



Second sitting

Thursday, 23 September 2004, 3 p.m.

President: Mr. Schindler

Original French: The PRESIDENT

I welcome you all to this second plenary meeting of the Preparatory Maritime Technical Conference.

We apologize for being late, but as you know, today we have a very heavy schedule.

The last two weeks have been very busy and I should like to thank all of you for the professional and assiduous way in which you have attended.

Let us begin by taking stock of the situation as regards the documents so that we can organize our work this afternoon and tomorrow. I give the floor to the Clerk of the Conference.

Original French: The CLERK OF THE CONFERENCE

First of all, allow me to take stock of the documents, which you should all have in the three languages: Resolution No. 1 on technical cooperation, and the reports of Committees Nos. 1 and 3. I therefore hope that this afternoon the plenary will be in a position to deal with those particular topics.

I have just been informed that the reports in English, French and Spanish of Committee No. 2 will not be available today, only late this evening; in other words, tomorrow morning.

We shall therefore be unable to examine this report this afternoon, as planned. So, the proposal is, if you agree, that this afternoon we look at the resolution on technical cooperation, the report of Committee No. 1 and the report of Committee No. 3 in that order.

Tomorrow morning, after the group meetings, we shall examine the report of Committee No. 2 and the other points, namely the instrument and the other three resolutions we also have before us which will be available tomorrow.

Original French: The PRESIDENT

It has been proposed that we now examine the draft resolution concerning technical cooperation and then the reports of Committees Nos. 1 and 3.

I am more than willing to endorse that proposal and assume that you have all had time to look at those reports between the beginning of this meeting and their publication. If there are no objections, we shall adopt this programme.

RESOLUTION CONCERNING TECHNICAL COOPERATION TO STRENGTHEN THE CAPACITIES OF THE NATIONAL ADMINISTRATIONS RESPONSIBLE FOR MARITIME LABOUR INSPECTION: SUBMISSION, DISCUSSION AND ADOPTION

Original French: The PRESIDENT

I call upon the representative of the Government of Indonesia, who submitted the draft resolution concerning technical cooperation to strengthen the capacities of the national administrations responsible for maritime labour inspection, to introduce the text.

Ms. HENDARTI (Government, Indonesia)

On behalf of the Government of Indonesia, I am pleased to present this draft resolution concerning technical cooperation to strengthen the capacities of the national administrations responsible for maritime labour inspection. The draft resolution basically concerns the need to provide technical cooperation to member States to develop national capacity with respect to the effective system of inspection and certification of maritime labour conditions. In this regard, we have identified several relevant areas to be provided: firstly, developing national institutional capacity for the inspection and certification of maritime labour conditions; secondly, providing training, exchange of knowledge on the development of national policies, regulations and procedures; and thirdly, strengthening measures to develop cooperation and exchange of information and provision of material assistance at the international, regional and bilateral levels to support ratification and national implementation of the Convention.

In this respectable forum, we really wish that this draft resolution could be supported by all groups, the governments and their social partners, to be able to strengthen measures and to achieve ratification and finally implementation, at the national level.

Original French: The PRESIDENT

Does anyone wish to make any general comments on this draft resolution?

Mr. ZHANG (Government, China)

I will speak on behalf of the Government group. The Government group considered the draft resolution at its meeting this morning and unanimously supported the draft resolution in general.

A few small changes were proposed, most of them being editorial in nature. I suggest that they be

incorporated in the text with the help of the secretariat and the delegates concerned.

Original French: The PRESIDENT

Let us first deal with the general issues and then go through the various paragraphs of the resolution. I would suggest that you make your proposals at that time.

Mr. LINDEMANN (*Shipowner Vice-President*)

The Shipowners' group also had a chance this morning to discuss this draft resolution and we had a good exchange of views. Some of our colleagues raised the question as to whether it might be premature at this stage to already look at the text of this resolution at the PTMC level; nonetheless, others also pointed out that we could not start early enough to promote the ratification of the new Convention when it enters into force. So, at the later stage of our deliberations, this was the view which prevailed. We give full support to this resolution.

Mr. ORRELL (*Seafarer Vice-President*)

We have also considered this resolution in our group and we had a similar initial concern about its appropriateness at this Conference compared to the main Conference, but felt that that issue should have been addressed before it was placed before us; we therefore feel that it is proper to consider it. Given the Seafarers' views with regard to the implementation of the standard of the bill of rights we are talking about, and the need for governments to be willing and able to effectively implement and enforce those rights, we believe the resolution is essential and we give it our full support.

Original French: The PRESIDENT

This draft has just been supported at the tripartite level. I therefore suggest that we now look at it in detail. The text is subject to amendment, and these amendments will be dealt with and discussed in this room according to the procedure adopted for Committee subamendments. These procedures stipulate that any amendment tabled should be seconded.

I would suggest that we begin with the Preamble, which has five paragraphs. If there are no objections, may I take it that the Preamble is adopted?

(The Preamble is adopted.)

We shall now move on to paragraph 1 of the operative part which contains three subparagraphs: (a), (b) and (c).

I give the floor to Mr. Jennings, who has an observation to make.

Mr. JENNINGS (*Deputy representative of the Secretary-General of the Conference*)

In paragraph 1(a) there are some editorial changes which are suggested.

After "national institutions and capacity for", delete "the" before "inspection", and after "certification", delete the word "of" and replace it with, "with respect to maritime labour conditions". I believe this is only editorial in nature.

Paragraph 1(b) has similar changes in the third line after "inspection and certification"; use "with respect to", to replace the current "of" and delete at the end of the second line "related to" and replace it with "for".

Original French: The PRESIDENT

If there are no objections, may I take it that paragraph 1 is adopted?

(Paragraph 1 is adopted.)

I suggest that we move on to paragraph 2. I give the floor to the Government representative of China, who has some changes to propose.

Mr. LI (*Government, China*)

The group also suggested amendments under paragraph 2, subparagraph (a), after "implement". I will read the next text slowly. You can compare and follow the flow of the current text: "implement an action plan on technical cooperation so that national administrations responsible for maritime labour inspection may develop the necessary capacity to effectively implement the relevant provisions of the Convention and be able to ratify it".

In subparagraph (b) we would add a few words in front of "facilitate", which goes like this: "introduce appropriate arrangements in order to".

While I have the floor, I would like to say that we requested clarification as to the mechanism that would be used for drafting these specific manuals and training materials. It was anticipated that arrangements should be tripartite.

Mr. LINDEMANN (*Shipowner Vice-President*)

I can say, at this stage already, that we would have asked for the inclusion of a tripartite committee to do the drafting. We are therefore in agreement with the Government group.

Original French: The PRESIDENT

May we assume that paragraph 2 is adopted?

(Paragraph 2 is adopted.)

If there are no objections, May I take it that the resolution is adopted?

(The resolution concerning technical cooperation to strengthen the capacities of the national administrations responsible for maritime labour inspection, as amended, is adopted.)

Mr. ZHANG (*Government, China*)

I would just like it placed on the record that during our discussion in the Government group, some Governments expressed the wish for the Maritime Conference to adopt a similar resolution on enhancing technical cooperation.

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

The aim of the draft consolidated Convention is to replace approximately 60 Conventions and Recommendations at present in force. It therefore covers a wide range of varying areas and will create additional obligations for member States – including that of establishing efficient mechanisms for monitoring and inspecting ships. These obligations will require the development and overhaul of national administrations, as well as of the capacity of their employees, particularly maritime labour inspectors, to enable these member States to carry out their many and often complex duties effectively. They will be unable to fulfil these obligations unless they provide targeted and full training that takes into account the myriad and diverse legal instruments for whose application they are responsible. Given that these tasks will require vast resources that are not available to all member States, the ideal way of achieving this objective would be an action plan on technical cooperation that would provide assistance to those member States requesting it to overhaul their national administrations and develop their human resources capacity, especially maritime labour inspectors. In this way, the member States

would be able, in an appropriate way, to implement the provisions of this Convention, thus guaranteeing it a wider ratification.

