The ILO at Sea

F. L. Wiswall Jr.
The ILO At Sea

F. L. WISWALL, JR.*

I. BRIEF HISTORY

Among the great events of 1969, little-noted was the Fiftieth Anniversary of the International Labor Organization. More the pity because, unlike many of its fellow specialized agencies of the United Nations, the ILO has had a direct effect in bettering the lives of individuals of virtually every nation. The chief beneficiaries perhaps have been the men who at times seem almost to be stateless persons—the world’s seafarers.

An outgrowth of the Versailles Peace Conference in 1919, the ILO assumed cognizance of maritime as well as landside labor matters when a proposal for the establishment of a separate international organization devoted exclusively to the problems of maritime labor, made by the International Congress of Seamen’s Organizations, was narrowly rejected by the Commission on International Labor Legislation and then withdrawn by its sponsor. Partly to meet the objections of seafaring labor, but chiefly in recognition of the peculiar character and international importance of maritime labor problems, a compromise was evolved providing three special maritime units within the ILO structure: exclusive Maritime Sessions of the International Labor Conference to be held as required, a Joint Maritime Commission principally intended to function between Maritime Sessions, and a Maritime Section of the International Labor Office to function at all times. The first Maritime session was held in the following year, and the ILO has ever since devoted a very large share of its total resources and efforts to the maritime sphere.

---

*Of the Maine, New York, and U.S. Supreme Court Bars; Associated with the Firm of Burlingham, Underwood, Wright, White & Lord; Proctor and Advocate in Admiralty; Legal Adviser to the Bureau of Maritime Affairs and to the Delegation to the International Labor Conference, Republic of Liberia. The views herein expressed are the strictly personal views of the author.

1. For details, see J. SHOTWELL, THE ORIGINS OF THE INTERNATIONAL LABOR ORGANIZATION (1934).

2. The ILO structure is discussed at pp. 000 infra.
II. CO-OPERATIVE ORGANIZATIONS

While many international organizations are directly or peripherally involved in problems of international merchant shipping, there are three which, together with the ILO, share primary responsibility for the evolution of higher standards. These are the Comité Maritime International (CMI), the United Nations Conference on Trade and Development (UNCTAD), and the Inter-Governmental Maritime Consultative Organization (IMCO).

The CMI, founded in 1897, was originally an offspring of the International Law Association, of which it had been an autonomous committee (hence the name) since 1890. It is a private international organization, the parent of various national maritime law associations including the Maritime Law Association of the United States. Headquartered in Antwerp, the CMI concerns itself chiefly with matters of Admiralty Law and is the sponsor of the quadrennial Brussels Diplomatic Conferences which since 1910 have produced the many Brussels Conventions on maritime law.

Though it had previously held 21 plenary meetings, UNCTAD did not become a permanent organ of the United Nations General Assembly until 1964; pursuant to the creating resolution, the Trade and Development Board of UNCTAD set up in 1965 a Committee on Shipping to give special attention to maritime affairs. In this area, UNCTAD's concern is almost exclusively commercial and its efforts are directed to the promotion of international maritime trade, particularly among developing nations.

Established by the 1948 Geneva Convention, IMCO is exclusively concerned with maritime technological and safety standards. Headquartered in London, IMCO, like the ILO, is a specialized agency of the United Nations which has as one of its primary aims the evolution of minimum standards by international agreement. Though IMCO is a young organization it has already produced a number of important instruments, including the 1960 International Convention for the Safety of Life at Sea (SOLAS-60) and its 1966 Amendments (SOLAS-60/66). The ILO, the CMI, UNCTAD, and IMCO co-operate by consultation wherever their areas of concern merge. Thus IMCO and the CMI are involved in a series of "TORREY CANYON" Conferences with the

3. At present twenty-nine.
4. Founded in 1899.
5. Though founded in Brussels.
7. Prompted by the wreck of the tanker Torrey Canyon off the Cornish coast of England on 18 March 1967, resulting in millions of dollars of pollution damage, and
goal of drafting a new convention for the prevention of pollution of the sea by oil; UNCTAD and IMCO are battling international discriminatory practices in maritime trade regulations; the ILO and UNCTAD are both concerned with the special problems of the mercantile fleets of developing nations; and the ILO and IMCO are trying to create a safer working environment aboard merchant ships. Each organization assists in providing the others with data pertinent to the areas of particular responsibility. The reason for drawing attention to this co-operation is to illustrate the resources available to the ILO outside its own structure.

