

International Labour Organisation

Report IV

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**Preparatory Technical Maritime Conference**

Geneva, October 1975

# **Continuity of Employment of Seafarers**

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## INTRODUCTION

At its 55th (Maritime) Session (Geneva, October 1970), the International Labour Conference adopted a resolution concerning continuity of employment of seafarers, as follows:

The General Conference of the International Labour Organisation,

Having regard to the Employment of Seafarers (Technical Developments) Recommendation, 1970, in particular Part IV on regularity of employment and income;

Requests the Governing Body of the International Labour Office to invite the Director-General to submit a report on continuity of employment of seafarers to an early session of the Joint Maritime Commission.

Part IV - Regularity of Employment and Income - of the Recommendation referred to in the resolution provides:

14. (1) Consideration should be given to schemes providing regularity of employment and income for seafarers and suitable personnel to man ships.

(2) Such schemes might provide, for instance, for contracts of employment with a company or with the industry for seafarers with appropriate qualifications.

15. Consideration should also be given to arranging for seafarers, as part of the national social security system or otherwise, some form of benefits during periods of unemployment.

16. (1) Efforts should be made to meet the needs of seafarers, particularly older persons, who have special difficulty in adjusting to technical change.

(2) Amongst possible measures, consideration should be given to -

- (a) retraining for other industries through government and other schemes that are available; and
- (b) the provision of adequate benefits, within the framework of social security systems or other schemes, for those who are required to leave the maritime industry at an earlier age than is generally the case.

The Governing Body considered the resolution concerning continuity of employment of seafarers at its 182nd Session in March 1971, and in accordance with decisions taken at that time and at the 185th Session (February-March 1972) this subject was placed on the agenda of the 21st Session of the Joint Maritime Commission, held in November-December 1972.

The relevant reports placed before the Commission were based on information received from 39 countries in response to a questionnaire, and after considering them the Commission adopted a resolution<sup>1</sup> requesting the Governing Body to place this question on the agendas of the next Preparatory Technical Maritime Conference and Maritime Session of the International Labour Conference with a view to the adoption of an international instrument or instruments. The resolution further requested that the reports for the Conferences should take account of the information submitted to the Joint Maritime Commission, together with any other pertinent information which would assist the Conferences in their consideration of the question.

At its 189th Session (February-March 1973), when considering the agenda of the Preparatory Technical Maritime Conference, the Governing Body took into account the proposal formulated by the Joint Maritime Commission and decided that the question of continuity of employment of seafarers should appear as item 4 on the agenda of the Conferences. The Office accordingly requested the governments of

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<sup>1</sup> The text of the resolution appears in Annex I.

member States to provide information on any developments which might have taken place in their countries in this respect subsequent to the situation described in their replies to the questionnaire referred to above, or to send such replies if this had not already been done. The present report thus reproduces the substance of the information submitted to the Joint Maritime Commission in 1972, modified to take account of more recent developments.

Since consideration had already been given, immediately following the Second World War, to the question of the adoption of international standards relating to continuity of employment of seafarers, it may be useful in the present context to provide a brief summary of events at that time, and this appears in Chapter I.

Chapter II contains a summary of replies to the questionnaire and of later information received from the governments of the following countries: Argentina, Australia, Bangladesh, Belgium, Brazil, Canada, Colombia, Costa Rica, Cyprus, Czechoslovakia, Denmark, Ethiopia, Finland, France, German Democratic Republic, Federal Republic of Germany, Ghana, Greece, Guatemala, India, Italy, Ivory Coast, Japan, Madagascar, Malta, Morocco, Netherlands, Nigeria, Norway, Panama, Peru, Philippines, Poland, Portugal, Singapore, Spain, Sweden, Switzerland, Syrian Arab Republic, Tunisia, Turkey, Ukraine, United Kingdom, United States, USSR and Zambia. In submitting the original or later information, Canada, Finland, France, Federal Republic of Germany, India, Norway, Spain, Sweden and Switzerland stated that the shipowners' and seafarers' organisations had been consulted in the formulation of replies. To the reply from the Government of the Federal Republic of Germany was annexed comments by the employers' association, and to that of the Netherlands joint comments by the shipowners' and seafarers' organisations of that country. In the case of the United Kingdom, the reply consisted of information provided by the Confederation of British Industry, the Trades Union Congress and the States of Guernsey. The Office wishes to express its appreciation to those countries which responded to the questionnaire.

Chapter III provides an over-all analysis of the information contained in Chapter II, and contains proposed conclusions which may be of assistance to the Conference in its consideration of what action might be taken at the international level to meet the problems raised by the casual nature of seafarers' employment and to give effect to the relevant provisions of the Employment of Seafarers (Technical Developments) Recommendation, 1970 (No. 139).

Annex I contains the text of the resolution on continuity of employment of seafarers, adopted by the Joint Maritime Commission at its 21st Session. Annexes II to IV relate to the historical background of the question, and reproduce respectively an extract from the International Seafarers' Charter, the preliminary text of an international instrument on continuous employment for seafarers submitted to the Preparatory Technical Maritime Conference in 1945, and a resolution concerning continuous employment for seafarers adopted by the International Labour Conference at its 28th (Maritime) Session in 1946.

## CHAPTER I

### HISTORICAL BACKGROUND

At its 13th Session in 1945, the Joint Maritime Commission had before it an International Seafarers' Charter which had been adopted in 1944 at a conference of seafarers' representatives from 12 maritime countries, convened by the International Transport Workers' Federation and the International Mercantile Marine Officers' Association. In a section devoted to continuous employment<sup>1</sup>, the Charter called attention to the problem of full employment which would face all countries after the war and the distinctive position of seafarers in this regard. It proposed that in the first instance it should be established that officers and seamen should be permanently engaged by the employers and that, except where otherwise desired by the men, the system of employment termination at the end of a voyage should be discontinued.

After consideration of this and other questions, the Joint Maritime Commission proposed that a tripartite committee should be convened to study both continuous employment and entry, training and promotion. The proposal was accepted by the Governing Body of the ILO, and the Committee on Continuous Employment and Entry, Training and Promotion met in London in July 1945, with representatives of four governments in addition to four Shipowners' and five Seafarers' members appointed by the Joint Maritime Commission.

The report of the Committee, which contained suggestions as to schemes which might be established to ensure continuity of employment for seafarers under such headings as persons to be covered by national schemes, essential features of such schemes, conditions of admission of seafarers thereto, pool pay, financial administration, penalties for failure to discharge obligations and termination of obligations, was submitted to the Maritime Preparatory Technical Conference of the ILO (Copenhagen, 1945) in a report on continuous employment.<sup>2</sup> The latter document also drew attention to the widespread irregularity of seafarers' employment in peace time, with its attendant hardships for the workers concerned, and went on to describe measures taken during the Second World War to establish pools of active seafarers in a number of countries involved in hostilities. It reproduced the proposals regarding continuous employment contained in the International Seafarers' Charter, and provided a preliminary text of a possible international instrument on this question.<sup>3</sup>

After consideration of the report, the Committee on Continuous Employment of the Conference felt that it would be more appropriate to deal with the matter in the form of a resolution. In the view of several of the Shipowners' members, it would be premature to attempt to adopt a Convention or a Recommendation on the subject, since national systems for promoting continuity of employment had not then yet been tested in time of peace; there was thus no adequate basis of national experience on which to formulate international regulations, and it would be undesirable to lay down regulations which would tie the hands of those endeavouring to frame such schemes in individual countries. This view was shared on the Government side and was accepted by the Seafarers' representatives who, however, pointed out that they did so on the understanding that not more than two years should elapse before a draft Convention on the subject was put before a maritime session of the International Labour Conference. A draft resolution was thus submitted to and adopted by the plenary sitting of the Conference, and was subsequently submitted, together with the preliminary text of a possible instrument originally

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<sup>1</sup> The text of the relevant section of the International Seafarers' Charter, as revised in 1960, appears in Annex II.

<sup>2</sup> ILO: Continuous employment, Report VII, Maritime Preparatory Technical Conference, Copenhagen, November 1945.

<sup>3</sup> This text is reproduced in Annex III.

prepared for the Copenhagen Conference, to the 28th (Maritime) Session of the International Labour Conference held in Seattle in 1946.<sup>1</sup>

The Conference decided that no special committee should be set up to deal with the question of continuous employment, but that the draft resolution adopted at Copenhagen should be considered along with other texts by the Resolutions Committee. It was finally adopted unanimously in plenary sitting, with some modifications.<sup>2</sup>

At its 99th Session (Montreal, September 1946), when considering the effect to be given to the resolutions adopted by the International Labour Conference at its 28th Session, the Governing Body authorised the Office to communicate the text of the resolution concerning continuous employment for seafarers to the governments of member States. In the light of any information which might be received from governments in accordance with the resolution, the Office would continue to study the question and would suggest further action when it considered it appropriate.

No further action was taken with a view to the possible elaboration of international standards in this regard prior to the adoption by the 55th (Maritime) Session of the Conference of the resolution referred to in the Introduction above, leading to submission of the question to the Joint Maritime Commission in 1972. It may be useful to the Conference to note the views expressed on that occasion by the Shipowners' and Seafarers' members, which are summarised below.

The Seafarers' members said that since the adoption in 1946 of the resolution concerning continuous employment for seafarers, and the Employment of Seafarers (Technical Developments) Recommendation, 1970, which laid down a number of provisions concerning the regularity of employment and income of seafarers, in general few countries had achieved any substantial measure of security of employment for these workers. They said that lack of provision for the continuity of employment and stability of earnings based on reasonable periods of duty of seafarers contributed to the high turnover of maritime labour which was, in effect, disguised unemployment and of concern to both shipowners' and seafarers' organisations. In most countries, seafarers were not accorded the same recognition of employment security or benefits as workers ashore. This often resulted in periodic loss of income and social hardship to seafarers and their families. Continuity of employment schemes devised by shipowners in co-operation with seafarers' organisations, and in accordance with the varying circumstances in each country, would assist in recruitment and retention of manpower in the sea-going profession; contribute to the stability of the shipping industry; benefit shipowners directly through a permanent reliable workforce, more efficient use of manpower and efficiency in ship operations; assist in solving unemployment among seafarers; and give them the regularity of employment and income they deserved.

The Seafarers' members drew attention to the present situation as outlined in the report before them, and considered that the various existing systems of employment and income stabilisation in the different countries, together with other information, constituted a useful basis for devising an appropriate international instrument, which was now essential to serve as guidance in the development of national schemes ensuring continuity of employment of seafarers.

The Shipowners' members agreed that continuity and regularity of employment of seafarers could benefit the shipping industry and all those who depended on it. They referred to the great attention given to this question during the maritime conferences in 1969 and 1970 which had resulted in the inclusion in the Employment of Seafarers (Technical Developments) Recommendation of a number of provisions dealing directly with regularity of employment and income. These provisions should constitute the point of departure for any further work by the ILO on this question.

The Shipowners' members referred to the successful development and execution of schemes in various countries providing for continuity and regularity of employment and income. They drew attention, however, to the reluctance of some seafarers to undertake contracts with shipping companies guaranteeing careers at sea owing to the availability of jobs in industry ashore and the technical qualifications of young persons having benefited from new patterns of general education.

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<sup>1</sup> ILO: Continuous employment for seafarers, Report VII, International Labour Conference, 28th Session, Seattle, 1946.

<sup>2</sup> The text of the resolution appears in Annex IV.



Furthermore, they pointed out the practical difficulties faced by small shipping companies with few vessels in ensuring continuous employment schemes.

