



Report of the Chairperson of the Governing Body to the 94th (Maritime) Session of the International Labour Conference (Geneva, 7-23 February 2006)

This report on the work of the Governing Body is submitted to this Maritime Session of the International Labour Conference in accordance with article 25, paragraph 5, of the Standing Orders of the Conference, as modified by the Note for Maritime Sessions of the International Labour Conference. Accordingly, this report will address the work of the Governing Body in the maritime sector since the last Maritime Session of the International Labour Conference in October 1996.

This report focuses on the highlights of the Governing Body's activities in the sector with a primary focus on the Governing Body's activities in connection with the matter that is before this Conference, the proposed maritime labour Convention, 2006, set out in Report I(1B) and discussed in Report I(1A). Those wishing more extensive and detailed information on the maritime work of the Governing Body during this period are referred to the notes to this report and to the relevant parts of the Report of the Director-General to the Conference. They may also consult the minutes of its proceedings, or the documents submitted to its committees and to the Governing Body itself.¹

I. Introduction

The maritime sector has always occupied, and continues to occupy, a special place in the International Labour Organization, particularly in connection with standard setting and international social dialogue. Some of the earliest international labour instruments were aimed at improving the working conditions of seafarers. One of the first was a Recommendation adopted in 1920, a year after the Organization was created, foreseeing the importance of the establishment of an international seafarers' code that would clearly set out the rights and obligations relevant to this sector.² From the beginning, matters relating particularly to the situation of seafarers have also normally been considered at a

¹ The annual reports and meeting documents for the Governing Body from 1995-96 onward, and the reports on the International Labour Conference from 1997 onward, are available on the web site of the International Labour Organization at <http://www.ilo.org>.

² The National Seamen's Codes Recommendation, 1920 (No. 9).

special Maritime Session of the International Labour Conference.³ The first Maritime Session of the Conference took place in 1920. Since then there have been nine Maritime Sessions. The current session, the 94th Session of the International Labour Conference will be the tenth Maritime Session.

The task, foreseen in 1920, of establishing a comprehensive codification of the rights and obligations pertaining to seafarers at the international level has resulted in well over 60 maritime instruments (Conventions and Recommendations). In addition, other important international labour Conventions of general scope, which apply to all workers, are also considered as forming part of the overall body of maritime labour standards. Considered from the perspective of the Tenth Maritime Session, which is due to meet in 2006, the work of the ILO in the maritime sector over the intervening 86 years can be understood as an extended and concerted effort to achieve, through the codification at an international level, what is now described as “decent work” for seafarers. Of course, achievement of this goal requires, as also stated in 1920, the “embodiment” of these rights and obligations in national laws and regulations.

The special place of seafarers and maritime issues in the ILO’s work, particularly in relation to the promotion of international social dialogue, is also reflected in the existence of the Joint Maritime Commission (JMC). The Commission, comprising Shipowner and Seafarer representatives nominated by the International Labour Conference and including two Governing Body Employer and Worker representatives, was established in 1920. It is the ILO’s one remaining standing industrial committee, and has played and continues to play a central role in guiding the Organization and its Governing Body on the development of standards and improving social dialogue in this sector. It was a resolution of the Joint Maritime Commission at its 29th Session in 2001, submitted to and approved by the Governing Body at its 280th Session,⁴ that was instrumental in the development of a consolidating framework instrument, the proposed maritime labour Convention, 2006, which is being considered for adoption at the 94th (Maritime) Session of the Conference. At its 280th Session, the Governing Body also reiterated its support for the Commission as the body capable of advising Members and the ILO itself on all aspects of the Organization’s work within the shipping industry and, in particular, the decent work programme.⁵

II. The work of the Governing Body since the Ninth Maritime Session (October 1996) of the International Labour Conference

Overview: The decade in context

The last decade has been a period of significant and rapid change at all levels of society in all aspects. In part, this is the result of the phenomenon described as “globalization”. The significance of these issues for the ILO was addressed in the Report

³ The general sessions of the ILC have had maritime labour matters on the agenda three times since the founding of the ILO. The most recent was the consideration and adoption of the Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185).

