



SIXTEENTH ITEM ON THE AGENDA

Report of the Director-General**Second Supplementary Report: Preparatory
Technical Maritime Conference**

1. The Preparatory Technical Maritime Conference (PTMC) for a consolidated maritime labour Convention took place from 13 to 24 September 2004. It was attended by 551 delegates representing governments, shipowners and seafarers from 88 countries, in addition to the Governing Body's delegation of Mr. Ngantcha, Mr. Suzuki and Mr. Blondel. The PTMC considered a Recommended draft for a consolidated maritime labour Convention which had been prepared on the basis of the discussions over the preceding three years of the High-level Tripartite Working Group on Maritime Labour Standards and its Subgroup.¹ The PTMC's mandate was to propose a text of the Convention with a view to adoption at a maritime session of the International Labour Conference. The Recommended draft, which seeks, in so far as possible, to embody the substance of all up-to-date maritime labour Conventions and Recommendations, and has a novel component relating to enforcement, is of unprecedented length for a preparatory technical Conference. Several of its provisions had moreover been placed inside square brackets due to the lack of agreement on them at previous meetings. Thanks to the advanced state of the Recommended draft and to a certain flexibility provided in the Standing Orders approved by the Governing Body at its 289th (March 2004) Session, it was nevertheless possible for the PTMC to complete most of its work.
2. In accordance with the Governing Body's recommendations, the PTMC gave priority to the provisions of the Recommended draft on which consensus had not previously been reached and to provisions that had not yet been sufficiently discussed (including proposals relating to the scope of the various substantive provisions). It dealt with most of those provisions and, in particular, was able to resolve most of the difficulties that had arisen in the past with respect to particular provisions. It did not, however, have the time to consider the rest of the Convention containing provisions on which consensus had been reached in the High-level Tripartite Working Group. Those provisions were laid open to proposals for amendment in the PTMC, and proposals were made (though some of them related to the same or a similar amendment); there were also proposals for new text.

¹ Reports on each of the four meetings of the High-level Tripartite Working Group were made to LILS and a more general progress report was submitted in March 2003 (GB.286/LILS/8).

3. The draft Convention proposed by the PTMC consequently contains gaps where agreement was not reached on previous text that was controversial or insufficiently discussed (referred to as “bracketed text”) and also contains text which had previously been the subject of consensus (referred to as “unbracketed text”), but for which amendments have been proposed. The PTMC discussed appropriate procedures both for filling the gaps and for considering the proposed amendments, and also covering drafting questions, in the interval between the PTMC and the maritime session of the International Labour Conference, which is proposed to take place in February 2006. These procedures are the subject of two resolutions adopted by the PTMC.
4. One resolution, reproduced in Appendix I to this paper, relates to the amendments proposed for the unbracketed text or for new text, as well as to a careful tripartite review of the wording of the texts adopted in English and French, which are the authoritative languages of international labour Conventions. This resolution:
 - (a) requests the Governing Body to instruct the Office to examine all receivable amendments submitted and to prepare a compendium accompanied by an explanatory note;
 - (b) establishes a tripartite working group, open to the representatives of the Governments of all ILO Members as well as to the representatives designated by the international organizations of shipowners and seafarers, to consider the compendium and communicate to the Office any amendment or group of amendments on which there is tripartite consensus for inclusion in the report to be prepared by the Office for the maritime session of the Conference in accordance with the Standing Orders of the General Conference; the meeting concerned would be at no direct cost to the Office; and
 - (c) appoints a tripartite drafting group composed of one Government representative, a representative of the Shipowners and a representative of the Seafarers to review, in extenso, the wording of the draft instrument adopted by the PTMC, as well as the agreement between the English and French versions of the text, along the lines of the terms of reference of drafting committees appointed under the Standing Orders of the General Conference.
5. The PTMC’s resolution relating to bracketed text on which agreement was not reached is reproduced in Appendix II to this paper. It requests the Governing Body to instruct the Office:
 - (a) to convene a meeting, at no direct cost to the Office, which will be open to representatives of the Governments of all ILO Members as well as to the representatives designated by the international organizations of shipowners and seafarers, for the purpose of providing the Office with advice concerning generally acceptable wording for the previously bracketed provisions on which agreement has not been reached;
 - (b) to provide the participants, in advance of the meeting, with information on the substance of the provisions concerned accompanied by the necessary explanations concerning the intentions and background for each such provision;
 - (c) to communicate, for comment, all new wording on which tripartite consensus is reached, accompanied by the necessary explanations, to the Governments of all member States as well as to the international organizations of shipowners and seafarers; and

