

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

ILO/IMO JTWG-SIHE 2/3/5
29 January 2024
ENGLISH ONLY
Pre-session public release: ☒

**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**

Comments on document ILO/IMO JTWG-SIHE 2/3

Submitted by ICS

SUMMARY

Executive summary: ICS, on behalf of the Shipowners' Group, comments on document ILO/IMO JTWG-SIHE 2/3 submitted by the IMO and ILO Secretariats, regarding elements of possible recommended actions arising from JTWG meeting. More specifically, ICS provides proposals regarding the potential JTWG recommendations, to be developed as part of the outcome of the meeting and submitted for consideration by the ILO Governing Body (GB) and by the IMO Maritime Safety Committee (MSC).

Action to be taken: Paragraph 12

Related documents: ILO/IMO JTWG-SIHE 2/3 and ILO/IMO JTWG-SIHE 2/INF.2

Introduction

1 In response to the ILO and IMO Secretariats' non-exhaustive list of elements to assist the discussion of recommendations for future steps to prevent, report and address harassment and bullying in the maritime sector, as provided in document ILO/IMO JTWG-SIHE 2/3, and on behalf of the Shipowners' Group, ICS outlines below an overview of potential JTWG recommendations, which could be further developed by the JTWG, as part of the outcome of the meeting and submitted for consideration by the ILO GB and by the IMO MSC.

Potential JTWG recommendations

2 In the context of future steps, the Shipowners' Group believes that the potential recommendations provided below can serve as a good starting point and basis for consideration, discussion and refining during the JTWG meeting.

Recommendation 1 (Regarding status of violence and harassment in the maritime sector)

3 Matters related to violence and harassment in the workplace have impacted many (if not all) sectors and industries globally, on land and at sea. ILO's 2022 global survey and report on *Experiences of Violence and Harassment at Work* found that "one in five people (almost 23%) in employment have experienced violence and harassment at work, whether physical, psychological or sexual". The maritime sector is no exception and must continue to take the issue of violence and harassment very seriously. This includes having suitable policies and complementary measures in place to address the issue. The impact of violence and harassment, when experienced by seafarers on board is significant, since a ship is often a seafarer's home for many months. The shipboard living and working environment, isolation, size and proximity of cabins and the necessity to remain in the workplace during rest periods mean that the opportunity to distance oneself from such behaviour is reduced.

Recommendation 2 (Regarding potential ways to facilitate the collection of data on violence and harassment on board ships, as requested by IMO Council 129)

4 The 2022 ILO report on *Experiences of Violence and Harassment at Work* was conducted in 2021 with nearly 125,000 individuals in 121 countries and territories, focusing exclusively on the 74,364 respondents in employment across a range of sectors at the time of the interviews. This report recognizes the difficulties in measuring violence and harassment in the world of work (e.g., due to under-reporting, among other things), laying bare the magnitude of the task ahead, to end workplace violence and harassment throughout the global society within which the maritime sector operates. In this context, recognizing that the maritime sector does not exist in a vacuum, it is proposed that subsequent versions of this global ILO survey should cover all economic sectors, including the maritime sector.

Recommendation 3 (Regarding the use of the ILO Violence and Harassment Convention, 2019 (No.190) as a basis for development of national legislation)

5 Alongside the ILO Maritime Labour Convention, 2006, as amended (MLC, 2006), the ILO Violence and Harassment Convention, 2019 (No. 190) is key to the holistic approach needed to combat violence and harassment in the maritime sector. This first international labour standard to address workplace violence and harassment provides a common global framework for action and applies to all sectors (whether private or public), including the maritime sector. Universal action is needed to help fulfil ILO Centenary Declaration for the Future of Work, 2019 which commits to a world of work free from violence and harassment. All states should therefore expedite ratification and implementation of Convention No. 190 and take due account of its accompanying Violence and Harassment Recommendation, 2019 (No. 206). Moreover, the International Chamber of Shipping and the International Transport Workers' Federation *Guidance on eliminating shipboard harassment and bullying*, 2016, which is referenced in the MLC, 2006, is an essential component of the maritime sector's global approach to eliminating violence and harassment. ICS and ITF may be invited to review the guidance at regular intervals, and revise it as appropriate, including to take account of lessons learned and recommendations arising from this JTWG meeting.

Recommendation 4 (Regarding definitions and terminologies)

6 Having considered the definitions of "violence and harassment" and "gender-based violence and harassment", provided under article 1.1 of the global Convention No. 190 it is proposed that, for consistency with this universal ILO framework, the terminologies "violence and harassment" and "gender-based violence and harassment", are the most appropriate to use in the context of the maritime transport sector going forward, in place of the currently used term "harassment and bullying" and the term "bullying and harassment, including sexual assault and sexual harassment (SASH)". Using these ILO definitions and terminologies in the context of the maritime sector, would be in keeping with what is being universally used by ILO. There would be considerable advantages in this, as it would make it easier for the maritime

sector to collaborate with and learn from other sectors. It is noted that the term "bullying" encompasses behaviours that fall within the definition of "violence and harassment". Likewise, behaviours constituting "sexual assault" are also covered by the concept of "gender-based violence and harassment", as defined in Convention No. 190. The term "sexual assault" generally constitutes a serious criminal offence, warranting investigation by competent national authorities, including law enforcement. As such, matters related to "sexual assault" need to be addressed outside of the training provisions of the IMO STCW Convention. While Convention No. 190 proposes a single concept covering "violence and harassment", it takes into account the diversity of national legal systems and regulatory approaches, allowing States to opt for a single concept or separate concepts in their definitions in national laws and regulations (article 1(2)), while ensuring that all the elements of the ILO definitions are respected.

