



Seventh item on the agenda:
Improved security of seafarers' identification
(standard setting, single discussion, with a view
to the adoption of a Protocol or other instrument)

Report of the Committee on Seafarers

1. The Committee on Seafarers met for its first sitting on 3 June 2003. It consisted of 115 members (54 Government members, 21 Employer members, 40 Worker members). To achieve quality of voting strength, each Government member was allotted 140 votes, each Employer member 360 votes and each Worker member 189 votes. The composition of the Committee was modified several times during the session, and the number of votes allotted to each member was adjusted accordingly.¹

¹ The modifications were as follows:

- (a) 4 June: 134 members (68 Government members entitled to vote with 989 votes each, 23 Employer members with 2,924 votes each and 43 Worker members with 1,564 votes each);
- (b) 5 June: 125 members (73 Government members entitled to vote with 306 votes each, 18 Employer members with 1,241 votes each and 34 Worker members with 657 votes each);
- (c) 6 June: 119 members (73 Government members entitled to vote with 240 votes each, 16 Employer members with 1,095 votes each and 30 Worker members with 584 votes each);
- (d) 7 June: 120 members (76 Government members entitled to vote with 105 votes each, 14 Employer members with 570 votes each and 30 Worker members with 266 votes each);
- (e) 9 June: 121 members (76 Government members entitled to vote with 217 votes each, 14 Employer members with 1,178 votes each and 31 Worker members with 532 votes each);
- (f) 10 June: 116 members (76 Government members entitled to vote with 351 votes each, 13 Employer members with 2,052 votes each and 27 Worker members with 988 votes each);
- (g) 11 June: 117 members (77 Government members entitled to vote with 12 votes each, 12 Employer members with 77 votes each and 28 Worker members with 33 votes each);
- (h) 12 June: 106 members (77 Government members entitled to vote with 190 votes each, 10 Employer members with 1,463 votes each and 19 Worker members with 770 votes each);
- (i) 13 June: 96 members (78 Government members entitled to vote with 77 votes each, 7 Employer members with 858 votes each and 11 Worker members with 546 votes each);
- (j) 16 June: 89 members (79 Government members entitled to vote with 5 votes each, 5 Employer members with 79 votes each and 79 Worker members with 79 votes each).

2. The Committee elected its Officers as follows:

Chairperson: Mr. G.T. Smefjell (Government member, Norway)
Vice-Chairpersons: Mr. J.J. Cox (Employer member, United States)
Mr. B. Orrell (Worker member, United Kingdom)
Reporter: Ms. M. Martyn (Government member, United Kingdom)

3. At its fifth sitting the Committee set up a working party to consider Annex III and the 19 amendments proposed to it and report back to it. The members of the working party were as follows:

Chairperson: Mr. A. Mangion (Government member, Malta)
Government members: Mr. M. Costa Cavalcante (Brazil)
Mr. H.M. Abd El Halim (Egypt)
Mr. Y.W. Jeon (Republic of Korea)
Ms. N. Malhotra (India)
Mr. B.M. Shinguadja (Namibia)
Mr. M. Williams (United Kingdom)
Mr. J.J. Zok (United States)
Employer members: Mr. D. Lindemann (Germany)
Mr. J.J. Cox (United States)
Mr. S. Bennett (International Shipping Federation)
Worker members: Mr. A.Y. Serang (India)
Ms. E. Lynch (Ireland)

4. At its eighth sitting the Committee appointed members of a Drafting Committee composed of the following members: Mr. T. Springett (Employer member, United Kingdom), Mr. J. Vigne (Worker member, Switzerland), Mr. J. Zok (Government member, United States) and the Reporter of the Committee, Ms. M. Martyn (Government member, United Kingdom).

5. At its 14th and 15th sittings the Committee set up two working parties respectively to consider Article 6 and the 16 amendments submitted to it, and Article 7 and the 27 amendments submitted to it, together with the several paragraphs for other articles dealing with biometrics. The members of the working parties were as follows:

Working Party on Article 6:

Chairperson: Ms. B. Sjølling Olsen (Government member, Denmark)
Government members from: Canada, Japan, United States
Employer members: Mr. E. Nuesch (Switzerland)
Mr. P. Sprangers (Sweden)
Worker members: Mr. E. Sarton (Netherlands)
Ms. J. Smith (Norway)
Mr. A. Trelendis (Greece)

Working Party on Article 7:

Chairperson: Mr. G. Boumbopoulos (Government member, Greece)

Government members: Ms. B. Sjølling Olsen (Denmark)

Mr. W. Bannasch (Germany)

Ms. N. Malhotra (India)

Mr. P. Sammuri (Italy)

Mr. K. Arakaki (Japan)

Mr. Y. Jeon (Republic of Korea)

Mr. H. Storhaug (Norway)

Ms. I. Van Gasteren (Netherlands)

Ms. C. Leitão Correia (Portugal)

Ms. M. Martyn (United Kingdom)

Mr. K. Dale (United States)

Employer members: Mr. T. Westra (Netherlands)

Mr. S. Bennett (International Shipping Federation)

Mr. J.J. Cox (United States)

Worker members: Mr. B. Orrell (United Kingdom)

Mr. J. Whitlow (International Transport Workers' Federation)

Mr. D. Heindel (United States)

6. The Committee had before it Reports VII(1), VII(2A) and VII(2B), entitled *Improved security of seafarers' identification*, which had been prepared by the Office. The text of the proposed Convention and its annexes, contained in Report VII(2B), was based on the views expressed during a consultation process initiated in late 2001 as well as the replies to the Office questionnaire.
7. The Committee held 20 sittings.

Introduction

8. The Chairperson opened the discussion by thanking the Committee for the confidence it had placed in him. Following the events of 11 September 2001, the need to ensure full security in the maritime sector was widely recognized. Yet it was also clear that the need of the shipping industry to operate efficiently and the need of seafarers to join ship, carry out their professional duties, take shore leave and return home without undue hardship were of equal concern. Improved security of seafarers' identification was urgently needed to resolve these interrelated problems. In the course of discussions on improved security measures for the maritime industry at the International Maritime Organization (IMO), it was agreed that the question of seafarers' identification could more appropriately be dealt with by the ILO. At its 283rd Session in March 2002, the ILO Governing Body placed the present item on the agenda of this session of the International Labour Conference, with a view to a single discussion. The Chairperson retraced the history of the Seafarers' Identity Documents Convention, 1958 (Convention No. 108), its wide acceptance and the incorporation of its basic principles in the IMO's Convention on the Facilitation of

Maritime Traffic (FAL Convention) (1965). He observed, however, that in practice immigration authorities were often unsure whether a given seafarers' identity document was genuine or counterfeit, or whether the State in question had even ratified the relevant Convention. A credible internationally recognized seafarers' identity document was needed. In the absence of such a document, each State would impose unilateral measures according to its perception of national security concerns, increasing the risk of a multitude of new, changing and costly requirements. Given the global nature of international shipping, the importance attached to international commercial trade and its facilitation, the global market for seafarers and the fact that ships were only one link in the multimodal transport chain, a global solution and an internationally accepted secure identity document were clearly in the interest of all – and certainly in the interest of the international shipping community.

General discussion

9. The representative of the Secretary-General presented the Office report noting that the substantive part of the draft Convention was essentially composed of two sets of provisions: one designed to improve the security of seafarers' identification; the other to ensure facilities for seafarers. Both parts were particularly interesting and challenging: the security aspect was not normally dealt with by the International Labour Office, nor by most national departments that traditionally deal with international labour standards. Convention No. 108 essentially covered the physical document itself, whereas the proposed revision would cover the security aspects of the basic infrastructure of the issuing and verification process. In addition, the new instrument would have to be adaptable to a rapidly evolving technological environment. Conclusions on matters of principle which would remain valid for decades would need to be reflected in the body of the instrument, whereas the technical details would be set out in annexes, which could be updated through a simplified amendment procedure. Although specifications would change as technology developed, they should respond to the need for international interoperability, the protection of the encryption and decryption of information, and the safeguarding of data from alteration by unauthorized persons. The provisions covering the facilitation aspect would correspond to those set out in the present Convention No. 108 for example, regarding the admission for shore leave of seafarers who hold valid identity documents, and to carry out their professional duties. The new and challenging aspect was that they would need to be acceptable to the member States which had not ratified that Convention. The draft instrument was therefore proposed in the form of a revising Convention, rather than a protocol amending Convention No. 108, as envisaged by the Governing Body. This reflected the majority view that had emerged during the consultation process. The development of a reliable system of identification would require an adequate system of technical cooperation in order to be fully successful. The representative of the Secretary-General promised the Committee the full support of the Office in dealing with the challenging task ahead.
10. The Employer Vice-Chairperson said that the facilitation of seafarers' movements was very much at the forefront of shipowners' concerns. Two points in particular needed to be emphasized. Firstly, in order for the maritime industry, whose business was the worldwide transportation of goods, to function efficiently, seafarers had to be able to join and leave ship in different parts of the world and return to their countries. Secondly, with the increasing speed of operations and the consequent shortening of ships' turn-around time in ports, shore leave for seafarers spending long periods at sea was taking on more and more importance. The speaker recalled the unanimous decision by governments in the IMO to request the ILO to take up the matter of improved security of seafarers' identity

documents, taking into account seafarers' movements. He fully endorsed the Office's call for technical cooperation and felt sure that, in that spirit, a consensus was surely attainable.

11. The Worker Vice-Chairperson believed that, inasmuch as they both represented professionals seeking to get on with a professional job, the Employers' and Workers' groups had more areas of agreement than of differences between them. On the other hand, he foresaw major differences with governments and urged that group to recognize that the draft Convention had been drawn up on the basis of the majority of views expressed in response to the questionnaire. He trusted, however, that at the end of the day the members of the Committee would reach the necessary consensus. The fact that the ILO had been able to respond so quickly and flexibly to this urgent issue was to the credit of the Organization. In the communiqué of the 2002 G8 summit, held in Kananaskis (Canada), the Heads of State agreed to "work towards agreement by October 2002 on minimum standards for issuance of travel and seafarers' identity documents for adoption by the International Civil Aviation Organization (ICAO), and by June 2003 on minimum standards for issuance of seafarers' identity documents for adoption at the ILO." The recent G8 summit in Evian had also included a reference to new minimum standards for issuance of seafarers' identity documents. The Committee's negotiations were therefore politically highly charged. The Workers' group looked forward to participating in what would undoubtedly be difficult negotiations in good faith and hoped that all the other groups would do likewise, since the agreement reached would have a profound effect on seafarers' ability to exercise their profession. A general discussion could help the Committee reach a common understanding of the issues, especially with regard to the status of the new document and to how it related to passports and other international instruments. There were some points on which clarification was sought. The G8 Ministers of Justice and Interior Ministers' Meeting held in Paris on 5 May 2003 had discussed the development of biometric technologies and their application in travel procedures and documents and looked to the development of a common framework and standards within the competent international bodies, especially ICAO. There was also reference to a declaration which identified three guiding principles in establishing the standards: universality of standards to ensure perfect technical interoperability; urgency in implementing those technologies; and technical reliability. Press reports indicated that the United Kingdom Home Secretary had pushed for an agreement that by 2006 passports would carry an embodied chip which would contain iris scans and fingerprints. The Workers' group wished to know how that related to the new seafarers' identity document. The Committee members were all aware of the problems seafarers were experiencing as a result of the denial of shore leave in United States ports and the fact that the United States now required seafarers to have individually issued visas as a precondition of employment, with the costs generally falling on the seafarers themselves. The difficulties some individuals and nationalities were experiencing were causing unemployment and great hardship. The speaker asked the Government member of the United States to indicate how many biometrics identifiers or templates the Government considered a seafarer should have, what the current status was regarding the proposal to abolish the crew list visa, and whether current policy was that in order to enjoy shore leave all seafarers should hold individual visas which would eventually include biometric identifiers or templates. He also sought clarification on the biometric currently favoured by the United States Government, whether a final decision had been reached, whether there was an agreed international standard, and what the relationship was, if any, between the international seafarers' identity document and the recently announced US-VISIT and NSEERS programmes. Furthermore, his group sought some assurance that the exercise would alleviate the current problems faced by seafarers visiting the United States. The Workers' group then sought clarification from the European Commission on what impact the new Council Regulation concerning Schengen Member States "on the issue of visas at the borders, including the issue of such visas to seamen in transit" would have on shore leave for seafarers. The

Commission had recently published a proposal for a Regulation of the European Parliament and of the Council on enhancing ship and port facility security. While the proposal was aimed at implementing the new IMO requirements on ship and port facility security, it also stated that the Commission would work on the legislative level to support, in consultation with member States, the work of the ILO concerning the enhancement of seafarers' identification. Also, if necessary, the Commission would launch a legislative initiative in that connection following the scheduled adoption of the text by the ILO. The Workers' group therefore wished to know what the Commission saw as the minimum requirements in order to ensure that seafarers were allowed shore leave, and whether there was a relationship between the seafarers' identity document and any visa requirement in this regard. Finally, since the IMO had taken upon itself the right to vet any agreement which emerged from the ILO process and to take appropriate action if it saw fit, the Workers' group sought assurance from the Government members of the United Kingdom and the United States, that they would not seek to invalidate the ILO process if they did not like the outcome. The international community had in recent years stressed the need for cooperation between United Nations agencies and the avoidance of duplication. The foundations of international law would be at risk if one agency usurped the competencies of another and put in place contradictory treaty obligations. The Workers' group had profound reservations on the inclusion of biometric identifiers or templates in the seafarers' identity document. The inclusion of biometric technology would have clearly to serve a useful purpose and not duplicate unnecessarily information contained in other travel documents. What was the current state of play with regard to the adoption of a universal framework and standard? If the new seafarers' identity document were to contain biometrics, a decision would have to be reached regarding the standards to which it must conform. This issue could not be left open for decision in ICAO or in the International Organization for Standardization (ISO). If no common standard was to be included, the possibility should be explored of finalizing the new Convention at a future meeting, so that the International Labour Conference, acting on the advice of a duly constituted maritime body, could agree to the insertion of a suitable amendment to the annex of the Convention so as to include a biometric based on an internationally accepted standard. The Worker Vice-Chairperson concluded by summarizing the principles which should guide the Committee in its work. First, the new instrument must be consistent with international law and with other international instruments. Of special relevance were the IMO Facilitation Convention and the recently adopted amendments to the SOLAS Convention and the related ISPS Code. Second, none of the provisions must be capable of being interpreted or applied in a manner which would be inconsistent with the fundamental rights and freedoms of seafarers. Due note must be taken of United Nations General Assembly resolution A/RES/57/219 (Protection of human rights and fundamental freedoms while countering terrorism), which affirmed that States must ensure that any measure taken to combat terrorism complied with their obligations under international law, in particular international human rights, refugee and humanitarian law. Third, the outcome from the Committee must not lead to seafarers being discriminated against or enjoying less favourable treatment than other seafarers, especially other transport seafarers. Fourth, the resulting document must not be seen as a "smart card" and must not include a chip or magnetic strip containing hidden data. This was a discussion about human beings and their ability to pursue their profession and make a living, while at the same time enjoying the basic human rights and privileges which others rightly, but routinely took for granted. The profession of seafarer must not be made more unattractive and thereby exacerbate the problems that many countries faced with recruiting and retaining new entrants to the industry. International trade and the global economy required an adequate number of suitably trained and qualified seafarers and the retention of a maritime skills base in all maritime countries.

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- 12.** The Government member of the United Kingdom welcomed the opportunity to review the seafarers' identity document (SID). This was an important task. The goal was to develop a document that would facilitate the global movement of seafarers in a world where security matters had become of utmost importance, and would restore the confidence formerly attached to the SID issued under Convention No. 108. The ideal would be to reach agreement on a document which would fulfil the role of a stand-alone travel and identity document for seafarers. But whether as a travel document or an identity document, the inclusion of a biometric was essential to the success of the new SID. The biometric chosen should be the same as that adopted by ICAO. As regarded United Kingdom passports, no decision had yet been made on the type and form of biometric to be included. It was also essential that a member State should always have the right to refuse entry to an individual in exceptional circumstances. The SID should be issued by the State of the seafarer's nationality, not the flag State. The speaker recognized the importance of strict procedures for the issue of the SID, but expressed reservations about some aspects of the prescriptive detail in Annex III. The Government of the United Kingdom had firmly supported the referral of this task to the ILO and attached considerable importance to this exercise. The speaker was confident that the Committee could produce a satisfactory outcome.
 - 13.** The Government member of the United States noted that in February 2002 at the inter-sessional meeting of the Maritime Safety Committee (MSC) Working Group on Maritime Security of the IMO, all governments had agreed on the need for a verifiable SID and on the appropriateness of the ILO to develop such a document. In December 2002 at the IMO Diplomatic Conference, all governments adopted resolution No. 8 in which States were invited with their tripartite delegations to participate in the International Labour Conference (ILC) and to give favourable consideration to the ratification, acceptance, approval or accession to the new instrument once adopted as early as possible. The Government of the United States was pleased with the cooperation and assistance provided by ICAO and remained confident that this unity of purpose and commitment would lead to the adoption of an instrument which would provide positive verifiable identification. The Government of the United States would offer amendments to the draft instrument and the annexes designed to address the concerns of delegates and provide sufficient clarity to enable the drafting of standards to proceed with confidence. If the crew list visa process were eliminated, provision would be made to facilitate the visa application process for seafarers, perhaps including specialized consular training and acceptance of applications at consulates outside the country of nationality of the seafarer. As to the fees for individual visas, these were based on whether the country of the visa applicant's nationality charged US seafarers for visas and, if so, what that charge was. Regarding shore leave, due to the adoption of the new security regime in the International Ship and Port Facility Security Code (ISPS Code), member States had agreed to enhance security measures in ports and on vessels, and that such measures had been the subject of domestic legislation in many countries. It was not merely a question of border control, but one of access to restricted areas in ports and on vessels. The new SID should be brought into alignment with the new worldwide maritime security regime coming into effect in 2004. The NSEERS programme was currently being phased in and the US-VISIT, a border management initiative, was now under way. Members of the speaker's delegation were working on both processes and were mindful of the need to consider them in parallel.
 - 14.** The Government member of Canada expressed his country's support for the intent and principles of the revision, that would strengthen the reliability of SIDs. It would be a complex exercise involving the content of the SID and its production, a database and the exchange of information and the introduction of biometrics. Canada had ratified Convention No. 108 and hoped to move rapidly towards the issuance of a recognized SID which would include all the necessary elements for its recognition. The new SID should allow seafarers to carry out their professional duties in a secure environment while

respecting their rights at work. The issuance process should be secure, reliable and produce a document of consistent quality. Even though the SID should incorporate some of the improved security features found in passports, Canada did not consider the SID alone to be an acceptable travel document. Except when temporary shore leave was requested while the ship was in port, States should have the right to impose visa requirements on persons wishing to enter or transit their territories using SIDs and to request and examine documents, including passports, to confirm the identity and bona fide status of a seafarer. The mandatory minimum requirements for issuance found in Annex III should be embedded in the body of the Convention, and should be complemented by recommended practices or guidelines located in a Recommendation subject to separate adoption and amendment procedures. The Government of Canada supported the use of national passports accompanied by a reliable and secure SID so as to confirm the identity of the individual and that person's status as a seafarer.

- 15.** The Government member of the Netherlands saw the Committee's major challenge as achieving a balance between facilitating the movement of seafarers, strengthening security and obtaining widespread ratification. The text was a good basis on which to work. The Netherlands had not ratified Convention No. 108 since their national law did not accept a SID as a valid travel document to enter the country except for temporary shore leave. There were three main issues in the proposed text. First, national authorities must have the right to deny SIDs, restrict their validity or withdraw them on grounds which, according to national law and regulations could be used to deny, restrict or withdraw a passport or national identity document. Second, the sensitive issue of biometrics should not be dealt with in a technical annex, but rather included in the main text. Third, the restricted status of a SID should be spelt out; it is not a passport or an equivalent travel document. The State must retain the right to prevent the holder from entering or remaining in its territory or to limit access to particular areas.
- 16.** The Government member of the Bahamas looked forward to a Convention that could be widely ratified and a document that would permit seafarers to move about freely, yet would reassure countries of their status as bona fide seafarers unlikely to pose a threat to security. The fact that seafarers' only involvement in terrorist attacks had been as victims was the strongest argument for allowing them the maximum possible degree of freedom. When the new ISPS Code was in place, the likelihood of a ship being involved in a terrorist attack should certainly be reduced. Seafarers' time in ports was very limited and no unnecessary obstacles should be placed in their way when an opportunity for shore leave arose. The Convention presented challenges because compromises had to be sought, not only between countries but also among different departments within governments. The new Convention should grant seafarers the freedom to enjoy short periods away from their ships, thus making a hard life more tolerable.
- 17.** The Government member of Greece sought the adoption of a new Convention with unanimous acceptance by all constituents. A new instrument should embody a number of principles: security; facilitation; cost-effectiveness; transparency; protection of personal data in accordance with national legislation and relevant EU legislation; compatibility of the internationally agreed model document with the equipment used to check common travel documents; and the need for incentives for seafarers to apply for these documents and for shipowners to encourage seafarers to apply. While it was too early for agreement on specific issues, it was clear that seafarers should not be considered as potential terrorists, but as potential victims of terrorist acts who needed to be protected.
- 18.** The Government member of Australia noted that border management challenges had never been so large, and the consequences of errors never so serious. In the new environment of heightened security, expectations of border control agencies and industry had reached new

levels. States had reacted by adopting legislation to enhance border security, requiring advance passenger and crew information, biometrics, setting stricter visa requirements, and by placing more emphasis on identity. Australia recognized the need for better seafarers' identification but questioned whether the proposed SID, to be defined under the new Convention, was the appropriate vehicle to achieve this. The primary form of seafarer identification, showing the full name as recorded in the register of births in their country of birth, the date and place of birth and the country of citizenship, should be the national passport. Application procedures for passports, including security and identity checks, were becoming globally more secure and consistent. However, the primary documents that were required to be presented at the issue of the SID might not be of the same standard as those for the issue of a passport. Maritime administrations should concentrate their efforts and resources on improving the maritime qualification systems and on reducing the extent of fraudulent certification. Using the proposed SID to prove a seafarer's identity would be a costly, inferior and unnecessary duplication of the passport. New legislation had been introduced that would require all seafarers visiting Australia to present a passport and another document linking the seafarers to the ship on which they were employed. The proposed SID would satisfy neither of those requirements. Rather the new SID should be used to establish a connection between the seafarers and the ship on which they were employed, otherwise it would have little value.

