



SIXTEENTH ITEM ON THE AGENDA

Report of the Director-General**Third Supplementary Report:
Urgent item on the agenda of the 91st Session
(June 2003) of the International Labour
Conference, concerning improved security
of seafarers' identification****Summary**

The potential use of shipping and ports to carry out terrorist acts has made heightened maritime security a matter of urgency. Without action, governments will – and have – taken unilateral action to protect their legitimate security interests, causing concern about the facilitation of maritime trade. It is to the benefit of all – particularly governments, shipowners and seafarers – to reach a global solution. To this end and as part of a comprehensive review of maritime security, the Secretary-General of the International Maritime Organization (IMO) – at the request of its Maritime Safety Committee – has asked the Director-General of the ILO to consider improvements in the system applicable to the issuance of identity documents to seafarers. To ensure that the seafarer is not the weak link in the security chain, the Director-General proposes that the Governing Body consider the possible response to the IMO, including placing an additional item on the agenda of the 91st Session of the International Labour Conference (June 2003) concerning amending the Seafarers' Identity Documents Convention, 1958 (No. 108).

Background

1. In response to the terrorist attacks of 11 September 2001, the Assembly of the IMO at its 22nd Session (19-29 November 2001) adopted a resolution (A.924 (22)) “Review of measures and procedures to prevent acts of terrorism which threaten the security of passengers and crews and the safety of ships” (Appendix I). The resolution instructed the appropriate bodies of the IMO to review, on a high priority basis, the instruments under their purview to determine if they need to be updated and if there is a need to adopt other maritime security measures that may be appropriate.
2. The IMO Assembly resolution also requested the competent bodies of the IMO “to take account of the work of other international organizations competent in the development of standards for transport-related safety and security by land, air and sea, as well as industry organizations”. In order for action on the resolution to be taken expeditiously, the IMO Assembly decided to convene a Diplomatic Conference on Maritime Security (4-13 December 2002) to amend the appropriate conventions and, in the interval, to

establish an intersessional working group to prepare appropriate recommendations. The Intersessional Working Group of the Maritime Safety Committee (ISWG) met from 7 to 15 February 2002. The Office participated in the meeting of the ISWG and submitted a paper addressing some of the issues raised to the extent to which they fell within ILO's competence.

Issues for consideration

3. Several key issues are at the heart of the debate over heightened maritime security. The IMO is dealing with a number of these and considering amendments to: its SOLAS (Safety of Life at Sea) Convention with regard to automatic identification systems for ships; ship and offshore security plans, including provisions on a ship security officer and a company security officer; port security plans and port vulnerability assessments as far as they relate to the ship/port interface; container security measures; and information on the ship, cargo, crew and passengers.
4. One of the issues considered crucial for improving maritime security is ensuring that seafarers have positive verifiable identification documents. Seafarers are directly involved in the international transport of goods, including dangerous goods, as well as in the carriage of passengers. They also have access to ports, including restricted areas. The compelling need to enhance maritime security also requires a balance to be struck among other goals, such as privacy and discrimination.
5. In this connection, the Seafarers' Identity Documents Convention, 1958 (No. 108), constitutes a framework to balance security requirements, facilitation of maritime commerce and protection of workers' rights. Convention No. 108 provides for reciprocal recognition of national identity documents to enable seafarers to carry out the international professional movements necessary for their work. It specifically provides for the seafarer to take shore leave; enables the seafarer to join the ship, transfer to another ship or transit for purposes of joining a ship or for repatriation. Convention No. 108 requires the identity document to be made of durable material, to be designed in a simple manner and to be so fashioned as to make alterations easily detectable.