**REPORT OF COMMITTEE NO. 1: SUBMISSION,
DISCUSSION AND APPROVAL**

Original French: The PRESIDENT

We shall now begin with the report of Committee No. 1 which, I should like to recall, was entrusted with examining the Preamble, the Articles, Title 5, the Explanatory Notes and the Appendices to the draft consolidated maritime labour Convention. This report is contained in the *Record of Proceedings* No. 4. The Officers of Committee No. 1 are: Chairperson: Mr. Carlton; Government Vice-Chairpersons: Mr. Jeon; Shipowner Vice-Chairperson: Mr. Hajara; and Seafarer Vice-Chairperson: Mr. Orrell.

I would like to give the floor to the Reporter of the Committee, Mr. Shinguadja so that he can present to us the work of the Committee.

Mr. SHINGUADJA (*Reporter of Committee No. 1*)

I would like, first of all, to express my sincere thanks to the members of Committee No. 1 who entrusted me with the duty to introduce the report of our work, that had provided me with the privilege of addressing, according to this Preparatory Technical Maritime Conference.

Committee No. 1 had before it two documents: the recommended draft for a consolidated maritime labour Convention; and the Commentary to the recommended draft for the consolidated maritime labour Convention. At the indicated area, at the opening of the Conference by Ms. Doumbia-Henry, the draft was recommended by the High-level Tripartite Working Group on Maritime Labour Standards after three years of very hard work. The commentary prepared by the Office served as a very useful and clear explanation of how the draft was developed and the reasoning behind the provisions, or possible options for provisions contained therein.

The task before our Committee was to consider the Preamble, Articles, Title 5 and Appendices of the draft. This was an enormous undertaking as we had to consider the texts addressing issues of principle, as well as text addressing very detailed inspection procedures. We focused our work on text that was in both square and soft brackets. Time was very short and the matters discussed were of great importance to everyone. We held 13 sittings.

The Committee adopted provisions on a number of substantive issues. I shall touch on a few of these.

As concerns the Preamble, the most significant change was the inclusion of a specific reference to the ILO Declaration on Fundamental Principles and Rights at Work. This was particularly important to the Seafarers.

As concerns the Articles, some bracketed text was adopted and some could not be agreed upon. Nonetheless, the discussions that are faithfully recorded in the report provide us with much that is useful for future discussions.

Article II – we were not able to reach final agreement on paragraph 4(a) concerning whether or not the Convention would apply to vessels less than a yet unspecified size. There were also extensive but inconclusive discussions on paragraph 6 concerning the exclusion of ships that do not undertake international voyages. However, I am pleased to report

that, as concerns paragraph 4(d), which would have excluded oil rigs and drilling platforms, we agreed to delete the paragraph entirely. It is now up to the Members to decide on a case-by-case basis.

The contentious issue of Article III was settled after much long and hard debate of which you are all aware. It was settled, thanks to the intervention of our President. Part of the compromise included moving the reference to the Declaration on Fundamental Principles and Rights at Work to the Preamble, as I mentioned earlier.

As those of us who have been involved in this work from the start will recall, an essential issue, particularly for Governments, has been reaching agreement on what is meant by the term “substantial equivalence”. This matter was finally settled with the assistance of the Legal Adviser. I believe that, by coming to this agreement, we have opened the door for many countries to ratify the Convention when it is finally adopted by the Maritime Conference a year or so from now.

Despite much discussion, the Committee was not able to agree on the number of registered ratifications, and the percentage of the total share of world shipping tonnage necessary for the Convention to enter into force, as covered in Article VIII, or to amend the Convention and the Code, as provided for in Articles XIV and XV. This is something we can focus on at the end of our final discussion at the Maritime Conference.

After a few days, our Committee sank its teeth into what has been referred to as the meat of the Convention itself: Title 5 on compliance and enforcement. We did not reach agreement on preambular paragraph 3, though the Committee spent some time exchanging views on whether or not Part A of the Code of this Title should be amended in accordance with the procedures set out in Article XIV. The Seafarers and a few Governments indicated that it might not be a good idea to make it difficult to change the Title, primarily because Title 5 was new and might need to be revisited after we gained experience trying to implement it. The Shipowners and many Governments preferred to make it harder to amend so as to provide the industry and competent authorities with some degree of stability when they invested resources into putting new systems in place.

I will now speak of the Regulations, Standards and Guidelines concerning flag State responsibilities and the related issues.

Last year in Nantes, the High-level Tripartite Working Group on Maritime Labour Standards introduced considerable changes to the text as concerns the authorization of public institutions and other organizations to carry out inspections and/or issue certificates in accordance with this Convention. This bracketed text was adopted with very little change.

As concerns the Regulations, Standards and Guidelines, concerning the maritime labour certificate and declaration of maritime labour compliance, the changes were also fairly limited.

As concerns the interim maritime labour certificate, it was agreed that this should be issued for a period not exceeding six months. To reach this compromise, it was necessary to revisit and expand upon the provisions concerning what must be verified by the flag State before the interim certificate can be issued. It was also agreed to add to the cases in which a certificate will cease to be valid. This is

the case where substantial changes have been made to the structure or equipment covered in Title 3.

The provision concerning the transmission by the competent authority of the former flag State to that of the port State of copies of certificates and other information was transferred to the Guidelines.

Paragraphs 9, 10 and 11 of Standard A5.1.3 which concern the form and structure of the maritime labour certificate, the interim maritime labour certificate and the declaration of maritime labour compliance and how the Declaration of Maritime Labour Compliance is drawn up and approved by the competent authority were not adopted. However, the text does not do justice to the considerable work done to improve the existing text as well as the related Appendix. Unfortunately, the Committee did not have time for this work to be properly considered by the Shipowners and Seafarers, though I am sure that the advances made will have a very positive effect on the discussions of this matter at the Conference.

The Regulations, Standards and Guidelines concerning inspection and enforcement provided us with some interesting challenges. Paragraph 7 of Standard A5.1.4, as adopted, would now empower inspectors to prohibit a ship from leaving port until necessary actions were taken when they have “grounds to believe that a case of non-compliance constitutes a breach of the requirements (including seafarers’ rights) provided for in this Convention or represents a significant danger to seafarers’ health, or safety or security”. The Committee also adopted the paragraph providing for compensation in the event of wrongful exercise of inspectors’ powers. Furthermore, a provision in a former Guideline, which concerned possible conflict of interest of inspectors, was slightly amended and then made mandatory by moving it to the Standard.

Finally, our Committee made some progress on the port state control issues by adopting changes to paragraph 1 of Standard A5.2.1. Now, when an authorized officer, having come on board to carry out an inspection, finds that there are “reasonable grounds to believe that the ship has changed flag for the purpose of avoiding compliance with this Convention”, he or she may carry out a more detailed inspection. However, the Committee had considerable difficulties with the part that concerns when such an inspection shall be carried out, and we made no further progress on the issue of port state control.

While we made much progress, we left a few items to keep us thinking and working between now and the Maritime Conference. The work we have accomplished will set us well on the way down the path for the Maritime Conference.

In common with the other Committees, we did not discuss any of the unbracketed “mature” text, to which we received 69 amendments. I am pleased that measures will be put in place to enable discussions in the coming months of text that does not appear in the instrument, and the amendments we did not discuss.

Before I close, I would like to express, on behalf of the whole Committee, our particular thanks to you, Mr. Chairperson, for guiding us through the debate. You were always fair and friendly but firm – a rare combination that helped us steer past seemingly impossible obstacles. Your use of maritime metaphors helped remind us of the seafarers we are seeking to protect, though I must admit, when our

passage became rough and you spoke of running up on the rocks, some of us were feeling a little seasick. Nonetheless, thanks to your careful watch-keeping, we are getting closer and closer to the opposite shore and the goal we all wish to achieve.

We discussed things several times on different days, in different orders, but the report makes us all look very clearer, since it presents a seamless account of our fractured discussions.

