



**JOINT IMO/ILO *AD HOC* EXPERT WORKING GROUP ON LIABILITY AND  
COMPENSATION REGARDING CLAIMS FOR DEATH, PERSONAL  
INJURY AND ABANDONMENT OF SEAFARERS**

**Seafarer Abandonment – An Insurance Solution**

**Proposals by Seacurus Ltd**

# **Seafarer Abandonment – An Insurance Solution**

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Seacurus would like to thank the UK Government for their kind introduction to the Joint IMO/ILO expert Working Group on “Seafarer Abandonment”. Seacurus present this paper based upon their own independent assessment of the viability of a commercial seafarer abandonment insurance product without the express support or sponsorship of any member state or IMO/ILO observer group.

### **Summary**

This document is submitted by Seacurus Ltd, a company specialising in seafarer insurance solutions. It explains how a commercial insurance policy will provide a financial security system to enable Member States to meet their responsibilities under IMO Resolution A.930(22) – Guidelines on Provision of Financial Security in Case of Abandonment of Seafarers.

Seacurus urge the Joint Working Group to take account of the proposals contained in this paper with a view to recommending to member governments the inclusion of IMO Resolution A.930(22) in an appropriate mandatory instrument in the knowledge that a commercial solution is available.

## **Section 1 - Overview**

### **1.0 Assumptions**

- 1.1 The viability of a policy of “seafarer abandonment insurance” is based upon the assumption that international and/or nation state regulators will mandate the need for a system of financial security to guarantee the timely repatriation of “abandoned seafarers”.

### **2.0 The purpose of the policy**

#### 2.1 Seafarer Abandonment Insurance will;

- 2.1.1 provide a simple regulated means for ILO / IMO member states to implement IMO Resolution A.930(22) – Guidelines on Provision of Financial Security in Case of Abandonment of Seafarers, into their national law, and;
- 2.1.2 allow those members states who are signatories to existing ILO conventions, namely the ILO Repatriation of Seafarers Convention (Revised), 1987 (No. 166) to comply with their obligations and those intending to ratify the forthcoming International Consolidated Labour Convention, to do so in the knowledge that they can provide an internationally regulated system of financial security that will guarantee the repatriation of abandoned seafarers;
- 2.1.3 help member states when complying with flag state audit requirements.

### **3.0 Who pays for the policy?**

- 3.1 Individual shipowners/operators flying the flag of contracting governments will pay for seafarer abandonment cover. Premiums will be calculated on the basis of a single ship or group entry for a policy period of 12 months. Premiums falling due for payment must be paid in full before the policy can be inceptioned;

### **4.0 The Insured**

- 4.1 Seafarers serving onboard the abandoned vessel at the time of the abandoning event will be the beneficiaries of the insurance cover.

### **5.0 Policy triggers**

- 5.1 The policy will be triggered when the shipowner named in the policy fails to honour his contractual obligations toward the seafarers under his employment with respect to:
  - 5.1.1 the provision of timely repatriation
  - 5.1.2 the payment of basic wages

## **6.0 The scope of the policy**

6.1 In the event of an abandonment the policy will pay the following, subject to policy limits;

- 6.1.1 costs of repatriation.
- 6.1.2 additional necessary costs including medical expenses to facilitate and expedite the repatriation of abandoned seafarers and;
- 6.1.3 non-payment of basic wages

## **7.0 The insurers**

7.1 Seacurus are in discussion with leading marine syndicates within Lloyds of London exploring the opportunity to offer terms to shipowners based upon an approved policy wording. Lloyds of London provides;

- 7.1.1 Marine insurance expertise
- 7.1.2 A mechanism for the creation of a competitive product
- 7.1.3 Global licensing
- 7.1.4 A global support network via Lloyds agents

## **8.0 Policy Approval**

8.1 Endorsement of the policy wording will be sought from the Insurer and the IMO/ILO;

- 8.1.1 Endorsement would facilitate the issuance of a certificate of insurance to be carried onboard insured vessels, which is acceptable to Port State Control and Immigration Authorities.

## **9.0 Insurance Cost**

9.1 Derived from an evaluation of the single ship or group entry and underwritten in conjunction with a predetermined underwriting matrix. The matrix will risk-weight the following:

- 9.1.1 no. of seafarers per vessel
- 9.1.2 shipowner credit history
- 9.1.3 location of ownership (beneficial or otherwise)
- 9.1.4 vessel type
- 9.1.5 age
- 9.1.6 flag
- 9.1.7 trading pattern

9.2 Low cost policy for good quality shipowners.

## **10.0 Claims notification**

10.1 Claims will be notified via a 24 hour multilingual claims helpline providing the seafarer and shipowner with direct access to the insurer at all times.

