



FIFTH 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 (Geneva, 2–6 March 2009)

1. The Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers (Joint Working Group) held its Ninth Session in Geneva from 2 to 6 March 2009. Mr Charles Darr (Government, United States) chaired the meeting. The Shipowner spokesperson was Ms Edith Midelfart (Norway), the Seafarer spokesperson was Mr Brian Orrell (United Kingdom) and the spokesperson for the Government group was Mr Neil Frank Ferrer (Philippines).
2. The First Session of this Working Group was held in October 1999. Faced with difficult issues, the Working Group adopted in 2001 two sets of Guidelines¹ which were endorsed by the IMO Assembly and the ILO Governing Body. These Guidelines have been in effect since 1 January 2002. The database on abandonment, also set up on a recommendation of the Working Group, has been functional since 2005.
3. The Eighth Session of this Joint Working Group had made significant progress on the principles which were to be included in future mandatory texts dealing with the problem of abandonment of seafarers and with compensation in cases of seafarer death or injury.
4. The Working Group agreed that the Legal Committee of the IMO and the ILO Governing Body would be informed that it had satisfied its remit in line with the terms of reference approved by the two parent bodies. Its recommendations were as follows:

¹ *Guidelines on provision of financial security in case of abandonment of seafarers and Guidelines on shipowners' responsibilities in respect of contractual claim for personal injury to or death of seafarers.*

- (a) the principles embodied in the draft texts, contained in Appendices I and II to the Joint IMO/ILO Working Group report,² should be considered as a basis for finalizing a mandatory instrument or instruments;
 - (b) an amendment to the ILO Maritime Labour Convention, 2006, was the best way to create such a mandatory instrument or instruments;
 - (c) the IMO Legal Committee should remain seized of the issue and keep it under consideration in the event that amendment to the Maritime Labour Convention proved not to be feasible or timely; and
 - (d) the Joint IMO/ILO Working Group called on the IMO and the ILO to remind governments of IMO Resolution A.930(22) concerning guidelines on provision of financial security in case of abandonment of seafarers which should be implemented pending the adoption and entry into force of the appropriate mandatory solutions.
5. The IMO secretariat has already circulated, on behalf of both the IMO and the ILO, a circular reminding all member States of the Guidelines previously adopted by the Working Group.
6. *The Committee may wish to recommend that the Governing Body:*
- (a) *take note of the report of the Ninth 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 including its Appendices I and II; and*
 - (b) *authorize the Office to submit, in due course, the appropriate proposals to the Special Tripartite Committee to be set up in accordance with Article XIII of the Maritime Labour Convention, 2006, with a view to considering the appropriate amendments to that Convention.*

Geneva, 21 September 2009.

Point for decision: Paragraph 6.

² ILO/IMO/WGPS/9/2009/10.