



Third sitting

Friday, 24 September 2004, 11.30 a.m.

President: Mr. Schindler

REPORT OF COMMITTEE NO. 2: SUBMISSION, DISCUSSION AND APPROVAL

Original French: The PRESIDENT

I propose that we continue our work today with the adoption of the report of Committee No. 2, which was responsible for the examination of Titles 1 to 3 of the consolidated draft maritime Convention. You will find this report in the *Record of Proceedings* No. 5. The Officers of Committee No. 2 were: Chairperson: Mr. Smejfell; Government Vice-Chairperson: Mr. Moreno; Shipowner Vice-Chairperson: Mr. Lindemann; and Seafarer Vice-Chairperson: Mr. Crumlin.

I should like now to give the floor to the Reporter of the Committee, Mr. Dirks, who will present the work of his Committee.

Mr. DIRKS (Reporter of Committee No. 2)

I am honoured that Committee No 2, on Titles 1 to 3, has chosen me to introduce this report. It is a particular pleasure because I can report the full success of our Committee in establishing a text for Titles 1, 2 and 3 of the consolidated Convention, which is very close to becoming a reality.

Let me first say a few words about the background to our work. It is a truism that shipping is the most globalized industry in the world and that seafaring is a global profession. The improvement of the working and living conditions of seafarers and the harmonious development of the industry are fully in line with the overall goals of the ILO. Given their way of life and the fact that, while they are at sea their ship is their home, they – more than others – are entitled to decent working and employment conditions, as well as a healthy living environment. Apart from any other equally important aspects within the mandate of the other technical committees, seafarers must be protected, by minimum requirements, when working on a ship and their conditions of employment must be clearly defined and easily controllable. They should also enjoy decent conditions of accommodation, suitable recreational facilities, as well as sufficient healthy and well prepared food, to mention but a few.

In a nutshell, these were the topics considered by Committee No. 2 over the past two weeks. And I want to say that there was a spirit of cooperation and mutual respect.

To achieve our result, the Committee held 13 sittings, and established two working parties and one drafting group. There were three indicative votes but no record vote; 52 amendments to non-

bracketed text were tabled, and although we had no time to consider them at this session, their contents will, of course, be carried forward.

The report which is before the Conference is a long one. However, brevity would not have permitted a proper reflection of our discussions, the positions of different delegates and the sometimes difficult path to a situation. But it reflects the work of the Committee including its Subgroups and all parties demonstrated a firm commitment not only to the work of the Committee itself but also to the wider goal of achieving an internationally recognized instrument which will undoubtedly better the lot of seafarers worldwide.

I have been reflecting on how to present the results of technical Committee No. 2 and I have the feeling that given the technicality of the provisions in Titles 1 to 3, it would be too time-consuming to provide you with all the information. Therefore, I highlight only a few achievements of our work which I consider to be the most influential and difficult ones and therefore, I crave your indulgence.

For example, in Title 1, in my opinion, the delegation of the training and qualification issues to the International Maritime Organization was a great success. This finally means that apart from the application of certain Codes, all maritime training and qualification will be in the hands of the IMO in the future.

The seemingly very complicated issue of recruitment and placement has, following lengthy discussions, been solved after the Drafting Committee presented a proposal to which all participants were able to agree with minor changes, of course.

Regulation 1.5 and the respective Standard and Guideline have been deleted. The reason for the deletion is that many participants saw difficulties with having a regulation on seafarers identity documents in the maritime labour Convention while there are other instruments dealing with the same issue, especially ILO Convention No. 185. Apart from other topics, a very important outcome in Title 2 was the inclusion of all masters and chief engineers in the provisions of Regulation 2.3. Many participants have the feeling that it might put the whole ship at risk if masters and chief engineers are suffering from fatigue. Therefore, the Committee decided to include all seafarers, regardless of their rank and duties, in the working time provisions.

Referring to Regulation 2.8 which concerned Convention No. 145 on continuity of employment for seafarers, a minor change has arisen since the adoption of this Convention. The participants

agreed that the reality of the maritime industry today does not require a references to regular employment anymore, instead the promotion of career development should be in the foreground of this part of the consolidated maritime labour Convention.

The aim of the Committee was to enhance seafarers' opportunities for finding employment on board and also to provide the industry with the necessary workforce. For Title 3, which deals mainly with accommodation, recreational facilities, food and catering, a working group, which I want to say did outstanding work, was set up. A big part of the progress with regard to Title 3 is owed to this working group, which provide us with excellent proposals for all the figures we needed to reach an agreement on. It was also decided to move some provisions from Code B to the more binding Code A.

To summarize, in our committee there is just one outstanding issue which is noise and vibration. The Committee recommends discussing this issue in the upcoming Conference, the reason for not having solved this problem is that the technical committee felt it might be necessary to formulate more binding provisions in order to protect seafarers from excessive noise and vibration levels.

I believe that the draft document that we have produced is a good document for the ILO, if only due to the fact that we managed to consolidated and further the work already carried out by the High-level Tripartite Working Group. In short, we have contributed to a comprehensive instrument which I hope will receive wide and rapid ratification after its second discussion and adoption in the not too distant future.

I trust that I had said enough to give you a picture of our work, but we could not have achieved what we have without the great deal of help and support from the Office.

Thank you to Ms. Doumbia-Henry, in particular, and to all her staff who worked tirelessly on our behalf. I would also want to thank Ms. Moira McConnell, Ms. Anna Simpler, Ms. Susan Hudson, as well as Mr. Jean-Yves Legouas, and all those behind-the-scene devoted ILO officials who have so skilfully produced our report.

I would also like to thank the ILO's legal adviser, Mr. Picard for the good and accurate advice he so often gave us.

Please allow me one final word of thanks to our Chairperson for his efficient running of our meetings. His firm hand ensured that we kept pace with our agenda and thanks, of course, also to our Vice-Chairpersons for keeping their groups on the right track.

Finally, I recommend that the Preparatory Maritime Technical Conference adopt the report of Committee No. 2. I hope that, given the work done in the Committee and the tripartite support for our part of the draft Convention, a unanimous vote in favour will be forthcoming.

Mr. LINDEMANN (*Shipowner Vice-Chairperson of Committee No. 2*)

Let me first express my gratitude to everyone in Committee No. 2 for creating and maintaining throughout an extremely amicable and trustful atmosphere. We experienced firm leadership by our Committee's Chairperson Mr. Smejfell from Norway and his support staff from the ILO office, Mr. Jean-Yves Legouas, Ms. Catherine Hansel-

Brakenhielm and Ms. Moira McConnell, the Special Adviser on the Convention. If I do not read out the names of the persons it is because I do not know the names of the persons, but we appreciated the work of everyone.

We also experienced a friendly relationship with our social partners, the Seafarers, with Mr. Paddy Crumlin at the helm. I really appreciated the way Paddy held the line for the Seafarers and at the same time agreed on changes when these were felt necessary by the other groups. I should like to thank Paddy for the trust he has given me. I also appreciated, as everyone else did, the melodious Australian English language. I want to hear that sound again at our next Conference.

The topics with which technical Committee No. 2 was tasked have been very diverse, and this was just pointed out by our drafting group member. They were Title 1 on minimum requirements for seafarers to work on a ship; Title 2 on the conditions of employment; and Title 3 on accommodation, recreational facilities, food and catering. As many of you are aware, the majority of these provisions are based on long-existing ILO standards. Nevertheless there were countless bracketed texts which had to be addressed due to regrouping and to the need for updating old provisions. I can report that many of the points were concluded amicably between the social partners based on meetings among them arranged between Nantes and this Conference. But the additional input by our Government colleagues was always welcome and resulted in a new, more satisfactory text.

Although Titles 1 to 3 did not contain as many new regulations, as for instance, in the texts of the Articles in Title 5, nevertheless the added value of the new texts to the Seafarers will be substantial. The reason being that many of the existing Conventions on conditions of work on a ship have received relatively few ratifications, especially the newer ones from 1976, 1986 and 1996. So the ratification of the new Convention once it enters into force will considerably and immediately widen the labour law and social protection of the seafarers. I believe that our Committee has delivered a very robust foundation for the second discussion at the Maritime Conference. I would personally like to thank everyone for contributing so much to the final results.

Mr. CRUMLIN (*Seafarer Vice-Chairperson of Committee No. 2*)

Let me open by thanking you for your wonderful insight and calmness of manner and great diplomatic skills in continuing to navigate this dirty old ship at times along the very long journey of the last two or three years. As Mr. Cox might say, we now have got a safe harbour in sight. And also thanks to you, Cleo, for your able assistance and willingness to engage and bring the resources of this wonderful house to this very important work. Also as an Australian, I think I should open with thanking the French and the Swiss for their wonderful social hospitality over the last two weeks. For me, at least that was one of the real highlights of the Conference.

Committee No. 2 was presented with some substantial challenges. We were confronted with three Titles, each detailed and specific to the material needs of seafarers. At times the process was extremely satisfying, at others extremely frustrating. Satisfaction came from upholding the protection for under-age seafarers, the health of seafarers, their

training, what they are paid, how they are paid, how long they work, and their protection from fatigue, their entitlement to leave and repatriation back to their families, their numbers on board their vessels and the quality of life on board those vessels, the size of their cabins, their bunks and their mess rooms, their protection against extremes of heat and cold, how they eat and how they sleep. The minutiae of the lives of working men and women, toiling, resting, living in their steel-encased communities, plying the endless oceans of their world – far from courts, far from hospitals, far from theatre and culture, far from all the mundane support we with our shore-based lives rely on, for the most part, unconsciously.

The life of seafarers is unique, as are the communities and those community values that stem from the pursuit of their vocation and livelihood. These seafarers are part of a unique workforce: cosmopolitan, culturally diverse, linguistically segregated, some from the first and second world but a great many from the third world. Because their lives and work are beyond the physical boundaries of territory and because many of the flags that fly from the sterns of their vessels reflect business opportunity, not national responsibility, their lives are often marred by crushing exploitation, savage intimidation and life- and limb-threatening neglect. These are the sinister threads that stitch together the original decision by the ILO that has special arrangements for seafarers. More than 80 years of continual tripartite dialogue has not resolved these fundamental abuses. In our province of Titles 1, 2 and 3, these abuses are clear and present. Seafarers run aground in foreign ports because the companies that run their ships could not care less.

