



FIFTH ITEM ON THE AGENDA

**Report of the 29th Session of the Joint  
Maritime Commission**

(Geneva, 22-26 January 2001)

1. The Joint Maritime Commission, (hereinafter referred to as the Commission), met in its 29th Session in Geneva from 22 to 26 January 2001. Ms. Birgit Solling Olsen, representing the Chairperson of the Governing Body, and ex-officio Chairperson of the Commission, presided over the session. The representatives of the Employers' and Workers' groups of the Governing Body were Mr. Toshio A. Suzuki and Mr. Jerry Zellhoeffer, respectively. A list of participants is given in Appendix I to the report of the Commission.
2. The agenda of the session, as established by the Governing Body at its 274th Session (March 1999), was as follows:
  - (i) review of relevant ILO maritime instruments;
  - (ii) updating of the ILO's minimum basic wage of able seamen;
  - (iii) the impact on seafarers' living and working conditions of changes in the structure of the shipping industry; and
  - (iv) joint IMO/ILO ad hoc expert working group on liability and compensation regarding claims for death, personal injury and abandonment of seafarers.
3. The Commission adopted a report on its proceedings and 13 resolutions (reproduced in the appendix to this document).
4. *The Governing Body may wish to:*
  - (a) *take note of the report of the Commission which is appended to this document and in particular approve the recommendations contained in paragraphs 44, 45 and 46 of that report;*
  - (b) *request the Director-General to communicate the report and resolutions to member States, international organizations of employers and workers, as well as other relevant international organizations.*

## **Item 1: Review of relevant ILO maritime instruments**

5. The Commission, under this item, discussed the significance and impact of maritime labour standards. It agreed that many of the existing ILO maritime labour instruments were outdated, deficient and not reflective of modern practices; those which were up to date and pertinent were not sufficiently ratified. It concluded that the best way forward in line with the integrated approach approved by the Governing Body at its 279th Session (November 2000) was the adoption of a single “framework” instrument which would consolidate the existing body of ILO maritime Conventions and Recommendations.

## **Resolution concerning the review of relevant ILO maritime instruments**

6. In this resolution, the Commission requested the Governing Body to take a number of steps to ensure that the Organization moves towards the adoption of a consolidated instrument as mentioned above.
7. The Commission recommended:
  - (a) that the Governing Body should establish a high-level tripartite working group on maritime labour standards to assist with the work of developing the proposed new instrument and that membership should comprise ten representatives of each group;
  - (b) that the first meeting of the high-level tripartite working group should take place in 2001 and that further meetings should be held in 2002 and 2003 with the expenses of the members from each group paid by the Office;
  - (c) that the Shipowners’ and Seafarers’ groups of the Commission should be requested to nominate respectively the Shipowner and Seafarer members and advisers of the working group, and the Governing Body should nominate the Government members in such a manner as to ensure that the membership properly reflected geographic regions and was representative of major flag States, port States and labour supply countries;
  - (d) that the meetings of the working group could be attended by observers in line with the Standing Orders relating to sectoral meetings;
  - (e) that a tripartite subgroup should be established to prepare and consider the working papers in advance of meetings of the high-level tripartite working group;
  - (f) that the meetings of the subgroup should be private;
  - (g) that membership of the subgroup should comprise 12 members of the working group, four members each from the Government, Shipowners’ and Seafarers’ groups respectively, selected at the first meeting of the working group, together with the secretaries of the Shipowners’ and the Seafarers’ groups of the Commission and the Office; and
  - (h) that participation in the subgroup should be arranged at no cost to the Office.

8. The Commission also urged the Governing Body:
- (a) to convene a preparatory meeting in 2004 for first discussion of the proposed new instrument;
  - (b) to convene a Maritime Session of the International Labour Conference in 2005 to adopt the instrument with the following agenda:
    - (i) consolidation of ILO maritime instruments;
    - (ii) general discussion on the developments in the industry; and

having a resolutions committee in accordance with article 17 of the Standing Orders of the International Labour Conference.

