



IMO



**JOINT IMO/ILO *AD HOC* EXPERT WORKING GROUP  
ON LIABILITY AND COMPENSATION REGARDING CLAIMS FOR DEATH,  
PERSONAL INJURY AND ABANDONMENT OF SEAFARERS**

Eighth session  
Agenda item 2

IMO/ILO/WGLCCS 8/2/6  
8 July 2008  
ENGLISH ONLY

**PROVISION OF FINANCIAL SECURITY FOR ABANDONMENT OF SEAFARERS**

**Examination of the issue of financial security for crew members/seafarers and their dependants with regard to compensation in cases of personal injury and death**

**Submitted by the International Transport Workers' Federation (ITF)**

**SUMMARY**

- Executive summary:*** This document contains proposals for a practical and long-term solution to address the problem of financial security with regard to compensation in cases of death and personal injury of seafarers.
- Strategic direction:*** 1 and 1.1
- High-level action:*** 1.1.2
- Planned output:*** 1.1.2.3
- Action to be taken:*** Paragraph 4
- Related documents:*** LEG 93/4; LEG 93/WP.2, paragraphs 4.1-4.8; LEG 92/5/1; LEG 92/13, paragraphs 5.1-5.13; LEG 91/4; IMO/ILO/WGLCCS 6/3/5; IMO/ILO/WGLCCS 6/3/6; resolution A.930(22) and associated Guidelines; resolution A.931(22) and associated Guidelines; resolution concerning the Joint IMO/ILO *Ad Hoc* Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers; Maritime Labour Convention regulation 2.5; regulation 4.2; IMO/ILO/WGLCCS 7/2/2 and final report of the Joint IMO/ILO *Ad Hoc* Expert Working Group on liability and compensation regarding claims for death, personal injury and abandonment of seafarers, seventh session.

1 This document is submitted following the final considerations adopted by 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 held in Geneva, 4-7 February 2008.

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2 The Social Partners agreed to meet within six months. The results of the meeting scheduled to take place within six months would be sent to the ILO and IMO Secretariats. The Social Partners met on 10-11 June 2008 at the International Shipping Federation headquarters in London. Unfortunately no agreement could be reached.

### **General comments**

3 Following the document listing the existing gaps between the MLC and the Joint ILO/IMO Guidelines on the issue of compensation regarding claims for death and personal injury introduced during the seventh session of the Joint Working Group and the discussions held at that session, the ITF's proposal is hereby attached for the consideration of the Joint Working Group (Annex).

### **Action requested of the Joint Working Group**

4 The Joint Working Group is invited to take into the account the proposals contained in the annex and to comment and decide as appropriate.

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## ANNEX

**PROVISION OF FINANCIAL SECURITY IN CASE OF  
ABANDONMENT OF SEAFARERS****Standard A 4.2.1 – Provision of financial security in respect of contractual claims for personal injury to or death of seafarer**

1. For the purposes of this Standard and without prejudice to Standard A 4.2:
  - (a) Personal injury means any disease or impairment of a seafarer's physical or mental condition arising out of or in connection with employment of the seafarer.
  - (b) Claims means valid contractual claims for compensation for personal injury or death at levels provided for within the terms and conditions of employment of seafarers.
  - (c) Insurance means effective insurance or other forms of financial security to meet claims against shipowners which comply with the functional criteria set out in this Standard and Guideline B 4.2.1.
  - (d) Insurer means any person or entity providing insurance for a shipowner.
2. Each Member shall pay particular attention to identifying the most crucial issues relating to the payment to seafarers of contractual claims for personal injury or death.
3. Each Member shall adopt laws and regulations requiring that shipowners of ships that fly its flag ensure that there is an effective insurance cover or other financial security to provide full and prompt payment of such claims:
  - (a) Shipowners shall have effective arrangements for the payment of compensation for death or personal injury. Shipowners shall arrange for their ships effective insurance cover that complies with this Standard and related Guideline.
  - (b) Shipowners shall take steps, when a claim arises, for its prompt payment. Shipowners shall also ensure that all valid contractual claims shall be paid in full. There shall be no pressure, by their representative or by the representative of their insurers, for a payment less than the contractual amount or for a payment, which in any way conflicts with this Standard and related Guideline.
  - (c) Where the nature of the personal injury makes it difficult for the shipowner to make a full payment of a claim, an interim payment shall be made to the seafarer so as to avoid undue hardship.
  - (d) Shipowners shall display on board contact details of the persons or entity responsible for handling claims covered by this Standard and related Guideline.
4. National laws and regulations may provide that the functional criteria for insurance for claims should include, *inter alia*, that:
  - (a) the contractual compensation, as provided by the contract of employment and without prejudice to (b) below, should be paid in full and without delay;

- (b) the seafarer should receive payment without prejudice to other legal rights, but such payment may be offset against any damages resulting from any action in tort arising from the same incident;
- (c) shipowners should ensure that a certificate is provided indicating the period of cover of the insurance;
- (d) the seafarer should receive prior notification if the insurance is to be cancelled and be notified immediately if it is not to be renewed; and

the insurance should provide for the payment of all claims arising during the period for which the certificate is valid.

- 5. Shipowners should ensure that their ships have on board a certificate issued by the insurer. It should be posted in a prominent position in the seafarers' accommodation.
- 6. Where more than one insurer provides cover for claims, certificate from each insurer should be required.
- 7. As a minimum, the certificate should include:
  - (a) name of the ship;
  - (b) port of registry of the ship;
  - (c) call sign of the ship;
  - (d) IMO number of the ship;
  - (e) name of the provider of the financial security;
  - (f) place of business of the provider of the financial security;
  - (g) name of the shipowner;
  - (h) period of validity of the financial security; and

An attestation that the financial security meets the recommended measures set out in this guideline.

Guideline B 4.2.1 – Provision of financial security in respect of contractual claims for personal injury to or death of seafarer

- 8. Without prejudice to each Member's national laws and regulations, the parties to the payment of a contractual claim may use the Model Receipt and Release Form of the IMO Assembly resolution A. 931(22) on claims for personal injury to or death of seafarers adopted on 29 November 2001.