

JOINT ILO/IMO TRIPARTITE
WORKING GROUP TO IDENTIFY AND
ADDRESS SEAFARERS' ISSUES AND
THE HUMAN ELEMENT
2nd meeting
Agenda item 3

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**CONSIDERATION OF FUTURE STEPS, E.G. LEGISLATION, MECHANISMS AND
POLICIES FOR REPORTING AND ADDRESSING OF BULLYING AND HARASSMENT,
INCLUDING SEXUAL ASSAULT AND SEXUAL HARASSMENT (SASH),
IN THE MARITIME SECTOR**

**Proposals to address gaps in existing ILO and IMO instruments for the prevention of,
and response to, bullying and harassment, including sexual assault and sexual
harassment**

Submitted by the United States

SUMMARY

Executive summary: This document provides proposals to address gaps in international standards and policies applicable to administrations, shipowners, and seafarers in the prevention of, and response to bullying and harassment, including sexual assault and sexual harassment (SASH), and recommendations for awareness campaigns.

Action to be taken: Paragraph 20

Related documents: MSC 105/20, MSC 105/16/2 and MSC 107/20; STCW 1978, as amended; ILO Maritime Labour Convention, 2006, as amended

Introduction

1 The Joint ILO/IMO Tripartite Working Group (JTWG) to identify and address seafarers' issues and the human element was established by the 105th session of the International Maritime Organization (IMO) Maritime Safety Committee (MSC 105) and the 343rd session of the International Labour Organization (ILO) Governing Body, under terms of reference as set out in annex 37 to document MSC 105/20.

2 MSC 105 directed the JTWG (under paragraph 4(c) of its terms of reference (see document MSC 105/20)) to "consider bullying and harassment in the maritime sector, including sexual assault and sexual harassment, taking into account information submitted by interested parties, with a view to providing recommendations for future steps, including the development of legislation, mechanisms and policies, and the launching of awareness campaigns by relevant stakeholders, aimed at reporting and addressing these matters". MSC 105 also invited Member States and international organizations to submit relevant information on these matters directly to the JTWG, as and when the meeting was convened.

3 This submission identifies gaps in the existing international standards and policies applicable to administrations, shipowners, and seafarers, as well as recommendations for awareness campaigns, as part of a comprehensive strategy toward the eradication of bullying, harassment, and SASH¹, in the maritime industry.

Background

4 All seafarers have a right to a safe and secure maritime work environment. Bullying, harassment, and SASH, may rise to workplace violence and have known detrimental effects on seafarers, including depression, poor performance, unhealthy coping mechanisms and isolation. Seafarers who experience or witness bullying, harassment, and SASH are more likely to make errors and provide compromised levels of service. In the maritime industry, these experiences pose significant risks to the safe and secure operation of maritime vessels, and lead to negative effects on recruitment and retention of seafarers. Both the ILO and the IMO have recognized the importance of developing a maritime workplace culture that is safe and inclusive for all maritime professionals as a means of improving operational safety and security in the maritime industry.

5 In 2016, the ILO's Special Tripartite Committee addressed concerns of bullying and harassment in the maritime sector by adopting amendments related to regulation 4.3 of the Maritime Labour Convention, 2006 (MLC, 2006). The Committee agreed that harassment and bullying on board ship, and the resulting suicides and illnesses, were critical issues relating to the rights of seafarers. They initially considered amending MLC, 2006 Standard A4.3 to require the competent authority to ensure that shipowners develop policies and plans to eliminate harassment and bullying on board ships that fly its flag. However, the Committee ultimately chose to amend Guideline B4.3.1, instead, by adding language that advised the competent authority to take account of the *Guidance on eliminating shipboard harassment and bullying*, jointly published by the International Chamber of Shipping (ICS) and the International Transport Workers' Federation (ITF).

