

# INTERNATIONAL BARGAINING FORUM

## Memorandum Of Agreement

At the meeting of the International Bargaining Forum held on Thursday 6<sup>th</sup> October 2005 at Tokyo Prince Hotel, Tokyo, the representatives nominated by the Joint Negotiating Group and the International Transport Workers Federation respectively resolved as follows:

1. To recommend to the respective memberships of ITF and JNG the adoption, with effect from 1 January 2006, of the following agreements attached to this Memorandum:
  - A) Revisions to the clauses in the IBF Framework TCC CBA (Section 1)
  - B) Cost, partnership and work program issues (Section 2)
2. To communicate to the joint secretariat of the IBF by Monday 10<sup>th</sup> October 2005 the agreement or otherwise of their constituents.

Signed by:  
For ITF

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B. Orrell

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P. Crumlin

.....  
S. Cotton

Signed by:  
For JNG

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N. Kayahara

.....  
I. Sherwood

.....  
R. Aglieta

6<sup>th</sup> October 2005

**Agreements on revision of clauses in the IBF Framework TCC**

Article No.	Amendment
Article 9 "Rest Hours"	<p>Article 9: Rest Periods</p> <p>9.1 Each seafarer shall have a minimum of 10 hours rest in any 24 hour period and 77 hours in any seven-day period.</p> <p>9.2 This period of 24 hours shall begin at the time a Seafarer starts work immediately after having had a period of at least 6 consecutive hours off duty.</p> <p>9.3 The hours of rest may be divided into no more than two periods, one of which shall be at least 6 hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.</p> <p>9.4 The company shall post in an accessible place on board a table detailing the schedule of service at sea and in port and the minimum hours of rest for each position on board in the language of the ship and in English.</p> <p>9.5 Nothing in this Article shall be deemed to impair the right of the master of a ship to require a seafarer to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea. In such situation, the master may suspend the schedule of hours of work or hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the master shall ensure that any seafarers who have performed the work in a scheduled rest period are provided with an adequate period of rest. In addition, the STCW requirements covering overriding operational conditions shall apply.</p> <p>9.6 A short break of less than 30 minutes will not be considered as a period of rest.</p> <p>9.7 Emergency drills and drills prescribed by national laws and regulations and by international</p>

	<p>instruments shall be conducted in a manner that minimises the disturbance of rest periods and does not induce fatigue.</p> <p>9.8 The allocation of periods of responsibility on UMS Ships, where a continuous watchkeeping in the engine room is not carried out, shall also be conducted in a manner that minimises the disturbance of rest periods and does not induce fatigue and an adequate compensatory rest period shall be given if the normal period of rest is disturbed by call-outs.</p>
Three-Watch system and Riding Gangs	<p>The IBF agreed to amend Article 15 of the Framework TCC Agreement by inserting the following:</p> <p>Article 15: Manning</p> <p>15.3 The agreed manning shall not include any temporary or riding squad workers. However, in certain circumstances, the company and the union can agree that for a limited period temporary riding squads may be used on board subject to the following principles:</p> <ul style="list-style-type: none"> <li>• persons engaged for security purposes should not undertake other seafarers' duties;</li> <li>• only specific tasks authorized by the master can be carried out by the riding squads;</li> <li>• classification societies are to be informed of any survey or structural work carried out in compliance with IACS UR Z13;</li> <li>• all riding squads must be covered by agreements in line with ILO conventions and recommendations; and</li> <li>• riding squads should not be used to replace current crew or be used to permanently undermine ITF agreements.</li> </ul>