III. ILO STRUCTURE

The principal and policy-making organ of the ILO is the International Labor Conference; in essence the "general assembly" of the ILO, the Conference normally meets once each year with representatives of each of the member states in attendance. The Conference in turn elects the executive of the ILO, the Governing Body, which holds office for three years and determines the location, date, and agenda of the Conference session, and may investigate allegations of non-adherence to ILO instruments and report thereon to the Conference. The Governing Body supervises and regulates the administration of the ILO secretariat, the International Labor Office, which is headquartered in Geneva. Under a Director-General, the Office collects data, undertakes studies, polices adherence to ILO instruments, assists member states upon request and otherwise handles all communication with members, and makes preparations for each session of the Conference.

The secret of the ILO's success—the tripartite system—lies within its structure. Thus each delegation of a member state to the Conference numbers four persons, of whom two are government delegates, one a national employers' delegate, and one a national workers' delegate. The Governing Body consists of forty-eight persons, of whom twenty-four are government representatives, twelve are employers' representatives, and twelve are workers' representatives. Very simply, it is the joint production of instruments by labor, management, and government which

---

further spurred by the wrecks of the Ocean Eagle off Puerto Rico in 1968 and the Arrow off Nova Scotia in 1970.

9. ILO CONSTITUTION, arts. 2 and 3.
10. Id., arts. 2,5,7,14,24,26, and 30.
11. The Director-General serves also as Secretary-General of the Conference. ILO CONSTITUTION, art. 15.
12. Id., art. 8,9,10, and 11.
13. Plus, of course, a number of advisers. ILO CONSTITUTION, art. 3 (2).
14. Id., art. 3 (1).
15. Ten of these are appointed by the member governments of chief industrial importance (as determined by the Governing Body), and fourteen are elected by the government delegates to the Conference. ILO CONSTITUTION, art. 7 (4).
virtually assures their acceptance and accounts in turn for the great effectiveness of the ILO.

As previously mentioned, there is special machinery within the ILO for dealing with the unique problems of maritime labor. In 1920 the Governing Body established a Joint Maritime Commission. The Commission is a bi-partite body composed of fifteen titular and five deputy (alternate) shipowner members, fifteen titular and five deputy seafarer members, and two representatives of the Governing Body elected respectively by the employers' and workers' groups of the Governing Body. The Chairman of the Governing Body is also the Chairman of the Commission, which is convened at his call. At the Third (1921) Session of the Conference, it was resolved that no ILO instrument should apply to seafarers unless the questions involved had previously been considered by the Commission and then passed as a special maritime question on the agenda of the Conference. The Commission is thus the clearing-house for all proposed maritime agenda items, and naturally is busiest in preparation for a Maritime Session of the Conference.

IV. ILO INSTRUMENTS

There are two basic types of instruments—conventions and recommendations. Once a convention has received the required number of ratifications it becomes, in effect, a multi-partite treaty, binding upon the ratifying states. A recommendation, however, is offered as a model for appropriate national legislation and has no international force. Once the Conference has decided which of the forms its proposals shall take, and has adopted that form by a two-thirds vote, the instrument is deposited in the ILO archives by the Director-General and the text is transmitted to the member states. Members are bound to inform the Office within eighteen months of the action taken with respect to the instrument. If no action is taken by a member state, its only remaining obligation with respect to the particular instrument is to inform the Director-General, in response to a request by the Governing Body, of the degree to which effect has been given in national law or practice to the content of the instrument, and to state what difficulties prevent ratification or national legislation.

In addition to instruments, the Conference may also pass resolutions of a purely advisory character which are likewise transmitted to member states, though no response is obligatory.

