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WORK PROGRAMME

Proposal for a new output to develop guidance to assist competent authorities in the implementation of the Cape Town Agreement of 2012

Submitted by Iceland, Indonesia, Spain, WMU and Pew

SUMMARY

Executive summary: This document proposes a new output for the III Sub-Committee to develop guidance to assist competent authorities in the implementation of the Cape Town Agreement of 2012

*Strategic direction,
if applicable:* 1 and 6

Output: Not applicable

Action to be taken: Paragraph 29

Related documents: III 7/14, III 7/14/1; MSC 102/22/2, MSC 102/22/13, MSC 102/24 (paragraphs 22.21-22.23); MSC 103/20/2, MSC 103/20/11; III 7/14/4; A 31/D (paragraph 10.6) and Circular Letter No.4387

Introduction

1 This document, submitted in accordance with MSC-MEPC.1/Circ.5/Rev.2, paragraph 4.6, proposes a new output for the Sub-Committee on Implementation of IMO Instruments (III Sub-Committee) to develop guidance to assist competent authorities in the implementation of the Cape Town Agreement of 2012 (hereinafter referred to as the Agreement).

2 Several times after the adoption of the Cape Town Agreement of 2012, IMO has been requested to intensify its efforts to provide States with the assistance they may need in implementing the Agreement and to make adequate provision for that purpose within its Integrated Technical Cooperation Programme (ITCP), such as at the twenty-eighth and the twenty-ninth sessions of the Assembly.

3 Less than two years ago, the Ministerial Conference on Fishing Vessel Safety and Illegal, Unreported and Unregulated Fishing, held in Torremolinos, Spain, from 21 to 23 October 2019, requested IMO to consider continuing to provide States, particularly developing States, with the assistance they may need in acceding to and

implementing the Agreement and to make adequate provision for that purpose within its Integrated Technical Cooperation Programme as well as developing further related technical assistance tools, as appropriate.

4 Furthermore, the fourth session of the Joint FAO/ILO/IMO Ad Hoc Working Group on Illegal, Unreported and Unregulated (IUU) Fishing and Related Matters (JWG 4), which was held in Torremolinos, Spain, immediately after the Ministerial Conference, i.e. from 23 to 25 October 2019, recommended that IMO consider developing guidance to assist competent authorities in the implementation of the Agreement through the most appropriate process, and that such process should allow for further discussion on its content and scope and be informed by FAO, ILO, other relevant organizations and stakeholders.

Recent developments

5 As a follow-up to the above-mentioned Ministerial Conference and JWG 4, an informal group of interested delegations submitted comments on the development of guidance to assist competent authorities in the implementation of the Cape Town Agreement of 2021 (III 7/14/1 and MSC 102/22/13).

6 MSC 102 considered document MSC 102/22/13 (Iceland et al.), pointing out that Signatory States to the Torremolinos Declaration which were planning to deposit an instrument of ratification, acceptance, approval or accession by the target date of 11 October 2022 would benefit from guidance to address issues related to the implementation of the Agreement. In this regard, the co-sponsors notified the Committee that they intended to form a group of interested parties, in which other interested delegations were encouraged to participate, to develop draft guidance based on the terms of reference set out in paragraph 13 of the document. Subsequently, the Committee invited interested delegations to contact the delegation of Spain¹ if they wished to participate in the group.

7 The informal group submitted a brief summary to MSC 103 to inform the Committee on the progress made by the group in developing draft guidance to assist competent authorities in implementing the Agreement (MSC 103/20/2). The draft guidance is set out in the annex to document MSC 103/20/2. The document also highlighted the view of the co-sponsors on the scope of the guidance and the availability of a free-access information platform kindly provided by the Icelandic Transport Authority of the Government of Iceland to facilitate the work of the group and which other stakeholders could benefit from. The co-sponsors encourage all stakeholders to visit the information platform for further information.²

8 Document MSC 103/20/11 emphasizes a series of joint efforts made by IMO in cooperation with other United Nations (UN) Organizations, Member States and non-governmental organizations to carry on promoting the ratification of the Agreement and proposes a work plan for a group of interested parties to finalize a draft guidance to assist competent authorities in the implementation of the Agreement.

9 Document MSC 103/20/11 also highlights Circular Letter No.4387 of 17 February 2021 that invites Member States to fill in a short online questionnaire in order to follow up on the current progress of ratification of the Agreement and to determine any need

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² <https://www.icetra.is/maritime/international-maritime-organization-imo/cta>

for technical cooperation assistance. Circular Letter No.4387 also provides relevant information on how IMO, in cooperation with other UN agencies, notably FAO and ILO, and non-governmental organizations, in particular, the Pew Charitable Trusts, carries on promoting joint efforts on the ratification of the Agreement, such as a series of regional webinars within the Organization's ITCP (Latin America and Caribbean regions in November 2020; Africa region in February 2021; Middle East, North Africa and Mediterranean in April 2021; Western Asia and Eastern Europe in June 2021 and the Pacific in July 2021); as well as the launch of a new online easy guide³ to the Agreement on fishing vessel safety and on the possibility to hold bilateral online meetings with interested States to discuss the current status of their ratification efforts and any other relevant issues that the Secretariat could assist with.

