

▶ **Fourth Meeting of the Special Tripartite Committee of the MLC, 2006 – Part I (19-23 April 2021)**

▶ **Draft resolution concerning the implementation and practical application of the MLC, 2006 during the COVID-19 pandemic submitted by the Shipowner and Seafarer groups**

▶ **23 April 2021 – Drafting Group**

The Special Tripartite Committee established by the Governing Body of the International Labour Office under Article XIII of the Maritime Labour Convention, 2006, as amended (MLC, 2006), on the occasion of the first part of its fourth meeting, which took place virtually from 19-23 April 2021,

Noting that, under Article XIII of the MLC, 2006, the Governing Body shall keep the working of the MLC, 2006 under continuous review through this Committee,

Noting also Article I(2) of the MLC, 2006, which requires that Members shall cooperate with each other for the purpose of ensuring the effective implementation and enforcement of the Convention; Article III which obliges Members to respect the fundamental rights and principles; Article V(6) that requires that Members shall prohibit violations of the requirements of the Convention,

Noting further that the Preamble of the MLC, 2006 recalls that Article 94 of the United Nations Convention on the Law of the Sea, 1982, establishes the duties and obligations of a flag State with regard to, inter alia, labour conditions, crewing and social matters and Article V(2) of the MLC, 2006, which requires that each Member shall exercise its jurisdiction and control over ships that fly its flag by establishing a system of ensuring compliance with the requirements of the Convention,

Noting also the COVID-19 pandemic declared by the World Health Organization (WHO) on 11 March 2020 and the resulting control measures introduced and still applicable in many countries,

Recalling that many of these control measures have caused seafarers all over the world to be prevented from exercising their rights to repatriation, maximum periods of shipboard service, shore leave, medical treatment ashore and access to shore-based welfare facilities to which they are entitled under the MLC, 2006,

Recalling also the observations contained in the Report of the Committee of Experts on the Application of Conventions and Recommendations (CEACR) adopted at its 91st session (2020)¹ referring to the increased importance of the MLC, 2006 during the pandemic and that the MLC, 2006 is intended to set the minimum standards to be observed by Members, and

¹ https://www.ilo.org/ilc/ILCSessions/109/reports/reports-to-the-conference/WCMS_736204/lang-en/index.htm.

that non-observance of fundamental rights during such a time may render the Convention meaningless,

Recalling the Resolution of the Governing Body concerning maritime labour issues and the COVID-19 pandemic adopted on 8 December 2020 calling for global co-operation and full implementation of MLC, 2006,²

Recalling also the United Nations General Assembly Resolution on international cooperation to address challenges faced by seafarers as a result of the COVID-19 pandemic to support global supply chains adopted on 1 December 2020,³

Having noted the Recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic, which was proposed by a broad cross section of global industry associations representing the maritime transportation sector and enjoying consultative status at the International Maritime Organization (IMO) (MSC.1/Circ.1636), and which is promoted by the ILO,

Noting also that there are seafarers who have lost their employment as a result of the pandemic and the consequent reduction or cessation of their employers' operations, whilst others have suffered poor health or deprivation, leading some to rethink the choice of career, which has implications for the future of shipping,

Noting with great concern that, more than a year after the declaration by the WHO of a pandemic, hundreds of thousands of seafarers remain impacted,

Noting that, in spite of the severe toll that the pandemic has taken on seafarers, they have continued to keep supply lines operational, ensuring the movement of essential food, fuel, medicines, medical equipment, vaccines and all other goods and commodities,

Noting that the requirements of the MLC, 2006 apply at all times and that there is no provision that allows them to be suspended under any circumstances,

Noting that the CEACR stresses that the notion of force majeure may no longer be invoked from the moment that options are available to comply with the provisions of the MLC, 2006, although more difficult or cumbersome, and urges ratifying States which have not yet done so, to adopt all necessary measures without delay to restore the protection of seafarers' rights and comply to the fullest extent with their obligations under the Convention,

Believing that the ability of shipowners to fulfil many of their duties to seafarers that are imposed on them by the MLC, 2006 depends on the cooperation of States and, in particular, their facilitation of seafarer repatriation, shore leave, transit and access to shore-based welfare services, and medical care including dental care,

Believing also that the fulfilment of all obligations under the MLC, 2006 by Member States is essential to ensure the health and safety of seafarers,

Noting further that national requirements for COVID-19 testing and quarantine measures implemented by governments have been applied to seafarers, in many cases disproportionately,

² https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---relconf/documents/meetingdocument/wcms_760649.pdf.

³ <https://www.undocs.org/en/A/75/L.37>.

Requests the ILO to renew its call on Members to designate and treat seafarers as key workers and also to call on Members to take all necessary steps to ensure that seafarers:

- (i) [can travel to and from their country or place of residence and their place of work without [any unnecessary or disproportionate] restriction,]
- (ii) can transit between regions and States and within countries for the purposes of taking up employment, being repatriated, or for medical care including dental care ashore,
- (iii) are exempted from quarantine requirements, if any, upon arrival in the jurisdictions in which they join or leave their vessel, except where they test positive for COVID-19,
- (iv) can obtain medical care including dental care ashore when required,
- (v) can obtain shore leave and access to shore-based welfare services,
- (vi) are permitted to access training necessary for their employment, where it is available,
- (vii) are not required to stay on board a vessel longer than the period specified in their seafarer's employment agreement without their consent, and under no circumstances for longer than the maximum period of service stipulated by the MLC, 2006.

and to co-operate with each other to promote the wellbeing of seafarers and respect their fundamental rights and principles under the MLC, 2006;

Requests Members, in accordance with applicable national laws and regulations, to consider the acceptance of internationally recognized documentation carried by seafarers, including seafarers' identity documents delivered in conformity with the Seafarers' Identity Documents Convention, 1958 (No. 108) and the Seafarers' Identity Documents Convention (Revised), 2003, as amended (No. 185);

Requests Members, in accordance with applicable national laws and regulations, to consider temporary measures including waivers, exemptions or other changes to visa or documentary requirements that might normally apply to seafarers;

Requests that the ILO remind Members of the aforementioned Resolutions adopted by the ILO Governing Body and the UN General Assembly and of the IMO Recommended framework of protocols for ensuring safe ship crew changes and travel during the coronavirus (COVID-19) pandemic;

Requests the ILO to call on Members to ensure that seafarers are provided with access to COVID-19 vaccination at the earliest opportunity as well as to promote the mutual acceptance of vaccine certificates, where issued, including when in transit to or from their ships and when taking shore leave, in order to protect their health and safeguard their ability to carry out their duties as key workers maintaining global supply chains;

Calls on Members and shipowners' and seafarers' organizations to work jointly to ensure the promotion and respect for seafarers' rights under the MLC, 2006;

Further recommends that the ILO Governing Body convey the contents of this Resolution to the United Nations Secretary-General with a request to convene an ad-hoc UN Inter-Agency Task Force to examine the implementation and practical application of the MLC, 2006 during the pandemic, including its impact on seafarers' fundamental rights and on the shipping industry.