



FIRST ITEM ON THE AGENDA

**Follow-up to the recommendations of
the Working Party**

**(c) Results of the work of the Joint
Maritime Commission**
(Geneva, 22-26 January 2001)

Introduction

1. At its March 1999 session, the Governing Body decided to invite the Joint Maritime Commission¹ to undertake a case-by-case examination of the instruments concerning social security for seafarers and to submit its conclusions in accordance with the recommendations of the Working Party.² In November 2000 the Working Party requested the Office to submit for information for the present session a document on the outcome of the work of the Joint Maritime Commission, which met in Geneva from 22 to 26 January 2001.³

¹ The Joint Maritime Commission has 42 members. Two of these are appointed by the Governing Body of the ILO and represent respectively the Employers' group and the Workers' group of the Governing Body. The remaining 40 members are nominated by the International Labour Conference at a session dealing with maritime questions (the most recent session was held in 1996), 20 of them being selected by the Shipowners' delegates and 20 by the Seafarers' delegates at the Conference. The Commission also includes four deputy Shipowner members and four deputy Seafarer members. The Chairperson of the Governing Body is ex officio Chairperson of the Commission. The Commission advises the Governing Body on questions related to the working and living conditions of seafarers suitable for standard setting.

² Documents GB.274/10/2 and GB.274/LILS/WP/PRS/2.

³ Document GB.279/11/2, Appendix I, paras. 99 and 103.

2. The review of relevant ILO maritime instruments was the first item on the agenda of the Joint Maritime Commission.⁴ The report submitted to the Commission by the Office with a view to discussion on this item comprised three parts. The first part consisted of a summary of the work of the Working Party and the decisions of the Governing Body concerning ILO maritime Conventions and Recommendations. The second part of the report was devoted to an examination of the instruments concerning social security for seafarers. The third part took stock of the entire body of maritime labour standards and examined possible actions to take account of developments having taken place in this industry and ensure the relevance and usefulness of these standards.

1. Towards a framework Convention on labour standards in the maritime industry

3. The report of the Office highlighted that avoidance of social regulations constituted the weakest link in the chain of this industry in the face of increased international competition and the requirement for mandatory compliance with technical standards.⁵ It also stressed that shipping was the world's first genuinely global industry and that standards should be applicable to the entire industry. The report further highlighted that the number of ratifications of ILO maritime Conventions was significantly below the number of ratifications for Conventions of the International Maritime Organization (IMO) and recalled that, on the basis of a review made by the Working Party, the Governing Body had concluded that seven maritime Conventions should be revised⁶ and that a further 12 Conventions were outdated.⁷ The report called therefore on the Commission to examine possible future standard-setting activities of the Organization in the maritime sector to ensure decent work for workers in this industry.
4. The Joint Maritime Commission concluded that the development of an instrument which would bring together into a consolidated text as much of the existing body of ILO instruments as it proved possible to achieve should be a priority for the maritime sector in order to improve the relevance of these standards to the needs of all the stakeholders of the maritime sector.⁸ The Conference could then adopt a framework Convention whose first part would contain general provisions while the other parts would deal with specific

⁴ Document JMC/29/2001/1.

⁵ *ibid.*, p. 22.

⁶ These are the Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16), Seamen's Articles of Agreement Convention, 1926 (No. 22), Food and Catering (Ships' Crews) Convention, 1946 (No. 68), Certification of Ships' Cooks Convention, 1946 (No. 69), Medical Examination (Seafarers) Convention, 1946 (No. 73), Certification of Able Seamen Convention, 1946 (No. 74), and Prevention of Accidents (Seafarers) Convention, 1970 (No. 134).

⁷ These are the Minimum Age (Sea) Convention, 1920 (No. 7), Placing of Seamen Convention, 1920 (No. 9), Minimum Age (Trimmers and Stokers) Convention, 1921 (No. 15), Repatriation of Seamen Convention, 1926 (No. 23), Holidays with Pay (Sea) Convention, 1936 (No. 54), Hours of Work and Manning (Sea) Convention, 1936 (No. 57), Paid Vacations (Seafarers) Convention, 1946 (No. 72), Accommodation of Crews Convention, 1946 (No. 75), Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76), Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91), Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93), and Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109).

⁸ Resolution concerning the review of relevant ILO maritime instruments. See document GB.280/5, Appendix 2.

subject areas. Each part could be supplemented by one or more annexes containing detailed specifications. Member States which would ratify the framework Convention would have to accept a minimum number of annexes, whose acceptance would involve the immediate denunciation of the corresponding older Conventions. The final provisions of the framework Convention could contain a simplified mechanism for updating the annexes. Lastly, such a Convention could be supplemented by a Recommendation, codes of practice and guidelines.

5. In a resolution on the examination of pertinent ILO maritime instruments, the Commission recommended that the Governing Body should establish a high-level tripartite working group on maritime labour standards to assist with the development of the proposed new instrument. It also urged the Governing Body to convene a preparatory meeting in 2004 for first discussion of the proposed new instrument, and to convene a Maritime Session of the International Labour Conference in 2005. The agenda of this Conference would include the consolidation of ILO maritime instruments and a general discussion on developments in the maritime industry.

