**Global stakeholders’ consultation on the International Maritime Organization (IMO) and implications for toxics and human rights** (*Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes)*

Specific issues relating to shipping, toxicity, and greenhouse gas emissions

*Alternative fuels is the main issue that relates directly to toxicity and greenhouse gas emissions.*

Conventional maritime fuel, known as Heavy Fuel Oil (HFO), has high levels of CO2 emissions, as well as other harmful effects such as sulphur. During discussions at the IMO on sulphur cap limit there have been mention of blended fuels as a potential short term measure, but that this has potentially many unknown dangers. Alternative fuels will be one of the most important ways to reduce shipping greenhouse gas emissions. A number of alternative fuels are being developed, and these can reduce emissions by between 17% (e.g. LPG) to 100% (e.g. Ammonia).

From a seafarers’ perspective, there are several issues that need to be resolved before these fuels can be introduced on a large scale:

* Health and safety risks from handling of highly toxic (e.g. Ammonia) and flammable fuels (e.g. LNG, LPG)
* Education and training for crew on new types of energy sources, propulsion systems and engine types
* Where new jobs are created in alternative fuel production, these jobs must be made available as a priority to any seafarers impacted by climate measures, without loss of job quality, income, or labour rights
* Where alternative fuels leads to greater automation, seafarers must also have their jobs and conditions protected
* Safeguards against criminalisation resulting from risky new technologies and loopholes in enforcing environmental regulations.

Alternative fuels also require major investment by governments and the private sector to quickly expand production. If commitments are made on the above issues, we could consider a joint approach with employers that calls for a green industrial policy to fast track the transition.

Broader issues relating to shipping, toxicity, and greenhouse gas emissions

*Just transition principles must be hard wired into all decarbonisation measures*

The ITF’s position on Just Transition emphasises the central role of collective bargaining that involves workers in all key mitigation measures, including the introduction of new technologies, retraining and redeployment where necessary, and addressing the specific demands of young workers and women workers.

Just transition measures particularly relevant to maritime include:

* Strong union representation in key decision-making bodies and initiatives at the industry level, particularly when decision are made in the IMO which is not a tripartite organisation
* No job losses as a result of sustainability measures. Retraining and redeployment guarantees, including transition from sea to shore based jobs
* Ensure that training programmes do not adversely impact seafarers on duty or during their holidays or shore leave since often seafarers are required to do additional training during their rest periods, which means they do not get the appropriate rest they have the right to. The World Maritime University recently published a report “A cultural adjustment, evaluating the implementation of the current maritime regulatory framework on rest and work hours” <https://commons.wmu.se/lib_reports/66/> The same hesitation among seafarers to properly report their hours of rest and work could also apply to environmental incidents or near incidents i.e. spills, dumping, unprotected handling of dangerous chemicals since the majority of seafarers in international trade come from developing countries and are employed on a contract-to-contract basis and therefore they are often afraid to speak up in fear that they will not be rehired
* Create opportunities for women and young workers in the maritime industry

*Slow steaming and speed optimisation*

It is estimated that if the entire shipping fleet went 10% slower, there would be a 20% net reduction in carbon emissions. This figure assumes that that more ships would need to be put into service to make up for the capacity shortfall of slow steaming.

Slow steaming would need strong regulation to prevent non-compliant shipping lines and shipowners gaining an unfair advantage. There may also need to be flexibility for certain ship types, and to ensure safety concerns in adverse weather.

For seafarers, slow steaming could have some positive impacts. This could improve work quality, as the most intensive work is required when coming in and out of ports. Slow steaming could also create more employment, as more capacity would be needed across the fleet. However, slow steaming as Energy Efficiency should not diminish importance of safety by lowering minimum power needed in adverse weather as a new Energy Efficiency Design Index (EEDI). Unions should insist on appropriate safety measures.

*Modal shift*

In order to reduce emissions, some freight journeys may be shifted *to* maritime (for example from air or road). Some freight journeys may also be shifted *from* maritime (for example to the China/Europe rail route).

The net impact of modal shift on maritime is currently unclear. Where there are any job impacts, seafarers should be given priority for retraining and deployment in growing sectors.

*Occupational Safety and Health*

There are quite a few toxic chemicals in maritime that could lead to devastating results for those who come into contact with them. Some of the most common toxic chemicals include:

* **Hydrogen Sulfide:** a colorless gas created by the decomposition of organic matter. Without proper ventilation, the gas can build up with no way to escape. Eventually, the gas becomes poisonous. Seafarers in small or enclosed space are at the highest risk of inhaling the toxic gas, although anyone at all who inhales it may be in danger. If Hydrogen Sulfide is strong enough it can knock people unconscious and if an excessive amount is inhaled result in death.
* **Asbestos:** Although asbestos is not considered a chemical, but rather a naturally occurring mineral, inhalation of asbestos fibers can lead to life-threatening illnesses such as mesothelioma and asbestosis. Many ships and equipment built prior to the 1980s were constructed with asbestos-containing products. A number of these ships and equipment are still in use in the maritime industry today.
* **Benzene:** Benzene is a colorless, sweet-smelling chemical used in cargo ships, particularly crude oil vessels. Seafarers most affected by benzene are those who perform vessel maintenance and tank cleaning. Benzene can cause a host of medical issues, including immune system damage, cancer, internal bleeding, and leukemia.

Usually maritime workers (seafarers, dockers, inland navigation workers and fishers) are exposed to toxic chemicals while on the job is through inhalation. For example, since benzene tends to evaporate quickly, inhalation can happen without detection. Another common way maritime workers are exposed toxic chemicals is through the skin and eyes, particularly if the chemicals are liquid, gas, or solid. The least common way of chemical exposure is ingestion.

