

CMI International Working Group on the Fair Treatment of Seafarers

QUESTIONNAIRE

PART I

Question 1:

Who has responsibility for administering and enforcing maritime safety and marine pollution prevention and control in the waters under the jurisdiction of your State?

The Coast Guard. (Prefectura Naval Argentina)

Question 2:

When maritime accidents and/or marine pollution incidents occur within the waters under the jurisdiction of your State, what process of accident investigation is legally required?

- 1 In all cases an administrative proceeding is started.
- 2 In case of a maritime accident/damage it may have intervention the Administrative Court of Navigation which decides about the liability of the seafarers.
- 3 In case of a maritime accident/damage also may have intervention the federal Court for eventual criminal offense (i.e., damages, homicide).
- 4 In cases of incidents for contamination, in the stage of the administrative proceedings, the Courts are notified of the facts.

Question 3:

Do your State's maritime accident and/or marine pollution investigative processes contemplate criminal charges against any ships' personnel involved and, if so what action may be involved?

In case of maritime accidents, when there is an eventual criminal offense (i.e. damage or death) it may be started a criminal proceedings against the persons involved.

Question 4:

If there is no criminal process, what other investigative process is utilized?

See reply to questions 2 and 3.

Question 5:

Does your State's investigative process permit detention of seafarers and, if so, under what circumstances and with what safeguards?

Only in the case of a criminal proceedings under the circumstances pointed out in N° 3, the Judge may decide the detention, once certain legal conditions were fulfilled.

Question 6:

If seafarers are required to be present for an investigation, trial or other hearing will they be permitted to leave your State until such investigation, trial or other hearing takes place?

If it is the case of an administrative proceeding the permission to leave of the seafarer is not stopped and only may happen whether there is a criminal proceedings in the circumstances pointed out in N° 3.

Question 7:

Does your State require a financial surty to ensure that seafarers return for any subsequent hearing and, if so, how is the amount of such a surety determined and what form is required?

Yes, it is possible.

Question 8:

Is your State's maritime administration or other authority given responsibility for the protection, rights and welfare of all seafarers and, if so, how is this responsibility administered?

The Coast Guard and other authorities are in charge of subjects of environment.

Question 9:

If a maritime accident resulting in serious pollution occurs in waters under the jurisdiction of your State that involves a foreign-flag vessel with a crew of different nationalities, what is the expected role of vessel crew members held responsible in the subsequent investigative process?

They may be summoned as witnesses or imputed during the administrative or judicial proceedings.

Question 10:

If the accident, as outlined in Question 10, is due to negligence but not wilful misconduct by responsible crew members, will your State proceed only with pollution damage claims under the accepted international civil liability and compensation system?

This misconduct would arise patrimonial liability, farther on in all cases were started the proceedings pointed out in N° 2.

Question 11:

If the answer to Question is No, what other proceddes or procedures will be undertaken by your State?

Question 12:

If the maritime accident outlined in Question 9 occurred outside your State's Territorial Seas, although damage occurs in areas under your State's jurisdiction, would the procedures involved be different?

The proceedings are the same.

Question 13:

Regardless whether your State's investigative process utilizes the criminal justice system or any other system, will the relevant vessel crew members be detained? If so:

- a. **What is the legal reason for such detention?**
- b. **What rights will the accused/detained crew member have during the process, and do such rights differ from those available to citizens of your State?**
- c. **Will full reasons and/or charges be provided to those detained?**
- d. **What is the expected length of such detention?**
- e. **Where and how will the seafarers involved be detained?**
- f. **What access to legal advice and/or defence will such personnel have available to them?**
- g. **Will the vessel's representatives, agents, family members, labour organisation representatives, or lawyers be given immediate and**

full access to those detained?

- h. Will the relevant seafarers have the legal right not to answer questions that may be considered self-incriminating, if so advised?**

Only when a criminal proceeding is started and under certain circumstances they may be detained. In said cases, they have all the rights of any citizens or resident in the country. They may have legal assistance and they must not reply to questions which may involve them and may be visited by the maritime agencies, their family, etc.

Question 14:

Does your Association have any other comments, suggestions or recommendations on this subject?

There are no antecedents in our country of detentions to captains and crew as a consequence of an accident which may have caused damages of contamination.