

CMI International Working Group on the Fair Treatment of Seafarers

QUESTIONNAIRE

PART I (Answers to these Questions are essential)

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?

Maritime Safety and Marine Environment Protection Directorate of the Ministry of the Sea, Tourism, Transport and Development is responsible for enforcing maritime safety and prevention of marine environment pollution from ships.

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?

Maritime accident and/or marine pollution incident investigation is led by the Maritime Safety and Marine Environment Protection Directorate of the Ministry of the Sea, Tourism, Transport and Development and involves gathering of all relevant information. Criminal investigation is carried out by Ministry of the Interior in cases of accidents with the elements of criminal charges.

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?

Maritime accidents resulting with a death or heavy injuries of persons or marine pollution incidents are criminal acts and are as such processed further by competent authorities of the Ministry of Interior. State Attorney's Office shall in such cases detain the personnel involved and/or limit the movement of personnel.

Question 4:

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

In both cases mentioned above maritime accident investigation is utilized.

Question 5:

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

Detention is permitted in cases of justified doubt in criminal act as provided by the Act on Criminal Proceedings. Modality of the detention is defined by the Court.

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?

Seafarers are permitted to leave the country.

Question 7:

Does your State require a financial surety 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?

Financial surety is not required. In criminal procedures. However, there is a possibility of detention, retention of personal identification documents, or temporary arrest.

Question 8:

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

Clarification needed in order to reply.

PART II (Answers to these Questions would be most helpful)

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?

Vessel crew members held responsible shall participate in the offence and criminal procedure.

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?

Offence procedure is also underrun if there is a violation of maritime legislation.

Question 11:

If the answer to Question 10 is 'No', what other processes or procedures will be undertaken by your State?

As above.

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?

If damage occurs in the Protected Ecological-Fishery Zone, offence proceedings may be initiated as well as pollution damage claims. Criminal charges will not be raised, nor will the criminal investigation be performed.

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?
Facilitating investigation.
- 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?
Foreign and domestic citizens have equal rights.
- c. Will full reasons and/or charges be provided to those detained?
Yes.
- d. What is the expected length of such detention?
For the duration of the first degree proceedings carried out as urgent procedure.
- e. Where and how will the seafarers involved be detained?
The procedure is carried out at the Harbour-Masters Office at which territory accident occurred.
- f. What access to legal advice and/or defence will such personnel have

available to them?

The same rights are exercised as for domestic citizens plus support of their consulate's personnel and assistance of an authorized court interpreter.

g. Will the vessel's representatives, agents, family members, labour organisation representatives, or lawyers be given immediate and full access to those detained?

Yes.

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

Yes.

Question 14:

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

We have no additional comments or suggestions.