⁴ GB.280/5(Corr.), fifth item on the agenda.

⁵ GB.280/5(Corr.), para. 33.

of the Director-General to the 85th Session (1997) of the International Labour Conference, *The ILO, standard setting and globalization*.

That Report and the issues it addressed are important to consider in this report on the work of the Governing Body since 1996 because the ILO's work in the maritime sector has not taken place in isolation. The Governing Body's work in the maritime sector has taken place against, and interacted with, this complex backdrop of changes and events. This backdrop also includes the examination and reflection carried out within the Organization and its Governing Body on the most effective way to respond to the challenges facing the Organization collectively, and its Members individually, in seeking to achieve the Organization's objectives and values relating to social justice and the dignity of the human person, in particular at work.

The Ninth (1996) Maritime Session of the International Labour Conference took place in the year following the World Summit for Social Development and the Fourth World Conference on Women. Both were events in which the ILO played a significant role. Work had also begun in 1994, in the Governing Body through its committees and working parties, with respect to an examination of the Organization's working practices and methods in the area of standard setting and ways to strengthen the ILO's supervisory system, including the possibility of new complaints procedures. A Working Party on Policy regarding the Revision of Standards under the auspices of the Committee on Legal Issues and International Labour Standards met for the first time in 1995 with a mandate to examine the issues and make recommendations to the Committee. These and other events are discussed in more detail in the report of the Chairperson of the Governing Body to the International Labour Conference for the year 1995-96 (83rd Session).⁶

One of the general issues considered by the Governing Body in the mid-1990s related to ways to enhance and secure the relevance of the Organization's standards and to strengthen its supervisory system. Other more specific issues related, inter alia, to gender equality and occupational safety and health. All these issues have shaped and continue to shape the Governing Body's concerns and its approach to matters that have come before it, including, in particular, matters in connection with the maritime sector. In part, this is because many aspects of the conditions facing seafarers are harbingers of issues that will face many sectors with increasing internationalization or globalization of the workplace. In this sense, the issues facing seafarers have provided the Organization with an opportunity to try new approaches and devise ways of addressing the negative impacts of these trends.

The Ninth (1996) Maritime Session of the International Labour Conference

The maritime labour Conventions and related Recommendations adopted at the Ninth Maritime Session were important instruments. They are: the Labour Inspection (Seafarers) Convention, 1996 (No. 178) and the Labour Inspection (Seafarers) Recommendation, 1996 (No. 185); the Recruitment and Placement of Seafarers Convention, 1996 (No. 179) and the Recruitment and Placement of Seafarers Recommendation, 1996 (No. 186); the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180) and the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187); and the Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147). As the titles of these Conventions suggest, the focus of the maritime labour standards, following from the innovations regarding the inspection of

⁶ International Labour Conference, *Provisional Record No. 2*.

foreign ships visiting a Member's ports under Convention No. 147, was already, at a systemic level, on the problems relating to failures in flag state inspections of ships and on the implications of the emergence of private sector recruitment and placement services.

1996-2001: Supporting the implementation of existing maritime labour instruments

The Governing Body's activities in the five-year period following the adoption of these important instruments in 1996 were primarily in support of their ratification, implementation and promotion. These activities naturally included decisions taken pursuant to article 22 of the Constitution with respect to the forms for the country reports on the application of the Conventions once ratified.⁷

Seafarers' hours of work

A decision was taken at the Governing Body's 270th Session to assist in the implementation of Convention No. 180 through cooperation with the International Maritime Organization, which had also adopted certain regulations affecting seafarers' hours of rest. The Governing Body authorized the holding of a Joint IMO/ILO Working Group to develop standardized guidelines and a format for tables and records of hours of work and rest, in accordance with ILO Convention No. 180 and the IMO's International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978.⁸ The report of the Joint Working Group was considered at the 273rd Session of the Governing Body and the recommendations regarding the guidelines and a model format for seafarers' shipboard arrangements and their publication was accepted.⁹