A summary of the discussions at the IMO on seafarers' identification and maritime security

6. The IMO ISWG had before it a proposal to include a new provision in Chapter XI/9 of the IMO SOLAS Convention on seafarer identification and background check requirements. The proposal requires the IMO to develop mandatory provisions for verifiable positive identification for seafarers as well as for other persons employed or engaged in any capacity on board a ship.
7. The ISWG considered separately the two questions of seafarers' background checks and the identification documents for seafarers. As regards background checks, the overwhelming majority of the ISWG did not support the proposal. Opposition was based on legal and constitutional provisions of national legislation concerning human rights, privacy and data protection. The ISWG agreed that the proposal as it related to background checks should not be taken forward.
8. Concerning verifiable positive identification for seafarers, the ISWG had an extensive discussion of the matter. A summary of the main points follows.

9. The Government of the United States was of the view that issuance of seafarers' identity documents should enable seafarers to be positively identified in order to ensure that they posed no threat to national security or to the safety and security of maritime commerce. It proposed that a new Regulation 9 be added to Chapter XI of SOLAS which would require each administration to issue to each person working on board ship an identification document with verifiable positive identification of that person, or to amend an existing appropriate document to add the verifiable positive identification. It indicated that the purpose of allowing the verifiable positive identification to be added to an appropriate document is to provide the administration with the maximum flexibility in using existing documents, if it so chooses. Among the existing documents to which verifiable positive identification could be added would be the documentation issued under the IMO Standards of Training and Certification Convention (STCW) and seafarer identity documents issued pursuant to ILO Convention No. 108.
10. The Government of France considered that illegal immigration control and matters of security had in particular revealed certain shortcomings of ILO Convention No. 108 – this to the detriment of seafarers' legitimate interests. As a result, the Convention did not fully meet current needs. The French Government is of the view that the seafarers' identity document should be unfalsifiable, incorporating issuing procedures and control safeguards so as to enhance its security and ensure that it continues to be accepted as a professional travel document.
11. The Government of the Marshall Islands stated that it uses laminated fraud-proof paper and digital technology for processing seafarer documentation, and that it maintains a database for third party verification of seafarers' identity and qualifications. It proposed that an international database should be developed for verification of seafarers' identification and certification, as well as standardizing international seafarers' documentation forms. The latter would draw on best practices, such as the use of fraud-proof paper, digital technology, and "smart cards", as well as other advanced technologies.
12. The Government of the Philippines stated that, in response to increased security needs as a result of threats of terrorism, the Philippines Maritime Administration had set up an interactive web site where the identity and certification of Filipino seafarers can be instantly verified through family names and given names.
13. A number of other governments, in particular Germany, France, Ireland, Malta, Norway, Sweden, Spain and the United Kingdom, in supporting the updating of the seafarers' identification document, specifically proposed that this updating be done in the framework of the ILO as a matter of urgency.
14. The International Chamber of Shipping, speaking on behalf of six industry groups, expressed the view that the need for ease of movement of seafarers, when balanced with the need for enhanced security, may require reconsideration of existing forms of identification for seafarers.
15. The ICFTU (represented by the International Transport Workers' Federation) stated that seafarers were fundamental to world trade and that while they agreed that proper identification of seafarers was necessary, the human rights of seafarers had to be preserved.
16. In summing up the discussions, the Chairperson stated that there was general agreement concerning the need for an updated seafarer identification document. There was, however, a clear division within the ISWG, with some delegations supporting the inclusion of a requirement within the SOLAS Convention, as proposed by the United States, and a slight majority supporting action through the amendment of ILO Convention No. 108.