6 Recent events and news on sexual assaults in the maritime industry indicate that problems with bullying, harassment, and SASH, have persisted despite efforts to control the problem through guidance. The persistence of these incidents underscores the need for a coordinated and comprehensive plan that addresses the prevention of, and response to bullying, harassment, and SASH, through regulations, policies, and training. Successful implementation will require a commitment to action by administrations, shipowners, and seafarers to drive the eradication of bullying, harassment, and SASH, and to promote a culture of personal safety and inclusion in the maritime industry.

7 MSC 105 established a framework to facilitate the eradication of bullying, harassment, and SASH, and to promote development of a maritime industry culture that would no longer tolerate or enable bullying, harassment, and SASH. The framework called for the development of mandatory seafarer training provisions, and for the establishment of regulations and policies, addressing the prevention of, and response to bullying, harassment, and SASH.

8 To address seafarer training, MSC 107 approved amendments to table A-VI/1-4 of the International Convention on Standards of Training, Certification and Watchkeeping (STCW) Code for mandatory training in personal safety and social responsibilities (PSSR) that includes a new competence on the prevention of bullying, harassment, and SASH. The draft amendments have been referred to the JTWG for consideration and advice to MSC 108 before

¹ The United States notes that the ILO and the IMO reference documents use the phrase, "bullying and harassment, including sexual assault and sexual harassment". In this proposal, the United States has abbreviated that phrasing to "bullying, harassment, and SASH" to be concise.

their adoption at that session. Additional specific SASH training provisions will be addressed by the Sub-Committee on the Human Element, Training and Watchkeeping (HTW) as part of the ongoing comprehensive review of the STCW Convention and Code.

9 To facilitate the identification of gaps and the development of regulations and policies, the ILO and the IMO seek to work jointly, through the JTWG, to drive the eradication of bullying, harassment, and SASH, in the maritime sector.

Discussion

10 Existing ILO and IMO instruments provide general requirements for seafarer and maritime workplace safety, but they do not provide any requirements specific to bullying, harassment, or SASH. By developing international maritime regulations and policies that directly address bullying, harassment, and SASH, the international maritime community can establish requirements to protect the safety and security of seafarers and the maritime work environment. The first step in developing the requirements is to identify the responsibilities of administrations, shipowners, and seafarers for the prevention of, and response to bullying, harassment, and SASH.

11 The United States developed these proposals through consultation with two legislatively mandated advisory committees the function of which is to advise the United States Secretary of the Department of Homeland Security through the Commandant of the United States Coast Guard on seafarer's professional issues including training, qualifications, certification, and medical fitness. The committee members are comprised of seafarers representing both officers and ratings from the engine and deck departments, maritime training providers, company representatives, and medical personnel, including doctors with expertise in maritime occupational medicine. The recommendations from these two committees form the basis of the proposals within this submission.

12 The industry committees held a series of public meetings with stakeholders to identify concerns and key factors contributing to the persistence of bullying, harassment, and SASH, in the maritime workplace. These factors include inadequate actions to prevent and respond to incidents of bullying, harassment, and SASH; insufficient medical treatment for victims of sexual assault; inadequate post-incident care for victims of bullying, harassment, and SASH; and failure to hold perpetrators administratively and criminally responsible for their actions. The industry committees also identified that the key drivers of these factors are a maritime industry culture that does not prioritize the prevention of, and response to, bullying, harassment, and SASH, as a critical safety issue; inadequate training for seafarers and shoreside shipowners' personnel in the prevention of, and response to, bullying, harassment, and SASH; and the absence of regulations governing the responsibilities of administrations, shipowners, and seafarers in the prevention of, and response to, bullying, harassment, and SASH.

13 The United States used the information gathered through the advisory committees to identify the following gaps in existing ILO and IMO instruments and to identify legislative and policy solutions to further the maritime industry's goal of eradicating bullying, harassment, and SASH, in the maritime sector.