9. *Taking account of proposals of which the Programme, Financial and Administrative Committee was informed when it discussed the financial aspects of the relevant recommendations made by the Joint Maritime Commission, the Governing Body may wish to:*

- (a) *establish a high-level tripartite working group in accordance with paragraph 7 above, with a composition of 12 Government representatives, 12 Shipowners' representatives and 12 Seafarers' representatives and of Government, Employers' and Workers' observers with the right to speak and participate in the meetings of the working group taking due account of the criteria set out in paragraph 7 (c) above and stressing that representatives and observers should be knowledgeable and active in the enforcement of the standards to be adopted and be able to commit the necessary time to lend to the continuity of the process;*
- (b) *approve the recommendation that the decisions of the high-level tripartite working group should be taken by consensus;*
- (c) *approve the setting up of a tripartite subgroup in accordance with the modalities set out in paragraph 7 above;*
- (d) *invite the Director-General to take note of the requests contained in paragraphs 7 and 8 above when establishing the programme of work of the Office for the rest of this biennium as well as for the 2002-03 and 2004-05 biennia.*

## **Item 2: Updating the ILO's minimum basic wage figure for able seamen**

10. This item of the agenda concerned the updating of the minimum wage figure under the procedure provided for by paragraph 10 of the Seafarers' Wages, Hours of Work and the Manning of Ships Recommendation, 1996 (No. 187). The proposal of the Commission is reflected in the two resolutions below.

## **Resolution concerning the ILO minimum wage for able seamen**

11. The Commission considered that the list of countries and the formula used by the Office for the purpose of calculation should be maintained.
12. The Commission recommended to the Governing Body that the current ILO minimum wage figure should be updated from US\$435 to US\$450 as of 1 January 2002 and to US\$465 as of 1 January 2003.
13. The Commission also agreed that the amount of US\$465 should be used as the base for recalculation purposes and that the formula should measure changes in consumer prices, currency exchange rates and weighting to cover the period of adjustment time which would start from 1 January 2001 up to the most current month for which data were available, when the amount of the basic pay or wages for able seamen was considered for revision by Commission sessions in future.
14. The Commission invited the Governing Body to agree to the establishment of a subcommittee of the Commission which should meet every two years, even if there was no budgetary allocation, for the purpose of updating the basic pay or wages of able seamen between sessions of the Commission and which should be composed of six Shipowner and six Seafarer representatives. The subcommittee would also be authorized, where appropriate, to report back directly to the Governing Body and to convene its first meeting in September 2003 with a view to implementing the revised formula as of 1 January 2004.
15. *The Governing Body may wish to:*
  - (a) *endorse the proposals of the Commission as regards the updating of the minimum wage figure for able seamen contained in paragraph 12 above;*
  - (b) *endorse the proposal of the Commission as regards the future updating of this figure contained in paragraphs 11 and 13 above;*
  - (c) *agree to the establishment of a subcommittee of the Commission, at no cost to the Office, with terms of reference as set out in paragraph 14 above.*

## **Resolution concerning the interpretation of the ILO minimum wage of able seamen**

16. Referring to the recommended minimum wage for able seamen and the mechanism for its periodical updating, the Commission recalled that ILO maritime instruments provide guidance on how the recommended basic minimum wage of an able seaman can be applied in order to calculate a total monthly package through, inter alia, the establishment of a normal working week, minimum leave entitlements and a formula for the calculation of overtime. Noting that the recommended minimum wage for an able seaman had proved to be beneficial for the shipping industry, the Commission considered that it would be advantageous if the Governing Body invited the Director-General to convene a meeting of a joint working group of Shipowner and Seafarer members of the Commission together with Office experts to provide guidance to Shipowner and Seafarer representatives and port and flag State authorities on how this wage should be interpreted so as to provide a recommended total minimum salary. It was understood that the participation of the social partners in such a meeting would be at no cost to the Office.

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17. *The Governing Body may wish to request the Director-General to convene, at no cost to the Office, a meeting of a joint working group as suggested in paragraph 16 above.*

### **Item 3: The impact on seafarers' living and working conditions of changes in the structure of the shipping industry**

18. Under this item, the Commission discussed a wide range of issues relating to the conditions of work and life of seafarers and adopted ten resolutions which are summarized in the following paragraphs.

