

ILO input to the chapter on maritime security and safety of the Report of the Secretary-General on Oceans and the Law of the Sea, to the Sixty-third Session of the General Assembly

(i) Comprehensive information regarding the activities currently undertaken by the ILO related to maritime security and safety.

Promotion of the Maritime Labour Convention, 2006

The 94th (Maritime) Session of the International Labour Conference adopted the Maritime Labour Convention, 2006.¹ The Convention consolidates and updates 37 existing ILO maritime Conventions and the related Recommendations adopted since 1920. It will enter into force 12 months after ratification by at least 30 ILO Members representing at least 33 per cent of the world gross tonnage of ships.

The Maritime Labour Convention, 2006 Convention essentially codifies an agreement between shipowners, seafarers and governments on all of the elements necessary to achieve “decent work” for seafarers and to help ensure a level playing field for the shipowners. It sets minimum requirements for seafarers’ working and living conditions on ships and contains provisions on conditions of employment, hours of work and rest, accommodation and recreational facilities, food and catering, health protection, medical care, welfare and social security protection. It combines rights and principles with specific standards and guidance as to how to implement these standards. Most importantly and, of broader significance, it introduces a system under which flag States, or recognized organizations acting on their behalf, will inspect all ships and, in the case of some ships, will certify that the conditions for seafarers working on their ships meet the “decent work” requirements of the Convention. Flag States will issue a “Maritime Labour Certificate” to ships found, after inspection, to meet the requirements of the Convention with respect to 14 areas in the Convention. The Certificate will be complemented by a “Declaration of Maritime Labour Compliance”, issued partly under the responsibility of the flag State and partly under that of the shipowner concerned. The Certificate must be issued to, and carried on board, all ships over 500 gross tonnage engaged in international voyages along with the related Declaration, detailing the steps required and actually taken to ensure on-going compliance with the Convention’s requirements.

The Maritime Labour Convention, 2006 also establishes a comprehensive enforcement and compliance system, based on cooperation among all ratifying States. This system, which builds upon well established arrangements under the various regional “memoranda of understanding on

¹ The Convention and related reports from the 94th (Maritime) Session of the International Labour Conference may be found (in three languages) on the special MLC, 2006 websites at:
<http://www.ilo.org/public/english/standards/norm/mlc2006/index.htm>
Site sur la Convention du travail maritime (2006)
<http://www.ilo.org/public/french/standards/norm/mlc2006/index.htm>
Siteo sobre el Convenio sobre el trabajo marítimo (2006)
<http://www.ilo.org/public/spanish/standards/norm/mlc2006/index.htm>

port State control”, will ensure that decent working conditions, once certified by a flag State, are continuously maintained, no matter where the ship travels.

The Convention should have positive impact on safety in the maritime industry. It is widely accepted that human error is a major factor in maritime accidents. Much has been said about fatigue, poor training and other factors that can contribute to accidents and marine casualties. The human element is a key concern: poor conditions of work and life at sea have consequences for ship and human safety. Ships with poor labour conditions do not attract or retain competent seafarers. Poor conditions and a lack for respect of contractual obligations have negative consequences for the morale of seafarers thus creating accident- generating conditions. A reduction in the incidence of sub-standard conditions of work and life aboard ships will result in safer shipping. In fact the Maritime Labour Convention, 2006 is seen as Convention that become the “fourth pillar” of the international regulatory regime alongside the key IMO Conventions relating to safety and security at sea, the protection of the marine environment and the training of seafarers.

In September 2006 the International Labour Office adopted a five-year *Action Plan for the rapid and widespread ratification and effective implementation of the Maritime Labour Convention 2006*. A number of promotional events at all levels, international, regional and national, have taken place, as well as three High Level Tripartite Missions to countries that have important maritime interests. These promotional activities will continue in 2008. In addition the ILO is developing guidance for flag and port States to assist with implementation of the Convention. Technical assistance is also being made available to Member States to assist with ratification and national implementation measures.

To date (November 2007) there have been two ratifications by important flag States, Liberia (7 June 2006) and the Marshall Islands (25 September 2007). In addition numerous ILO members have reported that they have placed the Convention before their parliaments with a view to ratification, as well as other actions taken by, for example, the European Union and the relevant social partners to promote ratification.. Additional ratifications are expected in shortly. It appears likely that the Convention will achieve sufficient ratifications by 2011 to allow entry into force.

