Final report

Introduction

1. The Joint Maritime Commission’s Subcommittee and Joint Working Group on Wages of Seafarers met in Geneva from 5 to 8 July 2003 in accordance with a decision taken by the Governing Body of the International Labour Office taken at its 280th Session (March 2001). The 29th Session of the Joint Maritime Commission (Geneva, 22-26 January 2001), adopted two resolutions relating to the wages of seafarers, namely, a “resolution concerning the ILO minimum wage for able seamen” and a “resolution concerning the interpretation of the ILO minimum wage of able seamen”. The Governing Body, after taking note of the report of the Commission, endorsed the proposals regarding the updating of the minimum wage figure for able seamen and approved the establishment of a Subcommittee of the Commission for this purpose. It also agreed on the convening of a Joint Working Group to provide guidance on how this minimum wage should be interpreted so as to provide a recommended total salary. The meeting dates were approved by the Governing Body at its 286th Session.

Composition of the Subcommittee and the Joint Working Group

2. The Subcommittee and the Joint Working Group were attended by 13 Shipowners (six representatives and seven advisers), 15 Seafarers (six representatives and nine advisers). A list of those who attended is given at Annex 1.

3. The spokespersons:

Shipowners:

Mr. George Koltsidopoulos (Shipowner member, Greece)

Mr. Jorgen Vatne (Shipowner member, Norway)

Mr. Tim Springett (Shipowner member, United Kingdom)

1 See GB.280/5(Corr.).

Seafarers:

Mr. Henrik Berlau (Seafarer member, Denmark)

Mr. Remo Di Fiore (Seafarer member, Italy)

4. The Secretary-General was Ms. C. Doumbia-Henry, Deputy-Director and Officer-in-Charge, Sectoral Activities Department, International Labour Office.

5. The Subcommittee and Joint Working Group decided not to elect a Chairperson.

Opening of the session

6. The Secretary-General welcomed the participants. In accordance with the decision taken by the Governing Body, the Subcommittee of the Joint Maritime Commission should discuss the updating of the basic wage for able seamen and make the appropriate recommendation directly to the Governing Body. The Joint Working Group should consider the interpretation of wages and its report would be communicated to both the Governing Body and the Joint Maritime Commission.

7. The Secretary-General introduced the following documents:

- **Updating and interpretation of the recommended ILO minimum basic wage of able seamen** (document SJMC/2003/1);
- **Changes in the purchasing power of US$465 for selected countries and areas from 1 January 2001 to 1 July 2003** (document SJMC/2003/1a).

8. The Subcommittee agreed that its deliberations and those of the Joint Working Group should be contained in a single report to be submitted to the Governing Body.

9. Following a request by the Shipowners, it was agreed that the Office would not participate in all of the discussions.

Interpretation of the ILO minimum wage for able seamen

10. The Seafarers recalled that the International Labour Conference had adopted a resolution concerning decent work for seafarers, which considered that seafarers were a vulnerable group of workers who needed special protection. They stressed the relevance of the points for discussion in the Office document and were firmly of the view that the terms of reference agreed by the Governing Body would require the sometimes inconsistent and contradictory provisions contained in the applicable ILO instruments to be considered on the basis of and in the context of industry practices. It was important to have an agreed starting point for the interpretation. However, as the Subcommittee had not yet agreed to a new minimum wage figure, they would use US$465 as the basis for sample calculations aimed at numerically illustrating their interpretation of the minimum wage.

11. The Seafarers noted that the Forty-Hour Week Convention, 1935 (No. 47), which generally called for a 40-hour week for workers, and that the Seafarers’ Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187), and the Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (No. 180), referred to a 48-hour week
for seafarers. Bearing in mind this longer week, seafarers should be given special protection.

12. The Shipowners stated that 48 hours would be the appropriate base, as the resolution of the 29th Session of the JMC recalled that ILO maritime instruments provided guidance on how the recommended minimum wage of able seaman can be applied and that the 40-hour figure is not contained in any ILO maritime instrument.

13. As concerns leave pay, the Seafarers said that seafarers often did not have continuity in their employment, making financial compensation for earned leave an important issue. They referred to the Seafarers’ Annual Leave with Pay Convention, 1976 (No. 146), which provided, in Article 3, that, inter alia, leave shall in no case be less than 30 calendar days for one year of service. This meant that seafarers were entitled to a minimum of 30 days of leave per year, i.e. 2.5 days of leave per month. They referred to provisions in Convention No. 180, Article 4, concerning the day of rest and rest on public holidays. There were 4.33 Sundays (the day of rest) per month and they assumed one day of public holidays per month (total 5.33 days). This, added to the 2.5 days of annual leave, led to a total of 7.88 days per month, which, when rounded to 8 days per month and multiplied by the basic remuneration for one calendar day (US$15.29), as basic wage divided by 30 and multiplied by 7.88 equals 122.14 or roughly US$124 per month for leave pay.

