
**INTERNATIONAL LABOUR CONFERENCE
91st SESSION 2003**

**AGENDA ITEM ON THE IMPROVED SECURITY
OF SEAFARERS' IDENTIFICATION**

Report VII(1): Improved security of seafarers' identification

QUESTIONNAIRE – REPLY FORM

Country: _____

Institution name and address: _____

Date: _____

In accordance with article 38, paragraph 1, of the Standing Orders of the International Labour Conference, governments are requested to consult the most representative organizations of employers and workers before finalizing their replies to the following questionnaire and to give reasons for their replies. The replies are to reach the International Labour Office in Geneva by 31 December 2002 at the latest.

This form is provided to make replying easier. Copies can be made for employers' and workers' organizations if their replies are to be separate. Please place an "X" in the appropriate answer. If additional explanations are required, these can be attached but please make sure the number of the question is clearly given.

The preliminary draft of possible provisions for the proposed instrument is attached for reference purposes. *This questionnaire must be read in conjunction with Report VII(1) which may be consulted on the ILO Internet site (<http://www.ilo.org/public/english/standards/relm/ilc/ilc91/index.htm>).*

Names of most representative organizations of employers and workers consulted:

Is this a separate reply from an employers' organization?

Yes No

Is this a separate reply from a workers' organization?

Yes No

A1. Issue of the identity document to the seafarer

Under Article 2, paragraph 1, of Convention No. 108, each ratifying Member has an obligation to issue "... to each of its nationals who is a seafarer on application by him a seafarers' identity document conforming with the provisions of Article 4 of this Convention". Under Article 2, paragraph 2, the Member may (but is not obliged to do so) "... issue a seafarers' identity document to any other seafarer either serving on board a vessel registered in its territory or registered at an employment office within its territory who applies for such a document". Under Article 6 of the Convention, other ratifying Members are obliged to recognize the document issued, for certain purposes set out in that Article.

It is understood that the most important part of the identification process relates to the actual issue of the document, as any mistake at this stage will simply be perpetuated by the identity document.

A1(a) – The seafarers' identity document provided for in the new instrument should (save in prescribed exceptional cases) only be issued by the State of the seafarers' nationality (which is in the best position to verify the information contained in the document).

Do you agree?

Disagree?

See preliminary draft, Article 2.1.

Comments: _____

A1(b) – The exceptional cases are those of refugees and stateless persons (or persons apparently bearing the nationality of countries that no longer have records).

Do you agree?

Disagree?

Other exceptional cases: _____

Comments: _____

A1(c) – In these exceptional cases:

- (i) The seafarers' identity document may only be issued by the State in which the refugee has sought or been granted asylum or by the State which has granted the stateless person a residence permit including permission to return to that State.

Do you agree?

Disagree?

Comments: _____

(ii) The State concerned would (as at present under Convention No. 108) not be obliged to issue a seafarers' identity document in such cases.

Do you agree?

Disagree ?

Comments: _____

See preliminary draft, Article 2.2.

A1(d) – Should it be possible for the seafarers' identity document to be issued by the State in which the seafarer is a permanent resident (in addition to the cases referred to in the preceding question)?

Yes

No

Comments: _____

A1(e) – What documents do the competent authorities of your country require in order to issue a seafarers' identity document?

Answer: _____

A2. The physical characteristics of the identity document

Under Article 4, paragraph 1, of Convention No. 108, "The seafarers' identity document shall be designed in a simple manner, be made of durable material, and be so fashioned that any alterations are easily detectable."

While the above provision may be in need of more detailed clarification, the information received indicates that the seafarers' identity document should continue to be issued by each Member individually and that the requirements for such a document should continue to be specified in general terms so as to enable its format to keep up with advances in technology. However, Convention No. 108 (Article 4, paragraph 6) leaves the precise form and content of the seafarers' identity document to be decided by each Member. In order to ensure consistent use, it has been considered that identity documents issued by the parties to the new instrument should conform to a uniform standard, enabling each national identity document to be recognized instantly by immigration officials worldwide. This leads to the propositions in (a), (b) and (c) below:

A2(a) – The new instrument should set out clear criteria concerning the physical characteristics of the identity document.

Do you agree?

Disagree ?

Comments: _____

A2(b) – The instrument should go further than Convention No. 108 by requiring each identity document issued to be based on an agreed international model, conforming to the criteria set by the instrument.

Do you agree?

Disagree ?

Comments: _____

A2(c) – The international model should be:

(i) adopted by the International Labour Conference and reproduced in an appendix to the new instrument;

Do you agree?

Disagree ?

(ii) and regularly updated by the Conference in accordance with a simplified amendment procedure;

Do you agree?

Disagree ?

(iii) under this procedure, amendments would require a two-thirds majority in favour and they would have to conform to the standards or criteria set out in the provisions of the new instrument.

Do you agree?

Disagree ?

See preliminary draft, Article 3.