See: <http://www.ilo.org/public/english/standards/norm/mlc2006/index.htm> for more information on the Maritime Labour Convention, 2006.

Promotion of the Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185)

The Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185) came into force in February 2005.² It was adopted by the ILO to complement the action being taken in the framework of the IMO through the adoption of the International Ship and Port Facility Security Code (ISPS)... It would therefore contribute to improve maritime security. Its application is meant to ensure that seafarers have documents for their “positive verifiable identification”. Many

² As of November 2007, it has been ratified by Azerbaijan, Bahamas, France, Hungary, Jordan, Republic of Korea, Madagascar, Republic of Moldova, Nigeria, Pakistan and Vanuatu. Lithuania has registered a declaration of provisional application. Several States have indicated that they plan to ratify shortly.

countries require such identification before they are prepared to grant special facilities enabling seafarers to go ashore for welfare purposes and travel internationally for professional reasons, such as joining ships or returning home.

Convention No.185 provides for a new seafarers' identity document facilitating the movement of seafarers, but not replacing a passport. It introduces a viable system for meeting contemporary security concerns while maintaining the necessary facilitation of shipping and recognition of the needs of seafarers. The Convention requires each ratifying country to put in place a comprehensive security regime. This would cover not only the production by the national authorities of a modern identity document (as Seafarers' Identity Document – a SID) embodying biometric security features, but also the maintenance of national databases for the document. In addition, the processes and procedures for the production, personalization and issuance of the document, which would include quality control of the entire national system, would be subject to international oversight (Article 5 and Annex III of the Convention).

Seafarers who are bearers of a SID should be allowed access to port welfare and other professional facilities from ratifying countries and also from others who respect its objectives. The ILO has made substantial efforts to promote ratification and implementation of the Convention. It has developed a technical standard for the interoperable biometric template and also tested products to ensure they comply with this standard and are inter-operable. It has adopted procedures for compiling a list of countries which fully apply the Convention.

Technical assistance is also being provided to countries to enable them to ratify and implement the Convention. Experience has proved that close cooperation is needed to ensure that the systems installed and the procedures used are in compliance with the Convention.

The Office has continued to promote the Convention and has been working closely with Member States to provide them with information and assistance.

See: <http://www.ilo.org/public/english/dialogue/sector/sectors/mariti/security.htm> for more information on the Seafarers' Identity Documents Convention (Revised), 2003, (No. 185) and other ILO maritime security issues.

Adoption/promotion of the Work in Fishing Convention, 2007 (No. 188) and Recommendation, 2007 (No. 199)

At its 96th Session (June 2007), the International Labour Conference adopted the Work in Fishing Convention, 2007 (No. 188) and Recommendation, 2007 (No. 199).

The Work in Fishing Convention revises: the Minimum Age (Fishermen) Convention, 1959 (No. 112); the Medical Examination (Fishermen) Convention, 1959 (No. 113); the Fishermen's Articles of Agreement Convention, 1959 (No. 114); and the Accommodation of Crews (Fishermen) Convention, 1966 (No. 126). The Convention will enter into force 12 months after the date on which the ratifications of ten Members, eight of which are coastal States, have been registered with the Director-General.

The Convention sets minimum requirements for fishers' working conditions on fishing vessels. It contains provisions on conditions of employment, hours of work and rest, accommodation, food and catering, safety and health protection, medical care at sea, welfare and social security protection. It also includes provision on both flag State and port State enforcement. The Convention is aimed at all fishers and fishing vessels engaged in commercial fishing operations. It provides more stringent provisions for larger vessels or those on extended voyages. It also provides for flexibility, for example, as regards certain categories of fishing vessels and fishers, and as regards States that cannot immediately implement all of the measures provided in the Convention owing to special problems of a substantial nature in the light of insufficiently developed infrastructure or institutions.

Fishing is a hazardous occupation compared with other occupations. In many countries, fishing has the highest fatality rate of any sector. The Convention and Recommendation contain a number of provisions aimed at improving safety and health of fishers and promoting a safety culture in this sector.

The Work in Fishing Recommendation supersedes the Work in Fishing Recommendation, 2005 (No. 196), which revised the Hours of Work (Fishing) Recommendation, 1920 (No. 7). The Recommendation supplements Convention No. 188.