17. There have been twenty sessions of the Commission to date. See UNCTAD Doc. TD/82/Rev.1, at 21.
18. Id.
19. ILO CONSTITUTION, art. 19.
The maritime industry is unique in having had special sessions of the Conference devoted solely to consideration of its labor problems. There have to date been seven Maritime Sessions: the First Maritime [Second General] Session, Genoa, 1920; the Second Maritime [Ninth General] Session, Geneva, 1926; the Third Maritime [Thirteenth General] Session, Geneva, 1929; the Fourth and Fifth Maritime [Twenty-First and Twenty-Second General] Sessions, Geneva, 1936;20 the Sixth Maritime [Twenty-Eighth General] Session, Seattle, 1946; and the Seventh Maritime [Forty-First General] Session, Geneva, 1958. The percentage of world shipping tonnage represented at these Maritime Sessions has grown from 67 at the First to 97 at the Seventh.21

The seven Maritime Sessions have produced twenty-seven maritime labor conventions and sixteen recommendations22 exclusively concerned with seafaring labor.23 Broadly speaking, these fall into the categories of welfare and working conditions.

V. POLITICS

Human nature as it is, politics plays a large part in the operation of the ILO. The Conference and the Governing Body are led, in respect of maritime affairs, by the delegates of the old shipowning nations. The delegation displaying the most initiative at any maritime conference will almost certainly be that of the United Kingdom, which at times seems almost to dominate the conferences; but someone has to take the initiative, and since the U.K. is usually willing and always well-equipped to do so, most other delegations are grateful for that leadership. This observation is not limited to the government members of the delegations, the body of shipowners which organizes the Shipowners' Group at ILO conferences is the International Shipping Federation, Ltd., which has its headquarters in London. Though the body which nominally does likewise for seafarers is the International Confederation of Free Trade Unions, headquartered in Brussels, there is usually a larger official delegation from the International Transport Workers' Federation, headquartered in London. With advisers, the U.K. delegation is invariably the largest, running sometimes nearly twice as large as the next in size.

20. The Fifth Maritime Session was convened at the conclusion of the Fourth to consider a late addition to the agenda.
22. For the texts of the more important of these, see 8 N. SINGH, supra note 21.
23. There are also five conventions and two recommendations concerning fishermen, two conventions and three recommendations concerning longshoremen, and one recommendation concerning labor in inland navigation.
The best ball-carriers are the Scandinavian delegations. On all sides they are tightly organized and well-prepared. The delegations of the United States and the Soviet Union are prominent in debate, but their actual influence is not commensurate with the awareness of their presence. The delegations of France and the British Commonwealth nations, among others, contribute greatly to the progress of conferences. Newly-emergent and developing nations participate in varying degrees and are generally most interested in one or two topics of special concern to themselves.

Because it drafts the preparatory documents for each agenda item and organizes each conference session, the Office has a considerable influence upon the shape of things to come. The staff, though mostly European and largely Swiss, has a truly cosmopolitan outlook and acts as a great stabilizer in stormy conference seas.

VI. CURRENT DEVELOPMENTS

The Eighth Maritime Session of the International Labor Conference will meet in Geneva in the fall of 1970. Having considered agenda items posed by the Office, the Joint Maritime Commission made its recommendations to the Governing Body, which in turn decided to hold a Preparatory Technical Maritime Conference of the ILO. At the invitation of the Italian government, the PTM Conference was convened in Genoa, 15-26 September 1969.

The purpose of the PTM Conference was to consider the Office drafts and materials on six specific agenda items, and to prepare draft instruments and reports for final consideration at the Eighth Maritime Session. Thirty-two states sent voting delegations, and several states and international organizations sent observers. Each delegation consisted of three representatives—one each from the respective government, shipowner, and seafarer national organizations—and a number of technical and legal advisers in addition.