#### **Resolution concerning the internationalization of shipping, including the use of flags of convenience**

19. This resolution requested the Governing Body to convene a further meeting of the Commission and/or to hold a special meeting of experts to consider the results of the questionnaire on international registers which the Office has sent out to ILO member States with maritime activities. This meeting would seek to identify whether additional action to ensure the application of minimum social standards to seafarers was required.
20. *The Governing Body may wish to invite the Director-General to take this request into account when establishing the future programme of work of the Office.*

#### **Resolution concerning the structural changes within the industry which have caused unemployment amongst seafarers**

21. This resolution noted that structural changes within the maritime industry have resulted in seafarers becoming unemployed, and invited the Governing Body to request the Director-General to bring to the attention of member States the provisions of the ILO Employment of Seafarers (Technical Developments) Recommendation, 1970 (No. 139). It also invited the Governing Body to request the Director-General to produce and circulate a questionnaire which, in addition to identifying the extent of the problem, should also include a section on identifying any remedial measures that may have been taken.
22. *The Governing Body may wish to:*
- (a) request the Director-General to communicate this resolution to member States drawing their attention to the Employment of Seafarers (Technical Developments) Recommendation, 1970 (No. 139);*
  - (b) instruct the Director-General to take the request in paragraph 21 into account in the work programme of the Office.*

#### **Resolution concerning sub-standard shipping**

23. The Commission noted that a sub-standard shipping operation has been defined in terms of being substantially below the requirements established by the International Maritime Organization, without also giving due regard to compliance with other applicable international requirements. It also noted that the United Nations Convention on the Law of

the Sea required flag States to exercise effective jurisdiction in relation to social and labour conditions over vessels flying their flags. It therefore requested the Governing Body to invite the Director-General to take all necessary measures to ensure that applicable social and labour standards of the ILO were given due consideration in determining whether a ship or operation is sub-standard.

**24. *The Governing Body may wish to invite the Director-General to:***

- (a) implement the measures requested in paragraph 23 above;*
- (b) communicate this resolution to member States, international organizations of employers and workers as well as other relevant international organizations.*

### **Resolution concerning the ILO maritime identity**

**25.** In this resolution, the Commission considered that the unique character of the maritime industry should be recognized within the Office through the maintenance of a separate maritime unit and a dedicated ILO maritime programme and machinery with adequate staff and resources, in order for the Organization's maritime activities to have external visibility.

**26. *The Governing Body may wish to invite the Director-General to take into consideration the request of the Commission mentioned in paragraph 25 above.***

### **Resolution concerning addressing the human element through international cooperation between United Nations specialized agencies**

**27.** In this resolution, the Commission noted that the International Maritime Organization was giving a greater role to the human element in its future work programme. Since many of the issues which were to be dealt with were covered by the overlapping mandates of the ILO and IMO for social and technical questions respectively, the Commission suggested that there were clear grounds for urgent and integrated action for a comprehensive evaluation of the human element which could draw on the synergies and competencies of the respective organizations.

**28.** The Commission invited the Governing Body to request the Director-General to consult with the Secretary-General of the International Maritime Organization with a view to establishing a joint working party to undertake such an evaluation with appropriate terms of reference for the ILO approach to the human element in international shipping agreed in consultation with the secretaries of the Seafarers' and Shipowners' groups of the Commission.

**29. *The Governing Body may wish to request the Director-General to:***

- (a) communicate this resolution to the Secretary-General of the International Maritime Organization;*
- (b) consult with the Secretary-General of the IMO on the possible setting up of a joint working party on the human element in international shipping.*

## Resolution concerning the enhancement of the role of the Joint Maritime Commission

30. This resolution considered that the emergence of the global labour market for seafarers has effectively transformed the shipping industry into the world's first genuinely global industry. This required a global response in the form of a body of global standards applicable to the whole industry in order to ensure decent standards for all seafarers.
31. Consequently, the Governing Body was invited to authorize regular meetings of the Commission so as to establish a forum for meaningful and ongoing social dialogue at the international level on a more permanent and structured basis and, in doing so, to provide the industry with a structure able to deal quickly with issues of relevance to the constantly changing global shipping industry.
32. In addition, it invited the Governing Body to reiterate the role of the Commission as the body capable of advising member governments and the ILO on all aspects of the Organization's work within the shipping industry and in particular the decent work programme.
33. *The Governing Body may wish to:*
- (a) *request the Director-General to take note of the need for further sessions of the Joint Maritime Commission in the light of developments in the shipping industry when elaborating future programme and budgets;*
  - (b) *reiterate its support for the Commission as the body capable of advising member governments and the ILO on all aspects of the Organization's work within the shipping industry and, in particular, the decent work programme.*

