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REPORT ON THE WORK OF THE PREPARATORY TECHNICAL MARITIME CONFERENCE OF THE INTERNATIONAL LABOUR ORGANIZATION IN 1986

SUMMARY: I. Introduction. – II. Welfare of seamen in port and at sea. – III. Protection of Social Security for seamen, – IV. Protection of health and medical care for seamen. – V. Convention concerning the merchant marine (minimum standards), 1976 (num 147); procedure for including new conventions in the annexe, – VI. Revision of the Convention concerning the repatriation of seamen, 1926 (num 23) and of the Recommendation concerning the repatriation of captains and apprentices, 1926 (num 27). – VII. Resolutions presented by the group of seamen. – VIII. Final remarks.

I. Introduction

The International Labour Organization, conscious of the great technological and structural changes which are affecting the maritime sector prepared an important modernization and extension of the different rules applying to seamen. A preparatory technical maritime conference was convened in Geneva from 5 – 16 May 1986.

The Administrative Council of the International Office of Labour at its 228th reunion (November 1984) at the proposal of the Maritime Commission¹ had established for discussion at the conference² the following order of issues: 1. Well-being of seamen in port and at sea; 2.

¹ MARTINEZ PUÑAL: 'La organización Internacional del Trabajo y el mar; la vigésimo cuarta reunión de la Comisión Paritaria Marítima, *Anuario de Derecho Marítimo*, Vol. III, 1985, pp. 599–613.

² The composition of the conference, in keeping with that adopted by the Administrative Council at the cited assembly in November 1984 and at its 230th assembly (June 1985) must include the following 48 countries: Algeria, Saudi Arabia, Argentina, Bahamas, Belgium, Brazil, Bulgaria, Canada, China, Cyprus, Denmark, Spain, The United States of America, Philippines, Finland, France, Greece, India, Indonesia, Iran (Islamic Republic of), Iraq, Israel, Italy, Japan, Kuwait, Liberia, Malaysia, Malta, Mexico, Norway, the Low Countries, Pakistan, Panama, Poland, Portugal, United

protection of social security for seamen, including those who serve on board ships with a flag different to that of their own countries; 3. Protection of health and medical assistance of seamen; 4. Convention concerning the merchant marine (minimal standards) 1976 (number 147); procedure for the inclusion of new conventions in the annexe; Finally, 5. revision of the convention concerning the repatriation of seamen, 1926 (number 23) and of the recommendation concerning the repatriation of captains and apprentices 1926 (number 27).

The conference developed in conformity with the rule adopted by it at its second plenary session on the day of its inauguration.³ The conference, at its second plenary session, on 6 May, established 4 technical commissions, at the end of which they each reported on a point of order arising that day. The fourth point was examined by a working group of the commission of the Workers Organization. The conference held six plenary sessions.

II. Welfare of seamen in port and at sea

The commission on the well-being of seamen in port and at sea was set up by the conference with the object of examining the first point of order of the day, consisting of 'The well-being of seamen in port and at

Kingdom, German Democratic Republic, German Federal Republic, Rumania, Singapore, Sweden, Trinidad and Tobago, Turkey, the Union of Soviet Socialist Republics, Venezuela, Yugoslavia and Zaire. (Note for the participants, PTMC/1986/2, Preparatory Technical Maritime Conference, International Labour Organization, p. 2). Of the cited countries, the following were absent: Saudi Arabia, Australia, Bahamas, Cyprus, Kuwait, Malta, Poland, Rumania, Singapore, and Trinidad and Tobago. The Ivory Coast was represented by observers (Report of the Preparatory Technical Maritime Conference, GB/234/4/3, International Labour Organization, Administrative Council, Geneva, November 1986 p. 2. Provisional list of delegations, PTMC/1986/3; provisional list of delegations, *ADDENDUM No I* PTMC/1986/3 (Add. I), Revised list of delegations, *ADDENDUM No I* PTMC/1986/7 (Add. I). Each one of the countries attending did so as a tripartite delegation, formed by representatives of the Government, Shipowners, and Seamen accompanied by councillors considered as being necessary. Likewise various Governmental and non-governmental international organizations were invited. The inter-governmental organizations were the following: Arab Labour Organization, European Community, International Maritime Organization, Organization for Cooperation and Economic Development, United Nations Conference on Trade and Development and the World Health Organization. The non-governmental organizations were: Apostol of the Sea, International Christian Maritime Association, International Commission on Health at Work, International Confederation of Free Trade Unions, International Federation of Transport Workers Unions, International Organization of Employees, International Association for Protection against Radiation, International Shipping Federation, International Association of Social Security, International Federation of Transport Workers, International Association of Transport Workers, United Association of Mariners, World Confederation of Labour, World Federation of Trade Unions. A total of 401 persons participated in the conference.

