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MSC/Circ.1090
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**GUIDANCE FOR ADMINISTRATIONS, COMPANIES, MASTERS AND MANNING
AGENTS IN DETECTING AND PREVENTING UNLAWFUL PRACTICES**

1 The Sub-Committee on Standards of Training and Watchkeeping, at its thirty-fourth session (24 to 28 February 2003), recalled its consideration at its previous session of enforcement measures aimed at combating unlawful practices associated with certificates of competency and the list of high priority actions that had been identified. In order to promote such enforcement measures, the Sub-Committee developed guidance for Administrations, companies and manning agents in detecting unlawful practices, as given at annex.

2 The Maritime Safety Committee at its seventy-seventh session (28 May to 6 June 2003) subsequently endorsed the guidance developed by the STW Sub-Committee and approved this circular.

3 The Maritime Safety Committee has also adopted MSC/Circ.1089 which provides guidance for preventing fraud and protecting certificates from forgery. MSC/Circ.1089 provides a further useful source of information which may be used in the efforts to address unlawful practices.

4 For its part, the Organization will continue its efforts to address unlawful practices in this area. In this respect it would be beneficial if Member Governments reported to the Organization forms of unlawful practices they may detect so as to enable the Organization to identify new or emerging trends or patterns.

5 Member Governments are invited to bring this circular to the attention of all concerned.

ANNEX

GUIDANCE FOR ADMINISTRATIONS, COMPANIES, MASTERS AND MANNING AGENTS* FOR DETECTING AND PREVENTING UNLAWFUL PRACTICES RELATING TO CERTIFICATES OF COMPETENCY

1 INTRODUCTION

1.1 A study¹ recently undertaken by the Organization has identified various unlawful practices relating to certificates of competency. Unlawful practices associated with certificates of competency are a continuing problem and the implications for safety, environment and security are potentially very serious.

1.2 The aim of this guidance is to identify, on the basis of the findings of the aforesaid study, the nature or salient elements of the most frequently detected unlawful practices and to suggest some of the alternatives available in addressing this issue.

1.3 This guidance recognizes that other forms of unlawful practices may exist or may appear in the future. Each such case should be treated on its own merits, the aim remaining, at all times, is the elimination of unlawful practices. Procedures and measures implemented to detect and prevent unlawful practices should be continuously reviewed to ensure that they remain effective and relevant.

1.4 It is in the interest of the maritime community if companies, masters and manning agents were to report to Member Governments all instances when they suspect that an unlawful practice may be involved. However, it is the responsibility of Member Governments to investigate the matter, to determine whether or not an unlawful practice in fact has occurred or to take action in this respect. Member Governments should endeavour to bring unlawful practices reported to, or detected by them, to the attention of other Governments concerned.

1.5 It is essential that all parties involved in reporting or alleging any unlawful practice bear in mind that their actions have a direct effect on the seafarers concerned and an impact on their livelihood and the livelihood of their families. The duty and obligation to make responsible and well founded reports is, at all times, relates to the duty and obligation to respect the human rights and dignity of the seafarers concerned and of the seafaring community at large.

1.6 Unfair employment practices have been identified as one of the reasons which have led to unlawful practices. In addition, the rising costs of education and training in the maritime sector, as well as the rising direct (fees and other charges) and indirect (travel and subsistence) cost of undertaking examinations, coupled with the loss of earnings during the same period, give rise to temptations which eventually may lead to unlawful practices, either for the purpose of obtaining certificates or in order to obtain employment. It is therefore in the interest of the efforts to eliminate and eradicate unlawful practices and of the maritime industry at large, if affordable education and training was to be made widely available and if the fees and other charges for examinations were to be kept within reasonable and affordable levels.

* In some Member States manning agents are referred as crew managers or crew agencies.

¹ Refer to "Unlawful Practices Associated with Certificates of Competency", a study undertaken by the Seafarers' International Research Centre (SIRC), Cardiff University and presented to STW 33.

