



FIFTH ITEM ON THE AGENDA

The proposed consolidated maritime labour Convention: A progress report**Fourth meeting of the High-level Tripartite Working Group on Maritime Labour Standards
(Nantes, 19-23 January 2004)**

1. Reports on the three previous meetings of the High-level Tripartite Working Group on Maritime Labour Standards (HLTWG), as well as an information paper on progress, have been presented to the Committee on Legal Issues and International Labour Standards. At the invitation of the Government of France, the HLTWG held a fourth meeting in Nantes, from 19 to 23 January 2004. The report of that meeting, contained in document TWGMLS/2004/17, will be available on the ILO's web site.¹
2. In the Office's report to the Committee on the third meeting of the HLTWG,² it was noted that agreement had still to be reached on certain elements of the structure of the proposed consolidated Convention on maritime labour standards and that there were important and sometimes difficult areas in the four Titles of the Convention, setting out the maritime labour standards themselves that had not then been fully discussed. At the recent fourth meeting, a compromise was reached on the precise status to be given to provisions in the non-mandatory part of the Convention, namely those in Part B of the Code. On some other difficult questions of a general nature, it was suggested that the Office make the necessary contacts for consultations among interested parties with a view to the formulation of appropriate provisions for consideration in due course.
3. The discussions at the fourth meeting mainly related to the content of the five Titles of the Convention and were entrusted to four working parties, which reported to the plenary of the HLTWG. The first four Titles set out the maritime labour standards in the various subject areas. Most of the provisions in those Titles were discussed; with the exception of the area of social protection, a consensus was reached on them and aspects needing further discussion were noted. While it was generally agreed that the right to social protection should be covered in the Convention, the discussions indicated that a radical change of

¹ See: www.ilo.org/public/english/dialogue/sector/sectors/mariti/consol.htm. Members of the Governing Body can obtain a copy of the report on request.

² GB.288/LILS/8, Nov. 2003.

approach was needed as there was a sharp difference of opinion on the basic ways of achieving that right. Considerable progress was made in reaching agreement on Title 5 of the Convention, relating to compliance and enforcement with respect to the standards in the four other Titles. There was however insufficient time to cover the whole of Title 5.

4. Although it was not possible for the fourth meeting to deal with the whole of the Convention, the general result of its discussions has been to greatly narrow the areas of potential disagreement and consequently to facilitate the work of the Preparatory Technical Maritime Conference to be held from 13 to 24 September 2004. In order to enable the Preparatory Technical Maritime Conference to concentrate on settling points of disagreement and to avoid any unjustified discussion of provisions that have matured over years of discussion in the HLTWG and its subgroup, the HLTWG has adopted a resolution recommending to the Governing Body the general lines of an appropriate procedure. The text of the resolution is reproduced in Appendix I to this report. The HLTWG recommended that:
 - (1) the Office be requested to submit to the Preparatory Technical Maritime Conference a draft instrument based on the results of the important preparatory work undertaken in the framework of the HLTWG;
 - (2) the draft instrument be considered as containing mature provisions on which consensus has been reached on a significant number of provisions;
 - (3) the Preparatory Technical Maritime Conference deal in the first place with the provisions included in the draft instrument which are placed inside square brackets;
 - (4) the Preparatory Technical Maritime Conference, in the second stage, deal with proposals concerning the draft instrument which have sufficient support.
5. The HLTWG also recommended that the Governing Body take the necessary measures for the consequential adjustment of the Standing Orders for the Preparatory Technical Maritime Conference. ***If the Committee agrees with the HLTWG's recommendations, it may wish to recommend to the Governing Body that the procedure of the Preparatory Technical Maritime Conference be governed by the Standing Orders proposed in Appendix II to this report, with any changes that the Committee may consider appropriate.***
6. In addition, two Government representatives participating in the HLTWG raised the matter of the prolonged detention of crew members and a salvage master, who have been denied exit from Pakistan after the accidental grounding of the M/V "Tasman Spirit" on 27 July 2003 at the entrance to the port of Karachi. In a declaration, appended to the report of the meeting, the HLTWG expressed its sympathy to the victims of the accidental grounding, including the crew members and salvage master, and expressed the hope that the Pakistani authorities could release them and allow their repatriation. The HLTWG noted that the Government of Pakistan was not represented at its meeting. The declaration ends with requests addressed to the Director-General and the Governing Body. In cases of this kind, the Office, within the limits of its competence, takes action along the lines that are indicated in these requests. In this particular case, it had in fact already raised the matter with the Government concerned. It has now transmitted the concerns expressed by the members of the HLTWG. The Office will inform the Governing Body of developments.

