



Governing Body

310th Session, Geneva, March 2011

GB.310/LILS/6

Committee on Legal Issues and International Labour Standards

LILS

FOR INFORMATION

SIXTH ITEM ON THE AGENDA

Other questions

Maritime Labour Convention, 2006: Preparation for entry into force

Overview

Issues covered

This note which was submitted to the Committee in November 2010 as document GB.309/LILS/7, summarizes the information and advice provided at the meeting of the Preparatory Tripartite MLC, 2006, Committee in September 2010. The final report of that meeting is appended to the present document.

Policy implications

None.

Financial implications

None.

Action required

The Governing Body is invited to take note of the appended report.

References to other Governing Body documents and ILO instruments

GB.306/10/2(Rev.), GB.306/PV, GB.306/LILS/7/2.

Maritime Labour Convention, 2006.

1. The Committee will recall that, on its recommendation,¹ the Governing Body decided to establish a Preparatory Tripartite MLC, 2006, Committee (“the Preparatory Committee”), modelled on the future “special tripartite committee” to be established under Article XIII of the Maritime Labour Convention, 2006 (MLC, 2006), when it comes into force.²
2. The mandate of the Preparatory Committee is to “keep under review the preparations by Members for implementing the MLC, 2006, identify any common issues and prepare the work for the future special tripartite committee on any questions that might need to be dealt with as a matter of urgency after entry into force of the Convention, including the rules of procedure of the Committee”. The Governing Body, in establishing the Preparatory Committee, envisaged that, subject to budgetary considerations, the Committee would “meet at least once during 2010 and once during the 12-month period following deposit of the 30th ratification”.³
3. The Preparatory Committee comprising representatives of the governments of 59 interested ILO Members and representatives nominated respectively by the International Shipping Federation (ISF) and the International Transport Workers’ Federation (ITF), met at ILO Headquarters in Geneva on 20–22 September 2010. This note summarizes the information and advice provided at the meeting.

Exchange of information on preparations by governments

4. Information was presented by many governments on their preparations for ratification, if they had not yet ratified, and on their implementation activities. Several governments indicated that they expected their countries to ratify either by the end of 2010 or during 2011. A few governments indicated that it would be helpful to have sample provisions or legislative guidance on the MLC, 2006 developed by the ILO to assist countries that lacked the capacity to undertake extensive legal drafting.

Standing Orders for the Article XIII special tripartite committee

5. The Preparatory Committee indicated a strong interest in the development of Standing Orders for the future special tripartite committee. In particular, it hoped there would be an opportunity for its members to submit comments on a draft text of the Standing Orders before they were finally adopted by the Governing Body. It was suggested that the Office should prepare the first draft of the Standing Orders, in consultation with the Officers of the Preparatory Committee, with a possible second meeting of the Committee being arranged to consider this draft. While important procedural matters were already covered by the MLC, 2006 itself, and many other elements of the Standing Orders could be drawn

¹ See GB.306/10/2(Rev.), para. 83.

² GB.306/PV, para. 210(a).

³ GB.306/10/2(Rev.), para. 83 and GB.306/LILS/7/2, para. 6(a). Article VIII, para. 3, of the MLC, 2006, requires ratification by at least 30 Members with a total share in the world gross tonnage of ships of at least 33 per cent. The Convention has now been ratified by ten Members of the Organization, whose total share in the world gross tonnage of ships is greater than 33 per cent. It is expected that the 30th instrument of ratification will be deposited by the end of 2010 or during 2011. The Convention will come into force 12 months after registration of the 30th ratification.

from existing ILO Standing Orders, the Preparatory Committee pointed out that some functions of the future special tripartite committee were unique and required special attention. The Preparatory Committee identified a number of matters as needing special attention, particularly in connection with the consultation function envisaged by Article VII of the MLC, 2006.

Identification of urgent matters for the special tripartite committee, once established, and any preparatory work that would be needed

6. The Preparatory Committee was of the view that once the special tripartite committee had been established, one urgent action for it would be to review the principles agreed at the Ninth Session of the Joint IMO/ILO Ad Hoc Expert Working Group on Liability and Compensation Regarding Claims for Death, Personal Injury and Abandonment of Seafarers (Joint Working Group) in March 2009. The special tripartite committee would need to assess, first, whether or not these principles could take the form of amendments to the Code of the MLC, 2006 and, if so, propose a draft text for amendments, in accordance with Article XV of the MLC, 2006. Since the first question (concerning what is included in the Code) is likely to depend on a substantive discussion of the principles themselves, and since they had been thoroughly discussed at the preparatory level, the Preparatory Committee was of the view that the principles, as adopted by the Working Group, should be brought to the attention of the special tripartite committee by the Director-General without any further preparatory work.

Identification of common issues and potential approaches to solutions

7. A number of areas identified in the Office's background paper⁴ as possible common issues were discussed as well as other questions and clarifications on various points.⁵ The general view was expressed that these issues could usually be addressed within the existing definitions and the flexibility mechanisms in the Convention, including use of substantial equivalence. Some specific matters, such as the details of accommodation, as it applies to particular ships, might need amendment in the future once the Convention enters into force to achieve a more uniform approach. It was noted that the Article VII mechanism could not operate before the Convention comes into force. There was support expressed for the ILO moving forward to work on developing an electronic MLC, 2006 database in cooperation with the existing databases developed for port State control. In developing a database for the MLC, 2006 the need to avoid duplication was a consideration.

⁴ Background paper, Preparatory Tripartite MLC, 2006, Committee, 20–22 September 2010, PTMLC/2010. Available online at: http://www.ilo.org/global/What_we_do/InternationalLabourStandards/MaritimeLabourConvention/lang--en/index.htm

⁵ A detailed report of the meeting may be submitted to the 310th Session (March 2011) of the Governing Body.

8. Participants expressed their appreciation of the usefulness of the meeting as, in particular, enabling the discussion of problems encountered in the implementation of the MLC, 2006 as well as of how those problems could be solved on the basis of the Convention's provisions.

Geneva, 26 January 2011

Submitted for information