

LEGAL COMMITTEE  
111th session  
Agenda item 4

LEG 111/4(a)/2  
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## FAIR TREATMENT OF SEAFARERS

**(a) 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 on document LEG 111/4(a)**

**Submitted by ICS and ITF**

### SUMMARY

*Executive summary:* This document, submitted jointly by the International Chamber of Shipping (ICS) and the International Transport Workers' Federation (ITF), comments on document LEG 111/4(a) and proposes the establishment of a new task force – comprising interested ILO/IMO Member States, as well as shipowners' and seafarers' representatives – to review and update (or redevelop), as necessary, the joint ILO/IMO abandonment database (including all procedural, policy and technical aspects) for consideration at a future meeting of the Joint ILO/IMO Tripartite Working Group to identify and address seafarers' issues and the human element (JTWG). ICS/ITF also provide some initial suggestions that could serve as a basis for the terms of reference (ToRs) of this potential new task force, which may be further considered, discussed and refined during LEG 111.

*Strategic direction, if applicable:* 6

*Output:* 6.7

*Action to be taken:* Paragraph 9

*Related document:* LEG 110/18/1

### Introduction

1 This document is submitted in accordance with paragraph 6.6.4 of the *Organization and method of work of the Legal Committee* (LEG.1/Circ.14) and provides comments on document LEG 111/4(a) submitted by the ILO and IMO Secretariats.

2 The first meeting of the Joint ILO/IMO Tripartite Working Group to identify and address seafarers' issues and the human element (JTWG), which met from 13 to 15 December 2022, developed new joint ILO/IMO guidelines on how to deal with seafarer abandonment cases.

The guidelines are intended to provide practical advice to flag States, port States, States of which seafarers are nationals or are resident or are otherwise domiciled in their territory, States in which relevant recruitment and placement services operate and the wider maritime industry, on how to resolve cases efficiently and effectively.

3 The Legal Committee, at its 110th session from 27 to 31 March 2023, formally adopted the new guidelines (LEG 110/18/1, paragraph 4(d).12.2). The guidelines were earlier also authorized for publication by the 347th Session of the ILO Governing Body from 13 to 23 March 2023 (Minutes of ILO Governing Body session 347, paragraph 890 (c)).

4 During LEG 110, the ILO Secretariat also requested that the Committee at its 111th session, as well as the ILO Governing Body, consider the prospect of draft terms of reference (ToRs) being developed for establishment of a task force to review the procedural and technical aspects of the joint ILO/IMO database on reported incidents of abandonment of seafarers. This request was made against the backdrop of the conclusion, during the first meeting of the JTWG, that the guidelines alone would be insufficient to effectively address the long-standing issue of abandonment. The JTWG also concluded and noted the following:

- .1 Digital technology has advanced significantly since the database was set up. An upgrade to a more efficient electronic system is needed and would increase data accuracy. The better the data collected, the more effectively cases can be managed.
- .2 The database should be made more accurate to allow for better monitoring and swifter resolution of abandonment cases.
- .3 The potential new database should be used to produce standardized annual reports on abandonment cases, including analysis of significant trends. Consistent annual reporting will also ensure appropriately targeted management of abandonment cases.
- .4 ICS/ITF expressed a willingness to contribute financial resources towards setting up a new database, alongside ILO, IMO and their Member States.

5 The idea of establishing a new task force to review the database was put forward by the shipowners' group (coordinated by ICS) and the seafarers' group (coordinated by ITF) during the first meeting of the JTWG and supported by the governments' group. Subsequently, ICS and ITF informed LEG 110 that they would informally cooperate, intersessionally, to draft the ToRs for this potential new task force, which could serve as a starting point and basis for consideration, discussion and refining during LEG 111.

6 In this context, ICS and ITF provide below some initial suggestions about what the potential ToR of this task force could include. For ease of reference, document IMO/ILO/WGLCCS 6/6 (paragraphs 3.91 – 3.113) on 'General procedure to be followed for the operation of the database on reported incidents of abandonment of seafarers and fishers', as referenced in paragraph 7.1 below, is replicated in the annex to this document.

