

LEGAL COMMITTEE
110th session
Agenda item 4

LEG 110/4(a)/1
3 February 2023
Original: ENGLISH
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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 110/4(a)

Submitted by the International Transport Workers' Federation (ITF)

SUMMARY

Executive summary: This document comments on the report of the IMO and ILO Secretariats in respect of the IMO/ILO joint database of abandonment of seafarers for the period 1 January to 31 December 2022.

Strategic direction, if applicable: 6

Output: 6.13

Action to be taken: Paragraph 17

Related documents: LEG 110/4(a) and LEG 110/4(a)/2

Introduction

1 This document is submitted in accordance with paragraph 6.6.5 of the *Organization and method of work of the Legal Committee* (LEG.1/Circ.9) and provides comments on document LEG 110/4(a) submitted by the IMO and ILO Secretariats.

2 The International Transport Workers' Federation (ITF) notes the information submitted by the IMO and ILO Secretariats and, as the organization which reports the majority of cases to the Joint IMO/ILO database on reported incidents of abandonment of seafarers, ITF offers this analysis of the cases of abandonment and the use of the financial security system for 2022.

Abandonment numbers

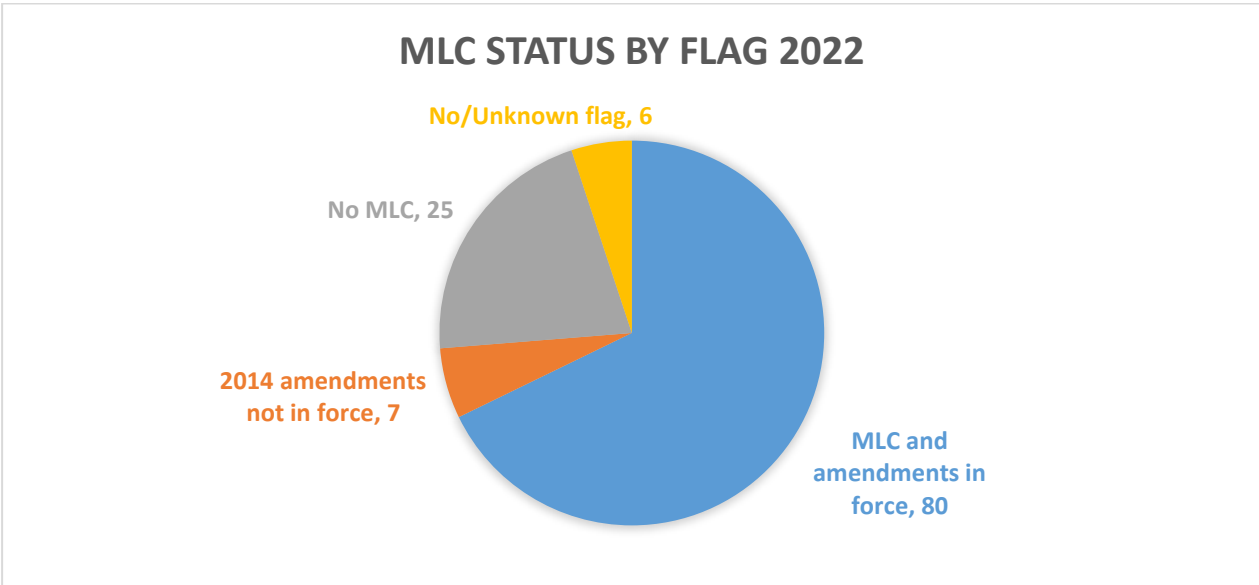
3 During the period referred to, a total of 118 cases of abandonment were reported involving 1,841 seafarers on 116 different vessels (2 vessels ASB Darya and Bader III were reported twice). The ITF reported 113 of the 118 cases, with 4 cases being reported by ISWAN through ITF and 1 case being reported by Liberia. This is a significant decline in reporting from flag and port States. Notably, Liberia was the State that reported the most cases in 2021. Overall, there were 23 more cases reported than in 2021. The cases involved over 400 more seafarers than in 2021.

4 The number of cases reported has increased by more than 24%. This demonstrates the continuing failure of the industry and to adequately prevent cases and resolve cases within an adequate time frame.

Maritime Labour Convention (MLC), 2006

5 Of the cases reported in 2022, 80 (68%) involved vessels flying flags of States that have ratified MLC, 2006 and have accepted the entry into force of the 2014 amendments. Seven (6%) involved flags that have ratified MLC, 2006 but have not accepted the 2014 amendments. Twenty-five (21%) were flying flags that have not ratified MLC, 2006, and 5 had no flag, or the flag could not be determined.

6 Of the cases involving flags which have not ratified the MLC, 2006, 16 cases are shown as resolved or disputed (64%). Of the cases involving flags without the 2014 amendments, 2 cases are resolved or disputed (29%). For flags that have ratified both MLC and the amendments, 44 are shown as resolved or disputed (55%).



