



Solving the Stowaway Problem

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Abstract

To enable the smooth disembarkation or delivery of stowaways, Japan Captains' Association believes in the necessity of amending "the Convention on Facilitation of International Maritime Traffic, 1965 as amended", hereinafter called "FAL Convention," in order to deal with stowaways, as much as that of "The International Convention relating to Stowaways Brussels 10th October 1957," hereinafter called "Brussels Convention", or "Convention on Offenses and Other Certain Acts Committed on Board Aircraft", hereinafter called "Tokyo Convention".

According to information from IMO regarding stowaways, the number of cases has decreased since 2004, when the ISPS code came into effect. However, there are still over 200 cases per year. Cases which Japan Captains' Association has compiled show that many stowaways had to be confined for up to 20 days on the vessel. This period causes many disadvantages for the voyage, such as disturbing the shipping schedule, concerns for restraining stowaways, jeopardizing safety of the crew, and so on.

Although the current FAL Convention, which is the sole international regulation for stowaways, includes definitive force to oblige disembarkation for repatriation, the Convention requires stowaways to be in possession of valid travel documents such as passports. Because many stowaways do not possess passports or clear identification documents, there are difficulties in achieving smooth disembarkation.

We are, therefore, now convinced that the current FAL Convention, which requires selfidentification, must be reviewed. It is a socially common idea that Flag States have the ultimate obligation to accept responsibility for resolution of stowaway cases, though a typical stowaway incident will concern potentially several countries: the country where stowaways embarked, claimed or actual domiciled country of the stowaway, the country of port of call, and the flag state of the vessel. However Panama (world's largest flag of convenience country) has not yet ratified the FAL Convention, and many ships don't receive adequate support.

Stowaways are not just violating the immigration control law of each country, they may cause serious disruption to the safety of navigation, which is the prime mission for ships. A captain has a duty for non-delay of navigation. Furthermore he is responsible for all the ship operations, including security of crew and cargoes, and protection of the marine environment. Therefore, it is too severe and unfair for captains to be burdened with all of the responsibilities for stowaways which could seriously interfere with his responsibilities. Under present conditions, the smooth disembarkation of stowaways is too difficult.

Notes:

Tokyo Convention stipulates crimes occurring on an airplane, and invests in a captain the right of turning over criminals. Also, Brussels Convention imposes on the contracting states active cooperating duties for settlement, such as receiving stowaways by the appropriate authorities of the port of disembarkation right after discovery. However, it doesn't meet the minimum requirement for 10 ratifying countries before it comes into force. Therefore under present conditions, there is no chance of enforcement.