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**Adopted on 1 December 2005
(Agenda item 10)**

**GUIDELINES ON FAIR TREATMENT OF SEAFARERS
IN THE EVENT OF A MARITIME ACCIDENT**

THE ASSEMBLY OF THE INTERNATIONAL MARITIME ORGANIZATION AND THE GOVERNING BODY OF THE INTERNATIONAL LABOUR ORGANIZATION,

BEING AWARE of a number of recent incidents in which seafarers on ships that have been involved in maritime accidents have been detained for prolonged periods,

SERIOUSLY CONCERNED about the need to ensure the fair treatment of seafarers in view of the growing use of criminal proceedings against seafarers after a maritime accident,

AWARE ALSO that seafarers may not be familiar with the law and processes of a port or coastal State and the impact those national laws may have on them,

CONVINCED that seafarers should not be held hostage pending the resolution of a financial dispute,

CONCERNED that, in some cases, the grounds for such detentions have not been clear to the seafarers being detained or to the international maritime community,

CONCERNED ALSO that in some cases the detained seafarers have been subject to conditions in which their basic human rights appear not to have been fully respected,

CONCERNED FURTHER that these cases have an adverse impact on the morale of seafarers, on the attraction and recruitment of young people into the seafaring profession, and on retention of current seafarers in the profession,

RECALLING 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),

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RECALLING ALSO the ILO Declaration on Fundamental Principles and Rights at Work, 1998 and the generally accepted principles of international human rights applicable to all workers,

RECALLING FURTHER the United Nations Convention on the Law of the Sea, 1982, in particular article 292 concerning the prompt release of vessels and crews, and article 230 on monetary penalties and the observance of recognized rights of the accused,

NOTING that MARPOL 73/78 stipulates, in Annex I, Regulation 11 and in Annex II, Regulation 6, that certain discharges are not violations of MARPOL, specifically those resulting from damage to a ship or its equipment, provided that all reasonable precautions have been taken, after the occurrence of the damage or discovery of the discharge, for the purpose of preventing or minimizing the discharge, and except if the owner or the master acted either with intent to cause damage or recklessly and with knowledge that damage would probably result,

NOTING ALSO the relevant international labour standards applicable to repatriation of seafarers, in particular ILO Convention No.166 concerning the Repatriation of Seafarers, (Revised), 1987,

NOTING FURTHER the IMO Code for the Investigation of Maritime Casualties and Incidents (resolution A.849(20) as amended by resolution A.884(21)),

RECOGNIZING the established rights of States to prosecute or extradite in accordance with international law those accused of criminal behaviour,

RECOGNIZING FURTHER that States should conduct investigations into maritime accidents,

RECOGNIZING ALSO that the issue of fair treatment of seafarers is the direct responsibility of port or coastal States, flag States, the State of the nationality of the seafarer, shipowners and seafarers,

CONVINCED that recommendatory guidelines are an appropriate means of establishing a framework of legal certainty and consistent good practice to ensure that, in connection with maritime accidents, seafarers are fairly treated and their rights are not violated,

CONSIDERING that, given the global nature of the shipping industry, seafarers need special protection,

CONVINCED ALSO that the protection of the rights of seafarers through the application of the guidelines referred to above is necessary to avoid the financial, physical and emotional burden which prolonged detention inflicts on seafarers and their families,

BELIEVING that the adoption of guidelines which will facilitate the fair treatment of seafarers in the event of a maritime accident should be developed as a matter of urgency,

HAVING CONSIDERED the recommendations made by the Legal Committee at its ninetieth session, as endorsed by the ILO Governing Body at its 292nd session,

1. URGE all States to respect the basic human rights of seafarers involved in maritime accidents;

2. URGE ALSO all States expeditiously to investigate maritime accidents to avoid any unfair treatment of seafarers;
 3. URGE FURTHER all States to adopt procedures to allow the prompt repatriation or re-embarkation of seafarers following maritime accidents;
 4. INVITE Member Governments and non-governmental organizations in consultative or observer status with IMO or ILO, as appropriate, to record instances of unfair treatment of seafarers in the event of maritime accidents and to provide data to IMO or ILO whenever requested;
 5. AGREE to adopt guidelines as a matter of priority and to that end request the Joint IMO/ILO *Ad Hoc* Expert Working Group on Fair Treatment of Seafarers to finalize its work expeditiously;
 6. AUTHORIZE the IMO Legal Committee and the ILO Governing Body to promulgate, once finalized, the said guidelines by appropriate means and to report to the twenty-fifth regular session of the IMO Assembly and to the 295th session of the ILO Governing Body, accordingly;
 7. REQUEST the IMO Legal Committee and the ILO Governing Body to keep the problem of unfair treatment of seafarers in the event of maritime accidents under review and to assess periodically the scale of the problem;
 8. REQUEST Member Governments to bring this resolution to the attention of shipowners and seafarers and their respective organizations as well as any government officials who may be involved in decisions and procedures affecting the treatment of seafarers involved in maritime accidents.
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