17. The ISWG agreed that the need to ensure enhanced security meant reconsidering which existing forms of identification for seafarers would meet with the widest international acceptance. The ISWG recommended urgent action to update the seafarers' identity document. In reviewing the various options, the ISWG took account of the information provided by ILO on: the purpose, content and ratification status of Convention No. 108; the prospects for consideration by the ILO Governing Body of an accelerated timetable for placing an item on the agenda of the ILC in 2003 concerning a possible Protocol to Convention No. 108; prospects for the early entry into force of such a Protocol; and procedures for enforcement through port state control.
18. Following further discussions in the ISWG, it was agreed that it was more appropriate for this urgent action to be taken within the framework of an existing instrument on the subject matter – Convention No. 108. At the same time, the ISWG expressed a desire for the closest possible cooperation between ILO and IMO on this issue. The meeting requested the Secretary-General of the IMO to write to the ILO Director-General emphasizing the importance which IMO member States gave to updating Convention No. 108, and the significant contribution an improved seafarers' identity document would make to enhancing maritime security.
19. The ISWG also agreed that this matter should be brought to the most urgent attention of the ILO Governing Body at its 283rd Session, requesting it to consider updating Convention No. 108 as a matter of urgency. The ISWG pledged IMO assistance in this process. The Office was invited to present a report to the 75th Session of the Maritime Safety Committee, to be held in May 2002, on the decision of the ILO Governing Body. The meeting also agreed, in order to safeguard IMO's position, to retain in the text of the report the possible use of draft Regulation 9 of Chapter XI of SOLAS in case the ILO Governing Body was not in a position to respond positively.
20. The IMO Secretary-General wrote to the Director-General on 14 February 2002 (Appendix II) referring to an earlier exchange of correspondence and stated that one of the important issues discussed during the ISWG was the question of the seafarers' identification document and the imperative need to update it for the purpose of enhancing the security of ships and ports. A key element of that correspondence referred to the information provided to the ISWG concerning a possible expeditious, mandatory solution by including an additional item on the agenda for the 91st Session of the International Labour Conference (June 2003) with a view to considering and adopting a Protocol to Convention No. 108. The Secretary-General of the IMO emphasized the importance and significance of acting with maximum speed to put in place the necessary infrastructure (both regulatory and practical) to strengthen defences against terrorism of all kinds.

The prospects for ratification of Convention No. 108

21. Convention No. 108 is ratified by 61 member States representing 60.7 per cent of the world fleet. While Convention No. 108 is one of the most widely ratified ILO maritime labour Conventions, it has not achieved the universal acceptance of the Safety of Life at Sea Convention, 1978 (SOLAS) of the IMO.
22. There is not much information available to the Office on the obstacles to ratification of Convention No. 108, despite previous requests for information to that end. Based on information provided by member States to the Office, concerning obstacles to ratification of Convention No. 108, Japan cited problems with its immigration law and Article 5 of the Convention (seafarers' right of return to the issuing State). The Netherlands cited inconsistency national legislation concerning passports and Article 3 of the Convention (seafarers' right to possession of the identity document at all times). The

United States requires seafarers to have a crew member visa for shore leave and noted that this would be incompatible with Article 6 of the Convention. Australia indicated that the continuous-possession provision of Article 3 posed security problems, inter alia, in cases of desertion, where the authorities would have no documentary evidence of the seafarer.

23. The ratification and implementation of Convention No. 108 constitute a first step in the strengthening of measures for maritime security while preserving seafarers' rights. Undoubtedly, the Convention would need to be amended to take into account the issues raised.

An ILO response to the events of 11 September concerning maritime security

24. The IMO intersessional meeting agreed that urgent action was required to update Convention No. 108 and proposed that the ILO consider an accelerated timetable for this process. There was a clear understanding that if the ILO was not in a position to adopt such an accelerated timetable, the IMO would do so in time for its Diplomatic Conference on Maritime Security in December 2002. An important issue was whether an early revision of Convention No. 108 could be achieved without disrupting the broader objective of achieving a comprehensive review and consolidation of the maritime labour Conventions which was under way.
25. The Director-General proposes acting on the request made for an expeditious and mandatory solution of the identity documents issue as part of the broader package of mandatory measures the IMO will adopt by December 2002. In order to reinforce cooperation between the IMO and the ILO, the Director-General proposes that the Governing Body nominate a high-level tripartite delegation (for example, the Officers of the Joint Maritime Commission) to represent the ILO as an observer at the IMO Diplomatic Conference on Maritime Security, scheduled to be held from 4 to 13 December 2002 in London.
26. A timely response would strengthen the security chain for the benefit of all concerned, particularly governments, shipowners and seafarers, while still addressing other legitimate interests, such as privacy and discrimination. The ILO would be acting and be seen to be acting in a coordinated and integrated manner with other international organizations to achieve maximum impact for the benefit of their constituents. By responding in an expeditious and timely manner, the ILO would also be demonstrating its ability to set in motion a normative response when the circumstances so warranted.
27. Under these circumstances, an appropriate response to the issues raised would be the examination, with a view to the adoption by the Conference in 2003, of a Protocol to Convention No. 108. The ILO would invite the IMO to cooperate closely with it in the elaboration of the proposed Protocol. The Office has consulted the Officers representing the Shipowners' and the Seafarers' members of the Joint Maritime Commission.