25. ILO CONSTITUTION, art. 14.

26. See ILO Doc. PTMC. II/3 Rev.
A committee was formed to deal with each agenda item, and each committee met several times to debate and draft, step by step. When, as not infrequently happened, there was an apparent deadlock between the shipowner and seafarer representatives over a particular point, the daily meetings of the Shipowners' and Seafarers' Groups of the Conference individually, followed by negotiations prior to the next committee meeting, usually resulted in a compromise. The government delegations for the most part acted as "referees" between management and labor, while offering technical and drafting suggestions in addition.

The result of the work of each committee of the PTM Conference is the agenda item for that point at the Eighth Maritime Session. At the conclusion of the PTM Conference, the status of each item under consideration was as follows:

1. **Crew Accommodation.** A draft Convention is proposed to be applicable only to new building. It will supplement existing ILO Convention 92 and will apply only to ships in high seas trade of 1,000 tons and over. It enlarges some crew spaces and mandates consideration where practicable to providing aboard ships of 8,000 tons and over a smoking or library room in which films or television may be viewed, a hobby and games room, and a swimming pool. A provision similarly phrased for private or semi-private sanitary facilities for each crew member was thought by the Shipowners' Group to be too costly, and the Conference vote on the draft Convention was split over this point. Draft Recommendations for air conditioning and control of noise pollution were unanimously adopted.

2. **Wages.** A draft Recommendation was unanimously adopted, with stated reservations by both Groups, raising from $70 to $91 the monthly minimum wage contained in ILO Recommendation 109.

3. **Technical Developments.** With some reservations as to the form of the instrument, a draft Recommendation with annexed guidelines was adopted, urging national plans to deal with the problem of unemployment resulting from vessel automation and similar technical developments.

4. **Accident Prevention.** A draft Convention was unanimously adopted, providing for the collection of accident data and the study of and education in accident prevention techniques, the emphasis being upon personal injuries.

5. **Vocational Training.** A draft Recommendation to supersede ILO

---

27. *i.e.*, ships laid down after the Convention enters into force.
28. See ILO Doc. PTMC. II/12.
29. See ILO Doc. PTMC. II/10.
30. See ILO Doc. PTMC. II/8.
31. See ILO Doc. PTMC. II/11.
Recommendation 77 was adopted, setting forth general guidelines for the training and retraining of officers and ratings for the merchant service.\(^{32}\)

(6) Welfare. The Conference adopted a draft Recommendation proposing establishment of seafarers' lodging, treatment and recreation centers ashore, recreation facilities aboard ship, and educational facilities in port and aboard. Three annexed Resolutions concern the special protection of young seafarers, a universal postal symbol to identify seafarers' welfare material, and the speedy forwarding of seafarers' mail.\(^{33}\)

VII. THE FUTURE

Prior to the Eighth Maritime Session, a good deal of "lobbying" will be taking place. The Shipowners' Group feels that ship construction, maintenance, and welfare costs as proposed in the agenda items are too great, and sympathy for reduction will be sought. The Seafarers' Group feels the wage and welfare proposals are too modest, and will seek support for raising the amounts to be specified in the final instruments. IMCO, which has some matters such as crew space, noise pollution, and accident prevention under study from the technical and safety aspects, may seek some modifications in this regard. Taken all together, the 1970 Maritime Session will be a very important and lively one.

In the longer run, the chief need seems to be for even greater co-operation between the responsible international organizations. While one thinks particularly of IMCO in this regard—and steps toward regular joint consultation have already been taken—there are others such as the World Health Organization, in addition to UNCTAD and the CMI, which ought to be brought together in closer consultation. Perhaps the time has come for a regular international conference of all organizations involved in maritime affairs, devoted solely to the exchange of ideas and information for their mutual benefit.

The future of the ILO in the maritime field is assuredly bright. If one current proposal that IMCO assume cognizance of the technical and safety requirements for offshore construction\(^{34}\) comes to fruition, logical implications for the ILO will follow. Advances in technology at sea and under the sea are sure to provide unforeseen problems in the area of maritime labor; and the sole reassuring thought in that regard, is that with fifty years of successful experience to draw upon, the International Labor Organization will play its part—and play it well.

---

32. See ILO Doc. PTMC. II/9.
33. See ILO Doc. PTMC. II/7.
34. E.g., drilling rigs.