The report is an excellent reflection of the Committee’s work at this Preparatory Conference. For this, particular thanks for our achievements are due to the Office. Mr. Jennings and his staff worked tirelessly on our behalf. I would like to thank him, Mr. Wagner, Ms. Bissière and, in particular, our adviser, Mr. Devlin, for their assistance and that of their colleagues. I would also like to thank the Legal Adviser, Mr. Picard, for setting us straight on legal matters. Finally, Ms. Vere and Ms. Bader, our note takers, as well as Mr. Jennings, should be congratulated for producing such an excellent report under challenging conditions.

I also wish to thank the interpreters and translators who facilitated our work and made communication possible. There were, of course, many other members of the secretariat working hard behind the scenes who must also know of our deep appreciation.

Finally, with these remarks I request the Preparatory Technical Maritime Conference to adopt the report of Committee No. 1. I look forward to seeing you again at the Maritime Session of the International Labour Conference and I thank you all.

Mr. HAJARA (*Shipowner Vice-Chairperson of Committee No. 1*)

It has been a great pleasure and privilege for me to act as spokesperson for our group for these very important Committee No. 1 deliberations.

From day one of our venture – and, if I may say so, of this long voyage – our group has been trying to develop an instrument which is easy to understand, easy to ratify, easy to update, easy to comply with and enforce.

I recall some of the remarks of our Vice-President in the opening ceremony, when he said that our overriding objective was to end this process with an instrument which would contain the highest achievable common international maritime labour standards, widely ratified and fully enforced.

As we have remarked again and again, not only in our group but elsewhere, we would like this instrument to be considered as the fourth pillar of the maritime world, along with SOLAS, MARPOL and STCW, and that is possible only if it is widely ratified. I am sure not only members of our group but members of the Seafarers’ group, as well as all the Government delegates, are extremely anxious to adopt this instrument; but while adoption is very important, at the same time ratification is equally if not more important, because only with such a widely ratified instrument will the shipowners benefit by having a level playing field across the world, the seafarers will benefit by having minimum labour standards all across the world, and will the Governments benefit by providing a standard legal regime which is easy to enforce.

We must also remember that this is a process of consolidation. Our group therefore strongly felt that, while consolidating, it would be very difficult if we tried to achieve something which had not at all been

achieved hitherto; that is, by trying to embrace segments which to date had not been covered by any ILO instrument in the maritime sector. As our Reporter has already explained, we have progressed much, particularly considering that our group – or our Committee, I should say – had very, very important matters to deal with because it is, after all, the Preamble and the Article which lay the foundation of any Convention. Moreover, Title 5 in this instrument is almost unique because it gives the details relating to compliance and enforcement. It covers not only the flag State but also the port State and labour-supplying state responsibilities. Again, as our Reporter has already said, we have covered much ground and very, very difficult issues relating to Article III, dealing with fundamental rights, and substantial equivalence have now been agreed upon by all concerned.

When it comes to Title 5 again, of course, our Reporter has very well reflected the position. Although we were able to agree on many of the matters relating to flag States, unfortunately due to constraints of time and various other issues, it was not possible for us to make much headway regarding the port State, particularly the complaints mechanism and other matters, as well as the labour-supplying state responsibilities. However, we always tried to work in line with the Geneva Accord because, to have adopted standards that would require totally subjective judgement on the part of government officials or others, in order to try to enforce them, would be a perfect example in our view of the traditional approach to ILO standard setting that the Seafarers' and Shipowners' group announced in the historic Geneva Accord that they were determined to avoid.

I would say once again that much of the text we have adopted during the past two weeks satisfies all the criteria, but we have a substantial amount of other work to do because we failed to complete our work in Committee No. 1, which was neither surprising nor depressing, at least as far as our group is concerned. We remain very optimistic that we will eventually achieve the outcome that we desire and each group will need to consider very carefully over the coming months the issues on which agreement has not been reached. The Shipowners' group will certainly use the time available to consider whether there is any way that we can assist our social partners to overcome their problems; but I must emphasize that we remain committed to a Convention that has provisions based on objective criteria that can be fairly and equally applied to all ships and which are enforced through flag and, where necessary, port inspection regimes.

Finally, it remains for me to offer my grateful thanks to the President as well as the Chairperson of our Committee, who has steered us through very rough and trying conditions. I also thank the Seafarers' group, all the Government delegates in our Committee, the interpreters and all the countless ILO staff, at all levels, who have slaved away through the nights to produce the report that we have before us. I feel sure that all of us on Committee No. 1 wish to express our gratitude to them and to their spouses for giving up their time to help us to reach this stage in our work.

Mr. ORRELL (*Seafarer Vice-Chairperson of Committee No. 1*)

First of all, of course, we would like to express our appreciation to Mr. Bruce Carlton, the Chairperson of Committee No. 1; what we did achieve in

Committee No. 1 was because of his particular skill and tolerance in dealing with what were often quite heated discussions and deliberations. We also join with the Reporter and the Shipowners in expressing our appreciation for the hard work done behind the scenes: we know that there are many unsung heroes and heroines doing that work and having gone through the report of Committee No. 1, I would just say that the accuracy of that report in reflecting the Seafarers' views is unsurpassed. I have been to a number of conferences and the accuracy of that report is to be commended. We also thank Mr. Hajara, who was a good and respectful sparring partner for us, and we thank all the Governments.

In the two-and-a-half years since December 2001 we have had four meetings of the High-level Tripartite Working Group and a number of subgroup meetings. Two-and-a-half years during which the Seafarers have supported comments that we must try to get as many Governments involved as we possibly can; we must try to get Governments to take ownership of this "bill of rights" for seafarers. We had high hopes that we would make significant inroads on the bill of rights. Consequently, all of the Seafarers came here well briefed and competent to take up the tasks that were required of them and, in our view in Committee No. 1, it is unfortunate that not all of the house in Committee No. 1 were so prepared. We believe that we have achieved good work in the Articles, but in Title 5 we have considerable concerns. For example, we came across a number of issues that made us question what we are all jointly trying to achieve – areas that we could not agree upon in Committee No. 1, no matter how we tried. We are looking to exclude ships from a bill of rights for seafarers; we are looking to exclude trades from a bill of rights for seafarers; we are looking to exclude occupational groups of seafarers. When the seafarers who are left, who are covered by the Convention, wish to complain about breaches of their rights, we are trying to narrow down the avenues for them to pursue their complaints. And when we get to the need to have enforcement mechanisms, we have difficulty convincing colleagues that they should include, for example, the ultimate sanction – quoted as the ultimate economic sanction – of detaining a ship, because it does not matter how much the seafarers' rights are breached, it should be tolerated if it comes to detaining a ship.

Having said that, there are lessons to be learned. Certainly, there are lessons to be learned by us as Seafarers, because we had presumed that there was a widespread willingness to ensure that whatever rights were provided for would be forcefully enforced, and it seems that that is not the case at this moment in time. We believe, therefore, that when we come to the mechanism referred to in the closing remarks (paragraphs 391-398) of the Committee No. 1 report, we need to reassure colleagues as to what rights we are talking about – be quite clear on that – and what enforcement would be necessary for those rights. We need to ensure that everyone recognizes that we are dealing with something that is slightly different from what has been the case before, particularly in the area of port state control.

Within the IMO it is not all black and white with regards to the reasons for detention of a ship – there is subjectivity there. Subjectivity in the discussions on the responsibility of port state control and the flag state implementation, though, caused a problem

in our Committee, so we do believe that we need to further widen our scope and discussions and have the governments involved in a more intellectual and coordinated discussion; hopefully that will be achieved in the mechanism for the outstanding items, which actually directly refer to the ones that I had mentioned earlier.

What are we doing? Well, we are looking to eradicate substandard shipping and substandard operations from the seas. The primary responsibility is the flag State's but we all know, as practitioners, that that is not enough – that some flag States do not comply with the obligations upon them. That is the reason for port state control. It is a saviour for seafarers, where their rights are not protected, so we need to bear that in mind when we go into the discussions on the mechanism to address the outstanding issues within the square brackets that could not be agreed upon before the next Conference.

