



ILO input to the report of the Secretary-General on Oceans and the Law of the Sea, to the Fifty-ninth Session of the General Assembly

ILO activities in 2003 and early 2004

Follow up to the adoption of the Seafarers' Identity Documents Convention (Revised), 2003

The Seafarers' Identity Documents Convention (Revised), 2003 (No. 185) has already been described in the Addendum to the Report of the Secretary-General on Oceans and the Law of the Sea (Document A/58/65/Add.1, 29 August 2003). In addition to the information contained in that report, the ILO notes that, at its 288th Session (November 2003), the Governing Body of the ILO considered an item entitled "Effect to be given to resolutions adopted by the International Labour Conference at its 91st Session (2003). In doing so, it approved a plan presented by the Office for the preparation of a global interoperable standard for the biometric template for the seafarers' identity document; requested the Director-General to give due priority, in the use of resources allocated to the Organization's technical cooperation programme, to assisting countries with respect to the technology, expertise and processes required; endorsed the proposal by the Director-General to send a communication to the governments of Members of the Organization, inter alia, encouraging Members to begin their national process for the ratification of the Convention as a matter of urgency; and endorsed the proposal by the Director-General that governments, shipowners and seafarers be provided with any advice they may need and kept informed of developments. At its 289th Session (March 2004) the Governing Body will adopt the global interoperable standard for the biometric for the seafarers' identity document.

Joint Maritime Commission's Subcommittee and Joint Working Group on Wages of Seafarers (Geneva, 5-8 July 2003)

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 at its 280th Session (November 2001). The Subcommittee and the Joint Working Group were both composed of six Shipowners and six Seafarer Members, accompanied by advisers.

The Subcommittee discussed the updating of the minimum wage figure for able seamen provided for in the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187). The Joint Working Group discussed how this minimum wage should be interpreted so as to provide a recommended total salary. The summary of the discussions and the conclusions,

contained in two resolutions adopted by the meetings, are reproduced in a single report (SJM/2003/6).¹

The Subcommittee on Wages of Seafarers adopted a resolution concerning the ILO minimum wage for able seamen. It decided to recommend to the Governing Body to maintain the current list of countries and areas and the formula used as a basis for the calculations to assist the revision of the wage figure. It also decided to recommend the updating of the current ILO minimum wage for an AB of US\$465 to US\$500 as of 1 January 2005. Considering that it was essential that the basic pay or wages of able seamen be updated every two years, and in accordance with the decision taken at the 280th Session of the Governing Body, the Subcommittee invited the Governing Body to convene in two years' time the Subcommittee on Wages of Seafarers and, where appropriate, to enable it to report back directly to the Governing Body. The resolution concerning minimum wages is appended to the above report.

The Joint Working Group adopted a resolution concerning the interpretation of the ILO minimum wage of able seamen. It agreed on the interpretation of the total monthly minimum wage of able seamen, which is contained in the appendix to the resolution. This interpretation will provide guidance to the industry on the application of ILO instruments in the calculation of wages, including leave, overtime and compensation for work on rest days and public holidays. The resolution concerning the interpretation of the ILO minimum wage is appended to the above report.

Preparation of a comprehensive standard on work in the fishing sector: Tripartite Meeting of Experts on Labour Standards for the Fishing Sector (Geneva, 2-4 September 2003)

The Tripartite Meeting of Experts on Labour Standards for the Fishing Sector met from 2 to 4 September 2003. The Meeting was attended by sixteen government experts, eight employer experts, eight worker experts, and 17 advisers. A representative of the FAO also participated in the meeting.

The Meeting used as a background document for its discussion the report "Conditions of work in the fishing sector", Report VI(1) for the 92nd Session (June 2004) of the International Labour Conference.² The Office also provided a document entitled "Proposed Issues for Discussion" (MELSFS 2003/4), to assist in the organization of the debate. The Experts were given an update on the replies received so far by the Office to the questionnaire included in the Office law and practice report (Conditions of work in the fishing sector). Issues to be included in the standard were discussed. These issues included those already addressed in the seven existing fishing standards (five Conventions and two Recommendations) as well as occupational safety and health and social security. The Meeting adopted a report on its proceedings, which will shortly be available on the ILO website. The Office will take into account the report when preparing the proposed conclusions in the second report for the agenda item on fishing for the 92nd Session (June 2004) of the Conference.³

¹ <http://www.ilo.org/public/english/dialogue/sector/techmeet/sjmc03/sjmc-fr.pdf>.

