

MARITIME SAFETY COMMITTEE
97th session
Agenda item 6

MSC 97/6/3
13 September 2016
Original: ENGLISH

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

Draft amendments to the definition of industrial personnel

Submitted by the International Transport Workers' Federation (ITF)

SUMMARY

Executive summary: This document provides definitions of industrial personnel and industrial activities that clarify the scope of personnel and activities to be covered in addressing the safety standards for the carriage of more than 12 industrial personnel on board vessels engaged on international voyages

Strategic direction: 5.2

High-level action: 5.2.1

Output: 5.2.1.4

Action to be taken: Paragraph 11

Related documents: SDC 2/25; SDC 3/WP.7; MSC 95/10/8, MSC 95/WP.12, annex 1, MSC 95/22; MSC 96/WP.7 and MSC 96/25

Introduction

1 This item was placed on the agenda of the Maritime Safety Committee (MSC) as a new output at MSC 95, to address the narrow issue of what safety standards should apply to ships transporting or accommodating more than 12 industrial personnel. The compelling need justifying its inclusion in the work programme was based on the operational requirements for the offshore energy sector (MSC 95/WP.12, annex 1). MSC 95 assigned the task of recommending a possible way forward to an Experts Group on Carriage of more than 12 Industrial Personnel on Board Vessels Engaged on International Voyages at SDC 3. The Experts Group proposed a number of options for consideration at MSC 96.

2 MSC 96 established a Working Group on Carriage of Industrial Personnel to consider the proposed options and recommended the way forward. Having considered the report of the working group (MSC 96/WP.7), MSC 96 agreed to a number of matters, in particular, the need for a permanent solution by developing a new mandatory code under SOLAS. Some other matters, for which a consensus was not reached, were referred to MSC 97 for further discussion. Among those matters were more precise definitions of "industrial activities" and "industrial personnel", to clarify the scope of personnel and activities to be covered by the new code.

Discussion

3 ITF is concerned that work on this output is proceeding in a direction that was not contemplated during the discussions at MSC 95, i.e. to determine whether there was a compelling need for defining the safety standards for vessels transporting workers in the offshore energy sector. It now appears, based on the discussions within the working group at MSC 96 and the lack of specificity in the definition of industrial personnel, that there is an effort to expand the scope of this output beyond its original scope. An open-ended definition would permit a new category of industrial workers that could be carried on board all ships in all sectors of the maritime industry to perform unspecified work aboard those ships.

4 This document is limited to the narrow issue of definitions of "industrial activities" and "industrial personnel". These definitions are extremely important as they determine the scope and the extent to which ships and sectors of the industry will be affected by a new code. This output arose to address a compelling need within the offshore energy sector and the definitions should be framed within that context. To expand the scope beyond the offshore sector, which was the basis for determining a compelling need, would be inconsistent with the fundamental procedural rules of the Organization. The procedure requiring demonstrating a compelling need was developed to limit the Organization's work to the essential needs of the maritime industry and avoid time consuming debate and resources on unnecessary or speculative matters.

5 In debate within the working group at MSC 96, some views were expressed that a new code covering industrial activities should include all ships on international voyages regardless of the sector of the maritime industry with no restrictions on what work may be performed. This would encompass all cargo and passenger ships in the international maritime transportation system and, therefore, leads to a sweeping expansion of the original intent of the output.

6 It is recalled that in the justification submitted for consideration at MSC 95 the term "offshore energy sector" was in square brackets (MSC 95/WP.12, annex 1). The text in square brackets was removed on the basis that not all offshore installations served by ships transporting or accommodating industrial personnel may be in the energy sector. They may be engaged in aquaculture, ocean mining or other activities unrelated to energy. It was not considered that deleting the words in square brackets would bring all cargo and passenger ships, or some envisioned ships of the future, within a new code on the transport and accommodation of industrial personnel. A careful reading of annex 1 to document MSC 95/WP.12, provides no basis or justification for expanding the scope of the output beyond servicing installations in the offshore sector.