See: <http://www.ilo.org/public/english/dialogue/sector/sectors/mariti/fishing-iloact.htm> for more information on the Convention and Recommendation.

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

The ILO and IMO have previously reported on the Joint Working Group on this issue. The Joint Working Group has not met since its sixth session from 19-21 September 2005.

At the 295th session of the ILO Governing Body (March 2006), the results of this meeting were reported to the Committee on Sectoral and Technical Meetings and Related Issues. Subsequently, the Governing Body approved the revised terms of reference for further work of the Working Group, as well as the operation of a database on incidents of abandonment of seafarers on the terms proposed by the Working Group; and the holding of a seventh session of the Group.

At its 92nd session (16-20 October 2006), the IMO Legal Committee received a progress report on the operation of the Database which is based in the ILO and which had, as of January 2004, recorded 40 reported cases, 22 of which had been agreed as resolved.

At that meeting, the Chairperson of the Joint Working Group reminded the Committee that it was important to start working on a possible long-term sustainable solution to address the problem, and suggested that the time had come to fix the date for the seventh session of the Joint Working Group.

A seventh meeting of the Joint Working Group will take place during the first quarter of 2008.

Joint ILO/IMO Ad Hoc Expert Working Group on the Fair Treatment of Seafarers in the Event of a Maritime Accident

The first session of the Joint Working Group took place from 17 to 19 January 2005. The second session of the Joint Working Group took place at the IMO, in London, on 13-17 March 2006. It drafted detailed Guidelines, together with a Draft Resolution. The IMO Legal Committee approved the Resolution and the Guidelines at its 91st session, held in London on 24-28 April 2006. The ILO Governing Body, at its 296th session, in June 2006, approved the Resolution and the draft Guidelines, and authorized their dissemination by the ILO as of 1 July 2006.

At the 92nd session of the IMO Legal Committee (16-20 October 2006), the Committee, through an Ad Hoc Working Group proceeded to a review of the Guidelines adopted at its preceding session, and to consider concerns expressed by some delegations about their interpretation and application. The Ad Hoc Working Group reported to the Committee, and was divided in its conclusions. As a result, in the absence of sufficient time to examine the issues and the terms of reference for the Joint Working Group in detail, and taking into account the apparent lack of urgency to reconvene that Group, the Committee decided to retain this matter on its agenda for its next session (October 2007).

The Committee on Sectoral and Technical Meetings and Related Issues of the ILO Governing Body reviewed these decisions in March 2007. Considering that this was the second time that these terms of reference had been submitted to the Committee, the Committee decided to approve them: this view has been submitted to the IMO.

ILO's activities on security in ports (2004 to 2007)

In June 2004 the ILO in collaboration with the IMO published the ILO/IMO Code of Practice on Security in Ports. This Code is complementary to other recent maritime security related work by the ILO and the IMO.

In the case of the ILO, it relates to the ILO Seafarers' Identity Documents Convention, 2003 (Revised) No. 185. In the case of the IMO, it is a follow up to the adoption of the 2002 amendments to the International Convention on Safety of Life at Sea (SOLAS), which includes the adoption of the International Ship and Port Facility Security Code (ISPS Code). The Code of Practice on Security in Ports extends the consideration of port security beyond the area of port facility into the whole port. It is compatible with the provisions of the IMO's ISPS Code, which contains requirements that relate only to security of the ship and the immediate ship/port interface (the port facility).

The ILO/IMO Code of Practice on Security in ports has been published by the ILO in English, French and Spanish and has been translated into Turkish and Russian.

The ILO has developed training materials on the implementation of the ILO/IMO Code of Practice on Security in Ports (2004). These training materials were validated at a tripartite workshop that was held in March 2004 in Singapore. In this respect, the ILO is now in a position to offer training courses / workshops to all those that would be interested including, for example:

- Policy makers and senior executives responsible for port security issues particularly those from “Designated Authorities” or Recognized Security Organizations;
- Senior officials and Representatives from the Maritime and Port Administrations, industries, private enterprises and training institutions in the port sector.
- Maritime/Port workers’ representatives responsible for port security issues.
- Representatives from law enforcement agencies.

