

FACILITATION COMMITTEE
44th session
Agenda item 13

FAL 44/13*
7 February 2020
Original: ENGLISH
Pre-session public release:

GUIDANCE TO ADDRESS MARITIME CORRUPTION

IMO Guidance to address bribery and corruption in the maritime sector

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SUMMARY

Executive summary: This document contains a proposal with respect to developing IMO guidance to address bribery and corruption in the maritime sector

Strategic direction, if applicable: 5 and 6

Output: 5.7

Action to be taken: Paragraph 12

Related documents: FAL 43/20; TC 69/6(d); FAL 43/17; FAL 42/17, FAL 42/16/3; PSCWS 7/3/7; MSC-MEPC.4/Circ.2 and resolution A.1119(30)

Introduction

1 At its forty-third session, the Facilitation Committee considered document FAL 43/17 and, recognizing that capacity-building on the subject of corruption in the maritime industry could contribute to the achievement of Sustainable Development Goal 16, Target 16.5, "Substantially reduce corruption and bribery in all its forms", agreed to inform the Technical Cooperation Committee about its decision to embark on this work.

2 The Committee 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.

3 The Committee, having noted existing output 5.10 on "Review and update of the annex to the FAL Convention", with a target completion year of 2021, under which proposals to include the issue of maritime corruption in the FAL Convention could be made, agreed to

* Reissued on 17 July 2020: Panama added as co-sponsor.

include in its 2020-2021 biennial agenda and the provisional agenda for FAL 44 an output on "Guidance to address maritime corruption", with a target completion year of 2021.

4 The Council at its 122nd session endorsed the decisions of the Committee to include in its biennial agenda for 2020-2021 and the provisional agenda of FAL 44 a new output on "Guidance to address maritime corruption".

IMO objectives

5 *The Strategic Plan for the Organization for the six-year period 2018 to 2023* (resolution A.1110(30)) 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."

6 IMO guidance will shape the contribution towards achieving the goals and mission of the Organization, if duly implemented.

Discussion

7 The maritime industry is exposed to the risk of many forms of corruption, particularly with respect to the multi-layered interface with ports. Corrupt demands include unlawful requests for payments to allow ships to enter and depart the port or disproportionate penalties being applied for minor errors and can lead to interruptions to normal operations, a risk to personal and ship safety, ships being delayed, and/or put off-hire, incurring higher operational costs.

8 Corrupt practices can 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. This in turn can have a negative effect on social, economic and sustainable development as well as a country's risk and integrity rating, potentially impacting on foreign direct investment.

9 The intent of this submission is to provide a proposed draft of IMO guidance for all stakeholders in the ship/shore interface, to implement and embrace anti-corruption practices and procedures, for further development prior to finalization and publication.

10 This proposal aims to align actions in the maritime sector with the United Nations Convention against Corruption (General Assembly resolution 58/4 of 31 October 2003) and other relevant instruments.

Proposal

11 The co-sponsors have prepared draft IMO guidance for all stakeholders in the ship/shore interface to implement and embrace anti-corruption practices and procedures, as set out in the annex.

Action requested of the Committee

12 The Committee is invited to consider this document and especially the proposal contained in paragraph 11 and the annex and take action as appropriate.

ANNEX

IMO GUIDANCE TO IMPLEMENT AND EMBRACE ANTI-BRIBERY AND CORRUPTION PRACTICES AND PROCEDURES

1 Introduction

1.1 Many countries already have laws that prohibit bribery and corruption, even when committed outside their national boundaries.

1.2 Bribery and corruption in the maritime sector can take various forms, and all relevant stakeholders should never accept, give or promise anything that could be interpreted as intending to improperly influence any person or decision. Lack of transparency, for example around fees or fines and their misuse, should be eliminated.

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

1.4 IMO is committed to preventing and eliminating bribery and corruption in the maritime sector.

1.5 This guidance should be used as tool for all stakeholders to combat bribery and corruption in the maritime sector.

1.6 All stakeholders in the ship/shore interface are encouraged to ensure compliance with national and international laws prohibiting bribery and corruption.

1.7 All stakeholders are further encouraged to work against corrupt practices by constantly focusing on anti-corruption measures and establishing processes and procedures, where not already in place, or improving them.

1.8 Member States and other stakeholders in the maritime sector are invited to familiarize, educate and train relevant personnel who are part of the ship/shore interface in matters pertaining to the avoidance of bribery and corruption.

1.9 Member States are also encouraged to promote awareness that a breach of national laws is a serious offence, which can result in fines or more serious consequences, including criminal sanctions, on organizations and individuals.

1.10 Member States are further encouraged to cooperate with each other, share and learn from existing best practices, including the adoption and implementation of anti-bribery and corruption policies and procedures.

2 Stakeholders

2.1 The stakeholders are all parties in the ship/shore interface, both ashore and on board.

2.2 The following lists are indicative, and may equally apply to others:

.1 shore-based stakeholders

Government officials
Port officials
Port workers
Third-party officials
Third-party workers
Contractors
Shipyards workers
Pilots
Ship agents
Ship chandlers
Crew suppliers
Other suppliers of port services

.2 Onboard stakeholders

Master
Officers
Crew
Shipping company representatives

3 Personal safety

If a situation develops due to a demand, request or offer being refused, no one should place themselves or anyone else in danger. The situation initially needs to be defused, following which it should be reported and actioned appropriately.

4 Tackling maritime corruption

4.1 The following non-exhaustive list should be implemented as appropriate by all stakeholder organizations, whether they be governmental, non-governmental or private sector and relate to both shore-based and ship-based organizations.

.1 *Prevent corrupt requests/demands*

- .1 Establish/implement legislation prohibiting bribery and corruption.
- .2 Implement an anti-bribery and corruption policy and procedures.
- .3 Provide anti-corruption training.
- .4 Promote awareness that even the appearance of a breach of these laws can have a serious reputational impact.
- .5 Encourage all personnel to resist, and where possible stop corrupt practices, bearing in mind that the safety of personnel is always paramount.
- .6 Establish electronic means for submitting/receiving documentation.
- .7 Establish a system of record-keeping of any requests/demands for payment/gifts.

- .8 Ensure that any official payments, fees or fines are recorded, and are transparent and publicly available.
- .9 Provide formal/official identification for all persons.
- .10 Require formal/official identification to be shown.
- .11 Provide formal/official invoices for any payment requirements, including those for fees or fines with the appropriate letterhead.
- .12 Provide an official non-cash only method for payment of any fees or fines.
- .13 Provide a formal/official receipt for any payment received, with the appropriate letterhead.
- .14 Implement an anti-bribery and corruption clause in all employment contracts.
- .15 Implement an anti-bribery and corruption clause in all supplier contracts.
- .16 Implement an anti-bribery and corruption clause in all contractor contracts.
- .17 Establish an official local contact point for any clarification requirements.
- .18 Establish and make publicly available a confidential national contact (telephone and email address) for reporting cases of bribery and corruption in the maritime sector.
- .19 Establish and make publicly available the process that will promptly investigate and resolve any issues raised.
- .2 *Reject corrupt requests/demands*
 - .1 Be calm, polite, firm and respectful.
 - .2 Explain through positive wording with the aim of coming to a mutual understanding as to what can and cannot be done.
 - .3 Explain the official/organization's anti-bribery and corruption policy and procedures.
- .3 *Eliminate corrupt requests/demands*
 - .1 Regularly review the effectiveness of anti-corruption policies and procedures.
 - .2 Publish regular updates on anti-bribery and corruption compliance.
 - .3 Address any concerns to senior levels within the appropriate body/organization.