Repatriation is fundamental to our industry and without guarantees – enforceable guarantees – the quality of life of those seafarers is negligible. Again, it does not matter whether you are a master, chief engineer or cook. If you are forced to work day-in, day-out, caught between the economic shortcut of undermanning and the demanding requirement to work your vessel 24 hours a day, seven days a week, those seafarers wear themselves down and disappear into illness and disregard far before the normal expectation of their working life. In a world full of fear, they are looked at as dangerous. Their shore leave is denied and they often languish in increasingly smaller spaces because it reduces costs in shipbuilding and some savings in tax. But by far the worst abuse is from the parasites and criminals, moral criminals who exploit their labour, recruit them from poverty and enrich themselves by stealing the compensation and value of that seafaring work by exacting commission for finding them jobs. Private recruitment and placement has always been the bane of the world's seafarers, over the generations and even centuries; words like "shanghaied" and "pressed" have entered the litany of abuse; a practice that is as pervasive in certain areas of the industry today as ever before; a gross manipulation of third world labour. The international shipping industry is often driven by these practices. It was, with great satisfaction but not without some frustration, that Committee No. 2 applied itself – Seafarers, Shipowners and Governments – to give practical, detailed and specific sustenance and protection in order to protect the unprotected. So again, thank you, Mr. Lindemann and the Shipowners. I believe you enjoy such great respect and standing in

this house because of your capacity to better represent the interest of the Shipowners' group without compromising your belief in decent work standards for the seafarers in our industry. Thank you to you Mr. Dirks and your Government group for your energies and determination to better represent your administrations but also to ensure that these standards can be translated into meaningful legislation. Particularly, thanks to you George, Mr. Smejfell for your leadership and work ethic, your genuine objectivity in assisting our Committee in navigating successfully the shelves and roofs and now our passages of tripartism into a safe harbour.

Our Committee has made a long journey over the last two weeks in our determination to play our part in building standards for seafarers in minimum requirements for work, conditions of employment, and accommodation, recreation and catering, standards that will continue to nourish and protect working men and women long after our individual work is done.

Original Spanish: Mr. MORENO (Government Vice-Chairperson of Committee No. 2)

I shall be very brief. The truth is, I came to this Conference with two goals in mind: first, to learn; and the second was to cooperate by contributing my technical point of view wherever I could. I was not familiar with the history of the ILO and this particular method of having tripartite committees where you have representatives of Governments, Shipowners and Seafarers which has a very specific connotation. I am much more familiar with the system employed by the International Maritime Organization where better standards for crews come about as an indirect consequence of work involving safety on ships, safety of life at sea and the conservation of the marine environment. It is common knowledge that a substandard ship very often means substandard contracts and living conditions for the crew. I shall repeat what I have said – I have come here to learn, to cooperate and I am very happy to be here. This has been a learning experience for me and I hope that in the future I will be able to continue to contribute as much as I can through my work.

Mr. SMEJFELL (Chairperson of Committee No. 2)

When I last made a speech to the plenary of a similar ILO Conference, I explained the history of the Norwegian Viking king who cut his hair only when he had accomplished his goal of uniting Norway under his rule.

This time, I arrived with short hair. This was of course due to the fact that I knew that we would have to deal with some important issues in the short time available. And that I, as many of the athletes who have competed in the recent Olympic Games in Greece, should reduce the wind resistance as much as possible to get the best possible result. It also shows my belief that we had created a sound foundation in the High-level Tripartite Working Group on Maritime Labour Standards under the leadership of our President – and a strong belief that we would continue to do good work at the Preparatory Technical Maritime Conference and I believe I was right.

I must admit that even though there were disagreements, we have been able to move forward on important issues and deal with them efficiently and in the best interests of all involved. Looking at the work done in Committee No. 2, in my opinion, the

grounds for being positive are just as strong and even stronger today. As the Conference will know, technical Committee No. 2 dealt with Title 1 on “minimum requirements for seafarers to work on a ship”; Title 2 on “conditions of employment”; and Title 3 on “accommodation, recreational facilities, food and catering”. I am pleased to confirm that we have been able to remove all our bracketed texts and it is also my recommendation that we adopt our report today.

It is quite clear that our Committee’s success is the result of hard work, efficiently carried out in the true spirit of tripartism. I am truly impressed by the efforts made by all involved in our Committee’s task. I would especially like to thank all the members of our Committee and the Officers – the Vice-Chairpersons: Mr. Moreno; Mr. Lindemann; Mr. Crumlin; and Mr. Dirks, our Reporter; – and you Mr. President for all your hard work, support and good-humoured remarks. I must admit that I am especially thankful that none of you revealed my new nickname to the world. I also want to thank the Chairpersons from the United Kingdom, the Netherlands and the United States; and the members of our working group and the drafting group. Without them we would not have been able to achieve our result. I also want to thank the interpreters for their invaluable work. And last but far from least, I would like to thank all the ILO staff who have been working both in Committee No. 2 and behind the scenes. Your great competence and the positive attitude and the ability and willingness to give assistance and find solutions is a decisive factor in our work. You have done this Organization proud and made my job easy. As we will soon leave Geneva and return to normal life in our home countries, it is important that we keep our good work here alive, that we focus on the great opportunities which we have, and the solutions we need so as to ensure that we can have a strong, viable and effective framework Convention on seafarers’ working and living conditions. A Convention which will act as the fourth pillar in the international regulation of the maritime industry, a fourth pillar, which I am sure that we all, who are engaged in this truly international industry, whether we are Seafarers, Shipowners or Government officials, need.

Ms. MEDINA (*Government, United States*)

I have the honour of speaking on behalf of the Governments who worked in Committee No. 2. I would like to thank Mr. Smejfell, for his work as Chairperson of this Committee; his outstanding leadership, his assertiveness and his sense of humour took our Committee successfully through a rather lengthy list of issues. Our Committee faced very tough issues, and Mr. Smejfell successfully managed to stay on course to ensure that we completed our task – to deliver solid draft requirements under Titles 1, 2, and 3, for use at the adopting Conference. I do not have enough words of appreciation for the outstanding work done by the secretariat, the advisers, the translators and the interpreters that made it possible for our Committee to complete its work. Special thanks to Mr. Picard from the ILO legal department and his staff, who spent a great deal of time clarifying issues for this Committee.

I would also like to thank the social partners, Shipowners and Seafarers, for their commitment towards achieving conciliatory views and solutions

that helped pave the way to accomplishing our goal of developing a consolidated Convention.

Finally, as Chairperson of the Government group for Committee No. 2, I would like to thank the Governments for their support and their active participation in these efforts that allowed this Committee to successfully complete its job.

Original French: the PRESIDENT

Do any other speakers have general observations to make. This not the case. I propose that we proceed as we did yesterday and approve this report by groups of paragraphs which correspond to the parts of the instrument examined by the Committee.

Let me recall to you that the report is to be found in *Record of Proceedings* No. 5

Government delegation of the United Kingdom

I would like to ask whether the amendment to paragraph 183 requested by the Shipowners is substantial.

Mr. LINDEMANN (*Shipowner, Germany*)

In front of the phrase “the text accepted by the Committee read ...”, we should like to add something on the lines of “a member of the Seafarers’ group suggested replacing the word ‘are’ by ‘should be’ to make it more operational”.

Original French: The PRESIDENT

Do you see any problem if this were to be made a separate paragraph because paragraph 183 is the text that was accepted by the Committee?

Mr. SMEJFELL (*Government, Norway*)

No, this would take care of the issue. We should also like to introduce two changes to paragraph 209 which reports on comments made in my capacity as Chairperson.

Original French: The PRESIDENT

Please, could you indicate the change you wish to make to paragraph 209.

Mr. SMEJFELL (*Government, Norway*)

Paragraph 209 states that: “The Chairperson said that it was agreed that there should be some reference to the Seafarers’ Identity Documents Convention” In fact, I was referring to the discussion of this issue at Nantes and there was no agreement at that time. We should like to say that this discussion will continue.

Original French: The PRESIDENT

Are there any objections to this proposal? As this does not appear to be the case, the proposal is adopted.

Mr. SMEJFELL (*Government, Norway*)

I am again taking the floor in my capacity as Chair of the Committee. Paragraph 273 states: “On the suggestion of the Chairperson, the Committee agreed to delete the text of Regulation 2.3, paragraph 3, and that of Standard A2.3, paragraph 12.” It then goes on to deal with paragraph 12 in paragraphs 274 and 275. I wonder if we could make sure that the decision in regard to paragraph 12 also figures, so that it is clear when we read the text.

Original Russian: Government delegation of the Russian Federation

We have a question regarding paragraph 261, where it is said that “... a majority of governments were in favour of deleting it ...” but it does not ex-

actly specify what “it” is referring to in paragraph 261.

Original French: The PRESIDENT

You are referring to paragraph 261, sir? Thank you for your observation. The secretariat will look into it and make sure that it is clear.

Government delegation of South Africa

As regards paragraph 289 should we deal with it in the same way as we dealt with it in other committees, because it does not originate from a Government or from an Employers’ or Workers’ representative?

Original French: The PRESIDENT

Could the Chairperson of the Committee please tell if in its capacity as a non-governmental observer, the International Christian Maritime Association (ICMA) was permitted to participate?

Mr. SMEJFELL (*Government, Norway*)

As far as I can recollect, we did not have a discussion among the Officers as to whether the ICMA was allowed to take the floor. He asked for the floor and was given the floor by me.

Original French: The PRESIDENT

When you authorized him to take the floor, were there any objections?

Mr. SMEJFELL (*Government, Norway*)

No, there were no objections.

Original French: The PRESIDENT

In these circumstances, I propose that we retain this paragraph.

(It is so decided.)

Government delegation of Norway

Paragraph 320 refers to a decision by the Committee, so we had better be careful. I believe that the Committee agreed to remove the word “any”, i.e. the word to which we are referring in paragraph 318. Thus the Shipowner Vice-Chairperson proposed the deletion of the word “any” and not “only”.

Mr. CRUMLIN (*Seafarer, Australia*)

We should like to introduce two changes to paragraphs 378 and 380, but I need to explain the reasons for this.

In paragraph 378, there are two issues involved: first we should like to explain why we dealt with the matter, particularly in respect to hospital accommodation; and, second, we feel that it was in the wrong context and needs to be moved to later in the report.

As regards paragraph 380, we believe the formulation is slightly incorrect. After the phrase “ships of 10,000 gross tons”, there should be the word “or” instead of “and”. I think that was a final decision, but I stand to be corrected.

Ms. DOUMBIA-HENRY (*representative of the Secretary-General of the Conference*)

I think a similar issue arose yesterday when we looked at the Committee No. 3 report in connection with the recommended draft concerning hospital accommodation; it would appear that both of the technical committees have reflected on texts relating to the same issue, which applies as well to paragraph 383 of the Committee No. 2 report. It would appear that the result has been two sets of provi-

sions in two sets of Titles, which are conflicting. We would therefore propose that we meet with the Officers of the two Committees to clarify this particular issue, because clearly we cannot have two sets of conflicting provisions in two different places, in terms of where the decision was made and how it ought to be appropriately reflected.

My understanding was, in any event, that the decision was made in Committee No. 3. Again, the suggestion would be that the secretariat would meet with the Officers, or at least the Chairpersons of the two Committees to sort that out, because it is conflicting in the present draft Convention. If you would agree, we would probably try to sort out the problem, taking into account the comments that have just been made by the Seafarers.

Original French: The PRESIDENT

Are there any objections to this solution suggested by the secretariat, namely to have a quick discussion about this text? As nobody has voiced opposition, I suggest that we take this decision.

Government delegation of Norway

This intervention is in relation to paragraph 468. At present, it states: “The Chairperson, after consultation with the Officers of the Committee, agreed that the figure 8.5m² would be inserted.” My proposal is to change this to read: “The Chairperson, after consultation with the Officers of the Committee, proposed that the figure 8.5m² would be inserted” and then the next sentence should start: “The Committee agreed and noted that”.

Original French: The PRESIDENT

The secretariat takes due note.

