

LEGAL COMMITTEE  
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Agenda item 4(b)

LEG 110/4(b)  
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## FAIR TREATMENT OF SEAFARERS

### (b) Fair treatment of seafarers in the event of a maritime accident

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

#### SUMMARY

*Executive summary:* IMO and ILO Member Governments were invited to implement the *Guidelines on fair treatment of seafarers in the event of a maritime accident* (resolution LEG.3(91)) as from 1 July 2006. This document informs the Member States about a new survey of States regarding implementation of the Guidelines. In addition, the survey aims to support the work of the Joint ILO-IMO Tripartite Working Group to Identify and Address Seafarers Issues and the Human Element (JTWG).

*Strategic direction, if applicable:* 6

*Output:* 6.4

*Action to be taken:* Paragraph 11

*Related documents:* LEG 100/5/1, LEG 100/14; LEG 101/4/1, LEG 101/12;  
LEG 102/4, LEG 102/12; resolution LEG.3(91);  
resolution MSC.255(84) and resolution A.1056(27)

#### Introduction

1 ITF and Seafarers' Rights International (SRI) have made multiple submissions to this Committee on the subject of the fair treatment of seafarers and specifically, observance of the Guidelines on fair treatment of seafarers in the event of a maritime accident (the Guidelines). The Guidelines were adopted through resolution LEG.3(91) dated 27 April 2006 and Member Governments were invited to implement the Guidelines as from 1 July 2006. The Guidelines are expressly referenced in Resolution MSC.255(84) adopting the Casualty Investigation Code.

2 At the 100th session of the Committee, ITF reported a worldwide survey conducted by SRI of 3480 seafarers of 68 different nationalities concerning their experiences of facing criminal charges. The survey found that the Guidelines may often be subject to violation and that there was widespread concern amongst seafarers concerning criminalization. Five years later, SRI conducted an in-country survey of 5,200 seafarers in 10 States. 82.68% of respondent seafarers stated that they were very strongly or moderately concerned about facing criminal charges in connection with incidents related to their work, such as fatal accidents, marine pollution and drugs found on the ship.

3 ITF and SRI consider that there continue to be instances of unfair treatment of seafarers following maritime accidents and maritime casualties.

#### **Prior survey of States**

4 Previously, SRI conducted a survey of IMO Member States concerning implementation of the Guidelines in national laws. The results were reported to the 101st and 102nd sessions of the Committee. The replies were in three categories: one group of Member States stated that they implement the Guidelines by enactment with reference to the Guidelines; a second group of Member States considered that their existing laws already covered the rights contained in the Guidelines and that there was no need to enact the Guidelines into national law; and a third group of Member States requested assistance with implementation of the Guidelines and/or indicated that the Guidelines were still under consideration.

#### **New survey of States**

5 ITF and SRI are conducting a new survey of States on the implementation of the Guidelines in national laws.

6 The purpose of the survey is twofold: first the survey will update the number of States that give effect to the Guidelines. Second, the survey aims to provide a contribution to the work of the JTWG which will be considering concrete proposals on fair treatment of seafarers detained on suspicion of committing maritime crimes.

7 The experience of ITF and SRI shows that a maritime accident may sometimes result not only in a casualty investigation but also in a criminal investigation.

8 ITF and SRI recognize that the Guidelines could be used as a model to develop similar guidelines on maritime crimes and so it is important to determine the extent to which the Guidelines are already being used in situations of maritime crimes.

9 To deal with these issues, the survey will contain the following questions. The questions in the survey have been kept short and simple so that they are convenient to answer.

Question 1. Have the Guidelines been passed into the national laws of your State?

Question 2. If so, please identify the applicable laws.

Question 3. Are the Guidelines in relation to maritime accidents also applied to maritime crimes in your State?

10 All Member States are kindly requested to respond to the survey. The results of the survey, together with an analysis, will be reported to the next session of the Committee by ITF and SRI and to the JTWG.

#### **Action requested of the Committee**

11 The Legal Committee is invited to note the above information and to comment as appropriate.

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