## **11.0 Claims/Recoveries**

11.1 An experienced independent claims/recoveries team will work with the shipowner, seafarers, flag/port states and banks to resolve the costs and thereby mitigate the hardship arising from an event of abandonment.

## **Section 2 – The insurers’ concerns**

In the absence of either an internationally or nationally mandated financial security system the viability of providing seafarer abandonment insurance is materially impaired for the following reasons:

### **1.0 Anti – Selection**

- 1.1 Unless mandated it is likely that only those shipowners most likely to default would buy the cover; the insurer is therefore “selected against”.

### **2.0 Lack of portfolio diversity/competitive pricing model**

- 2.1 A mandated provision ensures portfolio diversity. The ‘law of large numbers’ creates a competitive pricing structure which would allow for the creation of a highly affordable insurance solution for the good quality owners and a significant additional cost on the “rogue element”.

## Section 3 – Other Concerns

### 1.0 Realistic disaster scenarios (RDS)

- 1.1 Insurers manage the accumulation of risk by considering 'Realistic Disaster Scenarios'. RDS calculations ensure that capital and reserves are sufficient to manage the largest of losses. In the case of abandonment the cruise sector in particular represents a high risk subset, as it is perceived to be susceptible to a direct terrorist attack. This would have grave economic repercussions for the cruise market as a whole and result in the potential abandonment of large numbers of seafarers per vessel.

### 2.0 P&I

- 2.1 There appears to be a general misconception that P&I insurers should cover seafarer repatriation. Whilst this misconception continues to exist it will act as a barrier to finding a workable financial security system.

P&I insurance will not respond in the event of abandonment for the following reasons:

- 2.1.1 The major cause of seafarer abandonment is shipowner insolvency. P&I premiums are paid quarterly. When finances deteriorate shipowners stop paying P&I premiums (e.g. Adriatic Tankers, \$5+m unpaid P&I calls). Insolvent shipowners are therefore uninsured for P&I.
- 2.1.2 Most P&I insurance is "mutual". Mutuality is inconsistent with the solvent assuming the debts of the insolvent.
- 2.1.3 P&I insurance is based on the principle of "pay to be paid". In other words shipowners are reimbursed for claims they have paid themselves.
- 2.1.4 P&I insurance is third party liability insurance that covers seafarer repatriation in the event of illness or injury or as a consequence of a total loss or major casualty provided that the shipowner has a legal liability and that premiums have been paid (see above).
- 2.1.5 P&I does not cover repatriation liabilities arising out of a breach of contract of employment – abandonment of seafarers is such a breach.
- 2.1.6 P&I insurance is not a financial security system and does not cover shipowner "credit default" i.e. the failure through insolvency or otherwise to meet the costs of contractual commitments with respect to a crewmember's repatriation and/or payment of salary.
- 2.1.7 The International Group of P&I Clubs has openly distanced itself from this type of cover.

## **Section 4 – Conclusion/Further Action**

- 1.0** IMO Resolution 930(22) is a well drafted set of guidelines that was created following a proliferation of seafarer abandonment cases in the 1990's; this coincided with a downturn in the shipping industry. The guidelines are stated to be an interim measure. Research suggests that the existing guidelines are largely ignored. Our observations are as follows:
  - 1.1 Member states fail to comply with the guidelines because a solution is perceived to be administratively too difficult to set up and would further create an undesirable cost burden to the flag state administration.
  - 1.2 Until a system is mandated either nationally or internationally, flag states are unlikely unilaterally to impose a true financial security system. This would make them uncompetitive.
- 2.0** For seafarers and shipowners of all nationalities to be afforded a proper (and uniform) level of protection regardless of the flag their vessels fly, they would benefit from an endorsed internationally available system of financial security with a mechanism in place for managing abandonment situations. Commercial insurance meets this requirement.
- 3.0** Commercial insurance provides Member States with access to an existing tightly regulated financial security system.
  - 3.1 competitive pricing based upon a true evaluation of risk
  - 3.2 an internationally regulated process
  - 3.3 a transparent means for industry to regulate industry
  - 3.4 an international solution to an international problem
  - 3.5 the creation of an insurance product that genuinely militates against sub-standard shipowners and operators
- 4.0** Insurance offers Member States a cheap, effective way to meet their proposed obligations under the ILO Superconvention and any new instrument recommended by this Working Group, without the need to establish any new infrastructure or support systems themselves. A commercial seafarer abandonment insurance product is, however, only viable if member states are prepared to impose internationally applied minimum standards. We believe that the guidelines will otherwise continue to be ignored and seafarers and their families will remain personally exposed to the next downturn in shipping.
- 5.0** Therefore Seacurus would urge the Working Group to recommend to Member States the inclusion of IMO Resolution A.930(22) in a mandatory instrument or convention, such as SOLAS, in the knowledge that a commercial solution is available.



If you have any questions relating to the contents of the paper and /or our related insurance products please contact:

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