1.7 Although the section headed “Falsifying information provided to employers” below is specifically addressed to companies² and manning agents, both are urged to study this circular in its entirety. Similarly, Administrations may find that the aforesaid section also provides guidance, which may prove useful to them.

2 UNLAWFUL PRACTICES DETECTED

2.1 General

2.1.1 The aforesaid study has identified a variety of unlawful practices. A review of the various findings suggests that the most frequently occurring unlawful practices, amongst those that have been detected, fall into one of the following categories:

- .1 tampering with or unlawful manufacturing of certificates of competency;
- .2 impersonating of a genuine seafarer;
- .3 falsifying information provided to employers;
- .4 forging of, or tampering with, ancillary certificates to apply for a certificate of competency;
- .5 falsifying records of seagoing service to apply for a certificate of competency; and
- .6 employing various methods of “cheating” when undertaking examinations required prior to the issue of a certificate of competency.

2.2 Tampering with or unlawful manufacturing of certificates of competency

2.2.1 The format of endorsements contained in section A-I/2 of the STCW Code contain a number of features which are much more difficult to tamper with as compared to the form of endorsement which was contained in the STCW Convention which was in force prior to 1 February 1997. However, a small number of attempted forgeries have been detected, most of which have been attempts to alter the details printed in the endorsements.

2.2.2 A number of Member Governments, who are also Parties to the STCW Convention, 1978, as amended, have opted for, and are issuing certificates in the format contained in section A-I/2 of the STCW Code. Others continue to issue certificates of competency in accordance with the format stipulated in their national legislation and endorsements in accordance with the format contained in section A-I/2 of the STCW Code. A number of attempted forgeries have been detected, most of which have been attempts to alter the details printed in the certificate.

2.2.3 In a number of cases, actual certificates of competency (or endorsements of certificates), closely resembling or almost identical to the authentic ones, have been unlawfully manufactured.

² As defined in regulation I/1.23 of the STCW Convention, 1978, as amended.

2.2.4 Also, in a number of cases, blank certificates of competency (or endorsements of certificates), containing the security features adopted by that Member Government, and lawfully printed by that Member Government, have been unlawfully obtained.

2.2.5 Advancements in technology and in data processing, as well as the wide availability of these forms of technology, present serious and practical problems in the efforts to successfully address unlawful practices relating to the manufacturing of, or tampering with, certificates. Vigilance and the continuous monitoring of new or emerging trends or patterns in this area is therefore an essential and necessary activity.

2.3 Impersonation

2.3.1 Cases of attempted impersonation have been detected, either with or without the knowledge of the other party.

2.3.2 Procedures for verifying identity need to be robust and should be reviewed regularly to ensure that they continue to meet the desired objectives. Secure³ national identity documents containing photographic identity (e.g. passport, driving licence, national identity document, etc.) should be used to verify identity.

2.4 Falsifying information supplied to employers

2.4.1 Cases have been found where attempts have been made to demonstrate to prospective employers that a seafarer:

- .1 holds valid certificates indicating that they are qualified for capacities and/or limitations higher than those actually issued to them; or
- .2 holds other required qualifications or proficiencies; or
- .3 possesses the aggregate (or certain) seagoing service, in the type of ship the employer requires.

2.4.1 Seafarers have convinced employers of their qualifications by supplying altered photocopies of certificates or documents (either their own certificates or those of others), and have been employed on the basis of these photocopies.

³ The Seafarers' Identity Documents Convention, 1958 (No.108) was adopted by the International Labour Conference on 13 May 1958 and entered into force on 19 February 1961. As a result of the work undertaken, during 2002, by the Organization to enhance security in the maritime transport sector, the Organization requested the International Labour Organization to develop, as a matter of urgency, a seafarers' identity document which should cover, *inter alia*, a document for professional purposes; a verifiable security document and a certification information document. The Governing Body of the ILO at its 283rd Session, in March 2002, placed the question of "Improved security for seafarers' identification" as an urgent item on the agenda of the 91st Session of the International Labour Conference, to be held in June 2003, with a view to the adoption of a Protocol to the Seafarers Identity Documents Convention, 1958 (No. 108).