These training materials are being considered for further development within the framework of collaboration between the ILO, IMO, ATU / OSCE (Action against Terrorism Unit / Organization for Security and Cooperation in Europe), WCO (World Customs Organization) and the EC (European Commission). Regarding the issue of port security the ILO and its above-mentioned partners have also collaborated with the UNECE, ECMT (European Conference of Ministers of Transport) & IAEA (International Atomic Energy Agency), U.S. Coast Guard, ITF (International Transport Workers’ Federation) and IAPH (International Association of Ports and Harbours).

The International Labour Office has also delivered a number of workshops in connection with the ILO/IMO Code of Practice on Security in Ports (2004).

(ii) matters which may require further action and any suggested recommendations, with an emphasis on areas where coordination and cooperation at the intergovernmental and inter-agency levels could be enhance.

Maritime security

Seafarers have often been borne the brunt of the marine security measures aimed at ensuring ship and port safety and security. As noted in the Report of the Secretary General (A/62/66 paragraph 81 and following), acts of terrorism and violence merit improved security, particularly in the maritime sector, due to the vulnerability of ships and ports. However, certain security measures have had a significant negative impact on the working conditions and welfare of seafarers. For example, many seafarers have faced increased difficulty joining and leaving their ships in foreign ports, taking shore leave, and visiting medical facilities ashore. This has made the seafaring life – already challenging – less attractive. This in turn has led to demotivation of seafarers, who find themselves, on one hand, given greater security responsibilities, while, on the other hand, are severely restricted in their own movements. This appears to be contributing to recruitment and retention problems in the sector. For example, there is now a severe and growing shortage in qualified and experienced navigation and engineering officers. It is expected that this may lead to the inability to safely crew ships and perhaps have a negative impact on world trade, the vast majority of which is carried on merchant ships.

One part of the solution is the widespread and immediate ratification and effective implementation of the Seafarers’ Identity Documents Convention (Revised), 2003 (No. 185), which provides security to concerned States while also facilitating the professional movements of seafarers and shore leave. The ILO has had considerable public support in the promotion of this Convention from the International Maritime Organization. However, greater support is needed from the United Nations itself, perhaps in the form of a General Assembly Resolution pointing

the urgent need for all States to ratify and implement the Convention. There might also be a call to other UN agencies concerned with such issues, for example customs and immigration, to encourage greater respect and treatment of seafarers.

We suggest that one of the panel discussions at the ninth meeting of the Consultative Process be dedicated to the issue of the relationship between security, seafarers and sustainable shipping and fisheries sectors.

Maritime safety

As noted earlier in this document, there is a very strong link between the “human element” and maritime safety. Available evidence suggests that about 80% of all maritime accidents are related to the “human factor”. The “human factor” generally means seafarers or fishers or other people working at sea.

Accidents have many causes, including fatigue and poor working and living conditions. Many of these are addressed in ILO standards or in the joint instruments adopted by the ILO and IMO. Thus, widespread ratification and full implementation of maritime labour Conventions setting minimum conditions will make an important contribution to improving maritime safety. ILO instruments include provisions covering occupational safety and health, medical fitness, medical care at sea and other matters directly related to safety. They also address issues such as protection of seafarers’ rights; providing decent accommodation and contract conditions. If fully implemented and enforced, these standards will make the seafaring profession attractive and sustainable. Shorter periods in port, a reduction of crew on board and increased social isolation already provide a challenge to the profession. Regrettably, it is to be noted that there is a recent tendency by some coastal States to treat seafarers involved in marine accidents, particularly those involving marine pollution, as criminals. In addition, persistent piracy has made seafarers and fishers the frequent victims of criminal and terrorist activities.

The ILO wishes to propose that the Consultative process, and perhaps General Assembly itself, should recognize these concerns and the situation of seafarers and fishers. There needs to be recognition of the importance of the human element in connection with safety and maritime security. The current challenge of attracting people to the seafaring profession and retaining the experienced seafarers in such a context has an immediate impact on trade, marine safety and protection of the marine environment. In other words, a sustainable maritime sector and sustainable maritime world requires urgent attention to the human element in all its dimensions.

The ILO therefore proposes that one of the panels at the ninth meeting of the Consultative Process be dedicated to the issue of the relationship between safety, seafarers and sustainable shipping and fisheries sectors.