- 19.** The Government member of Portugal stated that from the point of view of the immigration authorities, checking a seafarer for the purpose of shore leave or transit was difficult because the present SIDs offered neither a guarantee of his nationality nor of the authenticity of the document. They were usually of bad quality compared with the passports and had only a few security features. Moreover, they existed in different shapes, different colours and with different information inside. Sometimes they even contained references to Convention No. 108 although the issuing State was not a party to it. Some countries party to Convention No. 108 did not recognize SIDs issued in accordance with the instrument. Facilities granted on the presentation of the SID were not harmonized among States, as some were requesting visas while others were not. A better SID for professional seafarers was needed, not only from the point of view of the authorities but also to facilitate the life of a seafarer. Clarification was needed concerning: the status of the document being discussed – whether it was an autonomous travel document that was simultaneously a document for identification purposes; to whom it would be issued; the purpose of the document; who would issue it; who should inspect the conditions of issue; who would create the required database; facilitating visas for seafarers; and the provisions regarding readmission. The revision of the Convention was of the highest importance with regard to both security and facilitation aspects and would also address concerns at IMO concerning improved security in ports and on ships.
- 20.** The Government member of Lebanon stressed the importance of the security aspect, but any improvements to the seafarers' identification and the facilitation of their working conditions should not go too far. For security reasons, the arrival of foreign nationals on the territory of a sovereign State should be subject to national immigration legislation. Individuals without proper national identity should be subject to other or special regulations. The right to disembarkation was a privilege and should only be granted if security requirements were met. Furthermore, the issue of privacy with regard to the information available on the document should be taken into account. If all these issues were considered, the Committee would be able to arrive at an instrument that was flexible and addressed all aspects related to work as a seafarer.
- 21.** The Government member of Sweden supported having a single document concerning seafarers' identification and travel. He proposed two options. Firstly, the seafarer should hold a passport with an approved biometric code (e.g. fingerprint and/or eye recognition or

other agreed methods of identification). The passport should contain an internationally accepted seafarers' visa which would give the bearer the right to cross borders in case of signing on and off ship, for transit and for shore leave. Security aspects could be guaranteed by limiting the validity of the SID so that it would only be valid when accompanied by a document issued by the shipowner covering a certain period. The second option was a seafarer passport issued exclusively to professional seafarers or, in special circumstances, to other seafarers. To renew this passport the seafarer should prove, with documentation, that he/she was in active service. This procedure was in line with the renewal of the certificate of competency (COC) in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended in 1995 (STCW Convention). The seafarer's passport should be an internationally approved travel and identity document with an approved biometric code. The shipping industry needed another solution for its employees than that provided for employees in the air transport industry. The first option offered the advantage of eliminating several travel documents and thus reducing costs. The second option had the advantage of reducing eventual problems as it came to non-citizen permanent residents, etc. The Government of Sweden preferred a passport including a seafarer's visa but could accept a solution with a seafarer's passport.

22. The Government member of Namibia looked forward to a standard that would not create more problems for both seafarers and member States, especially developing countries. The SID should facilitate shore leave, medical care and transit. It should not replace the passport. The issue of biometric templates was acceptable. The issue of the cost and availability of the necessary equipment had to be addressed. Namibia agreed with the general principles in the proposed standard, provided they were refined to eliminate any uncertainty regarding ratification or application by member States.
23. The Government member of Norway noted that the work done by the Office largely reflected the discussions held in ILO consultation meetings on seafarers' identification leading up to the Conference. The events of 11 September 2001 had had a profound effect on Norway. Its prime concern therefore was increased security of seafarers' identification. This was in the interest of both ship and seafarer. Norway favoured inclusion of the most recent technologies, including biometrics. Of equal importance was the ability of the seafarer to travel in a professional capacity. Thus the provisions of Article 6 of Convention No. 108, i.e. the granting of facilities such as shore leave, should be retained. Other prime concerns were privacy and data protection. Norway therefore supported a national database with the necessary safeguards included in the new Convention to prevent possible abuse. Norway also favoured the proposed evaluation and quality control procedures, as these would promote transparency and ensure credibility. In principle, Norway favoured the development of a "white list", depending upon how it was established, either by a panel of experts or independent institutions. In the former case, lessons might be drawn from the STCW Convention process. Norway had not yet taken a firm stand on whether the SID should be a stand-alone travel document or simply an identity document. The crucial issue of credibility was the security of the issuance process. Ratifying States must have confidence in each other's systems and procedures, while seafarers must know the factors that would be taken into account when their applications for SIDs were being processed. Seafarers should have the right to appeal against a decision in his/her disfavour. Moreover, the relationship of the new instrument with the consolidated maritime Convention should be discussed, especially as regards the simplified amendment procedure.
24. The Government member of Algeria said that his country was committed to the aims of the new text, namely to strengthen maritime security, particularly as regards the identification of seafarers. The cost of the technology in using biometric data and the legal nature of the

document as compared with an official travel document such as a passport were points that required clarification.

- 25.** The Government member of Cameroon said it was necessary to determine who could be deemed to be seafarers. It was also necessary to be clear about the legal status of the document and the difference between it and the passport. The aims of the new instrument should be, firstly, to make the identity documents and the procedures relating to their issuance more reliable and, secondly, to maintain obligations as to the rights of seafarers. Cameroon agreed with the modifications proposed in the new instrument, particularly the establishment of internationally approved models for SIDs, the harmonizations of procedures for their issuance and checking the documents. As coordinator of the Africa group, he expressed concern over the costs to developing countries of implementing the proposed technology. Avenues should be explored for financing the implementation of such technology.
- 26.** The Government member of Egypt stressed that security should not infringe upon the rights of seafarers, and endorsed the comments of the Government member of Cameroon in this regard. The Egyptian Government coordinated with shipowners and seafarers to protect the interests of all parties. States should draw a distinction between a passport and the SID. Since 1958, Egypt had been issuing maritime passports reflecting 80 per cent of the elements set out in the proposed text of the new Convention. The new instrument should reflect both security and human rights concerns. Some seafarers faced tremendous problems in some ports after the events of 11 September. The new instrument should facilitate shore leave, should be enforceable and not be costly to seafarers. As concerned biometrics, the discussion must take into account the privacy of seafarers as well as the cost of training in the use of the related equipment. The Convention should encourage widespread ratification within a limited time period.
- 27.** The Government member of Denmark said his Government had ratified Convention No. 108. It was essential to develop a new instrument that would attract widespread support and contain the right balance of many defined interests. This balance should reflect the right of seafarers to shore leave and transit to and from ships, the protection of personal information, and the requirements by States in order to protect their borders.
- 28.** The Government member of Malta said that the prime target of the Committee must be to develop an instrument that was universally accepted, having regard to the technological innovations required. The Committee had the expertise to produce a document that provided for security as well as decent work.
- 29.** The Government member of the Republic of Korea noted that the proposed Convention introduced the new element of maritime security into the SID. He reiterated the importance of placing equal value on the maritime security and the facilitation of seafarers' movement. A balance and harmony between security and seafarers' rights was needed. In Convention No. 108, the State had the right to issue documents to foreign seafarers. However, in order to improve maritime security, his Government, following national discussions, had agreed that States should only issue such documents to their own nationals, as States were in the best possible position to confirm the identity of their own seafarers. They had no objection to the inclusion of biometrics in a SID; they were being included in new national passports. It was important that seafarers were not treated less favourably than other international travellers. Proposals to eliminate the requirement in Article 5 of Convention No. 108 concerning readmission of seafarers needed further discussion. The concept of a visa waiver for shore leave should be retained. Where a visa was required, however, the formalities should be kept to a minimum and the security features in the proposed Convention should be sufficient to ensure this. As concerned minimum requirements for

database and quality control systems provided in the proposed Convention, there was too much detail. This provision should be streamlined so as to be more acceptable to many States.

- 30.** The Government member of India stated that since Convention No. 108 was more than 40 years old it was time to renew it, especially after 11 September 2001. The proposed Convention embodied many of the principles of Convention No. 108 as concerned facilitation of the shore leave and transit of seafarers. The increased demand for visas to enter countries was a concern, and the new instrument should address this. The technology being developed should be cost effective and readily available. The new SID should not be part of a passport and should enable all member States to ratify the Convention easily by meeting their objectives for improved security and maintaining decent conditions of work for seafarers.
- 31.** The Government member of Germany pointed out that his Government had not ratified Convention No. 108. He welcomed the new draft text and saw opportunities to improve upon it. He echoed calls by other Government members for a balance between security requirements and making life easier for seafarers. Regarding biometrics and new technologies, Germany was positive and open to the issue. Appropriate wording should be used to enable advances in technology to be used. As other Government members had pointed out, the readmission issue was important and required discussion.
- 32.** The Government member of China supported the text of the proposed Convention as provided by the Office. The ability of seafarers to cross national borders for transit or shore leave purposes was an important right. The requirements in Convention No. 108 as concerns the issuing of SIDs were too general, since national issuing procedures varied greatly. As a consequence, the role the SID should play, and its reliability, had been greatly undermined. It was a priority to adopt a universally accepted model document issued in accordance with national procedures of recognized high quality. The new Convention should allow ratifying member States to issue the identity document only to nationals in accordance with uniform requirements. This would avoid the need for repeated changes to be made to the instrument once it had entered into force. China accepted the idea of including provisions for a “white list” similar to those set forth in the STCW Convention. As there were still different views on the review and control procedures in that Convention, the Committee should take a cautious approach to the issue. It should also consider strengthening provisions concerning seafarers’ rights. Finally, there was a need for the ILO to provide technical cooperation and technical assistance to States to allow them to meet the requirements set forth in the proposed new Convention. This would facilitate the achievement of the objective to have a new instrument widely accepted and effectively implemented.
- 33.** The Government member of Cyprus observed that costs relating to the issue of the new documents could be high for developing countries. As concerned visa costs, the most powerful member States, which were considered as pioneers in the fight against terrorism, should recognize that the seafarers were special travellers and visas should be issued gratis or at a lower cost than applied to other categories of travellers, such as business travellers. A pragmatic approach was needed. All recognized the need to adopt a new standardized and universally recognized SID, as well as the need for a standardized database for identity verification purposes in order to facilitate the mobility of seafarers. An agreement could be reached if all parties concerned, including developing countries – the major suppliers of labour, States leading the fight against terrorism, and flag States, made an effort to this end.

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- 34.** The Government member of Cuba expressed her support for improving security features, but stressed the importance of ensuring decent working conditions for seafarers and the protection of member States' sovereign rights in their territory. There should be no unnecessary barriers to seafarers' mobility. An equilibrium should be found in order to grant advantages to seafarers and not to impose difficulties upon them. She reiterated the views expressed by many developing countries as concerned the cost of implementing the new instrument.
- 35.** The Government member of Brazil noted that his country had ratified Convention No. 108. The SID was currently issued by the national maritime authority. Since the new procedure envisaged in the proposed instrument would require changes in national procedures, some time would be necessary for their implementation. His country also had concerns about the costs involved. In Brazil, legislation provided that foreign seafarers working on ships in the cabotage trade needed special authorization issued by national authorities.
- 36.** The Government member of Indonesia observed that Convention No. 108 lacked security provisions, and this made its revision necessary. Indonesian seafarers were facing tremendous difficulties in exercising their rights as a result of the 11 September tragedy. They were denied shore leave and had to bear the cost of obtaining visas for certain countries. This made it more difficult for them to find employment, especially when transit to join a ship was not possible due to time-consuming procedures for obtaining a visa. Her country had not ratified Convention No. 108 but had, as far as possible, adjusted its legislation accordingly. The Indonesian seaman's book contained only a serial number and the embossed official stamp of the authorities. Improvements were certainly needed in order to meet the conditions presently imposed. Differences in technologies from one country to another should be also taken into account. The main concerns of her delegation related to ensuring an appropriate period of time for implementation, for recognition of the existing seaman's book until the new SID was provided, and the need for technical assistance in implementing the new requirements.
- 37.** The Government member of Mexico noted that the issue of biometric data to be included in the identity document would involve unknown costs and the technology was not available to all developing countries. Further clarification on mechanisms provided to help developing countries to implement the new standards was required.
- 38.** A representative of the European Commission clarified the content of the Schengen Convention (part of European Union legislation) and its developments, to which the Workers' group had referred. As for the conditions to be fulfilled for entry into the Schengen territory, in particular concerning the visa requirement, she explained that Schengen States include all European Union Member States except the United Kingdom and Ireland plus Norway and Iceland and that the Schengen uniform visas are the authorization or decision granted in the form of a sticker affixed to a passport or another travel document entitling the holder to cross the border. Council Regulation (EC) No. 539/2001 listed the third countries whose nationals were requested to be in possession of visas when crossing the external borders and those whose nationals were exempted from that requirement. Under that Regulation, Member States could provide for exceptions from the visa requirement or from the exemption from the visa requirement for certain categories, including civilian sea crew for shore leave and transit purposes. The issuing of visas at the border was an exceptional practice for specific and duly justified cases. A new Council Regulation (EC) No. 415/2003 had entered into force on 1 May 2003 with a view to clarifying and simplifying the rules on the issue of visas at the border, including their issue to seamen in transit. In short, and concerning seafarers, the proposal aims at facilitating the possibility of issuing group transit visas at the border to seamen of the same nationality travelling in a group. In practical terms, all but two Schengen Member States

allowed an exception from the visa requirement for shore leave purposes to seafarer holders of valid documents issued under ILO Convention No. 108 of the FAL Convention. All but two Member States required a visa for seafarers in transit. Concerning the question as to whether or not the SID should be associated with a travel document, the issue of identity documents fell within the competence of European Union Member States.

- 39.** A representative of the International Christian Maritime Association (ICMA) observed that, for regulations to be respected, they should be reasonable and serve a compelling purpose. Since the events of 11 September 2001, SIDs were increasingly seen as a security measure rather than a means to facilitate seafarers' movements. This new focus placed increasing responsibilities on ships' crews, and it was therefore regrettable that restrictions on shore leave in the United States had made seafarers feel more like potential terrorists than allies in the common cause of increasing security. If the new requirements did not recognize the status and important security functions of seafarers, the seafarers themselves would lose confidence in and respect for them. A recent survey of shore leave detentions in the United States had found that where shore leave had been denied by governmental authorities it was almost entirely due to the seafarers not possessing a seafarers' visa and not because of a security risk. ICMA strongly supported the issuance of SIDs, but only if they were viewed as an acceptable substitute for a visa, or as a basis for visa waiver. ICMA accepted that the new SIDs would have to include a biometric. However, the adoption of standards for a new identity document must strike a balance between the security concerns of certain countries and the need for shore leave of seafarers.
- 40.** The representative of the Secretary-General responded to a number of queries that had arisen in the course of the discussion. Concerning the question of the status of the identity document, she said that under the proposed new Convention, it would be useful for seafarers to have a passport in order to prove that they were nationals of an issuing country. However, proof of identity for purposes of shore leave or transit would be based solely on the SID. A passport would not be required in addition. In this sense, it would thus have no legal relationship to a passport. Although the SID would be neither a travel document nor a passport, it would serve some of the purposes of the latter. In particular, it would (subject to refusal in individual cases) allow admission on a foreign territory, but for purposes that are limited in time and in space: i.e. the purposes of shore leave and professional movements. As to the object of the new SID, the intention was that it should provide positive verifiable identification for admission to territories for those same purposes. With respect to the relationship to other international instruments, two situations could arise if a ratifying Member had an obligation under another relevant Convention such as the FAL: either the other Convention was consistent with the new ILO Convention, and the other provision would then remain applicable to the ratifying Member; or the other instrument was inconsistent with the new Convention and, for the ILO supervisory bodies, the provisions of the ILO Convention would prevail. Concerning the consequences of failure to adopt a biometric standard, she stated that should the Conference fail to reach agreement on a common standard for a biometric in Annex I meeting the preconditions set out in the body of the new Convention, a final decision on the matter could be adopted at a later session under a simplified amendment procedure. Specifically, it would be possible for the new Convention to be adopted at the present session of the Conference on the understanding that Annex I, point 1(j), relating to the biometric could be finalized as early as its June 2004 session. In answer to another question, she said that the new instrument provided for SIDs to be issued to seafarers who were nationals and, possibly, to permanent residents of the issuing country. By "seafarers" was meant all persons employed or engaged on board ship, irrespective of the capacity in which they were present. Finally, the question of readmission to a country did not arise, inasmuch as countries were required under international law to readmit their own nationals. If the Committee wished the new

instrument to include a specific reference to readmission, it would need to clarify the matter through an amendment to the text.

41. The Worker Vice-Chairperson stated that the SID should be separate from and supplemental to a national passport. It was not a replacement for a passport and it did not need to duplicate all the information provided on the national passport, but it could provide further evidence with regard to the identity of the person in receipt. The SID need not conform precisely to ICAO standards. Regarding temporary shore leave, the presumption should be that the SID was sufficient to allow access without the need for a visa. Concerning transit, there should be no requirement for a visa for seafarers in possession of a valid national passport and a SID to join or leave a ship. In those countries where national legislation prohibits entry without a valid visa, a valid passport and a SID should facilitate the “automatic” issuance of a visa or a visa waiver at the border at no cost to the seafarer.

Consideration of the Seafarers’ Identity Documents Convention (Revised)

42. The title of the Convention, “Seafarers’ Identity Documents Convention (Revised)” was adopted without amendment.

Preamble

43. Five amendments were submitted to the Preamble.
44. The first and second preambular paragraphs were adopted without amendment.
45. The Government member of Namibia, speaking also on behalf of Angola, presented their amendment (D.11), to add the words “the national interest of States (this includes individuals’ personal safety)” after the words “safety on ships” in the third preambular paragraph. Security concerns extended beyond ships and their crews and included the interests of the whole population.
46. The Employer Vice-Chairperson did not oppose the amendment in light of the explanation provided. The Worker Vice-Chairperson supported the amendment as did the Government member of Lebanon.
47. In light of the general support expressed for the amendment, the Chairperson suggested it be passed on to the Drafting Committee.
48. The Government member of the Republic of Korea pointed out that the concept of national interest went beyond the security issues which were under discussion, but agreed that the amendment should be referred to the Drafting Committee.
49. The third preambular paragraph was thus adopted.
50. The Worker Vice-Chairperson introduced his group’s amendment (D.2), to add the following new paragraph: “Mindful also of the core mandate of the Organization, which is to promote decent conditions of work; and” after the third preambular paragraph. He expressed confidence that all Committee members subscribed to this objective. The Employer Vice-Chairperson agreed that the amendment was appropriate. The new preambular paragraph was thus adopted.

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- 51.** The Employer Vice-Chairperson presented an amendment (D.9), to add the following new preambular paragraph: “Recognizing the principles embodied in the Seafarers’ Identity Documents Convention, 1958, concerning the facilitation of entry by seafarers, into the territory of Members, for the purposes of shore leave, ship transfers or repatriation.” Facilitation of entry was a major concern and this should be reflected in the Preamble. The Worker Vice-Chairperson concurred. The new preambular paragraph was thus adopted.
 - 52.** The Government member of Greece, seconded by the United Kingdom, introduced an amendment (D.12), to add the following new preambular paragraph: “Noting the IMO Convention on the Facilitation of International Maritime Traffic, and ...”. The proposal was made in light of the reference in the FAL Convention to the right to temporary shore leave.
 - 53.** After a brief procedural discussion, the Worker Vice-Chairperson presented an amendment (D.3), the first paragraph of which made much more detailed reference to the FAL Convention than had the amendment (D.12). With the Committee’s approval, the Workers’ amendment was then discussed paragraph-by-paragraph. Observing that the purpose of a preambular paragraph was to direct attention to issues of concern – in this case shore leave – it was insufficient to refer in general terms to the FAL Convention. Rather, specific reference should be made to the provisions pertaining to the right to shore leave. The Workers’ group therefore proposed that the following new paragraph be included in the Preamble: “Noting also the provisions of the Convention on Facilitation of International Maritime Traffic, 1965, as amended, which has, inter alia, established a general right for foreign crew members to be entitled to shore leave while the ship on which they arrived is in port, provided that the formalities on arrival of the ship have been fulfilled and the public authorities have no reason to refuse permission to come ashore for reasons of public health, public safety or public order and that Standard 3.45 of the Convention provides that seafarers shall not be required to hold a visa for the purpose of shore leave, and ...”. This text would refer the competent authorities responsible for implementation directly to those aspects of the FAL Convention which were relevant to the new instrument, notably the question of visas and reasons to refuse entry.
 - 54.** The Employer Vice-Chairperson preferred a concise Preamble which contained general references to relevant documents. The Workers’ proposal was too detailed and contained sensitive language. The Employers’ group therefore preferred the proposal of Greece.
 - 55.** The Government members of Germany, Malta, the Netherlands, South Africa, and the United Kingdom also preferred to see less detailed and lengthy references in the Preamble and supported the Greek proposal.
 - 56.** The Government members of Denmark, Lebanon, Norway, and the United States opposed the Workers’ amendment, noting that substantive provisions were best left to the operative part of the instrument. They too expressed support for the amendment proposed by Greece.
 - 57.** The Government member of Portugal reminded the Committee that the FAL Convention was presently subject to revision and that the standards and recommended practices on port security were also under discussion. In her opinion, allowing seafarers to go ashore implied not only their access to the port, but also their entry into the national territory. For these reasons, she supported the amendment proposed by Greece.
 - 58.** The Government member of Cyprus expressed sympathy with the Workers’ proposal, noting that abuses began when instruments were not explicit. However, the merits of the Greek proposal were evident as well in light of the revision of the FAL Convention.