² <http://www.ilo.org/public/english/standards/relm/ilc/ilc92/pdf/rep-v-1.pdf>.

³ <http://www.ilo.org/public/english/standards/relm/ilc/ilc92/reports.htm> (available in March 2004).

Progress in the preparation of the Consolidated Maritime Labour Convention: Meetings of the High-level Tripartite Working Group on Maritime Labour Standards

Information on the two previous meetings of the High-level Tripartite Working Group on Maritime Labour Standards (HLTWG) has been provided in earlier reports to the Secretary-General on Oceans and the Law of the Sea to the General Assembly.

The Third Meeting of the HLTWG was held in Geneva from 30 June to 4 July 2003.⁴

At that meeting there was general agreement on the basic structure and content of the Convention, which implements the innovative solutions endorsed by the HLTWG at its first meeting in 2001. Agreement had still not been reached, however, on certain elements of the structure, and there were important and sometimes difficult areas in the four titles of the Convention setting out the maritime labour standards themselves that had not yet been fully discussed. It was therefore considered essential that a fourth meeting of the HLTWG be held before submission of a draft to the Preparatory Technical Maritime Conference scheduled for September 2004. The Government of France offered to host this meeting in Nantes from 19 to 23 January 2004.

Fourth Meeting of the High-level Tripartite Working Group on Maritime Labour Standards (Nantes, 19 to 23 January 2004)

At this fourth meeting of the HLTWG, a compromise was reached on the precise status to be given to provisions in the non-mandatory part of the Convention, namely those in Part B of the Code. On some other difficult questions of a general nature, it was suggested that the Office make the necessary contacts for consultations between interested parties with a view to the formulation of appropriate provisions for consideration in due course.

The discussions in the fourth meeting mainly related to the content of the five titles of the Convention and were entrusted to four working parties, which reported to the plenary of the HLTWG. The first four titles set out the maritime labour standards in the various subject areas. Most of the provisions in those titles were discussed: with the exception of social protection, a consensus was reached on them and the aspects needing further discussion were noted. While it was generally agreed that the right to social protection should be covered in the Convention, the discussions indicated that a radical change of approach was necessary, as there was a sharp difference of opinion on the basic ways of achieving that right. Considerable progress was made in reaching agreement on the fifth title of the Convention, relating to compliance and enforcement with respect to the standards in the four other titles. There was however insufficient time to cover the whole of that title.

Although it was not possible for the fourth meeting to deal with the entire Convention, the general result of its discussions has been to greatly narrow the areas of potential disagreement and consequently to facilitate the work of the Preparatory Technical Maritime Conference to be held from 13 to 24 September 2004. In order to enable the preparatory technical conference to concentrate on settling points of disagreement and to avoid any unjustified discussion of provisions that have matured over years of discussion in the HLTWG and its Subgroup, the HLTWG has adopted a resolution recommending to the Governing Body the general lines of an appropriate procedure. In the resolution, the Committee recommended that:

⁴ <http://www.ilo.org/public/english/dialogue/sector/techmeet/twgmls03/twgmls-r-8.pdf>.

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- (1) the Office be requested to submit to the Preparatory Technical Conference a draft instrument based on the results of the important preparatory work undertaken in the framework of the High-Level Tripartite Working Group;
 - (2) the draft instrument be considered as containing mature provisions on which consensus has been reached on a significant number of provisions;
 - (3) the Preparatory Technical Conference deal in the first place with the provisions included in the draft instrument which are placed inside square brackets;
 - (4) the Preparatory Technical Conference, in the second stage, deal with proposals concerning the draft instrument which have sufficient support.

The High-level Tripartite Working Group also recommended that the Governing Body take the necessary measures for the consequential adjustment of the Model Standing Orders for Technical Tripartite Conferences.

