



## Governing Body

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**Legal Issues and International Labour Standards Section**  
*International Labour Standards and Human Rights Segment*

**LILS**

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### FIFTH ITEM ON THE AGENDA

## International cooperation relating to the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185)

#### Purpose of the document

The Governing Body is invited to place on the agenda of the International Labour Conference, for June 2015 or June 2016, the question of international cooperation relating to the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185), and to approve the changes summarized in paragraph 20 to Standard ILO SID-0002, *Finger minutiae-based biometric profile for seafarers' identity documents* (see the draft decision in paragraph 22).

**Relevant strategic objective:** Promoting fundamental principles and rights at work and international labour standards.

**Policy implications:** Enhancing the effectiveness of international labour standards.

**Legal implications:** How best to achieve the objectives of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185).

**Financial implications:** Those that might relate to placing an item on the agenda of the International Labour Conference if this option is decided upon.

**Follow-up action required:** The adoption by the International Labour Conference of a resolution or possibly a Recommendation.

**Author unit:** International Labour Standards Department (NORMES).

**Related documents:** GB.306/17/3; GB.309/18/5.



## Introduction

1. This paper concerns the seafarer's right to shore leave and the facilitation of the transit and transfer of seafarers on foreign territory, which are the subject of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185). It examines the merits of Convention No. 185 and assesses the lack of progress towards wide-scale ratification, and then presents ideas to the Governing Body as to how the objectives of Convention No. 185 can best be achieved through international coordination and cooperation.
2. The paper first provides background information, showing the relationship between Convention No. 185 and the Maritime Labour Convention, 2006 (MLC, 2006), and a brief overview of the activities taken to promote Convention No. 185 since 2003 and the technical issues that appear to require immediate decisions (paragraphs 3–11). It then provides an assessment of progress and current barriers to implementation (paragraphs 12 and 13) and proposes a way forward through a system of international cooperation, open to all Members of the Organization (paragraphs 14–17), based on a Recommendation or resolution to be adopted by the International Labour Conference (ILC) (paragraphs 18 and 19). It also presents further information about the technical changes that would need to be made (paragraphs 20 and 21).

## Background

3. The Governing Body will recall that the MLC, 2006, which came into force on 20 August 2013, does not include among the 37 maritime labour Conventions that it consolidates, the two Conventions relating to seafarers' identity documents (SIDs), in particular Convention No. 185. Instead, at the time the MLC, 2006, was adopted, the ILC also adopted (at its 94th (Maritime) Session) a resolution concerning the promotion of the Seafarers' Identity Documents Convention (Revised), 2003 (No. 185).<sup>1</sup>
4. In this resolution, the Conference recalled that, in 2003, at the time of its adoption of Convention No. 185, it had noted, *inter alia*, that access to shore facilities, shore leave and facilitation of transit are vital elements of seafarers' general well-being and, therefore, to the realization of decent work for seafarers. The Conference had pointed to the continued difficulty that seafarers experience in being able to enjoy shore leave in certain countries and had urged the Governing Body to request the Director-General to contact all member States and remind them of the importance of the speedy ratification and implementation of Convention No. 185 and to invite member States to promote decent work for seafarers and, in this regard, to permit seafarers to enjoy shore leave within their territory. It had also called on the Governing Body to remain seized of this issue. In this connection, in November 2009<sup>2</sup> and November 2010,<sup>3</sup> the Office had reported to the Governing Body, respectively, on plans to hold consultations concerning Convention No. 185, and on the results of those consultations, held in September 2010, with governments from member States that had ratified Convention No. 185, or which were seriously considering ratification, and with representatives of the International Shipping Federation (ISF) and the International Transport Workers' Federation (ITF).

<sup>1</sup> ILO: *Provisional Record* No. 3-1(Rev.), International Labour Conference, 94th (Maritime) Session, Geneva, 2006.

<sup>2</sup> GB.306/17/3.

<sup>3</sup> GB.309/18/5.