Article 17 "Services in Warlike Operations Areas"	Article 17.1 shall be amended as follows: "A warlike operations area shall be determined by the IBF Warlike Operations Areas Committee in accordance with the Committee's Rules and Procedures."
Article 18 "Crew's Effects"	The IBF agreed that Article 18 of the IBF Framework TCC Agreement should be amended by the deletion of the words "For the purpose of this clause Crew's effects does not include cash in excess of US\$1000".
Article 19 "Termination of Employment"	The IBF agreed that Article 19.3 b) of the IBF Framework TCC Agreement shall be amended as follows:  "19.3 A seafarer to whom this Agreement applies may terminate a current employment contract when, during the course of a voyage it is confirmed that the spouse or, in the case of a single person, a parent, has fallen dangerously ill. This provision shall also be applied with regard to the partner of a seafarer provided that this partner has been nominated by the seafarer at the time of engagement as the seafarers next of kin;"
Article 21 "Misconduct"	The IBF agreed the following:  Article 21 of the IBF Framework TCC Agreement should be amended by the insertion of the following text: "The company shall ensure that a fair, effective and expeditious on-board procedure is in place to deal with reports of misconduct and with seafarers complaints or grievances. The procedures shall allow seafarers to be accompanied or represented during the procedure and provide safeguards against victimization for raising complaints that are not manifestly vexatious or malicious."
Article 25 "Disability"	The IBF agreed to insert a new clause 25.6 in the IBF Framework TCC Agreement as follows:  "25.6 Shipowners, in discharging their

	<p>responsibilities to provide for safe and decent working conditions, should have effective arrangements for the payment of compensation for personal injury. When a claim arises, payment should be made promptly and in full, and there should be no pressure by the shipowner or by the representative of the insurers for a payment less than the contractual amount due under this Agreement. Where the nature of the personal injury makes it difficult for the shipowner to make a full payment of the claim, consideration to be given to the payment of an interim amount so as to avoid undue hardship."</p>
Article 26 "Loss of Life - Death in Service"	<p>The IBF agreed to insert a new clause 26.4 in the IBF Framework TCC Agreement as follows:</p> <p>"26.4. The provisions of Article 25.6 above shall also apply in the case of compensation for Loss of Life - Death in Service as specified in this Article."</p>
Article 28 "Food, Accommodation, Bedding, Amenities etc.	<p>The IBF agreed that Article 28 1-3 shall be replaced with the following:</p> <p>"28.1 The Company shall provide, as a minimum, accommodation, recreational facilities and food and catering services in accordance with the standards specified in Title 3 to the draft ILO Consolidated Maritime Labour Convention and shall give due consideration to the Guidelines in that Convention."</p>

## Section 2

### Agreement on cost, partnership and work program issues

Cost issues	Agreement
	<ol style="list-style-type: none"> <li>1. The IBF agreed that the monthly operating cost of the IBF Model Ship shall be increased from \$46,170 to \$48,478 on 1<sup>st</sup> January 2006 and to \$50,787 on 1<sup>st</sup> January 2007.</li> <li>2. Payment to the ITF Welfare Fund will be increased by \$10 per seafarer per year from 1<sup>st</sup> January 2006 and by a further \$10 per seafarer per year from 1<sup>st</sup> January 2007.</li> <li>3. The cost items, ITF 3.4, 3.15, 4.9 shall be referred for consideration at local level.</li> <li>4. The levels of death and disability compensation in the IBF Framework TCC Agreement will be increased by 5% on 1<sup>st</sup> January 2006 and by a further 5% from 1<sup>st</sup> January 2007.</li> <li>5. A monthly allowance of \$462 against the cost of providing each seafarer with free use of E-mail is included in the increased cost shown in 1 above. Such allowances shall with effect of 1<sup>st</sup> January 2006 be shown in the IBF wage scales.</li> </ol>

Partnership and work program issues	Agreement
Employment indemnity	<p>The IBF deplore recent developments in which, after certain incidents, seafarers have been held in prison and been subject to criminal prosecution for carrying out their lawful duties in full compliance with their company's instructions and in the interests of good seamanship.</p> <p>JNG members agree that in the event that similar</p>



