



Governing Body

312th Session, Geneva, November 2011

GB.312/POL/8

Policy Development Section
Social Dialogue Segment

POL

EIGHTH ITEM ON THE AGENDA

Other questions: Effect to be given to the recommendations of sectoral and technical meetings

Overview

Summary

This paper deals with the effect to be given to recommendations of sectoral and technical meetings, namely: (a) the Global Dialogue Forum on Safety in the Supply Chain in Relation to Packing of Containers; (b) the Subcommittee on Wages of Seafarers of the Joint Maritime Commission; and (c) the work of the Joint ILO/IMO Ad Hoc Expert Working Group on the Fair Treatment of Seafarers in the Event of a Maritime Accident; as well as (d) the follow-up to the resolution concerning tonnage measurement and accommodation adopted by the 96th Session of the International Labour Conference.

Policy implications

If endorsed by the Governing Body, the work with the IMO regarding the packing of containers, fair treatment of seafarers and tonnage measurement and accommodation will be further intensified with the aim of fostering policy coherence.

Legal implications

None.

Financial implications

None.

Decision required

Paragraphs 4, 7, 13 and 18.

Follow-up action required

The Office will be required to take action as set out in paragraphs 4, 7, 13 and 18.

Author unit

Sectoral Activities Department (SECTOR).

References to other Governing Body documents and ILO instruments

GB.268/STM/6/1; GB.290/8; GB.291/12(Rev.); GB.292/PV; GB.296/PV; GB.304/PV; GB.309/PV; GB.310/STM/1/1; GB.310/STM/3/4; GB.310/PV.

Global Dialogue Forum on Safety in the Supply Chain in Relation to Packing of Containers (Geneva, 21–22 February 2011)

1. In accordance with the decisions of the Governing Body,¹ the Global Dialogue Forum on Safety in the Supply Chain in Relation to Packing of Containers was held in Geneva on 21–22 February 2011. Mr Seiichi Tajima (Japan) chaired the Forum, which was attended by 27 Government representatives, 11 Employer and 12 Worker representatives, as well as representatives of intergovernmental and international non-governmental organizations.
2. The Forum discussed four major themes: reasons that lead to the application of poor practices in the packing of containers; compliance with standards on packing of containers; training on packing of containers and reaching out to all stakeholders for the dissemination and application of common standards and good practices; and recommendations for a common approach throughout the supply chain for the correct application of the appropriate standards and good practices in packing of containers and follow-up activities.
3. The Forum adopted points of consensus providing strategies and policies to help constituents in member States to adopt a common approach throughout the supply chain for the correct application of the appropriate standards in packing containers, which would pave the way for a substantial improvement in container safety.
4. *The Governing Body may wish to:*
 - (a) *authorize the Director-General to communicate the final report² of the Forum to governments, requesting them to communicate the text to the employers' and workers' organizations concerned; and to communicate the report to the international employers' and workers' organizations and other international organizations concerned; and*
 - (b) *request the Director-General to give due consideration to implementation arrangements for the recommendations made by the Forum.*

Subcommittee on Wages of Seafarers of the Joint Maritime Commission (Geneva, 26–27 April 2011)

5. In accordance with the decision taken by the Governing Body at its 309th Session (November 2010), the Subcommittee on Wages of Seafarers of the Joint Maritime Commission met in Geneva on 26–27 April 2011.³
6. The Subcommittee adopted a resolution concerning the ILO minimum basic wage for the able seafarer which updates the ILO minimum basic wage for able seafarers from its present value of US\$545 to \$555 as of 1 January 2012, \$568 as of 1 January 2013, and

¹ GB.304/PV, para. 216, and GB.309/PV, para. 324(a). See also GB.310/STM/3/4; GB.310/STM/1/1; and GB.268/STM/6/1.

² GDFPC/2011/12.

³ GB.309/PV, para. 322.

\$585 as of 31 December 2013. In addition, the resolution provided that the next meeting of the Subcommittee should be held in the first half of 2014. The Subcommittee also noted that the current mechanism, including the formula, needed to be maintained until such time as an alternative is agreed.