Government delegation of the United Kingdom

I do not have a proposal for a change of text, but I would ask that the Office consider the position in the text of paragraph 465, especially in the context of paragraph 467. I think paragraph 465 should probably be moved to the discussion of paragraph 9[(a)bis].

Mr. CRUMLIN (*Seafarer, Australia*)

We have an amendment to make to paragraph 457. We know this does not concern our text, but it is in respect to observations made by the Republic of Korea and the United Kingdom. We suggest that we add “and the Committee agreed that this paragraph be moved to the Standard”, which is how it is reflected in the current text.

Mr. LINDEMANN (*Shipowner, Germany*)

We also have a comment on paragraph 468, and we are aware that this is a decision of the Chairperson. But we would like the text to reflect the discussion because we believe that we reached an agreement on the various floor areas for junior and senior officers. However, further work needs to be done on the definition of the two categories, but it cannot be done at this stage. This was agreed upon.

Original French: The PRESIDENT

We have now finished our examination of the report of Committee No. 2. If there are no objections, may I take it that the report is approved?

(The report of Committee No. 2, as amended, is adopted.)

**REPORT OF THE DRAFTING COMMITTEE: SUBMISSION
AND APPROVAL**

Original French: The PRESIDENT

We shall now proceed to the approval of the report of the Drafting Committee. I give the floor to Mr. Roussel from Canada.

Mr. ROUSSEL (*Government member of the Drafting Committee*)

The Drafting Committee of the Preparatory Maritime Technical Conference ended its report on 22 September 2004, having provided 31 replies to requests referred to it by the technical committees. In addition, in response to a request from the President of the Conference, the Drafting Committee decided that, throughout the French-language text of the instrument, the French term “*réglementation*” should be replaced with the term “*règle*” to correspond with the English term “Regulation”. I would like to express my gratitude to the members of the Drafting Committee, to the Government members who participated – Mr. Yahmadi from Tunisia and Mr. Sadler from the United Kingdom – the Seafarers, Mr. McEwen, assisted by Ms. Tselentis, and Mr. Dearsley from the Shipowners.

Original French: The PRESIDENT

May we now adopt the report of the Drafting Committee?

(The report of the Drafting Committee is approved.)

Mr. LINDEMANN (*Shipowner, Germany*)

I do not want to interrupt the process of approval but I would simply like to express our appreciation

for the work done by the Drafting Committee. I have attended previous conferences and we spent endless hours on drafting points in the committees. I think the introduction of this Committee to work side by side, at the same time while the issues are being discussed, and redelivered for adoption, has proven to be extremely efficient. We want to thank everyone who has worked on that Committee.

Mr. CRUMLIN (*Seafarer, Australia*)

I would just like to echo my colleague, Mr. Lindemann's remarks. Having been on a few drafting committees, it is one of the more difficult prospects, or one of the less enticing prospects when you come to the ILO and their excellent work in coming back was part of their ability to facilitate the outcome. I would also like to thank the interpreters and the ILO staff. Not only do ILO staff support us, they believe in what we are doing. I would like it to go on the record again, from the Seafarers' group, we know the staff supports us, we know that they support the work of this house, and we know that the outcomes that are achieved are as important to them as they are to us. As for the interpreters, if they were not able to render our ideas intelligible, we would get nowhere. We are a diverse group with many languages and their help is essential.

Original French: the PRESIDENT

I believe that we can unanimously thank the Drafting Committee for the work it has accomplished and note that the procedures set up have proven to be most satisfactory. We will have to consider using them again next time.

(The sitting adjourned at 1 p.m.)

Fourth sitting

Friday, 24 September 2004, 3 p.m.

President: Mr. Schindler

Original French: The PRESIDENT

We shall now resume the work of the plenary for the last sitting.

DRAFT MARITIME LABOUR CONVENTION: DISCUSSION AND ADOPTION

Original French: The PRESIDENT

I propose that we start by considering the draft consolidated maritime labour Convention resulting from the work of the three Committees. It is contained in *Record of Proceedings* No. 7.

I would recall that at present this is a draft, the result of the work of 300 persons over ten days.

Considerable progress has been achieved over this period but much remains to be done.

The Drafting Committee will meet again in February, and be entrusted with standardizing the terminology and ensuring that the text is consistent, which it is not at present.

If, therefore, you have substantive comments to make to the document, please submit them in writing to the secretariat either now, or at the latest before December, so that the Drafting Committee may take these into account when it meets.

Before starting our examination of the document, I give the floor to the representative of the Secretary-General

Ms. DOUMBIA-HENRY (representative of the Secretary-General of the Conference)

Firstly, this is just to clarify that the comments you make to the Drafting Committee should be of a linguistic and not of a substantive nature, and that is quite important. Secondly, the other point I want to make is that the secretariat, having gone through the text last night, noted that there would be a need for a number of small drafting changes to ensure the coherence of the text – and much of that has to do with text in the Guidelines. If the text has been moved from the Guidelines to the Standard, then the word “should” becomes “shall”. Any changes that are clearly of a drafting nature would be something that the Drafting Committee will be able to look at carefully and calmly, and taken care of. If your suggestions on the text are of a drafting nature, we would ask you just to point them out to us in case we overlook them.

Original French: The PRESIDENT

As concerns the consideration of the text, I propose we start with the Preamble. We shall then proceed Article by Article, then Regulation by Regula-

tion, it being understood that when we examine a Regulation, we shall deal with the Regulation, Standard and Guideline at the same time. If there are no objections, I propose that we begin by examining the Preamble.

Mr. LINDEMANN (*Shipowner Vice-President*)

As regards the Preamble, reference is made on page 10 of the English text, second paragraph, to Article 217 of the United Nations Convention on the Law of the Sea. However, I should like to point out that there was a general agreement, in Committee No. 2 – as may be seen in the report of this Committee – that the reference to Article 217 should be deleted.

Original French: The PRESIDENT

The secretariat has taken due note.

If there are no further comments on the Preamble, may I take it that it is adopted.

(The Preamble is adopted.)

We shall move on to the examination of the Articles.

Mr. HAJARA (*Shipowner, India*)

As regards Article V, this is more of a drafting matter. However, this is an unbracketed text and we are using the term “declaration of maritime labour compliance” for the first time. There are several places where this needs to be changed, we are just drawing attention to this.

Ms. DOUMBIA-HENRY (*representative of the Secretary-General of the Conference*)

Based on the information from my colleagues, this was discussed in the Committee; there seems to have been general agreement and if you would agree, the Drafting Committee could include that at the next stage, if there is no objection?

(It is so decided.)

Mr. LINDEMANN (*Shipowner Vice-President*)

As page 19 of the report of Committee No. 1 accurately reflects, there is a suggestion from the Seafarer Vice-Chairperson supported by us, and which met no objection from any Government, that reference be made to the gross tonnage owned by ILO Members rather than to the “world’s gross tonnage”. I fully understand that no final decision has been taken, but our suggestion would be simply to drop the word “world’s” from paragraph 3 of Article VIII, so that instead of saying “total share in the

world's gross tonnage", we would say "total share in the gross tonnage of ships". The final decision can then be taken later. I again confirm that I have had a discussion with Mr. Carlton, Mr. Orrell and Professor Jeon, and we are in agreement.

Original French: The PRESIDENT

If there are no objections to this proposal, it is accepted.

Mr. HAJARA (*Shipowner, India*)

In line with what we have already decided with Article VIII, if we agree to change this tonnage as a reference, then we also have to change paragraph 5 of Article XIV and paragraph 7 of Article XV.

Original French: The PRESIDENT

If there are no objections to these proposals, they are accepted.

May I consider that the Articles, as amended, are adopted?

(Articles I to XVI, as amended, are adopted.)

We shall now turn to the explanatory note to the Regulations and Code of maritime labour Convention.

If there are no objections, may I take it that it is adopted?

(The explanatory note to the Regulations and Code of the maritime labour Convention, is adopted.)

We shall now turn to Title 1.

Mr. JEON (*Government, Republic of Korea*)

I should like to make an editorial comment. The full name of the STCW Convention needs to be corrected. The words "for Seafarers" should be added after "Watchkeeping".

Original French: The PRESIDENT

The secretariat takes note.

Mr. LINDEMANN (*Shipowner Vice-President*)

With respect to Standard A1.3 and Guideline B1.31, this is both an editorial matter and a matter of substance. We should no longer refer to Standards and Guidelines because it has been decided to send everything on this to the IMO. There will no longer be any text under "Standards" and "Guidelines". This was agreed on by all three groups in the Committee.

Ms. DOUMBIA-HENRY (*representative of the Secretary-General of the Conference*)

We left the text as it was because it has an impact on the numbering of the paragraphs. We shall deal with this in the Drafting Committee, if you do not mind.

Original Arabic: Mr. MEGDICHE (*Government, Tunisia*)

As regards the French text, I propose that the term "assurent" be replaced by "s'assurent" in paragraph 3 of Regulation 1.4, in line with paragraph 206 of the report of Committee No. 2.

Original French: The PRESIDENT

The Drafting Committee's attention will be drawn to this point. Are there any further comments?

(Regulations 1.1 to 1.4, as amended, are adopted seriatim.)

If there are no objections, may I take it that Title 1, as amended, is adopted?

(Title 1, as amended, is adopted.)

We shall now turn to Title 2. Are there any further observations?

(Regulations 2.1 to 2.8 are adopted seriatim.)

If there are no objections, may I take it that Title 2 is adopted?

(Title 2 is adopted.)

We shall now turn to Title 3.

Ms. DOUMBIA-HENRY (*representative of the Secretary-General of the Conference*)

In the light of our discussions this morning concerning duplication and conflict in the texts of Title 3 and Title 4, concerning hospital accommodation, and, after further consultations, subparagraph (n) of paragraph 5 of Standard A3.1 is deleted.

Original French: The PRESIDENT

If there are no objections, this amendment is adopted.

Mr. SADLER (*Government, United Kingdom*)

Can I just ask for clarification on one point? The provision relating to hospital accommodation in Guideline B3.1.8 remains as is, if I understand correctly. Could you confirm that, please?

Original French: The PRESIDENT

That is correct. The Shipowners wish to comment.

Ms. WISEMAN (*International Shipping Federation*)

We have a comment on paragraph 4 of Standard A3.2. We believe the paragraph should read: "The requirements under paragraph 3 shall include completion of a training course approved or recognized by the competent authority." We understand that that was agreed by all parties.

Original French: The PRESIDENT

If there are no objections to that proposal, it is accepted. Are there any further comments?

Mr. TERANISHI (*Government, Japan*)

Regarding paragraph 3 of Regulation 3.2, I understand that in Committee No. 2 it had been unanimously decided to add, after the word "seafarers" the words "employed as ship's cooks" would be inserted. Paragraph 3 should read: "Seafarers employed as ship's cooks, with responsibility for food preparation, must be trained and qualified for their position on board ship."

Mr. SMEJFELL (*Government, Norway*)

I will be brief. I have discussed this with the Japanese representatives and I agree with what they have said. A joint proposal was made by the social partners for a new text for Regulation 3.2, paragraph 3; it was agreed on in the Committee.

