

MARITIME SAFETY COMMITTEE  
107th session  
Agenda item 2

MSC 107/2/3  
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## DECISIONS OF OTHER IMO BODIES

### Recommended practices with regard to Russian Federation's unauthorized and unlawful issuance of seafarers' documents in temporarily occupied territories of Ukraine

Submitted by Ukraine

#### SUMMARY

*Executive summary:* This document raises concerns with regard to recurring unauthorized and unlawful issuance of certificates of competency and seafarers' identity documents in certain parts of Ukraine's regions temporarily occupied by the Russian Federation, and proposes a recommended guidance for flag and port State control officers to address those issues, as invited by HTW 9.

*Strategic direction, if applicable:* 1, 6 and 7

*Output:* 1.6, 6.3 and 7.26

*Action to be taken:* Paragraph 21

*Related documents:* A 32/13/1; C/ES.35/D; HTW 6/4; HTW 7/5; HTW 9/2/3; A.892(21); MSC.495(105); Circular Letters Nos.3453, 3477, 3490, 3602, 3603, 3604, 3649, 3777, 3830, 3882, 3935, 3942, 3992, 4017, 4207, 4316, 4388, 4402, 4508, 4510, 4516/Rev.1, 4517, 4518, 4519, 4521, 4522, 4523, 4524, 4525, 4526, 4532, 4544, 4556, 4557 and 4567

#### Background

1 In February 2014, the Russian Federation started its armed aggression against Ukraine by unlawfully invading and occupying the Autonomous Republic of Crimea and the city of Sevastopol, Ukraine (hereinafter – "Crimea"). This conduct is attributed to the Russian Federation and constitutes a serious breach of international law, including the Charter of the United Nations, which entails its international responsibility.

2 The international community has overwhelmingly condemned the Russian Federation's internationally wrongful acts, starting with its occupation of Ukraine's Crimea in 2014, inter alia, in the resolutions adopted by the UN General Assembly on separate occasions, the latest, 76/70 of 9 December 2021, 76/179 of 16 December 2021 and 77/229 of 15 December 2022. The latter resolutions once again reaffirmed the settled status of Crimea as part of Ukraine, and it have rejected purported annexation by the Russian Federation of the

peninsula. The General Assembly specifically called upon all States, international organizations and specialized agencies not to recognize any alteration of the status of Crimea and to refrain from any action or dealing that might be interpreted as recognizing any such altered status.

3 After the attempted annexation of the territory of the Crimea, the Russian Federation introduced large-scale measures aimed at expropriation and nationalization of state- and private-owned property, which was administered by local occupation authorities. These illegal actions also affected the maritime educational and training institutions, operating in Crimea. None of the decisions on nationalization were justified by military necessity.

4 Ukraine has informed IMO Member States that, due to the Russian Federation's unlawful actions in the northern part of the Black Sea, the Sea of Azov and the Kerch Strait, Ukraine is precluded from exercising its coastal State rights in the maritime areas adjacent to Crimea and from carrying out its international obligations under applicable treaties and conventional instruments, including the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978 (Circular Letters Nos.3453, 3477, 3490, 3602, 3603, 3604 and 3649).

5 In July 2014, the Ministry of Infrastructure of Ukraine temporarily suspended its issuance of certificates of competency and seafarers' identity documents in Crimea. At the same time, the Ukrainian authorities continued to issue certificates of competency and seafarers' identity documents in the seaports of Chornomorsk, Izmail, Kherson, Mariupol, Mykolaiv, and Odesa.

6 Yet, the Russian occupation authorities in Crimea have purported to issue certificates of competency and seafarers' identity documents since that time, notwithstanding their lack of legal authority to do so. Thus, any documents issued after 15 July 2014 by the Russian occupational authorities in Crimea should be considered unauthorized and unlawful.

7 On 24 February 2022, the Russian Federation launched a full-scale invasion of Ukraine, which was also resolutely condemned by the UN General Assembly in resolutions of its Eleventh Emergency Special Session: A/RES/ES-11/1 of 2 March 2022 and A/RES/ES-11/2 of 24 March 2022, A/RES/ES-11/4 of 12 October 2022, A/RES/ES-11/5 of 14 November 2022, and A/RES/ES-11/6 of 23 February 2023, as well as qualified as an act of aggression, which is in violation of Article 2 (4) of the Charter.