14. They pointed out that the basis for calculation of a minimum wage overtime compensation for the seafarers was the basic wage divided by 208 and multiplied by 1.25, and the resultant figure was US$2.79 per hour. They drew attention to the reference in the Office paper of 104 maximum number of overtime hours per month (a maximum of 72 hours per week minus 48 hours per week = 24 hours per week, or roughly, on average, 104 hours per month) if a flag State elects to regulate hours of work in accordance with the Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (No. 180). One hundred and four (104) hours per month at a rate of US$2.79 per hour equalled US$291 per month.

15. Using as an example a basic wage of US$465 per calendar month, the Seafarers said that the total minimum wage per month of an able seaman should be US$465 per month + US$124 per month + US$291 per month, i.e. US$880 per month.

16. The Shipowners were of the view that a specific figure that would apply to all situations could not be developed. Instead, they said, it might be preferable to work to produce guidance to assist with the interpretation of the wage figure.

17. The Shipowners agreed, as a principle to build upon, that the basis for the basic pay figure should be a 48-hour week as provided in Convention No. 180 and Recommendation No. 187. They also agreed that the annual leave calculation should be based on 30 days per year as provided in Convention No. 146 pro-rated at 2.5 days per month. They further agreed to the principle that, in accordance with Recommendation No. 187, the minimum rate of pay for overtime work should be 1.25 times the normal rate.

18. The Shipowners stated that seafarers should not automatically receive compensation for Sundays and public holidays unless they actually worked on those days. They felt that there were three options for compensation for work on such days: remuneration or time off in lieu of remuneration or liquidated leave in accordance with Paragraph 5 of Recommendation No. 187. They did not agree that it should be assumed that all seafarers would work 104 hours of overtime each month, saying that the number of hours worked varied.

19. As concerns leave, the Seafarers further noted that even when “time off” was given, the seafarer could not leave the ship because the ship was at sea or for other reasons. A “free
day on board” was therefore quite different from an extra day at home. A seafarer unable to leave the ship was constantly on call, and this should be taken into account in his or her compensation. A Seafarer member said that in his country when work was performed on the day of rest and public holidays the seafarer was paid overtime at double the normal rate.

20. The Shipowners noted that Article 5(4) of Convention No. 180 addressed the situation of seafarers on call. Nothing in Convention No. 180 or Recommendation No. 187 provided for compensation merely due to presence on board the ship. Presence at the ship, also when no work is done, is part of the seafarer’s job and is compensated for by the basic wage.

21. The Seafarers noted that Paragraph 5 of Recommendation No. 187 provides that: “National laws or regulations or collective agreements may provide for compensation for overtime or for work performed on the weekly day of rest and on public holidays by at least equivalent time off duty or off the ship or additional leave in lieu of remuneration or any other compensation so provided.” They requested the Office to clarify what was meant by the word “equivalent”.

22. The Secretary-General said that it was clear that the broad principle in the Recommendation pointed to provision of financial compensation for such work and that time off and additional leave were alternatives to financial compensation. She pointed to the definition of “overtime” in Recommendation No. 187, Paragraph 2(e), and said that, since work on the weekly day of rest or on public holidays fell outside the 48-hour week provided in the Recommendation as well as in Convention No. 180, it was clear that such work should be compensated, at a minimum, at 1.25 times the pro-rated basic wage figure. “Equivalent time off duty or off the ship or additional leave in lieu of remuneration”, to be equivalent, meant that for every hour worked, a seafarer should be provided 1.25 hours off duty or off the ship or additional leave. Otherwise, the financial compensation option would be less favourable than the other options. The formulation in the French text of the instrument, which is equally authoritative as the English, confirms this meaning.

23. The Shipowners expressed their disagreement on the explanation given by the Office. It seemed likely that member States might have to consider that national laws and regulations can provide for compensation for rest days and public holidays equivalent to leave compensation, in particular when agreed in a collective agreement. A legal opinion from the ILO’s Legal Adviser might be needed.