## Resolution concerning tonnage measurement and the accommodation of crews

34. The Commission noted that the International Convention on Tonnage Measurement of Ships (1969) had an impact on the design of ships, including crew accommodation, with implications for the occupational health and safety of seafarers and dockworkers. The Commission requested the Governing Body to agree that these issues should be fully considered during the revision of the Organization's maritime instruments and to invite the Director-General to communicate these matters to the Secretary-General of the International Maritime Organization, with a view to mitigating any adverse effects of the International Convention on Tonnage Measurement of Ships (1969).
35. *The Governing Body may wish to invite the Director-General to:*
- (a) *bring the issues referred to in paragraph 34 above to the attention of the preparatory meetings to be convened for the revision of the ILO's maritime instruments;*
  - (b) *communicate this resolution to the Secretary-General of the IMO.*

## Resolution concerning women seafarers

36. This resolution noted the specific problems of women seafarers, particularly those relating to maternity rights and discrimination, which acted as major obstacles for women wishing

to embark on, or maintain, a career at sea. It urged the shipping industry to take positive steps to act against any aspect of discrimination based on gender. It requested the Governing Body of the ILO to invite the Director-General to undertake a study on women seafarers, maternity and employment rights before and after childbirth and present this for discussion at a future meeting of the Commission with a view to establishing appropriate standards and guidance for the industry to provide women seafarers with a realistic opportunity to maintain a career at sea.

**37. *The Governing Body may wish to request the Director-General to:***

- (a) communicate this resolution to member States, international organizations of employers and workers and any other relevant institutions;*
- (b) take the request concerning the study referred to into account in the Office's work programme.*

### **Resolution concerning seafarers' welfare**

**38.** This resolution noted that structural changes in the industry had reduced opportunities for seafarers to go ashore and as a consequence welfare facilities and services for seafarers, including hotels or hostels suitable for seafarers and means of prompt transportation to and from them, were more needed than before. The resolution referred to lack of implementation of the provisions of the Seafarers' Welfare Convention, 1987 (No. 163). It also noted the increasing transfer of responsibility for the provision of welfare services to regional, voluntary and charitable institutions which could result in some instances in downgrading or even disappearance of the facilities and services.

**39.** The Commission considered that governments had the ultimate responsibility to ensure the establishment and maintenance of adequate and sufficient welfare facilities and services, including means of prompt transportation, specifically for seafarers and their families. It requested the Governing Body to invite the Director-General to take all necessary measures to strongly encourage member States to ratify and enforce Convention No. 163.

**40. *The Governing Body may wish to invite the Director-General to:***

- (a) communicate this resolution to the member States of the ILO, international organizations of employers and workers and relevant international organizations;*
- (b) take the resolution into account in the Office's work programme for the promotion of decent work in the maritime industry.*

### **Resolution concerning action taken against seafarers in the event of maritime accidents**

**41.** The Commission noted that, in the event of maritime accidents, some administrations had placed seafarers, in particular the master, under arrest. Such action had been taken immediately after the accident, before any investigation had taken place, while the seafarers concerned were in a state of deep distress and despite, in many instances, the action taken by the master and seafarers to save lives and mitigate damage.

**42.** The Commission, recognizing that all seafarers, in particular the master, were highly trained individuals and should be treated as such, was concerned that the act of arrest or potential arrest could in some instances make seafarers unwilling to take mitigating action



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to protect human life and the environment. It recommended that the Director-General bring these concerns to the attention of member States.

**43. *The Governing Body may wish to request the Director-General to communicate this resolution to member States and relevant international organizations.***

Geneva, 15 February 2001.

*Points for decision:* Paragraph 4; Paragraph 26;  
Paragraph 9; Paragraph 29;  
Paragraph 15; Paragraph 33;  
Paragraph 17; Paragraph 35;  
Paragraph 20; Paragraph 37;  
Paragraph 22; Paragraph 40;  
Paragraph 24; Paragraph 43.