



Mexico City Policy

ITF policy on minimum conditions on merchant ships



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Foreword

At the ITF's 41st congress in Durban in August 2006, the decision was made to carry out a thorough and systematic review of the flags of convenience (FOC) campaign. The last FOC policy review, culminating in the Delhi policy, was completed in 1998 on the 50th anniversary of the campaign. With this latest review the affiliates wanted to take the FOC campaign to a new level, fit for the challenges of the twenty-first century.

That determination was born because in the period since 1998 there had been so many changes, both internally and externally. The FOC campaign had seen the birth of the International Bargaining Forum (IBF) and with it a new era for international wage bargaining. At the same time the FOC inspectorate almost doubled in size and was better trained, better equipped and better coordinated than ever before. Furthermore, a new ITF campaign against ports of convenience (POC) had been launched.

Meanwhile, the shipping industry had experienced some dramatic changes, with huge advances in technology, faster cargo handling, bigger ships, more complex ownership structures, shifting employment trends and significant legal developments.

As a consequence, this review process was more rigorous than ever before. Over four years an elected group of ITF maritime leaders examined every aspect of the campaign, including policies, strategies, processes and structures. Views were gathered from affiliated maritime unions. Every issue was discussed and debated at length. In some cases there were opposing views and it sometimes seemed that consensus would not be possible. But throughout the process those involved showed an unswerving

commitment to take the campaign forward, and worked extremely hard to reach a compromise, even on the most contentious issues.

The result of this review was finally presented to the ITF's 42nd congress in Mexico City in August 2010, and all the recommendations and conclusions were adopted, including a new FOC policy: the Mexico City policy.

This policy is the backbone of the FOC campaign, and sets out its aims and objectives, its core principles and values and the policies and procedures that govern how it operates. The changes that have been made bring the campaign firmly into the twenty-first century, while keeping true to its core values. It brings the interests of workers to the forefront and it takes the concept of solidarity – which is at the heart of the campaign, the ITF and the trade union movement as a whole – and lifts it to new heights.

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ITF policy on minimum conditions on merchant ships

This document is a stand alone statement of ITF policy and must be read in conjunction with other ITF policies as decided by relevant ITF bodies from time to time (ITF policies).

This policy replaces the policy adopted by the ITF's 39th congress in New Delhi, known as the Delhi policy.

Any explanatory notes concerning the history or development of ITF policies are not binding statements of ITF policies.

The English language version of this policy is to be considered to be the definitive version of the policy.

1

Statement of principles

The ITF opposes the flags of convenience (FOC) system and believes that there should be a genuine link between the flag a vessel flies and the place where it is beneficially owned and controlled. As a general rule, FOC registers fail to enforce minimum social standards and/or trade union rights for seafarers and have demonstrated both an unwillingness and an inability to abide by international standards. Such standards include international safety standards, international maritime labour standards and human and trade union rights. As a consequence there is a lack of social control over vessels on such registers as exercised by democratic and independent trade unions.

2

FOCs enable shipowners to minimise their operational costs by, inter alia, tax avoidance, transfer pricing, trade union avoidance, recruitment of non-domiciled seafarers and/or passport holders on very low wage rates, non-payment of welfare and social security contributions for their crews, using seafarers to handle cargo, and avoidance of strictly applied safety and environmental standards. As a result, FOC registers enjoy a competitive advantage over those national registers which operate with high running costs and are subject to the laws and regulations of properly established maritime administrations in the flag state. FOCs also allow shipping companies to establish complex ownership structures that are characterised by a lack of administrative and managerial accountability and transparency.

3

The ITF believes that FOCs amount to unfair competition. Crews are often selected on the basis of cost rather than quality and the employment is of a casual nature and little consideration is therefore given to either the needs of the crew or the long-term sustainable needs of the industry and society as a whole. FOC registers generally do not contribute to the training of seafarers or to the career development of seafarers serving on vessels flying their flag.

4

The ITF is against discrimination and abuse of seafarers and believes that the use of FOC registers facilitates direct exploitation and enables owners to pay and treat seafarers as they deem fit. The balance of power is unequal.

Statement of objectives

In view of the above, the ITF campaigns against FOCs and substandard shipping with the following objectives:

- a. To protect and enhance the conditions of employment of seafarers and to ensure that all seafarers are protected from exploitation regardless of, for example, colour, nationality, sex, race, religion or sexual orientation;
- b. The elimination of the FOC system and the establishment of a regulatory framework for the shipping industry based on the concept of a genuine link between the flag a ship flies and the place where it is beneficially owned and controlled;
- c. To attack substandard shipping and seek ITF acceptable standards on all ships irrespective of flag using all political, industrial and legal means at the ITF's disposal;
- d. To strengthen affiliated unions in order to maximise international solidarity in support of the campaign;
- e. The universal recognition and application of relevant international minima – in particular, the ILO Maritime Labour Convention 2006, ILO core labour standards, relevant IMO instruments and human rights instruments – on all ships irrespective of flag.

In order to pursue the FOC campaign, the ITF operates on two fronts:

- a. Politically, it lobbies governmental and inter-governmental organisations with a view to raising standards within the industry and strengthening the link between the flag a ship flies and the nationality of the beneficial owners and those who control the vessels;

- b. Industrially, it seeks to secure acceptable minimum wages and conditions for seafarers on board FOC and substandard vessels by engaging in international collective bargaining with shipowners, employers and their representatives, and other forms of constructive dialogue with industry participants, and by way of practical solidarity action between ITF affiliates worldwide.

7

The FOC campaign is built on solidarity between seafarers and dockers and their respective trade unions. The success of the FOC campaign depends, among others, upon the involvement and strength of dockers' unions worldwide. Therefore, support for dockers and their unions is integral to the FOC campaign, including support for the ITF's ports of convenience (POC) campaign, including by seafarers themselves.

Definition of a flag of convenience (FOC)

8

The ITF defines flags of convenience as:

Where the beneficial ownership of a vessel is found to be elsewhere than in the country of the flag the vessel is flying, the vessel is considered as sailing under a flag of convenience. In cases where the identification of the beneficial owner is not clear, effective control will be considered and any vessel where there is no genuine link between the flag state and the person(s), or corporate entity with effective control over the operation of the vessel shall be considered as sailing under an FOC.

9

For the purposes of ITF policy, beneficial ownership refers to ultimate beneficial ownership or interest by a natural person. Where beneficial ownership is unclear, the ITF shall take account of who has effective control of the ship. Effective control is taken to mean control by an individual or group of individuals over a ship.ⁱ

10

Any register can be declared an FOC on the basis that the majority of vessels on the register are not beneficially owned and/or effectively controlled within the flag state and the register does not satisfy the criteria set out in paragraph 11 below.

11

In addition to the above definition of an FOC, the ITF also takes into account the following criteria when determining whether to declare a register as an FOC:

- a. The ability and willingness of the flag state to enforce international minimum social standards on their vessels, including respect for basic human and trade union rights, freedom of association and the right to collective bargaining with bona fide trade unions.
- b. The social record as determined by the degree of ratification and enforcement of ILO conventions and recommendations.

- c. The safety and environmental record as revealed by the ratification and enforcement of IMO conventions and revealed by port state control inspections, deficiencies and detentions.

The union(s) in the flag state may, if the overall conditions that apply to their national flag are not acceptable to them, request that the ITF declare the register as an FOC. The ITF reserves the right to declare any register an FOC if circumstances so dictate. The ITF also reserves the right to declare any ship to be an FOC ship on a ship-by-ship basis, following consultation with the flag state union(s).