24. The Seafarers pointed out that many seafarers would find it very difficult to secure payment for the overtime they had worked if proper records had not been maintained. They therefore suggested that the 104 hours be applied in all cases unless the overtime hours had been properly recorded. They suggested that such a measure, which reflected industry practice, would penalize substandard operators and provide a more level playing field for quality operators. They noted that most national laws, regulations or collective bargaining agreements provided for a “fixed” amount of overtime pay. This should be reflected in the interpretation of the wage figure.

25. The Shipowners, however, were of the opinion that a fixed overtime compensation was most unusual for ratings, able seamen included. A guaranteed compensation is a common system, where the guaranteed number of overtime hours are stipulated according to trade, etc. and are always less than what the seafarer would be likely to work.

26. Reference was made to the provisions of Convention No. 180 and Recommendation No. 187 concerning the recording of hours of work and the signing of such records by the seafarer and the master or duly authorized officer.
27. Recognizing the difficulties of reconciling the views of the two groups, the Secretary-General proposed to set up a small group to negotiate an agreement on both the updating of the minimum wage figure and the interpretation of that figure. This was agreed to.

28. The small group produced a draft resolution concerning the interpretation of the ILO minimum wage for able seamen (the final text of the resolution is set out in Annex 2) accompanied by an appendix, Guidance on the interpretation of the total minimum wage of able seamen. This included a table providing the principles, references to ILO maritime labour instruments, and details concerning the minimum basic monthly wage, normal working hours, leave, overtime rate, weekly rest day and public holidays, and overtime hours. It did not provide a definitive figure for the total earnings that an able seaman should receive, as it was accepted that there may be variations in overtime hours worked. It also provided an example for the calculation of the monthly remuneration based on the implementation of the guidance on interpretation of the ILO minimum wage figure for able seamen. The example also includes three footnotes. The first notes that the example is indicative only to enable calculation of the minimum wage of the able seaman; a second refers to Convention No. 180, Article 5, paragraph 1, and to a figure of 104 hours as the maximum possible overtime hours for member States implementing the limitation of hours of work; the third provides that rest days and public holidays can also be compensated in accordance with national laws and regulations or collective agreements by equivalent time off duty and off the ship or additional leave in lieu of remuneration or other compensation.

29. The resolution, with its appendix and example calculation, were adopted by the Subcommittee and Working Group. The Shipowners, referring to the last footnote mentioned above, sought to include an additional footnote to the table that would clarify that work on rest days and public holidays shall not be remunerated twice. This was confirmed. It was agreed that this point would be reflected in the report but that the footnote to the table would not be included.

Resolution concerning the ILO minimum wage for able seamen

30. The Shipowners considered that: wages should be related to the cost of living in the seafarer’s country of residence; wages were best negotiated between the employer, or any employers’ organization, and the seafarer, or an organization of which that seafarer was a member. Consideration, they said, should be given to the wage figure set out in Recommendation No. 187, but this was a matter of choice by the social partners and national authorities. If the figure in Recommendation No. 187 was applied, however, full consideration should be given to Paragraph 11 of the Recommendation. They doubted the validity of the formula used to periodically calculate the minimum wage figure, noting wide swings in the calculated value between 2001 and 2003, and even over a shorter period, and felt that the outcome of the formula was something of a lottery. For these reasons, and due to difficult conditions currently faced by the shipping sector, they proposed freezing the monthly basic wage figure for the next two years at the current value of US$465. The Shipowners also pointed out the great difficulties experienced by the maritime industry after September 11, 2001, recession and increased unemployment.

31. The Seafarers did not agree with the idea of a wage freeze. They referred to the resolution adopted by the 29th Session of the Joint Maritime Commission that was the basis of this meeting of the Subcommittee and Working Group and called on the Shipowners to stand by the resolution and agreed formula. They wished to protect the integrity of the formula, which had stood the test of time and had accomplished what it intended to do. The Shipowners, they said, were not keeping to a long-standing tradition and to the agreement
to periodically update the figure. The world’s seafarers had lost much purchasing power since 2001, and the update was needed.

32. The Shipowners pointed out that there had been no increase of the minimum wages in the period 1980 to 1984. The increase agreed in 2001 was extensive, in particular, since the formula showed that a reduction of the minimum wage would have been appropriate.

33. As noted above, the Secretary-General formed a small group for the purpose of negotiating a solution addressing both the updating of the minimum wage figure and the interpretation of that figure. The result was the adoption of a draft resolution concerning the ILO minimum wage for able seamen (the final text of the resolution is set out in Annex 2).