Content of the proposed Protocol

28. The proposed Protocol would address the security issues raised, taking account of the obstacles to ratification of Convention No. 108. It would, in particular, include new provisions which address the question of positive verifiable identification of seafarers. It would set out the purpose for which the identity document is issued as well as the procedures for its issuance. It could also regulate the requirements concerning physical characteristics and measures to ensure the unfalsifiable nature of the document, as well as

procedures for monitoring and control. The proposed Protocol could provide for the inclusion in the identification document of information concerning certification of seafarers as requested by the IMO. The Protocol would also include a provision for enforcement through port state control mechanisms. Consideration would need to be given to the entry-into-force requirements for the Protocol.

Preparatory work by the Office

- 29.** The Office has already begun work more generally on the review of all existing ILO maritime Conventions and Recommendations with a view to determining to what extent the relevant provisions are to be included in the consolidation exercise of maritime labour Conventions. Such a review exercise was approved by the Governing Body at its 280th Session. Convention No. 108 is among the instruments included in the exercise. This consolidation exercise began with a first meeting of the High-level Tripartite Working Group, which was held from 17 to 21 December 2001, and a report of that meeting has been submitted to the present session of the Governing Body.¹ This process however is not due to be finalized before 2005, when it is expected that the new consolidated instrument will be adopted in the framework of a Maritime Session of the International Labour Conference.
- 30.** Within that framework, it is proposed that the work on Convention No. 108 be accelerated and submitted to the Subgroup and High-level Tripartite Working Group on Maritime Labour Standards, which are scheduled to meet in June 2002 and October 2002 respectively. In order to minimize the impact on the process under way and to accommodate the acceleration requested on improvements to the seafarers' identity document, it is proposed that two days could be added to one of the maritime meetings scheduled to take place this year. The Protocol when adopted would be integrated into the final outcome of the consolidation process.

Procedural arrangements

- 31.** A number of procedural issues arise concerning this request. The first concerns the placing of maritime questions on the agenda of the International Labour Conference when not meeting in a Maritime Session. According to a resolution adopted in 1921 by the Conference, no Convention or Recommendation adopted by the International Labour Conference shall apply to shipping unless it has been placed on the agenda of the Conference as a special maritime question. Nevertheless, in December 1948, such a question was placed on the agenda of the 32nd Session of the Conference in 1949 for the revision of four maritime Conventions. It is therefore possible for the Governing Body, if it so wishes, to place on the agenda of the Conference a maritime question, as long as it was so designated, outside Maritime Sessions of the International Labour Conference.
- 32.** The second question concerns the procedure to be followed for placing on the agenda of the Conference the question of the Protocol to Convention No. 108. Article 10, paragraph 1, of the Standing Orders of the Governing Body provides that when a proposal to place an item on the agenda of the Conference is decided for the first time by the Governing Body, it cannot without the unanimous consent of the members present, take a decision until the following session. In addition, the Governing Body can decide to refer a question to the Conference with a view to a single discussion. The Governing Body can on

¹ GB.283/LILS/7.

the basis of consensus decide to place the above item on the agenda of the 91st Session of the Conference. If such a consensus cannot be obtained, it would be possible to take a decision at the 284th Session (June 2002).

