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TRAINING AND WATCHKEEPING
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Agenda item 6

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COMPREHENSIVE REVIEW OF THE 1978 STCW CONVENTION AND CODE

Violence and harassment, including sexual harassment, bullying and sexual assault

Submitted by the Philippines

SUMMARY

Executive summary: Based on the methodology established by HTW 10 and approved by MSC 108, this document provides gaps identified relative to addressing seafarers' issues of violence and harassment.

Strategic direction, if applicable: 6

Output: 6.17

Action to be taken: Paragraph 13

Related documents: MSC 105/20; HTW 9/15; MSC 107/20; HTW 10/10; MSC 108/20; ISWG-STCW 1/2/22, and HTW11/6

Background

1 The Maritime Safety Committee, at its 105th session, agreed to include in the biennial agenda of the HTW Sub-Committee an output on "Comprehensive review of the 1978 STCW Convention and Code" (MSC 105/20, paragraph 18.13.1).

2 HTW 9 agreed to draft aims and principles to guide the work of the comprehensive review of the STCW Convention and Code, which also constituted a preliminary assessment of the scope of the work to be conducted during the comprehensive review (HTW 9/15, paragraph 7.24). MSC 107 subsequently approved the draft aims and principles prepared at HTW 9.

3 HTW 10 had finalized a list of specific areas for the comprehensive review, including the articles of the Convention, prepared a draft methodology and finalized a road map for the comprehensive review (HTW 10/10, paragraphs 6.40 to 6.43 and annex 4 to 6), which were subsequently approved at MSC 108, in conjunction with the approval of the establishment of an intersessional working group on the Comprehensive review of the 1978 STCW Convention and Code to take place before HTW 11 to further progress the work of the comprehensive review, subject to endorsement by C 132.

4 Following the recommendation of the second meeting of the Joint ILO-IMO Tripartite Working Group to identify and address seafarers issues and the human element (JTWG-SIHE 2), MSC 108 instructed the HTW Sub-Committee to consider the proposal in paragraph 14.2 of document ILO/IMO JTWG-SIHE 2/3/1 on the inclusion of a requirement in STCW regulation I/5 (National provisions) to take action in cases of sexual assault, in the context of the comprehensive review of the STCW Convention and Code.

5 Further, MSC 108, following the recommendation of JTWG-SIHE 2, endorsed the use of the terminology "violence and harassment, including sexual harassment, bullying and sexual assault" in relevant IMO instruments and guidance, as appropriate.

6 During the Intersessional Working Group on the Comprehensive Review of the STCW Convention and Code (ISWG-STCW 1), the Philippines submitted document ISWG-STCW 1/2/22, providing gaps identified on seafarer issues of violence and harassment.

Discussion

7 Based on the methodology for a structured approach to the comprehensive review of the STCW Convention and Code approved by MSC 108, and following the discussion at ISWG-STCW 1, the Philippines further engaged with its interested stakeholders to conduct a review of the STCW Convention and Code to identify other existing gaps and provisions that should be addressed.

8 The review of the STCW Convention and Code to identify gaps/provisions that should be addressed is based on issues emanating/resulting from both external factors and existing provisions (criterion 3), as set out in the annex.

9 The Philippines has identified gaps in the STCW Convention and Code focusing on specific area 2 with regard to psychological safety, bullying and harassment, including sexual assault and sexual harassment, gender diversity and gender sensitization (HTW 10/10, annex 4).

10 During ISWG-STCW 1, the gaps identified by the Philippines in document ISWG-STCW 1/2/22 were agreed to move forward, which include, among others:

- .1 lack of provision of regulation I/5 for the responsibility of each Party in promoting a psychologically safe maritime work environment; and
- .2 lack of provision of regulation I/14 for the responsibility of companies to ensure a maritime workplace safe from violence and harassment.

11 To help address seafarers' issues of violence and harassment, and to facilitate the effective implementation of the proposal outlined in document ISWG-STCW 1/2/22, other gaps have been identified as follows:

- .1 the use of the terminology "violence and harassment, including sexual harassment, bullying and sexual assault";
- .2 the absence of a definition for "psychological safety" in STCW regulation I/1;
- .3 the lack of guidance in section B-I/5 of the STCW Code on the mechanism and criteria for verifying effective implementation of measures promoting psychologically safe maritime work environment; and

- .4 the absence of guidance in section B-I/14 of the Code on establishing and implementing incorporating policies and procedures for the prevention of, reporting of cases of, response to, corrective action for, and documentation of, violence and harassment, including sexual harassment, bullying and sexual assault, including zero tolerance for, victim care and protection against retaliation or blacklisting of victim-seafarers, the creation of a grievance mechanism that provide safe zones for victims to file complaints without fear, and mechanisms and criteria to assess and verify the effectiveness of these policies.

12 The identified gaps address Principle 1: Consider all provisions of the Convention and Code in order to be comprehensive.

Action requested of the Sub-Committee

13 The Sub-Committee is invited to consider the recommendations in paragraphs 10 and 11 provided in this document and the annex, and take action, as appropriate.

ANNEX

GAPS/PROVISIONS IDENTIFIED IN PHASE 1 OF THE REVIEW

Violence and harassment, including sexual harassment, bullying and sexual assault

Identified gap, with references to the existing provision, if applicable	<p>Relevant existing provisions where a gap is identified:</p> <ol style="list-style-type: none"> 1 Terminology 2 Regulation I/1 3 Section B-I/5 4 Section B-I/14 <p>To help address seafarers' issues on violence, bullying and harassment, and to facilitate the effective implementation of the proposal outlined in ISWG-STCW 1/2/22, there is a need to:</p> <ol style="list-style-type: none"> 1 Use of the terminology "violence and harassment, including sexual harassment, bullying and sexual assault"; 2 define "psychological safety" in regulation I/1; 3 provide guidance in section B-I/5 on the mechanism and criteria for verifying effective implementation of measures promoting psychologically safe maritime work environment; and 4 Provide guidance in section B-I/14 of the STCW Code on establishing and implementing incorporating policies and procedures for the prevention of, reporting of cases of, response to, corrective action for and documentation of, violence and harassment, including sexual harassment, bullying and sexual assault, including zero tolerance for, victim care and protection against retaliation or blacklisting of victim-seafarers, the creation of grievance mechanism that provide safe zones for victims to file complaints without fear, and mechanisms and criteria to assess and verify the effectiveness of these policies.
Principle(s)	1 Consider all provisions of the Convention and Code in order to be comprehensive
Criterion	Criterion 3: Issues emanating/resulting from both external factors and existing provisions
Specific areas	7 Psychological safety, bullying and harassment, including SASH, gender diversity and gender sensitization