

LEGAL COMMITTEE
101st session
Agenda item 4

LEG 101/4/1
14 March 2014
Original: ENGLISH

FAIR TREATMENT OF SEAFARERS IN THE EVENT OF A MARITIME ACCIDENT

Questionnaire on the implementation of the 2006 Guidelines on fair treatment of seafarers in the event of a maritime accident

Submitted by the International Transport Workers' Federation (ITF), the International Federation of Shipmasters' Associations (IFSMA) and the Comité Maritime International (CMI)

SUMMARY

Executive summary: The ITF and IFSMA commissioned a questionnaire concerning the implementation of the *2006 Guidelines on fair treatment of seafarers in the event of a maritime accident* adopted jointly by the IMO and the ILO. The replies to the questionnaire show that the provision of model legislation to give effect to the Guidelines should be helpful to some IMO Member States.

Strategic direction: 1

High-level action: 1.1.1

Planned output: 1.2.1

Action to be taken: Paragraph 10

Related documents: LEG 100/5/1, LEG 100/14; LEG 99/14; LEG/97/6, LEG 97/6/1, LEG 97/INF.3; LEG 95/5; resolution A.27/Res. 1056/Rev.1; resolution LEG.3(91) and Circular Letters Nos.2711 and 2825

1 Resolution A.27/Res.1056/Rev.1 called for the promotion as widely as possible of the application of the Guidelines and also requested "the IMO Legal Committee and the ILO Governing Body to continue to keep the problem of unfair treatment of seafarers in the event of a maritime accident under review and to assess periodically the scale of the problem". Furthermore, in the report of the Legal Committee on the work of its 100th session, document LEG 100/14, the Legal Committee "agreed that the issue of fair treatment of seafarers in the event of a maritime accident should remain on the agenda of the Legal Committee and delegations were invited to submit proposals for outputs to improve compliance with the Guidelines to its next session".

2 Accordingly, the ITF and IFSMA surveyed the extent to which compliance with the Guidelines by Member States may be improved. To that end, the ITF and IFSMA commissioned Seafarers' Rights International to distribute a questionnaire to Member States and to analyse the replies to the questionnaire. A copy of the questionnaire is contained in the annex.

3 Thirty-nine Member States of IMO replied to the questionnaire, representing 22.5% of the membership of IMO. No State expressed the view that the Guidelines inadequately or unduly protect the rights of seafarers, or are unfair to other parties.

4 Seventeen Member States (44% of the respondents) replied that they have already passed either all or some of the principles of the Guidelines into the laws of their countries. Analysis of the laws of these States shows the existence of different legislation which may be regarded as models for giving effect to the Guidelines.

5 Thirteen Member States (33% of the respondents) replied that their existing laws already adequately protect the rights of seafarers. Analysis of the laws of these States shows the existence of different legislation which may also be regarded as models for giving effect to the Guidelines.

6 Twelve Member States (31% of the respondents) specifically requested the provision of model legislation by the IMO regarding the passing of the Guidelines into their law.

7 Four Member States (10% of the respondents) specifically requested the provision of information by the IMO regarding the meaning of the Guidelines.

8 Some Member States who did not reply to the questionnaire may also find helpful the provision of model legislation by IMO to give effect to the Guidelines, and/or the provision of information by IMO regarding the meaning of the Guidelines.

9 Member States are therefore invited to consider whether the implementation of the Guidelines should be improved by providing: (a) model legislation to give effect to the Guidelines; and/or (b) information regarding the meaning of the Guidelines; and/or (c) any other type of information, analysis or synopsis based on the laws of those States that have already given full and complete effect to the Guidelines.

Action requested of the Legal Committee

10 The Legal Committee is invited to take note of the information provided in this document and to comment as it may deem appropriate.

ANNEX



QUESTIONNAIRE TO MEMBER GOVERNMENTS OF IMO

PLEASE NOTE THAT ALL RESPONSES WILL BE KEPT CONFIDENTIAL AND NO INDIVIDUAL COUNTRIES WILL BE IDENTIFIED IN ANY REPORT ON THE QUESTIONNAIRE WITHOUT EXPRESS AGREEMENT

1. Have the Guidelines been passed into the law/s of your country? Please tick:
 YES NO

2. If the Guidelines have been passed into the law/s of your country, have all or some of the paragraphs of the Guidelines been passed into the law/s of your country? Please tick:
 ALL PARAGRAPHS
 SOME PARAGRAPHS

3. If some of the paragraphs of the Guidelines have been passed into the law/s of your country, please tick the paragraphs of the Guidelines that have been passed into the law/s of your country. Please tick:
 PARAGRAPH 1
 PARAGRAPH 2
 PARAGRAPH 3
 PARAGRAPH 4
 PARAGRAPH 5
 PARAGRAPH 6
 PARAGRAPH 7
 PARAGRAPH 8
 PARAGRAPH 9 (9.1 – 9.22)
 PARAGRAPH 10 (10.1 – 10.12)
 PARAGRAPH 11 (11.1 – 11.8)
 PARAGRAPH 12 (12.1 – 12.7)
 PARAGRAPH 13 (13.1 – 13.4)

4. If some or all of the paragraphs of the Guidelines have been passed into the law/s of your country, does the law/s give rights to seafarers which are enforceable in your courts? Please tick:

- YES
 NO

5. If some or all of the paragraphs of the Guidelines have been passed into the law/s of your country, please identify the specific law/s: ie title of the law/s, and date of the law/s, and relevant provisions in the law/s

6. If some or all of the paragraphs of the Guidelines have not been passed into the law/s of your country, please explain the reason/s for not passing those paragraphs of the Guidelines into the law/s of your country. Please tick one of more of the following answers:

- The existing law/s adequately protects the rights of seafarers. Please identify the law/s.
 The Guidelines inadequately protect the rights of seafarers
 The Guidelines unduly protect the rights of seafarers and are unfair to other parties
 The Guidelines are unclear and/or ambiguous
 The Guidelines are still under consideration
 Please state any other reason

7. If some or all of the paragraphs of the Guidelines have not been passed into the law/s of your country, please explain what action, if any, your country may require in order for those paragraphs of the Guidelines to be passed into the law/s of your country. Please tick one or more of the following answers:

- The provision of model legislation by the IMO regarding the passing of the Guidelines into national law
 The provision of information by the IMO regarding the meaning of the Guidelines
 The amendment of the Guidelines by the IMO
 Please explain any other action

RESPONSES TO BE RETURNED PLEASE NO LATER THAN 31 JANUARY 2014 TO:

**SEAFARERS' RIGHTS INTERNATIONAL
ATT: DEIRDRE FITZPATRICK
EXECUTIVE DIRECTOR
49-60 BOROUGH ROAD
LONDON SE1 1DR
EMAIL: d.fitzpatrick@seafarersrights.org**