

Fourth meeting of the Special Tripartite Committee established under Article XIII of the Maritime Labour Convention, 2006, as amended – Part I (Geneva, 19–23 April 2021)

Agenda item 1. Exchange of information related to the implementation of the MLC, 2006

Document submitted by the IMO Secretariat

Introduction

1 Seafarer-related issues have featured in IMO's work for several decades. Because seafarers are ultimately responsible for implementing many of IMO's instruments, standards for seafarer training, certification and watchkeeping have been developed and enshrined in the STCW Convention. The human element matters in IMO further relate to safe manning, drills, fatigue, operational and procedural safety, security, environmental protection and pollution response, occupational safety and health, including living and working conditions, and facilitation of maritime transport. Likewise, also the wellbeing of the almost 2 million seafarers, both as employees and as individuals, working on board seagoing ships to deliver goods or services to the industries and populations around the world, continues to be the priority of IMO. This is reflected in the continuing work on issues such as abandonment, fair treatment and liability and compensation for seafarers – not to mention the annual Day of the Seafarer, celebrated each year on 25 June, when IMO campaigns globally to give wider recognition to seafarers.

2 In 1999 the 'Joint IMO/ILO Ad Hoc Working Group on liability and compensation regarding claims for death, personal injury and abandonment of seafarers' was established. The Group's major achievement was the development of two resolutions and related Guidelines, adopted by the IMO Assembly and the Governing Body of ILO in November 2001, on:

- .1 *Provision of Financial Security in Case of Abandonment of Seafarers* (resolution A.930(22))
https://wwwapps.imo.org/blast/blastDataHelper.asp?data_id=24557&filena me=A931%2822%29.pdf); and
- .2 *Shipowners' Responsibilities in respect of Contractual Claims for Personal Injury to or Death of Seafarers* (resolution A.931(22))

https://wwwapps.imo.org/blast/blastDataHelper.asp?data_id=24584&filename=A930%2822%29.pdf).

3 In 2006 the IMO Legal Committee and the ILO Governing Body adopted *Guidelines on Fair Treatment of Seafarers in the Event of a Maritime Accident* as prepared by the 'Joint IMO/ILO Ad Hoc Expert Working Group on Fair Treatment of Seafarers in the Event of a Maritime Accident' (resolution LEG.3(91)

https://wwwapps.imo.org/blast/blastDataHelper.asp?data_id=15851&filename=LEG3%2891%29.pdf).

Fair treatment and the abandonment of seafarers

4 The IMO Legal Committee, at its 107th session in December 2020, expressed its strong commitment to preserving the rights of seafarers, in particular concerning fair treatment and the abandonment of seafarers.

5 Firstly, the Committee agreed to include a new output in its work programme on the **Fair treatment of seafarers detained on suspicion of committing maritime crimes**. Since shipping is an industry of a truly global nature, crossing many jurisdictions, seafarers serving on board are recognized as a special category of workers who need special protection when they face criminal prosecution. In all circumstances, their right to a fair trial, as well as access to medical care and consular assistance, is a fundamental principle in international human rights law.

6 Secondly, the Committee agreed to include a new output in its work programme on the **development of guidelines for port State and flag State authorities on how to deal with seafarer abandonment cases**. Such guidelines could provide a solid basis for the introduction of a unified procedure to follow in order to speed up the process of repatriation of seafarers. The Committee has been working on the issue of abandonment of seafarers for a number of years, in collaboration with ILO and in cooperation with ITF and ICS. (Read more here: <https://www.imo.org/en/OurWork/Legal/Pages/Seafarer-abandonment.aspx>). In considering the matter, the Committee noted the information provided by the ILO observer that awareness of the issue had risen due to increased reporting of abandonment of seafarer cases. In many cases the port State was preventing the repatriation of seafarers in contradiction to its Maritime Labour Convention (MLC) responsibility to facilitate the repatriation of seafarers.

7 The Committee agreed to request, as a matter of urgency, the ILO Special Tripartite Committee (STC) under the MLC, 2006 to authorize the establishment of an ILO-IMO tripartite Working Group to identify and address seafarers' issues and the human element, which would need to be endorsed by the ILO Governing Body during its meeting in November 2021, and invited the Maritime Safety Committee to make a similar request to the IMO Council (IMO document LEG 107/18/2 paragraphs 15.8 and 15.14 refer).

8 The Committee agreed to communicate its support for a proposal from India to possibly amend the MLC, 2006, to incorporate provisions to enable the financial security necessary for the replacement of seafarers by the P & I insurer, to the STC of MLC, 2006 of ILO, scheduled to meet in April 2021.

Seafarers' issues and the human element

9 The IMO Subcommittee on the Human Element, Training and Watchkeeping at its 6th session (HTW 6), noted that the Sectoral Meeting on the Recruitment and Retention of Seafarers and the Promotion of Opportunities for Women Seafarers, held by ILO in Geneva from 25 February to 1 March 2019, had agreed on the following recommendations:

- .1 ILO should strengthen its partnership with IMO on issues such as flag and port State control inspections and barriers to recruitment and retention of seafarers; and
- .2 ILO and IMO should establish an ILO/IMO tripartite working group to identify and address seafarers' issues and the human element, which would be submitted to the 337th session of the Governing Body of ILO (October/November 2019) for its consideration.

10 HTW 6 also noted that, based on the outcome of the consideration by the ILO Governing Body, the corresponding bodies of both organizations would be invited to take action, as appropriate.

11 HTW 7 noted the outcome of the 107th session of IMO's Legal Committee (paragraphs 4 to 8 above refer) and that the Maritime Safety Committee was invited to make a similar request to the IMO Council when considering the establishment of an ILO/IMO tripartite working group to identify and address seafarers' issues and the human element at its upcoming session in May 2021.

Action requested of the Committee

12 The Special Tripartite Committee is invited to take note of the information provided in this document and to [authorize][endorse] the establishment of an ILO-IMO tripartite working group to identify and address seafarers' issues and the human element, which should:

- .1 consider concrete proposals on fair treatment of seafarers detained on suspicion of committing maritime crimes, and advise ILO and IMO accordingly;
- .2 develop guidelines for port State and flag State authorities on how to deal with seafarer abandonment cases, for approval/adoption by ILO and IMO; and
- .3 consider any other relevant matters under the purview of ILO and IMO, including, but not limited to, decent employment and greater employment opportunities in the maritime sector; issues concerning flag and port State control inspections and barriers to recruitment and retention of seafarers; safe manning; drills; fatigue; operational and procedural safety, security and environmental protection; occupational safety and health; and welfare and well-being of seafarers, as may be instructed, and advise ILO and IMO accordingly.