Comments: _____

A2(d) – In addition to the criteria set out in Article 4, paragraph 1, of Convention No. 108, the following general specifications are suggested:

(i) The identity document should incorporate the latest proven technology to prevent tampering or falsification and to enable easy detection of alterations.

Do you agree?

Disagree?

See preliminary draft, Article 4.1(i).

Comments: _____

(ii) The material and techniques used should be easily accessible to all governments at the lowest cost consistent with reliably achieving the purpose under (i) above.

Do you agree?

Disagree ?

See preliminary draft, Article 4.1(ii).

Comments: _____

(iii) The identity document should be no larger than a normal passport.

Do you agree?

Disagree ?

See preliminary draft, Article 4.2.

Comments: _____

(iv) Other specifications concerning the physical characteristics of the identity document.

Comments: _____

A2(e) – Specific technologies to be used, conforming with the above criteria and specifications:

(i) Lamination over photographs and data?

Yes

No

Comments: _____

(ii) Pages containing watermarks?

Yes

No

Comments: _____

(iii) Ultra-violet security features?

Yes

No

Comments: _____

(iv) Materials other than paper?

Yes

No

Comments: _____

(v) Special inks?

Yes

No

Comments: _____

(vi) Special colour design?

Yes

No

Comments: _____

(vii) Other technologies?

Comments: _____

A2(f) – In the interest of simplicity, the model in the appendix referred to in question A2(c) above should require uniformity only to the extent necessary to achieve the following objectives:

(i) To make the seafarers' identity document easily recognizable as such.

Do you agree?

Disagree?

(ii) To ensure that the material used conforms to the physical requirements established by the instrument.

Do you agree?

Disagree?

(iii) To enable each item of data to be recognized even by persons unfamiliar with the language used.

Do you agree?

Disagree?

(iv) To make the maximum use of standardized data (such as country codes and a standard representation for dates).

Do you agree?

Disagree?

See preliminary draft, Appendix A-I.

Comments: _____

(v) Other objectives?

Comments: _____

A3. The form and content of the information to be provided for on the identity document

Under Article 4, paragraph 2, of Convention No. 108, the seafarers' identity document is to contain the name and title of the issuing authority, the date and place of issue, and a statement that the document is a seafarers' identity document for the purpose of the Convention. Under paragraph 3, the following particulars concerning the bearer are to be included:

- (a) full name (first and last names where applicable);
- (b) date and place of birth;
- (c) nationality;
- (d) physical characteristics;
- (e) photograph; and
- (f) signature or, if bearer is unable to sign, a thumbprint.

A3(a) – Should the identity document also indicate the seafarer's sex (a particular not required by Convention No. 108)?

Yes

No

Comments: _____

The particulars mentioned in subparagraphs (d), (e) and (f) are means of assisting “positive verifiable identification” referred to above. It has been suggested that the photograph (see (e)) should be a digital one – presumably to enable accurate transmission, a subject dealt with in section A4 below.

The main new element that has been suggested in connection with positive verifiable identification is the biometric template explained in some detail in Chapter IV of Report VII(1): a biometric is understood as the use of a physiological or behavioural characteristic, such as a fingerprint, voice pattern or iris or retinal pattern, as a means of identification or authentication of identity. The template is understood as a string of characters or other data which describes the biometric concerned and which could be written on the document or stored on a chip or in a database. Obviously, a biometric can provide a more accurate identification than a photograph or signature and, with the aid of technology, can be verified more accurately. However, the importance has been stressed of the difficulties that might be encountered especially by developing countries in acquiring the necessary equipment and technology at a reasonable price and being able to operate it, particularly under the conditions existing in the ports or other places where the equipment would need to be used. Only limited information has so far been obtained on the availability, cost and user-friendliness of appropriate technology. Question A3(b) below therefore suggests that biometric data might be included in the seafarers’ identity document (if necessary through the simplified amendment procedure referred to in question A2(c) above) only if a number of important preconditions are satisfied.

Attention has also been drawn to a possible constitutional problem in some countries if seafarers were required to provide biometric data for a seafarers’ identity document when such data were not required for other citizens applying for a passport.

A3(b) – (1) A template or other representation of a biometric of the bearer of the identity document could be required under the new instrument, provided that the necessary preconditions (see below) were all satisfied.

Do you agree?

Disagree?

See preliminary draft, Article 4.5.

Comments: _____

(2) The following preconditions are suggested:

(i) That the biometric can be provided by persons without invasion of their privacy or offence against their dignity.

Do you agree?

Disagree?

See preliminary draft, Article 4.5(i).

Comments: _____

(ii) That seafarers should have the right to refuse to provide biometric data and, instead, to use their national passport to authenticate their identity.

Do you agree?

Disagree?

See preliminary draft, Article 4.5(ii).

Comments: _____

(iii) That the equipment needed for providing and verifying the biometric:

– is user-friendly;

Do you agree?

Disagree?

– is generally accessible worldwide at low cost and under reasonable terms;

Do you agree?

Disagree?