I would just like to take us back to what was just said, in relation to hospital accommodation, by Ms. Doumbia-Henry. Not to waste too much time but the proposal made by the Drafting Committee, in its document D.15 to Committee No. 3, says "The Drafting Committee, at the request of the Steering Committee, transferred Guideline B4.1.1, paragraphs 1 to 4, to Guideline B3.1.7 as a new Guideline B3.1.7(bis). This transfer has caused consequential modifications to Standard A3.1, paragraph

4, with the addition of a new (f), as well as the move of Standard A4.1, paragraph 4(a), to Standard A3.1, paragraph 4, between (m) and (n).” This is what was decided in my Committee when we got the proposal from the Drafting Committee.

So, the way I understand it is, since we had debated that issue, the wording decided in Committee, the placement of it in Title 3, is the correct decision.

Ms. DOUMBIA-HENRY (*representative of the Secretary-General of the Conference*)

I think it is very clear that we have verified many times that Committee No. 3 did not wish to transfer the relevant Standard: that was a suggestion by the Drafting Committee that you took on, but it was not the recommendation of Committee No. 3. So what I would propose, at this stage, is to stay with the Committee’s decision for now and subsequently that can be looked at with any proposals by the Drafting Committee that will be established when examining the text. I do not think it is useful now for us to revisit this issue. I think that is the best way to go forward.

Original French: The PRESIDENT

If there are no objections, it is so decided.

(*It is so decided.*)

Mr. VASSALLO (*Government, Malta*)

We have noticed that sometimes the word “engaged” and sometimes the word “employed” is used in the text. I would like to know if a decision was made to use one word or the other, or whether this question will be considered by the Drafting Committee. Unless, of course, a committee decided that we should use one word or the other.

Original French: The PRESIDENT

The Drafting Committee will take up that particular issue. Are there any further comments?

If there are no further comments, may I take it that the Regulations in Title 3 are adopted?

(*Regulations 3.1 and 3.2 are adopted.*)

If there are no objections, may I take it that Title 3, as amended, is adopted?

(*Title 3, as amended, is adopted.*)

We shall now move to Title 4.

Mr. COX (*Shipowner, United States*)

In paragraph 1(c) of Standard A4.3 (page 65 in the English text), in the second line, the word “ensuring” should be deleted, as per the report of Committee No. 3 which indicates that we adopted a working party text, as amended in paragraph 205. This text, which can be seen in paragraph 185 of the report, does not contain the word “ensuring”; therefore, this should be deleted.

Ms. SMITH (*Seafarer, Norway*)

In Guideline B4.3.1, paragraph 2 (page 68 in the English text), in the final paragraph, that follows subparagraph (q), it says “these measures should take due account” and it should be “the necessary measures should take due account”, in compliance with the report of Committee No. 3, paragraph 256, page 30.

Ms. DOUMBIA-HENRY (*representative of the Secretary-General of the Conference*)

The text should read “the necessary measures”, unless there was a decision to the contrary.

Original French: The PRESIDENT

The insertion of “necessary” is noted.

If there are no further comments, may I take it that the Regulations in Title 4 are adopted?

(*Regulations 4.1 to 4.5 are adopted seriatim.*)

If there are no objections, may I take it that Title 4, as amended, is adopted?

(*Title 4, as amended, is adopted.*)

We shall now turn to Title 5.

Mr. HAJARA (*Shipowner, India*)

In Regulation 5.1.1, paragraph 1, as reflected in page 25 of the report of Committee No. 1, the wording should be: “Each Member is responsible for ensuring implementation of its obligations under this Convention.” If there is no comment on that, may I continue with one or two other comments?

Original French: The PRESIDENT

We are looking at Regulation 5.1.1. Are there any further comments on this Regulation? Let us continue.

Ms. DOUMBIA-HENRY (*representative of the Secretary-General of the Conference*)

You will recall that yesterday, in our discussions of the report of Committee No. 1, we agreed that the Office would include for today the provisions of paragraph 4 in Regulation 5.1.3, which has been done. You have to indicate whether this conforms with the agreement in that Committee that the provision should be included.

Original French: The PRESIDENT

We note that there are no objections.

(*It is so decided.*)

Mr. HAJARA (*Shipowner, India*)

Regulation 5.1.3, paragraph 5, as reflected in page 30 of the report of Committee No. 1 – decided to replace “the Code”, with “Part A of the Code”.

Original French: The PRESIDENT

If there are no objections to this proposal, it is accepted. Are there any further comments?

Mr. HAJARA (*Shipowner, India*)

Again in Regulation 5.1.4, we need to modify paragraph 2 in line with what we decided a short while earlier and replace “the Code” with “Part A of the Code”. There are also some “shoulds” that should be changed to “shalls”.

Original French: The PRESIDENT

The secretariat has noted that.

Mr. ORRELL (*Seafarer Vice-President*)

With regard to Standard A5.2.1, paragraph 3, the bracketed text has been dropped. It should be noted that the subparagraph referred to, which was previously 1(c), is now 1(d).

Original French: The PRESIDENT

The secretariat has noted that. If there are no further comments on the Regulations in Title 5, may I take it that they are adopted?

(The Regulations are adopted seriatim.)

If there are no objections, may I take it that Title 5, as amended is adopted?

(Title 5, as amended, is adopted.)

If there are no objections, may I take it that the draft Convention, as amended and as a whole, is adopted?

(The draft Convention, as amended and as a whole, is adopted.)

Before we move to the consideration of the reports of the Steering Committee, I would like to give the floor to those who wish to make general statements following the adoption of this important document.

Original French: Mr. BURGHELLE-VERNET (representative of the European Union)

If you will allow me, I would like at this stage of your work to make a statement on behalf of the European Commission. The European Commission welcomes the fruitful initiative of the International Labour Organization towards the preparation of this draft consolidated maritime labour Convention and thanks the Organization for closely associating the European Commission with the preparation of the draft Convention from the very beginning of the work. The European Commission has supported the work of the International Labour Organization and has contributed to the coordination of the positions of the European Union Member States. This draft Convention provides an effective approach to achieving a level playing field in the world market and a quality merchant fleet that respects safety criteria and employment conditions in order to create fairer competition in the interest of all parties concerned. This is a key issue for the European Union maritime and shipping industry, which operates a substantial amount of the world's fleet and is a source of employment for 2.5 million people.

As you know, since the creation of the International Labour Organization, the international context has changed and the existence of regional integration organizations cannot be ignored, in particular in relation to transport and social legislation and policies. The importance of the regional dimension in better managing globalization was also underlined by the report of the World Commission on the Social Dimension of Globalization established by the International Labour Organization. The European Community is currently made up of 25 sovereign States which have transferred a large number of responsibilities including commensurate international treaty-making responsibilities, so the European Commission considers that the European Community should assist and cooperate with the International Labour Organization. This can facilitate the achievement of the objectives of the draft consolidated maritime labour Convention. Indeed, through its institutional, legal and other instruments, the European Community can provide effective means to help in this task, complementary to those of its Member States, in particular when it comes to shared responsibilities such as health and safety at work, working conditions or port state control. The European Community even has exclusive responsibility, in the coordination of social security schemes which are of interest to European citizens and third country nationals legally residing in a European

Union Member State and working in another European Member State. Therefore, a pioneering text such as this draft Convention should take these developments into account and should reflect the contribution of the European Community as such in a way that it is obviously not a substitute for Member States' obligations.

At the European level, a wide role is conferred to social dialogue for standard setting as well as for ensuring the involvement of social partners in relevant policies. In that respect, the legislation on working time is an example of the extension of the agreement between the social partners based on the Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180), of the International Labour Organization, making it a legally binding document. Social dialogue at a European level is complementary to national and international social dialogue and, in terms of advantages provided to social partners, it is as clear that better implementation of European legal instruments would ensure better guarantees. In these circumstances, the European Commission is of the opinion that arrangements to allow the participation of regional integration organizations such as the European Community should be explored in order that they can make an appropriate contribution to this specific draft Convention while naturally respecting the particularities of the International Labour Organization.

While it is acknowledged that at present only members of the ILO can ratify its Conventions, the European Commission intends to propose to the European Union Member States and social partners further consideration of the best way to reflect this participation in the draft consolidated maritime labour Convention of the ILO and to assist the ILO in its global standard setting. The European Community might thus revert to this issue at a later stage with concrete proposals for consideration by the Maritime Conference.

Original French: Mr. ZEBIRI (Government, Algeria)

The delegation of Algeria welcomes the results of the work of our Conference, particularly in light of the scale and complexity of the task. These results are considerable. With regard to the objectives of the future Convention and the huge amount of work accomplished over the past two weeks, we remain optimistic as to the continuation of efforts to eliminate outstanding issues in the tripartite meeting which is to take place at a subsequent stage.

On this occasion, the delegation of Algeria is particularly pleased to note the efforts undertaken in the room by all participants to this Conference, and the results which we have just examined are eloquent testimony to these efforts. We would like to express our congratulations in particular to the President, Mr. Schindler, for his inspired leadership of the work of the Conference to safe harbour and also to the supporting personnel of the Organization for the undeniably decisive role they have played in the continuation of the work of this Conference.

Mr. TERANISHI (Government Vice-President)

I would like begin by thanking the President for his fair and effective chairmanship which guided us all on our difficult voyage. My special thanks go to Ms. Doumbia-Henry and her team for their tremendous devotion and excellent guidance, without which we would not have been able to achieve such substantial progress in this Preparatory Technical

Maritime Conference. I also wholeheartedly thank the social partners and Government colleagues for their contributions based on their expertise and their professionalism.

This delegation is strongly committed to the successful completion of our common task to secure seafarers' working and living conditions based on a solid and enforceable Convention which may well be widely ratified. Such a Convention will provide a sound foundation for the future development of the maritime community as a whole by providing internationally recognized standards that level the playing field. This delegation is determined to enable as many seafarers as possible to benefit from the Convention in whichever countries they reside and regardless of the flag of the ship they are on board sails under.

In my capacity as regional coordinator for the Asian and Pacific group I am pleased to say that I share this goal with many colleagues from the region. We tried to identify major obstacles to its wide ratification and studied them closely. I am convinced that we worked not only for our individual country's sake, nor our own region's sake, but for the sake of the entire maritime community in the world so that this Convention can be globally ratifiable and enforceable. While we made our best effort to address our major concerns along these lines, several difficulties still remain to be settled. This delegation is both ready and willing to make every effort to sort out the remaining issues with the social partners and our Government colleagues in good faith.

**REPORTS OF THE STEERING COMMITTEE:
EXAMINATION, DISCUSSION AND APPROVAL**

Original French: The PRESIDENT

I propose that we proceed to adopt the third and fourth reports of the Steering Committee and the resolutions contained therein. These are to be found in the *Record of Proceedings* 2C and 2D. As Chair of the Steering Committee, I present these reports to you.

The Steering Committee noted that the PTMC would be unable to deal with amendments to unbracketed text and that, at present, there were no procedures for bringing forward amendments tabled at a preparatory maritime conference to the Maritime Session of the International Labour Conference. Furthermore, the Steering Committee noted that the Drafting Committee could not fully perform its task. For these two reasons, the Committee prepared a draft resolution that is contained in *Record of Proceedings* 2C (paragraph 5). I propose that we proceed to the adoption of this draft resolution, starting with the Preamble.