ⁱ Guidance note:

The beneficial owner of the ship is the person who has ultimate power and who exercises true control over the ship. Effective control is the person or entity with ultimate decision making responsibility and accountability, namely true control. Identifying who has beneficial ownership of a ship or who exercises effective control over a ship is essentially a question of fact

In its report *Behind the Corporate veil: Using Corporate Entities for Illicit Purposes* (Paris, 2001) the OECD describes beneficial ownership as follows:

“beneficial ownership’ refers to ultimate beneficial ownership or interest by a natural person. In some situations, uncovering the beneficial owner may involve piercing through various intermediary entities and/or individuals until the true owner who is a natural person is found. With respect to corporation, ownership is held by shareholders or members. In partnerships, interests are held by general and limited partners. In trusts and foundations, beneficial ownership refers to beneficiaries, which may also include the settler or founder.”

In the same report the OECD refers to effective control as follows:

“control’ means effective control by an individual or a group of individuals over a corporate vehicle. Thus, with respect to the types of corporate vehicles examined in the report, the relevant inquiry will be who exercises effective control (rather than legal control) over the corporate vehicle. In many misuses of corporate vehicles, the beneficial owner or settler/founder controls the corporate vehicle despite outward appearances suggesting control by a third party. For example, directors of a corporation could merely be ‘nominees’ who pass on the duties required of a director to the beneficial owner and accept instructions from the beneficial owner. With respect to trusts, the settler may continue to exercise effective control over the trustee through the use of a trust ‘protector’ and a letter of wishes.”

Registers not declared as FOC

The ITF recognises the right of its affiliates to take action against any vessel, irrespective of flag, to secure ITF acceptable standards. For non-FOC vessels, such action should normally only be taken with the agreement of the ITF affiliated seafarers' union(s) in the flag state.

ITF acceptable standards for FOC vessels

All vessels designated as flying a flag of convenience should be covered by an ITF approved collective bargaining agreement signed in accordance with this policy.

ITF acceptable standards for second register vessels

Second registers are the domain of affiliated unions in the flag state and no affiliate shall negotiate in respect of crew on second register vessels without the approval of the ITF affiliates in the flag state. Collective bargaining agreements concluded on second register vessels, or vessels flying flags declared by the ITF as offering similar conditions, must not be below the ITF TCC benchmark and ITF standards, as amended from time to time. In signing any agreement, the flag state union shall, where practical, enter into appropriate bilateral arrangements with the union(s) in the country of labour supply.

ITF acceptable standards for national flag vessels

ITF acceptable standards for national flag vessels are laid out in the ITF's policy on national flags (attached to this policy).

Bareboat chartering

Vessels bareboat chartered into and from a flag which are genuinely aimed at the development of national flag shipping and in which the full possession and control of the vessel has passed to a national or corporate entity in the flag state which exercises effective control over the vessel, will be considered to be national flag vessels provided that the union(s) in the country of beneficial ownership agree(s).

Dual or parallel registered vessels

Dual or parallel registered vessels shall be considered as FOC vessels. However, national flag vessels dual or parallel registered into and out of a flag of convenience for the sole purpose of registering a ship mortgage are, provided the union(s) in the country of beneficial ownership agree(s), and where all conditions on board are national, considered to be national flag vessels.

19

Cabotage

Cabotage shall be reserved for national flag vessels of the country concerned.

20

The ITF supports the retention and extension of cabotage at a national level and recognises the importance of such arrangements to secure sustainable long-term employment for seafarers on board ships engaged in regular trades within a particular country. In order to avoid social dumping, any vessel not forming part of such arrangements, whether an FOC or non-FOC vessel, which subsequently becomes involved in the cabotage trade, must recognise standards, which have been agreed for vessels trading within the designated country.

Regional standards

The ITF recognises the right of all affiliates within a specific and defined region to propose to the FPC regional standards covering vessels trading exclusively within and manned by seafarers from that region.

22

Rights and responsibilities for FOC vessels

The ITF agrees that in principle all affiliates representing seafarers have the right to conclude agreements which conform with ITF Policy provided that the ITF procedures set out herein are followed. In having this right ITF affiliates recognise that they also have responsibilities to abide by ITF policy, including the ITF's seafarers' charter policy.

23

The ITF should continue with the policy of determining the 'value' of an agreement on the basis of total crew costs (TCC) and in accordance with the standards set by the FPC (fair practices committee).

Negotiating rights and responsibilities for FOC vessels

Negotiating rights for FOC vessels will be allocated according to what is in the best interests of the crew. The ITF considers that this is normally the union(s) in the country of beneficial ownership or, where beneficial ownership is unclear, the country of effective control. Such union(s) shall, where practical, enter into appropriate bilateral arrangements with the union(s) in the country of labour supply. ⁱⁱ

In all circumstances where collective agreements are concluded:

- a. The entire crew must be covered by the agreements concerned;
- b. All the crew should be members of the affiliated union(s) concerned and the union(s) must fulfil the minimum obligations to those members as stipulated by the FPC from time to time, including the ITF seafarers' charter policy;
- c. All members of the crew, whether domiciled in the country of beneficial ownership and/or effective control or not, must be treated in a fair and equitable manner;
- d. The ITF secretariat must be consulted before an ITF special agreement is signed and before ITF welfare fund fees are paid;
- e. Any funds or levies charged in respect of the vessel(s) must be incorporated into and form part of the collective agreement, as should details of union membership fees, as determined by the union(s) concerned;

ⁱⁱ It is acknowledged that this presents difficulties in some circumstances, in which case the matter will be referred to the FPC steering group to help find a solution.

- f. No agreement shall be considered valid until the ITF consultation procedure has been satisfactorily completed and the agreement has been endorsed by the ITF as set out in this policy.

25

Any ITF affiliate representing seafarers may conclude ITF approved agreements for FOC vessels NOT beneficially owned and/or effectively controlled in their country provided the affiliate in the country of beneficial ownership and/or effective control has conceded negotiating rights (in line with the ITF consultation procedure set out in this policy) and provided that the provisions of paragraph 24 above are otherwise complied with.

26

There are three elements to an ITF approved collective bargaining agreement:

- a. First, the agreement must satisfy the ITF criteria relating to either the ITF TCC or other standards set by ITF international collective bargaining with shipowners, employers and their representatives or other forms of constructive dialogue with industry participants, and must comply with other policy requirements as approved and amended by the FPC from time to time;
- b. Secondly, it must be endorsed by the ITF and be reviewed regularly to ensure it continues to meet ITF criteria; and
- c. Thirdly, save as provided for in paragraph 34 no ITF special agreement relating to a specific vessel must be signed until the union(s) in the country of beneficial ownership and/or effective control have been consulted and a decision has been taken by the ITF secretariat as to the allocation of negotiating rights.

Manning

The manning scale for FOC vessels covered by ITF approved agreements is provided in the annexe of the ITF standard agreement, as amended from time to time. FOC vessels covered by ITF approved agreements shall adopt the ITF manning scale and not the one provided in the flag state manning certificates or any comparable document. However the ITF manning scale can be varied if the affiliate(s) in the country of beneficial ownership and/or effective control certify that a proposed manning scale is based on their national levels and is acceptable to them.

ITF consultation procedures for the signing of agreements covering FOC vessels

28

An applicant union shall send an application in the appropriate format, as determined from time to time, to the ITF secretariat before concluding an agreement for a specific FOC vessel.

29

If the application is submitted by a union other than a union in the country of beneficial ownership and/or effective control, the ITF secretariat will consult the union(s) in the country of beneficial ownership and/or effective control.

30

It is imperative that affiliates in the country of beneficial ownership and/or effective control coordinate their responses to inquiries from the ITF secretariat concerning the right to crew and to negotiate collective bargaining agreements for a particular FOC vessel. Failure to respond may result in the affiliate concerned having to relinquish their negotiating rights and responsibilities under ITF policy. Following such an inquiry from the ITF secretariat, the affiliates approached shall reply as soon as possible but not later than four weeks.

31

Affiliates in the country of beneficial ownership and/or effective control maintaining their rights to sign collective agreements must pursue their demands and must keep the ITF secretariat informed concerning the steps that they have taken to secure signature of a collective agreement. In concluding collective agreements, affiliates in beneficial ownership and/or effective control countries shall, where practical, enter into appropriate bilateral arrangements with the union(s) in the country of labour supply.

