



FOURTH ITEM ON THE AGENDA

**Report of the Meeting of the Joint
IMO/ILO Ad Hoc Expert Working
Group on liability and compensation
regarding claims for death, personal
injury and abandonment of seafarers
(London, 11-15 October 1999)**

1. At its 273rd Session (November 1998),¹ the Governing Body authorized the holding of a Joint IMO/ILO Ad Hoc Expert Working Group on liability and compensation regarding claims for death, personal injury and abandonment of seafarers (the Working Group) and nominated eight participants (four Shipowner and four Seafarer representatives) for this purpose. The IMO nominated the eight Government representatives. The first meeting of the Working Group, which was attended by the ILO participants at no cost to the Office, took place in London from 11-15 October 1999 at the IMO headquarters.
2. The Working Group noted that although a considerable number of international instruments (in particular a number of ILO Conventions) dealt with certain aspects of the problems relating to the abandonment, death and personal injury of seafarers, none adequately addressed the problems comprehensively. It also noted that compliance with international standards was essential and that nothing should be done that would encourage substandard shipping. The Working Group agreed that:
 - (a) the issues of abandonment, personal injury and death were real and serious matters, with a human and social dimension, and that it was urgent to find solutions to address them;
 - (b) flag States should establish real and effective mechanisms to meet their obligations and to ensure that shipowners repatriate their crew members/seafarers and address all aspects of the problem; the main issues arising from the problems of abandonment of ships' crew include repatriation, support for crew members while stranded, immigration status, and the payment of outstanding remuneration;

¹ GB.273/STM/5; GB.273/10.

- (c) the ILO should promote ratification of the Repatriation of Seafarers Convention (Revised), 1987 (No. 166), evaluate the extent of non-compliance with existing relevant ILO instruments and assess the inherent weaknesses of these Conventions with regard to crew claims;
- (d) it would need further information, to be submitted by ILO/IMO member States and other organizations, concerning the following:
 - the reasons for the low rates of ratification of existing international instruments;
 - existing national schemes and systems dealing with problems of abandonment of crew members/seafarers;
 - lessons learned from civil liability regimes and their impact on certification schemes;
 - existing national schemes and systems for dealing with financial security for personal injury and death.

3. Based on the information provided in paragraph 2(d) above, the Working Group is expected to examine and evaluate possible new approaches to dealing with the issues of the abandonment, personal injury and death of seafarers. The Working Group would examine a number of possible solutions to the problems as follows.

Abandonment:

- national funds;
- an international fund;
- compulsory insurance;
- systems based on bank guarantees or similar mechanisms;
- other, such as the establishment of focal points (national representatives) and preparation of guidelines.

Personal injury and death:

- compulsory insurance;
- personal accident insurance;
- national funds;
- an international fund;
- other.

4. The Working Group considered that it should meet again to discuss the main issues. In particular, the Working Group should assess information on existing mechanisms to address the problems of abandoned crew members/seafarers and consider possible arrangements for financial security, such as the establishment of an international fund or national measures of comparable effectiveness.

5. The Working Group also noted the proposals made by the Shipowners' and Seafarers' representatives to meet informally with representatives of Protection and Indemnity Clubs (P&I Clubs) to discuss the difficulties encountered and explore possible solutions concerning certain rules of P&I Club coverage and to report back to the governing bodies of the two organizations.
6. *The Working Group invited the IMO Legal Committee and the ILO Governing Body:*
- (a) to take note of the report of the Working Group and in particular the conclusions contained in paragraphs 11.1 to 11.5 of the report;*
 - (b) to take note of the statement of the Joint IMO/ILO Ad Hoc Expert Working Group which is contained in Annex 5 to the report;*
 - (c) to approve the continuation of the Working Group with the proposed terms of reference contained in Annex 7 to the report and to instruct the secretariats accordingly;*
 - (d) to request member States and, through the secretariats, relevant institutions, to provide in due time information on the issues contained in paragraphs 11.2;*
 - (e) to instruct the secretariats of the IMO and the ILO to compile the information received and to submit it to the next meeting of the Working Group.*
7. *The Committee on Sectoral and Technical Meetings and Related Issues is invited to take note of the report of the Working Group and may wish to recommend that the Governing Body approve the recommendations of the Working Group contained in paragraph 6 above.*

Geneva, 2 February 2000.

Points for decision: Paragraph 6;
Paragraph 7.

Appendix