

FACILITATION COMMITTEE
43rd session
Agenda item 17

FAL 43/17
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WORK PROGRAMME

Proposal for a new output regarding maritime corruption and the impact on global trade, port governance and seafarers

Submitted by Liberia, Marshall Islands, Norway, United Kingdom, United States, Vanuatu, ICS, IAPH, BIMCO, ICHCA, IMPA, IF SMA, INTERTANKO, InterManager, IPTA, IHMA, IBIA, FONASBA, ITF and NI

SUMMARY

Executive summary: This document contains a proposal for inclusion of a new output in the agenda of the FAL Committee to address the issue of maritime corruption through an amendment to the FAL Convention and the development of IMO Guidelines and/or a Code of Best Practice

Strategic direction, if applicable: 5 and 6

Output: Not applicable

Action to be taken: Paragraph 24

Related documents: FAL 42/17, FAL 42/16/3; PSCWS 7/3/7; MSC-MEPC.4/Circ.2; resolutions A.947(23), A.1043(27), A.1110(30), A.1111(30) and A.1119(30)

Introduction

1 This document is submitted in accordance with the provisions of paragraph 4.7 of, and annex 1 to, the *Organization and method of work of the Facilitation Committee* (FAL.3/Circ.214), and proposes a new output to address the issue of maritime corruption through an amendment to the FAL Convention and the development of IMO Guidelines and/or a Code of Best Practice.

Background

2 FAL 42 considered document FAL 42/16/3 (ICS, IAPH, ICHCA, IHMA, IMPA, INTERTANKO, InterManager, IPTA, IBIA, FONASBA, ITF and NI) related to maritime corruption and its impact on global trade, port governance and seafarers.

3 FAL 42 agreed that corruption had a significant impact on the image of the maritime industry and ports, and on the facilitation of maritime traffic and security of operations.

4 FAL 42 invited Member States and international organizations to submit documents to FAL 43 with suggested actions to address this problem.

IMO objectives

5 Resolution A.1110(30) on *Strategic Plan for the Organization for the six-year period 2018 to 2023* sets out the mission statement, which states that "The mission of the International Maritime Organization (IMO), as a United Nations specialized agency, is to promote safe, secure, environmentally sound, efficient and sustainable shipping through cooperation. This will be accomplished by adopting the highest practicable standards of maritime safety and security, efficiency of navigation and prevention and control of pollution from ships, as well as through consideration of the related legal matters and effective implementation of IMO Instruments, with a view to their universal and uniform application". The proposed new output will contribute to achieving the goals and performing the mission of the Organization.

Need

6 There is a compelling need for the maritime industry to formalize actions to combat corruption and for IMO instruments to align with the United Nations Convention against Corruption (A/Res/58/4).

Analysis of the issue

7 The Maritime Anti-Corruption Network (MACN) anonymous reporting mechanism has over 25,000 incident reports collected up to October 2018, confirming that corruption in ports is widespread.

8 Such practices can lead to interruptions to normal operations, ships being delayed, and/or put off-hire, incurring higher operational costs and, in cases where the Master and crew refuses to accede to the demands, seafarers being physically or mentally threatened.

Analysis of implications

9 These practices have far-reaching consequences that, as well as being detrimental to shipping operations and port communities, can lead to seriously damaging effects on trade and investment, which in turn can have a negative effect on social and economic development.

10 This is supported by external academic research that confirms and further demonstrates how corruption in the maritime sector drives up the cost of trading and impedes economic and social development.

11 Making the annex to the FAL Convention as responsive as possible to the current need of addressing the issue of maritime corruption would not impose significant costs or administrative burdens to the maritime industry, Administrations or other stakeholders.

12 The checklist for identifying administrative requirements is set out in annex 1.

Benefits

13 The proposed action would seek to address the problem of maritime corruption and reduce the impact on global trade, improve port governance and reduce adverse consequences on seafarers.

Industry standards

14 There are no current industry standards related solely to maritime corruption.

15 Resolution A.1119(30) on *Procedures for Port State Control, 2017* includes in its appendix 1 the Code of Good Practice for port State control officers (MSC-MEPC.4/Circ.2).

16 The Code of Good Practice provides 28 good behaviours and actions to be followed by PSCOs. Points 23 to 27 regarding integrity relate directly to the issue of maritime corruption.