³ Projection of regulation PTMC/1986/I: regulation PTMC/1986.

sea.⁴ The commission was formed by 64 members, of these 29 were governmental, 15 shipowners and 20 from the group of seamen, each governmental member had 300 votes, each shipowner member 580 votes and each member of the seamen 435 votes.

For its work, the commission served as a producer of information for the International Office of Labour, taking as the basis for discussion the list of conclusions suggested in chapter V of the information.

The commission, firstly, had a general discussion in which the shipowner members reported on the difficulties which they encounter in the navigation industry, and well admitted the liabilities to which they are incumbent in the lending of certain services for the welfare on board ships. However, they had taken note of the changes in the industry, the character and scope of the services given in the ports had to be examined with all attention. The recommendations were invalid and needed revision, by whatever new international instrument which might have a flexible character. For their part, the members of the group of seamen emphasized that the rapid changes affecting the navigation industry rendered the existing recommendations inadequate. They pointed out in this respect the ease with which a flag and crew could be changed, this was how each time more mariners were abandoned without recourse. They estimated, likewise, that the agreements concerning welfare for all those who work on board ships needed revision, the corresponding finance having to be obtained from governments or the vessels port.

The commission agreed that there should exist two international instruments concerning welfare in port and at sea, one of which should include a convention which contained the principles and governing aims, while the second had to consist in a recommendation in which were gathered together the detailed provisions concerning well-being, such as the committee determined. The information of the commission was examined by the committee at its fifth plenary session; the conclusions proposed being unanimously adopted.

Generally we can say that the convention incorporates at its heart the compromises of the state members to facilitate or secure the lending of services and means of well-being of seamen, including information in port and on board ship without any form of discrimination by reason of nationality, race, creed, colour etc.

The recommendation, for its part, signalled that the member states will have to take into account the special needs of seamen in terms of

⁴ *Well-being of seamen in port and at sea* Report, Preparatory Technical Maritime Conference, International Labour Office, International Labour Organization, Geneva, May 1986.

⁵ Concerning the essential provisions which, in the opinion of the Conference, the Convention and Recommendation would have to gather together, see 'Essential Provisions of the Projected Convention', report of the Commission on the Well-being of Seamen in Port and at Sea, PTMC/1986/12, p 4 - *Well-being of Seamen in Port and at Sea* Report II, International Labour Conference, 74th assembly (Maritime), International Labour Office, Geneva, 1987.

security, health, and recreation, particularly when finding themselves abroad or in war zones. The means and services of well-being must be frequently controlled in order to have the appropriate security, having taken into account the needs of seamen as a result of technical advances or of other changes in the maritime transport industry. The means and services of welfare should be in conformity with the national practices and conditions of one or more of the following institutions: a) The public authorities; b) organizations of shipowners or seamen, by virtue of collective conventions or other coordinating agreements; c) charitable organizations. There will have to exist, likewise, adequate hotels or hostels for seamen when they have the need for such. These hotels or hostels will have to be subject to appropriate control, the prices will be reasonable and when it becomes necessary and feasible they will have to formulate rules and regulations to accommodate the families of mariners. It will be necessary to take all convenient means to inform all mariners on arrival at port of; a) all the risks and illnesses which they might be exposed to and the means to avoid them; b) the necessity for mariners who are ill to obtain medical attention quickly as well as the closest medical services which exist for them; c) the dangers which are inherent in the use of narcotics and alcohol. They will have to take means to guarantee to seamen, during their stay in port, access to; a) National Health medical treatment in case of illness or accident; b) hospitalisation whenever it be necessary and c) the services of a dentist, above all, in cases of urgency.

III. Protection of social security for seamen

The Social Security commission was set up by the conference⁶ with the aim of examining the second point of order of the day, 'The protection of social security for seamen, including those who serve on board ships having a flag distinct from that of their own countries'. It was composed of 66 members: 29 governmental, 15 shipowners and 22 seamen, each governmental member having 390 votes, each shipowning member having 638 votes and each member of the group of seamen 435 votes. During its sessions the commission altered its composition four times.