	<p>situations should arise in the future, the Company concerned will make use of all available diplomatic channels to assist obtain the seafarers release. In addition the Company will ensure the provision of adequate legal representation for the seafarers involved and will maintain the employment relationship that existed with the seafarer prior to the incident. The Company will also consider sympathetically any cases of particular hardship that might arise to the seafarer or to their families in such cases.</p>
Death and Disability Compensation	<p>The IBF agreed that the Model Receipt and Release Form adopted by the IMO/ILO under IMO Resolution A.931 (attached at Addendum 1) should, subject to conformity with local legislation and practice, be used as the standard form signifying acknowledgement of correct payment of contractual claims.</p> <p>Furthermore, the IBF agreed that exploratory discussions should continue with a view to the adoption of voluntary arbitration systems in appropriate locations as a means to avoid contentious and time-consuming legal actions associated with contractual claims for death and disability compensation.</p>
Medical Care, Occupational Health and Safety	<p>The IBF should keep under review reports or other information concerning problems of poor on-shore medical provision or particular health hazards that might affect seafarers health and safety in specific ports or regions, particularly with regard to cases of HIV infection. Where appropriate, the IBF should issue advice to ship operators on measures to be taken to minimise any risks to seafarers, and should consider participating in research into occupational health and safety problems affecting seafarers.</p>
Onboard Grievance and Disciplinary Procedures, including Harassment and Bullying	<p>It was also agreed that discussions at local/regional level may develop lists of offences, including bullying and harassment, for which dismissal, or some lesser sanction, might be appropriate. In</p>

	<p>developing such a list, existing maritime publications, agreed by ITF affiliates and employers or government organizations, should be taken into account.</p> <p>The IBF will appoint a special Sub-Committee to meet within six months of the implementation of the revised IBF Framework TCC Agreement to adopt a Grievance Procedure.</p>
Mutual Co-operation	<p>IBF agreed that, where a specific joint effort may be proposed by either IBF party and agreed by the other, the ITF and the JNG shall cooperate in order to ensure that a prompt and efficient action is taken in the name of the IBF whether centrally or locally. For this purpose, the Secretariats shall liaise and adopt, where necessary, mechanisms for the implementation in coordination with respective JNG members and ITF affiliates.</p> <p>The areas of such cooperation may include but shall not be limited to advising or calling upon flag state and port authorities, national administrations, the IMO, the ILO, other international agencies and intergovernmental bodies, releasing joint statements for the media etc.</p>
IBF Secretariat Co-operation	<p>The IBF agreed that the joint secretariats should work closely together once the negotiations are concluded to ensure that the terms of the IBF agreements are properly incorporated in all IBF TCC Agreements that are based on IBF principles. It was also agreed that the joint secretariats should maintain copies of all IBF TCC Agreements and lists of ships covered by such agreements to ensure that the application of the agreements are properly verified and monitored. Such information may include the number and nationality of the seafarers concerned.</p>
Local Negotiations: deductions from wages	<p>The IBF agreed that, should any additional employment benefits or variations to benefits or working practices, including working hours, voyage</p>



	<p>periods or the establishment of any social funding schemes be agreed as a result of negotiations at local level the following shall apply:</p> <ol style="list-style-type: none"> <li>1. if they involve a deduction from a seafarers wages, they shall be indicated in the wage scales attached to the local TCC Agreement based on the IBF Framework TCC Agreement, and</li> <li>2. they shall be explained and covered by specific clauses within the local TCC Agreement.</li> </ol>
ILO Consolidated Maritime Labour Convention	<p>The IBF discussed the significance of the adoption of the ILO Consolidated Maritime Labour Convention that was expected in February 2006 and its consequences on the IBF Framework TCC Agreement. It was agreed that a Special Working Group should be established once the Convention was adopted, with five members on each side, plus Secretariats, to review the provisions of the Convention and to recommend any consequential amendments that might need to be made to the Framework TCC.</p>
IBF Warlike Operations Areas Committee	<p>In accordance with Rule 4 of the IBF Warlike Operations Areas Committee, the Committee met on 5<sup>th</sup> October 2005 to consider possible designation of areas of warlike activities. Reports were received concerning serious warlike incidents affecting health and safety of seafarers in waters off Somalia and in certain other regions. However, in view of time pressures, the Committee decided to refer the matter to the IBF for a decision. Subsequently the IBF decided to declare the following area as an area of warlike activities:</p> <ul style="list-style-type: none"> <li>● the territorial waters extending up to the 12 mile limit from due north of the north-western border of Somalia with Ethiopia to due north of Cape Gardafui</li> </ul> <p>This designation will take effect from 6<sup>th</sup> October 2005 and continue until the IBF Warlike Operations Areas Committee decides otherwise.</p> <p>In view of this designation, the seafarers servicing in</p>

