

STOWAWAYS

IMO GUIDELINES ON THE ALLOCATION OF RESPONSIBILITIES TO SEEK THE SUCCESSFUL RESOLUTION OF STOWAWAY CASES, ADOPTED BY IMO ON 27 NOVEMBER 1997

1. Masters, shipowners (including any persons or party acting on behalf of the owner of the vessel), port authorities, national administrations, and other bodies including security operators all have a responsibility to cooperate to prevent illegal access to the vessel while it is in port. However, no matter how effective routine port and ship security is, there will still be occasions when stowaways gain access to vessels, either secreted in the cargo or by surreptitious boarding.
2. For the purposes of the Guidelines a stowaway is defined as a person who is secreted on a ship, or in cargo which is subsequently loaded on the ship, without the consent of the shipowner or the master or any other responsible person and who is detected on board after the ship has departed from a port, and is reported as a stowaway by the master to the appropriate authorities.
3. The resolution of stowaway cases is difficult because of different national legislation in each of the potentially several countries involved: the country of embarkation, the country of disembarkation, the flag state of the vessel, the country of apparent, claimed or actual nationality/citizenship of the stowaway, and countries of transit during repatriation.
4. There are, however, some basic principles which can be applied generally. These are as follows:
 - 4.1 A recognition that stowaways arriving at or entering a country without the required documents are, in general, illegal entrants. Decisions on dealing with such situations are the prerogative of the countries where such arrival or entry occurs.
 - 4.2 Stowaway asylum-seekers should be treated in compliance with international protection principles as set out in international instruments (the UN Convention relating to the Status of Refugees of 28 July 1951 and the UN Protocol relating to the Status of Refugees of 31 January 1967) and relevant national legislation.
 - 4.3 The shipowner, and his representative on the spot, the master, as well as port authorities and national administrations should co-operate as far as possible in dealing with stowaway cases.
 - 4.4 Shipowners, and their representatives on the spot, the masters, as well as port authorities and national administrations should have security arrangements in place which, as far as practicable, will prevent intending stowaways from getting aboard a ship or, if this fails, will detect them before a ship arrives in port. Where national legislation permits, national authorities should consider prosecution of stowaways for trespassing upon or damaging the property of the shipping company, or the cargo.
 - 4.5 Countries should admit returned stowaways with full nationality/ citizenship status of that country or a right of residence.
 - 4.6 The country of the original port of embarkation of a stowaway should normally accept the return of such a stowaway for examination pending final case disposition.
 - 4.7 Every effort should be made to avoid situations where a stowaway has to be detained on board a ship indefinitely. In this regard countries should co-operate with the shipowner in arranging the return of a stowaway to an appropriate country.
 - 4.8 Stowaway incidents should be dealt with humanely by all parties involved. Due consideration must always be given to the operational safety of the ship and the well-being of the stowaway.

5. As a first step in addressing the issue, a framework of the various responsibilities, rights and liabilities of the parties involved needs to be identified and agreed. The following allocation of responsibility is suggested:

5.1 The master

5.1.1 to make every effort to determine immediately the port of embarkation of the stowaway

5.1.2 to make every effort to establish the identity, including the nationality/ citizenship of the stowaway

5.1.3 to prepare a statement containing all information relevant to the stowaway, in accordance with information specified in the standard document annexed to these Guidelines, for presentation to the appropriate authorities

5.1.4 to notify the existence of a stowaway and any relevant details to his shipowner and appropriate authorities at the port of embarkation, the next port of call and the flag state

5.1.5 not to depart from his planned voyage to seek the disembarkation of a stowaway to any country unless repatriation has been arranged with sufficient documentation and permission for disembarkation, or unless there are extenuating security or compassionate reasons

5.1.6 to ensure that the stowaway is presented to appropriate authorities at the next port of call in accordance with their requirements

5.1.7 to take appropriate measures to ensure the security, general health, welfare and safety of the stowaway until disembarkation.

5.2 The shipowner or operator

5.2.1 to ensure that the existence of, and any relevant information on, the stowaway has been notified to the appropriate authorities at the port of embarkation, the next port of call and the flag state

5.2.2 to comply with any removal directions made by the competent national authorities at the port of disembarkation.

5.3 Country of First Scheduled Port of Call after Discovery of the Stowaway (Port of Disembarkation)

5.3.1 to accept the stowaway for examination in accordance with the national laws of that country and, where the competent national authority considers that it would facilitate matters, to allow the shipowner and his named representative and the competent or appointed P&I Club correspondent to have access to the stowaway

5.3.2 to consider allowing disembarkation and provide, as necessary and in accordance with national law, secure accommodation which may be at the expense of the shipowner or agents where:

.1 a case under 5.3.1 is unresolved at the time of sailing, or

.2 national authorities are satisfied that arrangements have been made and will be effected for the early return or repatriation of the stowaway by other means (which may be at the expense of the shipowner or agents) or

.3 presence on board would endanger the safe operation of the vessel.

