

LEGAL COMMITTEE
104th session
Agenda item 4

LEG 104/4/X
21 February 2017
Original: ENGLISH

**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**

**Comments upon the update on the IMO/ILO joint database of abandonment of
seafarers and the entry into force of the 2014 amendments to the Maritime Labour
Convention, 2006**

Submitted by ICS

SUMMARY

Executive summary: This document comments upon paper LEG104/4 regarding the IMO/ILO joint database of abandonment of seafarers and the entry into force of the 2014 amendments to the Maritime Labour Convention, 2006. It also invites the Committee to consider what additional assistance could be given for example by agreeing on suitable tools that might be made available to the Organizations.

Strategic direction: 1

High-level action: 1.3.4

Output: 1.2.4.2

Action to be taken: IMO/ILO/WGLCCS 5/3 and 6/6

Related documents: ILO/IMO/CDWG/2008/3, LEG 103/4 and LEG 103/14 and LEG104/4

- .1 The International Chamber of Shipping (ICS) thanks the ILO and IMO Secretariats for their informative paper (LEG 104/4) providing information on the joint Database on Reported Incidents of Abandonment of Seafarers.
- .2 ICS fully agrees that the accuracy of the database is critical to urge action by interested parties to resolve abandonment cases and to provide accurate information to the public in relation to such incidents.

- .3 The significant efforts made recently by ILO, IMO and ITF to work with ICS to ensure that information within the database is current is appreciated. It is to be hoped that all notifying parties will regularly provide updates on cases reported by them, so that the incident status remains accurate. Accuracy is core in determining the most appropriate action to take.
- .4 ICS notes that whilst the number of unresolved cases is small, such incidents clearly have a serious impact on the wellbeing of the affected seafarers and their families. Whilst most States appear to be working actively to resolve such incidents there have unfortunately been several high profile cases in recent months where the flag and port States appear to have abrogated their responsibilities as outlined in the joint ILO / IMO Guidelines on Crew Claims and Abandonment.
- .5 In order for the database to be able to function more effectively, ICS believes that definitions should be listed in the introduction to the database so that anyone reporting or reviewing data has a full understanding. In particular the intended meaning of the following categories should be defined: 'Resolved', 'Inactive', 'Disputed' and 'Unresolved'. ICS also believes it would make more sense to alter the term "Disputed" to become "Partly Resolved".
- .6 The contents of the database should only contain incidents which still require action. Currently 46 inactive cases are listed; this suggests that contact with the relevant shipowners and seafarers has been lost and that it is impossible to obtain further information. ICS therefore proposes that for such cases an agreed deadline of 3 months (or an alternative defined short-term period) should be added, and if no further update can be provided that these incidents should be formally closed on the database.
- .7 ICS also notes that the abandonment report form contains a box to declare whether the form pertains to a new incident or is an update on a previously reported incident. However, there is generally no provision to cover the status of an incident when the reporting party has not updated the incident within a specified time frame. Currently the database is too reliant upon voluntary updating of incidents; there should be more focus on the proactive engagement of the initial reporting party and the database administrators to ensure that it is updated regularly to reflect the current status of incidents.
- .8 ICS also notes that whilst it is hoped that the number of cases should reduce in the future due to the introduction of the 2014 amendments to the ILO Maritime Labour Convention 2006, these amendments only apply to vessels registered with a flag State that has ratified the Convention, or a vessel that arrives in a port State that has ratified the Convention. It is clear from recent cases that some abandonment incidents occur on vessels that are not registered in a ratifying flag State or have called at a non-ratifying port State. These States should be urged to honor the intent of the joint ILO and IMO Guidelines.
- .9 Recent evidence has also shown that some States will only act when diplomatic measures are taken by the ILO and IMO Secretariats. However the Secretariats have only a limited range of options available to encourage swift resolution. The Committee is invited to consider what additional assistance could be given for example by agreeing on suitable tools that might be made available to the Organizations.

Action Required of the Committee

- .10 The Committee is invited to note the comments provided and to decide as appropriate.