In addition, two Government representatives raised the matter of the prolonged detention of crew members and a salvage master, as they have been denied exit from Pakistan after the accidental grounding of the M/V "Tasman Spirit" on 27 July 2003 at the entrance of the port of Karachi. In a declaration, the High-level Tripartite Working Group expressed its sympathy to the victims of the accidental grounding, including the crew members and salvage master, and expressed the hope that the Pakistani authorities could release them and allow their repatriation. It noted that the Government of Pakistan was not represented at its meeting. The High-level Tripartite Working Group also requested the Director-General to raise this issue with the Government and to bring its declaration to the attention of the competent authorities of Pakistan. It requested the Director-General and the Governing Body to remain seized of the matter; it also requested the Director-General to raise the issue of the growing problem of the criminalization of seafarers following a maritime casualty with the Secretary-General of the International Maritime Organization with a view to promoting an appropriate response.

The report of the fourth meeting of the HLTWG will shortly be made available on the ILO's website.

IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers

At its 286th Session (March 2003), the Governing Body considered the report of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers (the Working Group). It approved the holding of a fifth session of the Working Group, with participation by the eight ILO (four shipowner and four seafarer) representatives, at no cost to the ILO.

In keeping with the above decision, the Working Group met in its fifth session from 12 to 14 January 2004, at the headquarters of the International Maritime Organization (IMO) in London. The report will be made available on the ILO website.

Concerning the problem of abandonment of seafarers, at its fifth session the Working Group recommended that –

- (a) the revised circular on reporting of incidents of abandonment should be resent;

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- (b) the revised circular containing the questionnaire on monitoring the implementation of the guidelines on provision of financial security in case of abandonment of seafarers adopted by IMO Resolution A.930(22) should be resent;
 - (c) it was necessary to remind Member Governments of the importance of a rapid and comprehensive answer, to be received at the latest by a date to be determined by the Joint Secretariat in accordance with the guidelines;
 - (d) it review, at its next session in spring 2005, the preliminary determination regarding the implementation of the resolution and of the Guidelines in the light of all the answers to the questionnaire and data relating to abandonment available at that time;
 - (e) it take its final decision at its next session on the recommendation to be made to the ILO Governing Body and to the IMO Legal Committee.

Regarding the development of a longer-term sustainable solution to address the problems of financial security with regard to compensation in case of death and personal injury, the Working Group agreed:

- (a) that the time had come for the Governing Body of the ILO and the IMO Legal Committee to authorize the Group to proceed with the development of such a longer-term sustainable solution;
- (b) to advise and seek the concurrence of the ILO Governing Body and the IMO Legal Committee on the following:
 - (i) bearing in mind the reservation expressed by the social partners on the text of resolution A.931(22) and of the associated Guidelines, neither resolution A.931(22) nor the associated Guidelines should prejudice, or serve as a precedent constraining, in any way whatsoever, the eventual mandatory solution;
 - (ii) the eventual mandatory solution should not in any way interfere, affect, erode or in any way whatsoever, diminish any rights or remedies seafarers may enjoy in a particular State under an existing legal framework;
- (c) that in the case that the IMO Legal Committee and the ILO Governing Body were to accept the recommendation of the Joint Working Group under (a) and concur with the views expressed in (b), the Group agreed to recommend that the IMO Legal Committee and the ILO Governing Body –
 - (i) also authorize the Joint Secretariat to prepare suggestions, including possible headings, concepts and likely outline of the content of possible mandatory solutions for the consideration of the Joint Working Group at its next session;
 - (ii) to allow the Joint Secretariat to circulate the outcome of the discussions of the ILO Governing Body and IMO Legal Committee as soon as possible to enable the social partners and the Governments to make their own written submissions on the form and content of possible eventual mandatory solutions as soon as possible.

Finally, the Working Group agreed that an amendment to its present terms of reference was necessary to reflect the above recommendations.

The Working Group invited the ILO Governing Body and the IMO Legal Committee to:

- (a) take note of the report of the Working Group at its fifth session;

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- (b) approve the communication of the revised circular letter of the report to member States and non-governmental organizations concerning reporting on incidents of abandonment;
 - (c) approve the communication to member States of the revised questionnaire as part of the monitoring process of the resolution and related guidelines on the abandonment of seafarers;
 - (d) approve the revised terms of reference for the Working Group;
 - (e) decide on certain recommendations of the Working Group;
 - (f) further pursue the establishment of a database on incidents of abandonment of seafarers.