5. As indicated in the resolution just referred to, the Conference highlighted the connection between ratification of the MLC, 2006, and the promotion of Convention No. 185 and the implementation of the obligations under the MLC, 2006, such as the granting of shore leave or access to shore-based welfare facilities, which (where they exist) are to be “available for the use of all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin and irrespective of the flag State of the ship on which they are employed or engaged or work”.<sup>4</sup> In the case of access to medical facilities, there is a specific obligation placed on Members that have ratified the MLC, 2006, to “ensure that seafarers on board ships in its territory who are in need of immediate medical care are given access to the Members’ medical facilities on shore”.<sup>5</sup>
6. Under the MLC, 2006, the details of the procedures relating to how seafarers may have access to such facilities are, however, left to each Member to establish. This could be done, for example, by reference to the Convention on Facilitation of International Maritime Traffic, 1965, as amended (FAL Convention),<sup>6</sup> that was adopted by the International

<sup>4</sup> See MLC, 2006, Regulation 4.4, para. 1 and Standard A4.4, para. 1. See also Resolution concerning seafarers’ welfare (Resolution VIII), *Provisional Record* No. 3-1(Rev.), International Labour Conference, 94th (Maritime) Session, Geneva, 2006, which notes that “... the port facilities in certain countries are making excessive charges or imposing unreasonable procedures in order for seafarers to leave the ship and visit welfare facilities provided for them in ports”.

<sup>5</sup> MLC, 2006, Regulation 4.1, para. 3.

<sup>6</sup> The FAL Convention, in addition to mandatory standards, also contains recommended practices for many standards. It includes a number of provisions relevant to seafarers and obligations under the MLC, 2006 (that is, access to shore for medical care) and provisions in Section 3, Part G, of its annex, entitled “Further measures of facilitation for foreigners belonging to the crews of ships engaged in international voyages – shore leave”, which includes the following Standards relevant to Convention No. 185:

3.44 **Standard.** Foreign crew members shall be allowed ashore by the public authorities while the ship on which they arrive 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.

3.45 **Standard.** Crew members shall not be required to hold a visa for the purpose of shore leave.

3.46 **Recommended Practice.** Crew members, before going on or returning from shore leave, should not normally be subjected to personal checks.

3.47 **Standard.** Crew members shall not be required to have a special permit, e.g. a shore leave pass, for the purpose of shore leave.

3.48 **Recommended Practice.** If crew members are required to carry documents of identity with them when they are on shore leave, these documents should be limited to those mentioned in Standard 3.10.

3.49 **Recommended Practice.** Public authorities should provide a system of pre-arrival clearance to allow the crew of ships which call regularly at their ports to obtain advance approval for temporary shore leave. Where a ship has no adverse immigration record and is locally represented by a shipowner or a reputable agent of the shipowner, the public authorities should normally, after satisfactory consideration of such pre-arrival particulars as they may require, permit the ship to proceed directly to its berth and be subject to no further routine immigration formalities, unless otherwise required by the public authorities.

The IMO’s Facilitation Committee has produced the *Explanatory Manual to the Convention on Facilitation of International Maritime Traffic, 1965, as amended*, FAL.3/Circ.202, 11 Oct. 2010, <http://www.imo.org/OurWork/Facilitation/ConventionsCodesGuidelines/Documents/FAL.3-Circ.202.pdf> [accessed 17 January 2014].

Maritime Organization (IMO), as well as to Convention No. 185 and its predecessor the Seafarers' Identity Documents Convention, 1958 (No. 108), for countries that have ratified them.