The Shipowners' members emphasised that security and continuity of seafaring employment depended on the commercial viability of shipping industries. This called for the continual application of new technology, work methods and concepts of manning aboard ships as well as improvement of prospects for a career at sea. The need for competitive survival could also force shipowners to register vessels under foreign flags which, if accomplished in conformity with the provisions of Recommendations Nos. 107 and 108, and with the agreement of the seafarers' organisations concerned, contributed to the maintenance of seafaring jobs that would not otherwise exist.

The text of the resolution appearing in Annex I was adopted unanimously by the Commission.



## CHAPTER II

### SUMMARY OF REPLIES TO THE QUESTIONNAIRE CONCERNING CONTINUITY OF EMPLOYMENT OF SEAFARERS

A study of the replies to the questionnaire revealed some ambiguity in the term "continuous employment scheme". The various resolutions referred to above, and Part IV, Paragraph 14, of the Employment of Seafarers (Technical Developments) Recommendation, appear to have been formulated with the idea in mind of established bodies having administrative functions, such as seafarers' pools, and the questionnaire was worded accordingly. However, continuity of employment may be achieved through varying means; in some countries, for example, employment guarantees are one of the foundations of the entire social system, while in others continuity may be ensured through company contracts or other means. The situations described by various countries, therefore, cover a wide range and do not always relate specifically to the questions posed. The Conference may perhaps bear this difficulty in mind when considering the information below, which is outlined under the headings of the various points of the questionnaire.

#### 1. Is any continuous employment scheme for seafarers in force in your country?

There would appear to be few countries in which formally-established machinery ensuring continuous employment for seafarers is in existence, and only Australia, Bangladesh, Belgium, Denmark, France, Norway, Poland and the United Kingdom replied with an unqualified affirmative to this question. In Japan, while there is no formal scheme as such, continuity of employment is assured by means of permanent contracts between the seafarer and the shipowner, and a system of company contracts has been adopted in Sweden. Czechoslovakia stated that the question was not applicable in that country, since seafarers receive wages or sickness benefit during the whole period of their employment relationship to the Czechoslovak Maritime Navigation Organisation. The situation is similar in the German Democratic Republic, Ukraine and the USSR, but these Governments provided more detailed information which is summarised below under the appropriate headings. Switzerland has a shortage of seafaring personnel, who thus find work without delay; in addition, an appreciable number of them work alternately ashore and on board ship.

In a number of other countries, some degree of continuity of employment is achieved in practice, or the existing employment and social security provisions are considered as relevant, or measures are being taken to study the question. Despite the absence of formal schemes, information was provided under some or all headings of the questionnaire by the following countries: Argentina, Canada, Colombia, Costa Rica, Federal Republic of Germany, Ghana, Greece, India, Italy, Madagascar, Morocco, Netherlands, Nigeria, Panama, Peru, Philippines, Portugal, Singapore, Spain, Tunisia, Turkey and the United States.

Cyprus, Ethiopia, Finland, Guatemala, Ivory Coast, Malta, Liberia, Syrian Arab Republic and Zambia replied to this question in the negative, although Finland and the Syrian Arab Republic referred to existing institutions dealing with seafarers' employment. Guatemala stated that seafarers were covered by the general Labour Code as regards termination of employment; the Ivory Coast that in case of unemployment arising from loss or laying up of a vessel, a seafarer had the right to an indemnity of two months' wages; and Malta that unemployed seafarers were entitled to benefits under national insurance legislation.

In Argentina, committees established in accordance with collective agreements adopted in 1971 are studying the most suitable methods of ensuring continuity of employment for seafarers, and in addition it is customary for individual seafarers to enter into permanent contracts with the shipowner concerned. Brazil has a shortage of deck and engine-room officers for its expanding merchant fleet, and it is expected that, during the coming five years, the Merchant Navy Training School will have difficulty in recruiting and training candidates on the scale required. In the case of ratings, the Ministry of Marine is taking steps to regulate the issue of new seamen's books so as to bring them into line with the needs of the fleet and availability of manpower in the trade unions. In Canada, all collective agreements have seniority provisions which provide employment protection based on length of service, while during periods of unemployment various forms of assistance

are provided by the Government. Basically, these comprise the payment of social security benefits, the services of manpower centres offering counselling and assistance in job placement, training programmes, and financial grants under the manpower mobility programme which enable the worker to travel to seek suitable employment, relocate or undergo training outside his home area. In addition, the Canada Labour Code provides for periods of notice or payment of compensation in case of dismissal, and in British Columbia workers (including some 2,200 ferry boat workers) are protected in the case of planned implementation of technological change by the Government.

One shipping company in Colombia, the Empresa Flota Mercante Grancolombiana, guarantees continuity of employment to 60 per cent of its seafaring employees, taking into account length of service. In Costa Rica, where steps are being taken towards the introduction of employment security, seafarers are covered by the general labour legislation. The Government of the Federal Republic of Germany considers that the basic conditions for achieving continuity of employment for seafarers are ensured by the offices established by the Federal Labour Service, the latter being responsible, in accordance with the Act of 1 July 1969, for employment promotion. These offices provide seafarers with information on the labour market, on developments within the different branches of activity and on training facilities, and advise on job possibilities. The National Shipping Line of Ghana has established a scheme which is designed to create permanent appointments for local officers.

In Greece, the Seamen's Placement Offices, which are responsible for placing seafarers in employment, take measures to ensure a balance between demand and supply of maritime manpower. There are legislative provisions for the protection of unemployed seafarers and their families. Officers in India are the employees of the shipping companies and, in accordance with an agreement entered into with the Maritime Union of India, they are in permanent employment once confirmed after six months' service. As far as ratings in this country are concerned, a collective agreement effective from January 1974 provides that a seaman selected for employment and having signed the articles of agreement will receive an allowance equivalent to half the basic wage, plus a subsistence allowance, from the date on which the subsistence allowance is payable until the full wages commence.

The state-controlled and some of the large private shipping companies in Italy have adopted a form of labour relationship involving a normal period afloat, followed by a spell ashore related to the time afloat, a period afloat and so on. If, for reasons beyond his control, a seafarer is not taken back within five days of the expiry of the agreed period ashore, he is paid a daily allowance at a rate specified in the contract until he re-embarks. When signing off a vessel, the seafarer is not entitled to compensation for termination of the employment relationship, but this compensation becomes payable once he ceases to be on the roster, and, in calculating length of service for this purpose, account is taken of time ashore as well as of time afloat.

In Madagascar, the principal association of shipowners has established a system according to which the shipowner ensures continuity of employment relating to 75 per cent of the officers' posts on board. Provisions are laid down as regards the obligations of the parties concerned and the conditions to be fulfilled by the officers requesting admission to the scheme; it is hoped progressively to extend the system to cover masters in the first instance, and later ratings. Seafarers in the Netherlands are covered by the Unemployment Act of 1949, which makes provision for the financial consequences of involuntary unemployment, while the collective agreements contain provisions regarding termination of individual and collective contracts. The shipowners' and seafarers' organisations of that country point also to the fact that, within the framework of the Placement Act and the Extraordinary Employment Relations Decree, the employment offices continuously assist employers and job seekers in respect to placement. Officers in Nigeria enjoy continuity of employment in accordance with their contract of engagement. Portugal reports that new arrangements are proposed governing work in the merchant marine which will provide for an indefinite contract of employment to be concluded between a seafarer and a shipping line with a view to the creation of a body of permanent seafarers in the shipping companies. Under these new arrangements, in case of collective dismissals or technological unemployment, seafarers would receive temporary unemployment allowances in accordance with the system already in force for shore workers. Consideration is also being given to the creation of an official employment service for seafarers to be run in conjunction with the National Employment Service.

Any continuous form of employment for seafarers in the Philippines is at the discretion of the shipowner through collective agreements, but there is no indication as to how far this is achieved in practice. In Panama, all matters relating to continuity and termination of employment of seafarers on vessels in international trade are covered by the Labour Code, which provides that their employment contracts may be of three types: for duration of voyage, for a definite, or for an indefinite duration. On completion of three or more successive contracts at intervals of not more than three months in the first two categories, the employment relationship is converted into one of indefinite duration. Large undertakings, such as the Esso Transport Co. Inc., pay their seafarers an allowance while they remain ashore and are assigned to a vessel, in accordance with the company's internal labour regulations.

In Peru and Spain there are no specific provisions for seafarers, who are subject to the general legislation whereby workers in permanent employment cannot be dismissed except for stipulated legitimate reasons; in all cases in Spain, recourse may be had to the Labour Magistrate. Collective agreements provided for under the Maritime Labour Code of Tunisia, 1967, will contain provisions aimed at ensuring continuity of employment of seafarers; however, no such collective agreement has yet been submitted for consideration by the Consultative Committee on Collective Agreements, set up in accordance with the Code. In Turkey, continuity of employment and wages is ensured for seafarers engaged on board ships of companies of which the greater part of the capital is owned by the State, as also of large companies in the private sector.

In addition to details of the Established Service Scheme, the Government of the United Kingdom provided information in regard to the States of Guernsey where there is no continuous employment scheme for seafarers, the latter receiving assistance from the employment exchange in case of unemployment.

Employment arrangements for seafarers in the United States are basically the result of labour-management arrangements under collective agreements, and are not considered by the parties concerned as continuous employment schemes within the definition of the questionnaire, although this does not mean that there is no income or maintenance during periods of unemployment. The nature of the employment system is basically that of a rotary system with seniority and service rights. For officers there is a combination of rotary shipment and a roster system on an individual company basis, the number of men on the roster being equal to the number of jobs in the company fleet; if the number of jobs is reduced, the men with lowest seniority on the list are eliminated. Unlicensed seamen having the greatest length of service may remain continuously employed on a vessel, although on the west coast they are allowed a maximum of seven months' engagement on a vessel. On completion of this period, the seamen register for further employment at the union hiring hall, where the rotary system is based on a combination of length of time ashore and time registered for employment, and seniority group.

2. In the affirmative, is the scheme established by legislation, collective agreement, or is it maintained solely by action on the part of the shipowners' or seafarers' organisations or by any other means? Please supply copies of the relevant texts.

In view of the absence of formal schemes in the majority of countries, the summary given under question 1 of arrangements adopted or to be adopted in various countries would appear to answer this question very largely. However, the following additional information was supplied as relevant. In Australia, continuous employment schemes operate for members of the Seamen's Union, the Federated Marine Stewards' and Pantrymen's Association and the Marine Cooks', Bakers' and Butchers' Association. The schemes were established by agreement between the shipowners and the unions, and have subsequently been made awards of the Conciliation and Arbitration Commission; they are administered by the Australian Department of Transport. The scheme in Bangladesh is established by collective agreement between shipowners' and seafarers' organisations, subject to approval by the Government.

In Belgium, continuity of employment is provided through a Merchant Marine Pool, which is responsible for maintaining a list of men eligible for employment as crew members on board Belgian merchant ships, for paying benefits, and for

running seafarers' placement offices. The Pool was introduced by a 1964 Act and a Royal Decree issued thereunder in 1965, and is subject to supervision by the Ministry of Employment and Labour. Apart from the seniority provisions contained in collective agreements, relevant Canadian legislation comprises the Unemployment Insurance Act, 1971; Part III of the Canada Labour Code; the Adult Occupational Training Act, 1972; and various regulations relating to manpower mobility. In addition, some collective agreements provide for unemployment benefits supplementing amounts payable under the Insurance Act, or severance pay when displaced.

