

MARITIME SAFETY COMMITTEE
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Agenda item 16

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PIRACY AND ARMED ROBBERY AGAINST SHIPS

Interim guidelines on measures relating to the welfare of seafarers and their families affected by piracy off the coast of Somalia

Submitted by Italy, the Republic of Korea, the Philippines, BIMCO, ICC, ICMA, IFSMA, IMHA, INTERCARGO, INTERTANKO, ITF, the Nautical Institute, and OCIMF

SUMMARY

Executive summary: Working Group 3 of the Contact Group on Piracy off the Coast of Somalia has developed the attached interim guidelines and presents them to the Committee for its review. The Committee is invited to promulgate the interim guidelines via a Circular in order to provide a reference framework for addressing the welfare of seafarers and their families affected by piracy incidents

Strategic direction: 1

High-level action: 1.1.1

Planned output: 1.1.1.1

Action to be taken: Paragraph 4

Related documents: None

1 Working Group 3 (WG3) of the Contact Group on Piracy off the Coast of Somalia (CGPCS) is concerned with developing shipping self-awareness and other capabilities to support seafarers employed on ships operating in the High Risk Area off the coast of Somalia. Under its current remit, WG3 regularly reviews the lessons learned and the implementation of best management practices on board ships operating off the coast of Somalia. WG3 was also asked to identify labour issues and develop labour-related guidance in support of crew training and post event activities, including those specific to the welfare of seafarers and their families affected by piracy.

2 During the meeting of WG3 held in Djibouti on 13 November 2013, it was agreed that the Interim guidelines on measures relating to the welfare of seafarers and their families affected by piracy off the coast of Somalia, developed by participating States, the Maritime Piracy Humanitarian Response Programme (MPHRP) and industry partners, and coordinated by the WG3 Chair, should be accepted and forwarded for consideration by the CGPCS. The CGPCS was invited to forward them to the Committee, release as best practices in support of seafarers and their families affected by a piracy incident. It was anticipated that the interim guidelines would be for use by:

- .1 Shipowners or others who have responsibility for the operation of a ship;
- .2 Manning agents or others who have responsibility for (recruiting and) placing seafarers;
- .3 Flag States; and
- .4 States of nationality of the seafarers.

3 The 15th plenary session of the CGPCS, held on 14 November 2013, endorsed the Interim Guidelines, and agreed that the annex to this document should be forwarded to MSC 93 for its consideration with a view to the promulgation by means of a circular of the Interim Guidelines, thus providing a reference framework for addressing the welfare of seafarers and their families affected by piracy incidents.

Action requested of the Committee

4 The Committee is invited to review the attached Interim Guidelines on measures to support seafarers and their families affected by piracy incidents off the coast of Somalia and to promulgate the annex as a circular for use by shipowners, manning agents, flag States and States of seafarers' nationalities.

ANNEX

INTERIM GUIDELINES ON MEASURES RELATING TO THE WELFARE OF SEAFARERS AND THEIR FAMILIES AFFECTED BY PIRACY OFF THE COAST OF SOMALIA

INTRODUCTION

1 Purpose

These guidelines are specific to those stakeholders involved with ships sailing to or in areas off the coast of Somalia where there is risk of piracy and/or armed robbery, recognizing that many stakeholders in the maritime community have a part to play in helping to ensure that seafarers and their families affected by hijacking receive appropriate assistance, support, and care.

These guidelines list the roles that stakeholders should plan for providing welfare, as well as effective and prompt support to seafarers and their families involved in a piracy incident.

These guidelines have been prepared for the welfare of seafarers as defined below. With respect to fishing vessel personnel the following conventions are noted: the C188 Work in Fishing Convention, 2007 and R199 Work in Fishing Recommendation, 2007 as adopted at the 96th Session of the International Labour Conference.

2 Identification of Stakeholders

The principal stakeholders for whom these guidelines are provided within their respective areas of responsibility are:

- .1 Shipowners or others who have responsibility for the operation of the ship;
- .2 Manning agents or others who have responsibility for (recruiting and) employing seafarers;
- .3 Flag States; and
- .4 States of nationality of the seafarers.

