



LEGAL COMMITTEE
89th session
Agenda item 9

LEG 89/9/1
26 August 2004
Original: ENGLISH

FAIR TREATMENT OF SEAFARERS

Note by the Secretariat

SUMMARY

Executive summary:	This document provides information on developments relating to the establishment of a Joint IMO/ILO <i>Ad Hoc</i> Expert Working Group on the Fair Treatment of Seafarers in the Event of a Maritime Accident.
Action to be taken:	Paragraph 6
Related documents:	LEG 88/13, paragraphs 179 to 193, LEG 89/9, LEG 89/11, paragraph 4(viii), C 92/D, paragraph 6.3.

1 The Committee agreed at its eighty-eighth session (document LEG 88/13, paragraphs 192 and 193) to include as a new, independent item on its work programme the development of guidelines on the fair treatment of seafarers following a maritime accident. The Committee also endorsed the proposal to establish a joint IMO/ILO Working Group on this matter. In this regard, the Secretariat was requested to consult with the Secretariat of the ILO to determine what procedures should be followed to establish the joint group (document LEG 88/13, paragraph 187).

2 On 17 May 2004, the Secretary-General sent a letter to the Director-General of ILO to initiate a consultation on the possibility of establishing a joint Working Group to consider the development of guidelines on the fair treatment of seafarers under the IMO/ILO agreement of co-operation. By reply dated 5 August 2004, the Director-General of ILO advised the Secretary-General that the ILO Governing Body, at its 290th session (June 2004), had approved the constitution of a Joint IMO/ILO *Ad Hoc* Expert Working Group on the Fair Treatment of Seafarers in the Event of a Maritime Accident as a tripartite body (i.e., to be composed of eight Government experts nominated by IMO, as well as four Shipowner and four Seafarer experts nominated by ILO).

3 The IMO Council at its ninety-second session noted the inclusion of a new item in the Committee's work programme and its agenda for the current session to develop guidelines on the fair treatment of seafarers and endorsed the Committee's action to establish a Joint IMO/ILO Working Group on this matter (document C 92/D, paragraph 6.3(viii)).

For reasons of economy, this document is printed in a limited number. Delegates are kindly asked to bring their copies to meetings and not to request additional copies.

4 To facilitate progress on this agenda item, the Secretariat, in consultation with the ILO, has prepared draft terms of reference for the Committee's consideration, as contained at annex.

5 With regard to the scheduling of the first meeting of the Joint Expert Working Group, consultations will be taking place between the Secretariats of IMO and ILO and the Committee, and members of the Committee will be advised of the dates in due course.

Action requested of the Legal Committee

6 The Legal Committee is invited to:

- .1 note the above information;
- .2 nominate eight IMO-Member Governments to represent the Organization on the Joint IMO/ILO *Ad Hoc* Expert Working Group; and
- .3 consider the draft terms of reference contained in the annex and decide as appropriate.

ANNEX**Draft Terms of Reference for the Joint IMO/ILO *Ad Hoc* Expert Working Group
on the Fair Treatment of Seafarers in the Event of a Maritime Accident**

The Joint IMO/ILO *Ad Hoc* Expert Working Group should examine the issue of the fair treatment of seafarers in the event of a maritime accident.

In doing so, the Group should take account of relevant international instruments, including:

- the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights (ICCPR), and the International Covenant on Economic, Social and Cultural Rights (ICESCR), as well as other internationally recognized standards, guidelines, practices and procedures relating to the rights of those who may be detained for the purpose of assisting in the investigation of a crime, a civil offence, or a maritime casualty or incident;
- the United Nations Convention on the Law of the Sea;
- pertinent IMO and ILO instruments, including MARPOL 73/78 and the ILO Declaration on Fundamental Principles and Rights at Work, 1998; and
- internationally recognized standards and guidelines on settlement of disputes.

The Group should prepare suitable recommendations for consideration by the IMO Legal Committee and the ILO Governing Body, including draft guidelines on the fair treatment of seafarers in the event of a maritime accident.