One of the greatest assets of this house is its tripartite nature and certainly in our experience of the Conventions we addressed in the 1980s and the 1990s, the spirit of trust and cooperation between the social partners was a credit to both social partners. We are afraid that trust and understanding between the social partners has deteriorated considerably. We need to move away from petty point scoring and reopening areas of agreement. How we do that I do not know, but we will continue to try to rectify the problems that we in Committee No. 1 perceive in that area. I think it was Mr. Hajara who said yesterday on behalf of Shipowners that he felt that we may have touched bottom or grounded. Indeed, our Reporter talked about a rough passage and touching the bottom. We believe that, we in Committee No. 1, have actually rammed hard upon the rocks. We believe that we need to be extremely careful in getting ourselves off those rocks and re-floating. But what we can say is that the Seafarers are as committed now as they were when we started our work in Committee No. 1 to finding a resolution that enables a clear identification of seafarers' rights, a clear method by which those rights will be implemented, a clear method by which seafarers can complain if their rights are breached, and a clear method by which those rights can then be enforced to ensure that they are delivered. If we are, then, talking about a level playing field that removes the gross exploitation that we have in our industry, removes the substantial operations and removes the substandard shipowners, then we will achieve what we want to achieve.

Mr. JEON (*Government Vice-Chairperson of Committee No. 1*)

I would like to express sincere thanks for the work done so far by group meetings and Committee No. 1 meetings of the Preparatory Technical Maritime Conference.

I would also like to express deep appreciation to the secretariat, who prepared the excellent quality recommended draft for a consolidated maritime labour Convention for this Conference. Their assistance to us has been wonderful and of the highest quality, which has facilitated our deliberations on the draft text. My wholehearted thanks go to our social partners, who showed their professionalism in our deliberations, and this delegation showed its willingness to cooperate and compromise when we had a difficult time during the first two weeks. I believe that our common tasks and goals are achievable, in developing a single, concise, uni-

formly applicable and widely ratifiable maritime Convention which will create a level playing field in the maritime industry.

Generally speaking, this two-week sitting has made it possible to remove many obstacles or obsolete elements. This delegation is sincere in its wish to see the final outcome of a consolidated maritime Convention that is very attractive for many Members to ratify in a speedier manner. Having said that, I have some comments to make at this juncture of our deliberations.

First, the general guidelines should be the Geneva Accord and the eight principles of this consolidating exercise, upon which we agreed at the first meeting of the High-level Tripartite Working Group; we should try to consult them whenever we have difficulty in compromising on any particular issues.

Second, with respect to the scope of application, although a great effort was made to resolve the issue, we could not resolve it. I believe this is mainly attributable to the fact that there was a lack of statistics on the number of ships and seafarers: if we had been provided with the relevant statistics, we would have been in a better position to make a decision. Therefore, as Vice-Chairperson of the Government group, I would like to propose that the secretariat be instructed to seek and provide the necessary statistics on the number of ships and seafarers, in relation to tonnage limits as well as to the trading areas of ships.

Third, we have not yet fully discussed port state control provisions. How can we solve these important issues? I believe we need a clearer picture of port state control measures. Without having an exact idea of those measures, it would be very difficult to find the right solutions. In this respect, this delegation strongly recommends that the next Conference should develop a resolution on the development of procedures for port state control, which would provide a basis for the development of guidelines. Upon the completion of the final canvass, these guidelines should be developed without delay. I believe this will facilitate our discussions on this important issue.

Fourth, careful consideration needed to be given to the fact that seafarers will be required to cope with the new elements of this maritime labour Convention, and that seafarers' lives may become more difficult. I have been confronted by many complaints from seafarers when delivering lectures in class back home; the root of their complaints is based on frequent changes, the introduction of a new system such as ISM Code, ISPS Code (International Ship and Port Facility Security Code), etc. Therefore, this delegation sincerely proposes to have another look and try to remove those elements in this Convention which place a great burden on seafarers.

Last, but not least, I would like to see the new single consolidated maritime labour Convention reflect rules on the changes and current practice of the maritime industry and also have proper flexibility, so that it will attract ratification by member States, in particular, by the Republic of Korea.

Mr. CARLTON (*Chairperson of Committee No. 1*)

In the interest of time and in the interest of maintaining the cordial – indeed constructive – atmosphere we established right from the first sitting of technical Committee No. 1, my remarks will be very brief.

Too often, we wait until the end of remarks to express appreciation to all of those who make our work possible, but not today.

All that we have done was facilitated by the professional staff of the Office. I will not forget their kindness and generosity in all regards. No request for assistance was either too trivial or too demanding; our note takers and those who typed and duplicated our documents; the people behind the scenes and the group who flanked me on either side of my chair, both at the table and behind it; our interpreters whom I could not see but on whom I relied daily to hear remarks from the Committee, to all of you, please know that you have the profound thanks of every member of technical Committee No. 1, and my personal appreciation for your work.

My special thanks to Mr. Norman Jennings for everything he did on my behalf, especially for his tutoring me on the rules and procedures of the ILO. I tried to be his attentive student. I hope I earned at least a passing grade. Of course, I must recognize Mr. Dominic Devlin – his ability to provide endless clear insight into the complexity of the work we have undertaken was a gift and I am grateful; to the legal adviser – Mr. Picard – thanks for getting us out of several very difficult and complex problems; Mr. Wagner – for his tireless work on every detail.

And now to the work of this Committee. It has been a privilege for me both professionally and personally to serve as your Chair. I have had only two goals for my work over these two weeks: to be fair to the social partners and to the Governments; and to achieve measurable progress in this important work to achieve measurable progress in this important work. With regard to my first goal, the members of the Committee will have to make that judgement.

But with regard to the matter of whether or not we have made progress, I believe the answer is an unqualified, unambiguous, “yes”. We did not achieve completion of our entire mandate. This is known and understood by everyone and it needs no elaboration here. Nevertheless, we joined together on a full tripartite basis to resolve our differences on a significant number of some the most difficult – and even divisive – issues. I am proud of your accomplishments as a Committee and I am proud of the report that has been presented to this Plenary. Much was accomplished and much remains to be accomplished. But with the vigour and intensity that I saw in each of our 13 sittings, I am confident we will find resolution – fair resolution – on the matters we have not yet concluded. If you remember, I said yesterday that 13 was our lucky number. I think that we ended with a good omen for our future work.

Now I stand accused by my new and very good friend, Mr. Shinguadja, of using maritime metaphors – and perhaps a bit too much during our Committee meetings. I was going to say that, as your “captain” in Committee No. 1, I had to “swing the rudder hard to port one day” and “hard to starboard the next”. But I am not going to say that now. I was going to say that we “navigated some rocky shoals”, “always gauging the water under our keel”. I am not going to say that either.

However, I am a bit tempted to say that we are in the market for some “flotation collars” to help us find some good deep water again; whether we are on hard ground or just on a sandbar remains to be seen.

In closing I want to express my thanks and sincere admiration to the Vice-Chairs of Committee No. 1, Mr. Hajara, for the Shipowners; Mr. Orrell, for the Seafarers; Professor Jeon for the Governments; and, of course, to Mr. Shinguadja, our Reporter, for being so careful and precise in his report to the plenary. I would be proud to work with each of you again as shipmates. I have learnt so much from you and I appreciate your extraordinary contribution to this work.

To Jean-Marc Schindler, I now really understand why you were selected to be the Chair of this Conference. Your skill as navigator is unmatched.

And lastly my respectful salute to our “Fleet Admiral” Ms. Doumbia-Henry. We hope to add yet another star to her rank before all of this work is completed.

Original French: The PRESIDENT

Before I give the floor to those who wish to make additional comments, let me make one or two comments myself. We have heard two messages which I thought were important. The first was a message from Mr. Hajara regarding the enormity of our task. Indeed, it is a tremendous task and the more we move ahead, the more we realize how tremendous it is. Fortunately, we did not realize that right at the beginning. But that is no reason to give up. We now have moved forward far too much to step backwards. We must go straight to port as Mr. Carlton would say.