7 The definition of industrial personnel set out in the working group's report (MSC 96/WP.7) places no restriction or limits on the industrial personnel working on board the ships that are transporting or accommodating them. The underlying reason for a new code is that industrial personnel are on board only for transport or accommodation and, therefore, cannot be considered as special purpose personnel. If they perform some work on board they could come within the definition of special purpose personnel and there would be no need for a new industrial personnel ship code.

8 It has been generally recognized that industrial personnel are essentially passengers, with unique risk profiles that may not require passenger-ship standards for the ships that transport or accommodate them. But, the definition, with no limits on industrial personnel working on board any ship in all sectors of the maritime industry, as proposed by the working group at MSC 96, does, in effect, create a new category of seafarers, without requiring any international training on safety or social standards that apply to seafarers. This has a potential to destabilize the existing international regulatory and legal framework applicable to seafarers, shipowners and Administrations with unforeseeable consequences. It would create conflicts with other IMO instruments and with the ILO Maritime Labour Convention that has been ratified by 79 countries covering 91% of the world fleet. If the definition is to remain open-ended, a consideration should be given to referring it to the Legal Committee for checking potential consequences on the maritime law, in general.

9 MSC 96 noted that the definition of "industrial personnel" was developed by SDC 2 and should be used as a basis for further work (MSC 96/25, paragraph 7.3.4). Following this instruction, minor amendments to the definition of industrial personnel, as set out in annex 5 to document SDC 2/25, are proposed in the annex. The first amendment deletes "children of under one year of age" as suggested by the United States (MSC 95/10/8), as it implies that persons one year and a day old could be industrial personnel. The second amendment links industrial activities to offshore installations and provides a definition of industrial activities.

10 While adopting regulations, the Committee should have a holistic view on the consequences of its actions on the maritime industry. Action that has the potential for destabilizing existing regulatory regimes 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. The amended definition, as set out in the annex, limits the scope to offshore installations as originally intended and should be considered as the definition of industrial personnel for the purposes of regulating the safety standards for the carriage of more than 12 industrial personnel on board vessels engaged on international voyages.

Action requested of the Committee

11 The Committee is invited to consider the above discussion, with particular regard to paragraphs 9 and 10, and take action as appropriate.

ANNEX

DRAFT AMENDMENTS TO THE DEFINITION OF INDUSTRIAL PERSONNEL

NOTE: The proposed amendments are based on the definition of industrial personnel set out in annex 5 to document SDC 2/25, and indicated with deletions in ~~strike through~~ and additions in **bold and underlined**.

Paragraphs 4 and 5 are amended to read as follows:

"4 *Industrial personnel* means all persons who are not passengers or members of the crew ~~or children of under one year of age~~, and:

- .1 **are not less than [18] years of age;**
- .2 are transported or accommodated on board for the purpose of ~~offshore~~ industrial activities¹ **related to offshore installations;**
- .3 are able-bodied and meet appropriate medical standards²;
- .4 have received basic safety training, according to relevant industry standards³ **which are acceptable to the Administration;**
- .5 have a fair knowledge of the layout of the ship and the handling of the ship's safety equipment before departure from port (e.g. through a safety briefing); and
- .6 are equipped with appropriate personal safety equipment suitable for the risks to safety such personnel are likely to experience on the forthcoming voyage (e.g. immersion suits).

5 *Industrial activities* are the construction, maintenance, operation or servicing of offshore installations such as, but not limited to, the wind farm or petroleum energy sector, aquaculture, ocean mining or similar installations.

6 Member Governments are invited to use the above definition when regulating vessels for the safe carriage of industrial personnel and to bring it to the attention of all parties concerned."

¹ Examples of such activities may include safe transfer of personnel, with other examples referred to under offshore operations in paragraph 6.2.2.11 of resolution A.1079(28).

² Equivalent to STCW I/9.

³ STCW A-VI/1, paragraph 2, or industry standards, e.g. Global Wind Organization (GWO), Offshore Petroleum Industry Training Organization (OPITO), Basic Offshore Safety Induction and Emergency Training (OPITO accredited) or equivalent standard. An example for personnel undergoing transfer from ship to foundation or vice versa, will require specific transfer training.