



FOURTH ITEM ON THE AGENDA

Maritime matters**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 and Eighth Sessions)**

1. At its 295th Session (March 2006), the Governing Body of the ILO approved, inter alia, a set of revised terms of reference for further work of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers and the holding of a Seventh Session of the Joint Working Group. The IMO Legal Committee, at its 92nd Session, also agreed that the Joint Working Group should continue its work and approved the holding of a Seventh Session. This meeting took place from 4 to 7 February 2008.
2. The Seventh Session of the Joint Working Group agreed on a number of principles relating to the need for an effective system of financial security in case of abandonment and that the essential elements of such a system should be mandatory and yet flexible in how it is delivered, while ensuring a level playing field. The text should be elaborated and a decision on how it should be brought into force would have to be taken later.
3. The Joint Working Group at its Seventh Session made considerable progress but was not able to complete its work. As a result, an Eighth Session was held from 21 to 24 July 2008.
4. Reports of both the Seventh and Eighth Sessions¹ accompany this paper.
5. The results of the Joint Working Group's discussions regarding abandonment are contained in Appendix I of the report of the Eighth Session. This appendix contains proposals by the Shipowners' and Seafarers' groups as well as comments from the Governments as to solutions of the issue of financial security in the case of abandonment. Appendix II contains "Preliminary ideas on text relating to the provision of financial security in case of personal injury and death of seafarers" prepared by an informal working group of the Government group. Both these appendices, although not adopted by the Joint

¹ ILO/IMO/CDWG/2008/3 and ILO/IMO/WGPS/8/2008/5.

IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers, provide a basis for further work.

6. The Joint Working Group considered that a Ninth Session was necessary with a revised and clearer mandate for its future work and approved the following new draft terms of reference:

Revised terms of reference for further work of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers

- (I) The Joint IMO/ILO Ad Hoc Expert Working Group should continue with its examination of the issue of financial security for crew members/seafarers and their dependants with regard to compensation in cases of personal injury, death and abandonment.
 - (II) In so doing, the Joint Working Group should take account of relevant IMO and ILO instruments, including those currently under review or likely to be adopted in the near future.
 - (III) It should continue monitoring the problem of abandonment of crew members/seafarers, taking into account all relevant information including technical solutions available for financial security.
 - (IV) It should complete the discussions and agree on principles to facilitate the drafting of mandatory provisions for inclusion in an appropriate instrument or instruments.
 - (V) At the next session it should make appropriate recommendations to the IMO Legal Committee and the ILO Governing Body.
7. After extensive consultations, it is proposed that a ninth session of the Joint Working Group should be held from 2 to 6 March 2009, at the ILO headquarters in Geneva. The Committee on Sectoral and Technical Meetings and Related Issues is invited to take note of the reports of the Seventh and Eighth Sessions of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers.

8. ***The Committee may wish to recommend that the Governing Body approve:***

- (a) the revised terms of reference for the Joint Working Group, as contained in paragraph 6 above;***
- (b) the holding of a ninth session of the Joint Working Group, with participation by eight ILO (three Shipowner, one fishing vessel owner, and four Seafarer) representatives, at no cost to the ILO, from 2 to 6 March 2009, at the ILO headquarters in Geneva.***

Geneva, 9 October 2008.

Point for decision: Paragraph 8.