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59. The Government member of Greece observed that a simple search on the Internet using the word “visa” would provide thousands of references, but a search for “visa” in conjunction with “FAL” would indicate the exact wording contained in that Convention. The speaker asked the Workers to accept the amendment proposed by his delegation.
 60. The Chairperson noted that there was wide agreement within the Committee that the Preamble should contain a reference to the FAL Convention.
 61. The Worker Vice-Chairperson agreed that the debate had been useful, but noted that nearly all of the Governments represented on the Committee had agreed to a very lengthy preambular paragraph in the ISPS Code which had contained the word “visa”. While recognizing that the Workers’ proposal was not widely supported, he nonetheless called for a vote so that the results would be placed on record.
 62. Put to a vote the Workers’ amendment was rejected with 25,092 votes cast in favour, 28,458 votes against, and 4,590 abstentions.
 63. The Chairperson proposed that the discussion should return to the amendment submitted by the Government member of Greece.
 64. The Worker Vice-Chairperson proposed that the word “and” at the end of that amendment be replaced by the words “in particular Standards 3.44 and 3.45, and”.
 65. The Employer Vice-Chairperson preferred the original wording as proposed by Greece, as did the Government members of Lebanon and Portugal.
 66. The Government member of Canada observed that, inasmuch as the standards referred to were subject to modification within the context of the revision of the FAL Convention, a more satisfactory wording might be “in particular Standards 3.44 and 3.45, as amended from time to time, and”. The Worker Vice-Chairperson agreed with the intention of the previous speaker, but suggested that the text should read “as amended, in particular Standards 3.44 and 3.45, and” in order to refer to the FAL Convention itself.
 67. The Government members of Malta, the Netherlands, South Africa and Sweden supported the amended wording.
 68. After an indicative show of hands, the Committee adopted the new preambular paragraph as amended.
 69. The Government member of Greece reiterated his desire to see a new instrument which would achieve unanimous acceptance, rather than simply majority support. He hoped that the vote taken earlier would not just be the Committee’s first vote, but also its last.
 70. The Worker Vice-Chairperson responded that his group hoped to achieve a Convention that would provide seafarers with protection regarding security. He hoped that they would not be outvoted at every turn and noted the need for the Committee to accommodate the Workers’ group’s views. He then turned to his group’s proposal for an additional new preambular paragraph (D.3, paragraph 2) with the following wording: “Noting further that United Nations General Assembly resolution A/RES/57/219 (Protection of human rights and fundamental freedoms while countering terrorism) affirmed that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law, and”.

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71. The Employer Vice-Chairperson restated his group's preference for a concise Preamble and questioned the inclusion of the paragraph in its current form, although the basic idea seemed reasonable. Following the request of several delegations for a copy of the resolution in question, it was decided to return to this proposal at a later time after the text had been distributed.
 72. The Worker Vice-Chairperson then introduced an additional new paragraph (D.3, paragraph 3) which stated "Considering that, given the global nature of the shipping industry, seafarers need special protection, and".
 73. The Employer Vice-Chairperson feared that the position of the paragraph in the Preamble, immediately following a paragraph on measures to combat terrorism, implied that seafarers needed special protection in that regard that others were not necessarily entitled to. While supporting its inclusion in the Preamble, he suggested that the paragraph be shifted to a more appropriate position. This proposal was readily accepted by the Workers.
 74. The new preambular paragraph was thus adopted and the Drafting Committee would determine its position in the text.
 75. The Worker Vice-Chairperson introduced a new preambular paragraph (D.3, paragraph 4), which read: "Being aware that seafarers work and live on ships involved in international trade and that access to shore facilities and shore leave are vital elements of seafarers' general well-being and, therefore, to the realization of safer seas and cleaner oceans; and". He referred to Conference resolution 11 on Human-element-related aspects and shore leave for seafarers adopted on 12 December 2002 by the IMO's Diplomatic Conference on Maritime Security, which drew attention to the critical importance of shore leave, and said that the ILO, which aimed to promote decent work, should not be outdone by the IMO on this matter.
 76. The Government member of the Bahamas and the Employer Vice-Chairperson supported the amendment, and it was adopted.
 77. The Worker Vice-Chairperson introduced another new preambular paragraph (D.3, paragraph 5), which read: "Being aware also that the ability to go ashore is essential for joining and leaving a ship after the agreed period of service, and".
 78. The Employer Vice-Chairperson expressed support for the amendment, and it was adopted.
 79. The Worker Vice-Chairperson then reintroduced D.3, paragraph 2, which read: "Noting further that United Nations General Assembly resolution A/RES/57/219 (Protection of human rights and fundamental freedoms while countering terrorism), affirmed that States must ensure that any measure taken to combat terrorism complies with their obligations under international law, in particular international human rights, refugee and humanitarian law, and". He said that everything in the resolution A/RES/57/219 had been accepted on a consensus basis at the General Assembly.
 80. The Employer Vice-Chairperson offered a subamendment to add ", and" after "(Protection of human rights and fundamental freedoms while countering terrorism)", and deleting the rest of the amendment.
 81. The Worker Vice-Chairperson objected to the subamendment, and it was withdrawn.
 82. The Government members of Denmark and the United Kingdom expressed support for the Workers' amendment, and it was adopted.

83. The Preamble was adopted, as amended.

Article 1

84. Thirteen amendments to Article 1 were submitted.

85. The Government members of Denmark, Norway and the United Kingdom submitted an amendment (D.29) to add the sub-heading “Scope” under the heading of Article 1.

86. The Employer and Worker Vice-Chairpersons supported the amendment. The Government member of Portugal agreed with the idea of having sub-headings in the text of the Convention, but felt that “scope” might not be the correct term as the paragraph that followed concerned definitions and not scope of application. The Government member of Namibia had no objection to the amendment, but wondered if it followed the appropriate style. The Government member of Pakistan suggested it be resolved later.

87. The amendment was adopted, and referred to the Drafting Committee.

Paragraph 1

88. The Government members of Canada and France submitted an amendment (D.37) to replace the words “le terme ‘marin’ désigne” with the words “les termes ‘marin’ et ‘gens de mer’ désignent” in the French-language version of the text of the paragraph. The amendment was supported and was adopted.

89. The Government members of Norway and the United States submitted an amendment (D.18) calling for the addition of the word “civilian” after the words “means any” in paragraph 1. The purpose was to address the matter of civilian seafarers working on board ships under military control. The Employer and Worker Vice-Chairpersons requested further clarification on its intent.

90. The Chairperson observed that another amendment (D.19) submitted by the Government members of Norway and the United States, which called for the deletion of the words “, other than a ship of war” was similar in content. The Government member of the United States further noted that another amendment (D.20) submitted by Norway and the United States, which called for adding, after the words “engaged in maritime navigation.” a sentence reading “It is recognized that military personnel are identified by their Geneva Convention identification cards” also dealt with the same issue. It was therefore agreed that all three amendments (D.18, D.19 and D.20) be considered together.

91. The Government members of the Russian Federation and the United States and both drew attention to the importance of providing SIDs to civilian personnel working on board vessels owned or chartered by the military.

92. The Government member of Egypt did not believe that the amendment was needed, as the Convention concerned seafarers on civilian vessels.

93. The Worker Vice-Chairperson preferred not to insert the word “civilian” in the text nor to delete the words “, other than a ship of war”.

94. The Government member of Denmark, noting that there were several types of vessels that could serve a military or coastal patrol function, but employ civilians, suggested using such words as “any person other than military personnel”.

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95. The Government member of India said in her country navy personnel approached the maritime administration for ID cards so that they could sail on merchant navy ships to acquire experience. The amendment proposed by the Government members of Norway and the United States addressed this issue.
 96. The Employer Vice-Chairperson observed that the fact that the text in paragraph 2 of Article 1 provided flexibility for States to determine the categories of persons to be regarded as seafarers, was sufficient to address the issues raised by Norway and the United States.
 97. The Government member of the Republic of Korea supported the views of the Government member of Egypt and the Employer Vice-Chairperson.
 98. The Government member of the United States pointed out that the military had an interest in knowing if a person coming on board an auxiliary vessel had a verifiable ID document.
 99. The Worker Vice-Chairperson said that, if a seafarer did not have a SID issued under the Convention, a government could choose not to employ them.
 100. The three amendments (D.18, D.19 and D.20) were subsequently withdrawn.
 101. The Government member of the United Kingdom, seconded by the Government member of Greece, submitted an amendment (D.27) to replace the word “vessel” in paragraph 1 with the word “ship”. This, she said, was a minor editorial amendment aimed at bringing the terminology in line with that of other international instruments.
 102. The Worker and the Employer Vice-Chairpersons preferred to retain the term “vessel”. Many vessels, particularly in the offshore support sector, were in fact referred to as “vessels” and not “ships”, and the amendment would remove coverage for seafarers on such vessels.
 103. The amendment was withdrawn.
 104. The Worker Vice-Chairperson introduced an amendment (D.4) which called for the deletion of the words “registered in a territory of a Member for which the Convention is in force”. A nearly identical amendment (D.10) was submitted by the Government members of Denmark, Greece, Portugal and the United Kingdom, and both were considered at the same time.
 105. The Government member of Greece said that there was a contradiction between paragraph 1 and paragraph 2. In paragraph 1, the term “seafarer” was defined in terms of the flag State, while paragraph 2 provided that, in the event of doubt whether any categories of persons are to be regarded as seafarers for the purpose of the Convention, the question was to be determined by the State that issued the SID. These might not always be the same States.
 106. The Worker Vice-Chairperson, explaining his group’s amendment (D.4), said the SID should be linked to the ship. A seafarer might face problems entering a country to join a ship if he came from a country which had ratified the Convention but was seeking to join a ship registered in a country that had not ratified it.
 107. The amendments were adopted with the understanding that the minor difference between them would be dealt with by the Drafting Committee. As the result of the adoption of these amendments, amendment D.39 was not considered.

108. Paragraph 1 was adopted, as amended.

Paragraph 2

109. The Government member of Germany, seconded by the Government member of the Netherlands, submitted an amendment (D.40) to replace the words “the question shall be determined by the competent authority of the issuing State of the seafarers’ identity document after consultation with the shipowners’ and seafarers’ organizations concerned” by the words “after consultation with the shipowners’ and seafarers’ organizations concerned, the determination which the issuing Members for which this Convention is in force has made by issuing the seafarers’ identity document shall be taken into due consideration.”. The purpose of the amendment was to ensure that not only the issuing State, but also the State of admittance, had a role in determining which categories of persons are to be regarded as seafarers.
110. The Employer and Worker Vice-Chairpersons expressed concern over the amendment which, among other things, seemed to weaken the process of consultation, and requested further clarification.
111. The Government member of Denmark supported these views. She added that perhaps the issue might best dealt with during the discussion of Article 7, paragraph 1, which provided that a State had the possibility of not recognizing a seafarer as a seafarer within the meaning of the Convention if clear grounds existed for doubting the bona fides of the holder of the identity document in a particular case.
112. The Government member of the United States said that another amendment (D.21) could be considered in the light of the foregoing remarks.
113. The Government member of Norway opposed the amendment, observing that it would create difficulty with the concept of mutual recognition by States of the documents issued by other States. States must have trust in the Convention, and it should be drafted so as to provide the basis for such trust.
114. The Government member of Portugal could not accept the proposed amendment, adding that the problem was partly due to the lack of a definition for “seafarer” in the draft Convention.
115. The Government members of the Bahamas, Brazil, France, India, Russian Federation and the United Kingdom opposed the amendment.
116. The Government member of Germany did not agree, particularly with the remarks of the Government members of Norway and Portugal, but agreed to withdraw the amendment in favour of amendment D.21.
117. The Government members of Norway and the United States submitted an amendment (D.21) that would add, after the words “shall be determined”, the words “in accordance with the terms of this Convention”. The purpose of the amendment was to ensure that the determination made in paragraph 2 was in accordance with the Convention.
118. The Worker and the Employer Vice-Chairpersons supported the amendment, which was adopted.
119. The Worker Vice-Chairperson introduced an amendment (D.5), supported by the Government member of Italy, to replace the words “issuing State of” with “State of

nationality or permanent residence of the seafarers issuing”. The purpose was to clarify what was meant by “issuing State”. He was mindful, that the inclusion of the words “or permanent residence” might await the outcome of consideration of the issue of issuing identity documents to such permanent residents in paragraph 3 of Article 2.

120. The Employer Vice Chairperson had no difficulty with the amendment, bearing in mind, as had been indicated, that it would be influenced by the outcome of debate on Article 2.
121. The Government member of Norway expressed concern over the amendment, as his Government did not intend to issue identity documents to permanent residents. He questioned how States could guarantee the identity of non-nationals and drew attention to the potential problem of seafarers having more than one SID.
122. The Government member of the United States agreed. The issue was how to cover all the possible situations concerning who should issue SIDs and to whom.
123. The Worker Vice-Chairperson, noting that the debate had centred on the matter of the words “permanent residents”, suggested that those words be left in square brackets, to be returned to after discussion of Article 2.
124. The Government member of Algeria, who had offered his own subamendment to clarify this situation, and the Government member of Egypt, expressed support for the suggestion by the Worker Vice-Chairperson.
125. The amendment was adopted, leaving the words “permanent residents” in square brackets for consideration by the Drafting Committee pending the outcome of discussion of Article 2.
126. Paragraph 2 was adopted, as amended.

New paragraph

127. The Worker Vice-Chairperson introduced an amendment (D.6) to add a new paragraph after paragraph 2, to read: “After consulting the representative organizations of fishing vessel owners and fishermen, the competent authority may apply the provisions of this Convention to commercial maritime fishing, with the identity document clearly indicating that it has been issued to fishing vessel personnel.”
128. The Employer Vice-Chairperson said his group did not represent fishing vessel owners. Nevertheless, as the amendment called for voluntary consultation with fishing vessel owners prior to applying the provision to commercial maritime fishing, they did not object to it.
129. The Government member of Greece drew particular attention to the latter part of the amendment, providing that the document clearly indicated that it had been issued to fishing vessel personnel, and said that this implied a second type of identity document. The amendment was superfluous.
130. The Government member of France, seconded by the Government members of Canada and Algeria, introduced a subamendment which would provide that the identity document “should clearly indicate” that it had been issued to seafarers employed in fishing. In France, he explained, fishermen had historically been considered as seafarers.

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- 131.** The Government member of Denmark supported the concept of expanding paragraph 2 to address fishermen employed on distant water fishing vessels. In this regard, she noted that the recent Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180) had such a provision in Article 1(2). She did not support the Government member of France as she had concerns over the issue of readmitting of seafarers in connection with fishing vessels. Commenting on what had been said by the Government member of Greece, she did not see why it would not be possible to make the Convention more clear.
- 132.** The Government member of Cyprus noted that many other special categories of workers, such as certain workers on cruise vessels, were covered, so fishermen were clearly covered.
- 133.** The Government members of Cuba and Portugal requested clarification as to whether persons working on private yachts and cruise ships would be considered seafarers and thus be covered by the Convention.
- 134.** The Chairperson noted that paragraph 2 left this matter to national consultation.
- 135.** The Worker Vice-Chairperson, following a request for clarification by the Government member of Norway on what was intended by the amendment, said that, in the experience of his group, many governments excluded fishing vessel personnel from coverage by national laws and regulations concerning seafarers. In the ongoing work to develop a new consolidated framework Convention for seafarers, governments had stated that fishing vessel personnel were not considered seafarers. Now, as concerns identity documents, they were now expressing the opposite view. He offered a subamendment to delete the words "with the identity document clearly indicating that it had been issued to fishing vessel personnel". He also suggested that the text use a term for "fishermen" that was gender-neutral.
- 136.** The Government members of the Bahamas, Brazil, Egypt, France, Greece and Portugal, and the Employers' group, supported the amendment as subamended, and it was adopted.
- 137.** Article 1 was adopted as amended.

Machine-readable travel documents

- 138.** A representative of the International Civil Aviation Organization (ICAO) provided information on developments in ICAO concerning machine-readable travel documents (MRTDs) and, particularly, the use of biometrics in such documents. The Technical Advisory Group on Machine Readable Travel Documents (TAG/MRTD), which reported directly to the ICAO Council's Air Transport Committee (ATC), had met in its Fourteenth Session in Montreal in May 2003. Its main agenda item had been the inclusion of biometrics in MRTDs. A copy of the report of the TAG/MRTD was provided to the Committee. A recent ICAO press release, copies of which were made available to the Committee, defined biometrics thus: "Biometrics is a means of identifying a person by biological features unique to an individual, using advanced computerized recognition techniques." A more technical ICAO document provided that: "Biometrics are the automated means of recognizing a living person through the measurement of distinguishing physiological or behavioural traits." The biometrics being considered by ICAO were facial recognition, fingerprints and iris scans.

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- 139.** The May 2003 TAG/MRTD meeting had developed a four-part recommendation intended for States that would be using biometrics for passports and other MRTDs. Firstly, it had recommended facial recognition as the globally interoperable biometric for machine-assisted identity confirmation with machine-readable travel documents. Secondly, the storage medium on MRTDs should be high-capacity, contactless integrated circuit (IC) chips. Thirdly, a specially developed logical data structure (LDS) should be used as the framework for programming data to ensure interoperability of MRTDs. Fourthly, a modified public key infrastructure (PKI) scheme should be used to provide security of data stored in the IC chip against unauthorized alteration or access.
- 140.** The TAG/MRTD had stressed the importance of ICAO rapidly approving the recommendation, particularly in the light of the requirement by the United States for countries to which the visa waiver applied to include a biometric in their passports by October 2004. The Air Transport Committee had already approved, in principle, the TAG/MRTD recommendations. The technical reports of the TAG/MRTD would now be used as the basis for improving and updating ICAO Document 9303 on MRTDs. This would result in the development of detailed technical specifications to be published by ICAO, and these would be submitted to the International Organization for Standardization (ISO) for endorsement as standards. Steps would be taken to give this work increased status within ICAO. At present, the work existed only as technical specifications to be included in ICAO Document 9303. It was now anticipated that work should begin to develop standards within Annex 9 of the 1944 Convention on International Civil Aviation (the Chicago Convention), a process that would begin at a meeting of the ICAO Facilitation Division in early 2004. It was expected that the recommendations of TAG/MRTD would become the basis for standards but that detailed specifications would not be included in those standards. ICAO standards were binding, although States could file a difference to a standard adopted, i.e. States were permitted to make exceptions to it.
- 141.** Several Committee members asked questions concerning the technology associated with the use of biometrics in travel documents. To assist the Committee in its work, the ICAO representative made available copies (in English) of an ICAO technical report entitled *Biometrics Deployment of Machine Readable Travel Documents, Version 1.8*. In response to a question concerning whether biometrics were in the design stage or beyond, he indicated that the technology selected was beyond the design stage and could be used with confidence. In response to a question concerning the effects of heat or humidity on the associated equipment used to read biometrics, he said this was a question for experts in the technology. As concerned the use of a facial recognition biometric, ICAO had recommended using a compressed visual image of the person on the IC chip rather than using a biometric template. The use of a facial recognition biometric template had not been retained due to problems of interoperability among the various systems used to register and read such templates. In response to a question on whether biometrics, particularly the facial recognition biometrics, changed and, if so, how frequently, he referred to page 39 of the technical report, which discussed "Travel Document 10 Year Validity Considerations". Concerning intellectual property rights issues associated with contactless IC chips, he said that this was not an issue, as the chips were the subject of an ISO standard (ISO Standard 14443) and hence the technology was in the public domain. It was possible for the card holder to see the image on the chip by retrieving and enlarging the compressed image using the appropriate equipment. Further information on the use of the chip could be found on pages 31 and 39 of the technical report. Regarding the use of a bar code rather than the IC chip, bar codes apparently had insufficient capacity to store the large amount of data associated with a facial recognition biometric. Even with other types of biometrics, incompatibility among the equipment of different manufacturers had discouraged, but not entirely ruled out, the use of the bar code. He had no specific information on the cost of the technology. However, ICAO's technical reports provided a long list of what States had to

take into account when producing passports and travel documents containing biometrics, and this could assist in estimating the costs involved.