Geneva, 5 February 2004.

Point for decision: Paragraph 5.

Appendix I

Resolution concerning the text of the first draft consolidated maritime labour Convention to be submitted to the Preparatory Technical Maritime Conference (13-24 September 2004)

The High-level Tripartite Working Group on Maritime Labour Standards,

Having been convened in accordance with a decision taken by the Governing Body of the International Labour Office at its 280th Session (March 2001), and having met in its fourth session held in Nantes, France from 19 to 23 January 2004,

Noting the decision taken by the Governing Body at its 286th Session (March 2003), to hold a Preparatory Technical Maritime Conference from 13 to 24 September 2004,

Further noting its decision that the Preparatory Technical Maritime Conference should discuss, and make recommendations concerning an instrument to consolidate maritime labour standards on the basis of a draft to be submitted to it by the Office,

Considering the considerable preparatory work that has been undertaken during the last four sessions of the High-level Tripartite Working Group and of the two sessions of its Subgroup as well as the number of reports that have been prepared by the Office to serve as a basis for discussions;

Adopts this twenty-third day of January 2004 the following resolution:

The High-level Tripartite Working Group on Maritime Labour Standards recommends to the Governing Body of the ILO that:

1. the Office be requested to submit to the Preparatory Technical Maritime Conference a draft instrument based on the results of the important preparatory work undertaken in the framework of the High-level Tripartite Working Group;
2. the draft instrument be considered as containing mature provisions on which consensus has been reached on a significant number of provisions;
3. the Preparatory Technical Maritime Conference deal in the first place with the provisions included in the draft instrument which are placed inside square brackets;
4. the Preparatory Technical Maritime Conference, in the second stage, deal with proposals concerning the draft instrument which have sufficient support;
5. it take the necessary measures for the adjustment of the Standing Orders of the Preparatory Technical Maritime Conference.

Appendix II

Preparatory Technical Conference on Maritime Labour Standards

Proposed Standing Orders

ARTICLE 1

Composition

1. The Conference shall be composed of the delegates appointed by each of the States Members invited by the Governing Body to participate. Each State Member is invited to appoint three delegates (one Government delegate, one Shipowners' delegate, and one Seafarers' delegate).
2. The Governing Body shall be represented at the Conference by a tripartite delegation.
3. Each delegate may be accompanied by advisers. The advisers accompanying a delegate shall have the right to take part in the discussions and to vote under the same conditions as the delegate, unless the delegate indicates otherwise in a written note to the Secretary-General.

ARTICLE 2

Officers of the Conference

1. The Officers of the Conference shall consist of a President and three Vice-Presidents (one from each group), and three representatives of the Governing Body. It shall be the duty of the Officers to arrange the programme of the Conference, to set the date, time and agenda of the plenary sessions, and to draw up proposals regarding the establishment and composition of other committees.
2. The President shall preside over the sittings of the Conference. The Vice-Presidents shall preside in turn over the sittings or parts of sittings at which the President cannot be present.
3. The President shall direct the debates, maintain order, ensure the observance of the Standing Orders, accord or withdraw the right to address the Conference in accordance with the provisions of these Standing Orders, put questions to the vote and announce the result of the vote.

ARTICLE 3

Secretary-General of the Conference

The Director-General of the International Labour Office or a person appointed by him for that purpose shall act as the Secretary-General of the Conference.

ARTICLE 4

Committees

1. The Conference shall appoint a Steering Committee consisting of the Officers of the Conference, four Government delegates, two Shipowners' delegates and two Seafarers' delegates, representing each of the three groups. It shall be the duty of the Steering Committee to arrange the programme of the committees, to fix the date, time and agenda for the committees, and to report to the Conference on any other questions requiring a decision for the proper conduct of business or in implementation of these Standing Orders.
2. The Conference may appoint other committees or working parties after due notice has been given to the three groups.

ARTICLE 5

Admission to sittings

The sittings of the Conference and its committees shall be public unless it is otherwise decided.

ARTICLE 6

Right to participate in the work of the Conference

1. Observers from non-member States who have been invited by the Governing Body may participate in the proceedings without a vote.
2. Representatives of official international organizations which have been invited by the Governing Body to be represented at the Conference may participate in the proceedings without a vote.
3. No delegate, adviser or observer shall address the Conference without having asked and obtained the permission of the President.
4. The President may require speakers to resume their seats if their remarks are not relevant to the subject under discussion, or if they go over the time limit established by the Officers of the Conference.
5. The President may, in agreement with the Vice-Presidents, permit representatives of non-governmental international organizations with which the International Labour Organization has established consultative relationships, and representatives of other non-governmental international organizations which have been invited by the Governing Body to be represented at the Conference, to make or circulate statements for the information of the Conference on questions which are being examined by the Conference. If agreement cannot be reached, the matter shall be referred to the Conference for decision without discussion.