7. It will also be recalled that Convention No. 185 was adopted in 2003 by a fast-track procedure in order to ensure an effective response to enhanced security concerns after the events of 11 September 2001 to replace Convention No. 108, which was outdated with respect to its security aspects. After initial discussions in the IMO on improved security measures for the maritime industry, a decision was taken at the 283rd Session (March 2002) of the Governing Body to place on the agenda of the 91st Session (2003) of the ILC an item concerning improved security of seafarers' identification with a view to the adoption of a Protocol to Convention No. 108, or other instrument, and Convention No. 185 was adopted by the Conference 15 months later.<sup>7</sup> It entered into force on 9 February 2005 and has now been ratified (or is being provisionally applied) by 24 Members: Albania, Azerbaijan, Bahamas, Bosnia and Herzegovina, Brazil, Croatia, France, Hungary, Indonesia, Jordan, Kazakhstan, Republic of Korea, Lithuania, Luxembourg, Madagascar, Marshall Islands, Republic of Moldova, Nigeria, Pakistan, Philippines, Russian Federation, Spain, Vanuatu and Yemen.
8. It will also be recalled that, in accordance with Annex I to Convention No. 185, and a related resolution adopted by the Conference in 2003,<sup>8</sup> the Governing Body arranged for the development of a technical standard relating to the biometric template to be included in the seafarers' identity document, in accordance with Article 3, paragraph 8, of the Convention. This technical standard (ILO SID-0002) was adopted by the Governing Body at its 289th Session (March 2004), and later amended at its 294th Session (November 2005).<sup>9</sup> From 2004 to 2008, the Office commissioned tests of biometric products developed in accordance with this ILO technical standard. Twelve biometric products from 11 different sources have so far been found to meet the requirements of the technical standard.<sup>10</sup>
9. The tests mentioned in paragraph 8 had been presented to, and reviewed by, the subcommittee on biometrics (SC 37) of Joint Technical Committee ISO/IEC JTC 1 of the International Organization for Standardization (ISO) and the International Electrotechnical Commission (IEC), which had been cooperating with the ILO on the technical aspects of the Convention. The subcommittee had also supported Convention No. 185 by publishing, in August 2009, after almost five years of development, the standard ISO/IEC 24713-3:2009 "Information technology – Biometric profiles for interoperability and data interchange – Part 3: Biometrics-based verification and identification of seafarers". This standard contained a number of proposals for the ILO's consideration, including with regard to the technical changes described in paragraph 20 below, as well as suggestions for making the SID more generally acceptable, especially by including an optional microchip

<sup>7</sup> ILO: *Provisional Record* No. 27, International Labour Conference, 91st Session, Geneva, 2003, p. 27/9.

<sup>8</sup> Resolution concerning the development of the global interoperable biometric, *Provisional Record* No. 20 (Part II), International Labour Conference, 91st Session, Geneva, 2003, p. 20/109.

<sup>9</sup> The current version of Standard ILO SID-0002 can be found at: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_norm/---normes/documents/genericdocument/wcms\\_144265.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/genericdocument/wcms_144265.pdf) [accessed 17 January 2014].

<sup>10</sup> A list of these products and their suppliers is available at: [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---sector/documents/publication/wcms\\_191713.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---sector/documents/publication/wcms_191713.pdf) [accessed 17 January 2014].

(see paragraph 16 below), and for cooperation in sharing the workload in the technical implementation of the Convention and rendering the SID more effective, with cost savings if possible, worldwide. These latter suggestions were considered at the consultations referred to in paragraph 4 above<sup>11</sup> and the resulting consensus was brought to the Governing Body's attention.<sup>12</sup> The suggestions included:

- (a) an updating of certain details in the two-dimensional bar code on the SID;
- (b) the modification of the bar code so as to include a digital signature;
- (c) the establishment of an international centre to coordinate the national focal points or access to the databases referred to in paragraph 15(a) and (b) below;
- (d) with respect to fingerprint data: agreement that, although national databases could only include the biometric template provided for in the Convention, fingerprint images could be stored separately at the request of the seafarer concerned to simplify re-enrolment;
- (e) the optional addition to the SID of a microchip (see paragraph 16 below); and
- (f) international procurement to establish a list of qualified vendors of elements of a low-cost SID issuance system, which might be conducted or facilitated by the Office.

**10.** The technical changes referred to under subparagraphs (a) and (b) above are not controversial, have no financial implications and would enable SIDs to take account of technical developments since the Convention was adopted. The other, more far-reaching ideas listed above needed further study. As requested by the Governing Body,<sup>13</sup> they are being pursued by the Office which, so far, however, has not been able to devise satisfactory proposals or options for cost-effective solutions.