- .1 Existing ILO and IMO instruments, including STCW Convention and Code, MLC, 2006, and the International Safety Management (ISM) Code, provide general requirements for administrations and shipowners for safe and secure operation of the ship, and for general occupational health and safety. However, these instruments do not include any requirements specifically related to bullying, harassment, and SASH. The ILO Violence and Harassment Convention, 2019 (No. 190) seeks to protect workers and other

persons from workplace violence and harassment, including gender-based violence and harassment. Among other requirements, Convention No. 190 requires member states who have ratified this convention to adopt laws and regulations requiring employers to take appropriate steps commensurate with their degree of control to prevent violence and harassment in the workplace, including gender-based violence and harassment, but it does not include any requirements specific to the unique environment of the maritime workplace.

- .2 The MLC, 2006 provides limited guidance on the prevention of bullying and harassment by referring the competent authority to consider the *Guidance on eliminating shipboard harassment and bullying*, jointly published by ICS and ITF. The guidance in the ICS and ITF publication is comprehensive; however, guidance is not mandatory, and the document does not address sexual assault.
- .3 The training in the STCW Convention and Code and its supporting model courses do not address bullying, harassment, or SASH.
- .4 The ISM Code does not address operational actions to be taken to prevent or respond to bullying, harassment, or SASH incidents.
- .5 The World Health Organization's *International Medical Guide for Ships* does not provide guidance for the treatment of victims of bullying, harassment, and SASH, and does not discuss sexual assault-specific equipment and medications that should be included in a ship's medicine chest.

Proposals

Responsibilities of flag Administrations

14 Based on the identified gaps, the United States proposes the following changes to existing ILO and IMO instruments for the consideration of the JTWG to address the responsibilities of Member States/Administrations to promote a safe maritime workplace, including living conditions, by implementing policies and regulations that establish standards for shipowners and seafarers in the prevention of, and response to, bullying, harassment, and SASH.

- .1 Amendments to MLC, 2006, title 4, "Health protection, medical care, welfare and social security protection", to require Members to:
 - .1 identify the appropriate authorities for reporting serious crimes and sexual assault, and make the information readily available to seafarers and ships that may enter its port;
 - .2 investigate all reports of bullying and harassment, including SASH, made to the port State, in accordance with regulation 5.2.2 "Onshore seafarer complaint-handling procedures"; and
 - .3 ensure cooperation between the flag State and the port State for the investigation of cases of serious crimes, to include sexual assault.
- .2 Amendments to the STCW Convention, regulation I/5, "National provisions", to address prevention of sexual assault by removing known perpetrators from

service in the interest of maritime safety. STCW Parties should consider including a requirement to suspend or revoke the credentials of any seafarer convicted of sexual assault.

Responsibilities of shipowners and seafarers

15 The United States proposes the following actions to the ISM Code and MLC, 2006 to address the responsibilities of shipowners and seafarers to establish and maintain a safe shipboard environment by implementing policies and procedures for the prevention of, and response to, bullying, harassment, and SASH.

- .1 Amendments to the ISM Code, to provide that companies should include policies and procedures for the prevention of, and response to, bullying, harassment, and SASH, in their Safety Management System, that include reporting, incident management, investigation, and victim care that:
 - .1 provide seafarers with multiple options to report incidents, including confidential reports, of bullying, harassment, and SASH, to designated shoreside company personnel, or directly to the administration, as the seafarer chooses;
 - .2 provide the master with adequate resources to manage the shipboard response to bullying and harassment, including SASH, including medical treatment for victims; and
 - .3 provide ships' medical persons in charge with adequate resources to treat victims of bullying, harassment, and SASH, in accordance with the *International Medical Guide for Ships*, and shore-based telemedical support.
- .2 Amendments to the ISM Code, part A, section 4, "Designated person(s)", to provide that companies should designate and train a person ashore who will serve as the point of contact and ensure that adequate onboard resources and shore-based support are applied, as required, for cases of bullying, harassment, and SASH. Note: this would be the same individual identified in paragraph 15.3.8 of this proposal.
- .3 Amendments to the MLC, 2006, title 4, "Health protection, medical care, welfare and social security protection", to require Members to implement laws, regulations or practices requiring shipowners of ships that fly their flag to:
 - .1 develop shipboard and shoreside policies and procedures for the prevention of, and response to, bullying, harassment, and SASH, that address risk evaluation, incident reporting, incident management, incident investigation, and victim treatment, as well as training of seafarers and shoreside personnel in the shipowners' policies and procedures;
 - .2 delineate the responsibilities of ships' officers, medical personnel (medical person in charge, medical first aid provider), seafarers, and shoreside personnel in the implementation of the shipowners' policies and procedures for the prevention of, and response to, bullying, harassment, and SASH;