The Danish schemes are laid down by collective agreements between the Danish Shipowners' Association and the various officers' unions, the Marine Catering Union and the Firemen's Union. Only in the agreement between the Shipowners' Association and the Seamen's Union is there no provision for continuity of employment.

Since, under the Maritime Labour Code of France, a seafarer's employment relationship is with the vessel and not with the shipowner, it was necessary in the first instance to deal with the problem of continuous employment by way of collective agreements. The texts in question, those of 19 July 1947 for ratings and of 30 September 1948 for officers, laid down the conditions under which seafarers could be established within a shipping company and thus benefit from continuity of employment while being assured of remuneration during waiting periods between the end of holidays and re-embarking. Later, an Ordinance of 13 July 1967 provided for the establishment of a national employment agency, and a Central Maritime Manpower Office was set up; this centralises offers of and applications for employment, and is designed to facilitate the engagement of seafarers who do not benefit, within a particular company, from the continuity of employment reserved for established seafarers.

In Japan, once a seafarer enters into a contract of engagement with a shipowner, their employment relations continue to exist until the seafarer attains the age of 58, unless he tenders his resignation or has been guilty of misconduct. The Mariners' Act contains a provision concerning restriction of discharge of a seafarer from such employment, the reasons for discharge being specified by collective agreements. After leaving a vessel, the seafarer is enlisted as a reservist in a certain category and waits for further opportunity to serve on board another ship of the same company. While the scheme in Norway is established by collective agreement, a proposed new Seafarers' Act contains a special section concerning continuous employment by shipping companies; this will be based on established practice.

The Italian system is established by collective agreement, while in Poland the rule of seafarers' regular employment is in force by virtue of the Act on Employment in Polish Sea-Going Merchant Vessels Operated in International Shipping and the provisions of the collective labour agreement. The general system relating to workers in permanent employment in Peru was established by Legislative Decree No. 18471 of 1970 and its Regulations, and by the Regulations on Port Officers and the National Merchant Marine; and that in Spain by the Amended Labour Procedure Regulations promulgated by the Decree of 21 April 1966.

While the Swedish Merchant Seamen Act, 1973, and the Security of Employment Act, 1974, relate to various aspects of a contract of employment, departures from the latter are sanctioned in collective agreements. The collective agreement between the Swedish Shipowners' Association and the Swedish Seamen's Union equates continuous employment with company employment and provides that, after 90 days' continuous employment, an employee is regarded as being in company service unless he states in writing that he does not desire such employment. The provisions relating to continuous employment of seafarers in Turkey are established both by legislation and by collective agreement.

The relevant legislation applicable in Ukraine and the USSR includes certain articles of the Fundamental Principles of the Labour Legislation of the USSR and the Union Republics, and the Rules governing service on board Soviet sea-going vessels.

The only scheme in operation in the United Kingdom is the Established Service Scheme, established by collective agreement between shipowners' and seafarers' organisations within the National Maritime Board. The Scheme, which is optional, provides that a seafarer may enter into a general service contract and receive benefit during any period of waiting to join a ship. Few engineers choose to accept general service contracts, although a large number accept company service contracts for periods of two years.

3. Does the continuous employment scheme provide for access to it of all eligible seafarers (with the exceptions indicated later) who are nationals of your State and employed on ships registered in your territory?

Of those countries having notified the existence of a formal scheme, Australia stated that members of the unions concerned serving on Australian ships were eligible. Initially, the schemes were limited to men currently serving on Australian ships; those seeking access at a later date required approval by representatives of the shipowners and the unions, final approval resting with the representatives of the Department of Transport. All eligible seafarers in Bangladesh have access to the national scheme. In France and Poland, the schemes are applicable to all eligible seafarers who are nationals of those countries and to employment on ships registered therein, while in Belgium, Denmark and Norway, all eligible seafarers have access to the schemes. Japan did not reply specifically to this question, but information available from other sources indicates that this is the case also for that country. In the Ukraine and the USSR, all eligible persons are entitled to permanent employment at sea. As far as the United Kingdom is concerned, there is some divergence of opinion between the National Union of Seamen and the Confederation of British Industry, the latter stating that the Established Service Scheme applies to all seafarers and employment as specified in the question, while the former states that this is not the case but that this aspect is under review. The text of the Scheme appearing in the National Maritime Board Year Book does not throw any clear light on the matter, and the conflicting views may be due to varying interpretations.

Of those countries in which some arrangements exist or are under study in the absence of formal schemes, Argentina, Colombia, Federal Republic of Germany, the Netherlands, Nigeria and Tunisia provided no information in reply to this question. Canada, Ghana, Greece, Madagascar, Spain, Sweden and Turkey replied affirmatively to the question, while Italy stated that the scheme was practised only by those companies having signed the agreement, but was open to all seafarers; and the United States indicated that the plans described above were applicable to all members represented by the labour union among the shipowners under contract with the union.

4. Does it also apply to foreign seafarers who are normally employed in ships registered in the territory of your State?

Foreign seafarers may be registered under the Australian schemes only if they are members of the maritime unions concerned. The Bangladesh, Belgian, Danish and Norwegian schemes apply to non-nationals, and that in force in France is theoretically applicable to this category although in practice such a situation rarely arises. While Japan did not reply to this question, Poland stated that the relevant Act of 1952 provided for the possibility of employing a foreigner as a seaman if he complied with the age, health and qualification requirements, such foreigners being subject to the same provisions as seafarers of Polish nationality. The Established Service Scheme in the United Kingdom applies to foreign seafarers, provided they are engaged on UK articles of agreement and registered with the Administration of the Scheme.

Foreign seafarers do not benefit from the scheme established by the National Shipping Line of Ghana which applies only to local officers, although foreigners may be employed on board subject to satisfactory service and conduct as long as local replacements are not available. In Greece, this question is under study, but in Italy the special labour relationship does not normally apply to foreign seafarers. The relevant scheme in Madagascar does not apply to foreigners, who are recruited on contracts of from one to two years. All provisions of the Labour Code of Panama, as well as those of the internal labour regulations of undertakings owning vessels under the Panama flag, are applicable to all seafarers employed by them, regardless of nationality. In Peru, foreign seafarers between 21 and 60 years of age who have become naturalised benefit from the relevant legislative provisions, while the legislation in Spain applies in general to foreign workers, subject to preference being accorded to nationals in case of dismissals. The Swedish shipowners give company contracts to non-nationals, but in Turkey foreign seafarers may be engaged only in exceptional circumstances as laid down in the

relevant regulations, and no measures are therefore taken to ensure for them continuity of employment or income. It is not the normal practice to recruit foreign seafarers on board vessels of Ukraine and the USSR, but where such seafarers are taken on, the system automatically applies to them.

Vessels under United States registry may employ only such aliens as have been legally admitted to the country as residents, and have applied for citizenship. Such aliens are equally eligible within the union for seniority qualifications and dispatch to jobs.

5. Does the scheme apply both to officers and ratings? Is there any difference of treatment between these two categories?

Officers in Australia are not covered by the schemes referred to above; however, deck officers members of the Merchant Service Guild and engine room officers members of the Institute of Marine and Power Engineers are normally employed on a permanent basis by individual shipowners. Radio officers members of the Professional Radio Employees' Institute of Australia are, in general, continuously employed by Amalgamated Wireless (Australasia) Ltd. on behalf of shipowners generally.

The Bangladesh scheme applies to officers only, and the Belgian to officers and ratings, while in Denmark only those ratings members of the Seamen's Union do not benefit from a continuity of employment scheme. The scheme in force in France applies equally to officers and ratings; the only differences between these two categories relate to the conditions for admission enumerated under question 9 below. Although the Government of Japan did not specifically say so, it would appear from its reply that the scheme applies equally to both categories of seafarers. The scheme in Norway applies only to officers, but an agreement between the Norwegian Shipping Federation and the Confederation of Trade Unions in Norway and the Norwegian Seamen's Union lays down provisions for payment of wages to ratings during periods of waiting for employment on board. In Poland, the scheme applies to masters, officers and ratings, and this would seem to be the case also in the German Democratic Republic, Ukraine and the USSR. There is no distinction between the two categories in the United Kingdom.

In Ghana, the measures taken apply only to local officers, while in Greece, Italy and Turkey both officers and ratings are covered. As stated under question 1, the system adopted by the Madagascan shipowners applies only to officers, though it may later be extended to cover masters and ratings. Only officers in Nigeria may enjoy continuity of employment in accordance with their contract of engagement. In Spain there is no restriction on dismissals of masters of cargo ships, although they enjoy the right to reinstatement in their previous posts within the company.

Officers and crews are governed by the same legal provisions in Sweden, although the officers' agreements do not include special provisions concerning company employment. However, it is unusual for officers to sign contracts of employment for service on board certain ships only, and although the relevant agreements are less specific than those of crews in this regard, it is considered that no distinctions are made in the treatment of the different categories. In Ukraine and the USSR there is no distinction between officers and ratings. The differences between the status and treatment of officers and ratings under the roster system of employment in the United States are summarised under question 1 above.

6. Does the scheme provide for the exclusion therefrom of seafarers of certain classes, such as:  
(a) persons employed in fishing vessels;  
(b) persons employed in small vessels;  
(c) persons in the service of the government  
whose employment is normally continuous?

Persons employed in fishing vessels and those in the service of the Government are not included in the continuous employment schemes in Australia. However, as regards persons employed in small vessels, the schemes cover union members employed on vessels such as tugs where the employer is a registered employer under the particular engagement schemes. All the persons listed are excluded from the



Bangladesh scheme, while the Belgian scheme excludes those serving on board fishing vessels, small vessels not part of the merchant marine and vessels of the state fleet.

The schemes in Denmark relate only to seafarers on board vessels belonging to members of the Danish Shipowners' Association, while that in France applies to commercial shipping companies operating vessels of over 250 gross tons, although seafarers employed on board fishing vessels and vessels of under 250 gross tons are not formally excluded from its provisions. On the other hand, the scheme does not apply to persons in the service of the State. Japan provided no information on this point. Poland stated that the regular employment system related to the whole shipping industry, and this would seem to be the case also in the German Democratic Republic, Ukraine and the USSR. Persons employed in fishing vessels are excluded from the Established Service Scheme of the United Kingdom, as are those employed in vessels of under 200 gross register tons, but not necessarily persons in the service of the Government.

In Greece, the special unemployment insurance provisions for seafarers do not apply to those employed on board fishing vessels but not forming part of the crew. All the categories listed in the question are excluded from the system adopted by the Italian shipowners, while the shipowners' scheme in Madagascar applies to all vessels which they operate, of whatever type. Nigerian officers enjoy continuity of employment under their contracts on all types and sizes of vessels. Seafarers in Spain are covered by the general employment security provisions which apply to all workers. The Norwegian scheme deals solely with the foreign-going merchant marine, and while the Swedish Merchant Seamen Act covers employees on board fishing vessels, the latter are not affiliated to the Seamen's Union and there is no indication that they benefit from company contracts. Turkish seafarers are not classified according to the type and tonnage of the vessel on which they serve, and continuity of employment depends on the situation of the shipowner, as indicated under question 1. The employment situation in the United States as summarised above relates only to seafaring personnel aboard privately-operated ocean-going vessels.

7. Does the scheme contain provisions as to the proportion of seafarers to be covered?

Quotas as to the number of men to be registered under the Australian schemes to meet the industry's needs are agreed upon between representatives of the shipowners and the union concerned, and in practice very few ships are not covered by this system. In cases of dispute, a representative of the Department of Transport may determine the quota, but in practice no recourse has yet been had to this procedure. There are no restrictions on the numbers who may be covered by the Bangladesh and Belgian schemes, but in the latter country the management committee takes manpower needs into account when deciding upon admissions to the Pool.