Mr. ORRELL (*Seafarer Vice-President*)

I certainly do not want to slow you down, but we have some information as it relates to footnote 4 in the *Record of Proceedings*, No. 2C where there is some confusion about Morocco. Please allow me to provide that information so that it can go into the record.

There has been a letter contesting the composition of the delegation which the Seafarers do not support. However, the main issue is the non-payment of the travel and subsistence expenses of the Seafarer delegate who is present but is from a different union. Since the report was written we have been ad-

vised that Tunisia has paid the expenses of the Seafarer delegate; we have also received a letter from the Republic of Korea advising that this matter will be addressed in the Republic of Korea. We are pleased to note that these two countries have fulfilled – or will fulfil – their constitutional obligations.

Original French: The PRESIDENT

The secretariat has taken note and will make the necessary changes.

In my presentation, I only spoke of the first part of this *Record of Proceedings*. The second part, from paragraph 6 onwards, draws attention to the situation of certain incomplete national delegations and to the absence of an analogous body to the Credentials Committee of the General Conference.

Now that we have brought up these two issues, we shall examine 2C as a whole. I propose that we start with paragraphs 1-4, which are introductory paragraphs.

As there are no observations on paragraphs 1 to 4, they are approved.

We shall proceed to paragraph 5 which contains the draft resolution. Are there any comments on paragraph 5?

Mr. ZHANG (*Government, China*)

The Government members considered this draft resolution this morning. We will support the draft resolution, in general. However, the Government members believe that the working group should be open to the governments of all member States and we are proposing a minor amendment. In addition, the suggestion has been made that the working group envisaged in the draft resolution and the meeting on the unresolved bracketed provisions should be conducted back to back to facilitate the participation of member States and to reduce costs.

The amendment relates to the fifth paragraph on page 2C/2, which begins with “establishes a tripartite working group”. We would like to strike the words “composed of the officers of the PTMC and the parties having submitted amendments to unbracketed text” and replace them with “which will be open to the governments of all member States”, and in line 4 of the same paragraph, to replace the word “consensus” with “general tripartite agreement”.

Mr. ORRELL (*Seafarer Vice-President*)

As all the Governments at the PTMC have the opportunity to submit amendments to unbracketed text we could understand the resolution being restricted to those parties who had submitted it. We have no objection to having any tripartite working group that is open to all member States. However, we wonder why it is suggested to delete the reference to the officers of the PTMC. We feel that there is a value in continuity and an understanding of what has gone on in the past two weeks. We would therefore propose that any deletion is after the PTMC.

We would also like an explanation about what “general tripartite agreement” means. Does it mean that if two or more Governments disagree then there is no general tripartite agreement? I understood the terminology for these things was consensus, but we may need a couple of hours now to consider a definition of “general tripartite agreement”. Could we have some advice on that?

Mr. LINDEMANN (*Shipowner Vice-President*)

The formulation that was proposed now by the Government spokesperson would seem to exclude the Seafarers' and Shipowners' groups. It is obvious that they should be included because this is a tripartite group. Simply saying "composed of Governments" is not enough, so I think this wording should be changed so that it also includes these two social partners.

Ms. DOUMBIA-HENRY (*representative of the Secretary-General of the Conference*)

If we look at the fourth report of the Steering Committee, we can see that there is a reference to: "representatives designated by the international organizations of shipowners and seafarers"; that mention could also be added to "the officers of the PTMC", as proposed. The Office can amend the text appropriately along those lines, if there is no objection to the principle as far as these additions are concerned.

As regards "general tripartite agreement", this clearly does not mean that if one or two Governments disagree there is no general tripartite agreement; I think the term gives greater flexibility than "consensus", because if one Government objects then consensus can be at stake. Indeed, it was felt that "general tripartite agreement" gave greater flexibility. It does not mean unanimity, it means the views of a small minority may be considered but without impacting on a general tripartite agreement.

Original French: The PRESIDENT

Has the secretariat's explanation satisfied you?

Mr. ORRELL (*Seafarer Vice-President*)

This would have been acceptable if we had not gone through the last two weeks, where there has been difficulty understanding whether there has been substantial agreement – and where there has been difficulty in identifying whether there has been a substantial minority or a substantial majority. We need to give further consideration to your definition of consensus, because my understanding of the house's consensus is that it is not harmed by a number disagreeing. I hope the secretariat can understand our concerns.

Ms. DOUMBIA-HENRY (*representative of the Secretary-General of the Conference*)

I certainly understand your concerns, but consensus is when people do not agree but they would not stand in the way of a decision, whereas if they objected they would stand in the way of consensus. If they do not have strong views they do not object to the consensus, so that the decision can be taken on the basis of consensus. But I see your concern in view of the events of last week.

Mr. ORRELL (*Seafarer Vice-President*)

I think we would prefer to stay with "consensus".

Original French: The PRESIDENT

We have two new proposals. The first is a Government proposal, reworded by the secretariat, which consists of adding "open" to the governments of all member States. The second, from the Seafarers, is to maintain the word "consensus" in line 4 of the paragraph.

Mr. ORRELL (*Seafarer Vice-President*)

Ms. Doumbia-Henry indicated that we could use the wording of subparagraph (a) in the *Record of*

Proceedings No. 2D. I mean "convene a meeting, at no direct cost to the Office, which will be open to representatives of all governments attending the PTMC, as well as representatives" etc. This sort of wording would cover the point that was being made by the Seafarers for the operative part of the resolution.

However, we would prefer the Officers of the PTMC to be specifically identified as being part of that working group. I would point out that the concept of the working group might mean that it has more than one meeting and, we shall just take advice on whether they could be back-to-back to save costs for those that need to save those costs. To be clear, the Seafarers are quite amenable to changing the words to take account of the Shipowners' point, which was a good one.

We would like the Officers of the PTMC to be there. I am not sure about all Government members of the ILO as opposed to those that are attending the PTMC. There will probably not be any other option, but if governments who have not participated during these two weeks come along and start having their two pennies' worth or their say on amendments about which they know nothing or do not understand the debate that has gone on, then this will not help towards finding a consensus or whatever you determine it should be. But as regards the term "consensus", we agree that it should remain in the text.

Original French: The PRESIDENT

A proposal has been made by the Government group. It has been amended by the Seafarers. I would like to know what the Governments think so that the secretariat might get some guidelines for drafting.

It seems to me that opening up to governments raises no problems. It is, nevertheless, a question of determining whether it is all governments or only those having participated at this Conference. Likewise, do we keep the present text, in particular the phrase to the effect that the Officers of the PTMC should be part of the group?

And lastly, the term "consensus". Could I have some feedback please? I also need feedback regarding the inclusion of representatives of Shipowners and Seafarers.

Mr. VASSALLO (*Government, Malta*)

Within the Government group it was our delegation which suggested that there should be no limitations on the number of countries in the working group.

We did not make any changes because we did not have any problem with the words "composed of the Officers of the PTMC". We did not talk about that, we did not have any problem with that and we still do not have any problem with that. What we would like is for all the Governments, including those who have not participated in this Meeting, to be able to attend the working group based on the principle that it is not right to exclude any Member of this Organization from attending any meeting; they might also have to accept the Convention when the time comes. So I do not think it is right to exclude anybody. I do understand that it could cause some difficulty.

However, there are more pressing issues and that is why this delegation feels that all Governments should be invited to attend the working group, irre-

spective of whether they have participated or not. But I repeat, we have no problem at all in keeping the phrase “composed of officers of the PTMC”.

Mr. AZUMA (*Government, Ghana*)

I join with the previous speaker in insisting that all governments should be invited. I am thinking as a Government representative, being a minister, that there may be very good reasons why many more Government representatives are not here. Since what we decide may be binding on all of them, if there is any opportunity where as many Government representatives could be invited, that should be done. As regards the Officers of the PTMC, I agree with that; I think that ought to be made quite clear.

Mr. CONSTANTINO (*Government, Cyprus*)

We appreciate the comments made by Mr. Orrell. In our experience, we believe that there will not be any additional governments at the meeting since they have not bothered to participate during the last two weeks. I see it only as a remote possibility that a new government might wish to discuss those matters.

Mr. SHAH (*Government, Pakistan*)

I fully subscribe to the views expressed by the delegates of Malta and Ghana. We want to give everyone the chance to participate. Perhaps for certain reasons some governments were unable to attend. I do not see any harm in giving all member States of the ILO the change to participate.

Original French: The PRESIDENT

We have heard some good feedback about the beginning of the text. The secretariat can deal with the drafting, but I have heard nothing about the shades of meaning between “consensus” and “general tripartite agreement”.

Mr. NYGAARD (*Government, Norway*)

We would like to suggest to the Seafarers that the proposed amendment does not affect them in any negative way. Clearly, the term “general tripartite agreement” would mean that any proposal which is not supported by Seafarers will not move on to the main Conference under this procedure. It would have to be reintroduced in accordance with the rules of procedure of the Conference itself. On the other hand, if the term “consensus” is used one single government could block the amendment which, as I would assume, would significantly complicate the work of the Conference as governments would then have to present a much large number of amendments at the Conference as they would not move from this preparatory meeting and into the Conference under those rules. It is therefore our suggestion that the word “consensus” should not be used and that we should find another term in accordance with what has been suggested here.

Mr. ORRELL (*Seafarer Vice-President*)

I am obliged for this explanation and it was fairly close to what Ms. Doumbia-Henry was explaining as well. However, our understanding is different on consensus as understood by the Governing Body of the Organization. Perhaps we can prevail upon the members of the Governing Body to help the Seafarers on this issue of consensus.

Original French: The PRESIDENT

Before doing that, I shall call upon the Legal Adviser to give his opinion.

Original French: The LEGAL ADVISER OF THE ILO

First of all, I will try to explain what a consensus is, because I think there is some confusion about the meaning of the term.

Consensus is a decision-making process that does not require all the participants to agree. Consensus simply requires that no participants should object to the decision that is to be taken. This means that a participant – a Government or a group – may have reservations and may express reservations about a decision made by consensus and yet still join the consensus.

Thus, consensus is rather a negative stance by States or groups who refrain from indicating that they formally object to a decision that is being taken.

An agreement seems to me to be something more positive. That is to say that if there is agreement, even if we take into account that the agreement has to be “general”, I fear that that is something more positive. In effect, if a government decides that it does not agree, or that it cannot agree, with the decision which is to be taken, then the decision cannot be taken.

If a group objects to an agreement, there is no decision. There will be no decision if a participant says “I do not adhere to this agreement. I do not take the positive step of adhering to the agreement so that it can be taken.” That is how I understand the matter. Lastly, I would like to say that the term “general tripartite agreement” is not a usual International Labour Organization terminology and I feel a little uneasy in providing this response without really knowing what is behind the terms that you have used in your draft amendment.

Original French: Mr. ROUSSEL (*Government, Canada*)

With this excellent explanation by the Legal Adviser of the ILO, Canada has no choice but to accept the word “consensus”, or to “join the consensus”.

Mr. NYGAARD (*Government, Norway*)

Please forgive my ignorance; I would like to ask the Legal Adviser whether the term “general consensus” could be applicable? If we have a small minority objecting to something, should we not take its view into account?