- 142.** ICAO documents did not address the procedures for issuing passports, as such. Each State had its own procedures, and these were often confidential in order to help prevent fraud and counterfeiting. ICAO Document 9303 did have provisions for security features, however, and work was in progress on security measures applicable to the issuance process. Although ICAO had in place a system for auditing States for their implementation of air safety standards, and had just introduced such a system for security standards, it did not audit States on the issuance of passports or travel documents – but this was being considered by the TAG/MRTD. Concerning databases to hold biometric and other information related to MRTDs, there was currently no ICAO guidance on the subject. In response to a question concerning the impact of the biometric technical reports on ICAO Document 9303, he said that this document would remain unchanged except for the addition of the biometric specifications. As for their date of availability, ICAO certainly would have them ready in time to meet the United States deadline of October 2004 concerning visa requirements and waivers.
- 143.** Several Committee members wanted to know whether the biometric standards recommended by ICAO would become a universal requirement for all passports and travel documents. In reply, the ICAO representative said that it would remain for each State to decide whether or not to include biometrics in its passports and travel documents. The specifications adopted by ICAO and the ISO were technical blueprints, not policy documents. In other words, if a State chose to use biometrics, it should follow the technical specification. Nonetheless, ICAO specifications and ISO standards were necessary for a globally interoperable solution to the requirement to be able to confirm the identity of the rightful holder of the document.
- 144.** Having been asked whether airline crews had to carry passports if they carried crew member certificates (CMCs) in accordance with paragraph 3.24 of Annex 9 of the Chicago Convention, he replied that, while Annex 9 indicated they did not, this standard was not widely implemented. A few States waived both passport and visa, while a substantial number required a passport but not a visa if the CMC was presented. Many States had filed differences on this matter. ICAO was working on revising and updating the CMCs to require them to be machine-readable and be able to hold biometric information as a condition of identifying the crew member as being eligible for temporary entry without a visa. However, there would probably continue to be a requirement for the aircrew member to have a passport. He also cautioned that there were important differences between the CMC and the SID. Asked whether there had been a discussion at the May 2003 TAG/MRTD of the possible requirement for a biometric in the SID, he said that the meeting, at which the ILO had been represented, had been more of an exchange of information and that the two organizations had agreed to cooperate and continue to exchange information on their respective work.
- 145.** As far as a May 2003 communiqué by the G8 countries concerning the development of biometric technologies and their application in travel procedures and documents was concerned, the ICAO representative said the G8 countries were all members of ICAO and they generally endorsed its work. ICAO would seek to improve its cooperation with the G8 Roma and Lyon Groups concerning biometric applications for international travel. The Government member of Italy, who had participated in those Groups, said discussions were still under way, at least among European countries, concerning the best way forward regarding the use of biometrics in travel documents, as some appeared to prefer the use of a fingerprint biometric over a facial recognition biometric. The issue of data protection was also being addressed.

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146. On behalf of the Committee, the Chairperson thanked the ICAO representative for his participation and for clarifying many of the issues the Committee was addressing.

Article 2

147. Fourteen amendments to Article 2 were submitted.

Sub-heading

148. The Government member of Norway introduced amendment D.30, submitted by the Government members of Denmark, Norway and the United Kingdom, which would add, under the heading of Article 2, the sub-heading “Application for and issuance of seafarers’ identification documents”.

149. The Government members of Namibia and Sweden supported the proposal.

150. The amendment was adopted, with the exact wording being left to the Drafting Committee.

Paragraph 1

151. The Government member of the United States introduced an amendment (D.22), also on behalf of the Government member of Norway, to add in paragraph 1, after the words “to that effect”, the words “that the Member finds to be in conformity with this Convention”.

152. The Employer Vice-Chairperson said the text appeared to be unnecessary.

153. The Worker Vice-Chairperson requested a clarification on the intent of the amendment. It was not clear what part of the draft Convention was being referred to.

154. The Government member of the United States explained that he did not have any particular part of the Convention in mind but the aim was to have a reminder that there should be a procedure and/or process in place for processing applications.

155. The Worker Vice-Chairperson noted that while he could accept this explanation he assumed that member States would have certain requirements and procedures.

156. The Employer Vice-Chairperson felt that the amendment might bind a member State to an application procedure not included in the Convention. He suggested that this matter be dealt with in the provisions concerning quality standards.

157. The Government member of the United States pointed out that this matter was related to Annex III. There was a need to establish a system that would guarantee the quality of the seafarers’ identity document.

158. The Worker Vice-Chairperson, supported by the Employer Vice-Chairperson, said the amendment should either be withdrawn or put in square brackets pending the outcome of the discussion of Annex III.

159. The Government members of Norway and the United States withdrew the amendment.

160. The Government member of Norway introduced an amendment (D.32) also on behalf of the Government member of the United Kingdom, to add, at the end of paragraph 1, the

sentence: “All applications must be subject to verification that the applicant is a bona fide seafarer.” The amendment, he said, went to the heart of the Convention since it would spell out clearly that the applicant for a SID must be a bona fide seafarer.

161. Prior to debating the amendment, the Chairperson drew attention to changes in the translation of the French and Spanish translations of the text of the amendments.
162. The Employer Vice-Chairperson felt that the use of “bona fide seafarer” might cause confusion. The meaning of “seafarer” had already been dealt with in Article 1. The Worker Vice-Chairperson agreed and opposed the amendment.
163. The Government member of the United Kingdom added that, without the amendment, the concept that the document should be issued only to those employed at sea was not readily apparent and remained buried in Annex III.
164. The Government members of the Bahamas, Denmark, France and Namibia did not support the amendment.
165. The Government member of Norway said that, in light of the opposition to the amendment, it would be necessary to ensure that there were mandatory provisions in Annex III that addressed this issue. The amendment was withdrawn. The Government members of Norway and the United States then withdrew amendment D.22 as a result of the adoption of prior amendments.
166. Paragraph 1 was adopted as amended.

New paragraph

167. The Government member of Norway introduced an amendment (D.31), also on behalf of the Government member of the United States, to add a new paragraph after paragraph 1 that would read: “The seafarer shall have the right to an administrative appeal in the case of a rejection of his application.” He emphasized the importance of the Convention making provision for the right to appeal.
168. The Employer and Worker Vice-Chairpersons were in favour of the amendment, provided it did not imply any commitment to a particular appeals process. The Workers’ group, however, requested that gender-neutral language be used.
169. The Government members of Algeria, Chile, Cyprus, Denmark, the Islamic Republic of Iran, Lebanon and South Africa supported the amendment.
170. The Government member of Cyprus recalled that the purpose of the Convention was to facilitate the mobility of people on a vessel. There could be people with business on the vessel who might require a SID, even if only for a single voyage.
171. The amendment was adopted, with the gender issue referred to the Drafting Committee and additional necessary changes being made in the Spanish text.

New paragraph

172. The Government member of Canada introduced an amendment (D.14) for a new paragraph, submitted together with the Government member of France, which was subamended to read: “Members, in consultation with shipowners’ and seafarers’

organizations, should retain the right to issue the identity document covered by this Convention to all seafarers.” Without this text a State would not be able to impose upon seafarers the requirement to apply for a SID.

- 173.** The Employer Vice-Chairperson said it was necessary to consider what should be included in the mandatory text of the Convention and what should be left to the discretion of member States. Article 1, paragraph 2, already provided the possibility, in case of doubt, to consult shipowners’ and seafarers’ organizations in order to determine the categories of persons to be regarded as seafarers for the purpose of the Convention. The rationale for this amendment was not clear. It was unlikely that someone could exercise the profession of seafarer without holding a SID. He opposed the amendment.
- 174.** The Worker Vice-Chairperson failed to see how the State could lose its right to issue the document. Seafarers who were not nationals, or not permanent residents would have to obtain the document from the authorities of their State of nationality. The wording of the amendment was confusing, unhelpful and did not serve the purpose of the instrument. It implied that seafarers could lose their right to be issued with the document. The Workers’ group therefore opposed it.
- 175.** The Government member of Norway also found the text confusing. Responding to comments from the Worker Vice-Chairperson, he said that, under Article 6, paragraph 3, a State could lose the right to have its identity documents recognized by other States. According to the Office text, a seafarer had the right to have the SID upon submission of an application. He opposed the amendment.
- 176.** The Government member of the United States wondered if the amendment, as subamended, might also be read to provide that flag States could issue SIDs.
- 177.** The Government member of the Netherlands pointed out that the Office text implied that the initiative to apply for a SID must come from the seafarer. It left no room for imposition.
- 178.** The Government member of France said that his country wanted to make the possession of the SID compulsory for all national seafarers serving on board French ships. He questioned whether the Office text would prevent his Government from doing this.
- 179.** The Worker Vice-Chairperson referred to the case of seafarers engaged only in internal/coastal navigation. This category of seafarers had no need to hold a SID, but since the conditions under which there was a right to apply depended on the issuing State, an individual member State could provide otherwise. He reiterated his opposition to the amendment.
- 180.** The Government member of Egypt supported the Office text.
- 181.** The Government members of Canada and France withdrew their amendment, the Government member of France on the understanding that the text of the provision as it stood would allow Members to impose on its nationals the obligation to hold the documents.
- 182.** The representative of the Secretary-General confirmed that a member State that ratified the Convention would retain the right to impose on all of its seafarers a requirement to hold a SID in conformity with the Convention, in order to be able to exercise their profession.

New paragraph

- 183.** The Worker Vice-Chairperson introduced an amendment (D.7) to add a new paragraph that would read: “Each Member shall ensure that the seafarers’ identity document is issued without delay and without cost to the seafarer.” Many seafarers were forced to pay to obtain employment, had to fight to obtain their wages, and had to pay for many of the documents (medical certificates, visas, other travel documents) needed for their work. The facilitation costs of the seafarer to be employed on a ship should be borne by the shipowner, or governments could share the burden. Seafarers were confined to a ship for long periods and needed to go ashore, but they should not have to pay for the document that enabled them to do so. There was no assurance of the costs of producing SIDs under the requirements of the Convention. While the Workers’ group sympathized with governments about the potential cost of this technology, seafarers should not have to bear any of it. For air transport workers, for example, an ICAO Convention provided that the cost of identity documents was not to be borne by the crew member. The same should apply to seafarers. He also sought to ensure that each Member issued the document without delay.
- 184.** The Employer Vice-Chairperson said that shipowners did not pay for other documents that seafarers required in order to maintain their professional standing and they could not agree to financing the SID. He pointed out that, while Article 7, paragraph 2(a), contained the words “be at no cost to the seafarers or the shipowners”, it referred to the verification process which was the responsibility of the State. If the Workers’ group’s amendment was adopted, it might cause problems for ratification.
- 185.** The Government member of Namibia expressed his sympathy with the Workers’ group, but could not agree to the amendment as it would place restrictions on some governments as concerned cost recovery and would make the new Convention difficult to ratify. The issue of cost should not be put in the Convention. In his country the Government paid the cost of issuing national identification documents but not passports. These matters were not under the control of the Ministry responsible for labour issues. He supported the part of the amendment providing for the document to be issued without delay.
- 186.** The Government member of Cyprus sympathized with the views expressed by other Government members concerning cost recovery, but could accept the Workers’ group’s amendment.
- 187.** The Government member of the Islamic Republic of Iran could not agree to the part of the amendment concerning ensuring the issuance of the SID “without delay”, as the exact meaning of this expression was not clear.
- 188.** The Government member of India stated that it was not the objective of her Government to recover the entire cost incurred in issuing SIDs from the seafarers. As a matter of principle, the determination of fees should be left to the government and should not be addressed in the Convention.
- 189.** The Government member of Norway supported the comments made by the Government members of India and Namibia. He offered a subamendment, seconded by the Government member of Canada, which would place the word “undue” before the word “delay” and delete the remaining text of the amendment.
- 190.** The Worker Vice-Chairperson said that his group would accept the insertion of the word “undue”. They would not, however, accept any other modification of their amendment. Airlines, nuclear power plants and indeed some business centres required employees to use

security badges, but to his knowledge, none required employees to pay for security IDs. Existing ICAO standards provided that aircrew should be issued identity documents at no cost to themselves. Making seafarers pay for theirs would set a most unfortunate precedent. It was highly discriminatory and imposed a pre-entry cost to be able to work on workers who often had limited alternative employment opportunities. He asked the secretariat if there were any other professions that required workers to pay for their identity documents. Since many Government members of the Committee were not prepared to be guided by ICAO standards in the present instance, they would be ill advised to quote ICAO standards at the Workers' group later in the proceedings when the subject turned to biometrics. Recalling his previous arguments and stressing the importance of this issue for seafarers, he called for a record vote.

191. The representative of the Secretary-General stated that, with the exception of Convention No. 108, no international labour standard called for the issuing of an identity document. Other information might be found at national or sectoral level. Many enterprises required their employees to carry identity documents, but to the best of her knowledge, those entailed no cost to the workers. The ILO draft Code of practice on port security did address the issue of identity documents, but not that of cost.

192. The Committee then proceeded to vote on the subamendment before it. The proposal was adopted with 24,960 votes in favour; 720 votes against; and 20,400 abstentions.

193. Following a brief suspension of the proceedings, the Chairperson noted the Government group's commitment to an open and amicable dialogue. He asked the social partners to bear in mind the difficulties faced by some Government members when suddenly called upon to vote on policy questions without an opportunity to consult their respective governments.

194. In light of the outcome of the vote, the Worker Vice-Chairperson said there was no need for a further vote on the remaining text of the amendment. The inclusion of the word "undue" before "delay" was acceptable to his group and could be left to the Drafting Committee. It was so agreed.

195. The amendment was thus adopted.

Paragraph 2

196. An amendment (D.15) submitted by the Government members of Canada and France to replace the word "issue" with "issuance" was referred to the Drafting Committee.

197. Amendment D.28 submitted by the Government member of the United Kingdom was not seconded and was therefore not considered.

198. An amendment (D.16) submitted by the Government members of Germany, Greece and the Netherlands concerning the denial, restriction of validity, or withdrawal of SIDs was withdrawn, subject to its possible resubmission for discussion under Articles 7 and 8, to which it was more relevant.

199. Paragraph 2 was adopted.

Paragraph 3

- 200.** The Government members of France and Greece proposed an amendment (D.38) to delete paragraph 3. The amendment had been submitted on the assumption that the SID would be a travel document as was the case under Convention No. 108. The Government member of Greece had two main concerns with regard to the issuance of SIDs to permanent residents. First, it was important to ensure that multiple SIDs were not issued to one seafarer. Second, the definition of “permanent resident” varied considerably from one member State to another. Nonetheless, discussions with other Government members had revealed the need for flexibility regarding the issuance of SIDs to permanent residents and hence the desirability of retaining that option.
- 201.** The Worker Vice-Chairperson expressed his group’s desire that member States retain the option of issuing SIDs to seafarers with permanent resident status. Many seafarers had established permanent residence abroad and conformed to the administrative regulations of their country of residence. Therefore, the Workers’ group opposed the deletion of paragraph 3.
- 202.** The Employer Vice-Chairperson affirmed his group’s hope that the solution adopted would enable the widest ratification of the new instrument.
- 203.** The Government member of France noted that, in his country, establishing the identity of a seafarer was the sole responsibility of the State issuing SIDs for its citizens, and that special provisions existed for refugees and stateless persons.
- 204.** The amendment was withdrawn.
- 205.** The Government members of Algeria, Egypt and the Syrian Arab Republic introduced an amendment (D.13) to delete subparagraphs (a), (b), (c) and (d) of paragraph 3. After clarification, it was evident that the original intent of the sponsors had been the deletion of paragraph 3 in its entirety. The Government member of Egypt stressed that the question was whether the authorities had the capacity to verify the professional status of persons who requested SIDs. Could countries guarantee the reliability of information provided by their permanent residents? Were they even aware of the movements of permanent residents beyond their nation’s borders? How could they guarantee that a permanent resident would not use a SID for illegal purposes?
- 206.** The Government member of Germany stated that his delegation would not support the deletion of only the subparagraphs while retaining the initial portion of paragraph 3, as in the printed version of the amendment.
- 207.** The Employer Vice-Chairperson expressed his group’s preference for retaining the option for member States to issue the document to permanent residents, unless such a solution would hinder the ratification of the instrument. The Employers’ group did not support deletion of paragraph 3, but wished to discuss the language contained in subparagraphs (a), (b), (c) and (d).
- 208.** The Worker Vice-Chairperson recognized that the status of permanent resident raised difficult issues. Preferably the SID should be issued by the State of nationality, but in many cases seafarers had established permanent homes and had raised their families in countries other than that of their nationality. In the view of the Workers’ group, it was the member State responsible for the individual which should verify the information provided on the SID. This might well be the country of permanent residence, particularly when the seafarer’s professional qualifications were certified in his country of residence. Such was

the case, for example, with certificates of competency issued under the STCW Convention. Subparagraphs (a), (b), (c) and (d) of paragraph 3 offered various options to Members, which might assist in ratification. The deletion of subparagraphs (a)–(d) was acceptable to the Workers, but deletion of the whole paragraph would create problems, as many seafarers were permanent residents in countries different from that of their nationality.

- 209.** The Chairperson referred delegates to page 5 of Report VII (2B) regarding the rationale for Members having the option to issue SIDs to permanent residents, i.e. “that States can generally ensure a positive verifiable identification of such persons. A provision has also been included enabling Members that do not wish to recognize identity documents issued to seafarers who are permanent residents to inform the Organization to that effect by means of a declaration at the time of ratification of the instrument. Such a declaration could be subsequently withdrawn.” A clear indication from Government members was required on this issue.
- 210.** The Government member of France stated that the subparagraphs formed an integral part of paragraph 3 and should not be deleted. The Government members of Denmark and Portugal agreed that the subparagraphs provided essential safeguards. Several delegations agreed with the Employers’ group, however, that the wording of the subparagraphs was problematic and, if retained, would need further discussion.
- 211.** A large number of Government members rejected the deletion of paragraph 3 for the reasons put forward by the Workers’ group.
- 212.** The Worker Vice-Chairperson returned to consideration of the wording of paragraph 3 and its implications. The initial text of the paragraph would give the member State the right, but not the obligation, to issue a seafarers’ identity document to a person with permanent resident status in its national territory. According to subparagraphs (a) and (d), however, other member States could refuse to accept a SID issued to a permanent resident of a Member which chose to exercise that right. The speaker questioned the wisdom of such an approach. Some member States did not wish to issue SIDs to seafarers who were permanent residents in their national territory and that was their right. However, if a member State accepted the responsibility of issuing SIDs to seafarers with permanent resident status, then other signatories to the Convention should recognize the validity of those SIDs. If the State of residence positively and verifiably identified the seafarer, there was no justification not to recognize the SID. For these reasons, the Workers’ group did not accept the subparagraphs. Indeed, a SID which was not recognized because it was issued by the seafarer’s State of residence as opposed to his State of nationality was virtually worthless to the seafarer. The initial portion of paragraph 3 only had meaning if the SIDs issued to permanent residents were recognized by other signatories.
- 213.** The Chairperson confirmed the Workers’ group’s interpretation of the current wording. If the subparagraphs were deleted, the question of recognition of SIDs would be discussed when the Committee turned to Article 7.
- 214.** The amendment to delete paragraph 3 was withdrawn.
- 215.** The Government member of the United States introduced an amendment (D.24), which in light of the foregoing discussion, he then subamended in agreement with its co-sponsor, the Government member of Norway. The amendment was to delete all of the words after “territory.” The speaker was mindful of the concerns expressed by Government members with regard to the issuance of SIDs to permanent residents and the need to ensure that a seafarer could procure only one valid SID. He suggested that this issue be dealt with by the Working Party on Annex III.

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- 216.** The Employer Vice-Chairperson agreed and suggested that the Working Party might consider the following proposal. A Member which received an application for a SID from a permanent resident should be required to contact the State of nationality of that seafarer to ensure that a SID had not already been issued to that person by that State.
- 217.** The Worker Vice-Chairperson agreed. Contacting the country of nationality would not only ensure that a SID had not previously been issued, but it would also inform the other government that a SID was being issued to that person.
- 218.** It was agreed that the Working Party would consider how best to address these concerns in its deliberations on Annex III. The Government members of Denmark, France, Germany, Ireland and Portugal stressed the need to determine safeguards.
- 219.** The amendment was adopted as subamended. As a consequence, amendment D.23 fell.
- 220.** The Government member of Germany introduced an amendment (D.41), seconded by the Government member of Greece, which was immediately subamended to include a new paragraph after paragraph 3 that would read as follows: “Each Member which has issued a seafarers’ identity document declares, by issuing such a document, that: (a) it obliges itself to readmit to its territory any person who holds a seafarers’ identity document which has been issued by its authorities without further formalities, in particular without the requirement of the presentation of other documentation; (b) while the seafarer is outside the territory of the issuing Member, it will not cancel or withdraw any seafarers’ identity document which it had issued in a manner that would affect its obligation as set out in (a) above.” The intent was to take into account the different views of governments about who was a permanent resident. This could lead to difficulties, particularly as concerned readmission. The State would bear the responsibility as to which persons received SIDs.
- 221.** A representative of the United Nations High Commissioner for Refugees (UNHCR) understood that the Office draft of Article 2, paragraph 3, would allow SIDs to be issued to recognized refugees by the country of asylum and to stateless persons by the country of habitual residence. Given the unpredictability of the possibility for a return in safety and dignity and consequent cessation of status, refugee status should be considered to be permanent in the context of the proposed Convention. Removing the possibility of issuing SIDs to non-nationals, which amendment D.41 in its original form would have entailed, would have had a serious impact on refugee seafarers. Because they could not receive identity documents from the country of their citizenship, the issuance of a SID by the country of asylum was a refugee seafarer’s only option. The UNHCR would not object to a clarification and strengthening of the readmission obligations related to future holders of the SID, as amendment D.41 proposed, but it strongly hoped that the possibility of issuing SIDs to non-nationals, and in particular to refugees and stateless persons enjoying firm residence status, would be retained.
- 222.** The Government member of Germany introduced the following subamendment to D.41 based on a compromise resulting from consultations within the Government group: “Nothing in this Article shall prevent a Member for which this Convention is in force from treating permanent residents of another Member holding a seafarers’ identity document differently from nationals of such other Member with regard to admission to its territory, in case that readmission to the country of issuance is not guaranteed.” He stated that Article 2, paragraph 3, would remain as previously amended and that his proposal would add a new paragraph.
- 223.** The Government member of the United States recalled that most of the original Office text of paragraph 3 had been deleted by D.24 and that only the introductory portion of

paragraph 3 remained. It was his understanding that D.41 was completely replaced by the proposed subamendment.