32

In cases where the unions in the country of beneficial ownership and/or effective control have conceded the negotiating rights to the country of labour supply, the labour supply unions shall be consulted concerning any negotiations exercised by the unions in the country of beneficial ownership and/or effective control affecting the conditions of employment of the seafarers concerned.

33

In cases where affiliates in a country claim that a vessel is beneficially owned and/or effectively controlled in that country but are unable to show satisfactory proof that this is the case, they should not object to an affiliate in a labour supply country signing an ITF acceptable agreement for the vessel through the medium of the ITF secretariat and in accordance with this policy.

34

It shall be understood that the ITF affiliates in the country of beneficial ownership and/or effective control may wish to maintain their rights to crew and sign collective agreement(s) for a vessel upon the expiration of an agreement signed by an affiliate(s) in the labour supply countries, in which case the consultation procedure will be undertaken on the expiry of the collective agreement. Furthermore the consultation procedure will be undertaken again when the terms and conditions of the agreement change or when there are changes in the beneficial ownership and/or effective control of the vessel concerned. The affiliates in the countries of beneficial ownership and/or effective control for their part undertake to consult with the other affiliates as appropriate in the labour supply countries prior to the expiration of the agreement(s).

35

The ITF secretariat shall commence the procedures adopted by the FPC and agreed by the executive board with respect any non-compliance with this policy by ITF affiliates, including the suspension of affiliation in accordance with the ITF constitution.

36

In cases where an ITF acceptable agreement may be obtained by industrial action or the threat of such action in a particular port, negotiating rights and responsibilities under this policy will be transferred to the union involved in the industrial action for the period of the validity of the ITF special agreement (ie 12 months). Normally only an ITF standard agreement should be signed following industrial action. However, if this cannot be obtained, the inspector or union(s) concerned, in consultation with the ITF secretariat, may sign an acceptable agreement other than the ITF standard. On the anniversary of the special agreement, negotiating rights and responsibilities for the vessel should be allocated to the appropriate union in accordance with this policy.



Annexes



Athens policy

ITF common policy on European ferry services

Adopted at the ITF European ferry conference, Athens, 2-3 October 1995



Revised at the fair practices committee, Berlin, 18-19 March 2010

1. The ITF is opposed to the use of FOC vessels and second register vessels in European ferry trades. Where it is not possible to prevent their use such vessels shall be covered by ITF acceptable CBAs.
2. Notwithstanding paragraph 1 above, conditions on second register ferries should be on a par with or superior to those prescribed by the applicable national conditions of the trading area concerned.
3. The crews of vessels engaged in European ferry trades, including non-European vessels, shall be covered by European conditions of employment which are regulated through national collective bargaining agreements held by the appropriate ITF European affiliates, always subject to the special conditions applicable to the services outlined in paragraph 9 below.
4. To ensure that work which has traditionally and historically been performed by dockers is not undertaken by seafarers it is also in the interest of dock workers with a view to, inter alia, preserving their employment, to ensure that the employment provisions contained in this policy are adhered to.
5. In addition to the conditions embodied in collective bargaining agreements crews employed in European ferry trades shall be guaranteed decent living standards, social protection (including social security and pensions) and recreational facilities.

6. National¹ conditions or conditions which are on a par with or superior to such conditions shall apply to the crews of ferries trading solely between ports in the same European country irrespective of flag and crew nationality and whether or not a ferry carries cargoes or passengers or is bareboat chartered.
7. Crews employed on ferries trading between European countries shall be covered by conditions of employment which are on a par with or superior to those applicable in the countries concerned. Should the conditions of employment applicable in the countries considerably differ from each other, the affiliates concerned shall agree upon using the superior conditions, or together establish the applicable conditions. If no mutual understanding is reached, the ITF arbitration procedure as set out in the ITF constitution shall come into operation.
8. Any ITF affiliate which is approached by a shipowner to sign a collective bargaining agreement for crews of a ferry trading permanently within and between European countries must contact the other ITF affiliates concerned and advise them and the ITF secretariat, as soon as possible, for the purpose of seeking their consent to the signature of the proposed agreement. If as a result of such consultations no mutual agreement is reached the ITF arbitration procedure shall come into operation.
9. All ferries operating in European trades shall be manned in such a way as to ensure maximum safety and crew competency as determined by applicable national legislation and/or practice and international requirements.
10. All ITF affiliates concerned shall make every effort at national level to convince their respective governments of the merits of the European trade unions' position on the operation of European ferry services and shall exchange information among one another – with the ITF acting as a clearing house – on the results of such efforts with a view to presenting a common front to the employers and governments in European fora where issues affecting European ferry services are debated.

¹ *In the countries of trade*

11. All ITF affiliates concerned must extend their co-operation nationally and internationally and this co-operation must also involve local and regional trade union organisations as well as the creation of and co-operation within works councils² where appropriate. Of particular importance is the co-operation between dockers and seafarers in realising the strategic objectives of the ITF in the area of European ferry services.
12. The exchange of information between the trade unions concerned must be improved, eg through the establishment of an ITF database covering the following areas of information:
 - a. names of ferries;
 - b. flags of ferries;
 - c. collective bargaining coverage;
 - d. transfers of ferries;
 - e. types of vessels;
 - f. national legislation;
 - g. ownership and changes thereto;
 - h. other relevant information, for example information on trade union and consultation structures within European ferry companies;
 - i. the names of ferries where seafarers perform dock work to facilitate the implementation of the ITF policy on dock work; and
 - j. crew composition and nationality.
13. For the purposes of maintaining the momentum of the current debate within the ITF on the operation of European ferry services the ETF/ITF secretariat should regularly convene European ferry conferences, at which all European affiliates concerned can be represented, working in close co-operation with the ETF MTS and the ETF dockers' section.

² For the purposes of the common policy on European ferry services a works council is a body established within a transnational ferry company which meets regularly at the expense of the company for the purposes of information exchange and consultation. It consists of union representatives and members drawn from the undertakings management structure, ie the company and its subsidiaries. It may or may not be established under the EU council directive 94/45/EC on the establishment of a European works council.

Funding and audit policy



**Adopted at 42nd congress of the ITF,
Mexico City, 5-12 August 2010**

Introduction

1. This ‘funding and audit policy’ revises the 1993 guidelines and recommendations and sets out binding procedures for ITF affiliated unions in respect of the funding and audit requirements for ITF approved agreements for flag of convenience (FOC) ships which have been signed by ITF affiliated unions.

Principles

2. Any affiliate that incorporates a funding element within an ITF approved agreement recognises that such a fund must comply with ITF requirements.

Wage scale: general lay-out

3. All agreements must be set out in a uniform manner showing the clear **distinction between cash and non-cash benefits** on the wage scale.
4. For this purpose, the **left-hand side of the scale** shall comprise only wage elements payable in cash on board or to a seafarer’s individual bank account and payments on his/her behalf to family or other parties on receipt of the seafarer’s request by means of an allotment note. Any left-hand side ‘allowances’ payable not to the seafarer’s individual bank account, but to the company or third parties, must be confirmed by the seafarer’s individual request (allotment note) stating the purpose of the transfer, the amount and the period during which the specific payment is to be made.
5. All other elements not authorised directly by the seafarer but included in the wage scale for the purposes of meeting objectives that may be agreed between the parties to the CBA, including training, medical or other elements, shall be shown on **the right-hand side**. With the

exception of union dues, where applicable, such elements should be considered as **'funding'**.

Funding requirements

6. The **maximum amount of funding** included in the costing of an ITF approved agreement should not exceed the agreed levels, per position, set for TCC and IBF, as amended from time to time.
7. All funding elements and related payments must be clearly identified within the text of the CBA.