In Denmark, all seafarers who are members of the Marine Engineers', Navigating Officers', Radio Officers', Marine Catering and Firemen's Unions benefit from continuous employment under collective agreements, but there is no indication as to what proportion of the total number of seafarers these represent as against members of the Seamen's Union. Collective agreements concluded between shipowners' and seafarers' organisations in France provide that the number of established seafarers should equal 100 per cent of the seafarers embarked on 1 January of each year. However, in individual company agreements, this percentage has been increased, reaching in some cases 130 per cent. In addition, most of these agreements provide that seafarers of over 21 years of age having more than two years' service with the company concerned are considered as established seafarers. While not so specified in the Government's reply, it would appear that all seafarers in Japan are covered by the relevant provisions, and this is also the case in the German Democratic Republic, Poland, Ukraine and the USSR, where the regular employment system relates to the entire shipping industry. The Norwegian scheme applies to all officers in foreign-going service. No figures appear in the Established Service Scheme of the United Kingdom, but certain specialist ranks are excluded therefrom.

The one shipping company in Colombia which guarantees continuity of employment does so for 60 per cent of its sea-going personnel. No figures are provided in regard to the scheme for officers in Ghana, nor are percentages indicated for

Greece and Italy. Seventy-five per cent of officers are so far covered by the system adopted by the shipowners' association in Madagascar. The Swedish scheme applies automatically to all those having served a continuous 90 days with the company. In the United States, all seafarers under contract are covered by the system outlined above; the numbers in the various seniority categories take into account the available employment opportunities.

It would seem that the absence of formal established schemes has led to difficulty in replying to this question, on which no information was provided by the majority of countries.

8. Does the scheme provide for the payment of a maintenance allowance during periods of involuntary unemployment or when the seafarer is undergoing a course of training?

Under the schemes in force in Australia, an attendance allowance is paid to seafarers for days on which they make themselves available for employment and are not engaged; where training of seafarers is provided, payment is made while studying. In Bangladesh, officers receive allowances under the terms of their contract of service. Maintenance allowances are paid in Belgium during periods of involuntary unemployment, and during such periods seafarers may follow training courses in a technical school recognised or subsidised by the State or in a training centre established by the Pool.

Danish seafarers covered by the schemes receive full pay and food allowances during such periods. In France, established seafarers are paid during waiting periods as outlined under question 2. Unestablished seafarers receive, during periods of unemployment, allocations from the ASSEDIC, a contractual body, and public unemployment benefit. The former amount to 35 per cent of the average wage over the last three months of employment and are increased by 15 per cent during the first 91 days of unemployment; the latter amounts to 8 to 10 francs per day according to the region.

Seafarers during waiting periods between employment in Japan are classified as reservists under different categories. The majority of these are paid their basic wage plus a certain allowance; those who are sick and injured receive cash benefits under the Seamen's Insurance Act, while those suspended from duty for various specified reasons, including attendance at educational institutions, do not receive wages. Such payments are made in Norway, though no figures were provided. During waiting periods, Polish seafarers receive a basic salary plus length-of-service and food allowances; while undergoing training, an amount based on the average wages over the preceding three months of employment is paid during the first three months of training, and 75 per cent of such amount thereafter.

The Established Service Scheme of the United Kingdom provides for an Establishment Benefit which is a supplement to unemployment benefit. This is payable for a maximum period of 12 weeks, subject to an aggregated total of 18 weeks in any period of 12 months. The rates are higher during the first two weeks when only flat-rate unemployment benefit is payable, and are reduced subsequently or when the seafarer becomes entitled to supplementary unemployment benefits or is attending an approved instructional course. The Establishment Benefit therefore varies between weekly payments of £1.98 and £9.78 for ratings, and between £3.90 and £19.50 for officers.

The Canadian Unemployment Insurance Act of 1971 covers essentially all employees including seafarers, and provides for the payment of weekly benefits during periods of unemployment. In addition, unemployed seafarers may benefit from training courses on nautical science and marine engineering, financed by local or federal government, in which case they receive a training allowance based on living costs and family situation. In Costa Rica, no maintenance allowances are paid during periods of involuntary unemployment, but it is usual for shipowners to provide paid leave for the purpose of following training courses. Finnish shipping companies finance short training courses to help seafarers to adapt to work on modern vessels. Seafarers in the German Democratic Republic are entitled by law and collective agreements to further training and to free time if study takes place during working hours. During full-time studies, a stipend is paid by the State.

In the Federal Republic of Germany, any seafarer not embarked or under other forms of contract benefits from the general employment insurance provisions. A seafarers' unemployment and sickness fund has been established in Greece in accordance with a Legislative Decree of 1926 and subsequent modifying texts. Seafarers of the state-controlled companies in Italy, on completing their agreed spell ashore but still awaiting embarkation, receive a duty allowance equal to 100 per cent of their daily basic pay plus a length-of-service bonus; the allowance is calculated on a monthly basis and is paid pro rata. In Madagascar, benefits are paid during periods of awaiting embarkation; these amount to 60 per cent of the basic wage. Netherlands seafarers are covered by the Unemployment Act of 1949, which makes provision for the financial consequences of involuntary unemployment; the shipowners' and seafarers' organisations of that country point out that, in case of unemployment, seafarers may consecutively qualify for a benefit under a redundancy pay scheme, the above Act and the Unemployment Assistance Act, but no details have been given as to the redundancy pay scheme. The payment of any such allowances in the Philippines is at the discretion of the shipowner.

Wages are paid to Swedish seafarers throughout the company contract, including waiting time. Wages are also paid to those attending training courses at the desire of the company, although there are no rules governing payment during training requested by the employee, which is presumably conditional on the employee requesting leave of absence. No wages are paid during leaves of absence.

In Turkey, there would appear to be no general or special unemployment scheme, and thus no maintenance allowance is paid to seafarers during periods of unemployment. However, those working on board vessels in the public sector or the larger private shipping enterprises receive their regular wages during training courses. When a Ukrainian seafarer is placed on a reserve list after a temporary absence on leave or for certain other specified reasons, he is paid 75 per cent of his remuneration. Those sent on upgrading courses are paid their average wages on the basis of their earnings for the last three months. In the United States, unemployment compensation is paid under the general federal-state system of unemployment insurance, which is financed by a payroll tax on employers. Seafarers who apply and are accepted for upgrading and retraining programmes receive wages, food and lodging during the training period. The Spanish general unemployment scheme is applicable to seafarers, but in Ghana and Nigeria no allowances are paid as stipulated in the question.

9. Is admission to and retention in the scheme confined to seafarers who satisfy conditions respecting: (a) minimum age; (b) maximum age; (c) length of service at sea; (d) health; (e) competence; (f) character and conduct?

In Australia, the minimum age requirements are those of the Navigation Act (16 years). An Award of 1973 provides for removal from the register, unless otherwise agreed between the union and the employers, of any rating who, seven years after the commencement of the Seafarers' Retirement Scheme (1973), attains the age of 65 years. There are no requirements as to length of service other than those under the Navigation Act relating to qualifying service for certificates of competency. The same Act provides that a medical examination may be requested, and agreement has been reached between the parties that all new entrants and seafarers who have not been to sea in an Australian vessel in the preceding 12 months are subject to such examination. A rating who has been unfit for more than six months is removed from the register, but can be re-registered on providing proof that his absence was for medical reasons. As regards character and conduct, a seafarer seeking admission to the scheme is interviewed by representatives of the shipowners and the union concerned, and objections to registration may be made on the grounds of bad character. Provision exists for removal from the register of seafarers guilty of certain offences.

In Bangladesh, the only condition applicable is fitness for sea service. Admission to the Pool in Belgium is confined to seafarers who are over the age of 15 but under 40, have been passed by the Pool doctor as suited to the work to be performed, possess the necessary competence and skill, and can produce evidence testifying to good character and conduct. There is no age limit for retention in the Pool, although unemployment benefit ceases after the age of 65 for men and 60 for women. If, for reasons other than the state of the labour market, a seafarer is unemployed for an uninterrupted period of 26 weeks, or during a period

of 365 days has not been employed in the merchant marine for at least 90 days, his name may be removed from the Pool register. Retention in the scheme is also subject to requirements as to physical and mental suitability, competence and good conduct. A seafarer may forfeit membership if he refuses to accept suitable employment or training, or if he does not respect the agreed employment contract.

There are no requirements under these headings in Denmark, although health, competence, skill, character and conduct are taken into consideration. In France, a certificated officer who is physically fit to navigate is established in a shipping company when he has fulfilled 12 months' service with that company. For admission to the scheme, a rating must be 21 years of age or over, have completed two years' service on board, be physically fit for the work, have completed his military service and have a period of service in the company. For both officers and ratings, the maximum age limit for retention in the scheme is 55 years, as laid down in the collective agreements. In Japan, there are certain provisions in the Mariners' Act in regard to minimum age for employment as a seafarer (in general 15 years, but 18 years for stokers and those carrying coal) and health (a certificate of health from a doctor designated by the competent authorities is required before admission to sea service). There appear to be no such restrictions in Norway. Polish seafarers are required to fulfil conditions respecting all the matters listed in the question with the exception of length of service. In order to qualify for the initial offer of a company service contract or a general service contract under the United Kingdom Established Service Scheme, a seafarer must be of proved character and ability, be physically fit for the service, and have a navigating or engineer certificate of competency or not less than three months' sea service.

In Ghana, conditions respecting all the matters listed in the question must be fulfilled, whereas in Greece such requirements relate only to minimum age, length of service at sea, and character and conduct; no details have been given by these two countries as to the nature of the requirements. In Italy, seafarers admitted to the scheme must meet the statutory minimum age limits for the employment of young persons, while the maximum age is the pensionable age limit. Officers with ocean-going captains' or chief engineers' certificates must have completed 12 months' sailing time with the company; trainee officers are not covered by the continuity arrangements. Petty officers and ratings must have completed 12 months' actual sailing time with the company, while cabin boys, assistant waiters and engine room juniors must have completed 24 months' actual sailing time with state-controlled companies. Certain health requirements must be fulfilled. As regards competence and skill, the scheme does not apply to seafarers belonging to the category of "special services", for whom there is no collective agreement. If a seafarer infringes the relevant rules, registration under the scheme may be cancelled or refused.

Under the officers' scheme in Madagascar, there are no age requirements, but for admission it is necessary to have at least two years' service in the shipping company concerned, including 18 months' service in the particular function, and to be physically fit for the work; as far as character and conduct are concerned, requests for admission to the scheme are accepted or refused by the shipowner after examination of each case. There are no limitations under these headings in Sweden. In Ukraine and the USSR, employment on board ship is subject to having reached the age of 18, to medical attestation of fitness, and to the possession of the necessary qualifications. In the United States, minimum age is a consideration only in initial entry to the employment system for seafarers, this being in practice at least 16 years, the Department of Labor having authority to decide which jobs, for reasons of safety hazard, should have an 18-year-old standard. Seniority status is based primarily on length of service, continuing active service and good standing in the union. Turkey stated that this and following questions were not applicable in view of the absence of a formal continuous employment scheme for seafarers.

10. Under the scheme, what choice is open to:  
(a) the shipowner, as to seafarers to be  
employed; (b) the seafarer, to accept or  
reject employment offered?

If an Australian seafarer has chosen a position or been allocated to it by the Department of Transport, the shipowner may lodge an objection with the Department representative; if the objection is upheld, another man is allocated to the post.