Recommendation 5 (Regarding balance of responsibilities to address violence and harassment in the maritime sector)

7 A collaborative approach, involving social partnership of governments, shipowners' and seafarers' representatives (e.g., unions), should be endorsed as the most appropriate method of promoting positive cultures on board. It should also be ensured that any mandatory requirement to address violence and harassment in the maritime sector, provides an even balance of responsibility between shipowners, seafarers, and their respective representatives; international organizations, flag States, port States, States of which seafarers are nationals or are resident or are otherwise domiciled in their territory, and the States in which relevant recruitment and placement services operate. While shipowners (i.e. the persons responsible for crew terms and conditions and HR policies) are responsible for implementing shipboard policies and complementary measures to eliminate violence and harassment from ships, all the aforementioned stakeholders also have important roles to play. For example, seafarers' representatives (e.g., unions) can raise awareness and set expectations for their members, in the context of relevant provisions from the two key ILO conventions, which could be enforced through appropriate deterrents, including disciplinary procedures (as necessary); while all States should review their national civil and criminal codes to verify consistency with requirements of the MLC, 2006 and Convention No. 190. Victims of violence and harassment must be provided with effective rights of action and support, whilst dissuasive and corrective measures towards perpetrators must be adopted. The competent authorities for reporting serious cases of violence and harassment should be clearly identified and all relevant aforementioned States should cooperate, as necessary, for the investigation of such cases, while being mindful of the universal principle of flag state jurisdiction.

Recommendation 6 (Related to reporting and addressing cases of violence and harassment on board ships)

8 The ability of a victim of violence and harassment to report an incident that they have suffered is essential, but the process of reporting and the way they are subsequently treated must not deter reporting. All complaints related to violence and harassment on board ships should be taken seriously and in strict confidence, to protect victims and those reporting. This should entail confidential reporting channels and clear complaints procedures – including steps to file a complaint and for complaints investigation and management (in line with applicable legal or professional standards) – underpinned by the relevant ILO provisions. The advice provided in the latest version of the International Chamber of Shipping and the International Transport Workers' Federation *Guidance on eliminating shipboard harassment and bullying*, 2016 should also be taken into account. Appropriate safeguards should be put in place for persons who are the subject of malicious or vexatious complaints.

Recommendation 7 (Regarding policies, the launching of awareness campaigns and positive culture initiatives, by relevant stakeholders, to promote reporting and addressing violence and harassment in the maritime sector)

9 Shipowners, seafarers, and their respective representatives, flag States, port States, States of which seafarers are nationals or are resident or are otherwise domiciled in their territory, and the States in which relevant recruitment and placement services operate should promote awareness about what violence and harassment means, through targeted communications and other complementary measures aimed at their constituent seafarers. These should also encourage "bystanders" to become defenders or "upstanders" to prevent and deter against these actions on board ships. Measures to combat violence and harassment could include "speak up" campaigns, underpinned by anti-retaliation policies, to encourage seafarers to report their concerns. "Conversation circles", where employees can openly discuss their experiences and challenges in a safe space, can also be useful to promote a positive working culture on board. The ability of the maritime sector to successfully combat violence and harassment on board ships highly depends on the effectiveness of company policies and complementary measures, as well as the support of seafarers' representatives (e.g., unions). This includes how policies are developed, implemented, applied and monitored. As such, shipowners are strongly encouraged to take into account the International Chamber of Shipping's *Industry principles for establishing effective measures to combat and eliminate harassment and bullying* (2024), which draws inspiration from an array of existing shipping company policies and complementary initiatives.

Recommendation 8 (Related to draft amendments to chapter VI of the STCW Code, regarding training to prevent and respond to violence and harassment on board ships)

10 The JTWG supports the inclusion of appropriate training provisions in the STCW Code, aimed at ensuring that new seafarers are aware of what constitutes violence and harassment, including how to identify and prevent any incidences they experience or witness through reporting. Whilst the proposed additions to table A-VI/1-4 of the STCW Code achieve this aim, it is important that any training provisions have an appropriate basis. In this context, it is also suggested that the draft amendments should be reviewed for alignment with the MLC, 2006, the Convention No. 190 and the International Chamber of Shipping and the International Transport Workers' Federation *Guidance on eliminating shipboard harassment and bullying*, 2016, as referenced in the MLC, 2006. While positive progress has been made regarding the training of new seafarers on violence and harassment on board ships, the need for a framework to train existing seafarers on the issue is considered more pressing, to ensure that new entrants feel safe and supported when joining a ship. Moreover, to fully address this issue, a closer focus on the shipboard and onshore culture of companies is also required, through a top-down approach. Training to support positive shipboard working cultures is already being implemented by some companies. These should proliferate throughout the industry, to complement any potential adoption of a suitable STCW framework, to train existing seafarers on violence and harassment on board ships.

Conclusion and proposal

11 On behalf of the Shipowners' Group, ICS has submitted the foregoing potential JTWG recommendations, for consideration during the meeting. The Shipowners' Group believes that these suggestions constitute a practical framework, on the basis of which JTWG recommendations can be produced for consideration by the ILO GB and by the IMO MSC.

Action requested of the JTWG

12 The JTWG is invited to consider the potential JTWG recommendations for consideration by the ILO Governing Body and the IMO MSC, as outlined in paragraphs 2 to 10, as well as the conclusion and proposal set out in paragraph 11, and take action as appropriate.