- .3 provide the ship's master and shoreside personnel with sufficient onboard and shoreside resources, to include personnel and equipment, to comply with the shipowners' policies and procedures for the prevention of, and response to, bullying, harassment, and SASH;
- .4 report incidents of bullying, harassment, and SASH, to the appropriate authorities. Incidents involving sexual assault must be immediately reported to the flag State and appropriate authorities;
- .5 establish processes that provide seafarers with multiple options to report incidents, including confidential reports, of bullying, harassment, and SASH, to designated shoreside personnel, or directly to the flag State, as the seafarer chooses;
- .6 prohibit and penalize any kind of retaliation against a seafarer for reporting incidents of bullying, harassment, and SASH;
- .7 provide timely and appropriate medical and mental health care to victims of bullying, harassment, and SASH, in accordance with MLC, 2006 regulations 4.1 and 4.2, the *International Medical Guide for Ships*, and in consultation with the shore-based telemedical provider, until fully recovered from the ill effects of the incident. Shipowners must not compromise the medical care of sexual assault victims based on the personal beliefs of the ships' medical person in charge or medical first aid provider;
- .8 designate and train a person or persons ashore who will serve as the point of contact for the reporting of bullying, harassment, and SASH cases, and who will ensure that adequate resources and shore-based support are applied, as required, to manage the response and provide appropriate victim support;
- .9 conduct investigations of incidents of bullying, harassment, and SASH and ensure the protection of seafarers' personal data; and
- .10 cooperate with port States and flag States on investigations of serious crime and sexual assault.

16 The United States also proposes revisions to the *International Medical Guide for Ships, 3rd Edition*, to provide guidance on timely, trauma-informed care of victims of bullying, harassment, and SASH, that addresses their medical and mental health needs. The guidance should include recommendations for medications and equipment specific to treatment of a victim of sexual assault, provisions for medical evacuation, and use of shore-based telemedical companies that have competency in providing medical and mental health care to victims of bullying, harassment, and SASH.

17 In addition to legislative and policy solutions, the United States recommends that IMO and ILO Member States and Administrations launch national communications campaigns to address SASH issues including education, prevention, reporting, and culture change. Campaigns may include visits by the competent authority to training institutions, addressing training institution leadership, instructors, veteran seafarers, and students/cadets. Campaigns may use traditional methods and social media to broadcast information to stakeholders about

the importance of reporting and options for reporting incidents of bullying, harassment, and SASH.

18 The United States acknowledges that some of these proposals touch on an instrument to which the United States is not a party. The United States is of the view that addressing this important issue requires a holistic review to identify gaps in the existing international regulatory framework. That is the purpose of this document. The United States is also cognizant that the purpose of this JTWG is to identify gaps and potential solutions that the two organizations should address within their respective bodies and processes.

19 The United States is committed to the objectives of these proposals and has taken significant legislative and policy action that is consistent with the recommendations provided in this document. Additionally, the United States has launched a communications campaign toward the eradication of bullying, harassment, and SASH in the maritime industry.

Action requested of the JTWG

20 The JTWG is invited to consider the proposals in paragraphs 14 to 17 and take action as appropriate.
