

ANNEX VI

THE INTERNATIONAL LABOUR ORGANIZATION (ILO)

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Annex VI

Role played by the International Labour Organization in the area of ship dismantling

I. Introduction to the ILO

The International Labour Organization was set up in 1919 at the end of World War One at the Peace Conference which met firstly in Paris and then in Versailles. For its functioning the ILO has three main bodies which all integrate the basic principle of the Organization i.e. tripartism (government, employers, workers).

- I.1. The International Labour Conference meets every year during the month of June in Geneva and is attended by representatives of all the Member States. Each of the delegations consists of two government delegates, one employer delegate and one worker delegate. They are assisted by technical advisers. The Conference plays a major role. It draws up and adopts international labour standards. It is also a forum where, at world level, issues of work and industrial relations are given debate.
- I.2. The Governing Body is the executive council of the ILO. It normally holds two sessions per year in Geneva. It is formed of 28 government members, 14 employer members and 14 worker members. The ten States of chief industrial importance are permanent government members of the Board, the representatives of the other States being elected every three years by the Conference giving consideration to geographical distribution. The employers choose their own representatives as do the workers.
- I.3. The International Labour Office is the permanent secretariat of the International Labour Organization. It is the focal point for all the activities it launches under the control of the Governing Body and under the direction of a Director-General elected for a term of office of five years which is renewable.

The International Labour Organization has 178 Member States and its current Director-General (June 2006) is Juan Somavia.

II. Work conducted by the ILO on ship dismantling

The most notable work conducted by the ILO in the area of ship dismantling is summarized in the Directives titled "Safety and health in shipbreaking: Guidelines for Asian countries and Turkey"¹ published in 2003 of which large extracts are reproduced below.

For the first time the sector is provided with an instrument setting forth recommendations able to ensure the safety of ship demolition work, within the framework of the ILO programme for decent work, and to help this sector, which has hitherto been largely informal, to move forward towards a formally structured industry.

The purpose of the guidelines is to provide assistance to ship demolition companies and competent authorities for the application of related ILO provisions - standards, codes of practice and other recommendations related to health and safety at work - and for the application of instruments adopted by other relevant international organisations, with a view to achieving gradual improvement in the situation of this sector.

¹ <http://www.ilo.org/public/french/standards/relm/gb/docs/gb289/pdf/meshs-1.pdf>

The ILO Directives do not form a legally binding instrument and they are not intended to substitute for legislation and standards in force at national level.

II.1. The ILO guidelines are intended for:

- All legislative or advisory bodies (public authorities, worker and employer organizations, industry associations) whose activities relate to occupational safety and health and the welfare of those who work for shipbreaking operations;
- All those persons who work in ship dismantling facilities - employers, persons in control of premises, workers and contractors - as appropriate to their duties and responsibilities for safety and health;
- All shipbreaking operations irrespective of the nature of the facility (beach, pier, dry dock, graving dock or other types of dismantling locations).

Ship demolition is not always regulated by laws on labour and worker protection. Some countries do not recognize ship demolition as an industrial activity. Although this activity exposes workers to higher than average hazards, it is covered neither by maritime legislation nor by normal safety and health legislation and work inspection, nor by social welfare legislation – hence the vulnerability of the workers in this industry.

“It is difficult to apply laws and regulations to ship demolition sites on account of the locations of these sites. Shipbreaking operations are frequently carried out at sites which are difficult to reach, which are dispersed and can change location. Casual, contract or migrant workers typically undertake the work. These factors combine to make the enforcement of laws and regulations more difficult than in other industrial sectors”.

The ILO guidelines are particularly aimed at the step by step improvement of work conditions for the more hazardous situation of ship dismantling on beaches.

While laws and regulations cannot be expected to cater for every variable, they should at least be able to provide a sound basis for safe and healthy work practices. It will be difficult however to implement all relevant ILO labour standards in the immediate future, especially since shipbreaking remains largely informal and, in some countries ship demolition locations are only established temporarily.

Insofar as asbestos and other toxic substances are concerned which may be found on ships, the International Labour Organization provides different solutions based on its international standards, including Conventions, recommendations and codes of practice. In particular, ILO Conventions n° 139, 148, 162 and 170 on occupational cancers, worksites, safety in the use of asbestos and chemical substances were ratified by 116 ILO Member States, including France for Conventions n°139 and 148.

