

LEGAL COMMITTEE
107th session
Agenda item 4

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**PROVISION OF FINANCIAL SECURITY IN CASE OF ABANDONMENT OF SEAFARERS,
AND SHIPOWNERS' RESPONSIBILITIES IN RESPECT OF CONTRACTUAL CLAIMS
FOR PERSONAL INJURY TO, OR DEATH OF SEAFARERS, IN LIGHT OF THE
PROGRESS OF AMENDMENTS TO THE ILO MARITIME LABOUR CONVENTION, 2006**

Submitted by the International Chamber of Shipping (ICS)

SUMMARY

Executive summary: This document comments on the current global abandonment of seafarers situation and highlights some ongoing concerns

Strategic direction, if applicable: Other work

Output: OW 45

Action to be taken: Paragraph 14

Related document: IMO/ILO/WGLCCS5/3

Background

1 The International Chamber of Shipping (ICS) is the International Labour Organization (ILO) Social Partner for the shipping industry and has been actively involved in all international discussions relating to abandonment since the formation, in 1998, of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers (Joint IMO/ILO Working Group). ICS was also active in the discussions resulting in amendments to the ILO Maritime Labour Convention (MLC), 2006 relating to crew claims and abandonment, which entered into force on 18 January 2017.

2 At the fifth meeting of the Joint IMO/ILO Working Group, held in London at IMO Headquarters in January 2004, a need to establish a database on abandonment of seafarer cases was determined. ILO conducted relevant studies and it was decided, in consultation with the IMO Secretariat, to host the database.

3 The IMO/ILO joint database contains a regularly updated list of vessels reported to ILO as abandoned in various ports of the world by Member States and organizations accredited to ILO or IMO. It specifically includes information on seafarers and fishers deemed abandoned and their current status.

4 The designations within the database are in conformity with United Nations practice and the presentation of material therein does not imply the expression of any opinion whatsoever on the part of ILO and IMO concerning the legal status of any country, area or territory or of its authorities or concerning the delimitation of its frontiers. The flag abbreviations and register names used are those contained in Lloyd's Maritime Directory.

5 Governments and relevant organizations are invited to send appropriate information to ILO in the form provided in document IMO/ILO/WGLCCS5/3.

6 Seafarers or fishers who want an abandonment case to be reported may wish to consult their trade union or contact their consulate or flag State. Advice may be sought through accredited organizations. ICS is also one of the parties which is involved in actively trying to resolve any case which is registered on the joint IMO/ILO abandonment database.

Discussion

7 ICS remains concerned about the current global abandonment situation and has several specific concerns related to some cases listed on the database, which can be found at: <https://www.ilo.org/dyn/seafarers/seafarersbrowse.home>

8 As noted at the previous session, it is of importance to all stakeholders that an accurate list of cases is maintained. ICS believes that some of the cases listed may now be resolved but have not been advised as concluded to IMO and/or ILO by the relevant stakeholders. Therefore, flag States are invited to check the database to see if there are any cases listed relating to their country and if so, to check the source data in the database which can list cases according to flag. If a flag State considers that a case has now been resolved, it is invited to advise ILO and IMO accordingly so that this information can be checked with the Member State or organization that originally reported the case in question.

9 There have been further press articles in recent months which referred to abandonment cases not reported into the IMO/ILO database. Some of these, upon further examination, were found to be bona fide abandonment cases but others were not.

10 Of the cases that are of abandonment, efforts by the IMO and ILO Secretariats, along with the social partners and States Parties, cannot be actioned quickly if cases are not reported to ILO at an early stage. Evidence shows that cases which are reported swiftly are often resolved quickly, whereas cases left unreported become much more complex to resolve, often severely affecting the seafarers and their families. In many of these cases, the situation on board the vessels quickly deteriorates; food, fuel and water diminish, and health issues arise. All parties are therefore encouraged to report cases as early as possible, in line with the procedures outlined in document IMO/ILO/WGLCCS5/3.

11 ICS is pleased to note that early evidence suggests that most ships appear to have the financial security certification required by the 2014 amendments to MLC, 2006, which entered into force on 18 January 2017. However, there remains a gap in coverage for vessels registered in flag States which are still to ratify the Convention. ICS will continue to monitor this situation closely. ICS has requested ILO to consider seeking technical assistance to be provided to these countries to encourage them to ratify MLC and thereby require their ships to have the necessary insurance coverage.

12 Most of the outstanding cases prior to 2018 are cases which arose prior to the entry into force of the requirement for financial security and are therefore more complicated to resolve. However, it is worth flag States checking to see if long-standing cases which are listed have now been properly resolved and to report this, as appropriate.

13 ICS is very concerned about several instances this year of flag and port States reportedly not supporting the repatriation of abandoned seafarers due to safe manning requirements on board vessels. This has resulted in seafarers being kept on board unsafe and poorly equipped vessels for long periods in dangerous circumstances. In some cases, it has also resulted in demands for replacement seafarers to be sent to vessels known to have been abandoned and replacement seafarers being deployed to work on vessels without knowing that there are no funds available for payment of wages, the provision of food and other daily living requirements. While ICS understands the issues relating to safe manning, it would be useful if the Committee could look at ways to address this situation to the benefit of all affected.

Action requested of the Committee

14 The Legal Committee is invited to:

- .1 note the information contained in this document;
 - .2 invite Member States and relevant organizations to advise ILO and IMO of any information in relation to cases listed in the IMO/ILO joint database; and
 - .3 consider ways in which it can address the current challenges faced by those affected by abandonment, including encouraging further ratification of MLC, 2006 and reminding States Parties and other stakeholders of their responsibilities towards abandoned seafarers; the sponsors welcome suggestions in this regard during the meeting.
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