2. Examination of Conventions and Recommendations concerning social security for seafarers

6. As had been the case with the other Conventions and Recommendations concerning seafarers, an informal Joint Working Group of shipowners' and seafarers' representative organizations convened in Geneva on 20 and 21 May 1999 and formulated proposals with respect to five Conventions and three Recommendations concerning social security for seafarers: Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8), Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55), Sickness Insurance (Sea) Convention, 1936 (No. 56), Social Security (Seafarers) Convention, 1946 (No. 70), Seafarers' Pensions Convention, 1946 (No. 71), Unemployment Insurance (Seamen) Recommendation, 1920 (No. 10), Seafarers' Social Security (Agreements) Recommendation, 1946 (No. 75), and Seafarers (Medical Care for Dependants) Recommendation, 1946 (No. 76).⁹ These proposals were communicated to the Joint Maritime Commission. As indicated above, the report submitted to the Commission by the Office also included an examination of these instruments.¹⁰ On the basis of these two documents, the Joint Maritime Commission made recommendations to the Governing Body with respect to each of the instruments.¹¹

I. *Sickness Insurance (Sea) Convention, 1936 (No. 56)* *Social Security (Seafarers) Convention, 1946 (No. 70)*

7. Since the Social Security (Seafarers) Convention (Revised), 1987 (No. 165), has revised the Sickness Insurance (Sea) Convention, 1936 (No. 56), and the Social Security (Seafarers) Convention, 1946 (No. 70), the Joint Maritime Commission recommended that

⁹ See the letter of the Joint Working Group, appended to this document.

¹⁰ Document JMC/29/2001/1, pp. 16-21.

¹¹ Document GB.280/5.

the Governing Body invite States parties to these Conventions to contemplate ratifying Convention No. 165, the ratification of which would, *ipso jure*, involve the immediate denunciation of Conventions Nos. 56 and 70, respectively.

**II. Unemployment Indemnity (Shipwreck)
Convention, 1920 (No. 8)
Shipowners' Liability (Sick and Injured Seamen)
Convention, 1936 (No. 55)
Seafarers' Pensions Convention, 1946 (No. 71)
Unemployment Insurance (Seamen)
Recommendation, 1920 (No. 10)
Seafarers' Social Security (Agreements)
Recommendation, 1946 (No. 75)
Seafarers (Medical Care for Dependants)
Recommendation, 1946 (No. 76)**

8. As indicated above, the Joint Maritime Commission expressed itself in favour of the adoption of a framework Convention on labour standards in the maritime industry. In this context, the Commission recommended to the Governing Body the revision of the Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8), the Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55), the Seafarers' Pensions Convention, 1946 (No. 71), the Unemployment Insurance (Seamen) Recommendation, 1920 (No. 10), the Seafarers' Social Security (Agreements) Recommendation, 1946 (No. 75), and the Seafarers (Medical Care for Dependants) Recommendation, 1946 (No. 76). It stated that the revision of these six instruments should be considered along with Convention No. 165 and the other maritime instruments in the context of the elaboration of the draft framework instrument.
9. The Working Party on Policy regarding the Revision of Standards is invited to take note of the information contained in the present report.

Geneva, 6 February 2001.

Appendix

Letter from the International Shipping Federation and the International Transport Workers' Federation

Mr. B. Klerck Nilssen, Chief
Maritime Industries Branch
International Labour Office
4 route des Morillons
CH-1211 Geneva 22
Switzerland

26 August 1999

Dear Bjorn,

Review of ILO maritime instruments

As you are aware, a Joint Working Group of shipowners' and seafarers' representative organizations met in Geneva 20-21 July 1998 in order to review ILO maritime instruments so as to guide the Working Party on Policy regarding the Revision of Standards under the Committee on Legal Issues and International Labour Standards. We did not conclude our work at this meeting, and in our report to the Working Party on Policy we proposed that a further meeting should be held to discuss problems concerning social security standards for seafarers. We also proposed that a further report should then be made to the Working Party and to the Joint Maritime Commission.

The Joint Working Group of shipowners' and seafarers' representative organizations therefore reconvened in Geneva on 20-21 May this year. The Working Group noted that a number of maritime social security instruments had been superseded following the adoption of the Social Security (Seafarers) Convention (Revised), 1987 (No. 165), but that this instrument had only attracted two ratifications. The Working Group repeated the views expressed at the previous meeting last year to the effect that Convention No. 165 was unlikely to attract widespread ratification in the near future.

The instruments reviewed by the Working Group comprised Conventions Nos. 8, 55, 56, 70 and 71, and Recommendations Nos. 10, 75 and 76. The Working Group noted that all of these instruments had been superseded by Convention No. 165, with the exceptions of Conventions Nos. 8, 55 and 71.

There was general agreement in the Group that the shipping industry has changed significantly over the past two decades, particularly with regard to the nationalities of the seafarers who are employed. In many, if not most, cases seafarers now serve on vessels which are neither owned nor registered in their own countries and this makes it particularly important to make sure that standards which establish proper levels of social security protection should be clear and unambiguous. Members of the Group also agreed that at present the ILO does not have adequate standards governing social security protection for seafarers which command widespread support and that this was an unsatisfactory situation for such an important issue.

Each of the three remaining maritime social security instruments, Nos. 8, 55 and 71, deals with important issues and some of the provisions remain valid today. However, they are outdated in many respects and, in the case of Convention No. 71, for example, which deals with the provision of pensions to seafarers, they embody certain technical detail which is no longer appropriate and which will not encourage further ratification.

The Working Group therefore recommends that Conventions Nos. 8, 55 and 71 should be listed for revision, together with the other instruments identified at last year's meeting. It will then be for the

Joint Maritime Commission to identify from this list those instruments which should be given the highest priority for revision.

We should be grateful if you will bring the content of this letter to the attention of the Working Party on Policy regarding the Revision of Standards, and incorporate the views expressed therein in the reports prepared by the office for the upcoming 29th Session of the Joint Maritime Commission.

Yours sincerely,

(Signed) David Dearsley
Deputy Secretary General
International Shipping Federation

(Signed) Mark Dickinson
Assistant General Secretary
International Transport Workers' Federation