Funding audit procedures

8. In many cases the observance of funding payments cannot be checked effectively by an ITF Inspector.
9. Where a CBA is concluded between a company and a union, it is the **mutual responsibility** of the parties to the CBA to ensure that the provisions of the agreement are fulfilled. Therefore, with regard to monitoring funding purposes or respective payments, the parties to the CBA shall be accountable to each other in the first instance.
10. Where the inclusion of a funding element has been requested by the company and the company is subsequently able to hold, invest, transfer, offset or otherwise control the money, the union must be eligible to receive **regular reports** to satisfy itself that the purpose of funding has been met and respective benefits have been provided to the value of the amount allocated.
11. Likewise, the company shall have the right to receive reports in respect of monies received, accumulated or transferred under funding provisions introduced on the union's initiative, where applicable.
12. All reports under paragraphs 9 or 10 above must be completed **on an annual basis** and received **before end of April**, for the preceding calendar year. The ITF may, from time to time, identify minimum information to be reported in a common format in all cases, with the possibility to additionally inquire into specific details where necessary. Non-submission or delay of a report may be considered as breach of agreement.

13. The ITF and, in the case of the IBF, the JNG, shall be entitled to request and receive **copies of any account/report** and has the right to send in independent auditors with the right of access of all relevant documents and accounts.

Exemptions from audit procedures

14. **Union dues** levied upon seafarers by virtue of their trade union membership or by contractual requirements accepted by the seafarers at the time of signing on, are **exempt from these procedures**, whether or not they are shown on either part of the wage scale or count towards the total cost.

15. Likewise, **exemption from these procedures** applies to any agreed deductions into funds which may be due to a requirement of and are directly overseen **by the national administration** in the country of the seafarers' domicile, whether levied upon the employer or taxed on the individual seafarer. The proof of the respective national requirement must be made available.

16. **In the case of the IBF**, there may be a number of funding elements identified centrally between the ITF and the JNG in respect of which alternative accounting/auditing procedures shall apply. These would normally be registered as legal entities and their creation, as well as rules and procedures, agreed centrally between the parties to the IBF. The relevant accounts of activity of these funds shall, likewise, be considered at the IBF central level. The list of such elements shall be regularly reviewed and annexed to this Policy.

ITF internal procedures

17. Where an agreement with funding elements is signed by a labour supply affiliate, the respective beneficial ownership affiliate has the right to receive the previous years' funding accounts from the signatory affiliate and make inquiries when necessary.

18. Where an agreement with funding elements is signed by a beneficial ownership affiliate, the respective labour supply union has the right to receive the previous years' funding accounts from the signatory affiliate and make inquiries when necessary.

19. The signatory affiliate is responsible for monitoring the implementation of the intent of funding in any agreement signed and for informing the ITF of any evidence of non-compliance or breach of this policy. Under normal circumstances, if no complaints are received from the union concerned, this will be considered by the secretariat and the FPC steering group as a confirmation that this policy has been applied in full and the respective funding arrangements are in line with ITF requirements.

Miami guidelines policy



Policy guidelines governing the approval of ITF acceptable CBA's for cruise ships flying flags of convenience

Adopted by ITF fair practices committee, Buenos Aires, 15 June 2011

Introduction

1. This “Miami Guidelines policy” revises the 1994 guidelines governing the approval of ITF acceptable agreements for cruise ships flying flags of convenience only. The cruise industry has developed a unique operational system which substantially differs from other maritime transport systems. These guidelines reflect the distinctive nature of the cruise industry and set out the instruments for the ITF affiliates signing acceptable ITF cruise agreements.

Negotiating rights and responsibilities

2. Where cruise ships are owned by international consortia the union(s) in the primary beneficial ownership country should act as “lead” negotiators involving other unions as appropriate, including union(s) in the primary crew supplying countries.
3. Where cruise ships are owned by international consortia the lead negotiation union(s), as appropriate, should enter into a bilateral agreement with the union(s) in the primary crew supplying countries, securing membership rights and union services.
4. It is, however, understood that for such an arrangement to be effective the owner/operator might also be invited to be part of such a bilateral agreement.

Consultation procedures for the signing of agreements covering FOC cruise ships

5. Agreements should only be signed with owners and operators and only in exceptional cases, and only after approval by the ITF secretariat, with managers and agents.
6. The owner/operator should endeavour to utilize labour from the area where the vessel operates whenever possible.
7. The signing of multiyear agreements is acceptable.
8. Where superior wages, other conditions and compensation are applicable under national legislation, collective bargaining agreements or awards, these must take precedence over the ITF minimum standards.
9. The terms of agreement(s) shall be incorporated in individual contracts of employment.

Where agreements that do not meet these Guidelines are already in place they should be allowed to expire. Also, a further period of adjustment to the benchmark may be allowed to enable agreements to reach the standards of the guidelines in stages.

10. All agreements must be sent to the ITF secretariat who will check them against these guideline(s). Where the secretariat identifies any area of the agreement that deviate from these guidelines, the union holding the agreement should be contacted and asked for comments.
11. Agreements may be recommended by the ITF secretariat and will be sent to the ITF cruise ship task force for review if the variation from the guideline(s) is of a major character. The ITF cruise ship task force then has the authority to approve or disapprove the agreements and to recommend amendments.
12. The union(s) holding the agreement(s) may appeal the ITF cruise ship task force decision to the fair practices committee steering group.
13. Agreements submitted to the ITF secretariat are binding on all parties, the ITF, its affiliates and those seafarers that are covered by them through the approval and amendment process and through its expiration date thereafter.

14. Amendments may also be made during the interim period i.e. between the effective and expiration dates, if agreed between the union(s) and the owner/operator. Agreements and amended agreements must be attached to the applicable ITF special agreement at its first renewal after the agreement and/or amended agreements have been signed.
15. In industrial action situations ITF inspectors should liaise with the unions in the beneficial ownership country. Where there is no ITF affiliate in a country of beneficial ownership the ITF inspectors should, in consultation with the ITF secretariat, sign an ITF acceptable agreement of their choice. In industrial action situations ITF inspectors should, whenever possible, aim to sign a fleet agreement.
16. ITF inspectors and coordinators receiving complaints from seafarer(s) on cruise vessels covered by ITF approved agreements should contact the ITF secretariat before any action is taken. Inspectors and coordinators should not contact the owner/operator without prior approval from the ITF secretariat since many cruise agreements include very specific grievance and/or arbitration procedures. When the ITF secretariat transfer the matter to the union(s) involved, inspectors and coordinators should be told of the outcome afterwards.

Training and education

17. Unions with members on board cruise vessels should facilitate the participation of their members in trade union seminars (e.g. ITF/NSU seminars).

General rules

Seafarer

18. To align the Miami Guidelines with MLC 2006, and to identify a clear definition of the term seafarer, the guidelines will adopt the definition given in MLC 2006 Article II (f):

“Seafarer means any person who is employed or engaged or works in any capacity on board a ship to which this convention applies.”

Distribution of agreements

19. Copies of the agreement(s) and protocols should be placed on board and also forwarded to the ITF secretariat. Printed copies of the agreement(s) should be given to all seafarers covered by it and the seafarers should have an opportunity to review and seek advice on their terms and conditions, including the agreement, before signing the employment contract.

Discrimination

20. Agreements should meet the standards of the ILO Discrimination (Employment and Occupation) and MLC 2006 Article III:

Article III – MLC 2006

“Each member shall satisfy itself that the provisions of its law and regulations respect, in the context of this Convention, the fundamental rights to:

freedom of association and the effective recognition of the right to collective bargaining;

the elimination of all forms of forced or compulsory labour;

the effective abolition of child labour; and

the elimination of discrimination in respect of employment and occupation.”