The commission developed its work through 8 sessions having the

⁶ Concerning the essential provisions which in the opinion of the Conference would have to be gathered together in the Convention, see: 'Proposed conclusions regarding Social Security for Seamen' report of the Social Security Commission, PTMC/1986/13, pp. 19-28. *Protection of Social Security for Seamen, including those who serve on board ships with a flag different from that of their own countries* Report III (I), International Labour Conference, 74th assembly (Maritime), International Labour Office, Geneva, 1987. The Conventions and Recommendations to which we have made reference, may be consulted, amongst others, in: *Conventions and Recommendations concerning maritime labour*, International Labour Office, International Labour Organization, Geneva, 1983.

assistance of elaborate information from the International Labour office.

The result of the general discussions which had taken place in the conference were the conclusions tending to the adoption of a convention concerning the protection of seamen, which would revise the convention concerning Sickness Insurance for seamen, 1936 (num. 56) and the convention concerning Social Security for seamen, 1946 (num. 70). The conference at its fifth plenary session examined the information of the commission, adopting unanimously the conclusions which it proposed.

We should emphasise that with regard to Social Security, the fundamental aim of the conference rested on determining the protection of foreign or migrant seamen. Similarly it tried to secure an agreement which would look to the member states to strengthen the achievement of a system for conserving rights acquired through legislation with respect to each one of the following branches of social security, for which each one of the member states had legislation in force for seamen; Medical assistance, sickness benefit, unemployment benefit, benefits for accidents at work and professional illness for which there might not be pensions and death allowance and sickness benefit. The International Labour Organization would propose collecting these together in a single, flexible instrument and extending all the problems of social security to seamen: normal rules, protection of foreign mariners and the obligations of shipowners.

Such an instrument would have to guarantee likewise that countries operating flags of convenience did not offer conditions of protection inferior to the rules laid down in the new revised convention.

At the conference there was an extensive consensus with respect to certain technical aspects such as, protected persons, branches of security included, contingencies to cover, assistance to attain, equality of treatment between resident and non-resident mariners, a regime for the conservation of rights and legal guarantees and administration in this respect.

IV. Protection of health and medical care for seamen

The Commission on health and medical care for seamen⁷ was set up by the conference with the task of examining the third point of the order of the day: 'Protection of the health and technical assistance for seamen⁸'. The commission was formed by 52 members; 23 governmen-

⁷ *Protection of Health and medical care for seamen*, report III.

⁸ Concerning the essential provisions which in the opinion of the Conference would have to be gathered together in the Convention, see: 'Proposed conclusions concerning the protection of health and medical care for seamen', PTMC/1986/14, pp. 16-21; *Protection of health and medical care for seamen* Report IV, International Labour Conference, 74th reunion (Maritime), International Labour Office, Geneva 1987.

tal members, 15 shipowner members, and 14 members of the group of seamen, each governmental member having 210 votes, each shipowning member 322 votes and each seaman member 345 votes.

The commission, which held eight sessions, and constituted a working group and an editing committee, depended for its work on information prepared by the International Labour Office, whose chapter V was adopted as the basis for discussion of the list of proposals gathered together there.

The commission arrived at the conclusion that there needed to exist an international document concerning the protection of health and medical care for seamen on board ship. In the preamble to this document, which would take the form of a convention, there would have to be reference to the recommendation concerning first aid on board ships, 1958 (num. 155), to the recommendation concerning medical consultation on the high sea, 1985 (num. 106), to the International convention concerning rules for the training, certification and protection for seamen, 1978 (this convention referring to medical care and training in first aid) (num. 134) and the recommendation (num. 142) concerning the prevention of accidents (Seamen), 1970 and to the Convention concerning medical examination of seamen, 1946 (num. 73). The information from the commission was examined by the conference at its sixth plenary session, the proposed conclusions being unanimously adopted.

The convention will be given effect by means of national legislation, collective conventions, internal regulations, arbitral awards, legal decisions, or by whatever means appropriate to the national conditions.

All ships which will be subject to the application of the convention will be obliged to carry a first aid box the contents of which will be laid down by the competent authority taking into account such factors as the type of vessel, the number of persons on board and the nature and duration of the voyage. In the medical guide which each vessel will have to carry on board there will be an explanation of how to use the contents of the medical box having to be of a form which a person without medical training could understand, and thereby be able to attend to sick or injured persons on board with or without medical consultation by radio or satellite.