- 224.** The Employer Vice-Chairperson said the proposal touched on a complex issue. A passport provided a receiving State with an assurance that a person admitted to its national territory could return to his home country. A seafarer with permanent resident status in a member State might believe that the SID was an equivalent document granting the right of readmission to the country of permanent residence. Indeed, what other documentation was there to indicate to the receiving State that the person would be readmitted to his permanent residence State? The proposed text appeared to say that permanent residents were to be treated like nationals unless readmission to the issuing country was not guaranteed. The speaker expressed concern about what that might mean in terms of additional information requirements. He noted as well that related amendments would be discussed under Article 7.
- 225.** The representative of the Secretary-General reminded the Committee that no decision had yet been reached on amendment D.41, as previously subamended, which was still before the Committee. The proposal by Germany would appear to replace that with an entirely new text.
- 226.** The Worker Vice-Chairperson understood that the intention of the proposal was that States should admit any SID holder who was a permanent resident of the issuing country, provided the latter had undertaken to readmit him or her. Where no such readmission was guaranteed, however, the receiving State could treat the seafarer's case differently. If that was so, his group could support the amendment. The Government member of the United States and the Employer Vice-Chairperson concurred.
- 227.** The Government members of the Bahamas and the Republic of Korea asked how, if Article 2, paragraph 3, was to be entirely supplanted by the new text, there could be any guarantee of readmission to the issuing State.
- 228.** The Worker Vice-Chairperson said that his acceptance of the new text had been premised on the maintenance of clauses (a) and (b) of amendment D.41, as subamended, which provided that an issuing country undertook to readmit any seafarer to whom it issued a SID. If that was not the case, then he suggested that the text be redrafted to take into account the concern raised by the Government members of the Bahamas and the Republic of Korea. The Government member of Italy agreed that the issuing State must guarantee readmission, otherwise his Government could not support the amendment.
- 229.** The representative of the Secretary-General pointed out that if the proposal of the Government member of Germany were adopted, there would be no obligation on an issuing State to guarantee readmission, and if readmission were not guaranteed, differential treatment would be allowable. The matter was then referred to the Working Party on Article 7 for redrafting.
- 230.** When the Government member of Greece, as Chairperson of the Working Party on Article 7, which had dealt as well with Article 2, paragraph 3, and Article 4, paragraphs 6 and 9 reported back to the Committee, he stated that the Working Party had considered the denial of entry to seafarers holding identity documents issued on the basis of their status as permanent resident aliens and the country to which they would be returned. This was of particular concern to one Member and there was disagreement as to whether resident alien seafarers constituted a small or significant population. It was recognized that the SID was not a passport, but rather a stand-alone identity document. The question arose as to whether Members needed to make declarations with regard to the reciprocal recognition of

documents issued to resident alien seafarers. Some Governments wished to have safeguards as to the readmission of the permanent residents entering their territory back to their State of residence, which had issued them SIDs. The majority of the Governments did not share that view, arguing that a seafarers' identity document was not a travel document. The Working Party was unable to agree in this regard and decided to place this matter before the Committee.

- 231.** The Government member of Germany reiterated that the reason for D.41, as subamended, was to achieve a balance between the facilitation for seafarers and the security measures for States. Germany did not issue SIDs to non-national seafarers with the status of permanent residents. If other countries wished to issue to this category of seafarers, Germany would not prevent them from doing so and thus showed its flexibility. D.41 in its latest version aimed to attain a readmission guarantee from the issuing State in the case of non-nationals with permanent resident status holding seafarers' identity documents.
- 232.** The Employer Vice-Chairperson considered D.41 to be a governmental matter. He pointed out that there had been major changes to the draft text of the Convention that took place after the first discussion of Article 2, paragraph 3, and thus of D.41. He suggested that the current language of the Article 7, subparagraph 4(2), which had been discussed in the Working Party and adopted by the Committee, would accommodate Germany's specific concern regarding national security.
- 233.** The Worker Deputy Vice-Chairperson stated that this matter would only have been a problem, if the SID had been considered as a travel document. However, the Committee agreed that seafarers needed passports for the purposes of transit and joining a ship. The changes incorporated in Article 7 regarding the use of the SID supplemented by the passport in cases of transit would solve all problems. Nonetheless, he introduced a compromise text in the form of a subamendment, according to which Article 2, paragraph 3, would read as follows: "Each Member may also issue the seafarers' identity document referred to in paragraph 1 to seafarers who have been granted the status of permanent resident in its territory, it being recognized that permanent residents shall in all cases travel in conformity with the provisions of Article 7, paragraph 4.1."
- 234.** The Government members of Canada and Namibia supported the Workers' subamendment.
- 235.** The Government members of Lebanon and the Syrian Arab Republic opposed the amendment as well as the proposed subamendment. The Government member of France reiterated that the issuing State could only guarantee the identity of its own nationals and said the deletion of paragraphs 3(a) through (d) had undermined the value of the SID.
- 236.** The amendment as subamended was adopted.

Paragraph 4

- 237.** Paragraph 4 was adopted unchanged. Article 2 was thus adopted.

Article 3

- 238.** Nine amendments were submitted to Article 3. The Government members of Canada and Norway introduced an amendment (D.33), which proposed the insertion of a sub-heading. The amendment was adopted and referred to the Drafting Committee.

Paragraph 1

- 239.** The Government member of Norway introduced an amendment (D.34) to delete paragraph 1 and an amendment (D.35) to delete paragraph 2. These amendments were not supported.
- 240.** Paragraph 1 was adopted.

Paragraph 2

- 241.** The Government member of the United States introduced an amendment (D.25), also on behalf of the Government member of Norway, to replace the words “Provided that the provisions of that Article are respected” with the words “Provided any amendment is consistent with Article 4,”. He explained that the amendment was editorial in nature.
- 242.** The Employer and Worker Vice-Chairpersons supported the amendment, which was adopted.
- 243.** The Government member of Norway submitted an amendment (D.36) to delete the words “that Article” and replace them with “Article 4”. The amendment was not supported.
- 244.** The Government member of the Netherlands introduced an amendment (D.17), also on behalf of the Government members of Germany and the United States, which she immediately subamended on behalf of the authors, so that, the amendment as subamended would add, after the words “Annex I”, the words “– with the exception of the selection of the biometric which requires the amendment of Article 4 –”. Without this change, the decision on which biometric would be used would be left to the simple amendment procedure. This issue was too sensitive for that procedure.
- 245.** The Employer Vice-Chairperson agreed that the Office text required further clarification.
- 246.** The Worker Vice-Chairperson said that, after listening to the presentation by the representative of ICAO, it was unclear that a biometric would be required but if it were to be required, it might be necessary to specify the biometric to be used. His group was leaning towards the use of a fingerprint biometric stored on a bar code. He also noted, with the support of the Government member of the United States, that the discussion of this issue depended on the outcome of the discussion of Article 4.
- 247.** The Government member of Greece, who served as Chairperson of the Working Party that considered the seven amendments, introduced a subamended version of amendment D.26 on behalf of the Government members of Japan, Norway and the United States. On behalf of the Working Party, he immediately subamended the amendment to add after the words “identity documents and procedures.” the following sentence: “However, any Member that has ratified this Convention may give written notice to the Director-General within six months from the date it was adopted that such an amendment shall not enter into force for it, or shall only enter into force at a later date upon subsequent written notification.”
- 248.** The Government member of the Netherlands proposed a sub-subamendment, seconded by the Government member of China, to change the period to 12 months, as six months was insufficient.
- 249.** The Worker Deputy Vice-Chairperson said that 12 months was not consistent with provisions in the International Convention for the Safety of Life at Sea (SOLAS). Both he and the Employer Vice-Chairperson preferred a period of six months.

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- 250.** The amendment was adopted as subamended.
- 251.** The Worker Deputy Vice-Chairperson, on behalf of his group, introduced an amendment (D.8), which he immediately subamended so as to add after “International Labour Conference” the words: “, acting on the advice of a duly constituted ILO tripartite maritime body”.
- 252.** The Employer Vice-Chairperson and the Government members of the Bahamas and Italy supported the amendment as subamended, subject to the Office using the correct language in the context of this Convention.
- 253.** The Government member of the Netherlands noted the addition of tripartite was appropriate but they had a problem with agreeing to establish such a body. There had been no discussion of the tasks of such a body nor of the financial implications for the Office.
- 254.** The Government member of Denmark said that this body was not the same as the body discussed in relation to Article 6. She understood it to be an ad hoc consultative body that would not have to meet frequently.
- 255.** In response to a query from the Government member of the Netherlands, the representative of the Secretary-General said there was a distinction between the body proposed in this Article and the one set out in Article 6. The former would be ad hoc and would address only amendments to the annex. It would be established by the Governing Body. Costs would be minimal, as it might, for example, take the form of a tripartite subcommittee of the Joint Maritime Commission. This Convention should not set out the details concerning the group, as that responsibility would remain with the Governing Body.
- 256.** The amendment as subamended was adopted.
- 257.** The Government member of Denmark, also on behalf of the Government member of Norway, introduced an amendment (D.1) which she immediately subamended, to add, after the words “at the Conference”, the words “including at least half of the Members that have ratified this Convention”. She said that it was important that ratifying States, as a peer group, should vote for amendments which would impact on them. In doing so, she referred to ongoing discussions of such amendment provisions in the development of the consolidated maritime labour Convention.
- 258.** The Employer Vice-Chairperson did not favour the amendment as subamended since the Convention already had sufficient protection measures built into it.
- 259.** The Worker Deputy Vice-Chairperson agreed in principle to the amendment.
- 260.** The Government member of India sought clarification as to whether the amendment procedure was being implemented for the first time and whether or not such a provision was in accordance with the ILO Constitution. She felt that the result of such a provision would be to discourage countries that had not yet ratified the Convention from doing so. Noting that her Government was in the process of ratifying Convention No. 108, she asked to know the process in view of the revision of that Convention.
- 261.** The representative of the Secretary-General replied that the proposal had already been made at the High-level Tripartite Working Group on Maritime Labour Standards, but was being implemented for the first time in this Convention. She was of the opinion that such a provision would encourage rather than discourage ratification. Moreover, it was not in

conflict with the ILO Constitution. With regard to the ratification of Convention No. 108, she urged the authorities concerned to take the new Convention into consideration.

- 262.** The Government member of Denmark did not understand why the Employers' group was opposed to the provision. She did not believe it would prejudice any decisions taken with regard to amendment procedures in the new consolidated maritime labour Convention.
- 263.** The Employer Vice-Chairperson hoped that the tripartite body included in its composition those who had ratified the Convention. The Employers' group would not oppose the provision, though they did have concerns that it might set a precedent.
- 264.** The amendment as subamended was adopted.
- 265.** The Committee returned to a discussion of amendment D.17, which had been submitted by the Government members of Germany, the Netherlands and the United States, and had subsequently been subamended to add after the words "Annex I" the words "– with the exception of the selection of the biometric which requires amendment of Article 4 –".
- 266.** The Government member of the Netherlands, supported by the Government member of Germany, said that in her country the biometrics question was very sensitive and had to be brought before Parliament. This was why her delegation had requested in amendment D.26 that there should be a longer opting-out period (12 months instead of six), since parliamentary procedures took time.
- 267.** The Employer Vice-Chairperson, supported by the Worker Deputy Vice-Chairperson, recognized the sensitivity of the issue but he did not support the amendment because the provisions concerning the selection of the biometric were in Annex I. Article 4 only provided that there should be a biometric. He reiterated that the Convention had sufficient protective measures for States as concerned the amendment procedures for the annexes.
- 268.** The Government member of the Netherlands reiterated that this was an important issue for her delegation and for her Parliament. That was the reason why she wanted this exception from the simplified amendment procedure.
- 269.** The Government member of Canada, supported by the Government members of the Bahamas, Namibia and Norway, did not support the amendment. He said that, under the tacit amendment procedures for the annexes, member States could advise the Director-General of the ILO that they could not meet the amended standard. That was sufficient.
- 270.** The Government member of the Republic of Korea also did not support the mention of Article 4 since it did not mention the type of the biometric; that only Annex I mentioned it. Thus, the type of biometric did not require amendment of Article 4. He recalled the agreement that the future development of technology should be accommodated.
- 271.** In view of the majority position, the Government members of Germany, the Netherlands and the United States withdrew D.17.
- 272.** Article 3 was adopted.

Article 4

- 273.** Forty-nine amendments to Article 4 were submitted.

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274. An amendment (D.76) submitted by the Government members of Canada and Norway to add a sub-heading “Model format” was adopted by consensus and referred to the Drafting Committee.

Paragraph 1

275. The Government member of Germany introduced an amendment (D.55) also on behalf of the Government member of the Netherlands which, in paragraph 1, would replace the words “in a simple manner” with the words “in a comprehensive manner”. The intent was to avoid any misunderstanding.
276. The Employer Vice-Chairperson, supported by the Worker Vice-Chairperson and the Government member of Lebanon, opposed the amendment. The word “comprehensive” did not imply “simple” and created additional complications.
277. The amendment was withdrawn.
278. The Chairperson opened the discussion on amendment D.56 (see below), reminding the Committee that this amendment was linked to several others (D.79, D.80, D.81, D.104, D.65 and D.67).
279. The Government member of India introduced amendment D.56, which had been submitted by the Government members of India, Indonesia and Pakistan. The amendment would delete the words “shall incorporate the most recent technology which”. India wanted to delete the reference to the most recent technology as it was not yet clear to the kind of technology it referred. The intervention by the representative of ICAO had left the impression that the preferred technology was the use of the facial recognition biometric. However, there was no clear indication of the cost of using this technology. Effectiveness, availability and cost of technology were essential issues. Before such decisions were made, the ILO should have the advice of technical experts. The Committee was discussing technology that not even ICAO, which had established technical expert groups on these issues, had adopted. The ILO should decide what technology should be used, should determine the time frame for its implementation and should discuss how often the requirements in the Convention might be revised in light of technological developments. Her intervention was supported by the Government members of the Islamic Republic of Iran, Italy, Lebanon and Mexico.
280. The Employer Vice-Chairperson also supported the views expressed by the Government member of India. Including a reference to the most recent technology would inappropriately result in an automatic update of the content of the instrument as a result of changes in technology. The Worker Vice-Chairperson concurred, put his group’s support behind amendment D.56, and withdrew a related amendment (D.79) and consequential amendments D.80 and D.81. The Employer Vice-Chairperson then withdrew amendment D.65, and the Government members of Canada and Greece subsequently withdrew their own amendment D.104 and amendment D.56 was adopted.
281. The Government member of Germany introduced an amendment (D.54), also on behalf of the Government member of the Netherlands, which was immediately subamended to replace the words “at the lowest cost” in paragraph 1(b) with “at an effective cost”.
282. The Employer Vice-Chairperson, Worker Vice-Chairperson, and the Government members of the Bahamas and Lebanon opposed the amendment as subamended.

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- 283.** The representative of the Secretary-General, responding to points raised by the Worker Vice-Chairperson and the Government member of Denmark, said it might be necessary for the Drafting Committee to make some adjustments to the text to take into account the previously agreed deletion (amendment D.56) to the first sentence in paragraph 1.
- 284.** The Government members of Germany and the Netherlands withdrew their amendment as subamended.
- 285.** The Government members of Canada, Denmark, France and the United States submitted amendment D.78 to add at the end of Article 4, paragraph 1, subparagraph (b), the following sentence: “The International Labour Organization shall develop guidelines on standards of the technology to be used which will facilitate the use of a common international standard.” The Government member of Denmark explained that, even after deleting “shall incorporate the most recent technology which”, there was consensus that some technology should be used. It would be useful to facilitate the work of governments if a common international standard could be agreed. The text in the amendment, she said, was similar in purpose to text included in Article 8 of the Seafarers’ Hours of Work and the Manning of Ships Convention, 1996 (No. 180) which had led to the development, by a tripartite ILO expert group, of useful guidelines.
- 286.** The representative of the Secretary-General suggested that it might be preferable to deal with this in a resolution or, if this were not possible, by rewording the amendment.
- 287.** The Employer Vice-Chairperson opposed the amendment, noting that changes in technology would make such guidelines inappropriate.
- 288.** The Worker Vice-Chairperson indicated that his group had considered the budgetary implications for the Office of such a provision, the time frame for developing the guidelines, and whether these factors would be compatible with the urgent implementation of the SIDs. Though well-intended, the amendment could not be supported.
- 289.** The Government member of the United States, as a co-author of the amendment, supported by the Government member of Germany, explained that the amendment did not necessarily mean that the ILO would develop the standards; it could decide whether or not an existing standard should be used.
- 290.** The Chairperson said that this might be dealt with through a resolution or by subamending the text to read: “Member States shall take into account any available guidelines developed by the International Labour Organization on standards of the technology to be used which will facilitate the use of a common international standard.”
- 291.** The Employer and Worker Vice-Chairpersons generally supported the text.
- 292.** The Government member of Greece expressed misgivings over the use of the word “shall”, noting that the guidelines might not be ready at the time a State ratified the Convention, and that the text would provide an obligation for a State to use guidelines that had not yet been developed.
- 293.** The representative of the Secretary-General, with the support of the Government member of Canada, sought to take into account the concerns expressed by Greece by inserting in the Chairperson’s proposal the words “and available at the time of implementation of the Convention”.

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- 294.** This proposed addition was however not supported by the Employer or Worker Vice-Chairpersons, who felt it might lead to inconsistency in the use of the guidelines and thus in the implementation of the Convention.
- 295.** The Government member of Italy said it was important for the Committee to agree on the technology to be used in the SIDs issued in accordance with the Convention. The Convention could be amended in the future to reflect changes in technology.
- 296.** Having stated his misgivings, the Government member of Greece agreed to drop his opposition.
- 297.** The amendment as subamended was adopted and referred to the Drafting Committee.

Paragraph 2

- 298.** The Chairperson noted that there were several amendments (D.64, D.53, D.59, D.108 and D.82) to paragraph 2 concerning the size of the SID and whether or not it should contain extra space for further information.
- 299.** The Employer Vice-Chairperson withdrew his group's amendment (D.64), in favour of one or more of the other amendments which he found to be useful.
- 300.** The Government member of Germany introduced an amendment (D.53) to replace, in paragraph 2, the words "be no larger than a normal passport" with the words "have the size of a normal passport".
- 301.** The Government member of the Republic of Korea seconded the amendment, noting that it had the same intent as his own amendment (D.59). In doing so, he explained these two amendments would make it more likely that the same machines used to read passports could read SIDs.
- 302.** The Employer and Worker Vice-Chairpersons said it was reasonable to have language in the text that contained a definition of the size of the SID. However, the text proposed by the Office was more appropriate.
- 303.** The Government member of Portugal agreed that rather than discuss the size of the SID, the Committee should decide what type of document it should be. The SID was not a travel document but a means of professional identification which would facilitate the movement of seafarers.
- 304.** The Government member of Italy pointed out that since the dimensions of passports were fixed in ICAO Document 9303, the Committee did not have the flexibility to choose anything else. He proposed that the text make reference to ID-1 and ID-2 – sizes for machine-readable official travel documents – as provided for ICAO Document 9303.
- 305.** The Government member of Canada agreed and drew attention to the fact that Annex I, in its current form, only referred to one of these two standard sizes. There needed to be greater flexibility, albeit within certain limits.
- 306.** The Chairperson, supported by the Government member of the Republic of Korea, pointed out that if the text proposed by Italy was incorporated in Annex I, it would provide a better opportunity to deal with eventual changes in the standards referred to.

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- 307.** The Worker Vice-Chairperson, and the Government members of Denmark, Greece and Lebanon, preferred the Office text. The Government member of Greece added that this matter might be taken up in the proposed ILO guidelines mentioned earlier.
- 308.** The Government members of Germany and the Republic of Korea withdrew their amendments on the understanding that the issue would be discussed in the context of Annex I.
- 309.** The Worker Vice-Chairperson, introduced an amendment (D.82) to delete the sentence “It may contain extra space for further information.” He explained that, for his group, the SID was an identification document, nothing more. As such, it should enable a seafarer to go on shore leave, and if supplemented by a passport, should facilitate the seafarer’s movements when joining or leaving a ship. The downfall of Convention No. 108 had come when many States had added other information to the document, thus making it less recognizable as an identity document. The success of the new Convention would depend on developing a document that was easily recognized as a SID, with no extra space to hide other information.
- 310.** The Employer Vice-Chairperson said his group had no strong views on this. If the amendment were not adopted, member States would have the flexibility to add more information, as long as the SID complied with Annex I.
- 311.** The Government member of the United States and Japan had submitted a similar amendment (D.108) and supported D.82. The amendment was adopted by consensus and, as a consequence, amendment D.108 and amendment D.52, submitted by the Government members of Germany and the Netherlands were not considered.
- 312.** Paragraph 2 was adopted as amended.

New paragraph

- 313.** The Government member of the United Kingdom introduced an amendment (D.44), submitted by the Government members of Italy, Sweden and the United Kingdom, to add the following new paragraph: “As an alternative to issuing a separate document, a Member may, after consulting the shipowners’ and seafarers’ organizations concerned, incorporate the seafarers’ identity document, by means of a secure sticker, into the national passport, provided that the features required under this Convention are met. A passport so endorsed shall have the same effect as a seafarers’ identity document for the purposes of this Convention. The seafarers’ identity document so incorporated into the national passport shall conform to the model set out in Annex I.” The purpose was to provide a possible alternative to a stand-alone SID. This could provide important flexibility to member States. It was not in contradiction to the concept that the new SID should simply be an identity document. A travel document would still be required. The SID would be incorporated within the passport by means of a sticker. This should only be seen as an additional option, which could alleviate concerns about cost or paperwork and bureaucracy. The amendment would retain the existing option in Article 2 of Convention No. 108 for a member State to issue a passport with the indication that the holder is a seafarer. It was also in agreement with the IMO’s FAL Convention. The proposal could therefore be considered as updating and extending this provision into the new instrument. The Government members of Italy and Sweden added that it was a simpler, less costly option.
- 314.** The Worker Vice-Chairperson said his group opposed the amendment for several reasons. Firstly, seafarers carried their SIDs when going ashore, usually leaving their passports safe onboard. Secondly, it was unclear whether such a provision would lead to decreased costs

for member States. Thirdly, it was a matter of concern that the seafarer's occupation would appear on his or her passport, even if it were being used for other purposes, such as private travel. Fourthly, seafarers who were permanent residents of one State would be required to use the passports issued by their home country, and this might create problems.