	this area will qualify for the entitlements specified in Article 17 of the IBF Framework TCC.
Compensatory Leave should be granted in lieu of work on Saturdays, Sundays and public (national) holidays and should be not less than 8 days for each completed month of service on board.	To be referred to local negotiations
Better social security protection for seafarers' families	To be referred to local negotiations
At least one trainee per annum per ship, including female trainees	to be referred to local negotiations
Onboard Accommodation And Welfare Facilities	It was also agreed that the Joint Secretariat should review Title 3 of the draft ILO Consolidated Maritime Labour Convention and prepare a summary of the relevant items to be attached to IBF TCC Agreements.
Unresolved issues	A sub committee of the IBF will be established to consider any unresolved issues.
Support to Dockworkers	<p>The IBF acknowledges the right of dockworkers to participate in union activities and to be protected against acts of anti-union discrimination, consistent with protections provided by ILO Convention 87 (Freedom of Association and Protection of the Right to Organize Convention) and ILO Convention 98 (Right to Organize and Collective Bargaining Convention)</p> <p>Consistent with the understanding and intent agreed between the parties, JNG members will recommend to their principals that they should not use stevedoring services who do not comply with</p>

	the terms of the aforementioned Conventions for their employees.
IBF Welfare Fund	It was agreed that the Rules and Procedures of the IBF Welfare Fund should be reviewed to provide that legitimate operational costs of the IBF could be supported by the grant from the Fund. The parties will be required to agree a budget for social costs.
DE ratings	<p>The IBF adopted the report prepared by the Joint Secretariats setting the progress made on discussions concerning the promotion of employment of ratings from developed economy countries (attached at Addendum 2).</p> <p>The IBF instructed the Joint Secretariats to continue to develop these discussions and to establish before the end of 2005 an IBF Sub-Committee to progress the issues further.</p> <p>In the meantime, with regard to the 5th paragraph of the report, dealing with interim arrangements for dealing with the on-going discussions between ITF and relevant companies, the IBF agreed that ITF should notify the Joint Secretariats of specific proposals they wished to make with regard to possible derogations from the IBF methodology to accommodate particular situations so that the IBF could be consulted as necessary.</p> <p>In addition the IBF agreed that the IBF sub committee should also consider JNG Proposal 3.6 concerning the ITF Athens Policy.</p>
Regular employment	<p>The IBF agreed that regular employment on ships that seafarers were familiar with was highly desirable to promote harmony on board as well as safe ship operations. It was also recognised that this was a responsibility for both employers and workers organisations.</p> <p>To this end it was agreed that employers should be urged to adopt practices that would encourage</p>