II.3. ILO, IMO, Basel Convention relations:

During the 55th session of the Marine Environment Protection Committee (MEPC55), the Secretary-General of the Committee recalled the importance of avoiding the duplication and overlapping of the responsibilities and competencies of the three organizations. The effect of this remark, at the Working Group examining the recycling of ships which met from 9 through to 12

October 2006 “having regard to the decision reached at the plenary session”, was a refusal to refer to the ILO guidelines in the text of the Convention.

The document presented by France which proposed establishing “a code for the safe and environmentally sound management of ship dismantling facilities” only received very little support. The French proposal came up against twofold opposition: opposition by those countries which considered that the ILO guidelines were still too binding even if expressed in the form of recommendations, and the opposition of those countries which on the contrary considered that they were not binding enough and which believed they could make rules binding at IMO level which were not binding at ILO level. On this matter, the concerns of some are fed by the demands of others and this is a point which the French proposal, being too ambiguous, no doubt underestimated.

There is clear concern at the IMO of losing control over the drafting of the Convention which translates as the need for the entire draft document to be written within the MEPC.

During the MEPC 55 session, the ILO proposal was set aside. Its proposal was to refer to the ILO guidelines as main reference in matters of safety and health at recycling facilities, without making such guidelines compulsory for those Parties who ratify the IMO Convention.

The proposals put forward by the ILO representative to assist the Working Group in drawing up the guidelines were not followed either. The Working Group preferred to choose the proposal put forward by Japan which will submit draft Guidelines (indicating the correspondence between the rules of chapter 3 relating to recommendations applicable to recycling facilities and the provisions of the ILO Guidelines and Basel Convention).

Care should be taken to ensure that the IMO draft is no more binding than the ILO Guidelines, to avoid non-acceptance of the Convention, and also to ensure that it is not technically removed from these Guidelines in order to maintain their acquired benefits.

II.4. Essential coordination between the ILO and IMO:

In February 2006 the International Labour Organization adopted a new consolidated labour standard for the world maritime sector (the Convention will come into force after it has been ratified by 30 ILO Member States representing at least 33 percent of gross world tonnage).

For the ILO, this Convention must become the "fourth pillar" of the international maritime regulation system alongside the three key IMO Conventions:

- the International Convention for the Safety of Life at Sea (SOLAS Convention),
- the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW Convention)
- and the International Convention for the prevention of pollution from ships (MARPOL Convention)

The new Convention is designed to encourage observance of its provisions by charterers and ship owners and to reinforce the entry into force of standards at all levels, including provisions for onboard and onshore complaint procedures accessible to seafarers, those relating to the supervision

by ship owners and shipmasters of conditions on board their ships, and those relating to the jurisdiction and control of flag States over their ships.

The Convention sets up a certification system for the working conditions of seafarers. Ships larger than 500 GT engaged in international voyages or voyages between foreign ports will be required to carry a “Maritime Labour Certificate” and a “Declaration of Maritime Labour Compliance”. The Declaration will outline shipowners’ plans for ensuring that applicable national laws and regulations and other measures required to carry out the provisions of the Convention are continuously observed. Shipmasters will be responsible for carrying out the plans stated by shipowners and for keeping proper records to evidence compliance with the Convention. Flag States will be in charge of reviewing shipowners’ plans and with verifying and certifying that they are in force and are implemented.

Among the other innovative characteristics of the Convention, are provisions ensuring that if a flag State delegates certain inspection and enforcement functions to a recognised organisation, such as a classification society, this organisation will have to meet specific criteria for independence and expertise; and the Convention will promote an approach based on modernized management of health and safety at work.

The experience acquired at the ILO via the Convention on decent work for seafarers should be used to the benefit of the IMO, in particular with respect to control mechanisms.

An IMO/ILO bipartite working group on ship dismantling should be set up.

III. Relations between the ILO and the European Union.

The Community is not a member of this Organization. However Community coordination meetings are regularly organized prior to meetings of the International Labour Organization (permanent secretariat of the ILO).

The political framework for cooperation between the ILO and the European Commission is laid down in an exchange of letters between these bodies dating from 2001.

At the end of 2006, the Council of Ministers of the European Union adopted a set of conclusions on the promoting of decent work within the European Union and throughout the world, and the International Labour Organization stressed the importance of this new support given to efforts in progress aimed at making decent work a global reality.

The ILO recalled that this decision by the European Council of Ministers was the most recent in a series of moves that have strengthened links between the ILO’s Decent Work Agenda and the policies and actions of the EU, and will pave the way for cooperation that could “realize the innovative power of productive and decent work”.