

INTERNATIONAL MARITIME ORGANIZATION (IMO)

Contribution to the Secretary-General's report pursuant to General Assembly resolution 72/247 on the "20th anniversary and promotion of the Declaration on the Right and Responsibility of Individuals, Groups Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms."

- In 1999 a Joint IMO/ILO Working Group was established in order to ensure, through the operation of appropriate international instruments, the rights of seafarers when they are abandoned, often in foreign ports far from their countries of origin, by the owners or operators of ships on which they have been serving, as well as to prompt adequate compensation in case of personal injury and death.
- The Group's major achievement was the development of two resolutions and related Guidelines (one on Provision of Financial Security in Case of Abandonment of Seafarers, the other on Shipowners' Responsibilities in respect of Contractual Claims for Personal Injury to or Death of Seafarers) adopted by the IMO Assembly and the Governing Body of ILO in November 2001 (resolutions A.930(22) and A.931(22)). Both the resolutions and associated Guidelines, the aim of which is to provide seafarers and their families with a level of protection that has hitherto been lacking in respect of two fundamental areas of seafarer welfare, took effect on 1 January 2002. It is, regrettably, a matter of fact that, while the vast majority of seafarers work under fair conditions and have the support of their employers when things go wrong on board ship, some are still subject to harsh treatment and unreasonable conditions. It is, therefore, for organizations such as ILO and IMO to look for appropriate standards to safeguard their legitimate interests.
- According to the 2001 IMO/ILO Guidelines on abandoned seafarers, a case of abandonment is characterized by the severance of ties between the shipowner and seafarer. Abandonment occurs when the shipowner fails to fulfil certain fundamental obligations to the seafarer relating to timely repatriation and payment of outstanding remuneration, and to the provision of basic necessities of life, inter alia, adequate food, accommodation and medical care. Abandonment will also have occurred when the master of the ship has been left without any financial means in respect of ship operation.
- At its fourth session (30 September to 4 October 2002), the Joint ILO/IMO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers decided that a joint database on incidents of abandonment of Seafarers should be established and maintained by the ILO and IMO in order to monitor the problem of abandonment in a transparent and informative manner.
- With the support of the International Ship Suppliers' Association (ISSA), the database was established and its operation started on 1 April 2005. All cases reported after 1 January 2004 have been recorded on this database.

- Although the 2006 Maritime Labour Convention - 2006 MLC goes towards providing a mandatory solution to many of the issues before the Joint Working Group, even after its adoption, the Group continued to examine the issues of financial security for seafarers and their dependants with regard to compensation in cases of personal injury, death and abandonment, taking into account the relevant IMO and ILO instruments, and to monitor the implementation of the Guidelines adopted by the two resolutions just mentioned.
- The Group completed its consideration of the development of longer-term sustainable solutions to address the problem of financial security with regard to compensation in cases of death or personal injury and abandonment, and made appropriate recommendations to the IMO Legal Committee and the ILO Governing Body.
- Accordingly, the 2014 amendments to the MLC, 2006 were adopted which require that a financial security system be put in place to ensure that ship owners provide compensation to seafarers and their families in the event of abandonment, death or long-term disability due to an occupational injury, illness or hazard. Mandatory certificates and other evidence will be required to be carried on board ships to ensure that the financial security system is in place to protect the seafarers working on board. These requirements will help prevent the unfortunate situation of seafarers being stranded in port for long periods when ship owners abandon their crews without paying their wages or repatriating them to their home countries. In the past, abandoned seafarers would often be reluctant to leave their ship until it was sold in a judicial sale to pay for outstanding claims, including claims for unpaid wages. The payment of such claims will be expedited by the financial security system. Over time, this may reduce the number of prolonged abandonment cases. Payment of outstanding claims to seafarers or their families in cases of death or long-term disability resulting from their employment will also be expedited.
- The 2014 amendments to the MLC, 2006 entered into force on 18 January 2017. The IMO Legal Committee agreed, at its 103rd session in June 2016, in light of the discussion on the serious issue of abandonment of seafarers, and of ILO data indicating that there still remains a considerable number of unresolved cases, to keep this subject matter under consideration (LEG 103/14, paragraph 4.9).