	<p>stability in the workforce, the promotion of training and regularity of engagement within a retained pool of seafarers. Wage structures that would promote such policies should be encouraged.</p>
Transparency and Funding	<p>The parties to the IBF adopted the following text:</p> <p>"The parties to the IBF wish to ensure that all wage payments and funding elements detailed in the wage scales of IBF TCC Agreements will be subject to proper scrutiny as agreed.</p> <p>They note that the Disputes Procedures adopted during the first round of IBF negotiations in San Francisco in 2003 have been utilised to investigate both wage and funding issues and have produced outcomes acceptable to both sides.</p> <p>They therefore urge their respective members and affiliates to pursue all further disputes, complaints or disagreements that may arise to be resolved through these existing procedures."</p>
Support for the IBF system	<p>IBF members re-affirmed on behalf of their affiliates and member companies their full and unequivocal support for the IBF system and agreed to actively promote the adoption of IBF agreements by the maritime community.</p> <p>Both the ITF and the JNG shall take every effort to encourage their respective members to pursue the IBF principles and negotiate in good faith with the view to reaching acceptable agreements.</p> <p>In the event of failure to reach an agreement, the Joint Secretariat will be called upon to provide guidance and advice.</p>
Quality labour	<p>The promotion of harmonious relations between ITF affiliates and JNG member companies and their agents, based on mutual respect of the rights of both parties, is a prime objective of the IBF. In compliance with this objective, JNG member</p>

	<p>companies and their agents shall, when requested by the ITF affiliate signatory to the IBF TCC or Special Agreement, promptly provide statistical information on the composition and number of crew, the repatriation of seafarers resulting from illness or injuries, or cases of death on board, or the termination of employment for any other reason.</p>
Support for training	<p>The parties to the IBF agreed that the promotion of an increase in the numbers of trainees, additional to the agreed manning scale, that are recruited for sea service was a priority. Therefore JNG members companies and ITF affiliates were urged to enter into a meaningful dialogue at local level to support the training effort. Any amount allocated to support training at local level shall be exclusively used for training.</p> <p>In particular, the IBF agreed that discussions should be held at local level to determine how best to utilise the expertise of the social partners in developing support for training and to utilise any available funds to promote an increase in the number of trainees, taking into account local aspirations and priorities.</p> <p>For the purpose of this provision, a trainee is any person undergoing ship-board work experience as part of a structured training program.</p>
Cadets Terms and Conditions of Employment	<p>The IBF agreed that cadets should be subject to adequate levels of social protection whilst undergoing training at sea particularly with regard to protection of their health and safety.</p> <p>The IBF nevertheless considered that, subject to such local legislation and custom and practice, the IBF Framework TCC contained many provisions that could offer proper levels of social protection to trainees. JNG member should take full consideration in developing their training agreements the following provisions of the IBF Framework TCC:</p>



	<ul style="list-style-type: none"> <li>i) Article 4: Non seafarers work</li> <li>ii) Article 6: Hours of Duty</li> <li>iii) Article 8: Holidays</li> <li>iv) Article 9: Rest Periods</li> <li>v) Article 17: Service in Warlike Operations Areas</li> <li>vi) Article 18: Crew's Effects</li> <li>vii) Article 20: Repatriation</li> <li>viii) Article 22: Medical Attention</li> <li>ix) Article 23: Sick Pay</li> <li>x) Article 24: Maternity</li> <li>xi) Article 25: Disability</li> <li>xii) Article 26: Loss of Life – Death in Service</li> <li>xiii) Article 27: Insurance Cover</li> <li>xiv) Article 28: Food, Accommodation, Bedding, Amenities etc.</li> <li>xv) Article 29: Personal Protective Equipment</li> <li>xvi) Article 32: Equality</li> </ul>
Shore-Leave Transportation	<p>The IBF are determined to work jointly in order to insure that the seafarers' basic right to shore leave is not unjustifiably denied due to whatever reasons.</p> <p>JNG members therefore agree to take every effort and, whenever required, use best endeavors to facilitate shore leave for the crews. In particular, the Company concerned will assist in meeting the relevant ISPS Code and/or other national requirements by means of allocating, if necessary, resources and expertise, securing adequate representation of seafarers through respective agents, completing the formalities, arranging the necessary paperwork and permissions, communicating with the respective authorities, providing transportation to and from the vessel for the crew and etc.</p>

**MODEL RECEIPT AND RELEASE FORM  
FOR CONTRACTUAL CLAIMS**

Ship: .....  
Incident: .....  
Seafarer/Legal heir and/or Dependant: .....  
Shipowner: .....