34. The resolution was adopted in plenary. Among other things, it called for the updating the current ILO minimum wage for an able seaman of US$465 to US$500 as of 1 January 2005. The Shipowners, while agreeing to the resolution, expressed concern over the inclusion of its paragraph 5, noting that a similar paragraph in the previous JMC resolution on the minimum wage figure had caused some difficulties in achieving agreement at the current session.

Closing

35. Following consultation with the secretaries of the Shipowners’ and Seafarers’ groups of the Commission, the report, with its annexed resolutions, was adopted.
Annex 1

Resolution concerning the ILO minimum wage for able seamen

The Subcommittee on Wages of Seafarers of the Joint Maritime Commission,

Having met in Geneva from 5 to 8 July 2003,

Having considered the report prepared by the International Labour Office “Updating of the minimum basic wage of able seamen” (SJMC/2003/1),

Having noted that the Joint Maritime Commission, at its 29th Session in 2001, considered the wage figures of US$450 as of January 2002 and US$465 as of January 2003,

Recalling the Seafarers’ Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187), referred to below as the Recommendation,

The Subcommittee on Wages of Seafarers of the Joint Maritime Commission of the International Labour Organization:

1. Considers the list of countries and areas contained in the Office report as currently representative of major maritime nations or major suppliers of seafarers.

2. Considers also that the formula used to revise the amount of the basic pay or wages for a calendar month of service for an able seaman should otherwise be maintained as it pertains to currency exchange rates, consumer prices and weighting, and that productivity should also be addressed when the Joint Maritime Commission finds this fact relevant.

3. Decides, regarding paragraph 10 of the Recommendation, to update the current ILO minimum wage for an AB of US$465 to US$500 as of 1 January 2005.

4. Agrees that the amount of US$500 should be used as the base for recalculation purposes and that the formula should measure changes in consumer prices, currency exchange rates and weighting to cover the period of adjustment time which will start from 1 January 2004 up to the most current month for which data are available, when the amount of the basic pay or wages for able seamen is considered for revision by Joint Maritime Commission sessions in future.

5. Recognizes that the figure of US$533 as determined by the formula in the ILO Office report of July 2003 should be considered when determining any future increase.

6. Agrees that when updated data covering the period from 1 January 2004 through the next full period of adjustment are not available from the Office, a preliminary adjustment of the amount set by this resolution should initially be performed using the most current data available, and then the monthly average amount of change in the result should be extended to cover the full period of adjustment.

7. Suggests that the next Office report continues to provide preliminary data on all factors measured in the calculation, but the Office should not propose a revised amount until all updated data are made available to the Joint Maritime Commission.

8. Notes further the four strategic objectives of the Decent Work Programme and a decent livelihood is fundamental to decent work.

9. Recalls that the Governing Body has established a small bipartite wage committee composed of six Shipowner representatives and six Seafarer representatives which will be convened every alternate year, between sessions of the Joint Maritime Commission, for the purpose of updating the amount of the basic pay or wages of able seamen in accordance with the prescribed formula, without budgetary implications for the Office.

10. Considers that it is essential that the basic pay or wages of able seamen be updated every two years.

11. Invites also the Governing Body to convene in two years’ time the Subcommittee on Wages of Seafarers and, where appropriate, to report back directly to the Governing Body.
Annex 2

Resolution concerning the interpretation of the ILO minimum wage of able seamen

The Joint Working Group of the Joint Maritime Commission established by the ILO Governing Body at its 280th Session,

Having met in Geneva from 4 to 8 July 2003,

Recalling the resolution adopted by the Joint Maritime Commission at its 29th Session concerning the interpretation of the ILO minimum wage of able seamen,

Agrees to the interpretation of the total monthly minimum wage of able seamen as contained in the appendix to this resolution,

Requests the Director-General of the ILO to bring this interpretation to the attention of shipowners’ and seafarers’ organizations as well as flag and port States, to provide guidance on how the minimum wage of able seamen is interpreted in order to arrive at a recommended minimum salary.
Appendix

Guidance on the interpretation of the total minimum wage of able seamen

This interpretation only relates to the earnings for an able seaman and should not be construed as implying an interpretation of the earnings that should be received by other grades of seafarer.

