

Knowing and using the ILO and IMO instruments for the well-being of Seafarers and Fishers (on board and ashore)

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The purpose of this workshop is to become acquainted with the International Maritime Organization (IMO) and the International Labor Organization (ILO) and how these organizations can contribute to our ministry to seafarers and fishers.

The most important international instruments that define international standards for mariners are conventions and recommendations. Both conventions and recommendations are adopted by bodies representing many countries. Conventions are agreements between several countries that are binding on all countries that have formally accepted them. Formal acceptance of conventions is called ratification. Conventions are not normally binding on countries that have not ratified them, although in some instances, port states can require all countries' ships to comply with certain conventions as a condition for entering their ports. Recommendations are not legally binding on any country. They do, however, carry considerable moral force as an expression of internationally agreed guiding principles.

The principle bodies that prepare international instruments affecting mariners are two specialized agencies of the United Nations: International Maritime Organization (IMO) and the International Labor Organization (ILO).

International Maritime Organization

The IMO, headquartered in London, is the United Nations' specialized agency responsible for improving maritime safety and preventing pollution from ships. It is comprised of 158 member countries and several non-governmental organizations. The IMO's most important conventions have been widely accepted by many countries from all parts of the world. They include the International Load Line Convention, the International Convention for the Safety of Life at Sea (SOLAS), the International Convention for the Prevention of Pollution from Ships (MARPOL) and the Standards of Training, Certification and Watchkeeping for Seafarers (STCW). For the past ten years the IMO has shifted its emphasis from regulating technical equipment standards to regulating the human, or people, factors in maritime safety. The most significant example of the IMO's new direction is the 1995 amendments to the STCW which became effective in February, but full implementation was postponed until 1 August of this year.

The International Christian Maritime Association became a non-governmental consultative member of the IMO last year. ICMA's standing delegation to the IMO include: The Rev. Berend van Dijken, The Rev. Canon Ken Peters, Mr. Chris York, The Rev. Jaakko Laasio and Douglas Stevenson. This year is the first year of our participation at IMO. We are trying to cover as many IMO meetings as we can (IMO has five committees and nine subcommittees). The ICMA standing delegation plans to meet in December to assess our participation at IMO and to discuss where to concentrate our emphasis.

Principal IMO Conventions

- ☞ *SOLAS*: The SOLAS Convention specifies minimum standards for safe ship construction, equipment and operation. The first version of SOLAS was adopted in 1914, in response to the Titanic disaster. The convention has been updated several times since then. The Convention in force today is sometimes referred to as SOLAS, 1974, as amended. Included in SOLAS is the mandatory International Safety Management (ISM) Code, which requires shipowners or operators to have a safety management system in place on their vessels.
- ☞ *STCW*: The International Convention on Standards of Training, Certification and Watchkeeping for Seafarers consistent international standards of competence for seafarers. STCW emphasizes practical skills and competence underpinned by theoretical knowledge. The standards set by the Convention apply to seafarers of all ranks serving on sea-going merchant ships registered under the flag of a country Party to the Convention. The STCW requires member states to inform IMO on the measures taken to implement the convention. IMO provides a “White List” of those countries that are in compliance with STCW. The STCW also requires Parties to provide information to allow others to check the validity and authenticity of seafarers' certificates of competency.
- ☞ *MARPOL*: MARPOL regulates and prevents marine pollution by ships by covering accidental and operational oil pollution as well as pollution by chemicals, goods in packaged form, sewage, garbage and air pollution.
- ☞ *Load Line Convention*: The Load Line Convention regulates the amount of cargo a ship may carry by placing limitations on a ship's draft, freeboard and watertight integrity. The regulations take into account the potential hazards present in different zones and different seasons. The convention requires marking assigned load lines the sides of ships.

Current IMO Issues

- ☞ *Maritime Security*: IMO has as an integral part of its mandate the duty to make travel and transport by sea as safe as possible. Since 11 September 2001 the IMO has undertaken a review of the existing international legal and technical measures to prevent and suppress terrorist acts against ships at sea and in port and improve security aboard and ashore. The aim is to reduce risks to passengers, crews and port personnel on board ships and in port areas and to the vessels and their cargoes. IMO will hold a Conference on Maritime Security in December 2002, to adopt new regulations to enhance ship and port security and avert shipping from becoming a target of international terrorism. The new regulations are expected to include provisions for identifying seafarers and access to ships.
- ☞ *Stowaways*: An international convention relating to stowaways was adopted in Brussels in 1957, but it has not yet entered into force and is unlikely to do so. In recent years, however, the problem of stowaways has increased and it is generally recognized that there is an urgent need for international agreement on the allocation of responsibilities to enable the successful resolution of cases involving stowaways. The IMO has developed voluntary guidelines on how to handle stowaway cases that were

incorporated into the Facilitation Convention. IMO is considering whether to make the voluntary guidelines mandatory.

- ☞ Piracy: Since 1998, IMO has organized a series of expert missions and seminars and around the world to discuss preventing and suppressing piracy and armed robbery against ships. It approved recommendations to governments and to ships on preventing and suppressing piracy. Following a dramatic increase in piracy attacks in 2000, IMO urged invited all Governments (of flag, port and coastal States) and the industry to intensify their efforts to eradicate these unlawful acts. Many have called upon IMO to develop an international code for the investigation.
- ☞ Flag State Implementation: IMO was established to adopt legislation. Governments are responsible for implementing it. When a Government accepts an IMO Convention it agrees to make it part of its own national law and to enforce it just like any other law. The flag State is the State of the flag which the vessel flies. The problem with flag State implementation is that some countries lack the expertise, experience and resources necessary to do this properly. IMO's Sub-Committee on Flag State Implementation provides a forum where both flag and port States can meet and find solutions to issues relating to implementation.
- ☞ Fishing vessels: The International Maritime Organization, ILO and FAO have attempted to address some of the fishing vessel safety issues in the Torremolinos Convention and the STCW-F Convention. Although these conventions apply only to large fishing vessels over 24 meters in length, their adoption by flag states would be an excellent first step towards improving safety on fishing vessels. Unfortunately, neither of these conventions has come into force because not enough countries have ratified them.