Manning agencies and hiring partners

21. The seafarer should not have to pay any application fees, manning agency fees, or similar fees and any such fees should be paid by the owner/operator.
22. Manning agencies should not be allowed to operate or receive any referral fees, or similar fees, from medical facilities issuing medical certificates, and if such arrangements exist, be prohibited from charging the seafarer.

Employment and repatriation

23. Expenses related to travelling to the ship, repatriation and obtaining visas should be paid by the owner/operator.

Medical certificates

24. If the medical certificate is paid partially or wholly by the seafarer it should not include tests that are not required under the laws of the seafarer's country of residence nor required by the flag state. Where additional tests are required, costs should be borne fully by the owner/operator.

25. Pregnancy tests should, under no circumstances, be required.

26. HIV testing should not be mandatory. Where national legislation requires the test for immigration or medical assessment, it should, under no circumstances, be used to discriminate against the seafarer for employment purposes. ITF considers selection for employment based on HIV as unacceptable. There should be no discrimination against seafarers on the basis of real or perceived HIV status.

Duration of service

27. The duration of employment should be an absolute maximum of 10 months with an aim of reducing this to a maximum of:
9 months by 2014;
8 months by 2018; and no more than
7 months by 2022.

Probationary period(s)

28. For seafarers entering employment for the first time, the initial 90 days with the owner/operator might be designated a probationary period, which entitles both the seafarer and the owner/operator to terminate employment without notice. However, the owner/operator must be responsible for the cost of repatriation if they choose to terminate the seafarer's employment.

29. For seafarers who are promoted, the initial 90 days might be designated a probationary period. Where a promotion is not confirmed, the seafarer should be offered the option of returning to his/her former position. However, the owner/operator must be responsible for the cost of repatriation where both parties agreed to terminate the employment.

Termination

30. The seafarer should be entitled to terminate his/her employment by giving one month's written notice and to terminate his/her employment immediately if the ship is certified as unseaworthy. The seafarer should be entitled to a minimum of two months' basic wages if employment is terminated by the employer before the expiry of the agreed service period, except if terminated during the probationary period.

Hours of work

31. Collective bargaining agreements may have one or two systems i.e.:

Fully consolidated wages i.e. an unlimited number of hours of work limited only by the rest hour clause.

Partially consolidated Wages i.e. the maximum normal working hours per week covered by basic wages should be 40 from Monday to Friday and the maximum number of consolidated overtime hours per month should be 130, for a total of 303 hours per month, with extra overtime paid thereafter.

Rest hours

32. Each seafarer shall have at least 10 hours off duty in each period of 24 hours and 77 hours in any 7-day period. The hours of rest may be broken into no more than two periods, one of which shall consist of at least 6 consecutive hours off duty. The interval between consecutive periods of rest shall not exceed fourteen (14) hours. Short breaks of less than 30 minutes will not be considered as a period of rest. This period of twenty-four (24) hours shall begin at the time a seafarer starts work immediately after having had a period of at least six consecutive

hours off duty. Musters, fire-fighting and lifeboat drills, and drills prescribed by national laws and regulations and by international instruments, shall be conducted in a manner that minimizes the disturbance of rest periods and does not induce fatigue. The owner/operator must post in an accessible place on board a table detailing the schedule of service at sea and in port and the minimum hours of rest for each position on board in the language of the ship and in English. Records of seafarers' daily hours of rest shall be maintained to allow for monitoring of compliance with this provision.

Wages

33. Agreements should ensure that seafarers are paid wages on a non-discriminatory basis as required under the ILO Equal Remuneration Convention, 1951 (No. 100) and paid according to the ILO Maritime Labour Convention, 2006.

Overtime

34. Collective bargaining agreements should include an overtime record clause if it covers positions with partially consolidated wages. Included overtime should be paid with not less than 25% bonus and extra overtime should be paid with not less than 50% bonus based on the basic wage.

Life insurance

35. Compensation for loss of life should be not less than:

USD 75,000 plus USD 15,000 for each dependent child under the age of 21;

increasing to USD 90,000 plus USD 20,000 for each dependent child under the age of 21 by 2014;

further increasing it to USD 100,000 plus USD 22,000 for each dependent child under the age of 21 by 2018; and to

USD 120,000 plus USD 25,000 for each dependent child under the age of 21 by 2022.

36. If a seafarer dies through any cause whilst in the employment of the company including death from natural causes and death occurring whilst travelling to and from the vessels, or as a result of marine or similar peril, the compensation should be paid out using the IMO/ILO form for contractual claims.
37. To facilitate faster resolution for the beneficiaries of a deceased seafarer who met his/her death following an accident, the compensation should be doubled where all parties agree no additional claim shall be made. The beneficiaries, however, must be informed of the options established in law governing the agreements, in case they wish to pursue a claim without settling the contractual entitlements provided by the text of the agreement.

Disability insurance

38. The compensation for disability should be not less than:

USD 80,000;

increasing to USD 100,000 for junior ratings, USD 120,000 for senior ratings and USD 140,000 for officers by 2014;

further increasing to USD 120,000 for junior ratings, USD 140,000 for senior ratings and USD 160,000 for officers by 2018, and to

USD 150,000 for junior ratings, USD 200,000 for senior ratings and USD 250,000 for officers by 2022.

39. A seafarer, who suffers permanent disability as a result of an accident whilst in the employment of the company, regardless of fault, including accident occurring whilst travelling to or from the ship, should be paid out using the IMO/ILO Form for contractual claims.
40. To facilitate faster resolution for a seafarer who is declared disabled as a result of an accident, the compensation should be doubled where all parties agree no additional claim will be made. The seafarer, however, must be informed of the options established in law governing the agreements in case he/she wishes to pursue a claim without settling the contractual entitlements provided by the text of the agreement.

Loss of personal effects

41. Seafarers should be compensated with a minimum of:

USD 3,000;

increasing to USD 4,000 by 2014;

USD 5,000 by 2018; and

USD 6,000 by 2022

for the loss of personal effects.

Medical treatment and maintenance

42. Seafarers should, at the owner/operator's expense, be given free medical treatment and be paid maintenance of at least USD 12 per day, unless room and board is paid by the owner/operator, until maximum medical improvement (MMI) has been achieved.

Sick wages

43. When seafarers are landed at any port because of sickness or injury a pro rata payment of their guaranteed wages, shall continue until they have been repatriated at the company's expense.

44. Thereafter the seafarers shall be entitled to sick pay at the rate equivalent to their basic wage while they remain sick up to a maximum of 130 days after repatriation.

45. However, in the event of incapacity due to an accident the basic wages shall be paid until the injured seafarer has been cured or until a medical determination is made in accordance with the clause concerning permanent disability.

Pension and provident fund

46. Seafarers should, on retirement, be provided with a pension and/or a provident fund at no later than 62 years of age, or when the service time and age combined equal the pension age (i.e. 62 or less) if requested by the seafarer.

Public holidays

47. The following days shall be considered as public holidays at sea or in port: Christmas Day, Boxing Day, New Year's Day, Good Friday, Easter Monday, International Labour Day (1 May), Spring Bank Holiday and Summer Bank Holiday, or such public holidays as are agreed upon, having regard to the nationality of the majority of the crew members and detailed in the collective agreement. Payment for work on public holidays may be included in the wage scale with a fixed monthly amount, or paid with overtime. If a public holiday falls on a Saturday or a Sunday, the following working day shall be observed as a public holiday.
48. Public holidays might, in lieu of overtime pay, be compensated with one extra compensatory leave day per month of service.

Maternity

49. Agreements should include a maternity leave clause that meets the standard of the ILO Maternity Protection Convention, 2000 (No. 183) with the following minimum terms:

Repatriation at the owner/operator's expense not later than the 26th week of pregnancy; and where the nature of the vessel's operations could, in the circumstances, be hazardous – at the first port of call

Two months' basic pay, increasing to ten weeks' by 2014, 12 weeks' by 2018 and to 14 weeks by 2022

Priority in filling a suitable vacancy in the same or equivalent position within one year following the birth of a child should such a vacancy be available.