ARTICLE 7

Amendments, motions and resolutions

1. Amendments, motions and resolutions may be discussed only if they have been seconded.
2. (1) Motions as to procedure may be moved verbally and without previous notice. They may be moved at any time, except after the President has called upon a speaker and before the speaker has terminated his or her speech.
(2) Motions as to procedure include the following:
 - (a) a motion to refer the matter back;
 - (b) a motion to postpone consideration of the question;
 - (c) a motion to adjourn the sitting;
 - (d) a motion to adjourn the debate of a particular question;
 - (e) a motion that the Conference proceed with the next item on the agenda for the sitting;
 - (f) a motion to ask for the opinion of the President, the Secretary-General or the Legal Adviser of the Conference;
 - (g) a motion for the closure of the discussion.
3. Amendments and resolutions other than motions as to procedure must be submitted in writing in one of the official languages of the Conference. They must be translated and distributed before the discussion.
4. The Steering Committee shall, taking into account the recommendations of the Governing Body, establish time limits for the submission of amendments to the proposed instrument and the order and procedure for the examination of such amendments.
5. Only amendments to amendments already submitted under the conditions referred to above may be submitted without prior distribution.

6. (1) Amendments shall be voted on before the resolution to which they refer.
(2) If there are several amendments to a motion or resolution, the President shall determine the order in which they shall be discussed and put to the vote.
(3) If a motion or resolution is amended as the result of a vote, that motion or resolution as amended shall be put to the Conference for a final vote.
7. (1) Any amendment may be withdrawn by the person who moved it, unless an amendment to it is under discussion or has been adopted.
(2) Any amendment so withdrawn may be moved again without previous notice by any other delegate to the Conference.
8. No draft resolution shall be receivable unless it relates to the subject of the Conference.

ARTICLE 8

Closure

1. Any delegate may move the closure either on a particular amendment or on a general question.
2. The President shall put a motion for the closure to the vote if it is supported by at least one-fifth of the delegates present at the sitting. Before putting it to the vote, however, the President shall read out the names of those persons who have already indicated their wish to speak.
3. If application is made for permission to speak against the closure, it shall be accorded to one speaker from each group at the request of the chairperson of the group. If the closure is voted, one speaker from each group may, at the request of the chairperson of the group, speak on the question under discussion.

ARTICLE 9

Voting and quorum

1. Subject to the provisions of article 13, paragraph 4, of the Constitution, every delegate shall be entitled to vote individually on all matters which are under consideration by the Conference.
2. The votes of Shipowners' delegates and Seafarers' delegates shall be weighted so as to ensure that each of these two groups has half the voting power of the total number of governments represented at the Conference and entitled to vote.
3. Decisions shall be taken by a simple majority of the valid votes cast.
4. A vote shall not be considered valid if the number of votes cast, in favour or against, amounts to less than half the total voting power.
5. The Conference shall vote by show of hands.
6. If the result of a vote by show of hands is challenged, the President shall cause a record vote to be taken.
7. No amendment, motion or resolution shall be adopted if an equal number of votes is cast for and against.

ARTICLE 10

Languages

1. The International Labour Office shall make arrangements for the interpretation of speeches and translation of documents into and from French and English in order to meet the convenience of delegates, subject to the availability of facilities and staff.
2. The report and the conclusions of the Conference shall be established in English, French and Spanish.

ARTICLE 11

Standing Orders of committees

1. These Standing Orders shall apply, *mutatis mutandis*, to committees.
2. The Conference shall have the right, if it deems it to be necessary, to appoint a drafting committee comprising one delegate from each of the three groups, as well as the Secretary-General of the Conference and the Legal Adviser or their representatives.
3. The Conference or a committee may entrust the task of drafting any decision or text to the drafting committee in order to formulate it in the appropriate way.

ARTICLE 12

Conference groups

1. Subject to the Standing Orders, each group shall control its own procedure.
2. At its first meeting, each group shall elect a chairperson, at least one vice-chairperson and a secretary. The chairperson and vice-chairperson or vice-chairpersons shall be elected from among the delegates or advisers constituting the group; the secretary may be selected from persons outside the group.
3. Each group shall hold official meetings for:
 - (a) nominations required in pursuance of these Standing Orders, such as nomination of Vice-President of the Conference and nomination of members of committees or working parties;
 - (b) any other matter referred to groups by the Steering Committee or the Conference.