See preliminary draft, Article 4.5(iii).

– can be conveniently operated on board ship, in ports and in other places where verification of identity is normally carried out.

Do you agree?

Disagree?

See preliminary draft, Article 4.5(iv).

Comments: _____

(iv) Other preconditions.

Comments: _____

A3(c) – Concerning relevant biometric technology:

(i) What kind of biometric technology (if any) is available in your country?

Answer: _____

(ii) What is your experience in its use?

Answer: _____

(iii) When might technology satisfying the above preconditions be available in your country?

Answer: _____

The seafarers' identity document is used for professional purposes, in addition to the security purposes which have now come to the fore. As explained more fully in Chapter III of Report VII(1), the question has arisen as to whether the identity document could not also usefully contain information concerning seafarers' qualifications and similar information currently contained in certificates issued in accordance with the IMO's International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW), 1978, as amended. As recalled above, the representatives of Seafarers consider that such information should not be provided for, and the Shipowners are of a similar view as far as inclusion of the information on a mandatory basis is concerned. At the same time, opinions expressed in the IMO framework have favoured such inclusion since information related to the seafarers' qualifications would provide verifiable evidence of the bearer's occupation as a seafarer and his/her bona fides to hold a seafarers' identity document. Since certificates referred to in the STCW Convention may be issued by authorities other than the national authorities, there would presumably be no question of requiring an actual certification of qualifications from the authority issuing the identity document. However, on the basis of evidence furnished by the seafarer concerned, the authority issuing the seafarers' identity document could provide information on relevant certificates held, with a confirmation that it has no reason to doubt the authenticity or validity of the certificates concerned.

A3(d) – (1) Should the seafarers' identity document contain information on certificates held by seafarers with respect to their qualifications?

Yes No

(2) Should the inclusion of such information be a matter for each Member to decide (see question A3(i) below)?

Yes No

Comments: _____

A3(e) – It has also been suggested that the identity document might include blank pages (for example, to enable annotations by competent authorities or the inclusion of relevant information such as that relating to sea service – see question A3(j) below).

Do you agree? Disagree?

See preliminary draft, Article 4.2.

Comments: _____

A3(f) – Article 4, paragraph 5, of Convention No. 108 provides that “Any limit to the period of validity of a seafarers’ identity document shall be clearly indicated therein.” If a period of validity is specified it should presumably be sufficiently long, as is the case with passports, to avoid cost and inconvenience to the seafarers as well as administrative costs.

(i) According to advice received, a period of validity should always be specified on the document.

Do you agree? Disagree?

See preliminary draft, Article 4.4(g).

Comments: _____

(ii) If you agree to (i), should the period be left to the issuing authority to specify?

Yes No

Comments: _____

(iii) If a specific period of validity should be provided for in the instrument, how long should it be?

Period: _____

Comments: _____

A3(g) – (1) Each identity document would need to contain a reference number so as to facilitate external verification – see section A4 below.

Do you agree? Disagree?

See preliminary draft, Article 4.4(h).

(2) If you agree with (1), should the format of that reference number:

(i) be left to each issuing authority to decide?

Yes No

(ii) conform to a universal reference standard?

Yes

No

Comments: _____

A3(h) – Other particulars to be included in all seafarers' identity documents:

Answer: _____

Comments: _____

A3(i) – As is now provided for in Convention No. 108 (Article 4, paragraph 7), the new document should contain space for the issuing authority to add further details required by the national law concerned (for domestic purposes or, for example, in order to enable seafarers to meet other conditions that may be imposed by port States that are not parties to the instrument or may be required under other international instruments).

Do you agree?

Disagree?

See preliminary draft, Article 4.6.

Comments: _____

A3(j) – Should Members be free to use the seafarers' identity document also as the document containing the record of employment referred to in Article 5 of the Seamen's Articles of Agreement Convention, 1926 (No. 22)?

Yes

No

Comments: _____

A3(k) – Should the instrument specify that any further details added must be related to the identification of seafarers?

Yes

No

Comments: _____

A3(l) – Concerning the form in which information is to be inscribed, the data should be:

(i) machine-readable, where possible;

Do you agree?

Disagree?

(ii) and capable of visual inspection by the seafarer concerned (rather than stored on chips or magnetic strips, for example).

Do you agree?

Disagree?

See preliminary draft, Article 4.7.

Comments: _____

A4. External means of verifying the authenticity of the identity document or of the information given

A4(a) – The national issuing authorities should maintain a database including a reference to each identity document issued by them.

Do you agree?

Disagree?

Comments: _____

A4(b) – It should be possible for immigration and other competent authorities of parties to the instrument to have immediate access at all times to the database to facilitate the rapid verification of information appearing on the document.

Do you agree?

Disagree?

See preliminary draft, Article 5.1.

Comments: _____

A4(c) – In order to safeguard privacy in particular, the information accessible from the database should be restricted to:

– name of the issuing authority?

Yes

No

Comments: _____

– seafarer’s name?