All vessels to which the convention will apply which carry one hundred or more crew on board and which normally undertake international voyages of more than three days duration, will have to carry among the members of the crew a doctor in charge of giving medical care, the national legislation having to stipulate which ships have to carry a doctor on board amongst the crew taking into account, amongst other factors, the duration, nature and conditions of the voyage and the number of crew on board. Those ships which do not carry a doctor on board have to have on board amongst the crew one or more persons in charge, as part of their normal duties, of giving medical care having taken a course approved by the competent authorities in theoretical and

practical training in relation to medical care. Every ship which carries fifteen or more crew on board and which undertakes a voyage of more than three days will have to have on board an independent sick bay, ships only being engaged in the coasting trade being able to gain exemption from this requirement from the competent authorities.

We must emphasise, finally, that those countries, where the convention is in force would have to cooperate mutually to promote the protection of health and medical care for seamen on board ships. Such cooperation, amongst other things, will have to consist in the following: the developing and coordinating search and rescue efforts and the organizing of speedy medical care and evacuation of persons gravely ill or wounded on board ships by such means as systems periodically signalling the position of vessels, centres for coordinating rescue operations and helicopter services in cases of emergency, by conformity with the provisions of the 1979 International Convention concerning maritime search and rescue and with the search and rescue manual of merchant ships, the search and rescue manual of the IMO, the International Maritime Organization.

V. Convention concerning the merchant marine (Minimum standards). 1976 (num. 147); Procedure to include new conventions in the annexe⁹

The conference decided at its third session, that the commission of the Organization of Workers had to examine the fourth point of the order of the day. The fourth point, we may recall, related to the 'Convention concerning the merchant marine (Minimum standards) 1976 (num. 147): procedure to include new conventions in the annexe.

The commission of the Organization of Workers which depended for its work on information prepared by the International Labour Office, established a working group, composed of four members for each group, which under the presidency of the president of the commission of the organization of workers examined the matter. This working group presented its findings at the sixth session of the commission of the organization of workers, which was accompanied by a projected resolution concerning the merchant marine (minimum standards), 1976 (num. 147). The commission of the organization of workers, having examined the information presented by the working group, approved and passed at its third meeting, recommended to the conference adoption of the projected resolution referred to¹⁰.

⁹ *Convention concerning the merchant marine (minimum standards), 1976 (num. 147): procure for including new conventions in the annexe, report IV*

¹⁰ The text of the projected resolution can be found in the Third Report of the Commission of the Organization of Workers PTMC/1986/10, p. 7

VI. Revision of the convention concerning the repatriation of seamen, 1926 (num. 23) and of the recommendation concerning the repatriation of Captains and apprentices¹¹, 1976 (num. 27)

The commission on repatriation was established by the conference with the object of examining the fifth point of order of the day, gathered together under the title 'Revision of the convention concerning the repatriation of seamen, 1926 (num 23) and the recommendation concerning the repatriation of captains and apprentices, 1926 (num 27).¹²

The commission was composed of 61 members, 25 governmental members, 15 shipowner members and twenty-one seamen members, each one of the governmental members having 21 votes, each one of the shipowner members having 35 votes and each one of the seamen members having 25 votes. The commission was modified on five occasions.

The commission had nine sessions and designated a working group and an editorial group, depending for its work on information prepared by the International Labour Office.

The commission prepared conclusions concerning the adoption of a new document regarding repatriation of seamen, which, revising the form of the convention, would have to mention in its preamble that, since the adoption of convention num. 23 and of the recommendation number 27, the evolution of the maritime industry made necessary the revision of convention number 23 to gather together the appropriate elements of recommendation number 27 having to mention in its preamble likewise the considerable progress having been made in national legislation and practice after having taken into consideration various questions of repatriation of seamen which had not been gathered together in the existing document. It would have to declare that it would be convenient, consequently, to adopt rules by means of a new international document which would refer to some complementary aspects of the repatriation of seamen taking into account the employment of non-nationals in the maritime industry. At the sixth plenary session the

¹¹ *Revision of the Convention concerning the repatriation of seamen, 1926 (num. 23) and of the Recommendation concerning the repatriation of captains and apprentices, 1926 (num 27)*, report V.

¹² Concerning the provisions which in the opinion of the Conference would have to be gathered together in the Convention, see: 'Conclusions concerning the repatriation of seamen', Report of the Commission on repatriation, PTMC/1986/15 pp. 23-26; *Revision of the Convention concerning the repatriation of seamen (1926 num 23), and of the Recommendation concerning the repatriation of Captains and apprentices, 1926 (num 27)*. Report V International Labour Conference, 74th Assembly (Maritime), International Labour Office, Geneva, 1987.

report of the commission was passed by the conference adopting the conclusions proposed therein.