Minimum wage setting

In addition to matters relating to the implementation of Conventions, the activities of the Joint Maritime Commission, through its Subcommittee and Joint Working Group on Wages of Seafarers, have been important. The Subcommittee has, in connection with the provisions in Recommendation No. 187 on wages of able seafarers, carried out negotiations to establish the minimum wage level. The Governing Body approves and regularly updates the recommended wage level for able seafarers set by the Joint Maritime Commission. The negotiations are carried out between the seafarers and shipowners under the auspices of the Subcommittee and Joint Working Group on Wages of Seafarers. The Governing Body in November 2003¹⁰ approved the last minimum wage for able seafarers, and has given approval for the next meeting of the Subcommittee to be convened at the end of this session of the Conference. Although this is carried out within the framework of an international labour Recommendation, the wage-setting role of the Joint Maritime Commission (and on its recommendation, of the Governing Body) is important in terms of its impact on the establishment of a basic wage level that is used in other collective bargaining negotiations in the maritime sector.

⁷ 270th Session (1997), GB.270/9/2, Appendix II.

⁸ 270th Session (1997), GB.270/11, para. 36.

⁹ GB.273/10, para. 32.

¹⁰ GB.288/13, para. 63.

Seafarers' health

At its 271st Session, the Governing Body considered a report of an ILO/WHO Consultation on Guidelines for Conducting Pre-Sea and Periodic Medical Fitness Examinations for Seafarers. The Governing Body authorized publication of the guidelines developed as result of the joint consultation.¹¹

Liability and compensation for the death, personal injury and abandonment of seafarers

At its 273rd Session in 1998, the Governing Body authorized the holding of a Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers.¹² That Working Group reported to the 277th Session of the Governing Body on the outcome of the first meeting and its recommendations were approved. The Joint IMO/ILO Working Group held five sessions between 1998 and 2004. During these sessions, it developed a draft resolution and guidelines as a means of addressing the problems. The Joint Working Group agreed that the measures recommended in the guidelines should be implemented by shipowners to ensure that adequate financial security could be provided. To this effect, the guidelines outlined the main features and scope of coverage of financial security systems to address the issues. The draft resolutions were approved by the Governing Body at its 282nd Session.¹³

The Joint Working Group also took the view that a joint database on incidents of abandonment of seafarers should be established and maintained by the ILO and the IMO. Following consultations between the two organizations, it was agreed that the ILO would host the database. It was agreed that the database should contain salient information on instances of abandonment in order to monitor the problem in a comprehensive and informative manner. At its 286th Session, the Governing Body approved the recommendations of the Joint Working Group and the holding of a fifth session of the Joint Working Group in January 2004.

At this fifth session (January 2004), the Joint Working Group took the view that a longer-term sustainable solution was needed. The ILO Governing Body, at its 289th Session, approved the recommendations of the Working Group with respect to the communication of circulars regarding monitoring of implementation of the guidelines and the development of a database on reported cases of abandonment.¹⁴ The Joint Working Group agreed to consider the design and procedures to be followed for the database at its sixth session in September 2005.

Review and examination of Conventions and Recommendations

Throughout 1998 and 1999, the Working Party on Policy regarding the Revision of Standards, under the auspices of the Governing Body's Committee on Legal Issues and

¹¹ GB.271/14, para. 26.

¹² GB.273/10, para. 47.

¹³ GB.282/10, para. 72.

¹⁴ GB.289/14, para. 70.

International Labour Standards, continued to carry out its examination of ILO standards. An examination of the need for revision of instruments concerning seafarers and fishers was initiated in 1998 and completed in 1999.¹⁵ The results of the Working Party's analysis and recommendations were considered in detail by the Governing Body at its 277th Session in March 2000. Its conclusions on the matter served as the basis for a report prepared by the Office on an approach to the revision of the maritime labour standards.¹⁶ The report, which proposed the development of a possible maritime "decent work" Convention, was considered by the Joint Maritime Commission at its 29th Session in January 2001.