- 315.** The Government member of Portugal agreed and added that the amendment ran counter to the objective of developing a simple, easily identifiable SID, and that using one document for two purposes might make it difficult to manage the related national databases.
- 316.** The Government member of India also agreed, adding that, bearing in mind the earlier discussion, it would not be possible to add extra pages to the passport. It was not clear whether such a provision would lead to decreased costs for Members. She therefore did not agree to the amendment.
- 317.** The Employer Vice-Chairperson, and the Government members of Algeria, the Bahamas and Brazil, opposed the amendment.
- 318.** The amendment was withdrawn by its authors. The Government member of the United Kingdom expressed disappointment that the new Convention would not have the flexibility found in Convention No. 108.
- 319.** The Government member of Italy reiterated that the physical characteristics of the SID should be consistent with the specifications of ICAO Document 9303.

Paragraph 3

- 320.** The Government member of Norway introduced an amendment (D.73), also on behalf of the Government member of Canada to replace in line 2, the word "authority" with the words "authorized official".
- 321.** The Employer Vice-Chairperson preferred the Office text.
- 322.** The Worker Vice-Chairperson considered it to be a drafting issue.
- 323.** The amendment was withdrawn but the Drafting Committee was requested to examine whether "and title" should remain.
- 324.** The Government member of Norway introduced an amendment (D.72), also on behalf of the Government member of Canada to delete the words ", indications enabling rapid contact with that authority,".
- 325.** The Employer Vice-Chairperson preferred the Office text.
- 326.** The Worker Vice-Chairperson said that the inclusion of contact information on the issuing authority could have two purposes. One was to provide the seafarer with a contact point when there was a problem. The other was to provide immigration authorities with rapid access to the database containing information on the seafarers, an issue of concern to their group which would be discussed in the context of Article 5 and Annex II.
- 327.** The representative of the Secretary-General said that the focal point referred to in Article 5, paragraph 3, could be quite different from the authority referred to in the provision under discussion. This provision did not mean that the focal point could be the "rapid contact" referred to in Article 4. Member States had the discretion to choose the

same authority, but this was only an option. This explanation was endorsed by the Government member of Sweden.

- 328.** In the light of the explanation, the Worker Vice-Chairperson opposed the amendment.
- 329.** The Government member of Egypt supported the amendment, saying there was no need to refer to the authority in this provision.
- 330.** The Government member of the Bahamas, however, noted that what was important was that immigration authorities knew precisely who to contact in the event of a problem.
- 331.** The Government member of Cyprus proposed to subamend the text to retain the existing Office text but to replace the words “rapid contact” with the word “verification”. The subamendment was not supported.
- 332.** The Employer and Worker Vice-Chairpersons supported the Office text, and the Government members of Canada and Norway withdrew their amendment.
- 333.** The Government member of the Netherlands introduced an amendment (D.47) submitted by the Government members of Germany, the Netherlands and the United States, and subamended it to replace the words “and a statement that the document is a seafarers’ identity document for the purpose of this Convention” in line 3 with the following text:

and the following statements:

- (a) this document is a seafarers’ identity document for the purpose of the Seafarers’ Identity Document Convention (Revised), 2003; and
- (b) this document is not a passport or other travel document unless a Member decides to authorize with regard to access to its territory.

Therefore, the Convention does not restrict the right of a State to demand a passport or other travel document for entry into its territory.

- 334.** The Government member of the Netherlands, supported by the Government members of Germany and the United States, stressed that the SID was an identity card and could not be regarded as a valid travel document. The amendment would avoid confusion on this point.
- 335.** The Employer Vice-Chairperson said it was unfortunate the amendment had been submitted under Article 4, which focused on the content and material of the seafarers’ identity document. It would have been better under Article 7. When the Employers’ group had debated amending Convention No. 108, they had said that the new seafarers’ identity document should be useful in facilitating seafarer movements. The language in D.47 seemed contrary to this objective. When the Committee discussed Article 7, the Employers were prepared to talk about the recognition of a State’s sovereign right to prohibit the entry of a particular individual into its territory.
- 336.** The Worker Vice-Chairperson hoped the authors would withdraw their amendment. This issue was fundamental for the Workers’ group. They had no problem clarifying the purpose of the seafarers’ identity document. In this respect, he agreed with the proposed amendment to clause (a). As for subparagraph (b), he conceded that the seafarers’ identity document was not a passport or travel document, but disagreed with the addition “unless a Member which has ratified or acceded to this Convention chooses to treat it as such”. The document was an identity document and not a travel document. Seafarers did not need travel documents as they already had passports. As for the stand-alone paragraph

beginning with the word “Therefore ...”, he was concerned about its effect on shore leave. According to the FAL Convention, there was no need for a passport for shore leave. The seafarers’ identity document was sufficient for this purpose. The stand-alone paragraph would prevent shore leave in some countries unless seafarers had a passport or other document.

- 337.** The Government members of Germany and the Netherlands suggested postponing the discussion of the last part of paragraph 3 (the part beginning “Therefore ...”) pending discussion of Article 7.
- 338.** The Worker Vice-Chairperson proposed to subamend clause (b) to read: “This document is a stand-alone document and is not a passport.” The last sentence would be replaced by: “Neither a passport nor other travel document shall be required for a seafarer to be admitted for the purposes of shore leave.”
- 339.** The Government members of Germany and the Netherlands introduced a sub-sub-subamendment to retain the changes to clause (b) proposed in the Workers’ group but to put aside discussion of the last subparagraph in paragraph 3 until after discussion of Article 7.
- 340.** The Worker Vice-Chairperson did not want to come back to this amendment when discussing Article 7.
- 341.** The Employer Vice-Chairperson noted that if the paragraph as sub-subamended was accepted, governments would retain authority in this regard under their sovereign rights and Article 7, paragraph 6. Since several Government members had submitted amendments to Article 7, there would be a basis for debate on this issue.
- 342.** The Committee adopted by consensus the amendment as sub-sub-subamended.
- 343.** Paragraph 3 was adopted as amended.

Paragraph 4

- 344.** The Government member of Japan withdrew his amendment (D.99) to this paragraph.
- 345.** The Chairperson opened the discussion on Article 4, paragraph 4, which concerned the maximum validity of the seafarers’ identity document. Three amendments (D71, D.57 and D.51) were the same and D.63 was similar suggesting ten years instead of the five which the other three requested.
- 346.** The Employer Vice-Chairperson introduced amendment D.63 to set the limit at ten years, which was consistent with ICAO’s recommendations for the period of validity of passports.
- 347.** The Government member of India introduced an amendment (D.57), also on behalf of the Government members of Indonesia and Pakistan and immediately subamended it to set the limit at ten years. She observed that ICAO had not yet agreed to a five-year period, so ten years should be the initial period to be included in the ILO instrument.
- 348.** The Worker Vice-Chairperson concurred with the views of the Employer Vice-Chairperson, adding that if seafarer had to pay for SIDs, then the longer the period, the better.

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- 349.** The Government members of France, Germany and the United States supported a maximum period of five years, noting it was also consistent with the requirements for renewal of competency certificates under the STCW Convention. Moreover a shorter period would enhance security.
- 350.** The Government member of Portugal said there should be no link between the validity period of certificates issued in accordance with the STCW Convention and the SIDs issued under the new ILO Convention as these had different definitions of “seafarer”.
- 351.** The Worker Vice-Chairperson reminded those members of the Committee who had made reference to ICAO standards that the issue under discussion was identity documents, not travel documents.
- 352.** The Government member of the United States said that reasons cited by ICAO for revising passport booklet design included countering counterfeiters and regular checking of applicants’ bona fides.
- 353.** The Government member of Japan recommended that the validity of the SID should be the same as that of the passport.
- 354.** The Government members of Australia and Lebanon preferred a five-year period. The Government member of South Africa said that he appreciated that the majority of members were in favour of five years as a period of validity, but he suggested that the Convention should provide for some flexibility. This could address concerns about the costs involved and attract wider ratification by member States.
- 355.** The Worker Vice-Chairperson recognized that the majority view of Government members was for a period of five years. Whatever decision was taken it should apply to all issuing authorities and not vary among States. He suggested a subamendment “ten years, subject to renewal after five years”. That would help to cut costs, as the document could more easily be renewed (with an annotation to the effect that it was a renewal) than reissued.
- 356.** The Government members of Denmark, Italy and the Netherlands accepted the proposed wording.
- 357.** Amendment D.63, as subamended, was adopted, and, as a consequence, amendments D.71, D.57 and D.51 were not considered.
- 358.** Paragraph 4 was adopted, as amended.

Paragraph 5

- 359.** The Worker Vice-Chairperson introduced an amendment (D.83) to replace the word “include” with the words “be restricted to” in the first line of paragraph 5. The wording “shall include” implied that the named particulars were only examples of the particulars that could be contained in the seafarers’ identity document. This was too open-ended. The seafarers’ identity document should contain a precise and finite set of information, common to all SIDs issued by any member State. Consequently, the Workers’ group proposed to use the phrase “shall be restricted to” and then list the particulars. Any additions or omissions from the list of particulars could be discussed, but the result of the discussion should be a definite and final list.
- 360.** The Employer Vice-Chairperson appreciated the rationale behind the Workers’ group’s suggestion. He called the Committee’s attention to the data requirements listed in Annex I

and asked what the correlation might be between them and the particulars listed in paragraph 5.

- 361.** The Worker Vice-Chairperson thanked the Employers' group for identifying that issue. If their amendment were read literally, it would mean that information regarding the issuing authority would be excluded from the SID. That had not been their intention. The aim was simply to determine what particulars would be required on the seafarers' identity document and to ensure that no extraneous matter was included.
- 362.** The Government member of Germany advised that in the German language version of Report VII(2B), Article 4, paragraph 5, read "shall include the following particulars about the holder", whereas the English version had no reference to the holder. The Government member of Namibia preferred the German wording.
- 363.** The Government member of the United States felt that the issue came down to what text was desirable in the body of the Convention and what text in the annexes. In any case, Article 4, paragraph 5, should be in line with Annex I. Some of the subsequent amendments might provide guidance.
- 364.** The representative of the Secretary-General indicated that not all elements in paragraph 5 were strictly related to the holder. Moreover, Annex I contained the full model of elements that would figure on the seafarers' identity document. If the wording "shall be restricted to" was preferred, it would be necessary to determine the elements to be brought from Annex I into paragraph 5. Referring to the comment of the United States, she indicated that a later amendment, namely D.110, proposed the wording "the particulars as described in Annex I". If the intention of D.110 was that the rest of paragraph 5 would fall then all the particulars would be found in Annex I.
- 365.** The Employer Vice-Chairperson pointed out that Article 3, paragraph 1, clearly stated that a seafarers' identity document should conform in its content to the model in Annex I. As for Article 4, paragraph 5, there could be a phrase restricting the content to the information in Annex I. But if the subparagraphs were dropped, it should be borne in mind that Annex I was subject to a less restrictive amendment procedure than the Convention. Retaining certain items in the Convention would provide a safeguard.
- 366.** The Worker Vice-Chairperson said that the required particulars should be in the Convention. The annex could be an expansion of that list. In any case, only a few more items appeared in Annex I than in paragraph 5, for example, the issuing authority, its telephone number, email and web site, and the date and place of issue. The biometric template was a separate issue, which had yet to be dealt with.
- 367.** The Chairperson pointed out that transferring the content of Annex I into the body of the Convention would make the amendment process more difficult.
- 368.** The Government member of the Republic of Korea suggested that the particulars to be included in the SID could be restricted to the content of Annex I. All elements could be included in the list, but amendment of the list of particulars would be easier.
- 369.** The Worker Vice-Chairperson, with reference to the proposal of the Government member of Germany to refer to the holder, asked whether the unique reference number referred to the identity document or to the seafarer. If it were the latter, would the unique reference number remain valid throughout the working life of the seafarer?

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- 370.** The representative of the Secretary-General stated that, in the Office's understanding, the unique reference number was specific to the document and it was subject to change. It did not stay with the seafarer for his or her whole life.
- 371.** The Worker Vice-Chairperson said in that case the unique reference number could be included in Annex I, along with such information as the web site of the issuing authority. On the other hand, since the validity of the document concerned the holder it could be maintained in paragraph 5.
- 372.** The Government member of Cyprus recalled that the unique reference number had been included on the suggestion of his Government. In his country, the unique reference number was assigned to the seafarer for his or her life and included the numbers indicating the sex of the seafarer, the seafarer's country of nationality, date of birth and a serial number assigned to seafarers of the same sex, nationality and birth date. This identification system had worked well in his country.
- 373.** The Chairperson said there was nothing in the present draft which linked the unique reference number to the seafarer. Section III(i) on page 29 of Report VII(2B) described the unique reference number as the "Country code (see I above) followed by an alphanumeric book inventory number of no more than nine characters;"
- 374.** The Government member of the United States pointed out that two concepts had been confused in the discussion thus far: the case number, which always referred to the seafarer, and the document control number, which identified the ID currently held by the seafarer. The unique reference number referred to the document, rather than to the seafarer.
- 375.** The Worker Vice-Chairperson then suggested an amendment to the text proposed by Germany as follows: "The seafarers' identity document shall be restricted to the following particulars of the holder:"
- 376.** The Government member of the Bahamas agreed but suggested a clearer wording: "the particulars of the holder contained in the SID shall be restricted to the following:"
- 377.** The amendment, as subamended, was adopted and referred to the Drafting Committee.
- 378.** The Government member of the United States explained that the aim of amendment D.110 was to align paragraph 5 with Annex I. He wished to hear the views of the Committee on this issue before formally introducing the amendment, since a subamendment might prove necessary or a withdrawal of the amendment might be envisaged. Item (j) of Annex I referred to a possible biometric template.
- 379.** The Employer Vice-Chairperson observed that paragraph 6 referred to the possible inclusion of a biometric template or other representation. If the intention was to reflect this in the list of particulars to be included in the SID, then a reference to the biometric should also be included in some way in paragraph 5.
- 380.** The Worker Vice-Chairperson stated that the unique reference number could appear either in paragraph 5 or in Annex I, once the confusion over its nature was clarified. The biometric template was optional. Paragraph 6 said that it might be required, subject to certain preconditions being met.
- 381.** The Government member of the Bahamas recalled that initially Government members had suggested that (j) in Annex I should become (j) in paragraph 5, but recognizing that this would make the biometric obligatory, they then believed that it might be a wiser course to

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- rename paragraph 6 to become (j) in paragraph 5. This would provide preliminary guidelines to member States on how to implement the Convention before the preparation of guidelines by the ILO.
- 382.** The Worker Vice-Chairperson reiterated the position of the Workers' group that the list of particulars to be included in the SID should be a non-optional, definitive list of real particulars, such as the name and sex of the seafarer. The template might or might not exist. Optional items would best be left to Annex I where there was more leeway.
- 383.** The Government member of the United States was amenable to the Workers' group's views, if they in turn would be willing to accept inclusion of the unique reference number in the list in paragraph 5.
- 384.** The Employer Vice-Chairperson was not convinced that the agreed text at the beginning of paragraph 5 allowed the Committee to move items to the annex. The Government members' proposal to move paragraph 6 into the list in paragraph 5 might complicate matters. The biometric template might or might not remain in paragraph 6, but if it did, perhaps it would be best to add an introductory phrase such as "Notwithstanding paragraph 5 ...". In practical terms, retaining the unique reference number in the Convention provided no greater value than keeping it in the annex. The Government member of Japan supported these views.
- 385.** The Chairperson asked for the views of the Committee regarding the consequence of its earlier decisions, in particular whether items (h) and (i) could be moved to Annex 1 since they did not refer to the holder of the SID. The Government member of Germany said that it was a logical consequence to include those items in Annex I. Only data referring to the holder of the SID should be kept in the Convention. It was so agreed and the amendment (D.110) was withdrawn.
- 386.** The Government member of Denmark asked whether a national identity number of the type issued in Denmark and Sweden could be used as the unique reference number referred to in clause (i). National legislation required that all official State documents contain the personal identification number awarded to a citizen, permanent resident, refugee or anyone else receiving State-issued identification. The SID would fall into that category.
- 387.** The Worker Vice-Chairperson observed that since subparagraphs (h) and (i) had been relocated to Annex I, this issue could be discussed when that annex was debated.
- 388.** The Government members of India, Indonesia and Pakistan presented an amendment (D.58), subsequently subamended by India and Indonesia, to delete the word "digital" from clause (f).
- 389.** The Government member of the United States asked the sponsors to consider amendment D.109 submitted by Japan and the United States, which provided the option of a digital or an original photograph. The sponsors withdrew amendment D.58 and both the Employer and Worker Vice-Chairpersons supported D.109.
- 390.** The Government member of Germany asked that the Working Party on Annex III consider the issue of technology so as to prevent any fraudulent exchange of original photographs. Security measures should be incorporated by States that chose to use this method.
- 391.** The amendment was adopted by consensus.

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- 392.** The Government members of Canada and Norway presented an amendment (D.74) to delete the words “or, if the holder is unable to sign, a thumbprint” from clause (g). Because a thumbprint on the exterior of the document could be captured and reused in a fraudulent manner, the Convention should remain silent on the use of a thumbprint.
- 393.** The Employer Vice-Chairperson expressed sympathy for the proposal, but asked whether a signature was not also a form of biometric.
- 394.** The Worker Vice-Chairperson supported the amendment.
- 395.** The Government member of Namibia raised the issue of seafarers who were unable to sign their name. What alternative form of identification would replace the thumbprint?
- 396.** The Worker Vice-Chairperson replied that an individual who could not read or write could not be a qualified seafarer under the STCW Convention. Illiterate persons should not be engaged on board ship.
- 397.** The Government member of Portugal recalled that the definition of “seafarer” agreed in Article 1 included not only qualified seafarers, but also other personnel, such as cooks and barbers, who did not perform traditional seafarers’ duties and who might be unable to sign their name.
- 398.** The Government member of Canada further explained that traditionally those who could not sign their name made an “X” in lieu of a signature and this was done in the presence of a witness. It was not desirable to include such detail in the instrument. Governments could simply follow their own national procedures in this regard.
- 399.** The Government member of Namibia asked whether the lack of signature on some SIDs might not adversely affect the universal appearance and hence the machine readability of the document.
- 400.** The Government member of Greece added that the signature constituted proof that the seafarer had seen the SID and accepted what was written there.
- 401.** The Worker Vice-Chairperson reiterated his group’s support for the amendment. Anyone on board a ship should be able to read and write, if for no other reason than to be able to fully understand basic safety training.
- 402.** The amendment was thus adopted.
- 403.** Amendments D.75 and D.105 were withdrawn without discussion. Amendment D.43 was not seconded. Amendments D.155 and D.156 were received after the deadline and were therefore not considered.
- 404.** Paragraph 5 was adopted as amended.

Paragraph 6

- 405.** The Worker Vice-Chairperson introduced an amendment (D.175) to paragraph 6, to add, after the words “of the holder” the words “, which meets the specification provided for in Annex I,”. The purpose was to specify that the biometric being referred to was that specified in the annex.
- 406.** The Employer Vice-Chairperson supported the amendment which was adopted.

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- 407.** The Government member of Norway introduced an amendment (D.70) on behalf of himself and the Government member of the United Kingdom, which in paragraph 6 would replace the word “may” with the word “shall”. The objective of the Norwegian delegation was to have a uniform internationally recognized global standard for the SID. The biometric was essential in achieving this objective. His preference was that this be an international requirement but if the Committee had objections in this regard, then he could live with the word “may” as currently proposed in the Office text.
- 408.** The Employer Vice-Chairperson said that it was clear from the ICAO presentation that there was a movement towards the biometric standard within ICAO. However, the ICAO representative had also made it clear that this standard would not be an obligation for ICAO member States. Therefore, he preferred the Office text.
- 409.** The Worker Vice-Chairperson said that this was a very important issue for his group. If a number of governments had indicated they would opt for using a biometric fingerprint on a bar code, then his group would have agreed to replacing “may” with “shall”. However, it appeared that there was no agreement yet on a universally accepted biometric. He wondered what would happen if a seafarer from a country that issued a SID without a biometric tried to take shore leave in a State that required a biometric. His group might consider changing “may” to “shall” if this facilitated shore leave for seafarers. Article 7 should be discussed before deciding this.
- 410.** The Government member of Canada, supported by the Government members of Egypt, France and Japan, did not favour using “shall”. It would delay the entire process of issuing SIDs, as sufficient information and the necessary technology would not be immediately available in order to issue the new SIDs in accordance with Article 9.
- 411.** The Government members of Algeria, Chile, Cyprus, India, Ireland, Italy, Lebanon and Nigeria preferred to retain the word “may”.
- 412.** The Government members of China and the Philippines said it was important to hear from receiving member States what would be the consequences to seafarers if such a State included, or did not include, a biometric in the SID.
- 413.** The Government member of Denmark explained that her Government did not require biometrics for persons entering her country. However, if the inclusion of biometrics would facilitate shore leave, then her Government would support it.
- 414.** The Worker Vice-Chairperson said that it appeared that a majority of the Governments preferred the Office text (“may”). However, the objective of facilitating shore leave should be borne in mind. The Government members of China and the Philippines had correctly called upon receiving member States to indicate what SID features would be required in their countries to enable shore leave and to facilitate transit. He appealed to governments which were ready to accept the fingerprint biometric stored in a bar code to express themselves. He reiterated the need to discuss Article 7 before dealing in depth with the present amendment.
- 415.** The Employer Vice-Chairperson supported the Worker Vice-Chairperson’s view that the issue of using “may” or “shall” should be deferred until after the discussion of Article 7.
- 416.** The Government member of the Bahamas reminded the Committee of the importance of ensuring global interoperability with regard to the selection of a biometric. He could support changing the word “may” to “shall” if the biometric would be globally acceptable.