8 Since the temporary occupation of certain parts of Donetsk, Kherson, Luhansk or Zaporizhzhia regions of Ukraine by the Russian Armed Forces in 2022, the Ministry of Infrastructure of Ukraine informed IMO Member States about the decision of the Government of Ukraine to temporarily close the seaports of Berdiansk, Kherson, Mariupol and Skadovsk until the resumption of control of them by Ukraine (Circular Letter No.4557 of 4 May 2022). Respectively, the issuance of certificates of competency and seafarers' identity documents in the said locations was also temporarily suspended.

9 Further holding of sham referendums orchestrated by the Russian Federation on the temporarily occupied territory of certain parts of Donetsk, Kherson, Luhansk or Zaporizhzhia regions of Ukraine, there are grounds to believe that the Russian Federation may engage in the same illegal practices.

10 In this context, when addressing sham referendums orchestrated by the Russian Federation on the temporarily occupied territory of certain parts of Donetsk, Kherson, Luhansk or Zaporizhzhia regions of Ukraine, the UN General Assembly in resolution A/RES/ES-11/4 reiterated its call upon all States, international organizations and United Nations specialized

agencies not to recognize any alteration by the Russian Federation of the status of any or all of the said regions of Ukraine, and to refrain from any action or dealing that might be interpreted as recognizing any such altered status. This also refers to the non-recognition of any documents issued by the Russian occupation authorities in these regions, including the certificates of competency and seafarers' identity documents.

11 The Sub-Committee on Human Element, Training and Watchkeeping (HTW) considered these issues during its sixth, seventh and ninth sessions. Lately, having considered the document HTW 9/2/3 "Impact of the Russian Federation's aggression against Ukraine on the functioning of the system of maritime education and training institutions in Ukraine" underscored the importance of preserving the integrity and functions of the maritime education and training system in Ukraine, including the delivery of training, by training institutions, and the issuance of lawful seafarers' certificates and documents.

12 HTW 9 also invited interested Member States and international organizations to submit proposals to MSC 107 for further consideration and possible development of guidance to address the matters of unauthorized and unlawful practices associated with issuance of fraudulent certificates of competency and seafarers' identity documents, performed by the Russian Federation on the temporarily occupied territories.

## Discussion

13 Resolution A.892(21) adopted on 25 November 1999 "Unlawful practices associated with certificates of competency and endorsements" raised concern of IMO Member States over the potential hazards and the consequences for the safety of life at sea and the protection of the marine environment posed by seafarers with counterfeit, forged or fraudulently obtained certificates and endorsements, found during flag and port State control inspections or on application for recognition of certificates.

14 This instrument urged the Parties to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended, to take all possible steps in accordance with STCW regulation I/5, to investigate cases and prosecute, or assist in the investigation and prosecution of, those found to be knowingly involved in the processing or obtaining of certificates or endorsements using unlawful means, including the holders of such certificates or endorsements; as well as to intensify their efforts to eliminate the unlawful practices referred to above.

15 Resolution A.1155(32) adopted on 15 December 2021 *Procedures for port State control, 2021* in the appended *Guidelines for port State control officers on certification of seafarers, manning and hours of rest* lists following causes for suspicion regarding fraudulent certificates or endorsements - Incorrect wording or missing information may be a cause for (paragraph 6.2.12). Respectively, the failure of the seafarer to hold a valid certificate as a deficiency, which may be deemed to pose a danger to persons, property or the environment, as specified in paragraph 2 of regulation I/4 of STCW 1978, as amended, and, thus, may warrant detention (paragraph 7.3.1).

16 Ukraine is of the view that IMO Member States should take resolute efforts in denouncing Russia's illegal unilateral actions in the temporarily occupied territories of Ukraine, including its unauthorized and unlawful practices associated with certificates of competency and seafarers' identity documents, and respectively to take no action with regard to the such documents or any other administrative decisions issued by the Russian occupation authorities that might be interpreted as recognizing an alteration in the status of the said territories.

17 The following seafarer's documents should be recognized as fraudulent and cannot be accepted, which may be found during flag and port State control inspections or on application for recognition of certificates:

- .1 professional diplomas (CoC) and their endorsements (endorsements), specialist certificates (CoP), certificates (CoP) on types of training on safety issues (emergency, occupational safety, security, medical care and survival functions), specialist certificates (CoP) on completion of specialized training (Special training), documentary evidence (Documentary evidence) of completion of training by personnel of passenger ships; minimum safe manning document (minimum safe manning document), which issued on the basis of the 1978 International Convention on Training and Certification of Seafarers and Watchkeeping;
- .2 certificates of competence (CoC) and their endorsements (endorsements) and specialist certificates (CoP) on completion of safety training on fishing vessels, issued on the basis of the International Convention on Standards of Training, Certification of Fishing Vessel Personnel and Watchkeeping, 1995;
- .3 medical certificates of seafarers (medical certificate), issued on the basis of the STCW 1978, as amended; and
- .4 seaman's books (identity documents).