Accommodation

50. This should meet the requirements of the ILO conventions and recommendations in place when the vessel was built and the ILO Maritime Labour Convention, 2006, for all vessels ordered, or substantially altered after, it came into force.

Food

51. This should meet the requirements of the ILO Maritime Labour Convention, 2006.

War zone and high risk area

52. The seafarer should have the right not to proceed to a war zone or high risk area and be repatriated at the owner/operator's expense. If the seafarer does proceed to a war zone or high risk area he/she shall be entitled to 100% of the basic wages, in addition to his/her contractual wages, for the duration of the ship's stay in this area, subject to a minimum of 5 days and the disability/loss of life compensation shall be doubled.

Health and safety

53. Agreements should include safety clauses providing for the necessary personal protective equipment for all seafarers' basic safety training and the need for advice on possible hazards or work of a dangerous nature, and include accident prevention measures.

54. Agreements should facilitate the establishment of an onboard safety and health committee in accordance with the provisions contained in the ILO Code of Practice on Accident Prevention on Board, and in compliance with the requirements of the ISM Code. The agreement should provide for an elected crew safety representative(s) to be a member(s) of the safety and health committee.

55. Agreements should follow the requirements of the STCW 1978 Convention as amended with an aim that all seafarers should be encouraged to conclude the basic safety training courses as required under Regulation VI/1. Cruise ship agreements might include a clause allowing for funding of such training courses

56. Seafarers are entitled to a healthy working environment: the company should provide working conditions that eliminate the hazards of smoking.

57. The purpose of maritime medical fitness assessment is to ensure that any medical condition does not put other people at risk and that the individual is not at excessive personal risk from the condition while working at sea.

Dock workers' clause

58. Neither the ship's seafarers nor anyone else on board whether in permanent or temporary employment by the owners/company, shall carry out cargo handling and other work traditionally or historically done by dock workers, without the prior agreement of the ITF dockers' union or unions concerned, and provided that the individual seafarers volunteer to carry out such duties for which they should be adequately compensated.

59. For the purpose of this clause "cargo handling" may include but is not limited to:

Loading and unloading of passenger luggage. However, this does not include the onboard distribution and collection of passenger luggage which is considered seafarers' work.

Loading and unloading of ships' spares and provisions. However, this may not include onboard transportation and does not include onboard stowing which is considered seafarers' work.

60. Where a vessel is in a port where an official trade dispute involving an ITF dockers' union is taking place, neither the ship's seafarers nor anyone else on board whether in permanent or temporary employment by the owners/company, shall be instructed or induced to undertake cargo handling and other work, traditionally and historically done by members of the union involved in the official trade dispute.

61. When the ITF dockers' union in a port allows seafarers to carry out work that traditionally or historically has been done by dock workers, the seafarers shall be paid the extra overtime rate specified in ... [the reference must be included for each agreement since their layout varies] ... for each hour or part of an hour that such work is performed during their regular 40-hour work week, in addition to their normal pay.

Any such work performed outside their regular 40-hour work week shall be compensated by double the extra overtime rate for each hour or part of an hour that such work is performed, in addition to their normal pay.

62. If a seafarer is normally paid fully consolidated wages then the extra overtime rate shall be calculated as follows: Total monthly consolidated pay divided by 303 and multiplied by 1.5 equals the extra overtime rate to be used when calculating the payment.

Dispute resolution and arbitration

63. Agreements should include an onboard dispute resolution procedure that meets the requirements of the ILO Maritime Labour Convention, 2006, and may include an arbitration clause if the cost of the arbitration is paid by the owner/operator and the costs of the seafarer's legal representation is either paid by the owner/operator or the union if the Seafarer is not represented by private counsel.

Waivers

64. The company undertakes not to demand or request any seafarer to enter into an agreement whereby he/she waives or otherwise assigns, or agrees to variations to the terms of the agreement negotiated by the union.

Cabotage

65. The standards included in the ITF Athens policy and any other applicable ITF policies and/or MOU should be met when a cruise ship trades in direct competition with vessels covered under the ITF Athens policy and any other applicable ITF policy.

Access to vessels

66. Agreements should include a clause giving ITF inspectors and representatives from unions that are party to agreements in force for the vessel being visited, access to the vessel and its seafarers. This might be regulated through a protocol between the owner/operator

and union(s) if such a protocol is preapproved by the ITF secretariat and it satisfies the provisions of ITF policies.

Deck and engine

Wages

67. All deck and engine officers and deck and engine ratings should be covered by the ITF standard collective agreement or ITF approved TCC agreements or national agreements, or a combination thereof on a non-discriminatory basis.

Annual leave

68. Should be not less than 8.5 days per month of service based on 1/30 of the basic wage per day.

Catering (food, beverage and hotel services)

Wages

69. For the purposes of an ITF benchmark the basic rate of pay for a factor 1.000 position should be not less than the current ILO minimum recommendation for an able seaman (AB), while the factor for the lowest position, excluding trainees, apprentices and similar positions, should not to be less than 60% of that.

Annual leave

70. Should be not less than:

4.5 days per month of service based on 1/30 of the basic wage per day;

increasing to 5 days based on the 1/30 formula by 2014;

6 days by 2018 based on the 1/30 formula; and

8.5 days by 2022 based on the 1/30 formula.

Concessionaries (entertainment, casino, shop and spa etc.)

71. The terms and conditions for concessionary personnel should not be less than those given to catering personnel and basic wages for a 40-hour work week should not be less than what is the ILO minimum recommendation for an able seaman (AB). The owner/operator should be responsible for enforcing these minimum terms on all concessionaries contracted to provide services onboard their vessels.

ITF special agreement

16 point cruise questionnaire:

72. The questionnaire should always be sent to the ITF secretariat if the agreement(s) is with a ship manager, manning agency and the like.

Seafarers' protection and welfare fund:

73. Ten per cent of the standard ITF welfare contributions, subject to an annual USD 6,000 minimum, increasing to 12.5% of the standard ITF welfare contributions, subject to an annual USD 7,500 minimum in 2014, to 15% of the standard ITF welfare contributions, subject to an annual USD 9,000 minimum in 2018 and to 20% of the standard ITF welfare contributions, subject to an annual USD 12,000 minimum in 2022. No additional discounts are allowed except if approved by the ITF secretariat and where the chair and the vice chair of the cruise ship task force have been consulted in advance.

ITF special agreement:

74. Two-year periods and annual rollovers are acceptable.

National cabotage policy

**Adopted by ITF fair practices committee,
Stockholm, 19 June 2008**



Key aspects

1. Cabotage is the principle of reserving a nation's domestic maritime commerce for its own citizens. Typically, cabotage applies to transport of cargo and passengers but is often also applied to such marine industrial applications as off-shore drilling, exploitation of seabed mineral resources, dredging, fisheries and marine construction in a nation's territorial waters. It also includes the feeder services linked to the liner trades.
2. The components of cabotage commonly include requirements to fly the national flag, limit ownership to majority control by national citizens, crewing limited to national citizens and where possible, domestic construction. Such elements provide a firm underpinning not only for a nation's economy, national security and environmental policies but also complement a nation's attempt to maintain a presence in international trades as well.
3. Cabotage is not only a policy with a long tradition but is widely accepted by the international community. A recent survey by one government revealed that 47 nations limit foreign activities in their prospective domestic trades. While some might think that marine cabotage applies only to deep draft ocean-going ships, it also can and should, apply to shallow draft vessels plying a country's internal waterways and providing harbour services such as towing, ship docking, bunkering and chandlery. An added benefit is the support for marine technical training facilities, both public and private, which is inherent in the demand for qualified personnel for cabotage trades. A cabotage policy is not only fundamental to the retention of a national maritime skills base but also a political declaration on the intent and the importance of retaining a maritime skills base.
4. The application of these principles provides employment opportunities, retention of revenues in a national economy instead of

importing such crucial marine services, and better equips a nation to provide for its security and to respond to natural or man made disasters. In a world where legitimate security concerns dictate that a nation must control who enters and works within its borders, cabotage serves to enhance those vital standards.

