff.</p> <p>Utilize due diligence checklist.</p>

Order	Function	Definition	Role in effecting a culture change within the supply chain	Aid
			competent personnel) to enable tasks to be fulfilled to the required standard.	
1c	Freight forwarder	The party who organizes shipments for individuals or other companies and may also act as a carrier. When the freight forwarder is not acting as a carrier, it acts only as an agent, in other words as a third-party logistics provider who dispatches shipments via carriers and that books or otherwise arranges space for these shipments	Ensure customers are informed of best practice and raise awareness of the CTU Code.	Advise customers of the CTU Code (e.g. through using note on booking/quotation forms "See CTU Code"). Record problems and advise customers accordingly.
1d	Packer	The party that places the goods within the CTU; the packer may be contracted either by the consignor, by the shipper or by the carrier; if the consignor or the shipper packs a CTU within his own premises, the consignor or the shipper is also the packer	Management should identify the types of cargo, assess level of training required, and audit effectiveness of training. Ensure the packer has all the appropriate resources (e.g. material and competent personnel) to enable tasks to be fulfilled to the required standard. Operational staff should follow training, make management aware of problems, ensure guidance is available if necessary for unusual cargoes.	The CTU Code should be available or easily accessible to staff. Identify cargo types (e.g. Case study of how to pack steel / bananas, etc. etc.) prepared by manager or supervisor.

Order	Function	Definition	Role in effecting a culture change within the supply chain	Aid
2	CTU Operator	The party who owns or operates the CTU and provides empty CTUs to the consignor / shipper / packer.	<p>Ensure customers are informed of best practice and raise awareness of working with CTUs in general.</p> <p>Ensure CTUs to be supplied are fit for purpose.</p> <p>Ensure customers are advised of their responsibilities/liabilities if CTU is returned damaged.</p>	CTU, CSC, and other applicable codes and standards are available and easily accessible.
3	Carrier	<p>The party who, in a contract of carriage, undertakes to perform or to procure the performance of carriage by rail, road, sea, air, inland waterway or by a combination of such modes.</p> <p>Can be further classified as;</p> <p>road haulier, rail operator shipping line.</p>	Inform customers of best practice and raise awareness.	<p>Advise customers of CTU Code (e.g. through using note on booking/quotation forms such as "See CTU Code").</p> <p>Inform customers of availability of the due diligence checklist.</p>
4	Intermodal operator	<p>The party who provides a service to transfer and/or stow CTUs. May be subdivided into:</p> <ul style="list-style-type: none"> • Maritime terminal (port) operator • Rail terminal • Inland waterway port 	Ensure customers are informed of best practice and raise awareness	CTU Code and similar best practice guidance materials from trade associations and mode specialists, for rail/water/road to be available to staff for guidance

Order	Function	Definition	Role in effecting a culture change within the supply chain	Aid
5	Consignee	The party to whom a cargo is consigned under a contract of carriage or a transport document or electronic transport record. Also known as the receiver.	<p>Make sure to report all problems in connection with the receipt of the CTU and/or its cargo to the shipper, the CTU operator and the carrier as appropriate.</p> <p>Implement appropriate training in accordance with the CTU Code and procedures for unpacking CTUs taking into account particular hazards associated with opening and entering the CTU.</p>	Implement suitable feedback procedures which may include taking photographs.

Additional functions not included or defined in the CTU Code

6	Inspectors/surveyors	Parties employed by governments or commercial entities to perform inspection / surveying functions to ensure the safe transport of CTUs.	Inform principal of compliance and/or non-compliance for further action where appropriate.	Applicable Codes and standards (e.g. MSC.1/Circ.1442)
7	Insurers	Entities/parties that provide insurances ³ which variously cover loss or damage to cargo, CTUs, ships and other means of conveyance.	Where possible raise awareness of the CTU Code and best practice among customers and packers of CTUs.	Assist in the development of additional advice for specific cargo types as appropriate.

³ Some insurances, such as Cargo or Hull, provide cover based on the value of the item insured. Others, such as Protection & Indemnity or Carrier's Liability, cover the liability under law or contract in relation to the goods being transported and other parties who may be impacted.