

MARITIME SAFETY COMMITTEE
96th session
Agenda item 7

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**MANDATORY INSTRUMENT AND/OR PROVISIONS ADDRESSING SAFETY
STANDARDS FOR THE CARRIAGE OF MORE THAN 12 INDUSTRIAL
PERSONNEL ON BOARD VESSELS ENGAGED ON
INTERNATIONAL VOYAGES**

**Comments on the report of the Expert's Group established at SDC 3
Submitted by the International Transport Worker's Federation (ITF)**

SUMMARY

<i>Executive summary:</i>	This document provides comments on the documents by Germany (MSC 96/7/1) and Vanuatu (MSC 96/7/2) relating to a way forward for a mandatory instrument regarding the transport of more than 12 industrial personnel on international voyages
<i>Strategic direction:</i>	5.2
<i>High-level action:</i>	5.2.1
<i>Output:</i>	5.2.1.4
<i>Action to be taken:</i>	Paragraph 13
<i>Related documents:</i>	SDC 3/WP.1, SDC 3/WP.7; MSC 96/7/1, MSC 96/7/2; 1974 SOLAS Convention, articles VIII (b)(vi)(1) and (2)

Introduction

1 This document is submitted in accordance with paragraph 6.12.5 of the *Guidelines on the organization and method of work of the Maritime Safety Committee and the Marine Environment Protection Committee and their subsidiary bodies* (MSC-MEPC.1/Circ.4/Rev.4) and provides comments on documents MSC 96/7/1 (Germany) and MSC 96/7/2 (Vanuatu).

Discussion

2 MSC 95 authorized SDC 3 to establish an Expert's Group to identify suitable examples on the best way forward to develop a mandatory instrument and/or provisions addressing the safety standards for the carriage of more than 12 industrial personnel on vessels engaged on international voyages. MSC 95 agreed that policy issues should be discussed before any detailed technical work is undertaken. ITF participated in the Expert's Group. After discussions within the group, eight possible options were identified.

3 Of the eight options, six shared common elements to include industrial personnel within the 2008 SPS Code. The group agreed that there were possibilities to merge or incorporate some of these elements into a consistent way forward (SDC 3/WP.7, paragraph 34). There was wide support for considering industrial personnel as a sub-type of special personnel or as persons within the definition "all persons who are not passengers or members of the crew or children of under one year of age and who are carried on board in connection with the special purpose of that ship or because of special work being carried out by that ship", if the 2008 SPS Code were to be opened up for revision (SDC 3/WP.7, paragraph 28). The group agreed that amending the 2008 SPS Code could be one of the most suitable ways forward, in particular for conventional low-speed ships (SDC 3/WP.7, paragraph 20). Additionally, the group further noted that ships, except high-speed craft, would easily accommodate the transportation of industrial personnel within the 2008 SPS Code (SDC 3/WP.7, paragraph 31).

4 The majority of the group reached a consensus on amending the 2008 SPS Code as the first step or interim solution, which could later serve as a basis for a mandatory solution and be a suitable starting point to address the safety standards for the carriage of more than 12 industrial personnel on board vessels engaged on international voyages (SDC 3/WP.7, paragraph 35).

5 The group agreed that industrial personnel would need to meet an appropriate standard of medical fitness and safety and emergency training and agreed, at this stage, to only recognize the need for an appropriate standard of medical fitness and safety and emergency training, but not to decide on any specific standards as the appropriate reference. The group also agreed that whatever standards are agreed on in the future, equivalency should be allowed between the industry standards, non-mandatory IMO instruments or STCW standards (SDC 3/WP.7, paragraph 29).

Comments on document MSC 96/7/1 (Germany)

6 While ITF acknowledges that the concept in document MSC 96/7/1 is a possible way forward, there are concerns on a number of issues raised by the proposal to amend SOLAS chapter I and draft a new SOLAS chapter [XV]. The first concern is that it does not provide an interim solution and the amendment of SOLAS chapter I is not subject to the tacit acceptance procedure provided in the SOLAS Convention in article VIII(b)(vi)(2). The proposed amendment would require the acceptance by ratification of two-thirds of the Contracting Governments. This could require a very long time and may not be achievable (SDC 3/WP.7, paragraph 14). The problem inherent in amending SOLAS chapter I was considered by the group and they requested the Secretariat to provide legal advice to MSC 96 on the consequences of using the existing term "unless expressly provided otherwise" in SOLAS regulation I/2 or other approaches (such as SOLAS regulation II-1/1.5), without the need of amending SOLAS chapter I, to achieve a mandatory instrument and/or provisions (SDC 3/WP.7, paragraph 43.7).

7 The second concern is that the proposed new SOLAS chapter [XV] would require ships that fulfil the definition of a high-speed craft to match the HSC Code, while conventionally built offshore service vessels should conform to the requirements of the 2008 SPS Code (MSC 96/7/1, paragraph 8). This creates an unnecessary duplication of effort within the annexes of SOLAS. In regard to conventional offshore service vessels, it would be much simpler and straight forward to amend the 2008 SPS Code by removing the exclusion of industrial personnel in paragraph 1.2.3 of the Code and include the definition of industrial personnel prepared by SDC 2 (SDC 2/25, annex 5) within the 2008 SPS Code in chapter 1, section 1.3.11, as a subcategory of special personnel.

8 In regard to high-speed craft, there was discussion within the group that the nature of high-speed craft and their construction standards did not provide the same level of survivability, as conventional heavy scantling vessels, in the event of collision or allision. In developing the HSC Code requirements equivalent safety standards to conventional vessels were predicated on stringent operating parameters rather than equivalent construction standards. Taking that into consideration, the construction standards for high-speed passenger craft should not be reduced when transporting industrial personnel and there is no need to amend the HSC Code.

Comments on document MSC 96/7/2 (Vanuatu)

9 The proposal of Vanuatu is to model the carriage of industrial personnel on the MODU Code requirements and make those requirements applicable to all types of ships in the entire universe of merchant ships. The proposal received no support within the group, but was included in the report of the Expert's Group along with all other options considered. SDC 3 recognized that vessels under the MODU Code are a special case of unique non-SOLAS vessels required by the offshore industry, whereas the provisions of other codes and guidelines were framed to support SOLAS (SDC 3/21, paragraph 16.7.2).

10 The MODU Code takes into account that offshore installations may be considered as both an industrial worksite with industrial personnel under the control of an Offshore Installation Manager (OIM) and a marine operation with seafarers under the control of a ship's master. There is a division of responsibility and control in MODU operations that is not applicable to SOLAS ships. Attempting to apply the dual manning concept created to address the unique operations of MODU's to conventional merchant ships could destabilize the established General Maritime Law governing the relationship between ship owners, masters and seafarers that has developed over centuries.

11 Industrial personnel working aboard MODU's or vessels are not considered seafarers under some national laws and are denied the protection afforded to seafarers regarding minimum wages, hours of work and rest, abandonment and repatriation, medical care, liability for injury or death, and other social benefits. Having two different classes of personnel working on board the same ship, under different employment laws, can create tensions that could affect the efficiency and safety of the ship.

12 While the primary role of this Organization is safety, it should have a holistic view of the consequences of its actions on the maritime community. Action that has the potential for destabilizing existing maritime law across the entire industry should not be taken within a narrow debate on the issue of the transport of industrial personnel to and from offshore installations.

Action requested of the Committee

13 The Committee is invited to consider the above, in particular paragraph 12, and take action as appropriate.