Human element

17 The proposal is consistent with IMO objectives and takes into consideration the human element guidance and principles in resolution A.947(23), as it is the Master and crew who manage situations that may arise when officials and/or other stakeholders make corrupt demands. Managing confrontations with officials can be challenging, requiring diplomacy as well as adept negotiation skills to avoid potentially adverse outcomes. Such situations cause great stress and have a debilitating effect on the health and safety of seafarers. A checklist for considering human element issues by IMO bodies is set out in annex 2.

Scope of the proposal and output

18 It is proposed that the issue of maritime corruption be included in the work of the Facilitation Committee with regard to the review and revision of the annex to the FAL Convention.

19 It is further proposed that development of IMO guidelines and/or an inclusive IMO Code of Best Practice would assist all stakeholders in the ship/shore interface to implement and embrace anti-corruption practices and procedures.

20 The relevant sections of the Procedures for Port State Control 2017 and the Code of Good Practice could be used as a basis for IMO Guidelines or a Code of Best Practice applicable to all stakeholders of the ship/shore interface, not just PSCOs.

Priority and target completion date

21 The review and update of the annex to the FAL Convention to include the issue of maritime corruption and the development of IMO Guidelines and/or a Code of Best Practice is therefore proposed as high-priority work and should be addressed as soon as practicable within the working arrangements of the Organization.

Committee and /or subsidiary body(ies) essential to complete work

22 The work should be assigned to the Facilitation Committee with the participation of other interested committees, as necessary.

Estimation of the number of sessions needed to complete the work

23 Two sessions of the Facilitation Committee are estimated to be necessary to complete the work.

Action requested of the Committee

24 The Committee is invited to consider this document and especially the proposals contained in paragraphs 18 to 20, and take action as appropriate.

ANNEX 1

CHECKLIST FOR IDENTIFYING ADMINISTRATIVE REQUIREMENTS

This checklist should be used when preparing the analysis of implications required in submissions of proposals for inclusion of outputs. For the purpose of this analysis, the term "administrative requirements" is defined in resolution A.1043(27), i.e. administrative requirements are an obligation arising from future IMO mandatory instruments to provide or retain information or data.

Instructions:

- (A) If the answer to any of the questions below is **YES**, the Member State proposing an output should provide supporting details on whether the requirements are likely to involve start-up and/or ongoing costs. The Member State should also give a brief description of the requirement and, if possible, provide recommendations for further work (e.g. would it be possible to combine the activity with an existing requirement?).
- (B) If the proposal for the output does not contain such an activity, answer **NR** (Not required).
- (C) For any administrative requirement, full consideration should be given to electronic means of fulfilling the requirement in order to alleviate administrative burdens.

1. Notification and reporting? Reporting certain events before or after the event has taken place, e.g. notification of voyage, statistical reporting for IMO Members	NR ✓	<input type="checkbox"/> Start-up <input type="checkbox"/> Ongoing
Description of administrative requirement(s) and method of fulfilling it: (if the answer is yes)		
2. Record keeping? Keeping statutory documents up to date, e.g. records of accidents, records of cargo, records of inspections, records of education	NR ✓	<input type="checkbox"/> Start-up <input type="checkbox"/> Ongoing
Description of administrative requirement(s) and method of fulfilling it: (if the answer is yes)		
3. Publication and documentation? Producing documents for third parties, e.g. warning signs, registration displays, publication of results of testing	NR ✓	<input type="checkbox"/> Start-up <input type="checkbox"/> Ongoing
Description of administrative requirement(s) and method of fulfilling it: (if the answer is yes)		
4. Permits or applications? Applying for and maintaining permission to operate, e.g. certificates, classification society costs	NR ✓	<input type="checkbox"/> Start-up <input type="checkbox"/> Ongoing
Description of administrative requirement(s) and method of fulfilling it: (if the answer is yes)		
5. Other identified requirements?	NR ✓	<input type="checkbox"/> Start-up <input type="checkbox"/> Ongoing
Description of administrative requirement(s) and method of fulfilling it: (if the answer is yes)		