I have also heard the message from Mr. Orrell concerning the difficulties we encountered and the fragile nature of the alchemy which has led us so far today. I hope that everybody has heard the message and will take it on board and that next time we will be able to start again in a more vigorous fashion and in a spirit of total cooperation. Now since Mr. Carlton loves maritime metaphors, the Admiral of the Conference congratulates the Captain of the Ship of Committee No. 1 for the voyage undertaken.

If there are no more general observations, we shall proceed with the formal adoption of the report.

I suggest that we proceed by blocks of paragraphs which correspond to those parts of the instrument which have been examined by the Committee.

Mr. HAJARA (Shipowner, India)

We have a question; the third Shipowner member attending this tripartite working party was a member of the International Shipping Federation (ISF). Is there any bar? I mean, if there is no bar then we would like to include him as a representative of ISF.

Original French: The PRESIDENT

Very well. We have taken your request into account. Any other observations?

Original French: The CLERK OF THE CONFERENCE

In paragraph 80, please replace the word “first” with the word “third” as it was after the third meeting.

Mr. HAJARA (Shipowner, India)

In paragraph 124, where the interpretation of the Legal Adviser is set out, the words “Third Sitting, 15 September 2004”, should maybe come out.

We should like to propose a change to paragraph 138 but not a formal amendment. In the penultimate line of this paragraph, the word should be “entered”.

Second, I would like to know how the Office is going to deal with the bracketed text which is still

there because we could not agree. Without that one paragraph the whole Article becomes virtually meaningless and useless.

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

The only bracketed text in Article VIII concerns the numbers relating to the ratifications required for entry into force, which we intend to leave blank. Thus, we will not be deleting the provisions, simply leaving a space to be filled in later.

Original French: The PRESIDENT

If everyone agrees on this proposal, we shall continue with our examination of the following paragraphs of the report.

Mr. HAJARA (*Shipowner, India*)

This is again not an amendment, but a request for clarification regarding paragraph 151. I possibly should have raised this in the technical Committee itself or at least in the Steering Committee, but since this Convention will have a mandatory and a non-mandatory portion, I would like clarification on how the principle that “should provisions found in a Recommendation, however, conflict with any part of the new Convention, these would be seen as superseded” would operate in the event of conflict between a Recommendation and a provision in a Part B Guideline.

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

In the event that any part, whether Part A or Part B, of the new instrument would be in conflict with any existing Recommendation, it is the acceptable principle that the provisions of the new instrument would supersede the provisions of any existing Recommendation: the most up-to-date provisions supersede the ones that existed previously.

Mr. HAJARA (*Shipowner, India*)

This is just to point out that the phrase “in the absence of any objections” in paragraph 188 refers to the fact that there were no objections to the words rephrased by the Shipowners’ group.

This is not really an amendment but a question and concerns paragraph 209. Our group did – not formally but informally – refer this matter to our Chairperson because we thought this was a tripartite Committee. We were not certain whether an NGO, I mean the International Association of Classification Societies (IACS), was supposed to make a comment which could appear in the report or not. I am not very sure, so I am seeking clarification.

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

Based on the information that has been given to me by the secretariat to the question as to whether IACS had the permission of the Officers of the Committee and whether permission was given, I understand that this was not so. The observer from IACS spoke before the matter had been brought to our attention so the statement would normally have to be deleted from the record, unless the Conference itself states now that it has no objection to its retention. But, in principle, it should be deleted from the record if the Conference does not agree.

Mr. ORRELL (*Seafarer, United Kingdom*)

The Seafarers have no objection to the comment remaining there.

Original French: The PRESIDENT

What about the Shipowners? Do they have any objection?

Mr. HAJARA (*Shipowner, India*)

Yes, Mr. President, we do.

Original French: The PRESIDENT

Since there is an objection, I suggest we delete that paragraph.

Mr. HAJARA (*Shipowner, India*)

We have an amendment to paragraph 233. It is not an amendment in the strict sense of the term but a request for consideration because paragraph 238, in the way it is presented, is not correct. If I recall correctly, the Seafarer Vice-Chairperson did not agree. So I would just suggest that paragraphs 237 and 238 be dropped from the report and there should be a mention that the text in paragraph 236 was adopted.

Original French: Mr. PRESIDENT

I would like to ask whether Mr. Orrell confirms that he did not agree.

Mr. ORRELL (*Seafarer, United Kingdom*)

My recollections are different. I recall the discussion when we decided that we would leave it and postpone discussion. So I will maintain that paragraph 238 is correct.

Original French: Mr. PRESIDENT

Are the Shipowners convinced by the response from the Seafarers? Should we keep the paragraph as it is?

Mr. HAJARA (*Shipowner, India*)

Firstly, my recollection is definitely that what came back from the Drafting Committee, which is there under paragraph 236, was definitely adopted. That is my very clear recollection; and secondly, as far as I remember, I said that although the Drafting Committee had not been asked, they had come back with commentary which we, in our group, had not had time to examine. So we did not have any comments to make at that moment, but we mentioned that we could look at it later. But if I recall correctly, but again I would not like to contradict Mr. Orrell, I recall that he said the Drafting Committee had been given a task which they had completed. But this commentary went beyond what was asked of them. If I am wrong, I stand to be corrected.

Mr. ORRELL (*Seafarer, United Kingdom*)

The Drafting Committee did have a commentary at the bottom of its returned paper and it asked whether we had covered everything. Mr. Hajara did say, on behalf of the Shipowners, that he had not had the opportunity to look at this text and that they would need the time to do so. I agreed with this and said that we would also like to have the time to look at it and consider it. It is our view that the Chair ruled to postpone discussion on it. In fact, we never did return to this issue. Given that the work of the Committee has finished, this is purely academic. In fact, we can decide whether to include it in the text or not.

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

I do not think the secretariat can resolve that matter; checking with the secretariat here the indication is that the text was not adopted. So we cannot re-

place it. So you have to tell us whether it was or was not adopted. We probably made an error when we came to this conclusion. Perhaps we should ask the advice of the Chairperson.

Original French: Mr. PRESIDENT

I will first give the floor back to the Seafarers and then will ask the opinion of the Chairperson of the Committee.

Mr. ORRELL (*Seafarer, United Kingdom*)

I prefer to refer to the Chairperson of the Committee. However, Ms. Doumbia-Henry is correct that no decision was taken. We do not know whether it should be incorporated in the instrument or not. Perhaps this is what Mr. Hajara was alluding to; either way, a decision will have to be taken by the Conference.

Mr. CARLTON (*Government, United States*)

I am speaking in my capacity as Chairperson of Committee No. 1. It is my recollection that we did not take a formal action to adopt it.

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

My proposal is that we include it in the text and tomorrow, when you see the text, you will decide whether you take it out or not. Is that acceptable?

Mr. HAJARA (*Shipowner, India*)

I am referring to paragraph 256 which somehow I missed. Here again, it is not very clear. It is stated that this proposal did not raise any objections, but it should be stipulated that it was adopted.

Original French: The PRESIDENT

The secretariat will make the corrections to paragraph 256.

We have thus concluded our study of the report of Committee No. 1.

If there are no objections, may I take it that the report, as amended, is approved?

(The report of Committee No. 1 is amended, as approved.)

(The sitting adjourned at 5.30 p.m. and resumed at 6 p.m.)

REPORT OF COMMITTEE NO. 3: SUBMISSION, DISCUSSION AND APPROVAL

Original French: The PRESIDENT

Now we are going to look at the report of Committee No. 3 which examined Title 4 of the draft consolidated maritime labour Convention. The report is contained in *Record of Proceedings* No. 6. The Officers of Committee No. 3 were: Chairperson: Ms. Baldoz; Government Vice-Chairperson: Ms. Lewandowska; Shipowner Vice-Chairperson: Mr. Cox; and Seafarer Vice-Chairperson: Ms. Smith.

I would like first to give the floor to the Reporter of this Committee, Ms. Elhamid from Egypt.

Original Arabic: Ms. ELHAMID (*Reporter of Committee No. 3*)

Since I am taking the floor for the first time in the plenary I would like to congratulate you for leading us in this Preparatory Maritime Conference.