Yes

No

Comments: _____

– reference number?

Yes

No

Comments: _____

– period of validity of the document?

Yes

No

Comments: _____

– template or other alphanumeric representation of a biometric (if applicable)?

Yes

No

Comments: _____

See preliminary draft, Article 5.2 and Appendix A-II.

– other?

Answer: _____

A4(d) – The instrument should require each ratifying Member to designate a permanent focal point for responding to inquiries from the immigration or other competent authorities of parties to the instrument.

Do you agree?

Disagree?

See preliminary draft, Article 5.3.

Comments: _____

A5. Reliability of the national system of seafarers' identification

There was general agreement in the recent consultations that the procedures established by each country for the issuing of identity documents should be the object of external monitoring or evaluation. Reference was made in this connection to audits carried out in the framework of the IMO and the International Civil Aviation Organization (ICAO) as well as to what is known as the "White List" prepared by the Secretary-General of the IMO with the assistance of a panel of competent persons. However, no suggestions have been made so far as to how the question should be dealt with in the new instrument.

Information on the ICAO and IMO systems is given in Chapter V of Report VII(1). In particular, the ICAO Universal Safety Oversight Audit Programme, set up in January 1999, comprises regular mandatory systematic and harmonized safety audits, carried out by ICAO with respect to all its Member States. It includes a systematic reporting and monitoring mechanism on the implementation of safety-related standards and recommended practices. Its legal basis relies, inter alia, on Article 33 of the Convention on International Civil Aviation (Chicago Convention, 1944), requiring Members to recognize the validity of certificates of airworthiness and crew member licences issued by other Members "provided that the requirements under which such documents were issued or rendered valid are equal to or above the minimum standards which may be established from time to time pursuant to this Convention". Arrangements are now being envisaged with respect to similar security audits to be carried out by each ICAO Member State.

A5(a) – The new instrument should provide for the adoption of minimum requirements and recommended practices concerning procedures for the issue of seafarers' identity documents, including quality control procedures.

Do you agree? Disagree?

See preliminary draft, Article 6.1.

Comments: _____

A5(b) – The instrument should require ratifying Members:

- (i) To carry out periodic evaluations of those procedures in the light of the minimum requirements and recommended practices.

Do you agree? Disagree?

-
- (ii) To submit a copy of their national procedures (including quality control procedures) and the evaluations in their reports to the Director-General of the International Labour Office.

Do you agree?

Disagree?

- (iii) To make such copies available (subject to the removal of any confidential material) to other ratifying Members.

Do you agree?

Disagree?

See preliminary draft, Article 6.2.

Comments: _____

Question A5(c) – In addition, the Governing Body might approve a system of audit and auditing institutions (in appropriate cases, within the framework of the ILO's Technical Cooperation Programme) of which ratifying Members could voluntarily avail themselves in order to remove any doubts concerning the reliability of their seafarers' identification system.

Do you agree?

Disagree?

Comments: _____

Question A5(d) – The instrument might also contain a proviso, similar to the one in the ICAO Convention referred to above, but taking account of applicable ILO constitutional procedures, under which the obligation to recognize seafarers' identity documents issued by other parties to the instrument would be based on the latter's compliance with the minimum standards.

Do you agree?

Disagree?

See preliminary draft, Article 6.3.

Comments: _____

B. Facilitating the professional activities of seafarers and the exercise of their rights at work

The main purpose of this section of the questionnaire is to ascertain the extent to which the provisions in Convention No. 108 concerning the rights or facilities to be accorded to seafarers could present problems for:

-
- the present parties to that Convention; and
 - Members which have not yet ratified the Convention.

The seafarers' rights or facilities are the following:

- (1) right to be issued with a seafarers' identity document;
- (2) right to continuous possession of the identity document;
- (3) right of readmission to the territory of issue;
- (4) right of admission to the territories visited.

In addition, consideration may need to be given to a general right to recognition of the seafarers' identity document.

B1. Right to be issued with a seafarers' identity document

Under Article 2, paragraph 1, of Convention No. 108, Members ratifying the Convention are obliged to issue the seafarers' identity document (or a passport with equivalent effect, in the case of special classes of seafarers) to each of their nationals who applies for such a document and is a seafarer within the meaning and scope of the Convention.

B1 – Does the obligation to issue seafarers' identity documents raise any problem for Members?

Yes

No

Nature of the problem or other comment: _____

B2. Right to continuous possession of the identity document

Article 3 of Convention No. 108 provides that "The seafarers' identity document shall remain in the seafarer's possession at all times." Thus, for example, as pointed out by the Committee of Experts on the Application of Conventions and Recommendations,¹ "Practices involving surrender of the document to the shipowner, to the port State authorities during shore leave, or to the issuing authority between engagements, are contrary to the Convention."

B2(a) – Does the seafarers' right to continuous possession of the seafarers' identity document raise any problem for Members?

¹ See para. 88 of the Committee of Experts report reproduced in Annex II to Report VII(1).