The following principles are found in the relevant ILO maritime instruments:

<table>
<thead>
<tr>
<th>Principle</th>
<th>ILO maritime instrument</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>Minimum basic monthly wage</td>
<td>Recommendation No. 187, paragraphs 9-11</td>
<td>As agreed by the ILO Joint Maritime Commission from time to time</td>
</tr>
<tr>
<td>Normal working hours</td>
<td>Convention No. 180, Article 4; Recommendation No. 187, Paragraphs 3(a) and (b)</td>
<td>Eight hours per day, 48 hours per week (which equates to 208 hours per month)</td>
</tr>
<tr>
<td>Leave</td>
<td>Convention No. 146, Article 3</td>
<td>Leave shall in no case be less than 30 calendar days for one year's service, i.e. 2.5 days per calendar month. One day's basic wage = basic monthly wage divided by 30. Multiply by 2.5 to get leave pay per month</td>
</tr>
<tr>
<td>Overtime rate</td>
<td>Recommendation No. 187, Paragraph 3(c)</td>
<td>Each hour of overtime should be compensated at a rate of 1.25 x the basic hourly rate (the monthly basic wage divided by 208)</td>
</tr>
<tr>
<td>Weekly rest day and public holidays</td>
<td>Convention No. 180, Article 4; Recommendation No. 187, Paragraph 5; Convention 146, Article 6</td>
<td>Work performed on the weekly day of rest and on public holidays should be duly recorded and signed by the seafarer and should be compensated by: 1. overtime remuneration in respect of each hour worked at the rate of 1.25 times the hourly rate for normal hours, or 2. in lieu of remuneration, at least equivalent time off duty and off the ship at the rate indicated in 1 above, or 3. additional leave in lieu of remuneration at the rate indicated in 1 above</td>
</tr>
<tr>
<td>Overtime hours</td>
<td>Convention No. 180, Article 5, paragraph 1; Article 8; Recommendation No. 187, Paragraph 3</td>
<td>Overtime records should be kept and signed by the seafarer and the master or duly authorized officer</td>
</tr>
</tbody>
</table>

Total earnings

The number of overtime hours worked varies and it is therefore not possible to produce a definitive figure for the total earnings that an able seaman should receive on the basis of the ILO minimum stipulated for basic wages.

Nothing in this statement should be deemed to prejudice arrangements agreed between shipowners or their organizations and seafarers’ organizations with regard to the regulation of standard minimum terms and conditions of employment, provided such terms and conditions are recognized by the competent authority (Recommendation No. 187, Paragraph 11).
Example for the calculation of the monthly remuneration \(^1\) based on the implementation of guidance on the interpretation of the ILO minimum wage for able seamen

<table>
<thead>
<tr>
<th>Rank</th>
<th>Basic pay</th>
<th>Leave pay</th>
<th>Overtime (^2)</th>
<th>Rest days and public holidays (^3)</th>
<th>Effective date</th>
</tr>
</thead>
<tbody>
<tr>
<td>AB</td>
<td>US$465</td>
<td>(US$465/30)(\times)2.5 = US$38.75</td>
<td>Number of hours' overtime (\times (1.25 \times \text{normal hourly rate}))</td>
<td>1 day per month public holiday + 4.33 rest days = 5.33 days</td>
<td>Immediate effect</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>number of hours overtime (\times (1.25 \times \text{US$2.24} = \text{US$2.79}))</td>
<td>5.33 days (\times) 8 hours (\times) US$2.79 = US$118.97</td>
<td></td>
</tr>
</tbody>
</table>

\(^1\) This example is indicative only to enable the calculation of the minimum wage of the able seaman.

\(^2\) In accordance with Article 5, paragraph 1 of Convention No. 180, 104 hours is the maximum number of hours of overtime permitted for countries implementing a limitation of hours of work.

\(^3\) Rest days and public holidays can also be compensated in accordance with national laws and regulations or collective agreements by equivalent time off duty and off the ship or additional leave in lieu of remuneration or other compensation.
List of participants
Liste des participants
Lista de participantes
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Représentants des armateurs
Representantes de los armadores

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Mr. Carlos Salinas, Chairman and President, Filipino Shipowners’ Association, Manila

Seafarer representatives
Représentants des gens de mer
Representantes de la gente de mar

Mr. Severino Almeida, President, CONTTMAF, Rio de Janeiro
Mr. Henrik Berlau, Secretary, Specialarbejderforbundet i Danmark (SID), Copenhagen
Mr. Remo Di Fiore, Federazione Italiana Transporti – CISL, Rome
Mr. Sakae Idemoto, President, All-Japan Seamen’s Union (JSU), Tokyo
Mr. Igor Kovalchuk, Seafarers’ Union of Russia (SUR), Moscow
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Mr. Jon Whitlow, Secretary of the Seafarers’ group to the Joint Maritime Commission, International Transport Workers’ Federation (ITF), London

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