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417. The Government member of Greece suggested that consideration might be given to proving different rights for seafarers depending on whether or not a biometric was included in the SID. He also supported deferring debate on the use of “may” or “shall” until after considering Article 7.
418. The Chairperson, in consultation with the Vice-Chairpersons, agreed to defer further debate on amendment D.70 pending discussion of Article 7.
419. The Committee referred paragraphs 6 and 9 to a working party the outcome of which is reported below under paragraph 9.

Paragraph 7

420. The Government member of the United States, speaking also on behalf of the Government members of Japan and Norway, introduced two amendments (D.143 and D.172) to replace the words “The above particulars” with “The particulars outlined in Article 4 and Annex I”, which sought to make the text more specific.
421. The Worker Vice-Chairperson observed that the amendment was in conflict with provisions the Committee had already adopted. He proposed a subamendment to delete the entire paragraph, which was adopted.
422. Paragraph 7 was deleted.

Paragraph 8

423. The Worker Vice-Chairperson introduced an amendment (D.178) to replace paragraph 8 with the following: “All data concerning the seafarer that is included in the document shall be eye-readable.” In line with their desire to have a fingerprint biometric on a bar code, he suggested that all data be eye-readable.
424. The Employer Vice-Chairperson feared that any data that was compressed would not be eye-readable.
425. The Government member of Italy explained that the problem depended on the type of biometric used and how it was encoded. There was no international agreement on the type of template to be used, but there was a concern for global interoperability. A fingerprint image could be placed into a bar code that could be considered eye-readable.
426. The Government member of the United States observed that, although the bar code itself was visible, the actual data, i.e. the thumbprint, was not.
427. The Government member of the Republic of Korea felt that the Office text took better into account the need to accommodate future technological developments.
428. The Government member of Germany agreed that the Convention should not impose such a restriction as “eye-readable”; he would later be introducing an amendment that would give the seafarer access to any information not visible on the document.
429. In the light of the discussion, the Worker Vice-Chairperson proposed that the Office text be amended to read: “All data concerning the seafarer that are recorded on the document shall be visible. Seafarers shall have convenient access to machines enabling them to inspect any data concerning them that is not eye-readable.”

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- 430.** The amendment was adopted as subamended.
- 431.** The Government member of Germany, seconded by the Government member of the Netherlands, submitted an amendment (D.140) to add the following sentence at the end of paragraph 8: “Such access shall be provided by or on behalf of the issuing authority.” The purpose of the amendment was to make it clear that it was the issuing authority that had the responsibility for providing access to data.
- 432.** The Employer Vice-Chairperson supported the amendment, which was adopted.
- 433.** Paragraph 8 was adopted as amended.
- 434.** The Government member of Cyprus raised the question of the status of seafarers whose SID expired while their ship was still at sea.
- 435.** The Employer Vice-Chairperson thought that that issue had already been discussed.
- 436.** The Worker Vice-Chairperson felt that, although it was the seafarer’s responsibility to ensure that the SID was valid for the duration of the contract, that could pose difficulties for seafarers whose contracts were for up to 24 months.
- 437.** The Government member of Canada thought that Annex III might stipulate that seafarers could initiate the formalities for renewing their SID up to 24 months prior to its expiry and, with the support of the Government member of Cyprus, suggested that the matter be referred to the Working Party on Annex III. It was so decided.

Paragraph 9

- 438.** When the Government member of Greece, speaking as Chairperson of the Working Party which had dealt with Article 4, paragraphs 6 and 9, reported back to the Committee, he introduced the results of their work in the form of a new text (D.209). The text had been delicately balanced. Paragraphs 6 and 9 should be read with the understanding that the biometric chosen would be based on a fingerprint printed as numbers in a bar code (D.189). The Working Party accepted the proposed amendment to Article 4, paragraph 6, as subamended previously in the Committee. Indeed, the reason for opting for “shall” as proposed in D.70 was that there had been a large measure of agreement on the use of the biometric template. However, in order to meet the concerns over cost of seafarer-supplying nations and to encourage ratification of the Convention by those nations, the Working Party agreed that it was important for the Committee to submit a Conference resolution calling for a joint ILO/ICAO approach for a global, interoperable standard.
- 439.** The Employer Vice-Chairperson, noting that compromises had been made by all parties, voiced his group’s support for the draft text of Article 4, paragraphs 6 and 9, submitted by the Working Party.
- 440.** The Worker Vice-Chairperson observed that the draft Article proposed by the Working Party made “a template or other representation of a biometric” a requirement rather than a matter of choice. He noted as well that the Working Party had agreed that Members should not have a choice of biometric. When the Committee came to its discussion of Annex I, the Workers’ group would be submitting an amendment providing for a “biometric template based on a fingerprint printed as numbers in a bar code conforming to international standards to be agreed”. His group found the protections provided in clauses (a) through (e) to be altogether acceptable and fully supported the proposed text.

441. Paragraphs 6 and 9 of Article 4, as submitted by the Working Party, were adopted along with the consequential decisions regarding the amendments involved

442. Article 4 was adopted as amended.

Article 5

443. Fifteen amendments were submitted to Article 5.

444. The Government members of Canada and Norway submitted an amendment (D.69) to add the subheading “National electronic database” under the heading “Article 5”. This proposal was adopted and referred to the Drafting Committee.

Paragraph 1

445. The Government members of Canada and Norway submitted an amendment (D.101) to replace the first sentence of paragraph 1, with the following: “Each Member shall ensure that a record of each seafarers’ identity document issued or withdrawn by it is stored in an electronic database.” The Government member of Canada asked whether the matter should be referred to the Drafting Committee or considered under Annex III, which dealt with the withdrawal of seafarers’ identity documents.

446. The Worker Vice-Chairperson indicated that the amendment was in line with the outcome of the Working Party’s discussions on Annex III. However, the question of the procedures for the issuance and withdrawal of seafarers’ identity documents was a quite different issue from that of the storage of electronic records. The Workers’ group found the amendment reasonable and supported it.

447. The representative of the Secretary-General assured the Committee that the proposed text was already reflected in Annex III. She then confirmed the sponsors’ intention that the second sentence of paragraph 1, i.e. “The necessary measures shall be taken to secure the database from interference or unauthorized access”, would remain.

448. The Government member of the Bahamas expressed his concern that the Committee had not yet seen the revised Annex III and sought assurance that it could return to the issue in the event of conflict between the amendment and Annex III. The Chairperson replied that the text of the Convention would prevail and that any subsequent adaptations would have to be made in the annex.

449. The Worker Vice-Chairperson stressed that both the issuance and withdrawal of seafarers’ identity documents should be stored in the database. It was appropriate that basic premises, such as the issue of storage, were dealt with in the Convention, whereas the annex could cover procedures.

450. The Employer Vice-Chairperson agreed. He suggested the Drafting Committee examine the choice between the electronic storage of “a reference to” or “a record of” the SID.

451. The Government member of the United States, seconded by Namibia, proposed a subamendment to include information on the suspension of a SID as well as its issuance and withdrawal.

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- 452.** The Government member of France stressed that, under national legislation, the storage of personal data was only authorized for a certain period of time. Unless a time limit for the storage of information was set, the Convention might not be ratifiable.
- 453.** The Government member of Germany proposed a subamendment, seconded by France, to add after the first sentence in paragraph 1, the following sentence: “Each Member may decide to delete data concerning withdrawn documents after a reasonable period of time has elapsed.”
- 454.** The Worker Vice-Chairperson pointed out that in case of an inquiry to a member State as to the validity of a SID, the answer would only be “yes” or “no”. The answer would not be that the SID had been withdrawn or suspended, as these were procedural matters. The deletion of data concerning the withdrawal of documents was likewise a procedural matter, and it should be dealt with in Annex III. For the purpose of the Convention, only a record of the issuance, suspension or withdrawal of a SID was appropriate. The Workers’ group therefore did not agree with the German subamendment, but supported the subamendment of the United States.
- 455.** The Employer Vice-Chairperson also supported the United States subamendment and rejected the German subamendment. The Working Party had agreed on a three-year limit for the storage of data on withdrawals, and that time limit could be reviewed when revised Annex III was referred to the Committee.
- 456.** The representative of the Secretary-General cautioned that the wording of the German subamendment could have an effect contrary to the intention of its sponsors, as it implied that it would be possible for data concerning non-valid seafarers’ identity documents to be retained permanently in the database.
- 457.** The Government member of Norway explained that national data protection legislation set out very clearly that unnecessary data should not be stored. Norway had no tradition of suspending documents. SIDs were either valid or, in the event of withdrawal, invalid. If the United States subamendment were adopted, the storage of data on the suspension of documents would become a requirement. The notion of “suspension” was not clear and this would make it difficult to implement in view of national legislation.
- 458.** The Government member of the United States explained that there were circumstances under which the competent authorities could suspend a SID for a defined period of time for disciplinary, penal or medical reasons. In his opinion, these events had to be covered. If a SID were suspended, it would not be a valid document at the time the verification request concerning that document was made.
- 459.** The Government member of the Netherlands pointed out that the words “shall ensure” caused some concern, since they offered no flexibility. It was not clear how this would concord with national legislation which did not provide for suspension.
- 460.** The Chairperson indicated that if national legislation did not provide for the suspension of a SID, there would obviously be no necessity for a member State to include information on suspension in the database.
- 461.** In light of the wide support for the proposal, the amendment was adopted as subamended.
- 462.** Paragraph 1 was adopted as amended.

New paragraph

- 463.** The Workers' group submitted an amendment (D.84) to add the following new paragraph after paragraph 1: "Each Member shall put in place procedures which will enable a seafarer to examine and check the validity of all the data held or stored in the electronic database which relates to that individual, at no cost to the seafarer concerned." Such procedures were already standard practice in a number of countries. The Worker Vice-Chairperson hoped that the Convention would facilitate wider acceptance of this right.
- 464.** The Employer Vice-Chairperson shared the position of the Workers' group. A seafarer's right to have access to such information in order to verify its accuracy had to be envisaged. It was the seafarer concerned who was in the best position to correct errors. Such access should be at no cost to the seafarer. Procedures of appeal were normally set forth under national legislation in case the information stored was not correct.
- 465.** The Government member of the United States suggested the text be subamended to offer the opportunity for the correction of incorrect information.
- 466.** The Government member of Italy strongly supported the amendment, as it was in conformity with Italian legislation concerning access to personal data.
- 467.** The Government member of Germany, while supporting the amendment as being in line in German and European Union laws, proposed to subamend it by inserting the words "any seafarer to whom a SID has been issued". This would set out more clearly who was responsible for what.
- 468.** The Government member of the United States seconded the subamendment, which was further supported by the Government members of Denmark and Greece as well as the Workers' group.
- 469.** The Government member of South Africa did not favour the subamendment proposed by Germany, as it was clear that the seafarer concerned was the one to whom the document had been issued. Article 2, paragraph 1, clearly implied this.
- 470.** The Worker Vice-Chairperson pointed out that there was a need to include security arrangements concerning the procedure for the examination of data and suggested that the Drafting Committee consider this issue. As for the question of correction of data, he proposed to further subamend the text by inserting the words "and to provide for correction if necessary" after the words "that individual".
- 471.** The Government member of India preferred the original proposal. The correction of data was basically an administrative procedure and should therefore be included in Annex III. The seafarer could only access the data, while it was up to the State to make the actual corrections.
- 472.** The Workers' group drew her attention to the fact that the word "procedure" in the proposed text related entirely to the facilitation of access to the data with a view to pointing out possible error. It would then be for the individual member State to verify whether the requested corrections were necessary.
- 473.** As a result of these discussions, the following text for a new paragraph was adopted: "Each Member shall put in place procedures which will enable any seafarer to whom it has issued a seafarers' identity document to examine and check the validity of all the data held or

stored in the electronic database which relates to that individual and to provide for correction if necessary, at no cost to the seafarer concerned.”

Paragraph 2

- 474.** The Government member of Greece introduced an amendment (D.45) that was seconded by the Government member of Norway. It sought to place emphasis on the need to protect the essential data that was used for verifying the SID by replacing the words “essential to assist the verification of” with the words “necessary for the purposes of verifying”.
- 475.** The Employer Vice-Chairperson agreed that the proposed wording made for the tighter protection of seafarers’ data.
- 476.** The Worker Vice-Chairperson also supported the amendment, but suggested a subamendment to retain “essential” instead of changing it to “necessary”.
- 477.** The amendment was adopted as subamended.
- 478.** The Worker Vice-Chairperson introduced an amendment (D.85) to add the words “and which meet all applicable data protection requirements” after the words “right to privacy”, in the interest of greater data security.
- 479.** The Employer Vice-Chairperson supported the amendment which was adopted.
- 480.** The Government member of Canada introduced an amendment (D.106), also on behalf of the Government member of Norway, to replace the last sentence with the following sentence: “The details to be contained in the database are those that are set out in Article 4, paragraphs 5 and 6, above.” He felt that the details should be included in the body of the instrument.
- 481.** The Government member of Norway said that the intention was to avoid any asymmetry between the ID card and the record in the database.
- 482.** The Employer Vice-Chairperson noted that the amendment only made sense if Annex II was deleted and questioned the desirability of placing more information in the database than was necessary.
- 483.** The Worker Vice-Chairperson said that his group was opposed to the deletion of Annex II, which the same two countries proposed in amendment D.102. Moreover, the sentence that the amendment proposed deleting contained an important provision for amending Annex II. His group was therefore against the amendment.
- 484.** The representative of the Secretary-General pointed out that the amendment would affect the first sentence of the paragraph. The Government members of Canada and Norway withdrew the amendment and paragraph 2 was adopted as amended.

Paragraph 3

- 485.** The Government member of the United States introduced an amendment (D.111), also on behalf of Japan. While they had no problem with the term “focal point”, replacing it with “point of contact or competent authority, indicating title, phone, fax, email, SITA, telex and any other contact information” provided more detail.

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486. The Employer Vice-Chairperson noted that Article 4, paragraph 3, already provided for sufficient information for making rapid contact with the issuing authority.
487. The Worker Vice-Chairperson agreed, adding that the amendment introduced excessive detail.
488. The sponsors withdrew the amendment.
489. The Government member of Germany proposed amendment D.49 that was seconded by the Government member of the Netherlands. Replacing “concerning any seafarers’ identity document issued by its competent authority” with the words “concerning the authenticity and validity of the document issued by its authority, and the entries therein”, corresponded better to the protection of data.
490. The Employer Vice-Chairperson supported the amendment.
491. The Worker Vice-Chairperson also supported the amendment, subject to a subamendment to remove the words “and the entries therein”.
492. Amendment D.49, as subamended, was adopted.
493. The Worker Vice-Chairperson introduced an amendment (D.86) to add the following sentence at the end of paragraph 3: “Details of the permanent focal point shall be communicated to the International Labour Office, and the Office shall maintain a list which is communicated to all Members.”
494. The Employer Vice-Chairperson supported the amendment.
495. The Government member of France drew attention to an error in the French translation of the amendment: “en possession du” should be replaced by “relatif à”.
496. Amendment D. 86 was adopted.
497. Paragraph 3 was adopted as amended.

Paragraph 4

498. Amendment D.50 submitted by the Government member of Germany was not seconded and was not discussed.
499. The Government member of Greece, seconded by the Government member of Denmark, proposed an amendment (D.46) to delete the word “immediately”. Access to the database should not be direct and might not be immediate for technical reasons.
500. The Employer Vice-Chairperson opposed the deletion, since removing the word “immediately” might slow the facilitation of seafarers’ movements.
501. The Worker Vice-Chairperson preferred the original text.
502. The Government member of Denmark understood the seafarers’ concern and recognized that the possibility that direct access, if not immediate, to a database was important and suggested a time limit.

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- 503.** The Government member of Greece withdrew the amendment.
- 504.** The Government members of Canada and the United States proposed an amendment (D.107) to delete the words “of Members for which this Convention is in force”. The Government member of Canada said there were two groups of States: issuing States and receiving States, some of which might not have ratified the Convention. It was therefore necessary to remove the words and ensure that all member States of the ILO informed it of their focal points.
- 505.** The Employer Vice-Chairperson and the Worker Vice-Chairperson supported the amendment which was adopted subject to the Drafting Committee reviewing the text.
- 506.** The Government member of the Netherlands asked about the possible obligations arising from the text of the Convention for ILO member States which could not ratify the instrument.
- 507.** The representative of the Secretary-General replied that ILO Conventions imposed only limited obligations on member States which had not ratified them within the framework of article 19 of the Constitution. Apart from that, they had value as recommendations for non-ratifying Members. No obligation to submit periodic reports was imposed on them in connection with article 22 of the Constitution. Only ratifying member States would have the obligation to submit the list referred to in the provision under discussion. This provision would only have an impact as a Recommendation, but there were good faith obligations.
- 508.** The Government members of Japan and the United States withdrew amendment D.112.
- 509.** The Worker Vice-Chairperson proposed amendment D.87 to delete the words “either directly or”. Data protection meant that direct access to a database should only be allowed through a focal point in the country which issued the SID. It was a fundamental principle not to permit free access to seafarers’ data in national databases to third parties. He wondered whether a digital photograph, which currently does not exist in Annex II, in the database would help facilitate a seafarer’s entrance since the receiving country could check the passport and look at a digital photograph of the person who presented the SID. He was curious as to whether processes and technology could permit that photograph to be sent by the issuing Member if requested.
- 510.** The Employer Vice-Chairperson stressed that immediate access to the database was pertinent and at the moment the database did not contain any more information than listed in Annex II. The database should only contain minimum information, and that in case of further questions of the inquiring States, they should initiate bilateral contact with the issuing authority.
- 511.** The Government member of Denmark supported the amendment and stated that direct access by others to the database would be against data protection legislation in many European Union countries.
- 512.** The Government member of Germany also supported the amendment and underlined that direct access should be distinguished from automated access.
- 513.** The Government member of Greece supported D.87 but cautioned that the word “immediate” required a 24-hour service in order to respond to inquiries.

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- 514.** The Government member of the Republic of Korea, supported by the Government member of India, stressed that Annex III, part A, paragraph 4, subparagraphs (a) and (b) provided for the protection of data in the database and permitted queries to the appropriate authorities. The rapid transfer of data was required in order to facilitate the movement of seafarers and the deletion of these words in the amendment might endanger this.
- 515.** The Employer Vice-Chairperson suggested that this amendment was consequential to the discussions of the Working Party on Annex III which had determined that only people employed by the issuing Member could access the data in the database.
- 516.** The representative of the Secretary-General reminded the Committee that the core of the text prevailed and the annex had to comply with it.
- 517.** The Government member of Cyprus, while understanding the concerns of the seafarers, suggested an alternative approach that would permit limited access to limited data by other Members for verification purposes only. Specific technical security features could be utilized in order to achieve this.
- 518.** A Worker member was amenable to this and recommended to send it to the Drafting Committee for the appropriate wording that incorporated their intent.
- 519.** The Employer Vice-Chairperson was open to the proposal and it was agreed to communicate the intent of the amendment to the Drafting Committee.
- 520.** Paragraph 4 was adopted as amended.

New paragraph

- 521.** The Worker Vice-Chairperson presented amendment D.88 to add the following new paragraph: “Members shall ensure that the data on the electronic database shall not be used for any purpose other than verification of the seafarers’ identity document.” The amendment was merely in line with the protection of data.
- 522.** The Employer Vice-Chairperson suggested that some governments might want to include other information in the database such as certification data. Since it would not be available to other Members, it would not be appropriate to tell governments what to do with their data.
- 523.** The Government member of Germany suggested a subamendment by adding the word “personal” in front of “data” which was supported by the Government members of Namibia, Norway and the United Kingdom.
- 524.** The Employer and Worker Vice-Chairpersons agreed and the amendment was adopted as subamended.
- 525.** Article 5 was adopted as amended.