The document, among other things, would have to recognize that all seamen have the right of repatriation for whatever reason that supposes the termination of employment; imposing on the shipowner the responsibility of organizing the repatriation by whatever means appropriate and speedy, the normal means of transport would be by air. The cost of repatriation would be borne by the shipowner without affecting the right to repayment under national law or in the collected conventions. If a shipowner does not take the measures necessary for repatriation of a seaman who has the right to the same or who does not bear the cost of repatriation, the competent authority of the member state in whose territory the ship is registered will organize the repatriation of a seaman, and will bear the cost of the same, having the power to recover from the shipowner the expenditure incurred. If a member in whose territory the ship is registered does not organize the repatriation of the seaman or does not bear the cost of the same, the state to whose territory the seaman has to be repatriated, always being part of the convention, will organize the repatriation: the expenditures incurred will be able to be recouped from the member state in whose territory the ship is registered.

VII. Resolutions presented by the group of seamen

The commission of the Workers Organization studied the question of resolutions presented by the group of seamen of the conference at its third session, 8 May 1986, and at its fourth session on 12 May 1986. Having been consulted by the commission, the legal Council affirmed that it had been clearly established that the resolutions that did not keep relevant to the matters included were not admissible in a preparatory technical conference, given that the order of the day had been fixed by the Administrative Council and the rules, based on the model rule elaborated by the Administrative Council which did not contemplate the possibility of resolutions being examined which did not deal with some point of the order of the day.

At its fourth session, on 12 May 1986 the seamen's group proposed two amendments to its resolutions to better adapt its contents to the points of the order of the day, accordingly, the commission of the workers organization decided similarly to name a working group formed by one member of each group to revise the text of the resolutions.

The Commission of the Workers Organization, at its sixth session, following a short debate concerning the projected resolution of the working group, unanimously decided to recommend to the conference adoption of the three projected resolutions; Resolution 1 asked the

Administrative Council in the next years to assign sufficient funds, within the existing resources, which would permit the reduction of the period between two maritime assemblies of the International Labour conference. Resolution II requested the Administrative council to make a call to all the maritime states which had not ratified the convention concerning the tripartite consultation (International Standards of Labour), 1976 (num 144) to do so without delay and that the aforementioned council likewise because those that had ratified had fulfilled their promises. Finally, Resolution III requested the Administrative council to ask the Director-General to examine the means by which governments could adequately respond to questions from the office regarding maritime affairs, giving special attention to tripartite participation in conformity with the recommendation concerning tripartite consultation (activities of the International Labour Organization) (num 152) adopted in 1976. The report of the commission of the Workers Organization was examined by the conference at its fifth plenary session the resolutions therein being unanimously adopted.¹³

VIII. Final remarks

The texts suggested by the Preparatory Maritime Technical Conference were to be finally presented for discussion and approval at the Assembly (maritime) of the International Labour Conference which, according to the decision taken at its 235th assembly in March 1987 by the Administrative Council of the International Labour Office will be held in Geneva from 24 September–9 October 1987. The order of business at this maritime reunion will be as follows:

- I. Report of the Director General
- II. Welfare of seamen at sea and in port
- III. Protection of social security for seamen, including those who serve on board vessels not flying the flag of their own country.
- IV. Protection of health and medical care for seamen.
- V. Revision of the Convention concerning the repatriation of seamen 1926 (num 23) and the recommendation concerning captains and apprentices.

The extensive compromise reached on the majority of points examined at the Preparatory Maritime Technical Conference allows optimistic hope for developments at the 74th maritime reunion¹⁴ even though

¹⁴ Besides the 74th assembly (maritime) there will be a call to renovate the composition of the Joint Maritime Commission, in conformity with the provisions of article I of the regulation of the stated Commission. *Memorandum relating to the 74th assembly (Maritime) of the International Labour Conference*, International Labour Organization, Geneva, 1987: Organization Internationale du Travail (ILO); *Nouvelles normes en faveur des gens de mer, La Semaine Internationale SI/18/86*, 12 May 1986 p. 8.

some problems of a special technical complexity such as social security for migrant seamen, or of special economic relevance, such as the costs of repatriation, will have to be the object of reflexion and discussion to unify positions in these respects.

Antonio Martínez Puñal
Professor of International Law
University of Santiago de Compostela