Original French: The LEGAL ADVISER OF THE ILO

The term “general consensus” is not used in the French version – I have not got the English version of the text of the resolution in front of me. The French version refers simply to “consensus”. There is no such thing as particular or general consensus. A consensus, as I explained, means that no party objects or makes a formal declaration of their disapproval of the decision to be taken. That does not mean, however, that the party totally accepts the decision to be taken, simply that they can go along with a general decision. There is no such thing as “general consensus” or “particular consensus”. There is simply “consensus” and it is an inappropriate use of language to speak of “general consensus”.

Original French: The PRESIDENT

Thank you, Mr. Picard. Since we are speaking of the inappropriate use of language, your President is desperately seeking an agreement on “consensus”.

Mr. ORRELL (*Seafarer Vice-President*)

You have got our agreement on “consensus”. My understanding of the legal opinion is that it is normal ILO terminology and that having an agreement means that if one government, for example, says “I do not agree,” then you have not got an agreement – and I thought that was what we were trying to avoid. We would actually be doing what the representative of the Secretary-General wants, but by using the word “consensus” to do it. That is how I understand it. I hate to say this but as we are at ILO headquarters, why do we not use ILO concepts and procedures? Why I hesitated saying that is because we have been mangling them all up for the past two weeks. The whole procedure is innovative, to say the least; that point is fairly clear. If necessary, we could call upon the Governing Body members to have their say in plenary; after all, they have been here with us for two weeks.

Ms. SOLLING-OLSEN (*Government, Denmark*)

I do not think that I would be qualified to go into a discussion about “general consensus” or “consensus”. To me consensus would be general. We have heard Mr. Picard’s views on this matter. If it is the terminology that is used here in the Organization and if the phrase “general tripartite agreement” causes some uneasiness, and if the Seafarers would prefer to keep the word “consensus”, my Government would not object. I hope that that will go for other Governments as well, so we can finally reach a consensus.

Mr. LINDEMANN (*Shipowner Vice-President*)

I think the explanation we heard from the Legal Adviser was very helpful because it means that consensus does not require the support of everyone, and that is exactly what we thought and what the Government group was seeking with its proposal. With this explanation, I think the Shipowners’ group can support the word “consensus”.

Ms. MALHOTRA (*Government, India*)

As we are dealing with a resolution that should be in line with the Constitution of the ILO, and as the ILO has expressed a legal opinion in line with that language, I suppose we should use the word “consensus”.

Government delegation of Brazil

Having heard the explanation of the Legal Adviser, the Brazilian delegation would like to express its support for the use of the word “consensus”.

Original Spanish: Mr. TULLEN (*Government, Ecuador*)

I simply wanted to agree with those who spoke before me. My delegation also supports the use of the word “consensus”.

Original French: The PRESIDENT

Are there any objections to the use of the term “consensus”?

Mr. NYGAARD (*Government, Norway*)

I am not asking for the floor in order to block a consensus, but to indicate that the term “tripartite consensus” might be more appropriate. It is my interpretation that “consensus” means that one Government can block a decision to send a text on to the main Conference, whereas “tripartite consensus” means that there would have to be consensus between the three groups; in the case of disagreement

within the Government group, a decision would have to be reached according to a majority-based mechanism. It would therefore be better to use the term “tripartite consensus” instead of just “consensus”. I would be pleased to hear the Legal Adviser’s view on this point and whatever it is I will adhere to the consensus.

Original French: The LEGAL ADVISER OF THE ILO

If it is a tripartite group that is meeting, the consensus will necessarily be tripartite.

Original French: The PRESIDENT

That being the case, I think that the secretariat now has sufficient elements to redraft this paragraph, including, at the beginning, opening it up to all Governments and, on the mode of decision, using the term “consensus”.

(It is so decided.)

I now propose to move on to paragraphs 6, 7 and 8 on the composition of national delegations and payment of their expenses.

Original Spanish: Ms. ROVIROSA (*Government, Mexico*)

My delegation would like to indicate that, as regards footnote 4 (paragraph 6), the claims made by the *Orden de Capitanes y Pilotos Navales de la República Mexicana* have been considered by the labour authorities in Mexico and a report will be made available to the Office.

Ms. MALHOTRA (*Government, India*)

The representation, as indicated in paragraph 6, shall be communicated to my Government duly, and we shall get back to the Office on this.

Mr. SHAH (*Government, Pakistan*)

I would assure the plenary and the ILO Governing Body that the issue raised in the footnote to paragraph 6 will be dealt with very seriously by the Ministry of Labour, and I am quite confident that this issue will be addressed to the satisfaction of the complainants.

Original French: Mr. CALIENDO (*Government, Italy*)

Joining with the previous speaker, I would like to say that the matter of the complaint put forward has been drawn to the attention of the competent authorities and we hope that it will be resolved.

Original French: The PRESIDENT

If there are no objections, may I take it that the third report of the Steering Committee, as amended, is approved, and the resolutions it contains are adopted?

(The third report of the Steering Committee, as amended, is approved, and the two resolutions it contains are adopted, namely the Resolution concerning a procedure to deal with amendments submitted to the PTMC on unbracketed text and a Resolution concerning credentials issues raised at the PTMC.)

I propose that we should move on to the fourth report of the Steering Committee contained in the *Record of Proceedings* No. 2D. It contains a draft resolution concerning the procedure to deal with the parts of text in the recommended draft Convention which are still in square or soft brackets due to the fact that no tripartite agreement has been possible on these points. The document contains two introductory paragraphs (paragraphs 1 and 2). Paragraph

3 contains the draft resolution which the secretariat is proposing to modify to bring it into line with what we have approved previously. These changes will be indicated to you to ensure that they are clear to everybody.

In paragraph (a), it is essentially a question of opening the debate to all Governments, and in paragraph (c) of communicating, for comment, all new wording on which tripartite consensus has been reached, in accordance with what we have decided previously.

May we now consider that the fourth report of the Steering Committee and the resolution contained therein, as amended, is approved as a whole.

(It is so decided.)

(The fourth report is approved and the resolution it contains adopted, namely the Resolution concerning a procedure to deal with unresolved issues in the bracketed texts of the draft consolidated maritime labour Convention.)

I consider, with this last decision, that we have completed our work for this Conference.

It now only remains for us to ask for some indications about the drafting group.

Ms. DOUMBIA-HENRY (*representative of the Secretary-General of the Conference*)

These concern the drafting group on the resolution contained in 2C. The drafting group will comprise one Government representative, one Shipowner representative and one Seafarer representative. We would be very happy to receive nominations so that we can contact those concerned and convene the drafting group. That would be very difficult to do once the session is over, particularly as far as Government representatives are concerned. Do the Governments have someone to nominate for the drafting group?

I have not raised the matter with the Government group but Canada and the United Kingdom were on the drafting group. I do not know whether you wish to retain that combination, or at least Canada. Do you have any objections to that, as Government group. I have not consulted Canada at all, but I am looking for an easy solution.

Mr. ROUSSEL (*Government delegate, Canada*)

We will be pleased to accept but it is up to the Department of Labour to decide and I am from the Department of Transport, so we will accept with the reservation that we can make appropriate arrangement for our departments back home. I am not in a position to decide with the delegation we have now. We politely accept.

Ms. SOLLING-OLSEN (*Government, Denmark*)

I hope this proposal can be accepted with a consensus. Denmark will not object to that but if Canada has the slightest difficulty and cannot accept to undertake the task then we will not be able to reconvene the whole Government group. Perhaps we need a back-up here. I will call upon the United Kingdom to ask them if they would take on this task if the Canadians were unable to do it.

Mr. SADLER (*Government, United Kingdom*)

I was advised not to volunteer but if you wish me to accept, I will do so.

CLOSING SPEECHES

Original French: The PRESIDENT

I thank you for that.

We shall now proceed to the closing ceremony of the Preparatory Technical Maritime Conference.

I would like to inform delegations of an exceptional occurrence during the Conference. We have amongst us Mr. Abdulgani Serang, Seafarers' delegate. His grandfather was here from 1946 to 1962 and his great-grandfather was here in 1936. A remarkable example of continuity.

This brings us to the end of our work and, as tradition would have it, I will ask the three Vice-Presidents, representatives of the three groups, to share with us their comments on the meeting, after which I shall make a brief statement.

Mr. LINDEMANN (*Shipowner Vice-President*)

Actually, I am reminded of that Monday or Tuesday of the opening meeting. I said some words to the effect that we were looking forward to a successful Conference. Now we have finished the Conference and looking back, I am going to repeat some of what I said on that Tuesday.

Mr. President, dear Mr. Jean-Marc Schindler, on behalf of my colleagues in the Shipowners' group, I would like to thank you and the secretariat for your diligence during this Preparatory Technical Maritime Conference. As I stated at the beginning of the meeting, following the last High-level Group meeting in Nantes, you were cited in "Lloyds list" as saying that our objective is to have a Convention which is ratified as the same level as SOLAS and MARPOL that will be ratified by around 100 countries. Whilst progress has clearly been made in some areas over the last fortnight, in others we still have significant work to do to produce a Convention that meets the original objective. We will return to this in the inter-session meeting and, if necessary, at the final Conference.

We continue to trust in your ability to steer this important Convention in the right direction so that we can fulfil its ambitious remit in a responsible and timely manner and, at the same time, fulfil all our aspirations which are shared by many of us. We were invited to come to Geneva for a truly important mission: to lay the foundation for an all-encompassing ILO maritime regulatory contract to govern the working and living conditions of the worldwide seafaring community by consolidating and updating all existing maritime instruments.

Many of us have worked together at various different stages over a number of years, some of us for as long as six years and we knew from the beginning that this was going to be a tough challenge.

We knew that there was no precedent in the ILO for the sheer number of revisions being carried out at any one time to incorporate and update 68 existing maritime instruments into one instrument which aims to cover virtually all aspects of working life at sea, notably contracts of employment, working hours, food and accommodation, training, safety and health and social security cover.

We also recognize that the new Convention will break with the ILO standard-setting procedure of having separate mandatory Conventions and non-mandatory Recommendations. Instead, we will see an "all-in-one" consolidated Convention with different responsibilities in the four different layers.

Process-intensive and extensive tripartite consultations and discussions took place prior to this Conference. These, we believe, helped to facilitate progress made during this meeting and we believe the interim meeting being proposed by the Office will assist us in making further progress at the final Conference. We believe that the innovative process at this meeting helped to facilitate debate and assisted us in providing a refined text for the final Conference. The Shipowners' group is still focused in its desire and enthusiasm for a successful instrument and is committed to working with the Seafarers and the Governments to resolve some concerns identified at this meeting.

Although it was not possible for this meeting to deal with all the text of the Convention, the general result of the discussions has been to narrow significantly the areas of debate for final discussion and, consequently, facilitate the work of the final Conference.

We had originally hoped that the final text of the Convention would be robust in all areas and more or less agreed upon by all groups before this Preparatory Technical Maritime Conference actually concluded. This has, of course, proved too ambitious with some areas of debate still remaining as text in square or squiggly brackets – or now in no brackets because there is no text to be seen at all. But we are encouraged that so many of the issues on the maritime labour standards in Titles 1 to 4 are now resolved and we are optimistic that we will be able to find solutions to the remaining issues, particularly in the Articles and Title 5 on compliance and enforcement.