First of all, I have the pleasure to present the report of Committee No. 3 which successfully carried out the examination of Title 4 of the Convention dealing with issues of medical care on board ship

and ashore, health protection as well as welfare and social protection.

The Committee exercised its functions, under the chairmanship of the Philippines as well as the Vice-Chairpersons you have mentioned. Invaluable support was received by the Committee from the secretariat headed by Mr. Escobar, to whom we express our thanks for their contribution to the success of the Committee's work.

The Committee held 13 sittings to discuss the texts contained in the recommended draft of the consolidated maritime labour Convention. There were texts between brackets, as well as some proposals submitted by the Committee's members related to other texts. I wish to mention that there was constructive cooperation during the Committee's work and discussions between the Government members as well as their social partners – the Shipowners and the Seafarers with regard to the issues discussed. We all acknowledged the complex and important nature of these texts. All were determined to successfully conclude the work of the Committee and to achieve the following objectives: to maintain a set of principles and rights for seafarers; to formulate clear and precise texts to ensure smooth implementation; and to achieve widespread ratification of the consolidated maritime labour Convention by as great a number as possible of the member States of the ILO by ensuring the necessary flexibility. I would like to briefly present the issues which were the subject of discussion in the Committee.

The first issue concerns medical care on board ship and ashore. Since medical care on board ship is a wide-ranging topic, we discussed on board hospital accommodation and medical staff, as well as other matters related to medical assistance and care. We discussed the texts of Regulation 4.1 and the related Standard and Guidelines. Brackets were removed and several amendments were introduced to some texts. In view of the link between the hospital accommodation requirements and the design aspects of a ship, the Steering Committee agreed to forward the related paragraphs 1-4 from Guideline B4.1.1 to Committee No. 2 for consideration under Title 3, and to amend the heading of this Guideline as follows: Medical care provisions. The Committee also tried to avoid duplication with regard to the provisions of STCW Conventions.

The second subject was shipowners' liability for financial consequences of sickness or injury in connection with seafarers' employment. These provisions are aimed at ensuring short-term social protection coverage. We discussed Regulation 4.2 and the related provisions. Brackets were removed from paragraph 4 of Standard A4.2. As for subparagraph 1(a) on shipowners' liability in respect of sickness or injury of the seafarers during their employment, and subparagraph 1(b) concerning compensation in the event of death or long-term disability, the Committee did not dwell on the discussion of these two paragraphs and was of the opinion that the texts of these subparagraphs should be maintained between brackets for rediscussion in the light of the findings of the ongoing study undertaken by the ILO/IMO Joint Working Group and that this matter should be forwarded to the Steering Committee.

The third topic was health and safety protection and accident prevention. These texts are aimed at ensuring that seafarers' working environment on board ships promotes occupational safety and health. A small working group was established to

examine Regulation 4.3 and Standard and Guideline B4.3.1. The report of this Working Group was extensively discussed. We also discussed the proposals submitted in this regard: the introduction of amendments as necessary; the emphasis on occupational health and safety programmes and policy systems; the inclusion of physical and psychological effects of fatigue in the list of occupational diseases to be addressed by the competent authority through international instruments, national principles and occupational safety and health programmes and policy systems.

As to the guidelines concerning noise and vibration, the Committee discussed these texts and we saw that this subject had some relationship with the design of the ships, in addition to considerations related to safety and health, and therefore we forwarded this to the Steering Committee and the Committee decided to forward it to Committee No. 2 for consideration under Title 3.

The fourth subject is access to shore-based welfare facilities. In this respect, the Committee confirmed that there is no obligation on member States that ratify this Convention to provide financial support necessary for welfare facilities in ports. The role of the member States is limited to promoting the creation and development of such facilities and facilitating access to them.

The fifth topic is social security. This topic was one of the most difficult due to the variety of responsibilities, the specific global nature of seafarers' work, the status of those working on foreign ships and those who are not entitled to social security in force in the flag State. The High-level Working Group, in its previous meetings – the most recent held in Nantes, January 2004, in addition to the Meeting of Experts held in April 2004, devoted much time and effort to reaching the text submitted by the Office. However, in spite of the difficult nature of this subject, the Committee reached a consensus on the principle of social security and the participants cooperated in discussing the Office's text and many amendments submitted by a number of Governments, as well as by the social partners, taking into consideration the following: Convention No. 165 was only ratified by two member States and we should reach a text capable of achieving widespread ratification as a general objective for the new instrument; the fundamental principle is the responsibility of the State of residence; although the provisions of the Convention mention nine branches of social security, member States are required to ensure protection for at least three branches that should be specified at the time of ratification; it is difficult to ask all States to extend the social security coverage to seafarers working on ships that fly their flag in relation to all branches applied in the State of residence. That is why the texts use the expression "according to their national circumstances". In order to ensure the sustainability of enjoying social security regardless of the place of residence, several means of enforcements are provided for through cooperation amongst States by bilateral or multilateral agreements or other arrangements, whatever the coverage system may be, either based on participation by contribution or government support and regardless of the place of residence.

I would like to express my thanks, on my own behalf and on behalf of the members of the Committee, to the secretariat and especially to Ms. Doum-

bia-Henry for all the efforts made since the first meetings of the High-level Working Group in December 2001 and until now. These efforts resulted in the recommended draft of the consolidated maritime labour Convention that was the basis of discussions in the sittings of Committee No. 3.

I would also like to express my thanks to all members of the Committee for their cooperation and the consensus they have achieved and their determination to achieve success.

I would like also to thank the translators and the interpreters who were present during the Committee's meetings, for their patience and their attention to the many interventions of the members of the Committee.

I also would like to thank Ms. Baldoz, the Chairperson of the Committee, who was very patient and shouldered a heavy responsibility for this difficult title from the instrument. Thanks to her efforts we have achieved success in the work of the Committee.

Mr. COX (*Shipowner Vice-Chairperson of Committee No. 3*)

You all appreciate that several members on my team asked me to be brief, but of course brief is a subjective word, so I will try to be so, but I am not sure I can please everybody in the hall in that respect. Certainly, it is a pleasure to be speaking here as the spokesperson for the Shipowners' group on Committee No. 3. We did quite a bit of work throughout the two weeks and I want to thank my team for putting up with my abilities, in our small group, to fail to understand what they were saying.

I want to thank our Chairperson, Ms. Baldoz; I told her she had courage to take on this responsibility, and I think that she lived up to expectations. I want to thank my co-Vice-Chairperson, who was a more than able spokesperson and more than able to present all the viewpoints of the Seafarers, and lived up to the high expectation that I have of the spokesperson from the Seafarers' bench, I might point out.

We were dealing with Title 4, "Health protection, medical care, welfare and social protection". That struck me as very interesting, because these are important personal topics that affect all of us as individuals, and certainly as I looked across the room during the two-week deliberations, I thought, those are people over there and these aspects are very important to their personal life on board ship, and indeed ashore, and I wanted to reflect too that many of us on the Shipowners' bench are former seafarers, or still call ourselves seafarers when it is permitted to do so, and we share all those same concerns. One overarching concern we had was that there are nine branches of social security listed in the instrument, and, of course, Shipowners assume their responsibility for those aspects that are called social security in the instrument. We assumed every single aspect of our responsibility. We are also very strongly of the mind that Governments have to assume their responsibility for the other aspects of the social security items listed in the instrument. Without wishing to lean too much on social security, we also dealt with health protection and medical care, with as much interest and importance, I think, as we did the social security topics. Certainly, for a person who is injured on board ship that immediate health care has somewhat more importance perhaps than who is going to sort out something that's going to happen five or six months later.

We had to deal with the consolidation of a number of instruments and as I looked at that consolidation, I realized that it was also incumbent upon us to update and dare I say improve the language as it covers these topics, and I think that we did so. Three years ago when we started this, I asked myself a question, I said, “will this be done?” And I must say that the question is still there, although I think that it has a less concerning tone as I say it today. I think the chances are very good that it will be done.