Other stakeholders who also have a role and responsibility for the welfare of seafarers and their families include:

- .1 Trade Unions;
- .2 Seafarers;
- .3 Insurers;
- .4 Cargo interest parties;
- .5 Private Maritime Security Companies (PMSCs);
- .6 Welfare responders (e.g. IMHA, ICMA, ISWAN, etc.);
- .7 Navies;

- .8 Coast Guards;
- .9 Port States;
- .10 Intelligence and investigation services; and
- .11 United Nations agencies (and/or other similar agencies).

For the purpose of these guidelines the following definitions are used, based primarily on the identification/definition and role and responsibilities of these stakeholders as set out in the ILO Maritime Labour Convention 2006 (MLC):

- .1 **Shipowner (operator) (hereinafter "shipowner")** means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on Shipowners, regardless of whether any other organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner;
- .2 **Manning agent** means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of shipowner or placing seafarers with shipowner; and
- .3 **Seafarer** means any person who is employed or engaged or works in any capacity on board a ship, and **seafarers' employment agreement** includes both a contract of employment and articles of agreement.

RECOMMENDATIONS

1 Existing Requirements and Recommendations

- .1 States are urged to consider ratifying and giving full effect to the provisions of the 2006 Maritime Labour Convention (MLC) and to ensure full compliance with the 1974 SOLAS Convention as amended and the 1978 STCW Convention as amended. The MLC establishes a framework of internationally agreed rights, duties, and obligations on states, shipowners and seafarers, while its objective is to set minimum standards of seafarer's welfare and conditions of employment. States, shipowners, and seafarers are encouraged to apply and maintain the highest possible standards on board ships.
- .2 Flag States, shipowners, and other relevant stakeholders are urged to ensure compliance, as appropriate, with existing counter-piracy guidance which include, inter alia:
 - .1 Best Management Practices for Protection against Somalia-Based Piracy (BMP 4);
 - .2 MSC.1/Circ.1444 – Interim guidance for flag States on measures to prevent and mitigate Somalia-Based Piracy;

- .3 MSC.1/Circ.1390 – Guidance for Company Security Officers (CSOs) – preparation of a company and crew for the contingency of hijack by pirates in the Western Indian Ocean and the Gulf of Aden;
- .4 MPHRP – Good Practice Guide for Shipping Companies and Manning Agents for the Humanitarian Support of Seafarers and their Families; and
- .5 MPHRP – Seafarers Pre-Departure Piracy Awareness Training Guide.

2 Shipowners insurance cover in respect of crew

- .1 Shipowners should maintain appropriate insurance cover for seafarers against piracy-related risks, including medical care and treatment, seafarer's injury, disability, death, and repatriation. These liabilities are covered by the MLC. The flag States should ensure that shipowners maintain the same coverage including financial security to cover such risks.

3 Employment Terms and Agreements

- .1 Shipowners and manning agents should review their employment contracts to consider issues such as wages, bonuses, medical and life insurance in piracy high risk areas or opportunity for repatriation if/when a ship is destined for piracy high risk areas, without detriment to employment. Seafarers held hostage should not be dismissed, and consequently the payment of their wages should continue;
- .2 Flag States should, where possible, encourage shipowners of ships flying their flag to review their employment contracts to consider issues such as wages, bonuses, medical and life insurance in piracy high risk areas or opportunity for repatriation if/when a ship is destined for piracy high risk areas, without detriment to employment.

4 Education and Training

- .1 Shipowners and, where appropriate, manning agents should provide appropriate training for CSOs, SSOs and seafarers on board relating to BMP implementation, piracy awareness, and hostage-coping mechanisms pursuant to the STCW Convention, MSC.1/Circ.1390, and the Good Practice Guide for Shipping Companies and Manning Agents for the Humanitarian Support of Seafarers and their Families. This is particularly important as a prepared crew is usually more resilient and better able to cope and recover more quickly. Shipowners and manning agents should also consider providing appropriate training for office and administrative staff;
- .2 Flag States should ensure that appropriate training has been conducted for crews on board ships flying their flag and transiting high risk areas; and
- .3 States of nationality of the seafarers should ensure pre-departure awareness training for their seafarers (nationals).