Yes

No

Nature of the problem or other comment: _____

A distinction could be made between the temporary retention of an identity document validly issued and the withdrawal of a document following revocation of its issue. An authority issuing a document could be presumed to have the right to withdraw it and indeed the obligation to do so if the conditions for the grant were not satisfied or are no longer satisfied.

B2(b) – (1) If the answer to Question B2(a) indicates that a problem exists, would it be overcome if Article 3 of Convention No. 108 is understood as not affecting the right and duty to withdraw a document invalidly held?

Yes

No

(2) Should such an understanding be confirmed in the new instrument?

Yes

No

Comments: _____

B3. Right of readmission to the territory of issue

In accordance with Article 5 of Convention No. 108, the competent authority of a territory issuing a seafarers' identity document pursuant to the Convention is obliged to readmit the seafarer concerned to its territory during the period of validity of the document and for one year after any date of expiry indicated in the document.

B3 – On the assumption that the new seafarers' identity document would normally be issued **only** to nationals of the country concerned and that the exceptional issue to refugees or stateless persons would be optional (see section A1 above), would the requirements to readmit the seafarer to the issuing country raise any problem for Members?

Yes

No

Nature of the problem or other comment: _____

B4. Right of admission to the territories visited

Admission for temporary shore leave

Under Article 6, paragraph 1, of Convention No. 108, “Each Member shall permit the entry into a territory for which this Convention is in force of a seafarer holding a valid seafarers’ identity document, when entry is requested for temporary shore leave while the ship is in port.” As pointed out by the Committee of Experts,² the seafarers’ identity document is the sole identity card required for this purpose: “... denial of shore leave by local authorities can only take place on an individual basis and presumably for compelling reasons (Article 6(4)). Moreover, any administrative obstacle to taking shore leave, or the imposition of fees or taxes of any kind as a condition for taking shore leave in a State party to the Convention, is a violation of Article 6(1)”. Article 6, paragraph 4, provides that: “Nothing in this Article shall be construed as restricting the right of a Member to prevent any particular individual from entering or remaining in its territory.”

B4(a) – Does the requirement to admit the bearers of seafarers’ identity documents for the purposes of shore leave raise any problem for Members?

Yes

No

Nature of the problem or other comment: _____

Section 3.45 of the Annex to the Convention on Facilitation of International Maritime Traffic, 1965 (FAL), states that: “Crew members shall not be required to hold a visa for the purpose of shore leave.” Although Article 6, paragraph 1, of Convention No. 108 requires the port State to permit entry for shore leave, this Article does not expressly exclude the possibility that permission for entry could be granted through the issuance of a visa, as long as the provisions of Article 6, paragraph 1, are fulfilled.

B4(b) – If visas allowing entry were promptly granted, without charge, to holders of the seafarers’ identity document who request shore leave on arrival in port, save in exceptional cases covered by Article 6, paragraph 4, of Convention No. 108:

(i) Would a visa requirement in those circumstances be considered compatible with paragraph 1 of Article 6 of Convention No. 108?

Yes

No

Comments: _____

(ii) Would an understanding along the lines above (i) overcome any problem referred to in answer to question B4(a)?

² See paras. 78 and 79 of the abovementioned report reproduced in Annex II of Report VII(1).

Yes

No

Comments: _____

Admission for other purposes

Article 6, paragraph 2, of Convention No. 108 requires Members also to admit holders of seafarers' identity documents if the document contains space for appropriate entries, for the following other purposes:

- joining their ship or transferring to another ship;
- passing in transit to join their ship in another country or for repatriation;
- any other purpose approved by the authorities of the Member concerned.

Under paragraph 3, the Member may make admission subject to the production of satisfactory evidence of the seafarers' intentions and of their ability to carry out those intentions. The seafarers' stay may also be limited to a reasonable period. Paragraph 4, concerning exceptional refusal in individual cases, also applies.

B4(c) – Does the requirement of admission – under the conditions stated in the preceding question – for any of the purposes mentioned in paragraph 2 of Article 6 of Convention No. 108 raise any problem for Members?

Yes

No

Nature of the problem or other comment: _____

Question B4(d) – What might be the main consequences if a seafarer in a foreign port does not hold a valid seafarers' identity document issued pursuant to the new instrument:

- refusal of shore leave?

Yes

No

- refusal of entry to join the seafarer's ship or transfer to another ship?

Yes

No

- refusal of transit to join the seafarer's ship in another country or for repatriation?

Yes

No

- other consequences?

Comments: _____

B5. General right to recognition of the seafarers' identity document

One of the main purposes of the seafarers' identity document is undoubtedly to confirm that the bearer is a genuine seafarer. Convention No. 108 does not however expressly state this principle but rather recognizes specific rights based on that principle which enable the seafarers to go ashore; they do not cover the seafarers who remain on board; but, even there, they are still within the territorial jurisdiction of the port State and there have been indications in the IMO discussions that, in the wake of the 11 September 2001 attacks, security checks on board visiting ships will in certain cases be considered as justified by the port State.