10 Owing to time constraints, MSC 103 postponed consideration of several documents, including MSC 103/20/2 and MSC 103/20/11.

11 The latest submission of the informal group is document III 7/14/4, which provides a brief summary on the progress made by the group in developing draft guidance to assist competent authorities in implementing the Agreement after submitting documents MSC 103/20/2 and MSC 103/20/11 to MSC 103. Document III 7/14/4 contains an updated version of the draft guidance in an annex. Furthermore, the document also provides information on the forthcoming work of the group based on its work plan.

Objectives of IMO

12 This proposal recognizes the significant contribution to maritime safety and that of fishing vessels which can be made by the implementation of the provisions of the Agreement.

13 The main goal of this proposal is to provide the guidance to assist competent authorities in the implementation of the Agreement, correlating to the mission and vision of IMO to promote safe, secure, environmentally sound, efficient and sustainable shipping through cooperation, by helping to adopt the highest practicable standards of maritime safety on industrial fishing vessels.

14 This submission is also consistent with the Organization's strategic directions SD 1, aiming at the effective, efficient and consistent implementation and enforcement of the provisions of the IMO instruments, and SD 6 which aims to ensure that a universally adopted, effective, international regulatory framework is in place and implemented consistently, embracing and integrating new and advancing technologies, without causing unnecessary burdens.

Compelling need

15 Fishing is considered as one of the most dangerous occupation in the world. According to ILO, the annual fatality rate in the fisheries sector is at least 80 lives lost per 100,000 fishers. According to FAO, the total number of fishers in the world is more than 40 million, meaning that tens of thousands of fishers' lives are lost every year. This alarmingly high number of fishing vessel personnel fatalities as well as the high number of fishing vessels reported lost every year could be reduced by global, uniform and effective implementation of the Agreement.

³ <https://sway.office.com/pGZcJtkSuHNxDzy5?ref=Link>

Analysis of the issue

16 Since 2014, a number of IMO regional seminars have been held all over the world on the implementation and ratification of the Agreement. In addition to promoting the early acceptance and effective implementation of the Agreement within the participating countries, the objective of these seminars was to obtain a clear indication of the legal, administrative and technical constraints and need of assistance to the ratification of the Agreement by the countries. So far, such seminars have been held in Belize, the Cook Islands, Costa Rica, Côte d'Ivoire, Ghana, Indonesia, Morocco, Peru and South Africa.

17 In addition, IMO has also organized, in collaboration with Indonesia and the Philippines, national technical seminars with the objective to commence the work of a gap analysis of existing legislation and current practices in these countries and to identify solutions to meet the standards outlined in the Agreement in order for the countries to be able accede to it. Most recently, detailed roundtable discussions have been held with the Russian Federation, the Republic of Korea, the Republic of Seychelles as well as a national workshop in the People's Republic of China.

18 Among the conclusions of the above-mentioned meetings is that additional legal and technical assistance is needed by States that are considering acceding to the Agreement. Furthermore, it was also recognized that a broad range of issues need to be addressed when tackling the issue of safety at sea in the fisheries sector in a holistic manner, including the issues of onboard working and living conditions and IUU fishing.

Analysis of implications

19 This proposal does not imply any additional administrative requirements or burdens. In this regard, the completed administrative checklist, as specified by MSC-MEPC.1/Circ.5/Rev.2, is set out in annex 1.

Benefits

20 There is currently no purpose-made guidance available for States that are considering implementing and ratifying the Agreement. The co-sponsors of this document, therefore, believe that Administrations, vessels owners, fishing vessel personnel and other stakeholders will benefit from a set of guidance that addresses the issues linked to the implementation of the Agreement in a holistic manner, which would include the issues of onboard working and living conditions and IUU fishing.

Industry standards

21 There are some documents in place, such as the *FAO/ILO/IMO Implementation Guidelines on Part B of the Code, the Voluntary Guidelines and the Safety Recommendations*, that could be useful for competent authorities when implementing the Agreement. However, as the main purpose of this instrument is to assist competent authorities in the implementation of voluntary instruments, it does not provide guidance on provisions that are specific to the Agreement, such as the gross tonnage/length equivalents and progressive implementation.

22 Among others, references to the following instruments should be made, as appropriate, in the proposed guidance:

- .1 International Convention on Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel (STCW-F), 1995;

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- .2 FAO Agreement on Port State Measures to Prevent, Deter and Eliminate Illegal, Unreported and Unregulated Fishing (PSMA);
 - .3 ILO Work in Fishing Convention, 2007 (No.188);
 - .4 FAO Voluntary Guidelines for Flag State Performance; and
 - .5 ILO Guidelines on flag State inspection of working and living conditions on board fishing vessels.