- (d) to include in the report that it is to prepare for the maritime session of the General Conference, an account of all new wording referred to together with a summary of the constituents' views communicated to it.
6. It is envisaged that, to the extent possible, the meeting to consider proposed amendments to unbracketed text and the meeting relating to bracketed text not yet dealt with would be held one immediately after the other. In the context of its responsibility "to ensure thorough technical preparation and adequate consultation of the Members primarily concerned" prior to adoption of a Convention, as referred to in article 14, paragraph 2, of the ILO Constitution, ***the Governing Body may wish to approve the requests and endorse the actions set out in the two resolutions outlined above, on the understanding that they would involve no direct cost for the Office. The meeting is tentatively planned for the period 21-27 April 2005.***
7. The PTMC also noted that member States were in urgent need of assistance in developing national capacity with respect to putting in place an effective national system for inspection and certification of maritime labour conditions, as will be required under the future consolidated Convention. It adopted a resolution, reproduced in Appendix III, urging Members: to agree among themselves on measures of cooperation which would develop national institutions and capacity for the inspection and certification of maritime labour conditions; to provide training and to exchange knowledge and experience with respect to national policies, laws and regulations and procedures in this area; and to strengthen measures to develop cooperation and exchange of information and provision of material assistance at the international, regional and bilateral level in support of the ratification and national implementation of the Convention.
8. The resolution also invites the Governing Body to request the Director-General to:
- (a) implement an action plan on technical cooperation with those countries requiring assistance so as to be able to ratify the Convention and to assist their administrations responsible for maritime labour inspection in developing the necessary capacity to effectively implement the relevant provisions of the Convention;
 - (b) facilitate the implementation of the Convention by drafting specific manuals and training materials on the Regulations, Standards and Guidelines contained in the Convention; and
 - (c) mobilize and allocate necessary resources for the Organization's technical cooperation programme to assist member States with respect to the implementation of the Convention's provisions on inspection and certification.

The Governing Body may wish to invite the Director-General to draw this resolution to the attention of ILO Members and to consider the various measures that are proposed for action by the Office in the area of technical cooperation.

9. Finally, the PTMC noted with concern that the obligations on Governments to select fully tripartite delegations and to bear the costs of their participation had not been fully respected at the present Conference. In the resolution reproduced in Appendix IV, it urged the Governing Body to ensure that, in future meetings where governments are responsible for the composition of national tripartite delegations, there would be a tripartite mechanism to verify credentials and to examine objections as well as complaints alleging non-payment of travel and subsistence expenses for all, similar to the Credentials Committee of the General Conference; it also requested that Governments should be reminded of their obligations with respect to the nomination of non-government delegates and advisers and to the payment of travel and subsistence expenses. ***The Governing Body may wish to***

request the Director-General to take this resolution into consideration, when preparing invitations or proposing standing orders for future meetings of national tripartite delegations, to the extent feasible having regard to the resources available for the meetings concerned.

Geneva, 27 October 2004.

Points for decision: Paragraph 6;
Paragraph 8;
Paragraph 9.

Appendix I

Resolution concerning a procedure to deal with amendments submitted to the PTMC on unbracketed text

The Preparatory Technical Maritime Conference, convened in Geneva by the Governing Body of the International Labour Office from 13 to 24 September 2004;

Considering that significant progress has been achieved at the PTMC in the resolution of issues that had remained outstanding or controversial in the two years of work accomplished prior to the PTMC, as reflected in the bracketed text which has been given priority in the discussion;

Considering that, given time constraints and the volume of amendments submitted to unbracketed text, the PTMC has not been in a position to consider such amendments;

Considering that the examination and discussion of those amendments will facilitate the work of the Maritime Session of the International Labour Conference;

Considering also that it was not possible for the PTMC Drafting Committee to review in detail the whole text of the proposed consolidated maritime labour Convention, as regards both form and consistency between the English and French versions;

Requests the Governing Body to instruct the Office to examine all receivable amendments submitted to the PTMC and to prepare a compendium accompanied by an explanatory note;

Establishes a tripartite working group, composed of the officers of the PTMC and which will be open to the governments of all member States and representatives designated by the international organizations of shipowners and seafarers, to consider the compendium prepared by the Office; the working group shall communicate to the Office any amendment or group of amendments on which there is tripartite consensus for inclusion in the report to be prepared by the Office for the Maritime Session of the Conference in accordance with article 38, paragraph 4(b), of the Standing Orders of the Conference; the working group, taking into consideration the need for these further consultations, shall meet on this occasion at no direct cost to the Office;

Appoints a tripartite drafting group composed of one Government representative, a representative of the Shipowners and a representative of the Seafarers to review in extenso the wording of the draft instrument adopted by the PTMC, as well as the agreement between the English and French versions of the text, along the lines of the terms of reference of drafting committees appointed under the Standing Orders of the General Conference; the drafting group shall finish its work on time for the translation and distribution of the text to member States within the time frame provided for in article 38 of the Standing Orders of the Conference.