B5 – The new instrument should expressly state the general principle that the authorities of port States must accept that the bearers of valid seafarers' identity documents issued by other parties to the new instrument are genuine seafarers unless clear grounds exist for doubting the bona fides of a seafarer in a particular case.

Do you agree?

Disagree?

See preliminary draft, Article 7.1.

Comments: _____

C. Form of the new instrument (Protocol or new Convention?) and its relationship with Convention No. 108

At present the new instrument is conceived as a Protocol to Convention No. 108. However, the precise form of the instrument is subject to the determination of the International Labour Conference at its 91st Session (June 2003). It might at that time, in particular, appear preferable for the new instrument to take the form of a Convention revising Convention No. 108, so as to enable the *ipso jure* denunciation of Convention No. 108 when the new instrument came into force for the Member concerned. This question may to a large extent depend upon whether or not the parties to Convention No. 108 need to be released from certain obligations. The following questions are therefore primarily directed to governments (in consultation with their social partners) of countries that have ratified or intend to ratify Convention No. 108. Question C2(b) below, however, would be of concern to all Members.

Basically, three kinds of obligation are provided for by Convention No. 108:

- (1) obligation to issue seafarers' identity documents conforming to the provisions of that Convention;
- (2) obligation to accept seafarers' identity documents issued by other ratifying Members in conformity with the Convention;

(3) obligations concerning rights and facilities referred to in section B above.

C1. Obligation to issue seafarers' identity documents

Provided that care is taken to ensure that the new instrument establishes requirements for the identity document that include all the requirements of Convention No. 108, the seafarers' identity document issued under the new instrument would also constitute such a document for the purposes of Convention No. 108 since the latter leaves the precise form and content to be decided by each Member and allows a Member to prescribe further particulars (Article 4, paragraphs 6 and 7).

C1 – The new instrument should, inter alia, embody the requirements of Convention No. 108 relating to the seafarers' identity document, that it be made of durable material, be so fashioned that any alterations are easily detectable, as well as its content.

Do you agree?

Disagree?

Comments: _____

C2. Obligation to accept seafarers' identity documents issued by other ratifying Members

Unless it is released from this obligation, a party to Convention No. 108 which ratifies the new instrument would be obliged to issue seafarers' identity documents in the new form and, at the same time, to recognize the validity of seafarers' identity documents conforming only to the Convention No. 108 requirements if they were issued by Members which were parties to Convention No. 108 but not to the new instrument.

C2(a) – Should the new instrument release parties to Convention No. 108 that ratify the new instrument from their obligation to accept seafarers' identity documents issued in accordance with Convention No. 108?

Yes

No

Comments: _____

If the new instrument embodies the requirements of Convention No. 108, parties to that Convention might voluntarily adapt their documents and procedures to those of the new instrument.

C2(b) – In the interest of the rapid entry into effect of the new system on a universal basis and having regard to the time often needed for national ratification procedures, the new instrument could oblige the parties to it also to accept identity documents issued by parties to Convention No. 108, pending ratification of the new instrument, where the requirements of the latter instrument have been complied with.

Presumably, such acceptance would need to be on a reciprocal basis.

Do you agree?

Disagree?

See preliminary draft below, Article 7.2.

Comments: _____

C3. Obligations concerning rights and facilities

It is hoped that any difficulties encountered by parties to Convention No. 108 to meet their obligations referred to in section B above could be resolved by acceptable understandings of the kind indicated under question B4(b) above.

Until all the parties to Convention No. 108 have ratified the new instrument, there will necessarily be a fairly complex relationship between the various parties. On the assumptions that the new instrument: (i) would maintain intact the rights and obligations under Convention No. 108, for the parties to that Convention; but (ii) would encourage the widespread use of the new identity document; and (iii) would promote respect for the rights established by Convention No. 108; assumptions whose validity will depend upon the answers to the questions set forth above, the legal situation might be as follows:

- (a) parties to the new instrument would be required to issue the seafarers' identity document in the new form;
- (b) parties to the new instrument would be required to accept the seafarers' identity document in the new form when issued by other parties to the new instrument (or, subject to reciprocity, by parties to Convention No. 108 pending ratification of the new instrument);
- (c) parties to Convention No. 108 would also be required to accept the seafarers' identity document in the new form when issued by other parties to that Convention;
- (d) parties to both the new instrument and Convention No. 108 would be required to accept the seafarers' identity document in its *present* form when issued by a party to the Convention which had not ratified the new instrument;
- (e) parties to Convention No. 108 which had not ratified the new instrument could not be required to accept a seafarers' identity document from a non-party to that Convention (as the new instrument would not be binding on them, but they could accept the document on a voluntary basis);
- (f) parties to the new instrument and parties to Convention No. 108 would be required to accord the rights and facilities provided for in Article 6 of the Convention, possibly subject to certain understandings.