International Labor Organization

The ILO, headquartered in Geneva, is the United Nations' specialized agency that promotes social justice and internationally recognized human and labor rights. It is comprised of 245 member countries and many non-governmental organizations. The ILO is the only United Nations' agency that uses a tripartite mechanism for adopting standards. Each country's delegation to the IMO is comprised of representatives from government, employers and workers. Using this tripartite method, the ILO has, since 1920, adopted over 60 maritime labor standards that set minimum international standards acceptable to shipowners, trade unions and governments from all parts of the world. Regrettably, many of the ILO conventions have not enjoyed broad ratification by countries. The most important ILO convention for seafarers is the Merchant Shipping (Minimum Standards) Convention (ILO-147) that sets out minimum internationally acceptable standards for living and working conditions on board merchant ships. This convention has been ratified by most developed countries and is used by European and North American port state control authorities as the minimum standards for foreign ships entering their ports – irrespective of whether the ships' flag states have accepted ILO-147. The Convention Concerning Seafarers' Welfare at Sea and in Port (ILO-163) is an important instrument that has, unfortunately attracted few ratifications. A sub-body of the ILO called the Joint-Maritime Commission is responsible for creating and updating the ILO's recommended minimum basic wage for able seamen. This recommendation, currently set at US\$435.00 per month, is only a recommendation and is not legally binding. It does, however, form

the basis for seafarers' wage rates in many collective agreements.

The International Christian Maritime Association has been a non-governmental organization member of the ILO for many years. In addition to ICMA, AOS has access to the ILO through the Holy See's membership in the ILO as an Observer State. The International Labor Office (the secretariat for the ILO) has maintained a Roman Catholic priest on staff as an expert advisor. The Rev Dominique Peccoud, s.j. is the current Adviser for Socio-religious Affairs at the International Labor Office.

Principal ILO Conventions

The ILO's standards take the form of international labor Conventions and Recommendations. The ILO's Conventions are international treaties, subject to ratification by ILO member States. Its Recommendations are non-binding instruments - typically dealing with the same subjects as Conventions - which set out guidelines that can orient national policy and action. Both forms are intended to have a concrete impact on working conditions and practices in every country of the world.

☞ **ILO-147:** This convention is recognized as having substantially strengthened the international efforts to eliminate the operation of substandard ships. It aims to improve the efficiency and safety of navigation, enhance measures to protect the marine environment and advance seafarers' interests in the fields of health and safety, working conditions and trade union rights. This convention, which applies to most merchant vessels, entered into force in November 1981. More than thirty countries have ratified it. The standards in ILO-147 are defined by fifteen international conventions relating to minimum age, medical examination and care, articles of agreement, vocational training, officers' certificates of competency, food and catering, crew accommodation, hours of work and manning, accident prevention, sickness and injury benefits, repatriation, and trade union rights. The convention provides for port state control of standards even on ships registered in countries that have not adopted the convention.

☞ **ILO-163** International law places an obligation on port states to provide welfare, cultural, recreational and information facilities and services for visiting ship's crews. The International Labor Organization Seafarers' Welfare Convention (ILO-163) enumerates the customary international law requirements for crew facilities in seaports. The convention does not require national governments to operate or fund such facilities. It does, however require nations to ensure that they exist. In most maritime nations, this national obligation is satisfied by voluntary organizations, such as AOS and other ICMA centers instead of by the state. Seafarers' centers in modern seaports, perform vital services that are necessary for seafarers' well being and consequently for the safe and efficient operation of their ships.

Current ILO Issues

☞ **Consolidation of ILO Maritime Labor Standards:** The International Labor Office has launched a major consolidation of the existing body of more than 60 maritime labor instruments into a single instrument. A High-Level Tripartite Working Group on Maritime Labor Standards is developing the new instrument with a goal of

adopting a new convention by the end of 2005. A second meeting of the High-Level Tripartite Working Group will be held from 14 to 18 October 2002.

☞ **ILO/IMO Working Group:** A Joint IMO/ILO Ad Hoc Working Group on Liability and Compensation regarding Claims for Death, Personal Injury and Abandonment of Seafarers (the Working Group) has been meeting since 1999. It has produced two sets of voluntary guidelines and is considering whether to develop the guidelines into a mandatory convention.

☞ **Seafarers' Identity Cards:** A consultation meeting has been held in Geneva last May to guide the International Labor Office on the possible content of a new instrument which should be adopted by the International Labor Conference at its 91st Session in June 2003. In the wake of the terrorist attacks of 11 September 2001 in the United States, decisions have been taken both in the framework of the International Maritime Organization and in the International Labor Organization to enhance maritime security. The ILO's actions in this regard relate to improved security of seafarers' identification and complementary port security measures.

DISCUSSION POINTS

☞ Issues raised by workshop participants and their relationship to ILO and IMO.

☞ AOS participation in ILO and IMO

- Fisheries
- Maritime security
- Abandonment
- Safety

☞ Recommendations from Workshop