2001-05: Development of the proposed maritime labour Convention, 2006

The Joint Maritime Commission met in its 29th Session in January 2001, in accordance with a decision taken by the Governing Body at its 276th Session. The extensive reviews and considerations in the Organization from 1995 onwards resulted in a number of key decisions. The agenda of the meeting, as established by the Governing Body at its 274th Session, comprised four items: the review of relevant ILO maritime instruments; the updating of the ILO's minimum basic wage of able seafarers; the impact of seafarers' living and working conditions as a result of changes in the structure of the shipping industry; and the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers.

The Commission adopted a report and 13 resolutions addressing all of these topics, including a significant resolution concerning the review of relevant ILO maritime instruments.¹⁷

These resolutions¹⁸ were considered and approved by the Governing Body at its 280th Session in March 2001. With respect to the resolution regarding the review of relevant maritime instruments the Governing Body decided¹⁹ to:

- (a) establish a High-level Tripartite Working Group as proposed in paragraph 7 of the report of the Joint Maritime Commission, with a composition of 12 Government representatives, 12 Shipowner representatives and 12 Seafarer representatives and of Government, Employers' and Workers' observers with the right to speak and participate in the meetings of the working group taking due account of the criteria set out in paragraph 7(c) of the report, stressing that representatives and observers should

¹⁵ GB.273/LILS/4(Rev.1), Nov. 1998, Report of the Working Party on Policy regarding the Revision of Standards, paras. 27-74.

¹⁶ *Review of relevant ILO maritime instruments*: Report for discussion at the 29th Session of the Joint Maritime Commission, Geneva, 2001, JMC/29/2001/1. Appendix I of the report provides a summary of the decisions taken by the Governing Body concerning maritime Conventions and Recommendations.

¹⁷ Appendix 2 of the final report: Joint Maritime Commission (29th Session), Geneva, 22-26 Jan. 2001, JMC 29/2001/14.

¹⁸ Report of the 29th Session of the Joint Maritime Commission: GB.280/5(Corr.), fifth item on the agenda.

¹⁹ First sitting, GB.280/5(Corr.), para. 9.

be knowledgeable and active in the enforcement of the standards to be adopted and be able to commit the necessary time to lend to the continuity of the process;

- (b) approve the recommendation that the decisions of the High-level Tripartite Working Group should be taken by consensus;
- (c) approve the setting up of a tripartite subgroup in accordance with the modalities set out in paragraph 7 of the report; and
- (d) invite the Director-General to take note of the requests contained in paragraphs 7 and 8 of the report when establishing the programme of work of the Office for the rest of this biennium, as well as for the 2002-03 and 2004-05 biennia.

The request in (d) referred to the convening of a Preparatory Technical Maritime Conference in 2004 and a Maritime Session of the International Labour Conference in 2005 to adopt the proposed new instrument consolidating the existing ILO maritime instruments.

The work of the Governing Body since the 280th Session, in connection with the development of this instrument, has primarily addressed matters that have arisen in the course of the work of the High-level Tripartite Working Group on Maritime Labour Standards which it established to carry out the necessary consultation and discussion to develop the text of the consolidated instrument recommended in 2001. Throughout the consultations and meetings, the Governing Body has remained keenly interested in following the development of the Convention and has received regular reports on the progress made.

In particular, at its 285th Session in November 2002, the Governing Body requested that the Office, with the assistance of the Subgroup of the High-level Tripartite Working Group, prepare a report on the key features of the proposed consolidated Convention with particular reference to the role that the ILO supervisory system might play.²⁰ The Governing Body had been concerned that any new mechanism proposed in the Convention should strengthen the well-established supervisory system.²¹ The report on the key features of the Convention was discussed at the 286th Session of the Governing Body in March 2003.²² It noted that the special tripartite committee of the Governing Body that would be established under the draft Convention could be given a role in the supervisory system and make a useful contribution in, for example, providing the supervisory bodies with suggestions for rapid responses to issues and an overall assessment of situations; however, the nature of any such role would be decided through tripartite consultation within the framework of the Governing Body. It was not proposed that the Convention should itself contain provisions on the subject. With reference to the link between the proposed Convention and the supervisory system, the report noted the increased emphasis which the Convention would place on the need for each Member to show compliance with the standards of the Convention and to have an overall system of quality control and independent evaluation. Through such means to ensure that implementation was not only done but also seen to be done, the aim would be to place the supervisory bodies in the best possible position to follow implementation by ratifying Members and to enable those

²⁰ GB.285/11/2, paras. 58-66.