18 Respective actions should be applied to the above documents issue after July 2014 in the ports of Sevastopol, Sevastopol Fishing Seaport, Yalta, Yevpatoria, Feodosia, Kerch, Kerch Fishing Seaport and in any cities of the Autonomous Republic of Crimea, temporarily occupied by the Russian Federation. Also this prohibition should apply to the issuance of the seamen's documents mentioned above, issued after April 2022 in the ports of Kherson (between 04.2022 and 11.2022), Skadovsk, Henichesk, Berdiansk, Mariupol, Mariupol Fishing Seaport, in any cities of Donetsk, Luhansk, Zaporizhzhia and Kherson regions of Ukraine, remaining under the temporary occupation by the Russian Federation.

19 The relevant ban should apply to documents issued by the harbour masters of the specified seaports, maritime educational and training centres in the specified cities and regions, and any other occupation authorities, if the above-mentioned ports, cities, and regions are designated as the city/authorities of issuance of the documents.

20 Based on the above, flag and port States are called upon to ensure that their control officers, who during the inspection of the vessels the Russia-flagged vessels or those vessels under the flag of other states with the Russian nationals in their crews, should check whether the seafarer's documents have been issued in a port or by an institution located in the temporary occupied territories of Ukraine. If so, such documents are to be considered as fraudulent and appropriate procedural measures should be taken regarding the vessel in terms of its detention in accordance with port State control procedures in connection with the non-compliance of the vessel with the requirements of the SOLAS 1974 and STCW 1978, as amended, until the holders of the above certificates are replaced by a properly qualified personnel.

**Actions requested of the Committee**

- 21 The Committee is invited to:
- .1 take note of the concerns raised in this document and recommend flag States and port States put in place the measures identified in paragraphs 16 to 20; and
  - .2 inform the Council accordingly.
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## REPORT OF THE MARITIME SAFETY COMMITTEE ON ITS 107TH SESSION

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### **Issuance of certificates of competency and seafarers' identity documents in certain parts of Ukraine temporarily occupied by the Russian Federation**

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2.22 Having noted that HTW 9 had underscored the importance of preserving the integrity and functions of the maritime education and training system in Ukraine, including the delivery of training and the issuance of lawful seafarers' certificates and documents, and had invited relevant proposals to MSC 107, the Committee considered documents MSC 107/2/3 (Ukraine), proposing guidance for flag and port State control officers to address the issuance of certificates of competency and seafarers' identity documents in certain parts of Ukraine temporarily occupied by the Russian Federation; and MSC 107/2/5 (Russian Federation), commenting on document MSC 107/2/3.

2.23 The delegation of Ukraine stated that it had forewarned of the Russian Federation's aggression against Ukraine and the safety and security of navigation in the Black Sea, the Sea of Azov and the Kerch Strait and beyond, including the seizure of maritime rescue coordination centres, the misuse of NAVTEX transmissions, interference with SAR services and attempts to destroy Ukraine's infrastructure including ports participating in the Black Sea Grain Initiative. They pointed out that since the attempted annexation of Ukraine's Crimea in 2014, the Russian Federation had started issuing certificates of competency and seafarers identity documents despite their lack of legal authority to do so; that these fake certificates undermined the training and certification system and caused danger to human safety at sea and was the same pattern the Russian Federation was keen to apply in certain parts of Donetsk, Kherson, Luhansk and Zaporizhzhia regions of Ukraine, temporarily occupied since 2022; that the UN General Assembly had

adopted relevant resolutions calling upon all States, international organizations and UN specialized agencies to refrain from recognizing any documents issued by the Russian occupation authorities in the above areas and that HTW 9 had recognized the importance of preserving the integrity and functions of Ukraine's maritime education system, including training delivery and the issuance of lawful seafarers' certificates and documents. The delegation urged all Member States not to recognize seafarers' documents issued by the Russian Federation in ports or by institutions located in the temporarily occupied territories of Ukraine and to take appropriate measures while inspecting Russian-flagged vessels or vessels under the flag of other States with Russian nationals in their crews.

