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SUB-COMMITTEE ON STANDARDS OF
TRAINING AND WATCHKEEPING
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Agenda item 7.8

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COMPREHENSIVE REVIEW OF THE STCW CONVENTION AND THE STCW CODE

Consideration of proposed amendments of section A-VIII/1

Submitted by the International Transport Workers' Federation (ITF)

SUMMARY

Executive summary:	This document comments on documents STW 41/7/38 (Norway) and STW 41/7/50 (Austria <i>et al.</i>)
Strategic direction:	5
High-level action:	5.2
Planned output:	5.2.2.1
Action to be taken:	Paragraph 13
Related documents:	STW 38/17; STW/ISWG 1/7/5, STW/ISWG 1/7/7; STW 40/14 and STW 40/14/Add.1; MSC 81/23/3, MSC 81/23/19, MSC 81/23/23; MSC 84/22/22; STW 38/13/7/Rev.1, STW 38/13/2, STW 38/12/7; STW 40/7/57; MEPC 53/INF.7; STW/ISWG 2/8; STW 41/7/8, STW 41/7/38 and STW 41/7/50

1 This document comments on STW 41/7/38 and STW 41/7/50, and is submitted in accordance with the provisions of paragraph 4.10.5 of the Guidelines on the organization and method of work of the MSC and the MEPC and their subsidiary bodies (MSC-MEPC.1/Circ.2).

Introduction

2 The Sub-Committee on Standards of Training and Watchkeeping at its fortieth session (2 to 6 February 2009), considered draft amendments to chapter VIII of the STCW Convention and Code relating to fitness for duty of seafarers, and agreed with the removal of the derogation clause to minimum hours of rest limits contained in paragraph 4, of what is currently section A-VIII/1 of the STCW Code.

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3 The Sub-Committee proposed other amendments to harmonize the rest hour provisions in section A-VIII/1 of the STCW Convention with the requirements of ILO Convention No.180 (ILO 180) and the ILO Maritime Labour Convention, 2006 (MLC, 2006) (expected to enter into force in 2011) by including a direct reference to other International Conventions in proposed paragraph 9.

4 At the 2nd *ad hoc* STW intersessional Working Group, ITF submitted in document STW/ISWG 2/8/2 evidence wherein an excessive number of accidents were attributed to fatigue. It also highlighted the problems, particularly on short voyage operations, where there are exclusions of the minimum hours of rest. We also strongly opposed the inclusion of any reduction to the safety provisions in the STCW Convention by introducing through the inclusion of any variation that is allowed in other non-IMO conventions.

General

5 Both documents STW 41/7/38 by Norway and STW 41/7/50 by Austria *et al.* have again ignored a number of crucial factors in their pursuit of more flexibility and they have not taken onboard much of the debate at previous meetings of the Maritime Safety Committee and the Sub-Committee on Standards of Training and Watchkeeping that have identified fatigue as a major contributory factor in accidents, particularly on short sea voyages. These factors are:

- .1 the ability of watchkeeping seafarers to operate in excess of the 14 hours per day currently provided for is the foremost reason why the industry has a problem with fatigue and subsequent accidents;
- .2 that the ILO conventions are primarily deal with social conditions and the primary safety convention for watch-keepers remains the STCW Convention. The current paragraph 9 introduces a concept previously rejected by all IMO Committees being the inclusion within regulations or standards of the requirement of a non-IMO convention; and
- .3 that at the time of the adoption of ILO 180, the ILO also adopted the resolution that made it clear that nothing in the (ILO) Convention should apply provisions less favourable than those contained in the revised STCW Convention. Less favourable we interpret to be to the welfare of the seafarer not the shipowner.

6 The proposed amendments in both of the documents, remove any requirement for a minimum period of 10 hours rest in any 24-hour period (in line with ILO 180) and the basic provision as a minimum for watchkeepers that the 10 hours could be reduced to not less than 6 consecutive hours. This provision in paragraph 2, section A-VIII/1 of the STCW Code has been prescribed in order to set a minimum rest period for watchkeeping personnel and cannot and should not be diluted by other means to reduce the safety on board. Both proposals allow for back-to-back days without the minimum hours of rest. ITF considers this even more dangerous than the discredited current paragraph 4. We do not agree that there should be any endeavour to import from the MLC 2006 broad exclusions of the basic minimum rest period relating to any safety provisions. In other words, safety cannot be contracted out.

The Link between Hours of Work, Fatigue and Accidents

7 As stated in document STW/ISWG 2/8/2 (ITF) there have been numerous papers and studies that identify fatigue as a major contributing factor in accidents and many organizations such as P and I insurance or Administrations such as the UK Marine Accident Investigation

Branch, (MAIB) which have identified a series of accidents that were fatigue related. In document MSC 84/22/22 (United Kingdom), the MAIB identified of 65 collisions, groundings and near misses one third involved a fatigued officer alone on the bridge. In a Swedish Maritime Administration (SMA) study (MEPC 53/INF.7) of the 32 reported collisions and groundings between 1997 and 2002, 84% occurred between 2300 and 0800 hrs and the majority were fatigue related. MAIB have also identified that there was a particularly high incidence of fatigue and subsequent accidents in the two watch system and more specifically on short sea voyages.

8 In a study initiated by the ITF (STW 38/13/2), it was identified that there was an exponentially increasing risk of accident beyond the 9th hour at work which doubles after the 12th hour and trebles after the 14th hour. When we consider an airline pilot is restricted to a maximum of 100 hours per month and we find it difficult to understand that we are talking about finding flexibilities around four times those limits, i.e. 98 hours per week. Similarly, doctors in the United Kingdom are being limited to a 48-hour week by an EU directive on safety grounds.

9 The proposed paragraph 8 of section A-VIII/1 clearly provides for exemptions in emergencies or drills but the ITF believe the proposal in paragraph 6 of STW/ISWG 2/8 would make the hours of rest provisions unenforceable. The nine provisions listed may cover most contingencies outside normal watchkeeping and must be factored in to the normal operation and manning of the vessel. They in no way warrant special derogation as short term peaks as on most vessels they are normal operational considerations.

10 ITF strongly disagrees that the present rest hour regime is sufficient to protect seafarers against fatigue and would argue that the only way to ensure the application of the STCW requirements is to restrict the flexibilities on what are already minimal hours of rest provisions for watchkeepers.

11 The reference to another non-IMO convention in the proposed paragraph 9 is totally contrary to IMO policy and the ITF is not aware of any other examples in IMO conventions. As the MLC will be subject to tacit amendments it would mean that the STCW Convention can be and possibly will be amended through an external convention or any other agreements or contracts that may be made at a national level. We believe this is a dangerous precedence and will not only apply to the reduction of hours of rest from 77 hours to 70 hours but any other provision including the minimum 6-hour rest period.

Conclusion

12 ITF believes there is proven reason why we should not retain the current paragraph 4 in section A-VIII/1 as it is the source of the worst problems of fatigue and subsequent accidents that have been encountered in the industry in recent years. Any proposal to remove, exclude or exempt the provisions of paragraphs 1 and 2 of section A-VIII/1 should be rejected as we consider there is sufficient flexibility, within the 14 hours work provided for, in the proposed paragraph 4. Further, the reference to exemptions under other non-IMO conventions contained in proposed paragraph 9 or section B-VIII/1 is inappropriate and should not be accepted.

Action requested of the Sub-Committee

13 The Sub-Committee is invited to take the information provided above into consideration when finalizing the text of section A-VIII/1.