23 However there are no provisions or common procedures agreed for the implementation of the Agreement.

Output

24 The following output is proposed:

"Development of guidance to assist competent authorities in the implementation of the Cape Town Agreement of 2012".

25 This work programme item could be added to the work programme of the III Sub-Committee, with one session needed for completion during the 2022-2023 biennium. It is furthermore proposed that an ad hoc working group be established during the session.

Human element

26 The completed checklist, as specified by MSC-MEPC.7/Circ.1, is set out in annex 2. However, it is not foreseen that this proposal will have significant implications for the human element.

Urgency

27 In total, 51 States have signed the Torremolinos Declaration and thereby expressed their determination to take action so that the entry-into-force criteria of the Agreement are met by the target date of 11 October 2022,⁴ the tenth anniversary of its adoption. Therefore, it is likely that many States will be in the process of preparing for the implementation and ratification of the Agreement in the coming months and years, in order to meet the mentioned target date. These States, in particular developing States, may benefit from appropriate guidance from IMO in this regard.

28 Given the compelling need, highlighted in paragraph 15 above, and that many States may soon need proper guidance regarding the implementation of the Agreement, the co-sponsors of this document suggest that the proposed new output be considered as a matter of high priority.

Action requested of the Committee

29 The Committee is invited to:

- .1 agree to the proposal for a new output on the "Development of guidance to assist competent authorities in the implementation of the Cape Town Agreement of 2012" (paragraph 24); and

⁴ Upon completion of relevant review at national level.

- .2 add the output to the 2022-2023 biennium agenda of the III Sub-Committee with one session needed for completion, and agree that an ad hoc working group be established during the session (paragraph 25).

ANNEX 1

CHECKLIST FOR IDENTIFYING ADMINISTRATIVE REQUIREMENTS AND BURDENS

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 requirement" is defined in accordance with resolution A.1043(27), as an obligation arising from a mandatory IMO instrument 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	Yes <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	Yes <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	Yes <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	Yes <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 burdens?	NR	Yes <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: Development of guidance to assist competent authorities in the implementation of the Cape Town Agreement of 2012</p>	
<p>Responsible body: The Maritime Safety Committee and III Sub-Committee</p>	
1. Was the human element considered during development or amendment process related to this subject?	<input type="checkbox"/> Yes <input type="checkbox"/> No x NA
2. Has input from seafarers or their proxies been solicited?	<input type="checkbox"/> Yes <input type="checkbox"/> No x NA
3. Are the solutions proposed for the subject in agreement with existing instruments? (Identify instruments considered in comments section)	<input type="checkbox"/> Yes <input type="checkbox"/> No x NA
4. Have human element solutions been made as an alternative and/or in conjunction with technical solutions?	<input type="checkbox"/> Yes <input type="checkbox"/> No x NA
5. Has human element guidance on the application and/or implementation of the proposed solution been provided for the following:	
• Administrations?	<input type="checkbox"/> Yes <input type="checkbox"/> No x NA
• Shipowners/managers?	<input type="checkbox"/> Yes <input type="checkbox"/> No x NA
• Seafarers?	<input type="checkbox"/> Yes <input type="checkbox"/> No x NA
• Surveyors?	<input type="checkbox"/> Yes <input type="checkbox"/> No x NA
6. At some point, before final adoption, has the solution been reviewed or considered by a relevant IMO body with relevant human element expertise?	<input type="checkbox"/> Yes <input type="checkbox"/> No x NA
7. Does the solution address safeguards to avoid single person errors?	<input type="checkbox"/> Yes <input type="checkbox"/> No x NA
8. Does the solution address safeguards to avoid organizational errors?	<input type="checkbox"/> Yes <input type="checkbox"/> No x NA
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?	<input type="checkbox"/> Yes <input type="checkbox"/> No x NA
10. Have human element experts been consulted in development of the solution?	<input type="checkbox"/> Yes <input type="checkbox"/> No x NA
<p>11. HUMAN ELEMENT: Has the proposal been assessed against each of the factors below?</p>	
<input type="checkbox"/> CREWING. The number of qualified personnel required and available to safely operate, maintain, support and provide training or system.	<input type="checkbox"/> Yes <input type="checkbox"/> No x NA

<input type="checkbox"/> PERSONNEL. The necessary knowledge, skills, abilities and experience levels that are needed to properly perform job tasks.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
<input type="checkbox"/> TRAINING. The process and tools by which personnel acquire or improve the necessary knowledge, skills and abilities to achieve desired job/task performance.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
<input type="checkbox"/> OCCUPATIONAL HEALTH AND SAFETY. The management systems, programmes, procedures, policies, training, documentation, equipment, etc. to properly manage risks.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
<input type="checkbox"/> 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.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
<input type="checkbox"/> 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.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
<input type="checkbox"/> HUMAN FACTORS ENGINEERING. Human-system interface to be consistent with the physical, cognitive and sensory abilities of the user population.	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NA
Comments: 	