**11.** In the meantime, the Office has worked towards the preparation of the infrastructure that will be needed to assist in the review of the documentation and information provided by ratifying Members, with a view to their inclusion in a list of Members which fully meet the Convention's minimum requirements concerning processes and procedures for the issue of SIDs, including quality-control procedures. Under Article 5, paragraph 6, of the Convention, this list of Members is to be approved by the Governing Body in accordance with arrangements made by it. These arrangements, adopted by the Governing Body in 2005,<sup>14</sup> specify the documentation and information to be provided and give a Review Group and a Special Review Board responsibility for advising the Governing Body on the list of Members. The Review Group and the Special Review Board were constituted by the Governing Body in 2010 and 2011.<sup>15</sup> Progress on the submission of the information to be reviewed, including independent evaluation reports has, however, been slow.

<sup>11</sup> The report on the consultations is to be found in document CSID/C.185/2010/4.

<sup>12</sup> GB.309/18/5, para. 10.

<sup>13</sup> GB.309/18/5, para. 16.

<sup>14</sup> GB.292/LILS/11, Appendix I.

<sup>15</sup> GB.309/18/6.

## Assessment of progress with respect to Convention No. 185

12. Convention No. 185 is potentially a very effective Convention designed to serve modern border control and security interests, while also respecting seafarers' rights. It combines and balances security interests with the welfare of seafarers and the facilitation of world shipping. With respect to security interests, it provides for SIDs with essential modern security features and is unique in its establishment of minimum standards for national SIDs issuance procedures as well as international oversight of compliance with those procedures, and also in its establishment of international cooperation in the sharing of data on issued SIDs through national databases and national focal points that can be contacted on a round-the-clock basis.
13. Despite these advantages, ratification of Convention No. 185 has progressed slowly: the number of Members (24) that have so far ratified it, or have made a declaration of provisional application, is very small especially as compared with the number of Members (64) that have remained bound by Convention No. 108, which is largely ineffective as far as security is concerned. Since January 2012, there has been no further ratification of Convention No. 185. This slow progress may appear surprising, especially as Convention No. 185 was adopted with no votes against, and only 20 abstentions. The problem, particularly as far as Members that have ratified Convention No. 108 are concerned, may be related to the cost of providing the strong security infrastructure required by the Convention for issuing SIDs, as well as for their verification, given that the Convention's stand-alone identity document contains a biometric template embodied in a bar code, which cannot be read by the devices normally used for machine-readable travel documents. For a few Members, a problem arises from the prohibition (under Article 6, paragraph 6) against making the admission of seafarers subject to the production of a visa (qualified by a possibility to resort to substantial equivalence). At the same time, recent discussions in the IMO have been considering amendments to the FAL Convention that would be adopted in 2015 to, inter alia, take account of Convention No. 185 and help prevent discrimination in the context of permission for seafarers to come ashore for purposes of shore leave.<sup>16</sup>

<sup>16</sup> IMO: *General review of the Convention, including harmonization with other international instruments*, Report of the Working Group, 11 April 2013, FAL 38/WP.4, paras 4.11–4.19. See also IMO: *Report of the Facilitation Committee on its thirty-eighth session*, 8 May 2013, FAL 38/15, and in particular the following paragraphs:

*Insertion of visa number in the crew and passengers list and in the disembarkation card*

4.18 The Committee considered the proposal of Liberia, the Philippines, CLIA, ICS and ISF (document FAL 38/4/3) to amend the Convention to harmonize it with ILO Convention No.185 and to include a new Recommended Practice for providing places to allow seafarers to apply for a visa upon arrival on port, or shortly before arrival and, if accepted, the visa number should be included in the crew list, passenger list and in the embarkation/disembarkation card.

4.19 The Committee agreed to maintain the principle that crew members are not required to hold a visa for the purpose of shore leave, as already set out in Standard 3.45. The Committee decided to refer the subject of visas for other purposes to the Working Group on General Review and Implementation of the Convention, for its consideration and advice on inclusion of the visa number, if appropriate, in the crew and passengers list and in the disembarkation card.