I, [Seafarer] [Seafarer's legal heir and/or dependant]\* hereby acknowledge receipt of the sum of [currency and amount] in satisfaction of the Shipowner's obligation to pay contractual compensation for personal injury and/or death under the terms and conditions of my/the Seafarer's employment and I hereby release the Shipowner from its obligations under the said terms and conditions.

The payment is made without admission of liability of any claims and is accepted without prejudice to my/the Seafarer's legal heir and/or dependant's right to pursue any claim at law in respect of negligence, tort or any other legal redress available and arising out of the above incident.

Dated: .....  
Seafarer/Legal heir and/or Dependant: .....  
Signed: .....

*For acknowledgement:*

Shipowner/Shipowner representative: Signed .....  
Insurer/Insurer representative: Signed .....

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\* delete as appropriate

**Secretariat Report Of Discussions On The Promotion Of Employment For  
Ratings From Developed Economy Countries**

1. The IBF noted the concerns raised by ITF concerning employment of ratings from developed economy countries and agreed that the joint secretariats should meet to discuss the problem and to try to identify issues that were relevant to the ITF objective of stimulating more employment opportunities for such ratings. As a result of this request, three meetings were held involving the Joint Secretariats and relevant ITF affiliates and the JNG Secretariat also attended a special meeting convened in Tokyo by MUA.
2. During these meetings the ITF stressed their acute political need to make progress on this issue during the negotiations, while JNG stressed the reluctance of their members to make any commitments that they could not deliver.
3. In the European meeting, the concept of a DE rating in that region was considered.

The ITF stated that the principal behind their approach was that any mechanism that might be agreed should be "cost-neutral" i.e. any company that employed a DE rating should not, overall, face higher costs than one that did not. This concept would obviously require detailed discussion with regard to the possible practical implications.

4. The discussions also covered broader issues concerning matters that would have to form part of any debate by an IBF working group including:
  - i) statistics. Collection of basic information on the current nationality mix of seafarers employed by JNG members and an estimate of total wage costs paid to these seafarers would be needed as a background to the debate. So too would be an analysis of the availability of DE ratings in the different countries who might be interested in such work. Work has commenced on the collection of this data but more time is required to complete the work and for the analysis to be undertaken;
  - ii) cost neutrality. Several possible ways in which the principle of cost neutrality might be maintained were discussed. These included a possible quota system to be developed at local level, some form of

- subsidy payable through the "bag" available to the local negotiations and other devices;
- iii) on board social implications of mixing different nationalities of ratings with different wage rates;
  - iv) the manner in which the nationality of the ratings might be selected e.g. by reference to availability, cost or the beneficial ownership of the ship;
  - v) the training needs of such ratings, including STCW requirements;
  - vi) the ranks and ratings of the seafarers that might be involved in such a programme;
  - vii) the facilities for re-training for unemployed ratings in DE countries to allow them to become officers;
5. It was also agreed that the joint secretariats should recommend to their respective organisations that, in order to facilitate on-going discussions in the European meeting, the final IBF settlement should include some wording that would allow some derogation from the strict application of IBF rules and methodology. This could provide the necessary flexibility to satisfy the discussions on the basis of cost neutrality.
6. In the Asian meeting, the concept of the DE rating in that region was considered. The principle of bilateral agreements in specific trades taking into account existing arrangements and agreements was also considered with a view of developing further arrangements that include protection of DE ratings in that region.
7. For the purpose of this report, a DE country is a country with strong maritime traditions and history which has experienced declining job opportunities for its nationals and where agreements between the social partners may not provide sufficient job protection for ratings.