Similarly, if a seafarer objects to a particular engagement to which he is allocated, he must so state to the Department representative; should the objection be upheld, another man is allocated to the vacancy, and the seafarer is allocated to another vacancy or, in the absence of such vacancy, receives attendance money. Under the Bangladesh scheme, both shipowners and seafarers have free choice, subject to fulfilling the terms and conditions of service. A Belgian shipowner may choose officers from among those registered with the Pool; for ratings there is a roster system and the shipowner is obliged to engage the first candidate on it, although he may refuse the services of a seafarer provided the refusal is based on previous complaints against the seafarer which have been reported to the Pool. Officers and crew have the right to refuse any employment not corresponding to their capacities or on board a vessel from which they have just disembarked.

Danish shipowners and seafarers have complete freedom in this regard. In France, the shipowner is obliged to give priority to established seafarers, although he is free to choose unestablished seafarers as may be necessary. Established seafarers are obliged to hold themselves at the disposal of the shipowner concerned for any engagement, failing which they may lose the benefit of their established status. No information is provided by Japan, but since a seafarers' permanent contract of engagement is with an individual shipping company, presumably the question is not relevant to that country. A Norwegian seafarer may not refuse employment offered. A Polish seafarer enters freely into a labour contract, and once engaged the shipowner ensures continuity of employment. The enrolment, signing off and transferring of a seafarer from a line operated by one shipowner to that of another must be agreed upon with the trade union. In the United Kingdom, there are no restrictions on the shipowners' right to select personnel; a seafarer may express a preference for the type of vessel in which he may serve and, if he considers a particular vacancy is unsuitable, he has the right to appeal.

The national shipping enterprise of the German Democratic Republic has the right to select the seafarers to be employed, as have seafarers in that country the right to choose from among the jobs offered to them. Shipowners in Ghana have the right to satisfy themselves as to the qualifications and suitability of the seafarers to be employed, while the seafarer is free to accept or reject employment offered him, but this information appears to be general rather than referring to the continuous employment scheme for officers. In Greece, complete freedom of choice is open to both parties. Italian shipowners may exercise their discretion in selecting seafarers applying for a particular roster, but in doing so must act in accordance with the relevant rules as laid down in the collective agreements; a seafarer accepted for a roster must abide by the relevant rules. In Madagascar, the shipowner is free to refuse an application for employment under the scheme, as is a seafarer to request establishment in the company, but there is no indication as to freedom of choice within the scheme as such. In Panama, full freedom exists in regard to signing of labour contracts. Under Peruvian legislation, there is no restriction on the right of shipowners and seafarers to offer or refuse employment, whereas in Spain a shipowner must apply to the employment office concerned, and if a seafarer rejects a suitable post he may be deprived of unemployment benefits.

A Swedish shipowner can prevent company employment supervening after 90 days' employment by giving the employee notice of dismissal before this period has elapsed, subject to there being reasonable grounds for such dismissal. A seafarer is free to request in writing that he should not enter the company service scheme. Article 9 of the Fundamental Principles of the Labour Legislation of the USSR and the Union Republics forbids unfounded refusal to employ a person, and article 15 lays down the grounds on which a contract of employment may be revoked by the administration; this may not be done without prior agreement of the trade union committee. A seafarer may revoke a labour contract concluded for an indeterminate duration by giving the administration two weeks' notice in writing.

Selection of masters, chief officers and chief engineers in the United States remains the prerogative of the employer who, for just cause, can reject officer personnel dispatched from the union hiring halls. Seafaring personnel are free to select any vacant shipboard job for which they qualify, but unjustified rejection of a specific number of jobs offered will jeopardise their seniority status and their registered standing for employment.

11. Has any machinery been set up to deal with disputes which may arise in connection with the question above? Are shipowners' and seafarers' organisations represented on this machinery?

Information provided by the majority of countries replying to the questionnaire appears to refer to the machinery for settlement of disputes in general and not specifically those relating to freedom of choice covered by question 10. The situation in Australia is outlined under question 10.

A statutory agency exists in Bangladesh to settle such disputes, but shipowners and seafarers are not associated with it. In Belgium, disputes in regard to this question can be submitted to the managing committee of the Pool; if a seafarer's refusal of employment results in his losing the right to maintenance allowance, the dispute can be brought before the Labour Tribunal.

Disputes concerning interpretation of the relevant agreement in Denmark must be referred to the arbitration courts on which shipowners' and seafarers' organisations are represented. Those arising in France are considered in the first instance by the parties to the collective agreements. Failing settlement, they are submitted to procedures laid down under the relevant legislation, as follows. Individual disputes are brought before the Administrator of Maritime Affairs, and thence before the civil courts if no agreement is reached. Collective disputes are submitted to the national or regional conciliation committees according to their importance. The National Committee on Collective Agreements in the Merchant Marine may also be consulted on all questions relating to the application of collective agreements. Shipowners and seafarers are represented on these different committees. No information was provided by Japan. No such machinery has been set up in Norway, but Poland stated that the trade union participated in the arbitration of disputes connected with employment problems. In addition, each shipping company has its own mediation committee consisting of the owner's and union representatives in equal numbers, and this committee is entitled to arbitrate in disputes connected with the labour contract.

The Established Service Scheme of the United Kingdom contains appeal provisions which relate inter alia to appeals by established seafarers against the type of employment offered. In such cases, there is joint consultation between a representative of the appropriate seafarers' organisation and the Administration of the Scheme (the British Shipping Federation). Continued refusal on the part of the seafarer to accept employment deemed to be suitable, or failure to agree by way of the joint consultations, leads to disciplinary procedures as laid down in the Scheme.

No specific machinery has been set up in Ghana or Greece, but if the operation of the scheme in force in the former country gives rise to any grievance, the officer or the Local Officers' Association is free to make representations to the employer, which is the National Shipping Line. Machinery to deal with disputes arising out of the employment contract is available in the German Democratic Republic through the industrial court (labour disputes board) or the district labour courts. In all these cases, seafarers and the shipping enterprises are considered as partners with equal entitlements. In Italy, rules laid down by collective agreement provide that, in the event of a seafarer failing to re-register for the same roster, or its suspension or cancellation unilaterally by the shipowner, conciliation is carried out by the harbour authority of the port in which the roster originates or by a conciliation and arbitration board composed of a representative of the shipowner, a representative of the seafarer and a chairman selected by agreement between the two parties or, if there is no such agreement, by lot from a list of names maintained by the harbour authority. The board's decision is final.

Disputes in Madagascar relating to a contract of employment are regulated in accordance with procedures fixed by Decree of 5 August 1970. These consist of preliminary conciliation before the maritime authority; if conciliation fails, the matter may be brought before the Labour Court. Each of the parties to the dispute may be supported by persons of his choice. Disputes in Panama are referred to a Maritime Labour Commission composed of representatives of government, shipowners and seafarers or, in the last instance, to a tripartite arbitration commission. All disputes in the Philippines are referred to the Court of Industrial Relations. In Sweden, disputes relating to an employment contract can

be submitted to the Labour Court, whose members include representatives of major unions of employers and employees; there is no appeal against the Court's decisions. As regards disputes concerning the employment relationship, a Marine Superintendent may try to bring about a reconciliation between the parties under the Ordinance concerning the Registration and the Signing-on and Signing-off of Seamen, 1961.

Ukraine reported that disputes between a seafarer and the shipping enterprise in respect of the application of labour legislation are examined in the first instance by a labour disputes board in the presence of the seafarer. Decisions of the board are binding, but a seafarer may appeal against such decisions to the local trade union committee or to a court. The committee may either uphold the decision of the disputes board or overrule it. Appeal by a seafarer against a decision of the committee may be referred to the district people's court.

Joint labour-management boards administer the shipping rules of the United States and determine seniority status. Disputes arising with regard to seniority classification or dispatch are handled by such boards under existing grievance procedures.

12. Please indicate how any maintenance allowance to which a seafarer is entitled under the scheme is determined

Allowances due to Australian seafarers are paid by employers through their representative at the port, either weekly or immediately prior to engagement for employment. The amounts of such allowances are set out in the Award of 1973 and adjusted from time to time by agreement between the parties concerned and the Conciliation and Arbitration Commission. In Bangladesh, allowances payable include house rent, medical, victualling and daily allowances. Maintenance allowances in Belgium are calculated on the basis of the maximum assessable monthly wage for unemployment insurance purposes, at present subject to a maximum of B.Frs. 15,450. Seafarers benefiting under category A (those having worked for 200 days or more during the preceding 12 months) receive 75 per cent, while those in category B (having worked for 50 days during the preceding three months) receive 60 per cent of the relevant maximum wage. For purposes of calculation, there are ten groups of beneficiaries according to earnings.

Maintenance allowances in Denmark are determined under the provisions of the collective agreements. While waiting ashore, officers in France receive benefits equal to the wage corresponding to their post, with the exception of special payments related to work on board, plus a food allowance. For ratings, the benefits are calculated on the normal wage for a 48-hour working week, plus a food allowance. Japanese seamen awaiting embarkation receive either the basic wage proper or 80 per cent of the guaranteed basic wage, whichever is higher. The allowance in Norway includes basic pay and seniority allowances. In Poland, a seafarer temporarily not employed on board ship receives a settled remuneration with food allowance. The payments provided for in the United Kingdom, as referred to under question 8, are calculated by reference to rate of pay on articles.

Calculations for payments under the Canadian Unemployment Insurance Act are made taking into account the Earnings Index based on a five-year average computed by National Revenue (Taxation), the average gross weekly earnings, the benefit period (initial or extended) and whether the claimant has dependants or not. In Greece, such allowances are fixed by Ministerial Decree, while in Italy the maintenance allowance consists of the contractual basic wage plus length-of-service bonus. The scheme in Madagascar provides for allowances based on 60 per cent of the basic wage relating to the post of an established officer. Spain mentioned an unemployment allowance which takes into account all the social security benefits payable, while Sweden reported that the waiting pay was equivalent to the regular monthly pay, plus compensation for board and lodging. The question is not relevant to the United States.



13. Is there any regulation prescribing that the allowances should not be less than a certain amount (different for the different categories) or a certain percentage of the normal rate of pay when in employment?

Most countries replying to this question stated either that it was not applicable, or referred to the amount of payments set out under questions 8 and 12. However, Canada stated that the minimum weekly gross benefit payable has been fixed at \$20, the maximum being \$113, and for the United Kingdom the Confederation of British Industry added that scales of pay in that country were subject to industrial negotiation by collective bargaining.

14. How is co-ordination ensured between the scheme and any general provision for unemployment insurance?

Since formal schemes are few, this question too is largely irrelevant to most of the countries replying to the questionnaire. Australian seafarers who are members of the unions concerned are not entitled to any benefits under the Government's Employment Benefit Scheme, as they receive attendance money when involuntarily unemployed. The question is not applicable in Bangladesh, where there is no unemployment insurance scheme. In Belgium, a seafarer in receipt of a maintenance allowance from the Pool who withdraws may claim benefit under the general unemployment insurance scheme. Subject to certain conditions, he is exempt from the requirements under the general scheme to provide justification of his claim, and in such case the seafarers' Pool transfers to the National Employment Office the total contributions paid into the Pool by the shipowner and the seafarer in respect of the last 12 months of service in the merchant marine. In Denmark, no such co-ordination is necessary. French officers and ratings who are no longer in the established scheme receive, in case of unemployment, the normal general unemployment benefits. A Norwegian seafarer belonging to the scheme is not considered as unemployed. As Polish seafarers receive remuneration while on the reserve list, the general unemployment insurance scheme does not apply to their case. There is, however, insurance covering disability for work when incapacity is caused by illness or accident at work. Waiting allowances in the United Kingdom are supplementary to benefits paid under the general social security schemes, and the latter are taken into account when payments under the scheme come under review. In Ghana, Greece and Madagascar there is no unemployment insurance system in force.