In the case of *ipso jure* denunciation of Convention No. 108, referred to at the beginning of this section, the obligation on parties to the new instrument to accept identity documents referred to under (d) above would cease, as would the obligation on parties to Convention No. 108 to accept identity documents issued by parties to the new instrument (see (c) above).

D. Other suggestions or comments

Preliminary draft of possible provisions for the proposed instrument

The following provisions that are presently reflected in this preliminary draft as a Protocol are intended to illustrate how the propositions set out above might, if they were found acceptable, be translated into possible legal provisions. They are not intended as concrete proposals for the new instrument which could take the form of a new Convention. It is therefore suggested, in order to avoid any duplication, that comments on the substance of the provisions be made in connection with the corresponding questions.

ARTICLE 1

1. The present Protocol modifies certain aspects of the Seafarers' Identity Documents Convention, 1958 (No. 108), hereinafter referred to as "the Convention".

2. All provisions of the Convention that are compatible with those of this Protocol shall fully apply to each Member for which the Protocol is in force.

3. For the purposes of paragraph 2 of this Article and subject to paragraph 2 of Article 7, references in the Convention to a Member or a territory for which the Convention is in force shall be understood as referring to a Member or a territory for which this Protocol is in force.

ARTICLE 2

1. The seafarers' identity document covered by this Protocol shall be issued, by each Member for which the Protocol is in force, to each of its nationals who is a seafarer referred to in Article 1 of the Convention and who applies for such document.

2. Notwithstanding paragraph 2 of Article 2 of the Convention, the seafarers' identity document covered by this Protocol may be issued to seafarers who are not nationals of the Member concerned only where the seafarer:

- (i) has been recognized as a refugee by the Member or, in accordance with international arrangements, has sought or been granted asylum on the Member's territory; or
- (ii) is a stateless person, or a person whose nationality is in doubt due to the absence of records in the country of apparent nationality, and has been granted permission to reside in the Member's territory, including permission to return to it.

ARTICLE 3

1. Notwithstanding Article 4 of the Convention, the seafarers' identity document covered by this Protocol shall conform – in its physical characteristics and in its form and content – to the model set out in Appendix A-I hereto.

2. This model is based on the criteria set forth in Article 4 below. Provided that the provisions of that Article are respected, the Appendix may be amended by the International Labour Conference by a majority of two-thirds of the votes cast by the delegates present. In adopting amendments, the Conference shall specify when they will enter into effect, taking account of the need to give Members sufficient time to make any necessary revisions of their national seafarers' identity documents and procedures.

ARTICLE 4

1. The seafarers' identity document shall be designed in a simple manner, be made of durable material and shall incorporate the most recent technology which:

- (i) will, as far as possible, prevent tampering with the document or falsification and will enable easy detection of alterations; and
- (ii) is generally accessible to governments at the lowest cost consistent with reliably achieving the purpose set out in (i) above.

2. The seafarers' identity document shall be no larger than a normal passport. It may contain extra pages.

3. The seafarers' identity document shall contain the name and title of the issuing authority, the date and place of issue, and a statement that the document is a seafarers' identity document for the purpose of this Protocol.

4. The seafarers' identity document shall include the following particulars concerning the bearer:

- (a) full name (first and last names where applicable);
- (b) date and place of birth;
- (c) nationality;
- (d) physical characteristics;
- (e) digital photograph;
- (f) signature or, if bearer is unable to sign, a thumbprint;
- (g) the date when the identity document or its latest renewal will expire; and
- (h) reference number.

5. A template or other representation of a biometric of the bearer may also be required in the seafarers' identity document, provided that the following preconditions are satisfied:

- (i) the biometric can be captured without any invasion of privacy of the persons concerned or offence against their dignity;
- (ii) seafarers are given the right to refuse to provide biometric data and, instead, to authenticate their identity by means of a national passport;
- (iii) the equipment needed for the provision and verification of the biometric is user-friendly and is generally accessible to governments at low cost; and
- (iv) the equipment can be conveniently operated on board ship, in ports and in other places where verification of identity is normally carried out.

6. The above particulars may be followed by an appropriate heading and space to enable the national issuing authorities to enter such other particulars as may be prescribed

by their national laws or regulations, including other international arrangements to which their State is party.

7. All data recorded on the document shall be eye-readable and also, to the maximum extent possible, machine-readable.

ARTICLE 5

1. Each Member shall ensure that a reference to each seafarers' identity document issued by it is stored in an electronic database, which shall at all times be immediately accessible to the immigration or other competent authorities of all Members for which this Protocol is in force.

2. The information contained in the reference shall be restricted to details which are essential to assist the verification of a seafarers' identity document or of the status of a seafarer and which are consistent with the seafarer's right to privacy. They are set out in Appendix A-II hereto, which may be amended by the International Labour Conference as provided for in Article 3, paragraph 2, above, taking account of the need to give Members sufficient time to make any necessary revisions of their national database systems.