5. An excellent example of the benefits of cabotage can be found in the United States. The application of cabotage to US domestic trades and marine activities is nearly as old as the nation itself, with the first such law being enacted in 1789. Several other cabotage statutes were enacted in the intervening years until early in the twentieth century a comprehensive law, commonly known as the Jones Act, was enacted to govern domestic marine functions.
6. The law, despite being opposed by some flag of convenience supporters and corporate shipping interests, has provided numerous, well documented benefits to the United States. Since its enactment, every US president has expressed support for the US merchant marine with a special emphasis on the Jones Act. Those sentiments have been echoed by US military leaders as well.
7. In summary, cabotage is a logical extension of a country's transport, environmental, economic, national security and employment practices. The potential for achieving these benefits for nations with no or limited cabotage policies is enormous and should be pursued with vigour. It is a prerequisite for an integrated transport policy and for the inclusion of a maritime component which makes it sustainable.

Dispensations

8. The use of dispensations or derogations should be limited to genuine exceptions which can be objectively justified, are of an exceptional nature, and are needed for a very short and finite period of time. The use of schemes like single voyage permits should meet these criteria and only be issued following tripartite social dialogue. Additionally, when similar situations of an exceptional nature arise, other options like bareboat chartering in or a hire purchase of a suitable vessel with an option to buy, should be pursued, in which case the key aspects of the cabotage policy can be applied.

National flag policy



Adopted at 42nd congress of the ITF, Mexico City, 5-12 August 2010

1. ITF policy is that national flag ships (ie those not declared as FOCs by the ITF) must be crewed by seafarers who are covered by national collective agreements negotiated by ITF affiliated flag state union(s).

Domiciled seafarers

2. Wages and conditions for domiciled seafarers working on national flag vessels are a matter for negotiation by the ITF affiliated flag state union(s), subject to the minimum international standards set by the International Labour Organization (ILO) as interpreted by the ITF.

Non-domiciled seafarers

3. Where non-domiciled seafarers are employed on national flag vessels, the total crew cost should at least meet the minimum agreed by the seafarers' section, as amended from time to time.
4. Wages for non-domiciled seafarers should be calculated in accordance with the criteria agreed by the Seafarers' Section.

Cargo handling clause

5. In line with the principles of mutual solidarity between seafarers and dockers, as expressed in ITF policy, the cargo handling clause should be incorporated into all national agreements.

Exclusions

6. Where other ITF policies apply or where higher standards exist, national cabotage, regional standards, offshore, continental shelf, ferry services, intra-community trade and cruise vessels are excluded from this policy.

Bilateral relationships

7. Labour supply unions play an important role in supporting quality national shipping, particularly through the service they provide to their nationals working on board national flag vessels.
8. Where possible, bilateral relationships should be cultivated between national flag unions and labour supply unions.

Offshore policy



ITF offshore continental shelf/flag state jurisdiction policy

1. 'Maritime mobile offshore units' when operating within a foreign continental shelf state shall be covered by the legislation, regulations and collective bargaining agreements of the national flag state.
2. The collective bargaining conditions of the national flag state shall at least be substantially equivalent to those existing in the continental shelf state and the case of flag of convenience units, ITF policy is applied. All 'units' shall also adhere to ILO conventions and recommendations applicable to seafarers and ships as well as to all applicable IMO conventions, codes and resolutions.
3. If the continental shelf state has issued rules and regulations with regard to employment and social and economic conditions or there is a trade union policy requiring the use of local labour no ITF affiliate shall man the 'unit' until negotiations have taken place between the ITF affiliates in the national flag state and the continental shelf state.
4. During the negotiations mentioned above the general rule to be observed should require that the 'maritime crew' be nationals or residents of the national flag state or the continental shelf state and are members of an ITF seafarer affiliate. In those instances where the 'unit' is operating under a flag of convenience the negotiating rights lie with the unions in the country of beneficial ownership.
5. The national flag state and the beneficial ownership state affiliates respectively shall have the right to be present during all negotiations between the continental shelf state affiliates and the owner/operator/charter of a 'unit' on the subject of the manning of the 'unit'.
6. It is important in this context that affiliates concerned keep each other and the ITF informed of all aspects and stages of negotiations. National flag state / continental shelf state affiliates shall provide the ITF with copies of all relevant legislation, regulations and policy documents.

7. At any stage of the inter-union negotiations the ITF affiliates may call on the ITF to act initially as conciliator and ultimately, as provided for in the ITF constitution, as arbitrator.
8. Every effort shall be made by national flag state/continental shelf state affiliates to secure an agreement with the owners, operator, and charterer to return the unit to national flag state affiliates under an ITF acceptable agreement.

Riding squads policy

ITF policy on riding squads onboard international vessels

Adopted by seafarers' section conference,
Rio de Janeiro, April 2005



Introduction

1. The 'riding squad' has been a legitimate part of the shipping industry for fifty years or more, initially to provide specialist technical skills and knowledge not available on board and outside normal operational requirements. As vessels' crews have decreased, vessels have become larger and time in port is minimal, the riding squad has developed into the supply of additional labour to facilitate workload peaks and repairs that, if time permitted, would be carried out in port and increasingly instead of repairs normally carried out in a shipyard. The distinction between the role of the 'riding squad' and the traditional and historical duties of seafarers has become blurred and the use of these squads is a significant consideration when flag states are establishing minimum manning levels. As pay rates for these gangs have not been covered traditionally under the seafarers' collective agreements or are questionably not covered under the ILO conventions for seafarers, they may be used to undermine the employment conditions of seafarers.
2. Whilst recognising the need for specialist skills to be available to ships' crews over limited periods and mindful of a revised approach to planned maintenance on modern vessels no longer in port for extended periods, the ITF is aware of the fact that too often riding gangs are permanently attached to vessels, operate with seafarers' identity documents and carry out basic seafarers' duties.

Areas of work that are being undertaken by riding squads

3. Areas of work, both legitimate and otherwise, that are being covered by riding squads are:

- a. maintenance and repair of mechanical and electrical plant by manufacturers' representatives;
- b. repair and setting up of navigational and radio equipment;
- c. hold cleaning and maintenance;
- d. painting and routine deck maintenance;
- e. repair and routine engine and electrical maintenance;
- f. ongoing survey work, both major and minor;
- g. cargo handling and lashing;
- h. security duties in port and in dangerous areas;
- i. welding repairs of ships' steelwork; and
- j. mooring of the vessel.

The extent of the problem with riding squads

- 4. All seafarers must undergo a strict medical and undergo basic training to ensure they form part of a team capable of fighting fires and ensuring the safe evacuation of the vessel in an emergency and survival at sea. Riding squads are not required to fulfil these legal requirements and are classed as supernumeraries, outside the minimum crew requirement and as such a possible liability to the ship's crew in any emergency. Conversely, flag states will take into consideration the use of riding gangs when determining the minimum safe manning under IMO Assembly Resolution 955.(23), allowing a substantially lower number of seafarers where riding gangs are regularly used.
- 5. Under the maritime security measures introduced with the International Ship and Port Facility Security (ISPS) Code, the ship must have a security plan and the ship security officer must be sure that any persons working onboard present no risk to the ship or the ports they enter and that visitors are supervised at all times. The employment of casual labour not directly supplied by or linked to the ship's managers may introduce a major security risk to the vessel, affecting the security assessment at each port and prohibiting crew shore leave.