During the normal period of inactivity ashore, an Italian seafarer draws a monthly unemployment allowance payable under the general legislation. If this period is exceeded and the seafarer remains ashore on call, he also receives the daily allowance referred to under question 8. In Spain, only the general unemployment benefits apply. A Swedish seafarer not desiring company employment can, while seeking employment, obtain compensation from an unemployment benefit fund.

15. Please provide information as to the manner in which the scheme is financed

The cost of the attendance allowances paid in Australia is borne by the shipowners, while the Department of Transport supplies the information necessary for them to carry out this obligation. Individual shipowners contribute to the administrative costs of the scheme on a proportionate basis, and have formed a separate company for this purpose. The seafarers make no financial contribution. The Belgian Pool is financed in part by contributions from employers and workers under the provisions of the 1945 Decree concerning the social security of seafarers, and in part by state subsidies. Shipowners in Denmark bear entire financial responsibility for the schemes, as do those in France (who also finance the Central Maritime Manpower Office) and Norway. In Poland, the costs of ensuring seafarers' employment continuity are borne by the owners, while in the United Kingdom too the Established Service Scheme is financed by payments from shipowners, the amounts contributed being related to the number of seafarers employed by the particular company. Funds financing coverage under the Canadian Unemployment Insurance Act are derived from contributions by employers and employees, subsidised by government assistance. The scheme in Ghana, which forms part of the service conditions of seafarers, is financed by the shipowners; in Greece, both shipowners and seafarers



contribute to financing the insurance funds. The Italian shipowners belonging to the scheme finance it by means of contributions based on the number of seafarers affected, and the system in Madagascar is also financed entirely by the shipowners. Swedish shipowners undertake financial responsibilities vis-à-vis the seafarers under the terms of company contracts. The necessary financial provision to ensure continuity of employment for seafarers in Ukraine is made through the profit and loss accounting principles applied to the national economy. The German Democratic Republic and the USSR did not reply specifically to this question. Employment arrangements in the United States are maintained by each seafaring union, and agreements provide for contributions from the shipowners to defray partially the cost of operating the union hiring halls.

16. Please provide information as to the method of administration of the scheme and as to the measures taken to ensure the effective participation of the organisations of shipowners and seafarers in such administration, particularly in respect of the following matters: (a) the determination of the numbers of seafarers to be admitted to and retained in the scheme; (b) the framing and administration of the rules concerning the conditions of admission to, or retention in, the scheme for seafarers; (c) the duration of the registration of the seafarers; (d) the penalties to be imposed on shipowners and seafarers for failure to comply with the rules of the scheme; (e) the determination of the financial contribution to be made by shipowners and seafarers; (f) does the scheme provide for registration with an organisation responsible for the industry as a whole?

In Australia, a register is kept of all seafarers either working within the scheme (Register A) or wishing to be registered (Register B), and there is provision for the setting of quotas both on a port and on a country-wide basis. If the number of seafarers on Register A falls below the quota, additional seafarers may be registered, either from among persons submitted by the union concerned, by transfer from Register B or from other sources. If the number of persons on the A Register exceeds the quota, the representative of the Department of Transport may give not less than three months' notice of termination of registration, on a "last to come, first to go" basis. However, as the unions and shipowners have not yet agreed on quotas, the latter procedure has not been invoked. The rules of the scheme were agreed upon between the shipowners and unions concerned, and its administration is the responsibility of the Department of Transport, whose representative consults the shipowners and unions in regard to admission, retention or suspension from the scheme. Cancellation of registration of a seafarer may be made only on a voluntary basis, if he is prohibited from engagement under the Navigation Act, if he fails to make himself available for employment, or if he fails to serve the required initial period within the industry. Individual seafarers not complying with the rules of the scheme may be suspended or removed from Register A, subject to consultation with the employers and union concerned. In addition, as the systems have been registered as awards under the Conciliation and Arbitration Act, the various penalties prescribed under the Act may be applied in case of failure to comply with the terms of the award. There is no provision for registration with an organisation responsible for the industry as a whole.

In Bangladesh, the scheme is administered by the shipowners under government supervision, and there is no effective participation of seafarers. The Belgian scheme is administered by a management committee composed of a chairman and six members, three each for shipowners and seafarers. The management committee has sole competence for the admission of seafarers to the Pool. The rules relating to admission to and retention in the scheme are laid down by the competent authorities on the advice of the management committee. There are no limits on the duration of the registration of seafarers in the Pool. A seafarer may himself withdraw from the scheme, or the management committee may remove his name from the register, in which case appeal can be made to the Labour Tribunal. Shipowners failing to comply with the rules of the scheme are subject to fines as laid down by legislation, while seafarers may either be excluded from

the Pool by the management committee or forgo their right to maintenance allowance for a given number of days, as decided by the Pool manager. Social security contributions are calculated in accordance with a maximum monthly wage linked to the cost-of-living index. The shipowner's contribution is 1.7 per cent, and the seafarer's 1.2 per cent of the wage. Only seafarers registered with the Pool can be employed on board Belgian merchant vessels. However, a shipowner is free to enter into an agreement with registered seafarers with a view to engaging them on a permanent basis. When such an agreement is terminated, the seafarers revert to the Pool for further employment.

In Denmark, there is no determination of the number of seafarers to be admitted to the schemes; the rules concerning admission and retention are contained in the collective agreements, and there appears to be no limit as to duration, notice of termination being subject to the collective agreements. The industrial courts can impose penalties on shipowners and seafarers in accordance with the relevant legislation. Seafarers register with individual companies only as a continuation of their registration with the organisations for the industry as a whole.

France provided no information as to methods of administration other than by referring to that given in reply to the preceding questions. There is no central authority or register in Norway, where officers signing off are considered to continue their employment relationship with the company. Under the terms of the relevant Polish act and those of the collective labour agreement in that country, the Minister of Shipping, in agreement with the trade union's governing body, has issued detailed regulations governing the formation of the reserve, employment of the seafarer in reserve, and labour and payment conditions. The regulations provide for an adequate number of reservists to cover demands resulting from leave and holidays, as well as those resulting from absence of seafarers on training, during disability for work or for other reasons.

Under the United Kingdom Established Service Scheme, the number of seafarers to be admitted to and retained therein is determined by a committee representing shipowners and seafarers; framing and administration of the rules is by the shipowners' organisation acting after consultation with the seafarers' organisations; duration of registration is decided by a committee representing shipowners and seafarers. For shipowners there are no prescribed penalties for failure to comply with the rules of the scheme, although such owners would be open to union industrial action; seafarers are subject to disciplinary action (warning, suspension of cash benefits, temporary or permanent deprivation of registration) if approved by a committee representing shipowners and seafarers. The scheme is financed by the shipowners. As regards registration, the seafarer must be registered with the Administration of the Scheme and within that registration he may hold a contract with an individual company or be available for service with any company as required by the Administration.

In Ghana, any number of seafarers may be selected and retained under the scheme at the discretion of the shipowner. The framing and administration of the rules is the sole responsibility of the shipowner. The duration of registration is between 6 and 18 months. The question of penalties to be imposed on the shipowner for failure to comply with the rules does not arise, as the selection and retention of seafarers in the scheme is at the discretion of the company. However, failure to comply with the rules on the part of individual seafarers may result in their withdrawal from the scheme. Financing is borne entirely by the shipowner. There is no provision for registration with individual companies, the scheme applying only to the National Shipping Line.

In Greece, the administration of the Seafarers' Unemployment and Sickness Fund is entrusted to the Seafarers' Pension Fund on which shipowners and seafarers are represented. There is no pre-established number of seafarers registered with the Italian scheme, the continuity arrangements applying to all seafarers on a roster up to an approved limit. The relevant rules are agreed between the shipowners and the seafarers' organisations. In the event of a breach of the rules by the company, a request may be made for conciliation by the harbour authority, or the case may be taken to the conciliation and arbitration board provided for in the rules. In the case of breach of the rules by the seafarer, the shipowner may enforce penalties prescribed in the rules (termination, refusal of re-engagement). A seafarer may register for a particular roster at his own request or at that of the shipowner.

The number of seafarers to be admitted to the scheme in Madagascar (75 per cent of serving officers) was decided at the time of establishing the relevant agreement, which was drawn up in consultation with the competent maritime authorities. The administration of the rules is the sole responsibility of the shipowners, the seafarers not yet being fully organised. No penalties are prescribed for failure to apply the rules, the Maritime Administration dealing with any disputes which may arise; the amount of the financial contribution was agreed between the government-operated shipping companies concerned and the Maritime Administration. There is no regulation in Sweden limiting the number of employees under contract to an owner, though the normal labour requirements set a natural limit. The rules governing such appointments are embodied in the collective agreements, and the benefits ensured to seafarers are not paid on the strength of any registration system but by virtue of the employment contract.

The general employment and recruitment situation in the United States is described above. Duration of eligibility to rosters is maintained as long as shipping rule requirements on seniority are maintained. The employers' contributions to the cost of operating hiring halls are established in agreement with the unions. Registration is generally based on the "pool" registration rules for the entire labour force covered by the collective agreement; fleet rosters are coordinated with the over-all employment system.

17. Please describe any registration system which may be in force other than any scheme covered by the above questions

No schemes other than those described above exist in Australia, Bangladesh, Belgium, France, Japan, Norway or the United Kingdom. In Poland, the collective labour agreement for seafarers requires the shipowner in particular cases to offer alternative employment to a seafarer who has lost his capacity to perform his duties, and the shipowner is also under an obligation to offer employment to a seafarer's close dependants in the case of his death or disability due to an accident at work or occupational disease. For Danish ratings other than those covered by the schemes described above, the union operates a registration system, supervised by the Government, by which jobs are offered in turn according to the length of unemployment.

Specific government-operated registration schemes for ratings are in existence in India and Singapore, although these do not provide for continuity of employment and are based essentially on roster systems. In the former country, seamen's employment offices have been set up in Bombay and Calcutta and maintain registers of all eligible seamen with sea service to their credit. However, individual companies offering at least 500 jobs are entitled to open their own rosters from which seamen are recruited as required. The employment office rosters thus cater for companies having no roster of their own or when a company register fails to provide seamen of the required category, and operate in the following way. Each shipping company is required to notify the office 15 days in advance of the crew members needed for a particular ship, following which notices are sent to the seamen at the top of the roster on a "first discharged, first called" basis, inviting them to attend a muster to be held under the supervision of one of the directors of the employment office. Normally, two or three seamen are called for each job available, and those not selected then receive priority upon the next occasion. Both shipowners and seamen enjoy the right of limited and justified refusal subject to certain defined principles. Another function of the seamen's employment offices is that of providing fresh recruits for the industry, who are required to receive three months of basic pre-sea training. The length of engagement on board averages between 9 and 12 months, and attempts are made to maintain a ratio between the strength of rosters and the number of jobs available, the optimum proportion being seen as 150 men registered for every 100 prospective jobs. The seamen's employment offices guide the Government's policy as to their functioning, and are composed of 15 members, five representing the Government and five each representing the shipowners and seafarers, with a government appointee as chairman.