7. *The Governing Body may wish to authorize the Director-General to:*

- (a) communicate the text of the resolution concerning the ILO minimum basic wage for the able seafarer contained in Appendix I to governments of member States, drawing their attention to the paragraph relating to the increase in the wage figure which should be applied in substitution for those in paragraph 10 of the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187), and Guideline B2.2.4 of the Maritime Labour Convention, 2006, on the minimum monthly basic pay or wage figure for able seafarers;***
- (b) communicate the text of the resolution to the international employers' and workers' organizations having consultative status;***
- (c) request governments to transmit the text of the resolution to the employers' and workers' organizations concerned; and***
- (d) in due course, consult with the international employers' and workers' organizations concerned on the convening of a meeting of the Subcommittee on Wages of Seafarers of the Joint Maritime Commission as requested by the resolution.***

Fair treatment of seafarers

- 8.** At its 290th Session (June 2004), the Governing Body approved the establishment of a Joint ILO/IMO Ad Hoc Expert Working Group on the Fair Treatment of Seafarers in the Event of a Maritime Accident (Joint Working Group), composed of eight Government experts to be nominated by the International Maritime Organization (IMO), as well as four Shipowner and four Seafarer experts to be nominated by the ILO.⁴ The terms of reference of the Joint Working Group were approved by the ILO Governing Body at its 291st Session (November 2004)⁵ and by the Legal Committee of the IMO at its 89th Session (October 2004).
- 9.** At its first session in 2005, the Joint Working Group considered that it was premature to envisage producing valid guidelines on the issue during its first meeting, but agreed on a draft resolution that would stress the concern of the entire maritime industry on the matter. The ILO Governing Body⁶ and the IMO Legal Committee approved this resolution.
- 10.** At its second session in 2006, the Joint Working Group drafted detailed Guidelines on fair treatment of seafarers in the event of a maritime accident, together with a draft resolution. The IMO Legal Committee, at its 91st Session (April 2006), approved the resolution and

⁴ GB.290/8, para. 16.

⁵ GB.291/12(Rev.), para. 37.

⁶ At its 292nd Session (March 2005); See GB.292/PV, para. 221.

the Guidelines. The Governing Body of the ILO, at its 296th session (June 2006), also approved the draft Guidelines, authorized their dissemination by the ILO and approved the terms of the draft resolution, as proposed by the second session of the Joint Working Group.⁷

11. Despite the wide dissemination of the Guidelines by both organizations, the issue of fair treatment of seafarers continues to be a matter of much concern to the maritime industry. For this reason, at its 98th Session, the IMO Legal Committee considered a new draft resolution, prepared in consultation with the ILO secretariat, which, in its operative paragraphs:

- reiterates the importance of the Guidelines on fair treatment of seafarers in the event of a maritime accident set out in the annex to the resolution;
- urges Member Governments to implement these Guidelines to the extent possible;
- invites Member Governments and non-governmental organizations in consultative status with the IMO and the ILO to circulate the Guidelines as widely as possible in order to ensure their widespread promulgation and implementation;
- invites, where appropriate, Member Governments to consider amending their national legislation to give full and complete effect to the Guidelines;
- invites further Member Governments to take note of the principles contained in these Guidelines when considering fair treatment of seafarers in other circumstances where seafarers might be detained;
- requests the IMO Legal Committee and the ILO Governing Body to continue to keep the problem of unfair treatment of seafarers in the event of a maritime accident under review and to assess periodically the scale of the problem;
- requests further Member Governments, as a matter of urgency, to bring this resolution to the attention of any government officials, in particular, those involved in the administration of justice, who may be involved in decisions and procedures affecting the treatment of seafarers involved in maritime accidents, as well as shipowners and seafarers and their respective organizations and inform the IMO Legal Committee of the means by which this request has been implemented.

12. The IMO Legal Committee will submit the draft resolution to the 106th regular session of the IMO Council (17–18 November 2011) for consideration and, thereafter, for submission to the 27th regular session of the IMO Assembly (21–30 November 2011), for adoption.

13. *The Governing Body may wish to:*

(a) endorse the terms of the draft resolution contained in Appendix II; and

(b) request the Director-General to:

(i) disseminate the resolution, once adopted by the IMO Assembly; and

⁷ GB.296/PV, para. 80(iii).

- (ii) *ensure that the Office, in collaboration with the IMO, continues to keep the problem of unfair treatment of seafarers in the event of a maritime accident under review and, as appropriate, periodically assesses the scale of the problem.*