²¹ GB.285/11/2, para. 66 and see GB.286/13/2, para. 30.

²² GB.286/LILS/8.

Members to assess the extent to which the desired “level playing field” was actually in place.

At the same (286th) Session, the Governing Body decided (as recommended by the Joint Maritime Commission in 2001 and as is usual in the case of maritime labour Conventions) to convene a Preparatory Technical Maritime Conference (PTMC) to prepare a first draft of the new Convention²³ on the basis of the draft recommended by the High-level Tripartite Working Group. On the recommendation made by the High-level Group at its fourth and last meeting, the Governing Body, at its 289th Session,²⁴ decided on special procedural arrangements to facilitate the PTMC’s consideration of the new instrument, which was of unprecedented length and scope, bearing in mind that the recommended text was the result of extensive tripartite consultation and discussion. In accordance with usual practice, a tripartite delegation from the Governing Body was appointed to take part in the PTMC.²⁵

In spite of these special arrangements, the PTMC, which was held in Geneva from 13 to 24 September 2004, did not have sufficient time to reach agreement on all the provisions of the future Convention or to review the drafting of the Convention, especially from the point of view of agreement between the English and French versions, the two authoritative versions of international labour instruments. In a number of resolutions, the PTMC set out the arrangements that would be necessary to complete the draft Convention. In particular, it recommended the holding of intersessional meetings, at no direct cost to the Office, to address the unresolved issues and outstanding proposals for amendments to the draft Convention text that was adopted by the PTMC. The Governing Body endorsed these arrangements at its 291st Session in November 2004.²⁶ Other resolutions of the PTMC related to the importance of tripartite representation in delegations to the Conference and the need for technical cooperation and support for Members to assist in the implementation of the proposed maritime labour Convention, once it is adopted.

Finally, at its 292nd Session, the Governing Body decided on the dates of the present session of the Conference, which it had rescheduled from 2005 for budgetary reasons.

2001-05: The development and adoption of the Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185)

The proposed maritime labour Convention, 2006, would, if adopted, revise all existing maritime labour Conventions, except for the two Conventions that deal with seafarers’ identity documents, the Seafarers’ Identity Documents Convention, 1958 (No. 108) and the Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185).²⁷

²³ GB.286/3/2, para. 6.

²⁴ GB.289/11, para. 60.

²⁵ GB.289/19, para. 18 and GB.290/8, para. 16.

²⁶ GB.291/16/2.

²⁷ In accordance with the approach taken by the High-level Tripartite Working Group and the Preparatory Technical Maritime Conference: see the *Report of Committee No. 2*, Preparatory Technical Maritime Convention, Geneva, 13-24 September 2004, PTMC/04/3-2, p. 25, para. 223.

The world events that required the ILO to take rapid action in response to the impact of enhanced security concerns on seafarers are discussed in detail in the Director-General's Report to this Conference and the report of the Office to the 91st Session (June 2003) of the International Labour Conference, where Convention No. 185 was adopted. Convention No. 185 came into force on 9 February 2005.²⁸

In March 2002, the Governing Body at its 283rd Session responded to the need to give priority to these concerns and placed an urgent item on the agenda of the 91st Session (June 2003) of the International Labour Conference, concerning improved security of seafarers' identification with a view to the adoption of a Protocol to the Seafarers' Identity Documents Convention, 1958 (No. 108). In connection with this decision, the Governing Body also decided²⁹ that the question would be governed by the single-discussion procedure, and approved a programme concerning a reduced timetable for the preparatory stages of the single-discussion procedure. It also mandated the Director-General to take steps: (i) to consult the IMO at all stages of the preparatory process; and (ii) to propose to the IMO that the ILO be invited to participate as an observer by means of a high-level tripartite delegation at the IMO Diplomatic Conference on Maritime Security to be held in London from 9 to 13 December 2002.