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## A way forward

- 14.** For the various reasons indicated above, a large percentage of Members that supported the adoption of the Convention have not so far decided to ratify Convention No. 185. These Members could, however, play an important role in making the best possible use of Convention No. 185 to improve their own seafarers' identification procedures and to recognize the important, enhanced security-related investment that Members that have ratified the Convention are making to ensure the proper implementation of a Convention for which a large majority voted in favour when it was adopted by the ILC.
- 15.** It is important to note that the identification system established by Convention No. 185 is already open to countries that have not ratified the Convention, and that many of its advantages are to be provided to all ILO Members, irrespective of ratification. Specifically, all Members of the Organization:
- (a) will receive a list of the national focal points in ratifying Members, and their immigration or other competent authorities will have the right to make inquiries to the focal points with respect to the authenticity and validity of SIDs issued in the country of the focal point (Article 4, paragraph 4);
  - (b) will be able to obtain information from the focal points, or from the national databases, relating to details which are essential for the purposes of verifying a SID or the status of a seafarer (consistent with privacy and data protection principles) (Article 4, paragraph 5);
  - (c) will have access to an up-to-date list of Members whose issuance processes and procedures have been found to comply with the minimum requirements of the Convention (Article 5, paragraph 7).
- 16.** The above advantages would, of course, be diminished in Members that do not have the necessary devices to read the information contained in SIDs issued under Convention No. 185. Most of this information is in fact machine-readable in accordance with the standards of International Civil Aviation Organization (ICAO) document 9303 on machine readable travel documents, but the biometric template required by Article 3, paragraph 8, of the Convention is contained in a two-dimensional bar code. However, it was agreed at the September 2010 consultations that a standard should be developed to support the optional addition to the SID of a microchip containing all the information that was already included on the SID. The inclusion of such a microchip was accepted by the Seafarer representatives in the consultations on the understanding that port States would give significant weight to allowing shore leave for seafarers holding SIDs validly issued in accordance with Convention No. 185.<sup>17</sup> As agreed in the consultations, the Office has indicated to the ISO its interest in assistance that might possibly be offered by another ISO/IEC subcommittee (SC 17) for the development of such a standard. It is understood that such assistance may depend upon cooperation also with ICAO. The International Labour Office will increase its efforts to obtain such cooperation if the Governing Body

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4.28 The Committee recalled further that FAL.3/Circ.201 (issued in September 2010) stated, *inter alia*, that:

“Administrations should pay particular attention to ensuring unbiased and non-discriminatory practice in exercising control and allowing access to shore irrespective of vessels' flags and nationalities of individual crew members. Member States, representative organizations of seafarers and shipowners are encouraged to inform the FAL and MSC Committees of unfair and selective practices in providing shore leave and access to the shore-based facilities in foreign ports.”

<sup>17</sup> GB.309/18/5, para. 10(e).

considers that the addition to the SID of an optional microchip is a matter that should be explored.

17. Furthermore, in order to increase the effectiveness of issuance or verification systems established to implement Convention No. 185, and taking account of the investments already made by ratifying Members in order to properly meet their obligations under the Convention, it would also seem appropriate that all Members with advanced technology in areas covered by the Convention give due consideration, irrespective of ratification, to assisting Members that are less advanced in those areas, as urged by the ILC in the resolution concerning technical cooperation relating to seafarers' identity documents,<sup>18</sup> that it adopted at the same time as the Convention.
18. Article 16 of Convention No. 185 provides that "At such times as it may consider necessary, the Governing Body of the International Labour Office shall present to the General Conference a report on the working of this Convention and shall examine the desirability of placing on the agenda of the Conference the question of its revision ...". In the circumstances indicated above, it now appears necessary for the Governing Body to report to the ILC on the working of Convention No. 185, not, however, because of any problem relating to its content, but rather because its purposes cannot be properly filled until it has been ratified by a much larger number of Members. Instead, therefore, of proposing a revising Convention, as would be the normal practice under provisions similar to Article 16, the Governing Body could consider submitting the matter for discussion by the ILC with a view to a possible Recommendation or resolution regarding the importance of voluntary cooperation between all ILO Members concerned to implement the purposes of Convention No. 185, regardless of whether or not they have ratified that Convention. While a draft resolution could be proposed by the Governing Body and adopted by the Conference at its following session, a Recommendation would require a regular standard-setting process involving at least a single discussion by the Conference with the corresponding preparatory stages.
19. An instrument of the kind envisaged might:
  - (a) encourage tripartite consultation with ILO Members and regional groups with respect to security measures relating to seafarers requesting admission to their territories for shore leave or other purposes, as referred to in Article 6 of Convention No. 185;
  - (b) recommend that ILO Members (which are not otherwise bound to do so) should, when considering whether or not to admit seafarers requesting entry into their territory for shore leave or other purposes, as referred to in Article 6 of Convention No. 185, take due account of SIDs validly issued in accordance with the Convention by Members that are listed by the Governing Body as meeting the minimum requirements for SID issuance processes and procedures;
  - (c) request the Members to inform the International Labour Office of the extent to which they decide to implement the recommendation under subparagraph (b) above, so that the Office can make this information available to all ILO Members, and in particular those that have ratified the Convention;
  - (d) request the Office to assist Members in establishing a system of prompt and reliable exchange of information between immigration or other competent national authorities and the national focal points under Convention No. 185 for the purposes of verifying the validity or authenticity of a SID issued under that Convention;