Follow-up to the resolution concerning tonnage measurement and accommodation

- 14.** At its 310th Session (March 2011),⁸ the Governing Body considered the follow-up to the resolution concerning tonnage measurement and accommodation, adopted by the International Labour Conference at its 96th Session. The resolution invited the Governing Body, inter alia, to request the Director-General to monitor developments regarding the work of the IMO relating to the effects of the International Convention on Tonnage Measurement of Ships, 1969 (1969 TM Convention), on ship safety, accommodation, safety and health, welfare and port charges and to report to the Governing Body any developments which might have an impact on the Work in Fishing Convention, 2007 (No. 188), especially on its Annex III. When the paper was discussed by the Committee on Sectoral and Technical Meetings and Related Issues (STM Committee), the Employer Vice-Chairperson suggested that consideration should also be given to establishing a joint ILO–IMO working group on the issue.
- 15.** At its 89th Session (May 2011), the Maritime Safety Committee of the IMO continued its comprehensive review of the 1969 TM Convention. The Committee considered the proposal by the 53rd Session of the IMO’s Sub-Committee on Stability and Load Lines and on Fishing Vessels’ Safety (SLF 53) (MSC 89/9, paragraph 2.5), proposing to conduct a comprehensive review of the rules and requirements of the 1969 TM Convention, associated interpretations of TM.5/Circ.5, and other interpretations or practices, to ensure the integrity and uniform implementation of the gross tonnage and net tonnage parameters, including the use of gross tonnage figures as parameters for the applicability of standards concerning living and working conditions on ships and fishing vessels, together with documents MSC 89/9/5 (Germany) and MSC 89/9/8 (ILO), providing comments on the need to improve the effect on ship design and safety within the 1969 TM Convention with regard to working and living conditions on board ships, and agreed to include, in the 2012–13 biennial agenda of the SLF Sub-Committee, and in the provisional agenda for SLF 54, an output on “Development of provisions to ensure the integrity and uniform implementation of the 1969 TM Convention”, with a target completion year of 2014. In this regard, the Committee also agreed to forward the abovementioned documents to SLF 54 for consideration under the new output.⁹
- 16.** The next discussion of this issue at the IMO will therefore take place during the 54th Session of the Sub-Committee on Stability and Load Lines and Fishing Vessels’ Safety (SLF 54) (London, 16–20 January 2012).
- 17.** Should the Governing Body wish to further pursue the suggestion made in the STM Committee in March 2011, that a joint ILO–IMO working group be established, it may wish to mandate the Office accordingly at this session, so that timely consultations could be carried out, allowing the IMO secretariat to report on their outcome to the SLF 54. The

⁸ GB.310/PV, para. 166.

⁹ IMO: *Report of the Maritime Safety Committee on its eighty-ninth session*, May 2011 (MSC 89/25), para. 22.34.

Office would report back to the Governing Body at its 313th Session in March 2012, and, if appropriate, make recommendations as to the composition and terms of reference of a joint working group.

- 18. *The Governing Body may wish to authorize the Director-General to consult with the Secretary-General of the IMO with a view to establishing a joint ILO–IMO working group on the impact of the tonnage measurement of ships on the living and working conditions of seafarers and fishers.***

Geneva, 28 September 2011

Points for decision: Paragraph 4
Paragraph 7
Paragraph 13
Paragraph 18

Appendix I

Resolution concerning the ILO minimum basic wage for the able seafarer

The Subcommittee on Wages of Seafarers of the Joint Maritime Commission,
Having met in Geneva from 26 to 27 April 2011,

Having considered the report prepared by the International Labour Office on the updating of the minimum basic wage for able seafarers,

Having noted that the Subcommittee on Wages of Seafarers at its meeting on 24 to 25 February 2006 agreed the minimum basic wage figure of US\$545 as of 31 December 2008,

Recalling the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation 1996 (No. 187), referred to below as the Recommendation, and Guideline B2.2 of the Maritime Labour Convention, 2006:

1. Agrees that the economic situation of the maritime industry in major flag States and labour supply States provides an indication of the necessity for updating the minimum basic wage figure.
2. Recalls that the main aim of the minimum basic pay or wage figure for the able seafarer is to provide an international safety net for the protection of, and to contribute to, decent work for seafarers.
3. Recalls the relevant provisions of the code of the Maritime Labour Convention, 2006, i.e. Guideline B2.2.4 and recalling the resolution concerning the ILO minimum wage for able seamen, adopted at the 26th Session of the Joint Maritime Commission (October 1991).
4. Notes that the Recommendation states that the number of normal hours per week covered by the minimum basic wage should not exceed 48 hours per week.
5. Notes that the agreed sum achieved at previous meetings has not always matched the figure indicated by the formula since the process took into account other factors.
6. Recalls that the Subcommittee, at its previous meeting in 2009, could not agree on a revised wage figure.
7. Notes that the current mechanism, including the formula, needs to be maintained until such time as an alternative is agreed.
8. Reaffirms support for the role of the Joint Maritime Commission and its Subcommittee on Wages of Seafarers and believes that its role and importance as the agenda-setting mechanism for the maritime industry will increase.
9. Decides, regarding paragraph 10 of the Recommendation, to update the current ILO minimum basic wage for an able seafarer of US\$545 to US\$555 as of 1 January 2012; US\$568 as of 1 January 2013; and US\$585 as of 31 December 2013.
10. Agrees that the amount of US\$585 as of 1 July 2011 should be used as the basis for recalculation purposes.
11. Recalls that the formula produced a figure of US\$710 as of 1 March 2011. This figure should be considered when determining any future increase.
12. Acknowledges that the agreed minimum wage figure in no way prejudices collective bargaining or the adoption of higher levels in other international wage-setting mechanisms.