5 Support to Families in the Event of Hijack

- .1 Shipowners should have plans in place to provide information, support, and assistance to families including guidance on how to respond to pirates and the media. Likewise, they should ensure the continued payment of wages and applicable entitlements to the affected seafarers' families. Manning agents should work in conjunction with shipowners to provide this information, support, and assistance;
- .2 Seafarers are also recommended to consider arranging for the transmittance of wages to their families; and
- .3 Flag States, states of nationality of the seafarers, and welfare responders should, as appropriate, liaise with shipowners and manning agents to ensure that information, support, and assistance is provided to families pursuant to the recommendations of MSC.1/Circ.1390 and the Good Practice Guide for Shipping Companies and Manning Agents for the Humanitarian Support of Seafarers and their Families, taking into account the potential sensitivity of some information during an ongoing piracy situation. For effective and strategic communication between families and companies, a Family Liaison Representative should be appointed in advance.

6 Post-Release Repatriation

- .1 Shipowners should, in accordance with the contract of employment and any other relevant obligations, provide financial security to ensure repatriation of seafarers released from pirate captivity as soon as practical, taking into account their medical condition and other considerations, *e.g.* safety, timing and location of debriefings, documentation/ID issues *etc.*, and in the event of any prolonged delay arrange for next of kin or representative of the next of kin to join the seafarer(s). Shipowners and manning agents should also ensure that relevant parties, including families, are kept fully informed of the status of seafarers and their travel plans;
- .2 In the event of a shipowner's financial default or insolvency, the flag State, states of nationality of the seafarers and, as appropriate, port States should provide transportation home as soon as practical, taking into account the medical condition and any other considerations, *e.g.* safety, timing and location of debriefings, documentation/ID issues, and in the event of any delay arrange for families to join the seafarer(s). States should ensure, in a manner consistent with domestic law, that relevant parties, including families, are kept fully informed of the status of seafarers and their travel plans;
- .3 In the event of a ship arriving at a safe port after hijack, port authorities should be sensitive to the needs of the crew and ship, and facilitate speedy clearances for crew repatriation, reunion with families, counselling, *etc.*;
- .4 All stakeholders involved in crew debriefings, investigations, or court appearances should give due consideration and be sensitive to the welfare of seafarers as well as their medical and psychological condition;

- .5 Welfare responders and shipowners and/or manning agents/union representatives should cooperate, as appropriate, on medical support, counselling and other specific needs; and
- .6 Flag States and states of nationality, as practicable, should provide any required documentation to ensure the safe and speedy repatriation of seafarers.

7 Post-Hijack Medical Support

- .1 Shipowners and manning agents should ensure any necessary continuation of medical care pursuant to measures adopted in accordance with regulation 4.2 of the MLC;
- .2 In the event of financial default or insolvency of the shipowners, the seafarer's state of nationality or state of residence of the seafarers should continue, as appropriate, to provide medical care; and
- .3 Welfare responders and shipowners and/or manning agents/union representatives should cooperate, as appropriate, on medical support, counselling, and other specific needs and, when appropriate, provide direct assistance wherever practical.

8 Compensation for Losses

- .1 Shipowners should ensure that compensation is paid for Seafarers' lost personal effects in accordance with statutory requirements and contractual obligations. Shipowners should check their rules on insurance cover and contractual entitlements as regards lost personal effects;
- .2 In the event of financial default or insolvency of the shipowners, flag States and states of nationality of the seafarers should consider providing compensation for seafarers' lost personal effects; and
- .3 Welfare responders should assist wherever practical.

9 Financial Support

- .1 Shipowners should ensure prompt payment of all/any outstanding wages and other contractual entitlements to the affected seafarers and are encouraged to consider further ex gratia payments;
- .2 In the event of financial default or insolvency of shipowners, flag States should make all reasonable efforts to secure payment of outstanding wages and other contractual entitlements; and
- .3 If the next of kin, whom a seafarer has a duty to support, does not have or receive any means for their support, the flag State or the seafarer's state of nationality is recommended to consider providing reasonable financial aid to them.

10 Future Employment

- .1 Shipowners and manning agents should consider ways to provide seafarers affected by Somalia-Based Piracy with suitable employment opportunities with the company or externally working with states and other parties;
 - .2 States of nationality of the seafarers should provide vocational training and qualifications programmes to support and provide returning seafarers affected by Somalia-Based Piracy with livelihood alternatives or opportunities for other suitable employment as necessary.
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