33. Finally, if the Governing Body were to agree to place this item on the agenda of the 91st Session of the Conference, in view of the limited time available for the preparation of reports, arrangements would have to be agreed on reduced intervals for reports to be submitted to governments in accordance with article 38 of the Conference Standing Orders. In this regard, in view of the ongoing process, the Subgroup and the High-level Working Group on Maritime Labour Standards could be invited to present their views on the subject matter, which will be taken into account in the final report to be submitted to the Conference.

34. *The Governing Body, taking into account the above, is invited to:*

- (a) place on the agenda of the 91st Session of the International Labour Conference (June 2003), the question concerning improved security of seafarers' identification with a view to the adoption of a Protocol to the Seafarers' Identity Documents Convention, 1958 (No. 108);*
- (b) decide that the question will be governed by the single discussion procedure;*
- (c) approve the programme (Appendix III) concerning a reduced timetable for the preparatory stages of the single discussion procedure;*
- (d) mandate the Director-General to take steps to: (i) consult the IMO at all stages of the preparatory process; and (ii) 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 4 to 13 December 2002.*

Geneva, 28 February 2002.

Point for decision: Paragraph 34.



ASSEMBLY
22nd session
Agenda item 8

A 22/Res.924
22 January 2002
Original: ENGLISH

Resolution A.924(22)

**Adopted on 20 November 2001
(Agenda item 8)**

**REVIEW OF MEASURES AND PROCEDURES TO PREVENT ACTS OF TERRORISM
WHICH THREATEN THE SECURITY OF PASSENGERS AND CREWS AND
THE SAFETY OF SHIPS**

THE ASSEMBLY,

RECALLING Articles 1 and 15(j) of the Convention on the International Maritime Organization concerning the purposes of the Organization and the functions of the Assembly in relation to regulations and guidelines concerning maritime safety; and also the general purpose of the Convention on Facilitation of International Maritime Traffic, 1965,

TAKING INTO ACCOUNT United Nations General Assembly resolution 56/1 and Security Council resolution 1368, both adopted on 12 September 2001, condemning the terrorist attacks on the United States of America on 11 September 2001, and also Security Council resolution 1373, calling on the international community to redouble its efforts to prevent and suppress terrorist acts, including full implementation of anti-terrorist conventions,

EXPRESSING great concern for the security of passengers and crews on board ships including small craft both at anchor and underway in the context of incidents involving terrorism and other unlawful acts against ships, and the associated risks to people on shore or populations in port areas as well as to ports, offshore terminals and the marine environment,

RECALLING resolution A.584(14) on Measures to prevent unlawful acts which threaten the safety of ships and the security of their passengers and crews,

RECALLING ALSO MSC/Circ.443 on Measures to prevent unlawful acts against passengers and crews on board ships, approved by the Maritime Safety Committee at its fifty-third session, in pursuance of the requests of the Assembly as contained in the aforementioned resolution A.584(14),

RECALLING FURTHER MSC/Circ.754 on Passenger Ferry Security, approved by the Maritime Safety Committee at its sixty-sixth session,

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FURTHER RECALLING the provisions of the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation (Rome 1988) and its Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf,

FINALLY RECALLING United Nations General Assembly resolution 55/7 urging States to become party to the 1988 Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation and its Protocol, and to ensure their effective implementation,

RECOGNIZING the need for the Organization to review, with the intent to revise, existing international legal and technical measures, and to consider appropriate new measures, to prevent and suppress terrorism against ships and to improve security aboard and ashore, in order to reduce the risk to passengers, crews and port personnel on board ships and in port areas and to the vessels and their cargoes,