5.3.3 to assist, as necessary, in the identification of the stowaway and the establishment of his or her nationality/citizenship

5.3.4 to assist, as necessary, in establishing the validity and authenticity of a stowaway's documents

5.3.5 to give directions for the removal of the stowaway to port of embarkation, country of nationality/citizenship or to some other country to which lawful directions may be made, in co-operation with the shipowner and his nominated representative

5.3.6 in co-operation with the shipowner and his nominated representative to discuss repatriation or removal arrangements or directions with the master/shipowner or their appointed representatives, keeping them informed, as far as practicable, of the level of detention costs while keeping these to a minimum

5.3.7 to consider mitigation of charges that might otherwise be applicable when shipowners have co-operated with the control authorities to the satisfaction of those authorities in measures designed to prevent the transportation of stowaways

5.3.8 to issue, if necessary, in the event that the stowaway has no identification and/or travel documents, a document attesting to the circumstances of embarkation and arrival to enable the return of the stowaway either to his country of origin, to the country of the port of embarkation, or to any other country to which lawful directions can be made, by any means of transport

5.3.9 to hand over the letter to the transport operator effecting the removal of the stowaway

5.3.10 to take proper account of the interests of, and implications for, the shipowner or agent when directing detention and setting removal directions, so far as is consistent with the maintenance of control, its duties or obligations to the stowaway under the law and the cost to public funds.

5.4 The Country of the Original Port of Embarkation of the Stowaway (i.e. the Country where the stowaway first boarded the ship)

5.4.1 to accept any returned stowaway having nationality/citizenship or right of residence

5.4.2 to accept, in normal circumstances, a stowaway back for examination where the port of embarkation is identified to the satisfaction of the authorities of the receiving country

5.4.3 to apprehend and detain the stowaway, where permitted by national legislation, if the stowaway is discovered before sailing, either on the vessel or in cargo due to be loaded; to refer the intended stowaway to local authorities for prosecution, and/or, where applicable, to the immigration authorities for examination and possible removal; no charge to be imposed on the shipowner in respect of detention or removal costs and no penalty to be imposed

5.4.4 to apprehend and detain the stowaway, where permitted by national legislation, if the stowaway is discovered while the vessel is still in the territorial waters of the country of embarkation, or in another port in the same country, (not having called at a port in another country in the meantime) no charge to be imposed on the shipowner in respect of detention or removal costs and no penalty to be imposed.

5.5 The Apparent or Claimed Country of Nationality/Citizenship of the Stowaway

5.5.1 to make every effort to assist in determining the identity and nationality/citizenship of the stowaway and to document the stowaway accordingly once satisfied that the stowaway does hold the nationality/ citizenship claimed

5.5.2 to accept the stowaway where nationality/citizenship is established.

5.6 The Flag State of the Vessel

5.6.1 to be willing, if practicable, to assist the master/shipowner or the appropriate authority at the port of disembarkation in identifying the stowaway and determining his or her nationality

5.6.2 to be prepared to make representations to the relevant authority to assist in the removal of the stowaway from the vessel at the first available opportunity

5.6.3 to be prepared to assist the master/shipowner or the authority at the port of disembarkation in making arrangements for the removal or repatriation of the stowaway.

5.7 Any Countries of Transit during Repatriation

5.7.1 to allow, subject to normal visa requirements, the transit through their ports and airports of stowaways travelling under the removal instructions or directions of the country of the port of disembarkation.

STOWAWAY DETAILS

SHIP DETAILS

Name of Ship
 IMO Number
 Flag
 Company
 Company address
 Agent in next port
 Agent address
 IRCS
 Inmarsat Number
 Port of registry
 Name of Master

Photograph of Stowaway

STOWAWAY DETAILS

Date/time found on board
 Place of boarding
 Country of boarding
 Time spent in country of boarding
 Date/time of boarding
 Intended port of destination
 Intended final destination (if different)
 Stated reasons for boarding the ship

Emergency passport number
 When issued
 Where issued
 Date of expiry
 Issued by

Home address

Surname
 Given name
 Name by which known
 Religion
 Gender
 Date of birth
 Place of birth
 Claimed nationality
 ID document type

Home town
 Country of domicile
 Profession(s)
 Employers (Names and addresses)

Address in country of boarding

Passport number
 When issued
 Where issued
 Date of expiry
 Issued by

Height (cm)
 Weight (kg)
 Complexion
 Colour of eyes
 Form of head/face
 Marks/characteristics (e.g. scars, tattoos etc.)

First language
 Spoken Read Written

ID Card number
 When issued
 Where issued
 Date of expiry
 Issued by

Other languages
 Spoken Read Written

Seaman's book number
 When issued
 Where issued
 Date of expiry
 Issued by

Marital status
 Name of spouse
 Nationality of spouse
 Address of spouse

Names of parents
 Nationality of parents
 Address of parents

OTHER DETAILS

Method of boarding, including other persons involved (e.g. crew, port workers etc.), and whether they were secreted in cargo/container or hidden in the vessel:

Inventory of stowaway's possessions

Was the stowaway assisted in boarding the vessel, or assisted by any member of the crew? If so, was any payment made for this assistance?

Other information (e.g. names and addresses of colleagues, community leader e.g. mayor, tribal chief, contacts in other parts of the world)

Statement made by stowaway

Statement made by master (including any observations on the credibility of the information provided by the stowaway)

Date of interview

Stowaway's signature

Master's signature

Date

Date