The scheme for ratings in Singapore is similar to that operating in India, and the Seamen's Registry Board, established under the Seamen's Registry Board Act, maintains registers of seamen with rosters showing dates of discharge from the last ship or the date of registration if there is no former employment. In exceptional circumstances, non-national seamen may also be registered with the Board, although persons employed in fishing or small vessels and those in the service of the

Government are excluded from the scheme. To be eligible for registration, a seaman must be at least 16 years and not more than 60 years of age, must be medically fit, possess the necessary competence and skill according to the category of employment, and be of good character and conduct. Qualifying length of service at sea is assessed on an individual basis. Both shipowners and seamen are given three choices under the selection system of the Board; following three refusals, a seaman is relegated to the bottom of the roster. There is no special machinery for the settlement of disputes in regard to selection and no provision for the payment of maintenance allowances. The Seamen's Registry Board is financed by annual grants by the Government, and is composed of three representatives each of shipowners and seafarers, three officials from the Marine Department, and an official each from the Ministry of Labour and the Social Welfare Department, in addition to a chairman appointed by the Minister for Communications. The Board decides on all matters enumerated under question 16 and, in addition, there is provision for the establishment of company rosters.

A few other countries reported the existence of systems for registration of seafarers other than continuous employment schemes, or otherwise commented under this question, as follows. In the Ivory Coast, there is a seamen's placement office which maintains a register of unemployed seafarers and, in principle, shipowners are required to apply to this office before recruitment. There is no indication as to whether this is a government-operated or a private scheme, and no details are given as to its structure or functioning. In Morocco, the merchant marine authorities in each maritime district maintain a register of qualified officers and ratings who, with the exception of catering staff, must have followed an apprenticeship course at a maritime school. Shipowners may employ only seafarers thus registered, except that non-national officers may be engaged provided they hold a certificate of competency recognised as equivalent to the corresponding Moroccan certificate. There is no provision for payment of unemployment benefit.

Nigerian seafarers are required to register with the Merchant Navy Establishment before they can be employed. About 1,400 seafarers are on the register but not more than half this number can find employment at any given time and it is for this reason that no continuous employment scheme can be envisaged at present. In the Syrian Arab Republic there are neither shipowners' nor seafarers' organisations, but a general administration is responsible for seafarers and takes the place of such organisations. It ensures full observance of the latter's rights on the basis of international Conventions, the Contract of Employment at Sea Act, and Legislative Decree No. 154 of 1971, which made the General Port Authority responsible for looking after seafarers' interests and solving their problems.

Finland did not indicate any registration system for seafarers, but mentioned the existence of such institutions as the seamen's unemployment fund system, the placement service for seamen and the labour court. Costa Rica, Ghana, Spain and Sweden reported that there were no registration schemes as referred to in this question; nor do any appear to exist in Italy and Turkey.

For the remaining countries, in the absence of formal continuous employment schemes, the information given under the preceding headings may be considered as replying to this question.

### CHAPTER III

#### ANALYSIS OF THE REPLIES AND PROPOSED CONCLUSIONS

##### 1. Analysis of the replies

It will be seen from the foregoing that, while continuity of employment systems for seafarers are administered by central bodies established for the purpose in three countries (Belgium, France and the United Kingdom), a far more common practice is that of a system of permanent contracts or a permanent employment relationship under collective agreements or, more rarely, under legislation. Thus, in Czechoslovakia, German Democratic Republic, Poland, Ukraine and the USSR, continuous employment is ensured for seafarers through guarantees under the Constitution, while Japanese practice provides for a permanent employment relationship between seafarer and shipowner. Arrangements between shipowners and seafarers, either at the national or company level and with varying degrees of coverage, are in existence in some form in Australia (administered by the Department of Transport), Bangladesh, Colombia, Denmark, Ghana, India, Italy, Madagascar, Nigeria, Norway, Sweden and Turkey. These arrangements may relate to officers only as in Bangladesh, Ghana, India, Madagascar, Nigeria and Norway, or to all categories of seafarers as in Colombia, Italy, Sweden and Turkey. They do not always provide for the payment of allowances or other benefits during periods of waiting for engagement, and no such payments are made in Ghana, Nigeria or Turkey. Foreign seafarers are normally excluded from these schemes, although this is not the case in Australia, Bangladesh and Sweden.

Financial responsibility for the various types of scheme or for the payment of maintenance allowances appears to fall almost entirely upon the shipowners concerned, although in Belgium the Pool is financed by shipowners and seafarers with government subsidies. Shipowners also make contributions to the cost of operating the union hiring halls in the United States.

In those countries where there is no scheme providing for continuous employment, there may be official bodies responsible for co-ordinating supply and demand of seafaring jobs, arranging for placement, acting in an advisory capacity etc., or seafarers may simply be subject to the general labour legislation governing dismissals and/or unemployment benefits (Canada, Costa Rica, Finland, Federal Republic of Germany, Greece, Netherlands, Peru, Spain and Syrian Arab Republic). In other cases, a fair distribution of job opportunities may be provided by means of rosters and seniority provisions, either through government-operated agencies or at the industry level (Denmark, India, Morocco, Nigeria, Singapore and United States); these may be additional to continuous employment schemes where the latter are not applicable to all seafarers. Two countries (Argentina and Portugal) are studying means of providing continuity of employment for seafarers, and in a third (Tunisia) it is expected that provisions to this end will be adopted by means of collective agreement. In Canada, all collective agreements have seniority provisions providing employment protection based on length of service, while in the Philippines continuous employment is at the discretion of the shipowners under collective agreements.

With the exception of India and Singapore, those countries which referred only to the existence of government-operated placement services or other institutions responsible for seafaring employment did not indicate whether or to what extent seniority provisions played a role in the allocation of job opportunities. However, in the majority of these countries, there is provision for the payment of unemployment benefits, either under general legislation applying to all workers or under seamen's unemployment funds.

Where there are formal registration arrangements other than continuous employment schemes, either government-operated or at the industry level, these normally provide employment priorities to be accorded on a seniority or rota basis. Non-nationals are usually excluded from the registers, although this is not the case in Singapore, which is a recruitment centre for seamen of different ethnic groups and regions. In the United States, aliens fulfilling certain stipulated conditions may be admitted to the union registers, and in Morocco foreign officers having the necessary qualifications may be employed. In a high proportion of the countries concerned, there is no provision for unemployment insurance or other benefits during periods of waiting for employment.

In a large number of maritime countries it would therefore seem that there is still little security of employment for seafarers, and that the latter depend on general unemployment provisions or, in a few cases, special funds for seafarers, for income during periods of unemployment. Even so, these benefits are not always available, being subject to the general economic and labour market situation in the country concerned. In the Asian region particularly, the number of seafarers registered in India and Singapore greatly exceeds the number of jobs available at any one time, and those awaiting their turn for jobs receive no unemployment indemnity. Nevertheless, it is apparent that some improvements have been achieved in the period between the adoption of the resolution on continuous employment at the Seattle Conference and the present time.

As shown in Chapter I, the reason for failure to adopt international standards providing for the establishment of continuous employment schemes when first proposed was the view shared by government and shipowners' representatives that, in the absence of national experience of such schemes, the moment was not ripe for establishing standards at the international level. In reviewing the information above, the Conference may perhaps consider that sufficient experience has now been gained through the various situations described to form a basis on which to establish international standards which would assist countries to meet the problems caused by casual employment in the seafaring profession, and to bring this profession more into line with industries offering a stable career. The proposed conclusions below have been drawn up with a view to assisting the Conference in its discussion of this matter.

## 2. Proposed conclusions concerning continuity of employment of seafarers

1. There should be an international instrument concerning continuity of employment of seafarers.
2. The instrument should take the form of a Recommendation.
3. The instrument should refer, in its preamble, to the resolution concerning continuous employment for seafarers adopted by the International Labour Conference at its 28th (Maritime) Session in 1946, and to the terms of Part IV (Regularity of Employment and Income) of the Employment of Seafarers (Technical Developments) Recommendation, 1970:

### I. Scope and definitions

4. (1) The instrument should apply to persons who are regularly available for work as seafarers and who depend on their work as such for their main annual income.
- (2) Consideration should be given to special arrangements for persons who work as seafarers on a seasonal basis.
5. (1) For the purpose of the instrument, the term "seafarer" should mean persons who are employed in any capacity on board a ship, other than a ship of war, ordinarily engaged in maritime navigation.
- (2) In the event of any doubt whether any categories of persons are to be regarded as seafarers for the purpose of the instrument, the question should be determined by the competent authority in each country after consultation with the shipowners' and seafarers' organisations concerned.

### II. Objectives

6. (1) In each member State which has a maritime industry, measures should be taken to provide qualified seafarers with continuous or regular employment and to provide shipowners with a stable and competent workforce.

(2) Such measures should include -

- (a) contracts or agreements providing for continuous or regular employment with a shipping undertaking or an association of shipowners; or
- (b) arrangements for the regularisation of employment and the allocation of labour by means of the establishment and maintenance of registers of qualified seafarers; or
- (c) a combination of (a) and (b).

7. Efforts should be made to maintain a reasonable balance between employment opportunities and the number of seafarers available for employment.

### III. Means of application

8. (1) Criteria should be laid down for determining the seafarers to be covered by the measures provided for in point 6.

(2) Such criteria might include the following:

- (a) nationality of or residence in the country concerned;
- (b) medical fitness;
- (c) competence and skill;
- (d) character and conduct;
- (e) length of previous service at sea.

9. (1) Except in so far as there is continuous or regular employment of a particular seafarer with a particular shipping undertaking, systems of allocation should be agreed upon which provide each seafarer covered by the measures provided for in point 6 with a fair share of available employment opportunities and provide each shipping undertaking with the labour required.

(2) In so far as practicable, these systems should preserve the right of a seafarer to select the vessel on which he is to be employed, and the right of the shipowner to select the seafarer whom he is to engage.

10. Priority in any employment as a seafarer should be given to seafarers covered by the measures provided for in point 6 and qualified for such employment.

11. Where the measures taken in pursuance of point 6 involve, for seafarers covered by them and available for employment, periods of waiting for an employment opportunity, these seafarers should be entitled to some form of income maintenance, as part of the national social security system or otherwise.

12. (1) The measures provided for in point 6 may be implemented by collective agreements, by laws or regulations or by such other means as may be consistent with national practice.

(2) The practical application of these measures should be the responsibility of representatives of the shipowners' and seafarers' organisations concerned or of the competent authority in consultation with the shipowners' and seafarers' organisations concerned, as appropriate to national conditions.

(3) There should be machinery for the settlement of disputes which may arise in connection with the application of the measures.





ANNEX I

RESOLUTION ON CONTINUITY OF EMPLOYMENT OF SEAFARERS

(Adopted by the Joint Maritime Commission at its  
21st Session, Geneva, 1972)

The 21st Session of the Joint Maritime Commission, held in Geneva from 20 November to 1 December 1972,

Having received the report of the ILO on Continuity of Employment of Seafarers as requested in a resolution adopted by the 55th (Maritime) Session of the Conference, and subsequently approved by the Governing Body;

Noting that the resolution on this subject adopted by the 28th (Maritime) Session of the Conference in 1946 appears to have had but limited effect on the further development of formal national schemes to ensure continuity of employment of seafarers;

Noting that continuity and regularity of employment is largely dependent on the continued effective operation of shipping;

Considering that it is in the interests of the shipping industry for there to be systems under which continuity and regularity of employment is available to seafarers; and that the time has come to consider whether further international action can usefully be taken to this end;

Requests the Governing Body (1) to place this question on the agendas of the proposed Preparatory Technical Maritime Conference (1974) and the Maritime Session of the International Labour Conference (1975) with a view to the adoption of an international instrument or instruments; and (2) to ask the Director-General, when preparing reports on this question for the Conferences, to take account of the information contained in the report on this subject submitted to the 21st Session of the Joint Maritime Commission, together with any other pertinent information which would assist the Conferences in the consideration of this question.