2.4.2 It is essential that employers, in order to remove any possible opportunities for fraud, verify the validity and/or authenticity of certificates or documents presented to them by:

- .1 sighting the original certificates or documents; or
- .2 consulting the issuing Administration (or Party) or maritime training providers; or
- .3 consulting with previous employers.

2.5 **Forging or tampering with ancillary certificates to apply for a certificate of competency**

2.5.1 Ancillary certificates (i.e. those certificates issued under the provisions of STCW chapters V and VI) do not always contain the same level of counter-forgery protection as certificates of competency. In addition, in some cases ancillary certificates are issued by maritime training providers under specific arrangements made with the Government concerned. Cases have been found where attempts have been made to alter the details printed in ancillary certificates.

2.5.2 The procedures for the issue of certificates, and the replacement of lost or damaged certificates, must be sufficiently robust to protect certificates from being obtained unlawfully and should include provisions for periodic reviews and auditing.

2.6 **Falsification of seagoing service**

2.6.1 Discharge book or service record book entries and seagoing service testimonials or other seagoing service documentary evidence are routinely used to provide evidence of seagoing service. Proof of seagoing service is required, amongst others, when a seafarer is seeking to obtain a certificate of competency, or for revalidation of a certificate or when seeking employment. Cases have been found where attempts have been made to falsify seagoing service by altering entries in discharge or service record book entries and seagoing service testimonials or other seagoing service documentary evidence.

2.6.2 In view of the above, it is therefore essential that the procedures for the review and acceptance of seagoing service must be sufficiently robust to detect any unlawful practices in this respect. The procedures may include effective checks or consultations with companies, masters, manning agents, previous employers or other Administrations (or Parties).

2.7 **“Cheating” in examinations**

2.7.1 Cases have been found where attempts have been made to use various prohibited “methods”, “aids”, “aides-mémoires” or “sharing activities” during examinations. Also, instances of individuals impersonating others in examinations have been detected, thus enabling poor candidates to benefit from the knowledge of more proficient ones.

2.7.2 It is therefore essential to maintain an appropriate degree of vigilance and supervision during the examination period and to verify the identity of the candidates properly (by using secure national identity documents containing photographic identity e.g., passports, driving licence, etc.) before allowing them to undertake the examinations.

3 TRAINING, AWARENESS AND VIGILANCE

3.1 The keys to detection of unlawful practices are training, awareness and vigilance.

3.2 It is essential that appropriate training be provided to personnel dealing with issuing, revalidating, maintaining records or responding to requests relating to the verification of the authenticity or validity of certificates to enable them to promptly detect forgeries and other practices of fraud.

3.3 Such personnel should be periodically updated on emerging patterns or trends so as to maintain the desired level of awareness and vigilance. Provisions should be made for vetting and for periodic monitoring of the trustworthiness of the personnel involved.

4 IMAGE BANK OF CERTIFICATES

4.1 Advancements in technology and communications today present various reasonable or low cost opportunities, which facilitate the storage, in an electronic format, of the actual image of any certificate or other document and its transmission to other parties when a request for verification of authenticity is received.

4.2 It would be helpful, if Member Governments were to consider creating an image bank of certificates issued by them. Images of certificates should contain features such as redundant data, which are carried over in digital images and/or other copies. These image records could be shared with or made available to other Member Governments through secure communications and thus facilitate the speedy processing of requests to verify the authenticity of certificates in the first instance.

5 SAMPLING TECHNIQUES

5.1 Use of various sampling techniques or random checks for verification of certificates is a useful and a valuable tool for detecting unlawful practices.