Thank you for listening today, thank you fellow delegates, thank you Seafarers, and, last but certainly not least, thank you to my own team for all their assistance these past two weeks.

Ms. Smith (Seafarer Vice-Chairperson of Committee No. 3)

Over the past week and a half, this Committee has grappled with the large number of very difficult and contentious issues, and as if the issues were not daunting enough, we also had to deal with the new procedures. The fact that we have managed to move forward in many areas has been due to the professionalism and sheer hard work of a lot of people. With this in mind, we would like to congratulate our Chairperson, Ms. Baldoz, on her leadership of the Committee. We also have to admire her mettle in taking on such a role, since social security provisions have gained a reputation for being one of the most difficult parts of the Convention. Our work would not have been possible without the painstaking preparation by the Office and their skilful guidance throughout the Conference. The Committee has also had the benefit of the views of the experts, which has been extremely useful. As usual, Ms. Doumbia-Henry and her team have provided us with invaluable support and we thank them for this.

We also wish to express our appreciation to Mr. Cox, the spokesperson for the Shipowners, for the spirit in which he has approached our discussions. It is always a pleasure to work with someone of his stature, professionalism and experience.

The Committee has clearly made advances this past week and a half. We have discussed and achieved consensus on a number of important issues: on medical care, shipowners’ liability for the financial consequences of sickness, injury or death that occurs in connection with employment, and on health and safety protection and accident prevention. Further work will no doubt be required, but the Seafarers feel that we have achieved good progress on these issues.

However, we are less positive about the outcomes of the discussions on social security protection. The responsibility for providing social security protection is a shared one between States – and here I am referring to both the resident and flag States – Shipowners and Seafarers, and it is important that all parties live up to their responsibilities. We do not deny that the issue of social security protection for Seafarers is particularly complex due to the nature of shipping, whereby international seafarers work in a global industry and sail on board different ships flying different flags. In addition, the social security systems in many countries are not sufficiently developed to provide seafarers with the protection they need. Seafarers often find themselves expressly excluded from benefits available to shore-based workers. It was precisely because of this situation that we decided to address the issue of social security protection in the consolidated Convention.

It has been a disappointment to the Seafarers that the Committee has failed to address adequately the responsibilities of flag States with regard to the provision of social security protection. The flag State has jurisdiction over the ship and has the responsibility to perform an oversight and monitoring role. It has to ensure that seafarers have social security coverage, either through the legislation of the State of residence, its own legislation or through other arrangements, such as bilateral or multilateral agreements and collective agreements. Unfortunately, although there was significant support for this principle in the Committee, there was no consensus. Without a properly developed role for the flag States in the Convention, it is difficult to see how seafarers will be able to benefit in practice.

As we prepare for the Maritime Labour Conference, we urge all member States to bear in mind that our target is to secure decent living and working conditions for seafarers, and in doing so to further the Decent Work Agenda of the ILO. We do not believe that we will have achieved this unless all seafarers, irrespective of their nationality, can have access to adequate social security protection.

The Seafarers look forward to working with our social partners and member States to achieve further progress on the issues addressed by the Committee, and we wish to thank all the people involved in Committee No. 3.

Ms. LEWANDOWSKA (Government Vice-Chairperson of Committee No. 3)

I do not have any formal statement to make. Everything I wanted to say has already been said by our Reporter and our Vice-Chairpersons from the Seafarers’ and Shipowners’ groups. I just want to state that Committee No. 3 had very big issues to cope with and that during these two weeks of work, we managed almost all of our problems concerning Title IV of the recommended draft.

It was a great honour to work with such experienced people from all three parties in Committee No. 3, and I believe that everything was done to prepare the draft as it should be.

Of course, I would also like to express my warm thanks to Ms. Doumbia-Henry and her crew, who provided us with very extensive help during our discussions.

Ms. BALDOZ (Chairperson of Committee No. 3)

The report of Committee No. 3 on health protection, medical care, welfare and social protection, is the product of extensive debates among the social partners and the Governments. Their views were expressed in a very honest, frank and sincere manner. The debates in the Committee were conducted in an atmosphere of mutual trust and respect – truly characteristics of tripartism and social dialogues that make the ILO unique in its values and traditions as an international organization.

The Chairperson was blessed by God with a tremendous amount of expertise, goodwill and good faith among all the speakers who facilitated the reaching of consensus on what to do with all the bracketed texts. The debates that took place, while intense, nevertheless demonstrated the unity of the members with different national circumstances and the social partners in the common goal to improve the working and living conditions of seafarers all over the world, and the unanimous expression of

recognition of their rights to social security protection and medical care on board ships.

The Committee was conscious of the so-called delicate balance that has been reached on the sharing of responsibilities between members and the social partners on the many complexities of implementing the welfare, medical care and social security protection programmes of many countries. With that in mind and with the clear explanations of the rationale of the draft texts, the Committee succeeded significantly in removing the brackets and thus adopting most of the existing texts. As to those texts that were amended, we are certain that the draft Convention was improved and we are grateful to those who have contributed and agreed to the modifications.

The only remaining unresolved provision concerns issues on achieving a common playing field. There were differing views, however, of how to achieve this depending on national circumstances. Still we are very hopeful, based on our discussions, that the different positions of the Government, Seafarers and Shipowners will be resolved in the very near future.

The outcome indicates clearly the integrity and maturity of the draft instrument in addressing the concerns of bringing the system of protection in health, medical care, welfare and social security, contained in the existing standards, closer to the seafarers and in improving the applicability of the system so that shipowners and governments can provide decent work and living conditions to all seafarers without bearing an unequal burden in ensuring such protection. With this outcome, Mr. President, which was achieved through the process of extensive debates and consensus with the assistance of the small working party and the Drafting Committee, the Committee is confident that we have contributed significantly towards achieving an unprecedented ILO objective of wide-scale ratification of a maritime labour instrument once it is finally adopted.

For this, the Chair is most grateful for the expertise and the highly competent and dedicated leadership of Mr. Cox, the Shipowner Vice-Chairperson of the Committee and Ms. Smith, the Seafarer Vice-Chairperson and their secretaries, Ms. James and Mr. Heller. The Chair is also most grateful to the representatives of the various Governments which participated actively in our Committee whose names I need not mention and whose views are clear in the minds of all other Committee members by the high level of competency and diplomacy that they demonstrated throughout our deliberation. The Chair makes special mention of Ms. Lewandowska, the Government Vice-Chairperson and Ms. Elhamid, the Committee Reporter, for a job well done and most appreciated.

Finally, the Chair is greatly indebted and most grateful for the competent and inspiring support and overall direction and stewardship provided by Ms. Cleopatra Doumbia-Henry and her staff, particularly Mr. Danny Apave and Mr. Javier Escobar. Without their timely intervention and expert advice, the Committee would have been lost in the many issues that needed adequate background and historical explanation. Likewise, I wish to acknowledge the valuable role of the interpreters in ensuring the accurate translation of the proceedings and thereby avoiding unnecessary problems in our efficient and effective communication.

As Chairperson, I endorse the adoption by this body of the Committee report. On behalf of my country, the Philippines and my delegation, I thank you, Mr. President, for the privilege of chairing the Committee. It has been a most exciting and most rewarding learning experience for me.

Original French: The PRESIDENT

Are there any further general statements on the report of this Committee? If not, I propose that we now embark upon the approval of the report. We will proceed as we did for Committee No. 1.

Mr. COX (*Shipowner, United States*)

I should just like to raise a point of order. It is written that we sent Guideline B4.1 to Committee No. 2. I am informed that Committee No. 2 also worked on some other paragraphs that were under the authority of Committee No. 3. So I would point out that the authority of changes for paragraphs 4(a) in the Standard never left the authority of our Committee. Yet I understand that in the report of Committee No. 2, there was a reference to it. I think that this would be an improper reference by Committee No. 2 and that the proper action is reflected in our document before us.

Original French: Mr. PRESIDENT

Since we do not yet have the report of Committee No. 2, I suggest we deal with both questions when we have that report. Any further comment?

