Foreign owners be aware of ITF “inspections”

December 13, 2023

Shipowners around the world, especially those with vessels registered in an open registry, may face pressure by the International Transport Workers' Federation (ITF) in the form of on-board inspections.

The ITF is an affiliate-led federation of transport workers’ unions with “inspectors” all over the world. It has been focusing its inspections on vessels flying a flag other than the country of ultimate beneficial ownership, which the ITF considers to be a “flag of convenience.”

ITF standard collective agreements

The ITF has been promoting a set of standard collective agreements containing language related to wages and working conditions applicable to all crew members irrespective of nationality. To implement this effort, the ITF has been conducting what it calls “inspections” on foreign-flagged vessels to ensure compliance with these collective agreements, even if one is not in place. In certain situations, these actions may impact cargo operations, potentially causing delays to the vessel.

The *Canada Shipping Act, 2001* does not impose collective bargaining agreements between owners and crew. A vessel is not required to have a collective bargaining agreement in place to operate in Canada. However, owners are required to abide by *International Convention for the Safety of Life at Sea of 1974* and its 1988 Protocol and the *Maritime Labour Convention, 2006* while in Canadian waters. In the event of a complaint by the crew or an ITF representative, a Transport Canada inspector, acting under its port state control authority, would have jurisdiction to investigate any breach of safety or labour provisions under these conventions.

In most Canadian ports, stevedores are under a collective agreement with the Maritime Employers Association, and they would not have the discretion to refuse or delay cargo operations because the crew does not have an ITF-approved collective bargaining agreement. In fact, refusing or delaying cargo operations on such grounds may be a breach of the labour agreement on their part.

ITF powers

Being an international advocate for seafarers, the ITF may use different tactics, including boycotts, to pressure shipowners to sign collective bargaining agreements. However, an ITF representative does not have the legal power to intervene in the labour relations between crew and owners. In the absence of an explicit authority under a collective bargaining agreement, the ITF does not have any power to board a vessel, carry out inspections, demand documentation or request that the stevedores refuse to service the vessel. At most, the ITF can ask for the *voluntary* cooperation of the owners to sign or renew a collective bargaining agreement.

Be ready

If an ITF representative tries to come onboard, owners and operators should initiate a dialogue immediately with the ITF representative to gain some insights into the context and motives for ITF's request to board. It will then be essential to consult the collective bargaining agreement, if one exists. If not, there is no obligation to allow the ITF representative onboard.

For support, shipowners may also appoint legal counsel or a surveyor to attend the vessel at the time of the ITF visits. Maintaining active communication with the ITF can often contribute to a more positive outcome.

In cases where court action becomes inevitable, a swift response, which may include the filing of a request for an interlocutory injunction, is advised. Shipowners should consider gathering certain documentation immediately after an ITF request is received, including any existing collective bargaining agreements, crew contract monitoring documents, crew employment contracts, crew wage scales and recent flag inspection reports.

We encourage shipowners to stay informed of these developments and, if necessary, seek legal counsel to effectively navigate these situations. Reach out to the authors to discuss the details of your situation and how you can best prepare for an ITF inspection.

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