ANNEX 2

CHECKLIST FOR CONSIDERING HUMAN ELEMENT ISSUES BY IMO BODIES

<p>Instructions: If the answer to any of the questions below is:</p> <p>(A) YES, the preparing body should provide supporting details and/or recommendation for further work.</p> <p>(B) NO, the preparing body should make proper justification as to why human element issues were not considered.</p> <p>(C) NA (Not Applicable) – the preparing body should make proper justification as to why human element issues were not considered applicable.</p>	
<p>Subject Being Assessed: (e.g. Resolution, Instrument, Circular being considered) FAL Convention</p>	
<p>Responsible Body: (e.g. Committee, Sub-Committee, Working Group, Correspondence Group, Member State) Facilitation Committee and the Technical Cooperation Committee</p>	
<p>1. Was the human element considered during development or amendment process related to this subject? (1) The intention of the proposed review is to directly support and assist seafarers by reducing confrontations with shore-based officials, which can be challenging and can cause great stress, with debilitating effects on the health and safety of seafarers.</p>	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>NA</p>
<p>2. Has input from seafarers or their proxies been solicited?</p>	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>NA</p>
<p>3. Are the solutions proposed for the subject in agreement with existing instruments? (Identify instruments considered in comments section)</p>	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>NA</p>
<p>4. Have human element solutions been made as an alternative and/or in conjunction with technical solutions?</p>	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>NA</p>
<p>5. Has human element guidance on the application and/or implementation of the proposed solution been provided for the following:</p>	
<ul style="list-style-type: none"> • Administrations? 	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>NA</p>
<ul style="list-style-type: none"> • Shipowners/managers? 	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>NA</p>
<ul style="list-style-type: none"> • Seafarers? 	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>NA</p>
<ul style="list-style-type: none"> • Surveyors? 	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>NA</p>
<p>6. At some point, before final adoption, has the solution been reviewed or considered by a relevant IMO body with relevant human element expertise?</p>	<p><input type="checkbox"/>Yes <input type="checkbox"/>No <input checked="" type="checkbox"/>NA</p>
<p>7. Does the solution address safeguards to avoid single person errors?</p>	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>NA</p>
<p>8. Does the solution address safeguards to avoid organizational errors?</p>	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>NA</p>
<p>9. If the proposal is to be directed at seafarers, is the information in a form that can be presented to and is easily understood by the seafarer?</p>	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>NA</p>
<p>10. Have human element experts been consulted in development of the solution?</p>	<p><input type="checkbox"/>Yes <input type="checkbox"/>No <input checked="" type="checkbox"/>NA</p>
<p>11. HUMAN ELEMENT: Has the proposal been assessed against each of the factors below?</p>	
<p>CREWING. The number of qualified personnel required and available to safely operate, maintain, support, and provide training for system.</p>	<p><input type="checkbox"/>Yes <input type="checkbox"/>No <input checked="" type="checkbox"/>NA</p>
<p>PERSONNEL. The necessary knowledge, skills, abilities, and experience levels that are needed to properly perform job tasks.</p>	<p><input type="checkbox"/>Yes <input type="checkbox"/>No <input checked="" type="checkbox"/>NA</p>
<p>TRAINING. The process and tools by which personnel acquire or improve the necessary knowledge, skills, and abilities to achieve desired job/task performance.</p>	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>NA</p>

<p>OCCUPATIONAL HEALTH AND SAFETY. The management systems, programmes, procedures, policies, training, documentation, equipment, etc. to properly manage risks.</p>	<p><input checked="" type="checkbox"/>Yes <input type="checkbox"/>No <input type="checkbox"/>NA</p>
<p>WORKING ENVIRONMENT. Conditions that are necessary to sustain the safety, health, and comfort of those on working on board, such as noise, vibration, lighting, climate, and other factors that affect crew endurance, fatigue, alertness and morale.</p>	<p><input type="checkbox"/>Yes <input type="checkbox"/>No <input checked="" type="checkbox"/>NA</p>
<p>HUMAN SURVIVABILITY. System features that reduce the risk of illness, injury, or death in a catastrophic event such as fire, explosion, spill, collision, flooding, or intentional attack. The assessment should consider desired human performance in emergency situations for detection, response, evacuation, survival and rescue and the interface with emergency procedures, systems, facilities and equipment.</p>	<p><input type="checkbox"/>Yes <input type="checkbox"/>No <input checked="" type="checkbox"/>NA</p>
<p>HUMAN FACTORS ENGINEERING. Human-system interface to be consistent with the physical, cognitive, and sensory abilities of the user population.</p>	<p><input type="checkbox"/>Yes <input type="checkbox"/>No <input checked="" type="checkbox"/>NA</p>
<p>Comments: (1) Justification if answers are NO or Not Applicable. (2) Recommendations for additional human element assessment needed. (3) Key risk management strategies employed. (4) Other comments. (5) Supporting documentation.</p>	