3. Each Member shall designate a permanent focal point for responding to inquiries, from the immigration or other competent authorities of Members for which this Protocol is in force, concerning any seafarers' identity document issued by its competent authorities.

ARTICLE 6

1. The International Labour Conference may by a majority of two-thirds of the votes cast by the delegates present adopt minimum requirements and recommended practices concerning procedures for the issue of seafarers' identity documents, including quality control procedures.

2. At intervals decided by the Conference or the Governing Body of the International Labour Office, each Member shall carry out an evaluation of the aforementioned procedures in the light of the minimum requirements and recommended practices. It shall include a copy of its national procedures including quality control procedures, and of each evaluation, in its reports submitted in accordance with article 22 of the Constitution of the International Labour Organisation. It shall also make such copies available, subject to the removal of any confidential material, to other Members for which this Protocol is in force.

3. The recognition of seafarers' identity documents issued by a Member may be subject to its compliance with the minimum requirements referred to in paragraph 1.

ARTICLE 7

1. Any seafarer who holds a valid seafarers' identity document issued in accordance with the provisions of this Protocol by a Member for which the Protocol is in force shall, subject to paragraph 3 of Article 6, be recognized as a seafarer within the meaning of the Convention unless clear grounds exist for doubting the bona fides of the bearer of the identity document in a particular case.

2. Any Member which is a party to the Convention and which is taking measures, in accordance with paragraph 5 of article 19 of the Constitution of the International Labour Organisation, with a view to ratification of this Protocol may notify the Director-General of the International Labour Office of its intention to apply the Protocol provisionally. A seafarers' identity document issued by such a Member shall be treated for the purposes of

paragraph 1 of this Article, and of paragraph 2 of Article 1 above, as a seafarers' identity document issued under this Protocol provided that the requirements of Articles 4 to 6 of this Protocol are fulfilled and that the Member concerned accepts seafarers' identity documents issued under this Protocol.

Appendix A-I

The seafarers' identity document, whose form and contents are set out below, shall consist of xx pages bound inside a hard cover. The pages shall be made of white paper, xx cm long, xx cm wide and at least xx mm thick. The hard cover may be of any colour and material and may contain any text consistent with the purpose of the seafarers' identity document. The data on the first page of the document [that are shaded in the model below] shall be covered by a lamination of the following specifications: The materials used shall respect ISO standards on identification cards.

Seafarers' identity document

Issued for the purpose of the Protocol to the Seafarers' Identity Documents Convention, 1958 (No. 108)

- I. Issuing authority:
- II. Date and place of issue:
- [Digital photograph of seafarer]
- (a) Full name of seafarer:
- (b) Date and place of birth:
- (c) Seafarer is a national of issuing State , Refugee , Stateless resident
- (d) Physical characteristics of seafarer:
- (e) Signature of seafarer:
- (f) Date of expiry of document:
- (g) Reference number:
- (h) Biometric template:

Other particulars:

[Official seal or stamp of the issuing authority]

Explanations of data

The above headings may be translated into the language(s) of the country of issue. They shall always be preceded by the relevant Roman numeral or letter in the Roman alphabet. The entries for the headings may, where applicable, be accompanied by translation(s) into English, French or Spanish.

The information on the document shall have the following characteristics:

- I. Issuing authority: i.e. ISO code for the country of issue and the name and title of the official issuing it.
- II. Date and place of issue: the date shall be written in two-digit Arabic numerals in the form day/month/year – e.g. 31/12/77; the place shall be written in the same way as on the national passport.

Size of the photograph: yy X zz (minimum)

yy X zz (maximum)

- (a) Full name of seafarer: the family name shall be written first, followed by the seafarer's other names;
- (b) Date and place of birth: the date shall be written in two-digit Arabic numerals in the form day/month/year; the place shall be written in the same way as on the national passport;
- (c) Statement of nationality: place an X in the corresponding box;
- (d) Physical characteristics: i.e. any evident characteristics assisting identification;
- (e) Signature;
- (f) Date of expiry: in two-digit Arabic numerals in the form day/month/year;
- (g) Reference number: country code (see I above) followed by a serial number;
- (h) Biometric template: [precise specification].

The section headed "Other particulars:" on the first page of the identity document shall be free for the entry of data prescribed by national law or regulation.

Each of the other pages of the document shall begin with the page number (starting from page 2) and with the following heading:

"OFFICIAL STAMPS AND ANNOTATIONS RELATING TO ADMISSIONS INTO COUNTRIES"

accompanied, if desired, by translation(s).

The official seal or stamp of the issuing authority shall be affixed at the foot of each page. The rest of the pages shall be blank.

Appendix A-II

Electronic database

The details to be provided for each reference in the electronic database to be maintained by each Member in accordance with Article 5, paragraphs 1 and 2, of this Protocol shall be:

1. Issuing authority named on the identity document.
2. Full name of seafarer as written on the identity document.
3. Reference number of the identity document.
4. Date of expiry of the identity document.
5. Biometric template appearing on the identity document.