13. Invites the Governing Body to convene a meeting of the Subcommittee in the first half of 2014 and every two years thereafter and, where appropriate, for the Subcommittee to report directly to the Governing Body.

Appendix II

Draft resolution on Guidelines on fair treatment of seafarers in the event of a maritime accident

The Assembly of the International Maritime Organization and the Governing Body of the International Labour Office,

Recalling resolution A.987(24) approved by the Assembly of IMO at its 24th regular session and the ILO Governing Body at its 292nd Session, whereby the IMO Assembly and the ILO Governing Body, inter alia, agreed to the adoption of Guidelines on fair treatment of seafarers in the event of a maritime accident as a matter of priority; authorized the IMO Legal Committee and the ILO Governing Body to promulgate, once finalized, the said Guidelines by appropriate means; and requested the IMO Legal Committee and the ILO Governing Body to keep the problem of unfair treatment of seafarers in the event of a maritime accident under review and to assess periodically the scale of the problem,

Recalling further resolution LEG.3(91) by which the IMO Legal Committee subsequently adopted, on 27 April 2006, Guidelines on fair treatment of seafarers in the event of a maritime accident and called on Member Governments to implement those Guidelines as from 1 July 2006,

Recalling also the adoption of the said Guidelines by the ILO Governing Body at its 296th Session on 12 June 2006,

Noting that, in compliance with the request in operative paragraph 6 of resolution A.987(24), the IMO Legal Committee and the ILO Governing Body have, since the adoption of the Guidelines, maintained the subject of fair treatment of seafarers in the event of a maritime accident on their respective agendas to enable the Committee and the ILO Governing Body to monitor developments, and to convene, when necessary, the Joint IMO/ILO Ad Hoc Expert Working Group on Fair Treatment of Seafarers in the Event of a Maritime Accident,

Being aware of a number of incidents, which have taken place since the adoption of the Guidelines, in which seafarers on ships that have been involved in maritime accidents have been detained for prolonged periods, raising questions about whether they have been treated fairly in full accordance with the principles set out in the Guidelines,

Endorsing the view expressed by the IMO Legal Committee, at its 98th Session, that unfair treatment of seafarers in the event of a maritime accident should not be condoned under any circumstances,

Recognizing that the issue of fair treatment of seafarers is the direct responsibility of port or coastal States, flag States, the State of the nationality of the seafarer, shipowners and seafarers,

Recognizing further that States should conduct investigations into maritime accidents in accordance with the requirements of the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147), and, when it enters into force, the Maritime Labour Convention, 2006 (MLC, 2006),

Recognizing also that the Guidelines should be implemented alongside the IMO Code of the International Standards and Recommended Practices for a Safety Investigation into a

Marine Casualty or Marine Accident, adopted by resolution MSC.255(84), parts I and II of which have been made mandatory by way of amendments to SOLAS Chapter XI-1, which entered into force on 1 January 2010, pursuant to resolution MSC.257(84);

1. *Reiterate the importance* of the Guidelines on fair treatment of seafarers in the event of a maritime accident set out in the annex to the present resolution;
2. *Urge* Member Governments to implement these Guidelines to the extent possible;
3. *Invite* Member Governments and non-governmental organizations in consultative status with IMO and ILO to circulate the Guidelines as widely as possible in order to ensure their widespread promulgation and implementation;
4. *Invite*, where appropriate, Member Governments to consider amending their national legislation to give full and complete effect to the Guidelines;
5. *Invite further* Member Governments to take note of the principles contained in these Guidelines when considering fair treatment of seafarers in other circumstances where seafarers might be detained;
6. *Request* the IMO Legal Committee and the ILO Governing Body to continue to keep the problem of unfair treatment of seafarers in the event of a maritime accident under review and to assess periodically the scale of the problem;
7. *Request further* Member Governments, as a matter of urgency, to bring this resolution to the attention of any Government officials, in particular, those involved in the administration of justice, who may be involved in decisions and procedures affecting the treatment of seafarers involved in maritime accidents, as well as shipowners and seafarers and their respective organizations and inform the IMO Legal Committee of the means by which this request has been implemented.