Cases with valid insurance

7 Of the cases reported, 63 had valid insurance in place. Of those, 39 cases (61%) are currently recorded as either resolved or disputed. Unfortunately, there is not sufficient data to provide accurate and meaningful information on how many of these cases resulted in the financial security provider paying outstanding wages and repatriation costs.

8 As with previous years, the presence of insurance greatly increases the likelihood of the case being resolved in a positive manner. This may be due to insurers paying the wages, or due to pressure being placed on owners by the insurers to resolve the matter.

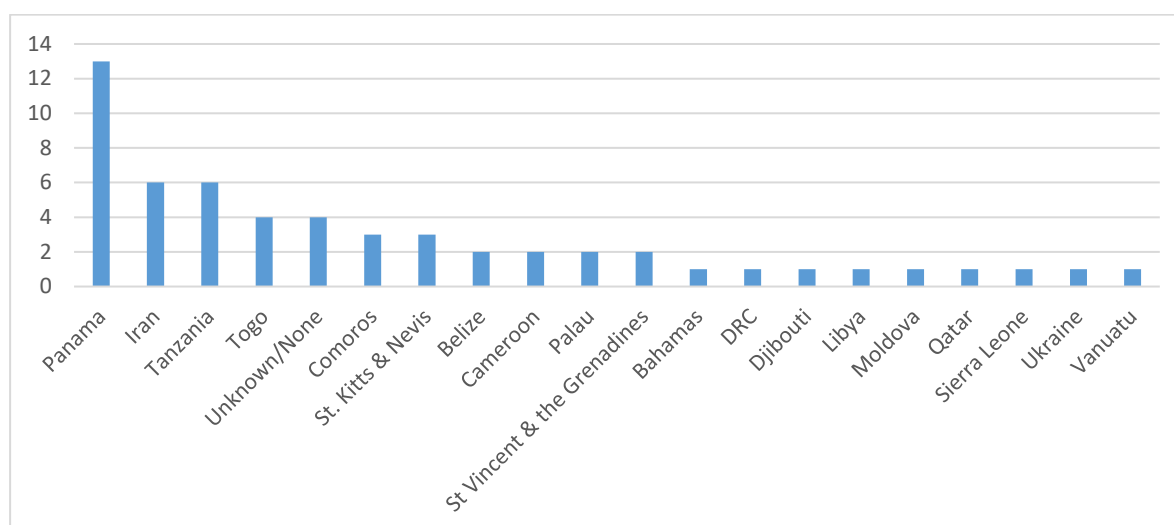
9 ITF has anecdotal evidence that suggests a number of other cases in which valid insurance was present were also resolved without being reported to the database.

Cases without valid insurance

10 Fifty-five cases were reported in which there was no insurance, or the insurer could not be identified. Twenty-six of these cases (47%) are recorded as resolved or disputed.

11 This shows clearly the advantage of financial security in the resolution of cases.

Vessels without abandonment insurance by flag



12 Panama, Tanzania, Togo, Saint Kitts and Nevis, Belize, Palau, Saint Vincent and the Grenadines, Bahamas and Djibouti have all ratified MLC, 2006 and the 2014 amendments. It is, therefore, concerning that vessels without valid insurance are found on those flags.

Conclusions

13 It has now been six years since the 2014 amendments to the MLC, 2006 came into force. The number of abandonments reported continues to increase year on year.

14 The challenges posed by the crew change crisis are now well and truly behind us. However, the highlighting of abandonment during that period appears to have encouraged seafarers to come forward more willingly when their employers refuse to pay and repatriate them or leave them without food and fuel.

15 The lack of financial security on vessels which are covered by MLC, 2006 remains a major concern. Flag States are not doing enough to prevent vessels without appropriate cover from operating. ITF has seen many cancellation notices from financial security providers which appear to have elicited no action from the flag State.

16 Repeat abandonments also remain an issue. Two vessels were reported twice in 2022, with one of those, Bader III, also having been reported in 2021. Flag and port States should be taking action against owners whose vessels are repeatedly reported to the database. The link between abandonment and forced labour has been made many times and in order to fulfil their obligations under MLC, 2006, States must be alive to this connection.

Action requested of the Committee

17 The Legal Committee is invited to:

- .1 take note of the information provided;
- .2 encourage discussion relating to a solution to the problem of repatriation of abandoned seafarers;
- .3 use its influence to encourage Member States to ratify and effectively implement the relevant international instruments, amendments thereto and adhere to any published guidelines;
- .4 highlight the existence of the Joint IMO/ILO Database on reported incidents of abandonment of seafarers and encourage Member States to report incidents of abandonment to the database when incidents of abandonment occur in their ports, or on vessels flying their flag;
- .5 encourage flag and port States to take more action to ensure the presence of financial security as required by MLC, 2006 Standard A2.5.2 and to take appropriate action when financial security is not in place; and
- .6 encourage States to take note of article III of the Maritime Labour Convention (MLC), 2006, as amended, and the connections between this article and the issue of abandonment.