6. The classification societies have expressed their concerns that too often major hull repairs are being carried out at sea by these squads, often poorly qualified, without proper supervision and without informing the classification society. These illegal repairs are possibly a contributing factor to a number of recent ship losses and the International Association of Classification Society (IACS) has expressed its concern at this practice and advised all ship operators and masters to abide by its requirement in Voyage Repairs and Maintenance IACS UR Z13.
7. Whilst the ILO definition of seafarer currently includes all those working onboard a vessel, the IMO/SOLAS definition does not. There is therefore an anomaly where the training, responsibilities and minimum requirements under the IMO cannot be applied — ie medicals, safety training etc — but the rights, protections and minimum standards under the ILO conventions should apply ie minimum pay rates, repatriation etc. This loophole in the legislation has seen the proliferation of the use of riding squads of workers without affording the workers' protections in existence for seafarers or those operating in the shipping industry ashore.
8. Despite the lack of recognition by the IMO of these workers as seafarers, the regular use of these squads is seen as a valid reason for the minimum safe manning certificate to be pruned to the very basic requirement and denies the shipping industry positions onboard for trainees and a career path at sea for specialist skilled positions.
9. Increasingly, riding squads are being used to bypass crew agreements negotiated by the ITF or the seafarer affiliates, despite the comparable positions and titles. In some instances crew are directly transferred to a 'riding squad' status on the same vessel and remain onboard for the full period of the crew's agreement. This practice effectively casualises all ships' crew not involved in watchkeeping duties.
10. On low manned vessels it has been for some time the practice to supply coastal mooring squads. Deregulation in the port areas has increased the threat that these squads will be used to carry out cargo lashing, unloading or loading duties. The ITF has an ongoing campaign against the practice of any crew aboard vessels carrying out this work and this is fully supported by the seafarers' and port workers' affiliates.

11. The ITF has maintained that seafarers are civilians entitled to a safe, decent working environment and protection by the shipping companies and governments from pirates and terrorist actions. The use of security riding squads has been supported by the ITF affiliates where the safety of seafarers is endangered. However, there should be sufficient crew permanently onboard to ensure the normal security requirements, as specified under the International Ship and Port Facility Security (ISPS) Code.

Definitions and requirements

12. The definition of seafarer varies slightly between ILO conventions and recommendations, but generally is reflected in the definition under ILO Convention 185 on Seafarers' Identity Documents, which states "the term 'seafarer' means any person who is engaged or works in any capacity on board a vessel, other than a ship of war, ordinarily engaged in maritime navigation".

13. The IMO, in the SOLAS Convention, has a broader scope based on the definition of a passenger stating that a passenger is every person other than: "the master and the members of the crew or other persons employed or engaged in any capacity on board a ship on the business of that ship."

14. The SOLAS definition obviously gives greater opportunity for the recognition of contract and casual workers and the use of riding squads that are neither passengers nor crew.

15. In the classification society requirement Voyage Repairs and Maintenance IACS UR Z13, it states, "No hull repairs carried out by riding crew should be accepted unless:

a. The initial meeting (with the surveyor) has been carried out and conditions found satisfactory.

b. A final satisfactory examination upon completion was carried out."

16. Throughout the amended Resolution on the Principles of Safe Manning, Assembly Resolution A 955.(23), it states that the manning requirements and workload of security measures should have been considered when determining minimum safe manning.

ITF position on the use of riding squads

17. The ITF recognises the threat that riding squads pose to the employment of seafarers and:
- a. condemns the practice of reducing the permanent crew on vessels by the extensive use of riding squads;
 - b. supports any amendments to ILO and IMO conventions that clearly define seafarers as any person employed or engaged in any capacity on board a ship;
 - c. actively opposes the use of seafarers to carry out cargo work traditionally and historically carried out by dockers;
 - d. will work together with the classification societies and others to eradicate the practice of carrying out illegal repairs, particularly where they may endanger the environment and the lives of ships' crew;
 - e. recognising the need for greater opportunities for training at sea, will seek where additional workers are required for workload peaks, to establish training berths for permanent crew;
 - f. will aggressively lobby at the International Maritime Organization for a holistic review of the minimum manning certificate and expose flag states issuing unsafe minimum levels;
 - g. ensure all workers onboard a vessel have an agreement that complies with ILO minimum pay rates and does not undermine the agreement of the ships' crew;
 - h. monitor the security workload with riding squads to determine how they affect the workload and rights of the seafarer in port and the safety of vessels at sea; and
 - i. the conditions of riding gangs should not be contrary to the ILO policy on the need for an acceptable work environment and safe and decent working conditions.

ITF guidelines on riding squads

18. Where riding squads are used, after consultation with seafarers' trade unions concerned, in a legitimate role in the operation of any vessel the following should apply:
 - a. the maximum period a riding squad should operate onboard a vessel is one month in any 12 month period;
 - b. persons engaged for security purposes should not undertake other seafarers' duties;
 - c. classification societies are to be informed of any survey or structural work carried out in compliance with IACS UR Z13;
 - d. all riding squads must be covered by agreements giving at least comparable rates of pay to the crew and minimum conditions and protections within the appropriate ILO conventions and recommendations; and
 - e. the introduction of riding squads should not be used to replace current crew or be used to permanently undermine ITF agreements.

Seafarers' charter policy

Policy on trade union membership and obligations to seafarers serving on FOC vessels

Adopted at 42nd congress of the ITF, Mexico City, 5-12 August 2010



Introduction

1. Unions affiliated to the ITF are autonomous affiliates in accordance with the constitution of the ITF and have adopted the policies of the ITF, including those that relate to the ITF's flag of convenience (FOC) campaign.
2. The ITF approves collective agreements in accordance with the criteria and procedures approved by the fair practices committee (FPC), as set out in the Mexico policy.
3. This 'seafarers' charter' policy sets out the agreed practice for ITF affiliated unions in respect of obligations and membership rights for seafarers serving under ITF approved agreements for flag of convenience (FOC) ships which have been signed by ITF affiliated unions.

Membership fees and union obligations

4. The level and type of any fee levied by ITF affiliates on or in respect of seafarers employed under ITF approved agreements shall be equitable and in line with that which is provided to those seafarers by the affiliate.
5. As established by the fair practices committee (FPC), the minimum core obligations which must be fulfilled by affiliates in relation to seafarers employed under ITF approved agreements covering FOCs are as follows:
 - a. an appropriate form of membership card;

- b. a union newsletter, journal or magazine;
- c. a contacts directory including telephone numbers and names of union officials;
- d. assistance with any valid claim arising under the collective agreement;
- e. participatory rights in the affairs of the organisation (in a form which reflects the special nature of any membership);
- f. where possible, visits by a union representative to the vessel; and
- g. identification of the key responsibilities of each affiliate where bilateral agreements are in place.

Responsibilities

- 6. In the event of any claim (whether backpay, injury or death) by or on behalf of a seafarer under an ITF agreement, in the first instance the signatory affiliate will be responsible for handling the claim. The affiliate will identify union officials who will be responsible for assisting members with claims under its approved or acceptable collective agreement(s) and will notify the ITF secretariat of those persons.
- 7. Where more than one affiliate shares fees in respect of its members, the affiliates will agree between them which of them is responsible for assisting the seafarers employed under the agreement, taking into account that in all cases full trade union obligations must be met in respect of all the seafarers regardless of nationality or domicile. Once the division of responsibilities has been agreed, the affiliates will advise the ITF secretariat accordingly.
- 8. The affiliate will keep the ITF secretariat informed about the number of claims (including backpay, injury and death claims) arising under their ITF approved agreements, details of those claims and the terms of settlement of those claims.

TCC and/or IBF funding elements

9. Any funding elements incorporated within an ITF approved agreement must comply with ITF requirements, as set out in the ITF's funding and audit policy.

ITF secretariat and the union(s)

10. Where seafarers' claims are dealt with in the port of call, the signatory affiliate may only be able to provide limited help to their members abroad. In such cases the ITF secretariat will continue to assist seafarers on board. Where the affiliate's members are involved, the ITF and the affiliate will co-operate to provide all assistance possible.



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