### **Proposed ToR framework for reviewing and updating the database**

7 In the context of a possible review and update of the ILO/IMO abandonment database (including all procedural, policy and technical aspects), it is proposed that, subject to further discussion and refining, the potential new task force could be instructed as follows:

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- .1 Review and update the 'General procedure to be followed for the operation of the database on reported incidents of abandonment of seafarers and fishers' – document IMO/ILO/WGLCCS 6/6, paragraphs 3.91 – 3.113 (provided in the annex to this document).
  - .2 Review and update should include, but is not limited to:
    - .1 ensuring that the status of each case is accurately recorded and/or updated, indicating who makes the recordation, as well as in what circumstances and/or times any updates can be made; and
    - .2 providing a procedure to deal with disputed abandonment cases.
  - .3 During the database review process, also review and propose updates (as necessary) to the existing reporting form to be used when reporting information on cases of abandonment to ILO/IMO, including how these might be adjusted and if more suitable digital approaches exist (current reporting form may be accessed [here](#) and initial reporting form framework can be found in Annex 1 to document [IMO/ILO/WGLCCS5/3](#)).
  - .4 Recognizing that digital technology has advanced significantly since the database was initially set up, and an upgrade to a more efficient electronic system is now required; develop a framework proposal on the basis of which the database can be updated or redeveloped, to enhance, promote and facilitate the recording, analysis and reporting of abandonment cases to the database and their prompt resolution.
  - .5 Develop a framework proposal on the basis of which ILO/IMO can issue joint standardized annual reports of abandonment cases, which can be compared year-on-year more efficiently. This may cover, but is not limited to, a template format for analysis of the frequency of cases (i.e. increasing or decreasing), as well as any other patterns of significance.
  - .6 Submit a report with clear recommendations for review and consideration at a future meeting of the Joint ILO/IMO Tripartite Working Group to identify and address seafarers' issues and the human element (JTWG). The Task Force report should also be shared with the IMO Facilitation Committee (FAL) and the Officers of the ILO Special Tripartite Committee (STC) for information.

8 In this context, the co-sponsors further suggest that the relevant ILO and IMO bodies extend the duration of the JTWG and instruct the joint ILO/IMO Secretariat to convene a meeting to conduct a final review and consideration of the Task Force report, and subsequently provide a clear report to the ILO Governing Body and the IMO Legal Committee for endorsement.

#### **Action requested of the Committee**

9 The Legal Committee is invited to consider and take action as appropriate, on the prospect of establishing a new task force to review and update (or redevelop) the joint ILO/IMO abandonment database (including all procedural, policy and technical aspects), based on the proposals set out in paragraphs 7 and 8 of this document.

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## ANNEX

### Detailed procedure

**General procedure to be followed for the operation of the database on reported incidents of abandonment of seafarers and fishers (document IMO/ILO/WGLCCS 6/6, paragraphs 3.91 – 3.113)**

#### A. Procedure

- .1 a Member State or an organization accredited to ILO or IMO sends information to ILO regarding abandonment case(s), using the form described in document IMO/ILO/WGLCCS 5/3, annex 1, page 4, as hyperlinked in the home page of the Database;
- .2 ILO sends this information for verification to IMO, which checks the information given on the IMO number, flag, type of vessel, company and registered owner;
- .3 IMO sends (modified as necessary) the GISIS information back to ILO; and
- .4 following consultations between IMO and ILO, the information is entered on a restricted, i.e. non-public and password-restricted website. Interested parties are then notified of new entries and will then have an opportunity to provide further information within 10 working days, after which time the information will be released for public access. If necessary, different points of view will be reflected. Complementary relevant information received after the 10 working days will go on the public website.

#### B. Four categories: resolved, unresolved, disputed and inactive

A case of abandonment will be considered as **resolved** if, and only if, ILO has received clear advice from the Member State or organization having originally provided the information that:

- (i) the totality of the crew has been successfully repatriated; and
- (ii) the totality of all outstanding remuneration and contractual entitlements have been paid and duly received by all the crewmembers.

The Secretariat will ensure that the information displayed clearly distinguishes between "**resolved cases**" as opposed to "**unresolved cases**". A third category of cases, namely, "**disputed cases**", will also be clearly identified. A fourth category of cases, namely "**inactive cases**" which, though not resolved, are no longer active, was agreed in the seventh session of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers (document ILO/IMO/CDWE/208/3 paragraph 67). The current status of each case will be marked with a different-coloured category to the vessel name.

#### C. Deletion

It was decided that no information should be deleted following the resolution of a case and that this issue would be reassessed in the light of experience gained.