The Seafarers' Identity Documents Convention (Revised), 2003 (No. 185) was adopted by the Conference at its 91st Session in June 2003, along with a number of resolutions regarding the development of technical standards, technical cooperation and international oversight, and the role of the Governing Body. The role has required that the Governing Body closely follow the progress of this Convention including: the development of technical standards; the development of procedures regarding identification of products which could meet the standard; the development of arrangements for establishing a list of Members which meet the minimum requirements of the Convention;³⁰ and the need for technical cooperation to assist Members in implementing the Convention.³¹

At its 289th Session (March 2004), the Governing Body adopted the technical standards called for in Annex I of the Convention.³² It also considered the related question of technical cooperation. The adoption of the technical standard generated a great deal of discussion in the Governing Body before a decision was made as to the best approach. In the Governing Body, many countries expressed the view that rapid implementation of the Convention should also be accompanied by technical assistance. They urged industrialized countries to provide the appropriate assistance. This was especially important because the agreement reached in the Governing Body on the appropriate technical standard to be adopted involved the commitment of industrialized nations to technical cooperation. The Governing Body endorsed the need to provide technical assistance to developing countries,

²⁸ International Labour Conference, 91st Session, June 2003.

²⁹ Third Supplementary Report, sixteenth item on the agenda: see GB.283/16/3, para. 34.

³⁰ International Labour Conference, 91st Session, 2003, *Provisional Record*, No. 20, p. 110.

³¹ International Labour Conference, 91st Session, 2003, *Provisional Record*, No. 20, p. 108.

³² GB.289/7, para. 14(b).

in particular to enable them to ratify and implement the Convention and the biometric standard that was adopted.³³

At its 292nd Session in March 2005, the Governing Body adopted arrangements for the establishment of the list of Members which fully meet the minimum requirements of the Convention with regard to their national processes and procedures for the issue of seafarers' identity documents.³⁴ These arrangements and procedures are called for under Article 5 of the Convention. The Governing Body was concerned that these arrangements should ensure that there is a reliable and up-to-date list recording Members that are found to meet the minimum requirements concerned, whilst also including procedures safeguarding the position of Members in the case of disputes concerning their inclusion on the list. The Governing Body was also concerned about making sure that the arrangements take into account the need for technical cooperation, as mentioned above.

In addition to approving the arrangements for establishing this list, the Governing Body also considered a report concerning the work of the Office in connection with the identification of products for use with the technical standards adopted at the 289th Session.³⁵ It was noted that there appeared to be an increase in the number of biometric products that complied with the requirements for worldwide interoperability established under Convention No. 185.

Other activities of the Governing Body in the maritime sector, 2001-05

In addition to the development of the proposed maritime labour Convention, 2006, and the work relating to the development and adoption of another significant standard in the maritime sector, the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), discussed above, the Governing Body also supported and followed, through the regular reports, a wide range of activities in this sector in connection with the other important resolutions adopted by the Joint Maritime Commission at its 29th Session in 2001, discussed earlier.³⁶ These resolutions addressed concerns such as the updating and calculation of minimum wages for able seafarers, and actions that needed to be taken to address the impact of changes in the structure of the shipping industry on the working and living conditions of seafarers, including a study and meeting of experts regarding international registers and developing a response to concerns about the fair treatment of seafarers in the event of maritime accidents,³⁷ as discussed in the Report of the Director-General to this Conference.

³³ GB.291/STM/2, para. 2.

³⁴ GB.292/10(Rev.), para. 150.

³⁵ Sixteenth item on the agenda; GB.292/16/2(Add.).

³⁶ Report of the 29th Session of the Joint Maritime Commission: GB.280/5(Corr.); Fifth item on the agenda. For a summary report of the Governing Body's decisions on the resolution, see GB.280/205 which is available on the ILO web site at: <http://www.ilo.org/public/english/standards/realm/gb/refs/rods.htm>.

³⁷ GB.292/13(Rev.), para. 81.

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