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2.25 In the ensuing discussion, the delegation of Sweden, on behalf of the Members of the European Union, which are all Members of IMO, condemned in the strongest possible terms the unprovoked and unjustified act of aggression by the Russian Federation against Ukraine, which grossly violated international law and the UN Charter and undermined international security and stability. They stated that the Russian Federation must immediately withdraw its troops from the entire territory of Ukraine and abide by UN General Assembly resolution "Aggression against Ukraine" supported by 141 States at the eleventh emergency special session of the UN General Assembly; that they resolutely supported Ukraine's inherent right to self-defence and the Ukrainian armed forces' efforts to defend Ukraine's territorial integrity and population in accordance with Article 51 of the United Nations Charter and that the Russian Federation must respect its obligations under international law at all times, including international humanitarian and human rights law, including with respect to the protection of civilians, women and children, and that it also needed to stop its disinformation campaign and cyberattacks. The delegation of Sweden furthermore strongly rejected and unequivocally condemned the Russian Federation's attempted illegal annexation of the Ukrainian regions of Donetsk, Luhansk, Zaporizhzhia and Kherson. Following these decisions, and the fact that the European Union had adopted on 6 October sanction measures against Russian maritime transport of hydrocarbons, the delegation of Sweden also expressed the view that Member States should do their utmost to denounce the Russian Federation's illegal unilateral actions in the temporarily occupied territories of Ukraine, including its unauthorized and unlawful practices associated with certificates of competency and seafarers' identity documents; and, with regard to the actions requested by Ukraine in paragraph 21 of document MSC 107/2/3, urged all Member States to be vigilant and to take a cautious approach when encountering potentially fraudulent documents and to put in place suitable measures in this regard. The intervention was supported by the delegations of Australia, Belgium, Canada, Cyprus, Denmark, Estonia, Finland, France, Georgia, Germany, Greece, Iceland, Ireland, Italy, Japan, Latvia, Lithuania, Luxembourg, Malta, the Kingdom of the Netherlands, Norway, Poland, Portugal, Romania, Slovenia, Spain, Türkiye, the United Kingdom, the United States and the EC observer.

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2.29 In response to the earlier statement by the Russian Federation, the delegation of Ukraine stated that the Russian Federation had no right to enforce its own legislation in the temporarily occupied territories and had to observe local laws and regulations. The Merchant Shipping Code of Ukraine and other related acts of the Government of Ukraine set out the specific requirements as to the relevant procedures and forms of the seafarer documents to be issued by the Ukrainian Authorities. No right had been afforded to the Russian Federation to issue any seafarers certificates or identity documents on Ukraine's behalf. The delegation declared that any document issued to a seafarer in the above temporarily occupied territories of Ukraine by the Russian Federation State or privately owned agencies was regarded as illegally obtained and did not confirm that its owner fulfilled the requirements of the STCW Convention. Similar documents issued in the temporarily occupied territories of Ukraine to members of fishing vessel personnel on the basis of the STCW-F Convention were also fraudulent. Emphasis was given to the need of States Parties of the STCW and STCW-F Conventions to diligently observe their respective obligations taking into account the above.

**2.30 Following consideration, based on the support of the overwhelming majority of delegations that spoke, the Committee took the following actions:**

.1 condemned the illegal and unprovoked invasion of Ukraine by the Russian Federation and called on the Russian Federation to immediately cease its war on Ukraine and withdraw its forces from Ukrainian territory extending to its territorial waters;

.2 acknowledged the call from Ukraine that Member States should take resolute efforts in denouncing the Russian Federation's illegal unilateral actions in temporarily occupied territories of Ukraine, including its unauthorized practices associated with seafarers' certificates and documents issued by Russian occupation authorities;

.3 expressed general support for the concerns raised in document MSC 107/2/3 and the proposals therein, aimed at identifying seafarers' certificates and documents fraudulently issued by entities and/or from locations in the territory of Ukraine temporarily occupied by the Russian Federation, and taking appropriate action in line with relevant international instruments;

.4 encouraged Member States to fulfil their obligations under the STCW Convention as flag and port States, to prevent unlawful practices by the Russian Federation with respect to seafarers' certificates and documents, noting the recommendations contained in paragraph 17 and the information provided in paragraph 18 of document MSC 107/2/3; and

.5 further encouraged flag and port States to consider the issues raised in document MSC 107/2/3 and take appropriate action when examining seafarers' certificates and documents issued from locations in the territory of Ukraine temporarily occupied by the Russian Federation.



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2.32 The delegation of Ukraine stated that the Russian Federation had no sovereign rights over the Autonomous Republic of Crimea and the city of Sevastopol and other temporarily occupied territories of Ukraine and, respectively, no right to issue seafarers' certificates and documents from these locations, only Ukraine had the regulatory authority to do so.

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