Article 6

- 526.** The Government member of Denmark, speaking as the Chairperson of the Working Party on Article 6, acknowledged the dedication of the participants and introduced the results of their work for consideration by the Committee contained in document D.210. The aim of the Working Party had been to ensure that reliable evaluation procedures and quality

control systems were in place so that SIDs were secure. The Working Party had considered all of the amendments submitted on Article 6 (D.68, 94, 95, 62, 114, 60, 61, 96, 89, 90, 113, 77, 97, 66, 48, and 98) and had examined a consolidated document prepared by the Government member of Japan. Based on the agreement of the social partners, they had then proceeded to work on the basis of the Office text. A heading “Evaluation and Control” had been accepted based on D.68. Paragraph 1 based on the Office text and D.94 concerned the minimum requirements considering processes and procedures for the issue of the SID that must be achieved by Members in the administration of their systems, as set out in Annex III. The mandatory results to be achieved are summed up in paragraph 2. It was considered essential to include them in the Convention where they would not be subject to a simplified amendment procedure. Paragraph 3 provided for the possibility of amending Annex III through a simplified amendment procedure giving enough time to Members to make the necessary revisions in their processes and procedures. Paragraph 4 was based on the Office text as well as amendments D.95, D.60, D.61 and D.114. It established that there should be independent evaluations of the administration of the system for issuing SIDs no less than every five years. Three elements considered essential were flexibility with regard to means (hence evaluations, rather than audits were required), integrity (based on the independence of the evaluation) and periodicity of evaluation to ensure regular opportunities to detect and correct shortcomings. Special reporting requirements in addition to those under article 22 of the Constitution were agreed. Paragraph 5 stated that the reports should be made available to other Members by the Office as agreed by the Working Party on Annex III. With regard to paragraph 6, the speaker drew the Committee’s attention to the issue of tripartite examination of reports from Members on their evaluations of issuance systems. As those in the maritime sector wished to be judged by their peers, some special arrangements might need to be made by the Governing Body to involve governments, shipowners and seafarers in the approval of such a list. One possible solution might be the establishment of a tripartite maritime body and a resolution to this effect had been drafted. As such a decision would have financial implications, advice on this matter was sought from the Legal Adviser. According to paragraph 7, the list should be available to Members at all times and updated as information was received. Procedures to deal with a Member’s contested inclusion on or possible exclusion from the list were covered in paragraphs 7 and 8. The final paragraph made clear the consequences to seafarers in the event of non-compliance of a Member with the minimum requirements. In closing, the speaker emphasized the need for governments and the social partners to inform the members of the Governing Body of the importance they attached to the establishment of a tripartite maritime body to approve the list of Members and to urge their representatives to support it. She reminded the Committee that the need to create such a body had already been discussed in the High-level Tripartite Working Group on Maritime Labour Standards.

- 527.** The Legal Adviser of the ILO recommended that the Committee not mention the creation of this new body in the instrument but make the request to the Governing Body through a resolution. He advised that the proposal contained in draft Article 6 could be deemed a motion which had major financial implications for the Organization, as it aimed at the establishment of a new body. If the motion were incorporated in the Convention, it would be very difficult for the Governing Body not to implement it. Article 18 of the Standing Orders of the International Labour Conference states that “any motion or resolution involving expenditure shall in the first instance ... be referred to the Governing Body which, after consultation of its Programme, Financial and Administrative Committee, shall communicate its opinion to the Conference”. In the time remaining before the end of the Conference, it would be extremely difficult to convene a meeting of the Governing Body and the speaker doubted that the Officers of the Governing Body would be in a position to take a decision on the matter. The draft resolution (CGM/Res.4), which requested the Governing Body to consider appointing a tripartite maritime body to review reports and

provide advice to the Governing Body, appeared to be receivable under article 18 of the Standing Orders of the International Labour Conference.

- 528.** The Employer Vice-Chairperson expressed his group's support for the appointment of a tripartite maritime body and noted that the major effort to consolidate all the maritime Conventions included a draft consideration of such a body. The report of this ongoing work, which had been submitted by the High-level Tripartite Working Group on Maritime Labour Standards to the Governing Body in March 2003, referred to the potential establishment of a tripartite maritime body. The Governing Body had taken note of this, and he thought that it was premature to make this request. The Employers' group therefore wished to delete the references to a tripartite maritime body which appeared in square brackets in paragraphs 6, 7 and 8 of D.210. This would have a consequential effect on the draft resolution.
- 529.** The Worker Vice-Chairperson agreed with this proposal to delete the references to a tripartite maritime body in paragraphs 6, 7 and 8 and thereby let the resolution fall. However, it should be recorded that the establishment of a tripartite maritime body had been considered, such a body would be useful to deal with these matters and that the discussion would be further pursued in the High-level Tripartite Working Group.
- 530.** The representative of the Secretary-General noted that, following the advice of the Legal Adviser, the Committee could delete the square-bracketed references to the tripartite maritime body in paragraphs 6, 7 and 8, but to retain the second set of square-bracketed text "in accordance with arrangements made by it". The resolution would therefore be retained and the Governing Body would be aware of the wishes of the Committee.
- 531.** The Worker Vice-Chairperson was pleased that the resolution could be retained.
- 532.** The Employer Vice-Chairperson noted that appropriate changes to the language in the operative paragraph of the resolution would have to be made to align it with the text of the Article. He too expressed support for the resolution.
- 533.** The Worker member from the Netherlands, who served on the Working Party on Article 6, observed that, while ensuring the reliability of the issuance process was principally a government concern, it was also vitally important for seafarers and shipowners. Only if governments complied with the provisions of Article 6 could seafarers have the assurance that their SIDs would be accepted. He expressed his group's support for the text.
- 534.** The Chairperson of the Working Party accepted the amendment of the draft resolution. As the Chairperson of the subgroup of the High-level Tripartite Working Group, she considered it essential that nothing adopted in this Committee should create obstacles to work going on elsewhere.
- 535.** The representative of the Secretary-General suggested replacing the beginning of the operative paragraph of the resolution with the following words: "Requests the Governing Body to consider making arrangements for representatives of governments which have ratified the Convention, as well as shipowners' and seafarers' organizations, to be involved in the review of the reports submitted by Members"
- 536.** The Government member of the Bahamas proposed to remove the "s" from "meets" in the third line of paragraph 6, a minor correction which clarified the meaning of the provision.
- 537.** The Government member of Italy asked for a clarification of "independent evaluation" in paragraph 4 and wondered what were the financial implications for member States.

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538. The Chairperson of the Working Party explained the rationale behind this wording, which had struck a balance between offering flexibility of means and ensuring the validity of results. If an evaluation were to constitute proof of compliance, then it had to be independent.
539. The Government member of Italy understood therefore that a paid audit implying heavy costs to the Member was not required.
540. The Government member of India asked whether each country would be free to use its own independent evaluation procedures and received an affirmative reply from the Chairperson of the Working Party.
541. Article 6 was adopted as amended.

Article 7

General discussion

542. The Chairperson, after consulting with the Vice-Chairpersons, opened the floor to a brief general discussion on Article 7 to facilitate the later discussion of 27 amendments to that Article.
543. The Government member of Greece said the new instrument must provide incentives for the seafarer to apply for a SID, for shipowners to encourage the seafarers to make such applications, and for governments to commence preparations, including the purchase of necessary equipment, to process the new SID. He suggested that the Convention could provide that, dependent on the procedures of a Member for which the Convention was in force, if a seafarer holding a valid seafarers' identity document was also required to be in possession of a visa for one of the purposes specified in the preceding paragraph, the visa should be issued at the border at no cost and in accordance with such conditions as might be prescribed by the national law, regulation or practice of the Member. The proposal recognized the professional nature of a seafarer's entry into a State. It also avoided setting specific time limits for issuing visas. Finally, he said that he did not have the mandate to change the immigration laws of his country.
544. The Government members of Canada, Italy, Republic of Korea and Namibia supported the view of the Government member of Greece. The Government member of the Islamic Republic of Iran agreed that visas for seafarers should be provided at no charge.
545. The Government member of the United States, referring generally to amendments submitted by Government members to paragraphs 3 and 4 of Article 7, was ready to proceed to a discussion of that Article.
546. The Government member of Germany, referring to what had been said by the Government member of Greece, suggested that the Committee should have clear common goals concerning access to shore leave and transit that should be easy and not costly, as well as enhancing confidence in the SID. Sometimes national legislation had different concepts in evaluating processes and monitoring individuals and governments should not be obliged to change national immigration legislation.
547. The Government members of Lebanon and Namibia expressed concern about provisions of Article 7 relating to the cost and time associated with verification and inquiries or formalities. These provisions were obstacles to ratification.

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- 548.** The Government member of Denmark reported that her country had ratified Convention No. 108 and had authorized border police to issue visas to seafarers.
- 549.** The Government member of Kenya said that, in his country, if a seafarer had a valid SID, the immigration authorities would permit the seafarer to proceed home or to the place of work.
- 550.** The Government member of Brazil indicated that in his country there were different procedures depending on whether a seafarer arrived by air or sea.
- 551.** The Government member of Ireland, supported by the Worker Vice-Chairperson, said that what his Government sought was a SID that when produced would lead to “positive discrimination” in the way seafarers were treated by immigration authorities.
- 552.** The Government member of the Republic of Korea said that his Government did not require a visa for shore leave or transit. He said, with the support of the Government members of Portugal and the United Kingdom, that the fundamental principles of Convention No. 108 should be retained. Verification processes should be kept to a minimum.
- 553.** The Government member of Australia recognized the need to facilitate seafarers’ entry into States for the purposes of shore leave or transit which was the focus of Convention No. 108. There was, however, a more urgent need for a higher standard of identification for seafarers for border security and protection. Her Government was concerned as to whether the ILO had the requisite mandate, as border protection was a government prerogative. Australia’s preferred solution was that the new instrument required a seafarer to carry a passport and evidence of his current employment as a seafarer. This was similar to arrangements in place for aircrew in accordance with ICAO regulations and Australian legislation which would come into effect in November 2003.
- 554.** The Government member of India reiterated that intent of the Convention was to facilitate travel of seafarers. The only way to do this was with the SID.
- 555.** The Government member of Norway, supported by the Government member of Egypt, said that facilitation of movement of seafarers was essential for flag States. He sought a Convention that would retain the principles of Convention No. 108 as concerned the facilities for seafarers yet would accommodate States which had not been able to ratify that Convention due to security concerns.
- 556.** The Worker Vice-Chairperson said the discussion had been helpful and should lead to the efficient discussion of amendments. He recalled that the events of 11 September had led to increased security concerns which, in turn, had had an impact on the human rights of seafarers. He noted that the recently agreed International Ship and Port Facility Security (ISPS) Code gave responsibility for shipboard security, yet ashore they were often treated as a security threat. Even as the Committee was discussing shore leave and seafarers’ visas, the immigration authorities of the member State had put in place rather severe requirements in this area. The Workers were also concerned about a practice of some countries of stamping the visas of seafarers who had been refused entry into their countries. Such a practice could affect future employment opportunities. He suggested that paragraphs 3 and 4 of Article 7 could be redrafted to incorporate the principle of substantive equivalence found in ILO Convention No. 147 and the draft of the new consolidated maritime labour Convention.

Report of the Working Party

- 557.** The Government member of Greece, speaking as the Chairperson of the Working Party on Article 7, informed the Committee that the Working Party had considered each of the 27 amendments (D.132, D.166, D.180, D.181, D.173, D.182, D.164, D.174, D.168, D.163, D.169, D.147, D.183, D.184, D.185, D.145, D.170, D.167, D.186, D.158, D.187, D.162, D.161, D.146, D.153, D.188, and D.157) proposed to Article 7 in the Office text as well as ideas generated in the course of their deliberations. Through a process of negotiation, they had developed the text (D.211) placed before the Committee. The aim of the Working Party had been to facilitate the task of the Committee and to move its work forward, rather than to make decisions. Because the SID was not a passport, but a stand-alone identity document, the Working Party considered it useful to distinguish clearly between the minimum advance notice period to facilitate shore leave and the arrival processing procedures for the purpose of transit. These were dealt with separately in paragraphs 3 and 4. A new subparagraph following subparagraph 3(3) stipulated that seafarers would not be required to hold a visa for the purpose of shore leave. Moreover, the Working Party agreed on wording to allow member States that could not meet this requirement to ensure that national laws and regulations or practice would provide substantially equivalent arrangements. With regard to paragraph 7, the Working Party recognized the need for heightened maritime security. It also acknowledged that the fear of detention of a ship was prevalent in the maritime industry. However, it considered that the failure of a seafarer to hold a valid SID was not linked to the welfare of the ship nor of other seafarers on board and therefore did not constitute grounds for detention of the ship in question. Hence, the Working Party agreed not to pursue amendment D.188. Moreover, it recommended the deletion of paragraph 7. The speaker concluded by stressing again that the agreed text was a carefully balanced package. He considered it an honour to have chaired the Working Party and thanked its members for their willingness to move ahead and reach agreement.
- 558.** The Chairperson reminded the Committee that the draft text submitted by the Working Party on Article 7 (D.211) constituted a whole with Article 4, and specifically with the text of paragraphs 4(6) and 4(9) found in D.209 submitted by the same Working Party. Furthermore, he called the Committee's attention to two draft resolutions, one on technical cooperation on biometrics and another on standard setting.
- 559.** The representative of the Secretary-General drew attention to a correction to be made to subparagraph 3(1) of the proposed text, the last line of which should read "except for details concerning biometrics contained in Annex II".
- 560.** The Employer Vice-Chairperson thanked the Working Party for its hard work and remarkable achievement and said that his group could accept the wording of the draft text, as amended.
- 561.** The Worker Vice-Chairperson congratulated the Working Party for having developed a compromise package acceptable to all and expressed his group's complete support. Regarding the proposal of the representative of the Secretary-General concerning subparagraph 3(1), there might be a need for a consequential amendment in Annex II, rather than just a reference to biometrics.
- 562.** The Government member of Germany observed that the Working Party's report took account of many conflicting interests and constituted an excellent compromise. His delegation still had some difficulty with subparagraph 3(4) but could accept the new wording. He appreciated the reference to national security in subparagraph 3(3).

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- 563.** The Government member of Australia, though generally supportive of the proposed text, emphasized that subparagraph 3(4) did not satisfy Australia's new migration clearance procedures which, as from November 2003, would require all seafarers, including those entering the country on shore leave, to present a valid passport, appropriate seafarers' identification and documentation that linked them to employment on a specific vessel.
- 564.** The Government member of the United States expressed his sincere gratitude for the extraordinary efforts of the Chairperson and members of the Working Party. His delegation was, in general, very supportive of the compromises reached, the principles expressed and the overall text of Article 7, and the United States would continue to explore options to put those principles into practice. He was, however, obliged to object to the inclusion of subparagraph 3(4), which established obligations that might be contrary to current United States immigration law and practice. He urged the Committee to support the recommendations of the Working Party.
- 565.** The Chairperson observed that, because of such difficulties, subparagraph 3(4) referred specifically to "arrangements that are substantially equivalent".
- 566.** Article 7 was adopted as amended.

Article 8

- 567.** Eight amendments were submitted to Article 8.

Paragraph 1

- 568.** The Worker Vice-Chairperson introduced an amendment (D.198) to delete the words "did not meet or" since they would only apply at the moment of issuance of a SID, whereas "withdrawal" applied only after a SID had been issued.
- 569.** The Employer Vice-Chairperson noted that the fraudulent obtention of a SID by a person who did not meet the conditions for its issue was a possible reading of the text, but cases of fraud would doubtless be handled without specific wording to that effect here. The Employers had no strong views regarding the amendment.
- 570.** The representative of the Secretary-General pointed out that the words "cancelled or" should probably also be removed, a view accepted by the Workers. The Chairperson observed that Annex III would need to be modified to incorporate those changes.
- 571.** The Government member of the Republic of Korea said that there was a need to retain the word "cancelled", because wrongful issuance could not be entirely avoided and the law provided for cancellation as well as withdrawal.
- 572.** The Government member of India stated that the issue of suspension of the SID had been discussed and this should be considered when redrafting the text.
- 573.** The Worker Vice-Chairperson said that the original amendment did not conflict with Annex III and the Drafting Committee could handle any alignment of the text, if that proved necessary. The amendment was adopted.
- 574.** The Worker Vice-Chairperson introduced an amendment (D.207) to add the following sentence at the end of paragraph 1: "Members' procedures for cancelling or withdrawing seafarers' identity documents shall be drawn up in consultation with representative

shipowners' and seafarers' organizations and shall include procedures for appeal against cancellation or withdrawal." Consultation of the social partners could provide needed protection for seafarers. The text was compatible with Annex III, except that the notion of suspension, which had been introduced by Governments, still needed to be taken into account.

575. The Government member of the United States suggested a subamendment, seconded by France, to add the word "suspending," before "cancelling" in the first line, the word "administrative" before "appeal", the word "suspension," before "cancellation" in the last line.

576. The Worker and Employer Vice-Chairpersons accepted the subamendment.

577. The Government member of Denmark requested clarification regarding the phrase "in consultation with". The representative of the Secretary-General replied that ILO standards referred to the consultation process in three possible ways, i.e. "in consultation with", "after consultation with" and "after consulting". The choice was up to the Committee.

578. The Worker Vice-Chairperson said that the proposed wording agreed with the wording in revised Annex III. He warned the Committee that a change in this paragraph would require comparable changes in the annex and he strongly urged the Committee members not to undo the work of the Working Party. The amendment was adopted as subamended.

579. Paragraph 1 was adopted as amended.

Paragraph 2

580. The Workers' group submitted an amendment (D.199) to delete paragraph 2. It was unclear what circumstances were being targeted by that text, what temporary retention actually meant, and why the text referred here to the competent authorities, rather than to the competent authority. The reference to an order of a court of law was obscure as it appeared to be unrelated to the retention of the document for the purpose of verification. Because the paragraph was not in line with the purpose of the Convention, it should be deleted.

581. The Employer Vice-Chairperson supported the amendment. Paragraph 2 raised more issues than it resolved. If national law allowed the retention of SIDs in the circumstances specified in the provision, then it would apply. The Convention could remain silent on this point.

582. The amendment was adopted and paragraph 2 was deleted.

Paragraph 3

583. The Workers' group submitted an amendment (D.200) to delete the word "otherwise" from paragraph 3. It was consequential to the deletion of paragraph 2, as noted by the Government members of France and Germany. The amendment was adopted.

584. The Government members of Australia and the United States proposed an amendment (D.202) to add after the words "seafarer's possession" the words "or control, e.g. in the seafarer's locker," to paragraph 3. The rationale was that possession did not necessarily mean on the physical person. The document need not be on the seafarer's person, but had to be under his or her control.

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- 585.** The Employer Vice-Chairperson appreciated the intention underlying the amendment, but preferred the Office text. The SID would have to be with the seafarer while he or she was ashore, but not while the seafarer was on board ship. The Worker Vice-Chairperson also preferred the Office text, and the amendment was withdrawn.
- 586.** The Employers' group submitted an amendment (D.203) to delete the words "for safekeeping". The amendment was in direct response to an amendment (D.188) submitted by the Workers' group, which would change the entire meaning of Article 7(7) and permit the absence of a valid SID to be considered in itself a deficiency of the vessel. Shipowners had to protect their interests and avoid the possibility that a vessel could be retained due to the fact that a crew member was not in possession of the SID. The master of the ship should have the documents available to avoid the retention of the vessel. However, the present amendment could be withdrawn if the Workers withdrew their amendment to Article 7.
- 587.** The Worker Vice-Chairperson observed that if the shipmaster had the right to keep SIDs locked up in a safe without the written consent of the seafarer, it would be relatively easy to move towards a situation of forced labour. The SID was different from an STCW certificate of competency, which had to be available on board ship in case of inspection. The Workers' group preferred the Office text. Moreover, there was no connection between this paragraph and Article 7(7).
- 588.** The Government member of Cyprus indicated that STCW certificates were subject to port state control and had to be kept by the shipmaster on board in case there was an inspection. The SID had to be in the possession of the seafarer at all times. The speaker asked how receiving States would exercise their powers. Would they accept photocopies of the SIDs instead of the originals for the purpose of allowing entry into the country, in case the SIDs themselves were kept by the shipmaster on board at all times for possible inspection?
- 589.** The Government member of Denmark supported the Office text. The SID was obviously a personal document. Taking it away from the seafarer without his consent was unjustified.
- 590.** The Government member of Namibia shared the position of the Workers' group that the two amendments covered different issues.
- 591.** The Government member of Canada confirmed that the SID had to be on the person. Port state controls on board, during which competency certificates could be requested, were effected at different times from immigration procedures. This was in accordance with the Paris and Tokyo Memoranda of Understanding (MoU) which his country had signed.
- 592.** The Government member of the United States also affirmed that the SID had to stay with the seafarer, while the port state control concerned passports and other documents.
- 593.** The Employer Vice-Chairperson recognized that there was a concern regarding the issue of forced labour, but still the possibility to retain the vessel in case the SID of a seafarer was lacking was a serious concern for shipowners. The Chairperson reminded the speaker that the provision under discussion was Article 8(3), not Article 7(7). The Employer Vice-Chairperson responded that as the order of discussion had not respected the succession of Articles in the instrument, he should be able to make reference to a previous provision, the discussion of which should have been concluded. The speaker expressed his willingness to accept Article 8(3), if the result of the discussion of Article 7(7) were not that the ship could be punished for the oversight of one seafarer. Such an outcome would be unjust. Amendments D.203 and D.204 were therefore withdrawn. Amendment D.201 was not seconded, and paragraph 3 was adopted as amended.

594. Article 8 was thus adopted as amended.

Article 9

595. In the absence of any amendments, Article 9 was adopted.

Article 10

596. In the absence of any amendments, Article 10 was adopted.

New Article

597. The Government member of the United Kingdom, speaking also on behalf of the Government member of the United States, introduced an amendment to insert a new Article after Article 10, setting out amendments procedures that were not fully covered in the standard provisions for ILO Conventions.

598. The Worker Vice-Chairperson considered that the proposed amendment was both unconstitutional and impractical and undermined much of the work that the Committee had already done.

599. The representative of the Secretary-General said that she had been advised that the drafting of provisions such as those proposed came within the competence of the Drafting Committee. As to the references to the simplified amendment procedure elsewhere in the text, she had consulted with the relevant units in the Office and was satisfied that those innovations were acceptable.

600. Given those assurances, the Government members of the United Kingdom and the United States withdrew their amendment.

New Article

601. The Government members of the United Kingdom and the United States submitted an amendment (D.205) to insert a new Article after Article 10, dealing with Members with more than one system of law.

602. The representative of the Secretary-General said that the whole issue of countries with non-metropolitan territories and other federal States was provided for in article 35, article 19.7 and elsewhere in the ILO's Constitution. Within the legal framework of ILO Conventions, references to the relevant constitutional procedures were dealt with in the final clauses, which were not under discussion.

603. Given those assurances, the Government members of the United Kingdom and the United States withdrew the amendment.