ANNEX II

EXTRACT FROM THE INTERNATIONAL SEAFARERS'  
CHARTER (1960 REVISION)

VI. Security of employment

95. Regularity of employment was one of the main demands formulated by seafarers during the Second World War. The arrangements in existence today in many countries, in the shape of established service scheme, shipping pool, registration board, rotation or hiring hall, represent a great advance in this field. There are, however, still countries and regions where job security is completely lacking for seafarers. In addition, tendencies have manifested themselves, such as the flag of convenience problem, which threaten to undermine the progress made.

96. It is therefore pertinent to reaffirm in this Charter that seafarers who place themselves at the disposal of the industry are entitled to either regular employment or adequate maintenance during periods of involuntary unemployment. To implement this principle, some approved system of registration is required for all seafarers eligible for employment in a given sector of shipping.

97. In this connection, the interests of seafarers resident in countries which are traditional sources of manpower must be duly taken into account. The relevance of the Recommendation adopted by the ILO in 1958 on the subject of the engagement of seafarers may also be noted. This called upon governments to take certain steps to ensure that seafarers do not join foreign ships unless the conditions under which they are engaged are up to the standards set in the traditional maritime countries.

98. Subject to the basic principle that all bona fide seafarers are entitled to a fair share of the employment offering, it may be left to national preference whether employment is on a permanent company basis, on a rotation or a reshipment basis, or on a compromise between the various systems. Whether there should be one comprehensive register, or separate registers for officers and certain categories of ratings, is also a matter for national agreement.

99. It may likewise be left to national preference whether schemes of this kind are operated on a bipartite or a tripartite basis, or entrusted to the trade unions themselves. Cases exist of all three systems working to the satisfaction of those concerned; in some countries, a bipartite system has been built up by the two sides of the industry; elsewhere the public authorities play a useful role; thirdly, there are countries where the union hiring hall is the traditional system.

100. Whatever the system adopted, seafarers should, through duly accredited representatives, participate on a footing of complete equality with the other party or parties in any bodies set up to supervise the administration or operation of schemes or to perform any subsidiary functions in connection therewith, such as regulation of entry to and exclusion from the register or pool, dealing with abuses on the part of shipowners or seafarers, and so on.

101. The maintenance allowances payable to seafarers under the schemes in question, including any made under general unemployment benefit schemes, should amount to not less than 80 per cent of the normal basic wages of the seafarers concerned. Whether the requisite funds are obtained by means of a general levy upon the shipping industry, by a special contribution payable by the shipowners in respect of every seafarer employed, supplemented by a contribution from the State, or by a combination of such methods, is again a matter for national arrangement.

102. The composition of the register, or the pool, or whatever the form of the scheme, as well as its periodical review, and the framing and revision of the regulations governing the introduction and functioning of the scheme, are among the matters in which the representatives of the seafarers should have a determining voice.

103. The facilities of the employment scheme may also be used for operating schemes regarding entry, training, promotion, vacations with pay, superannuation, sickness and invalidity and in general anything which forms part of a well-developed system of social security and welfare for seafarers.

ANNEX III

PRELIMINARY TEXT OF AN INTERNATIONAL INSTRUMENT  
CONCERNING CONTINUOUS EMPLOYMENT FOR SEAFARERS

(Submitted by the Office to the Preparatory Technical  
Maritime Conference (Copenhagen, November 1945))

I

The general purpose of the instrument is to provide for the establishment and maintenance of national schemes for promoting greater regularity and continuity of employment of seafarers and the payment of maintenance allowances to seafarers during intervals between periods of normal employment.

II.A

Each national scheme should apply to sea-going ships, whether publicly or privately owned, which are engaged in the transport of passengers or cargo for the purposes of trade and are registered in and trade from the country in question.

It should not apply to:

- (a) vessels of a tonnage of less than 200 gross register tons;
- (b) vessels in which only members of the same family are employed;
- (c) vessels engaged in fishing, whaling or similar pursuits or in operations directly connected therewith, or in salvage or tug-boat operations;
- (d) vessels engaged exclusively in the service of a port, harbour, pilotage or local authority.

II.B

Each national scheme should apply to seafarers who are nationals of the country in question and are ordinarily engaged in that country for service in ships to which the scheme applies.

It should not apply to:

- (a) pilots;
- (b) doctors and nursing staff exclusively engaged on nursing duties or hospital staff;
- (c) persons working exclusively on their own account or remunerated exclusively by a share of profits, or whose duties are connected solely with the cargo on board and who are not in fact in the employment of either the owner or the master;
- (d) travelling dockers.

A national scheme may exclude any other class of seafarers in respect of whom the competent authority is satisfied that their employment is normally continuous or that their conditions of service are so different from those of seafarers generally that the inclusion of them in the scheme would be inexpedient.

### III

The numbers of seafarers of different categories to be admitted to a national scheme should be determined from time to time as provided by the rules of the scheme.

The rules of a scheme may require seafarers who apply for admission to or retention in the scheme to satisfy conditions in respect of:

- (a) length of previous service at sea;
- (b) health;
- (c) competence and skill;
- (d) character and conduct.

### IV

The body administering a national scheme should enter into agreements with the owners or operators of ships to which the scheme applies to ensure that they will:

- (a) engage for employment seafarers to whom the scheme applies only in the manner provided by the agreement and the rules of the scheme; and
- (b) accept into their employment any seafarer who is assigned to them for employment in accordance with the rules of the scheme.

The rules of the scheme should include provision for the exercise by the owner or his agent of a reasonable liberty of choice among the seafarers assigned to him for employment and for the settlement of disputes in connection therewith.

### V

The body administering a national scheme should enter into agreements with the seafarers admitted to the scheme by which:

- (a) the seafarer undertakes to enter into any suitable employment and to undergo any appropriate course of training to which he may be assigned in accordance with the rules of the scheme; and
- (b) the scheme undertakes to pay to the seafarer a maintenance allowance in accordance with the rules of the scheme for any period during which he is awaiting an assignment to employment or is undergoing a course of training.

The agreement in each case should be for a duration of not less than x years and be renewable by mutual consent as provided by the rules of the scheme for periods of not less than y years.

The rules of the scheme should include provision for the determination of what are "suitable employment" and "appropriate courses of training" and for the exercise by the seafarer of a reasonable liberty of choice in the acceptance of employment or training, and for the settlement of disputes arising in connection with these matters.

The amount of the maintenance allowance to be paid to a seafarer should be determined by agreement between the organisations of shipowners and seafarers concerned.

## VI

The shipowners and seafarers under agreement with a national scheme should share in providing the financial resources of the scheme.

Arrangements may be made for a financial contribution by the public authorities or by a public system of insurance covering the risk of unemployment.

## VII

The national scheme should be administered by a self-governing institution not carried on with a view to profit.

If a financial contribution is made to a scheme by the public authorities or by a public system of insurance, arrangements should be made for the participation of representatives of the public authorities or insurance system in the administration of the scheme.

Provision should be made, either by the inclusion of representatives of the organisations of shipowners and seafarers concerned in the governing body of the institution or by continuous consultation between the governing body and such organisations or by both methods, to ensure the effective participation of the organisations of shipowners and seafarers in the administration of the scheme, particularly in respect of the following matters:

- (i) the determination of the numbers of seafarers to be admitted to the scheme;
- (ii) the framing and administration of the rules concerning the conditions of admission to, or retention in, the scheme of seafarers;
- (iii) the terms and duration of the agreements entered into with seafarers;
- (iv) the penalties to be imposed on shipowners and seafarers for failure to comply with the terms of their agreements or with the rules of the scheme;
- (v) the determination of the financial contributions to be made by seafarers and shipowners.

The constitution of the institution administering the scheme and the rules of the scheme should, so far as may be necessary to enable the authority to satisfy itself that they are in compliance with the provisions of the international instrument, be subject to approval by the competent authority of the country concerned.

## VIII

The Members of the Organisation should from time to time communicate information to the International Labour Office, as requested by the Governing Body, concerning the measures taken to give effect to the international instrument.

## IX

A Member of the Organisation should be entitled to deposit with the Director of the International Labour Office for registration by him a certificate of compliance by voluntary collective agreement with the requirements of the international instrument.

The certificate should be in such form and contain such particulars as may be prescribed by the Governing Body of the International Labour Office.

Before depositing a certificate, the competent authority should satisfy itself that:

- (a) the matters dealt with in the instrument are the subject of a collective agreement (or agreements) between organisations which are stable and sufficiently representative of the shipowners and seafarers concerned;
- (b) every such agreement gives full effect to, and does not include any provisions less favourable to the seafarers than, the provisions of the instrument;
- (c) the agreement (or agreements taken together) applies to not less than four-fifths of the persons to whom the instrument applies;
- (d) every such agreement is expressed to continue in force for a period of not less than x years from the date of the certificate and provides for not less than y months' notice of termination by either party thereto.

A Member depositing a certificate should be required to notify the Director forthwith if -

- (a) any agreement to which the certificate relates ceases in fact to be operative;
- (b) the number of persons to whom the agreement (or agreements) applies falls below four-fifths of the total number of persons to whom the instrument applies;

and the registration should be amended or cancelled accordingly.

ANNEX IV

RESOLUTION CONCERNING CONTINUOUS EMPLOYMENT FOR SEAFARERS

(Adopted by the International Labour Conference  
at its 28th (Maritime) Session, Seattle, 1946)

Whereas regularity and continuity of employment are of the utmost importance to all workers; and

Whereas seafarers have in the past suffered particularly from the lack of this essential guarantee; and

Whereas in time of war systems promoting regularity and continuity of employment for seafarers were organised and operated with notable success by a number of countries; and

Whereas the results of other systems furthering continuous employment for seafarers have demonstrated the desirability of extending to all seafarers the opportunity for regular and continuous employment; and

Whereas it is eminently desirable that systems should exist to provide seafarers with regularity and continuity of employment in time of peace,

The Conference

1. Strongly urges all States Members to consider the desirability of instituting, after consultation with the representative organisations of seafarers and with the shipowners or shipowners' organisations concerned, such systems, taking into account practices and arrangements normally in force in the respective States and in accordance with the following general principles:

- (a) the general purpose should be to provide for the establishment and maintenance of national schemes for promoting regularity and continuity of employment of seafarers and in so doing to consider the possibility of providing for the payment of allowances to seafarers during the intervals between periods of normal employment;
- (b) each national scheme should apply to seafarers who are nationals of or domiciled in the country in question and are ordinarily engaged in that country for service on sea-going ships, with such limited exceptions as regards men and ships as may be considered essential by the competent national authority;
- (c) seafarers and shipowners should undertake to collaborate fully in such a national scheme and to accept all the obligations, compliance with which may be necessary for the proper working of the system;
- (d) the competent authority should make such arrangements as may be necessary to co-ordinate the national scheme with any existing unemployment insurance scheme in the country.

2. Expressed the hope that the question of promoting regularity and continuity of employment for seafarers in accordance with the principles outlined above should at an early date be considered by a maritime session of the International Labour Conference with a view to the adoption of a Convention on this subject.

3. Invites all States Members to inform the International Labour Office of developments regarding the promotion of schemes referred to above.