Ms. SMITH (*Seafarer, Norway*)

In the light of the comments that were made by the Shipowners we should refer you to paragraph 22 and simply point out that the Seafarers' group did voice a very strong objection to the minimum figure required to provide hospital accommodation. It is a matter that we leave to you as to whether it can be said that there was "general consensus" on the issue.

Original French: Mr. PRESIDENT

In paragraph 22 you are unhappy about the word "consensus". Is that right?

Ms. SMITH (*Seafarer, Norway*)

We are simply pointing out, and you will see this clearly from the preceding paragraphs, that the Seafarers' group did voice a very strong objection to the minimum figure of 15. We want to stress that we did voice a strong objection and it is a matter for you whether it can be said that there was a "general consensus".

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

I think that my understanding from this paragraph is that paragraph 4(a) is adopted. There was consensus to adopt it. Are you saying that there was no consensus to adopt paragraph 4(a) with the figure? Are you calling into question that decision? The reference refers to the decision to adopt a given provision. I am worried about whether you are questioning whether the text was adopted in the Committee. That is what I think the Chairperson's statement can be read to mean.

Ms. SMITH (*Seafarer, Norway*)

What we are saying is that – and we ask for it to be noted in the report – we did voice a strong objection to the minimum figure of 15. It does say here the Chairperson noted that there was a general con-

sensus. But what we are saying is – because we did voice a strong objection – we are not sure, and the matter is left to you, whether it can be said that there was a “general consensus”.

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

With your permission my understanding is that the text was adopted but we will look at some wording that would reflect that in a better way than what is here.

Mr. CRUMLIN (*Seafarer, Australia*)

I would just like to make the point, in my capacity as the Seafarer Vice-Chairperson in Committee No. 2, that it was agreed that the text would be referred to Committee No. 2 – and this number came over in soft brackets.

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

I think that the Seafarers’ objection is well noted in the preceding paragraphs, so I do not think that this is a problem – but we are prepared to look at the wording of paragraph 22, so that it would read: “The Chairperson noted that there was agreement to keep the text in paragraph 4(a) as set out in the recommended draft.”

Original French: Mr. PRESIDENT

Do you agree with the wording that we have just heard? If that is the case, I propose that we continue with the examination of the report.

Original Russian: Government delegation of the Russian Federation

The Russian Federation would like an amendment to paragraph 145.

Original French: The PRESIDENT

As this is a statement reported by the Shipowners by its Chairperson, please could you clarify.

Original Russian: Government delegation of the Russian Federation

We agreed that the word “after” would be more appropriate than the word “in”; indeed, the Russian Federation was one of those countries which agreed to support the Shipowners.

Original French: The PRESIDENT

The Russian Federation will therefore be added to the list of the countries that approved the change.

Ms. SMITH (*Seafarer, Norway*)

We would like to add a new paragraph after paragraph 348, to reflect an intervention that was made by the Seafarers’ spokesperson seeking confirmation of their understanding about the intervention of the United Kingdom delegation.

Original French: The PRESIDENT

This comment is not in the report.

Government delegation of the Bahamas

We should like a change introduced to paragraph 345.

Original French: The PRESIDENT

As this is a paragraph concerning the Government member of Japan, could you please explain?

Government delegation of the Bahamas

At the end of paragraph 345, some wording proposed by the Government member of Japan is given, but the paragraph does not reflect the complete sense of the intervention that my delegation made at that time. We made additional remarks and we would like the additional comments to be reflected.

Government delegation of the United Kingdom

We have an amendment to paragraph 348. Noting the intervention just made by the Seafarers asking for a paragraph to be inserted to show that they asked this Government a question, we would like to point out that we did give them an answer to the question they posed. Should we then include that answer in another paragraph, after the paragraph inserted by the Seafarers?

Original French: The PRESIDENT

Yes. Could you please discuss this matter with the secretariat and the Seafarers.

Government delegation of Japan

I will submit an amendment to paragraph 388, after due consultation with the distinguished delegate from the Bahamas.

Original Arabic: Government delegation of Tunisia

We have an amendment concerning paragraph 371.

Original French: The PRESIDENT

As there are several governments and persons who are mentioned in this paragraph, could you please specify.

Original Arabic: Government delegation of Tunisia

There are some points I mentioned and these are not reflected in the paragraph in question.

Government delegation of Denmark

We have a slight editorial change in paragraph 402, since my colleague in Committee No. 3 is a woman, we need to change the word “he” to “she”.

Government delegation of the Bahamas

We have minor amendments to paragraphs 405 and 411.

Original French: The PRESIDENT

Could you please specify what you are requesting as regards paragraph 411?

Government delegation of the Bahamas

In paragraph 411 it states that we supported the Government of Norway; in fact, what we supported was the intervention in paragraph 410 by the Shipowners, so the indication of our support needs to be transferred from paragraph 411 to paragraph 410.

Original French: The PRESIDENT

We have completed our examination of the report of Committee No. 3. If there are no objections, may I take it that the report, as amended, is approved?

(*The report of Committee No. 3, as amended, is approved.*)

(*The sitting adjourned at 7.45 p.m.*)

Resolution concerning technical cooperation to strengthen the capacities of the national administrations responsible for maritime labour inspection

The Preparatory Technical Maritime Conference of the International Labour Organization,

Convened in Geneva by the Governing Body of the International Labour Office from 13 to 24 September 2004,

Having discussed the draft consolidated maritime labour Convention,

Noting that the provisions of the draft consolidated Maritime Labour Convention call upon each ratifying State to implement the requirements laid down in the Convention,

Recognizing that the ratification and successful implementation of the consolidated maritime labour Convention should rely on the availability of the necessary expertise and material resources in each ratifying State,

Noting the urgent need for assisting member States in developing national capacity with respect to putting in place an effective national system for inspection and certification with respect to maritime labour conditions;

1. Urges Members to agree among themselves on measures of cooperation which would:

- (a) develop national institutions and capacity for inspection and certification with respect to maritime labour conditions;
- (b) provide training and exchange knowledge and experience on formulation and development of national policies, laws and regulations and procedures for inspection and certification with respect to maritime labour conditions;
- (c) strengthen measures to develop cooperation and exchange of information and provision of material assistance at the international, regional and bilateral level in support of the ratification and national implementation of the Convention.

2. Invites the Governing Body of the International Labour Office to request the Director-General to:

- (a) implement an action plan on technical cooperation so that national administrations responsible for maritime labour inspections may develop the necessary capacity to effectively implement the relevant provisions of the Convention and that member States are able to ratify it;
- (b) consider an appropriate tripartite arrangement in order to facilitate the implementation of the Convention by drafting specific manuals and training material on the Regulations, Standards and Guidelines contained in the Convention;
- (c) mobilize and allocate necessary resources for the Organization's technical cooperation programme to assist member States with respect to the implementation of inspection and certification provisions of the consolidated maritime labour Convention.

CONTENTS

	<i>Page</i>
<i>Second sitting</i>	
Resolution concerning technical cooperation to strengthen the capacities of the national administrations responsible for maritime labour inspection: Submission, discussion and adoption.....	1
<i>Speakers:</i> Ms. Hendarti, Mr. Zhang, Mr. Lindemann, Mr. Orrell, Mr. Jennings Mr. Li, Mr. Yahmadi	
Report of Committee No. 1: Submission, discussion and approval	3
<i>Speakers:</i> Mr. Shinguadja, Mr. Hajara, Mr. Orrell, Mr. Jeon, Mr. Carlton, Ms. Doumbia-Henry	
Report of Committee No. 3: Submission, discussion and approval	9
<i>Speakers:</i> Ms. Elhamid, Mr. Cox, Ms. Smith, Ms. Lewandowska, Ms. Baldoz, Ms. Doumbia-Henry, Mr. Crumlin, Government delegation of the Russian Federation, Government delegation of the Bahamas, Government delegation of the United Kingdom, Government delegation of Japan, Government delegation of Tunisia, Government delegation of Denmark	
Resolution concerning technical cooperation to strengthen the capacities of the national administrations responsible for maritime labour inspection	14