

TECHNICAL COOPERATION COMMITTEE  
65th session  
Agenda item 3(b)

TC 65/3(b)/2  
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**INTEGRATED TECHNICAL COOPERATION PROGRAMME**

**(b) Programme for 2016 and 2017**

**Fair treatment of Seafarers in the event of a maritime accident**

**Submitted by the International Transport Workers' Federation (ITF)**

**SUMMARY**

*Executive summary:* This document reports on the discussions of the Legal Committee concerning the 2006 Guidelines on fair treatment of seafarers in the event of a maritime accident adopted jointly by IMO. At LEG 102, the Legal Committee concluded that technical support and assistance should be provided by TCC in order to facilitate the wide implementation of the guidelines to improve the conditions for seafarers, taking into account human rights issues.

*Strategic direction:* No related provisions

*High-level action:* No related provisions

*Planned output:* No related provisions

*Action to be taken:* Paragraph 7

*Related documents:* LEG 102/12, LEG 102/4; LEG 101/4/1, LEG 101/12; 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); Circular Letters Nos.2711 and 2825; and TC 65/3(b)

1 The *Guidelines on Fair Treatment of Seafarers in the Event of a Maritime Accident* (the guidelines) were adopted by the Legal Committee at its ninety-first session on 27 April 2006 (resolution LEG.3(91)). They were also adopted by the ILO Governing Body at its 296th session on 12 June 2006. The guidelines entered into force on 1 July 2006 and are subject to voluntary acceptance by Member States. The implementation of the guidelines is being monitored by the Legal Committee.

2 Assembly resolution A 27/1056/Rev.1 entitled *Promotion as widely as possible of the application of the 2006 guidelines on fair treatment of seafarers in the event of a maritime accident* was adopted on 30 November 2011. The resolution invites Member Governments to consider amending their national legislation to give full and complete effect to the guidelines. The resolution further requests Member Governments, as a matter of urgency, to bring this resolution to the attention of any Government officials, in particular those involved in the administration of justice, who may be involved in decisions and procedures affecting the treatment of seafarers involved in maritime accidents, as well as shipowners and seafarers and their respective organizations and inform the IMO Legal Committee of the means by which this request has been implemented.

3 At the 100th session of the Legal Committee, the International Transport Workers' Federation (ITF) and the International Federation of Shipmasters' Associations (IFSMA) presented the findings of a survey conducted by Seafarers' Rights International (SRI) concerning respect for the rights of seafarers facing criminal prosecution. The survey, conducted in eight languages, was carried out over a 12-month period, ending in February 2012. A total of 3,480 completed questionnaires had been submitted by seafarers from 68 different nationalities. The findings of the survey strongly suggested that the rights of seafarers, as enshrined in the guidelines are often subject to violation and that there is widespread concern among seafarers.

4 At the 101st session of the Legal Committee a representative of the ITF introduced document LEG 101/4/1, which had been submitted by ITF, IFSMA and the Comité Maritime International (CMI), and reported on the outcome of a survey commissioned by ITF and IFSMA and conducted by SRI concerning the implementation of the guidelines. In response to the survey the Legal Committee decided that "it would be helpful if States that had not yet answered the survey would do so or provide information in some other form convenient to them, and if the sponsors of the survey could undertake to further analyse the responses and to report that analysis to the next session of the Committee for its consideration".

5 At the 102nd session of the Legal Committee a representative of the ITF introduced document LEG 102/4, which had been submitted by ITF, IFSMA, the Comité Maritime International (CMI) and InterManager, and reported on the analysis of the replies of Member States to the survey conducted by SRI. A total of 45 responses, representing 26% of the Member States of IMO, were analysed covering the answers and information contained in the responses to the survey as well as the very large number of implementing laws referred to by Member States in their responses to the survey.

6 The relevant part of the report of the Legal Committee's 102nd session is reproduced below:

"4 **FAIR TREATMENT OF SEAFARERS IN THE EVENT OF A MARITIME ACCIDENT**

4.1 The Committee was reminded that it had considered the outcome of a survey conducted by Seafarers' Rights International (SRI) at LEG 101, concerning the implementation of the 2006 Guidelines on fair treatment of seafarers in the event of a maritime accident, adopted jointly by IMO and ILO. The Committee recalled its suggestion to further analyze the responses to the survey.

4.2 The representative of the International Transport Workers' Federation (ITF), on behalf of the co-sponsors (the International Federation of Shipmasters' Associations (IFSMA), Comité Maritime International (CMI) and InterManager), introduced document LEG 102/4 reporting on the analysis of the replies from Member States to the survey circulated by SRI on behalf of ITF and IFSMA concerning the 2006 Guidelines.

4.3 The representative of SRI provided details of the analysis of the survey and invited the Committee to request the Technical Cooperation Committee (TCC) to consider providing technical assistance to Member States who had requested assistance with the implementation of the Guidelines. Member States already giving effect to the Guidelines were also urged to consider providing copies of their relevant laws together with information and advice if approached by other Member States requesting assistance. The other sponsors of LEG 102/4 expressed views regarding the seriousness and urgency of the issue.

4.4 Several observer delegations expressed their support for the project and, in particular, that the TCC be requested to provide assistance.

4.5 A substantial number of States supported the paper and, based on the views expressed, the Committee concluded that:

- this was an important issue for seafarers and should consequently be placed on the work programme of the Legal Committee;
- the Committee should consider guidance on the implementation of the Guidelines for any States that requested it, in particular for developing countries;
- technical support and assistance should be provided by TCC in order to facilitate the wide implementation of the Guidelines to improve the conditions for seafarers, taking into account human rights issues;
- further consideration was needed to be done regarding the progressive removal of legislation targeting seafarers and imposing criminal sanctions on them;
- it would be useful for States already giving effect to the Guidelines to provide translated copies of their laws to assist other States with their implementation efforts; and some States informed the Committee that they were ready to share their national legislation giving effect to the Guidelines;
- with regard to the compilation of statistics, it was also relevant to receive feedback from ports;
- States were urged to provide their embassies with the names of persons whom seafarers could contact to report violations of the Guidelines;
- seafarers should be given greater training and awareness of their rights; and
- the subject of seafarers' rights already on the curriculums of IMLI and WMU should be expanded.

4.6 The Committee expressed its thanks and appreciation to SRI and the co-sponsors for their excellent work, underscoring the importance of the subject and its relevance to the retention and recruitment of seafarers and the progressive development of the shipping industry. Member States who had not yet given effect to the Guidelines were encouraged to do so.

4.7 The Committee also noted with gratitude that the industry was prepared to contribute financially towards this work. The Committee supported the speedy implementation of the Guidelines and, in this regard, would report the outcome of these discussions to the TCC, MEPC, MSC and FAL."

**Action requested of the Committee**

7 The Committee is requested to integrate this category of assistance within the Integrated Technical Cooperation Programme.

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