We, the Shipowners' group, believe we have made progress and we commend the Office for its diligence and hard work over the last fortnight in the production of the proposed draft Convention and the commentary before us. We are impressed by the work of all involved headed by Ms. Doumbia-Henry, who worked so hard on our behalf. We still have a lot of work to do to make sure that the text is clearly and unambiguously written so that seafarers and shipowners understand their rights and obligations.

Our guiding principle is still to ensure the highest achievable common international standards in this Convention – widely ratified and effectively enforced on a worldwide basis. Therefore, we will continue to see our prime test as being whether or not the provisions in the draft instrument will encourage or discourage ratification. If it appears that the inclusion of a particular provision will discourage widespread ratification, we will support the removal of that provision.

The text has been pruned but it still contains some obligations that are too detailed or simply not necessary; this will discourage widespread ratification. The Shipowners group will review the final text to see if further improvement can be made.

More work is needed regarding the definitions, including the definition of a "seafarer" and the scope of application of the detailed Title provisions.

We know that the new Convention represents tremendous progress but existing ILO maritime Conventions will nevertheless, stay in force for a long time to come – even 30-40 years.

Once again let me reiterate that the Shipowners' group will do all it can over the next 18 months to ensure that we attain the original objective.

Mr. ORRELL (*Seafarer Vice-President*)

We are coming to the end of this stage of the long journey which we still hope will resolve in a positive outcome, one which will meet the high expectations of the seafarers, many of whom who look forward to a new maritime regime that this Convention has the capacity to establish.

Our original objectives remain – the adoption of a new Convention which is clear, easy to ratify and to implement – while providing meaningful minimum standards which are effectively implemented in practice and establish a level playing field.

We want widespread ratification without having an instrument that reduces existing standards.

The seafarers' bill of rights should secure decent living and working conditions for seafarers and, in doing so, further the decent work agenda of this Organization.

The adoption of strong enforcement and compliance mechanisms is essential if we are to provide an effective means to eliminate substandard shipping and substandard operators. They should redress the marginalization of seafarers and begin to remedy the decent work deficit which we all agree is prevalent in our maritime sector.

There has been considerable progress at this Conference and now most of what was bracketed text can be regarded as mature.

We have in the process addressed, in a positive manner, a number of issues which were fundamental to the seafarers and this is encouraging.

However, there are a number of other fundamental issues which still have to be addressed. They include preventing large numbers of seafarers being excluded from the scope of the Convention and the provision of a strong compliance and enforcement system through flag state control, supported by port state control.

We also still have to secure the right balance in the provision of social security protection, between the State of residence and the overriding obligations, which international law bestows on the flag State.

It is to be hoped that the pragmatic mechanism that the Office has provided for dealing with the unresolved and controversial text mostly from Title 5, will go some way to securing a positive outcome.

In some cases, text which was formally in brackets and has been forwarded to another meeting to be held before the final Conference may have been an impediment to resolution of fundamental issues.

In the case of seafarers' complaints, we have suggested a way forward, firstly by establishing a grievance procedure in Title 2. Secondly, by providing a right to seafarers to "complain" (that is, pass information) to a port state control officer, thus further developing the current regime established by the ILO Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147). Thirdly, the attempts to impose a choice of law clause and the selection of a legal forum must be dismissed. It is after all ludicrous to try to use an ILO maritime labour Convention to address such issues, which would have other far reaching implications.

We should not try to reinvent the wheel but rather build on existing practices where the application of the professional judgement of port state control officers makes the current system work, in practice – in the real world. We all accept that the provisions of the Convention will be complemented by the

adoption of guidelines which will address the practicalities.

Having said all that, there is still a considerable way to go and we are dealing with an integrated and detailed document. It will require discipline from all concerned. We should not seek to open mature text, merely to secure editorial improvements. Neither should we seek to revisit areas where decisions have been taken even if we do not like the outcome.

Finally, we would like to thank all concerned: the staff from the Office, the elected Officers of the Conference, the groups and their spokespersons. This meeting would not have made a great deal of progress if translation facilities had not been provided and that has involved a considerable amount of work by a large number of people behind the scenes.

We also have to congratulate you Mr. President. Your diplomatic skills and assured style have been invaluable in the plenary sessions, and behind the scenes, for example, in the Friends of the Chair meetings.

It is on this basis that we look forward to the next stage of the process. There are many pitfalls ahead and it will require all to have a positive attitude to create a climate of mutual trust.

Original Japanese: Mr. TERANISHI (Government Vice-President)

As we all know, we are here to consolidate more than 50 ILO maritime instruments to put together effective global standards and this, indeed, is an unprecedented major undertaking. Needless to say, this Convention is very significant in protecting the living and working conditions of seafarers. We have come this far after four High-level Working Group and two Subgroup meetings since December 2001.

ILO maritime Conventions have been adopted over the course of 80 years by overcoming numerous difficulties through discussions between the social partners and the governments. Each Convention reflects in one way or another, the uniqueness of each era. Tremendous efforts are necessary to consolidate these instruments into one. We have taken on a formidable task on developing this historical Convention. We are fortunate that, as the report so far has proven, we have been able to make considerable progress towards the next maritime Conference. We need to capitalize on the momentum we have generated and make further efforts regarding the Maritime Conference.

Social, economic and cultural circumstances differ in each country. Seafarers around the world work day and night to carry goods and passengers in various environments. The working and living conditions of seafarers are not uniform. As the representative of the Seafarers' group mentioned this morning, there are still seafarers stricken with poverty and being exposed to miserable conditions. What we hope and strive to do is to deliver appropriate working and living conditions for seafarers around the world so that they can enjoy decent work. This in turn, we believe, will also pave the way for a level playing field in the shipping sector.

To achieve this, it is imperative that this Convention be ratified as widely as possible by countries all over the world. We realize that some countries still face difficulties in ratifying Conventions.

Let us continue to do our utmost for the happiness of seafarers around the world. Let us display our wisdom so that this Convention is effective and is

widely ratified. Together, let us navigate successfully, through and around the high waves.

Last but not the least, as Vice-President of the Government group, let me congratulate the President on his discerning leadership which was instrumental in the progress and success of this Meeting. My thanks also to Ms. Doumbia-Henry and her staff who devoted themselves to supporting us, even when the sessions went on until late. Also, let me express my appreciation to the team of interpreters who listened to and translated our interventions into various languages. And to all members from the three groups, the Government, Shipowners and the Seafarers; thank you for your efforts.

SECRETARY-GENERAL OF THE CONFERENCE

Having welcomed you nearly two weeks ago at the opening of this Conference, it is my great pleasure to now share a few thoughts with you at the close of our work. I shall try to do so without employing any maritime metaphors.

I have followed your work with great interest and I have also felt the intensity of the debates, including the frustrations, the relief of agreement and, on delightful occasions, the shared laughter and applause.

I have been struck by the immense effort and level of involvement on the part of everyone in achieving a common goal – the consolidation of maritime labour standards – a Convention that will be ratified and effectively implemented on a universal basis and that will truly improve the working situation of seafarers.

Over the two weeks of this Preparatory Conference, there has naturally been quite a divergence of views. But I have not sensed any real divergence in the commitment to the common goal. The focus has been on problem solving, on trying to understand the concerns and on finding the way forward. Special procedures intended to ensure as full a consultation and consideration of issues as possible were designed to further the challenging task facing the Conference. And I believe that they have, indeed, done so.

I might add, it is of interest for the rest of the ILO to learn of and examine your procedures, to understand them and to see what we can apply to other standard-setting activities.

Whilst some specific issues have not been resolved, the document that we have at the end of this Conference is remarkably close to a complete Convention. While not every word has been agreed to, and there are lacunae, a significant number of areas that had previously provided great difficulty, either for the social partners or for a number of Governments, have been resolved. The degree of sensitivity and difficulty of some of the questions cannot be underestimated. Yet this Preparatory Conference has proved that a large number of extremely difficult questions can be agreed upon.

Provided that everyone remains committed to achieving this Convention and remains open to the concerns of others, then the Office will certainly be able to successfully perform the facilitating role envisaged in the follow-up resolutions that this Conference adopted earlier today.

The arrangements that are referred to in the various resolutions will be developed to ensure progress is made on these remaining questions. All interested constituents will have the opportunity to be closely involved. The momentum achieved over the last

year and at this Preparatory Conference needs to continue. It will be reflected in the report that the Office will prepare for the Maritime Session of the International Labour Conference, which we hope to arrange in early 2006 – at least that date is our working hypothesis.

If the further preparation to be done is as successful as it should be, the gaps that have had to be left in the draft Convention will certainly be filled in a manner which satisfies all.

When I spoke at the opening of the Conference I wished you success in your deliberations to achieve a Convention that meets the broader social and economic goals of the ILO and the challenge posed by the objectives of effective national implementation and universality. The document we have now developed at this Conference represents a big step forward – and I am fully confident that you will take this idea along with you, together with the certainty that this has indeed been a very successful Preparatory Conference.

On behalf of all of us in the Office, not least on behalf of our Director-General, Juan Somavia, I wish to express our warm thanks to all the Officers of the Conference and Committees and to all Government, Shipowner and Seafarer representatives. You not only know your trade, you also know how to defend and advance your interests and how to reach agreement. It is a pleasure for the Office to work with competent, experienced people. Any Conference where a chair or a spokesperson has to undergo intensive, on-the-job training, when the conference is on, time is pressing and you have to cope with the peculiarities and idiosyncrasies of tripartite cooperation and negotiation in order to achieve consensus in whichever way the Legal Adviser interprets it can be a nightmare.

I wish to address my particular thanks to you, Mr. President; to thank you for the quiet, calm and yet omnipresent way in which you have overseen this Conference, both from your office, from the podium and through the Steering Committee. I can actually claim several years, in fact about three decades, of experience from both the floor and behind the podium with different chairpersons and, while not wishing to try to rank them – which is an impossible task anyway – if there is a top ten, sir, you definitely belong to it and closer to the top and not the bottom of that short list. Thank you on behalf of all my colleagues and an equal warm thanks to your three Vice-Presidents, Mr. Teranishi, Mr. Lindemann and Mr. Orrell, and, of course, thanks to the Governing Body delegation for the eagle eye with which they have watched over these proceedings.

You have, during yesterday and today, many times already thanked Cleo Doumbia-Henry and her staff, and not without reason. Cleo fully deserves the words you have addressed to her. We all, in the Office also, cherish her work, her engagement and her wit; and believe me, the Office will continue to thoroughly exploit her and her capacities – and she will be there for you as well. But truly she has also benefited from a fantastic team, both visible and invisible, and they deserve your thanks and will continue, as I said, to be there for you. A Conference of this kind has literally hundreds of people working for it. You have not seen all of the supporting cast. You have heard our indispensable and admirable interpreters, who deserve your thanks, but there is – if not an army – at least a battalion of people who ensure that you have meeting rooms,

papers, information, interpretation, answers to your questions, support, comfort and all the others things that you require.

I wish to conclude by asking you to join me in thanking them all for what they have done day and night for two weeks. Have a good trip back home and have a well deserved, good weekend.