Appendix II

Resolution concerning a procedure to deal with unresolved issues in the bracketed texts of the draft consolidated maritime labour Convention

The Preparatory Technical Maritime Conference, convened in Geneva by the Governing Body of the International Labour Office from 13 to 24 September 2004;

Considering that it has not been possible for the PTMC to reach agreement on all the text of the recommended draft that has been placed inside square [] or soft {} brackets;

Recalling its previous resolution in which it decided, inter alia, upon a procedure to deal with the amendments that had been proposed for unbracketed text;

Has decided to request the Governing Body to instruct the Office:

- (a) to convene a meeting, at no direct cost to the Office, which will be open to the governments of all member States and to representatives designated by the international organizations of shipowners and seafarers, for the purpose of providing the Office with advice concerning generally acceptable wording for the previously bracketed provisions on which agreement has not been reached;
- (b) to provide the participants, in advance of the meeting, with information on the substance of the provisions concerned accompanied by the necessary explanations concerning the intentions and background for each such provision;
- (c) to communicate, for comment, all new wording on which tripartite consensus is reached, accompanied by the necessary explanations, to the governments of all member States as well as to the international organizations of shipowners and seafarers; and
- (d) to include, in the report that it is to prepare for the Maritime Session of the General Conference in accordance with article 38, paragraph 4(b), of the Standing Orders of the Conference, an account of all new wording referred to, together with a summary of the constituents' views communicated to it.

Appendix III

Resolution concerning technical cooperation to strengthen the capacities of the national administrations responsible for maritime labour inspection

The Preparatory Technical Maritime Conference of the International Labour Organization,
Convened in Geneva by the Governing Body of the International Labour Office from 13 to 24
September 2004,

Having discussed the draft consolidated maritime labour Convention,

Noting that the provisions of the draft consolidated Maritime Labour Convention call upon
each ratifying State to implement the requirements laid down in the Convention,

Recognizing that the ratification and successful implementation of the consolidated maritime
labour Convention should rely on the availability of the necessary expertise and material resources
in each ratifying State,

Noting the urgent need for assisting member States in developing national capacity with
respect to putting in place an effective national system for inspection and certification with respect
to maritime labour conditions;

1. Urges Members to agree among themselves on measures of cooperation which would:
 - (a) develop national institutions and capacity for inspection and certification with respect to maritime labour conditions;
 - (b) provide training and exchange knowledge and experience on formulation and development of national policies, laws and regulations and procedures for inspection and certification with respect to maritime labour conditions;
 - (c) strengthen measures to develop cooperation and exchange of information and provision of material assistance at the international, regional and bilateral level in support of the ratification and national implementation of the Convention.
2. Invites the Governing Body of the International Labour Office to request the Director-General to:
 - (a) implement an action plan on technical cooperation so that national administrations responsible for maritime labour inspection may develop the necessary capacity to effectively implement the relevant provisions of the Convention and that member States are able to ratify it;
 - (b) consider an appropriate tripartite arrangement in order to facilitate the implementation of the Convention by drafting specific manuals and training material on the Regulations, Standards and Guidelines contained in the Convention;
 - (c) mobilize and allocate necessary resources for the Organization's technical cooperation programme to assist member States with respect to the implementation of inspection and certification provisions of the consolidated maritime labour Convention.

Appendix IV

Resolution concerning credentials issues raised at the PTMC

The Preparatory Technical Maritime Conference, convened in Geneva by the Governing Body of the International Labour Office from 13 to 24 September 2004;

Recalling the importance of the effective respect of tripartism and, in particular, the obligation for each member State to select fully tripartite delegations to conferences convened by the Organization and to bear the costs of their participation;

Noting with concern the number of cases in which this obligation has not been fully respected at the Preparatory Technical Maritime Conference;

Considering that the absence of a mechanism at the PTMC to examine credentials and ensure respect for this obligation has almost certainly contributed to the extent of the situation;

Urges the Governing Body of the International Labour Office:

- (a) to ensure that, in future, there shall be a tripartite mechanism to verify credentials and to examine objections relating to the selection by governments of Shipowner and Seafarer representatives and complaints alleging non-payment of their travel and subsistence expenses for all meetings where governments are responsible for the composition of national tripartite delegations, similar to that of the Credentials Committee of the General Conference;
- (b) to remind governments of their obligation to nominate non-government delegates and advisers in agreement with the industrial organizations, if such organizations exist, which are most representative of shipowners and seafarers, as the case may be, in their respective countries; and to pay the travelling and subsistence expenses of their tripartite delegations.