<sup>18</sup> ILO: *Provisional Record* No. 20 (Part II), International Labour Conference, 91st Session, Geneva, 2003, p. 20/108.

- (e) reiterate the importance of cooperation between ILO Members, especially with respect to the exchange of information referred to under subparagraph (d) above and to assistance by technologically advanced countries to less advanced countries that are establishing their national infrastructure for the issuance or verification of SIDs under Convention No. 185; and
- (f) invite the cooperation in the above activities of other relevant specialized agencies of the United Nations, in particular the IMO and ICAO.

## **Technical changes for the SID bar code and certain data**

- 20.** The technical changes referred to under paragraph 9(a) and (b) above are the following: the general format and structure of the data contained in the two-dimensional bar code, which currently follows a draft version of the Biometric Application Programming Interface (BioAPI) standard, would be changed to follow the more general Common Biometric Exchange Formats Framework (CBEFF) standard (ISO/IEC 19785-1:2006). The fingerprint minutiae-based template would remain, but the specific data format would be updated from the draft version to the final published version of the ISO/IEC 19794-2:2005 standard. The demographic data about the seafarer which are contained at the end of the bar code data are redundant as they are contained elsewhere in the SID, and would be deleted. The extra bytes would instead be used for a digital signature defined in accordance with the CBEFF standard, but using a highly compact format that is laid out in ISO/IEC 24713-3:2009.
- 21.** The net result of these changes would be that the SID would follow existing biometric standards published by the ISO and the IEC and would have the added security benefit provided by a digital signature. Verification devices reading the SID could be set up to read the first eight bits of the data to determine whether the bar code format is the previous format following the BioAPI model or the more up-to-date model with a digital signature and could interpret the remainder of the bar code data depending on these initial bits. If a cryptographic key exchange has occurred between the verifying country and the issuing country, then the digital signature could be verified for added security but, if not, then the digital signature could be ignored and the SID would have the same level of security as a SID following the current bar code format. This will allow Standard ILO SID-0002 to be updated to reflect the changes in the bar code so that future SIDs will better conform to existing international standards and will have the option of better security without compromising the validity or usability of existing SIDs.

### ***Draft decision***

#### ***22. The Governing Body:***

- (a) decides to place on the agenda of the International Labour Conference, for June 2015 or June 2016, the question of international cooperation relating to Convention No. 185, with a view to the discussion and adoption of a resolution, or possibly a Recommendation, as outlined in paragraphs 18 and 19 above; and***

- (b) *approves the changes summarized in paragraph 20 above to Standard ILO SID-0002, Finger minutiae-based biometric profile for seafarers' identity documents, on the understanding that biometric products conforming to the Standard, as now worded, will be considered as compliant with the Standard for a period of two years from the date of approval of the present changes.*<sup>19</sup>

<sup>19</sup> This was the wording used to safeguard existing SIDs at the time of the last amendment by the Governing Body of Standard ILO SID-0002. See GB.294/16/3.