Original French: The PRESIDENT

I would now like to draw a few conclusions from the past two weeks of work. To begin with, I would like to quote from a few of the opening speeches, so that we can see exactly what the situation was at the outset. First of all, Mr. Lindemann, Vice-President representing the Shipowners said: “According to the ILO, the shipping industry, after having played a pioneering role in the elaboration of international labour regulations, today finds itself one of the most deregulated industries after a quarter of a century of structural changes.” I hope that we shall be able once again to play a pioneering role. And then Mr. Tapiola, our Secretary-General, commented that: “A constructive dialogue among social partners has been an essential ingredient of the progress that has been achieved so far. This is combined with their shared will to address, in an imaginative way, some of the difficulties posed by an increasingly globalized economy and an international industry with an international workforce.” And then, finally, Mr. Orrell, Vice-President representing the Seafarers, said: “We want to secure the adoption of a new Convention which is clear, easy to ratify, easy to implement and capable of swift and forceful enforcement. At the same time, it needs to provide meaningful minimum standards which will be effectively implemented in practice and which establish a level playing field.”

These “secumarks”, these pointers in maritime terms, as well as the tremendous task and the very narrow path to be followed, clearly indicated that it was only through dialogue that we would find a way forward. But as President Edgar Favre said in his *Philosophy of reform*, and I quote: “Either choose the path of dialogue, exchange and openness and remain true to it, or do not choose it at all.” This policy is one which I opted for for the High-level Working Group and, according to Ms. Doumbia-Henry, the representative of the Secretary-General, who, as we all know, has played a vital role in our Conference, it worked. The period between 2002 and 2004, as well as the very intensive consultations which took place, represented real challenges because there were new ideas constantly arising and events unrelated to the work of the High-level Group influenced discussions regarding the Convention.

Many people have had an influence on the project and contributed to its present form. It was the only possible path to follow for this Conference. It is thanks to dialogue that we were able to overcome a large number of difficulties and I hope very much now that each one of you feels that your voice has been heard. I asked you to be daring and to show a spirit of cooperation and you did indeed do so.

Doubtless, some of you are not entirely satisfied. Yesterday, for example, we heard some express their fears and disappointment very clearly. The pessimists will consider that we failed to find solutions to many questions. The optimists might feel that we have been very successful. But I personally

think that after these two weeks of work we can objectively draw the following conclusions.

First of all, we have clearly solved more difficult points than remain pending. On the whole, the decisions which we have taken called for major effort as regards mutual understanding over issues which, in many cases, had been outstanding for two years.

Secondly, the draft recommended text which was presented by the High-level Working Group has, indeed, been validated and improved by this Preparatory Conference.

Thirdly, the Preparatory Technical Maritime Conference has fulfilled its mandate which was to prepare a consolidated Convention to be submitted to the 94th Maritime Session of the International Labour Conference. This draft will, of course, include the text which we have adopted today on the basis of a broad tripartite consensus, but at the same time it will be accompanied by comments and proposals from the Office formulated following tripartite consultations once again which will assist the Maritime Session in its work in finalizing the Consolidated Maritime Convention.

All this hard and productive work was made possible, first of all, thanks to all of you, thanks to your spirit of openness and cooperation. We need to ensure that this same spirit is ever more present during the next Conference, if we are to retain the mutual trust so essential to success.

As your President I am aware of the fact that this step which we have taken owes a great deal, as Mr. Tapiola said, to a number of people some of whom have been working in the open and others who have been working in the background, and I would like to thank them publicly here.

First of all I would like to mention the Officers of the Conference and those in the secretariat whose task was to help the President. They guided me and gave me their support throughout these two weeks of work, and I am also thinking here of the Chairpersons and Officers of Committees Nos. 1, 2 and 3, who carried out a really remarkable task. As you may remember from my introductory speech, I mentioned the great trust and confidence I had in the Chairpersons of our Committees and I think we can all agree that we clearly saw that that confidence was fully justified.

Moreover, it was with some satisfaction that I noticed a large number of women among the Officers of Committee No. 3 and I would like to suggest to the Secretary-General that this should be an approach which should be further adopted and developed in-house.

And then there are also the members of the Steering Committee without whose vision we might have gone astray on quite a number of occasions. I think about them in particular because I forced them to work very long hours in this temple of labour law.

Honour to whom honour is due. I am referring, of course, to the members of the secretariat of the Conference; the Secretary-General, Mr. Tapiola; Mr. Damen who wisely guided us and kept us on the straight and narrow regarding the way we had to proceed; Mr. Picard, whose wise advice both this morning and this afternoon was essential – and I did

wonder once or twice exactly where he drew his knowledge and wisdom from; of course, Cleopatra Doumbia-Henry, who had answers to all questions, whether they were addressed to her by the Chair or the delegates. She always ensured that things ran smoothly and were well organized from a practical point of view. I would be very curious to know how many hours of rest Ms. Doumbia-Henry was able to take during this Conference. I think that they would have been very few.

I ask Ms. Doumbia-Henry to express our sincere thanks to all her team, to all those mentioned by Mr. Tapiola – a little bird told me that there were around 250 people in the secretariat and more than 120 interpreters all working to prepare the documents for the meetings, revising and printing the reports and I very much regret not being able to mention everyone by name here.

And now, finally, I hope I shall be forgiven for this, last but not least, I am sure you will not be surprised to hear me express a special word of thanks to the interpreters and translators who have made it possible for us to understand each other thanks to their skill and competence and their flexibility in meeting our requirements as regards hours of work.

Now that this stage of our work has come to an end, we each have to ensure that the flame of this dynamic project is nurtured. Here I am thinking in particular about Mr. Ngantcha, Mr. Suzuki and Mr. Blondel whose presence was very reassuring. They, of course, are members of the Governing Body and represent the Governing Body. I hope they were fully convinced of the importance of our aims and the extent of our commitment and I would ask them to be our ambassadors vis-à-vis the Governing Body in order to ensure that the dynamism which we now enjoy is maintained and that everything be done in order to facilitate the final conclusion to our work.

I will ask each one of you when you get back to your own country to work in order to facilitate the adoption and eventual ratification of the draft Convention.

It is in everyone's interest. On the one hand, the lives of seafarers will be improved – and this as I see it is absolutely essential – and, on the other, it will be much easier for shipowners and governments to exercise their responsibilities. The draft we have before us is a balanced project, a balanced text, and is in everyone's interest.

Now all that remains for me is to wish you all a safe journey home and I am sure that everyone at home will be waiting impatiently after these two weeks of absence. If anyone finds it difficult to prove that they were not just having fun here, I am quite prepared to produce certificates for them indicating that they really have been working hard. Thank you one and all. I thank you for your attention and I declare this Preparatory Technical Conference closed.

(The Conference adjourned sine die at 6 p.m.)

Resolution concerning a procedure to deal with amendments submitted to the PTMC on unbracketed text

The Preparatory Technical Maritime Conference, convened in Geneva by the Governing Body of the International Labour Office from 13 to 24 September 2004;

Considering that significant progress has been achieved at the PTMC in the resolution of issues that had remained outstanding or controversial in the two years of work accomplished prior to the PTMC, as reflected in the bracketed text which has been given priority in the discussion;

Considering that, given time constraints and the volume of amendments submitted to unbracketed text, the PTMC has not been in a position to consider such amendments;

Considering that the examination and discussion of those amendments will facilitate the work of the Maritime Session of the International Labour Conference;

Considering also that it was not possible for the PTMC Drafting Committee to review in detail the whole text of the proposed consolidated maritime labour Convention, as regards both form and consistency between the English and French versions;

Requests the Governing Body to instruct the Office to examine all receivable amendments submitted to the PTMC and to prepare a compendium accompanied by an explanatory note;

Establishes a tripartite working group, composed of the Officers of the PTMC and which will be open to the governments of all member States and representatives designated by the international organizations of shipowners and seafarers, to consider the compendium prepared by the Office; the working group shall communicate to the Office any amendment or group of amendments on which there is tripartite consensus for inclusion in the report to be prepared by the Office for the Maritime Session of the Conference in accordance with article 38, paragraph 4(b), of the Standing Orders of the Conference; the working group, taking into consideration the need for these further consultations, shall meet on this occasion at no direct cost to the Office;

Appoints a tripartite drafting group composed of one Government representative, a representative of the Shipowners and a representative of the Seafarers to review in extenso the wording of the draft instrument adopted by the PTMC, as well as the agreement between the English and French versions of the text, along the lines of the terms of reference of drafting committees appointed under the Standing Orders of the General Conference; the drafting group shall finish its work on time for the translation and distribution of the text to member States within the time frame provided for in article 38 of the Standing Orders of the Conference.

Resolution concerning credentials issues raised at the PMTC

The Preparatory Technical Maritime Conference, convened in Geneva by the Governing Body of the International Labour Office from 13 to 24 September 2004;

Recalling the importance of the effective respect of tripartism and, in particular, the obligation for each member State to select fully tripartite delegations to conferences convened by the Organization and to bear the costs of their participation;

Noting with concern the number of cases in which this obligation has not been fully respected at the Preparatory Technical Maritime Conference;

Considering that the absence of a mechanism at the PTMC to examine credentials and ensure respect for this obligation has almost certainly contributed to the extent of the situation;

Urges the Governing Body of the International Labour Office:

- (a) to ensure that, in future, there shall be a tripartite mechanism to verify credentials and to examine objections relating to the selection by governments of Shipowner and Seafarer representatives and complaints alleging non-payment of their travel and subsistence expenses for all meetings where governments are responsible for the composition of national tripartite delegations, similar to that of the Credentials Committee of the General Conference;
- (b) to remind governments of their obligation to nominate non-government delegates and advisers in agreement with the industrial organizations, if such organizations exist, which are most representative of shipowners and seafarers, as the case may be, in their respective countries; and to pay the travelling and subsistence expenses of their tripartite delegations.

Resolution concerning a procedure to deal with unresolved issues in the bracketed texts of the draft consolidated maritime labour Convention

The Preparatory Technical Maritime Conference, convened in Geneva by the Governing Body of the International Labour Office from 13 to 24 September 2004;

Considering that it has not been possible for the PTMC to reach agreement on all the text of the recommended draft that has been placed inside square [] or soft {} brackets;

Recalling its previous resolution in which it decided, inter alia, upon a procedure to deal with the amendments that had been proposed for unbracketed text;

Has decided to request the Governing Body to instruct the Office:

- (a) to convene a meeting, at no direct cost to the Office, which will be open to the governments of all member States and to representatives designated by the international organizations of shipowners and seafarers, for the purpose of providing the Office with advice concerning generally acceptable wording for the previously bracketed provisions on which agreement has not been reached;
- (b) to provide the participants, in advance of the meeting, with information on the substance of the provisions concerned accompanied by the necessary explanations concerning the intentions and background for each such provision;
- (c) to communicate, for comment, all new wording on which tripartite consensus is reached, accompanied by the necessary explanations, to the governments of all member States as well as to the international organizations of shipowners and seafarers; and
- (d) to include, in the report that it is to prepare for the Maritime Session of the General Conference in accordance with article 38, paragraph 4(b), of the Standing Orders of the Conference, an account of all new wording referred to, together with a summary of the constituents' views communicated to it.

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