1. REQUESTS the Maritime Safety Committee, the Legal Committee and the Facilitation Committee, under the direction of the Council, to undertake, on a high priority basis, a review to ascertain whether there is a need to update the instruments referred to in the preambular paragraphs and any other relevant IMO instrument under their scope and/or to adopt other security measures and, in the light of such a review, to take prompt action as appropriate;
2. REQUESTS ALSO the Committees referred to above, when taking action as requested in operative paragraph 1, to take account of the work of other international organizations competent in the development of standards for transport-related safety and security by land, air and sea, as well as industry organizations;
3. CALLS on Governments which have not accepted the 1988 Rome Convention and Protocol to consider doing so at the earliest opportunity;
4. ENCOURAGES Governments, pending the outcome of work tasked to the Committees referred to in paragraph 1 above, to put in place and vigorously implement appropriate security measures around and in port areas and terminals, including offshore terminals;
5. REQUESTS the Secretary-General to take appropriate measures within the Integrated Technical Co-operation Programme to assist Governments to assess, put in place or enhance, as the case may be, appropriate infrastructure and measures to strengthen port safety and security so as to prevent and suppress terrorist acts directed against ports and port personnel as well as ships in port areas, passengers and crews;
6. REQUESTS FURTHER the Secretary-General to submit a report to the twenty-third session of the Assembly on progress made in the interim.



INTERNATIONAL MARITIME ORGANIZATION

SECRETARY-GENERAL

LE SECRETAIRE GENERAL

EL SECRETARIO GENERAL

14 February 2002

Dear Juan,

I refer to:

- your letter of 20 November 2001 on the resolution I proposed to the twenty-second session of the IMO Assembly on Review of measures and procedures to prevent acts of terrorism which threaten the security of passenger and crews; and your offer of co-operation in a mutually supportive manner to ensure the greatest possible consistency in our policy formulation and regulatory responses to fight terrorism; and
- my reply dated 11 December 2001, sharing your view that the work of our two organizations should be harmonized as appropriate and accepting your offer of co-operation so that shipping may not become a target of international terrorism.

I have appreciated the contribution of the ILO delegation to the IMO Intersessional Working Group on Maritime Security (ISWG) in all matters of concern to both organizations and I look forward to further co-operation towards the attainment of the objectives set by the IMO Assembly which will culminate in the convening of a Diplomatic Conference on Maritime Security to take place in December of this year.

One of the important issues discussed during the ISWG was the question of the seafarer identification document, a matter on which emphasis has been placed on the need to update it for the purpose of enhancing security of ships and in ports.

The ISWG meeting was informed that a possible expeditious mandatory solution to achieving the above objective would be for the forthcoming meeting of the ILO Governing Body (7 to 22 March 2002) to agree to the inclusion of an additional item in the agenda for the June 2003 General ILO Conference with a view to considering and adopting a protocol to ILO Convention 108. I understand that two ratifications would be necessary to enable the said protocol to enter into force

Mr. Juan Somavia
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12 months later, following which the protocol could be used, through the 1996 Protocol to Convention 147, for port State control enforcement purposes.

I do not need to overemphasize the importance and significance of acting with maximum speed to put in place the necessary infrastructure (both regulatory and practical) to strengthen our defences against terrorism of all kinds. I am confident that you will consider taking all possible measures to seek an expeditious resolution of the seafarer identification document question and I trust that you will lend your full support when introducing my request at the ILO Governing Body so that a positive response is provided along the lines suggested above.

I should be most grateful to be informed as soon as possible of the decision of the ILO Governing Body in this respect so that I can inform the seventy-fifth session of IMO's Maritime Safety Committee (15 to 24 May 2002) accordingly and, once again, I thank you for your co-operation.

With best regards,

Yours sincerely,



W.A. O'NEIL
Secretary-General

Appendix III

Programme for the preparatory stages for the single discussion (Article 38.3 of the Standing Orders of the Conference)

July 2002 (15.7)

Dispatch of the preliminary report accompanied by a questionnaire containing a first draft of the provisions on which consultations would have taken place in the framework of the Subgroup of the High-level Tripartite Working Group (June 2002).

December 2002 (31.12)

Deadline for the receipt of replies to the questionnaire.

March 2003

Dispatch of the final report.