It is important that the Special Rapporteur visits major flag state countries i.e. Liberia, Panama, Marshall Islands, Bahamas and that extra attention should be given to the vessels that fly their flag and if the protections applicable ashore also applies on board their ships and how they ensure proper enforcement and compliance.

Genuine Link

There are a few flag States that consistently investigate casualties involving ships registered under their flag in a professional and objective way. These flag States produce written reports that demonstrate that the flag State authorities have done a thorough investigation into the cause or causes of the casualty. The reports also include valuable suggestions and recommendations on how to avoid a similar incident in the future.

Unfortunately other flag States seem either unable or unwilling to carry out a thorough investigation. This could be because the flag State does not have the technical infrastructure and competence to conduct the detailed investigation required. While others may be reluctant to question the operation of a shipowner if the shipowner has a significant number of ships registered under the flag in question. Regardless of the motive, the result is a lack of proper investigation, which is why the IMO adopted the Casualty Investigation Code[[1]](#footnote-1) in order to rectify the situation.

The fragmented structure in shipping and the lack of a genuine link is likely one of the reasons seafarers are unduly and unjustly guilty until proven innocent instead of innocent until proven guilty as in normal in other legal situations since the State where the incident occurs wants to ensure that someone is held accountable. In addition, some flag States do not appropriately implement their duties and responsibility, which leads to port States taking on more importance and control. For example, according to UNCLOS port States have the authority to exercise control on pollution matters over ships calling at their ports. Today the control exercised by port States cover most aspects of ship safety and to some extent security because of the ineffective application of flag State duties and responsibilities.

The gap in UNCLOS in regard to ownership identification and that there is only an unclear requirement of “genuine link” that needs to exist between the ship and the flag, when left to the discretion of individual flag States to define, creates a legal vacuum as to the essence of this notion and as to the implication of its absence. In other words, what in fact is the genuine link and what are the consequences for the ship and the owner in the absence of this link.

The disparity in UNCLOS ultimately leaves the implementation of duties to the willingness and good faith of the flag State in exercising effective control and jurisdiction. Given that some flag States use their ship register to attract foreign investment, to create a revenue stream and create maritime related economic activity in the country, there are flag States that are unwilling or unable to properly exercise effective control and occasionally claim jurisdiction to protect the shipowner against claims.

Those flag States that want to fully discharge their duties in accordance with UNCLOS, but are limited due to lack of technical, human or financial resources often delegate their duties to Classification Societies or Recognised Organisations (RO) as referred to in the ILO MLC 2006, as amended. However, in some situations this delegation of power has raised the question regarding the role of the Classification Societies since this has sometimes led to flag States averting their responsibility.

Safety of navigation

An important aspect of safe navigation is adequate safe operational manning. The Covid-19 pandemic and the crew change crisis has exposed the dangers of inadequate manning levels. An example is the *Wakashio,* which had 20 crew members with two of the crew having been on board for over 12 months, while the safe manning certificate required 24 seafarers according to the information we have received. In addition, the Master, who is now facing up to 60 years prison sentence, had extended his 6-month contract by 3 months. The flag State Panama conducted an investigation and the preliminary information we have received is that they blame the Master and Chief Officer without taking into account the extended contract periods or the insufficient manning level. In short, it is our opinion that it is too easy to place blame on the seafarers when a maritime accident or incident occurs when the flag State and/or company have certain responsibilities to ensure the prevention of these types of maritime disasters, which become legal disaster for the seafarers concerned.

Accountability

Further to the above on safety of navigation, often the ship’s Masters and crew are held accountable for measures, which they have little or no control over. This most often occurs when the IMO implements changes to MARPOL. As new environmental requirements are put in place the burden and accountability placed on seafarers increases leaving them vulnerable to criminalisation over matters beyond their, but unfortunately in our experience, this issue is largely ignored at the IMO since NGOs are often marginalization at the IMO. There is an unwritten rule in the IMO that Member States receive priority over NGOs to be recognized for making interventions. In the case of working groups and drafting groups, it is up to the Chair if they wish to recognize a NGO or not. This limits the ability of NGOs to make important contributions for good outputs by the IMO. This is more of an issue within working groups, but recently raised by a Member State during the MEPC meeting. The Member State expressed their disappointment that the Chair did not follow this unwritten rule to prioritise Member States, which shows the hostility some Member States have towards NGOs if they disagree with an intervention from a NGO despite their valuable knowledge and contributions on specific social, environmental and political issues.

Gaps in, and effectiveness of, international maritime anti-pollution conventions

The Covid-19 pandemic has exposed the weaknesses to the implementation and compliance of international maritime conventions in general. Member States have easily set aside international conventions and regulations that they have ratified using the pandemic as the reason. The most serious breaches have been to the ILO Maritime Labour Convention 2006, as amended, but also a number of IMO regulations that are meant to ensure the safety and health of the seafarers, the ship and the environment. The ITF published a report “Beyond the limits” identifying the dangerous corner-cutting of international maritime regulations: <https://temp.itfseafarers.org/en/resources/materials/beyond-limit>

1. In 2008, IMO adopted resolution MSC.255(84) on  International Standards and Recommended Practices for a Safety Investigation into a Marine Casualty or Marine Incident (Casualty Investigation Code) and relevant amendments to SOLAS Chapter XI-1 to make parts I and II of the Code mandatory. Part III of the Code contains related guidance and explanatory material. [↑](#footnote-ref-1)