

**HANDBOOK**  
**Guidance on implementing**  
**the Maritime Labour Convention, 2006**  
**Model National Provisions**



International Labour Organization

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International Labour Office Geneva

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## Preface

This handbook has been prepared by the International Standards Department of the International Labour Office under the auspices of the ILO's five year (2006-2011) *Action Plan to achieve rapid and widespread and effective implementation of the Maritime Labour Convention, 2006*. It is intended to assist countries that may need additional information or technical support to ratify and implement this innovative Convention (referred to below as "the MLC, 2006"). These innovations relate to the Convention's legal structure and terminology, its comprehensiveness, its areas of flexibility as well as its expanded compliance and enforcement provisions. The comprehensive nature of the MLC, 2006, which consolidates 37 existing ILO Conventions and related Recommendations adopted since 1920, could provide a challenge for some countries. The Convention brings together, in one legal instrument, a diverse range of regulatory concern – including minimum age for seafarers, medical fitness, recruitment and placement services, repatriation, onboard accommodation, occupational safety, social security, maritime labour inspection and certification and port State control. Often these issues are addressed at the national level by different agencies or departments and in various forms of legislation.

At the many promotional seminars that have been organized since the Convention's adoption, a number of governments have identified a need for a "model law", on the lines of those prepared by some other United Nations organizations. The model provisions and commentary in this handbook have been prepared in response to that need. However, as explained in the introduction to these model national provisions, they are not a model law, in the sense of a standard draft law proposed for adoption as such. A draft of such a kind could not take account of the differences in legislative approaches and terminology from country to country. Nor could it take account of the wide measure of flexibility that the MLC, 2006 has given to national lawmakers in deciding, after tripartite consultation, not only the content of the national requirements to be established pursuant to the Convention, but also means by which those requirements will be established since in many cases the national law implementing the Convention may be in laws or regulations or other measures, such as collective bargaining agreements.

The model provisions might best be described as a first step towards a comprehensive national law implementing the MLC, 2006. They essentially consist of a gathering together and rearrangement of the provisions of the Convention, with the minimum of change necessary to adapt the provisions from those of an international instrument addressed to States to those of a national instrument or instruments to be adopted in those States in order to establish and enforce the rights and obligations of the major actors such as the seafarers, shipowners, maritime labour inspectors and recruitment and placement agencies. For countries that are at an early stage in their ratification or implementation process, the model national provisions should be useful, not just as a model, but also as providing examples of how the flexibility offered by the Convention could be implemented in practice in each of the very different subject areas covered by the Convention. For countries at a more advanced stage, the model provisions could be useful for identifying any gaps in the laws or other measures implementing the Convention and for filling those gaps.

A draft version of these model national provisions was "piloted" at a one-week legal workshop in September 2011 at the International Training Centre of the ILO in Turin, Italy (ILO ITC) with law and policy personnel drawn from differing legal systems attending. I am grateful for the interest and helpful suggestions from the participants at that workshop. More of these workshops, which also involve discussion with experts in the MLC, 2006, are anticipated to provide additional support to interested countries. This handbook and the support for this workshop would not have been possible without the technical cooperation support of ILO members. The Government of Sweden, through the ILO/Sweden Partnership Programme 2009-2013, has provided support for numerous national legal gap analyses and for the preparation of these model notational provisions, the workshop and also the preparation of related more detailed information to provide guidance on implementing the MLC, 2006 provisions on social security and on health and safety protection and accident prevention. The on-going support of the Government of Italy for the ILO ITC is also gratefully acknowledged.

Cleopatra Doumbia-Henry  
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The International Labour Office would like to express its appreciation to the Government of Sweden for its financial contribution, through the Swedish International Development Cooperation Agency (SIDA), to the costs of producing this handbook and related resources to assist in ensuring widespread ratification and effective implementation of the *Maritime Labour Convention, 2006*.





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## Introduction

This handbook contains a model for legal provisions that implement the *Maritime Labour Convention, 2006* (MLC, 2006)<sup>1</sup>. This model closely follows the provisions of the Convention. It is not a proposal for a national law (although with some adjustments it could be used as such), but, rather, it is intended as an aid, in whole or in part, for national legislators and legislative counsel in drafting the necessary legal texts to implement the MLC, 2006.

It should be noted that Article IV, paragraph 5 of the MLC, 2006, provides that:

5. *Each Member shall ensure, within the limits of its jurisdiction, that the seafarers' employment and social rights set out in the preceding paragraphs of this Article are fully implemented in accordance with the requirements of this Convention. Unless specified otherwise in the Convention, **such implementation may be achieved through national laws or regulations, through applicable collective bargaining agreements or through other measures or in practice.***

The present model has been prepared to provide guidance on the drafting of national provisions implementing the MLC 2006, which **might** be included in legislation. It would be up to each country to decide whether a particular provision should be contained in a law (such as an Act of Parliament or Congress) or in a regulation or other subsidiary legislation, such as orders or marine notices. Or, a country may decide – in cases where the MLC, 2006 does not specifically require legislation – that certain matters could be dealt with better through other legal measures such as collective bargaining agreements. Or perhaps, where an MLC, 2006 provision essentially relates to action to be taken by the governments themselves, through administrative instructions. In some cases, a country might decide that no further legal measures need to be devised because, for example, a seafarer's right under the Convention is already adequately covered by the general law applied by the courts. **These model provisions cover all subjects in the MLC, 2006, but this is only for the sake of completeness in implementing that Convention: it should not be understood as necessarily recommending that a single law or legislation is the most appropriate way of dealing with a particular subject, especially as in each country the situation will differ depending on its legal system and other factors.** Account will also need to be taken of the legal terminology used, which again differs from country to country, as well as of the status of international agreements (treaties or conventions), such as the MLC, 2006 under the Constitution of the country concerned.

In addition, in some cases a country may already have significant legislation in place, for example, under a general shipping law, addressing a range of maritime labour standards, including matters such as minimum age, social security and occupational safety and health, and enforcement of international maritime conventions through ship inspection and certification, perhaps because of ratification of earlier conventions adopted by the International Labour Organization (ILO) or other maritime conventions adopted by the International Maritime Organization (IMO). In that case there may only need to be minor adjustments to update provisions or fill gaps. In other cases there may be countries with little, or even no, legislation in place. In that case a single law or other instrument may be a preferable approach. In every case a national legislative review (gap analysis) should be undertaken to ascertain the most appropriate approach. Reference should also be made to the ILO form<sup>2</sup> for drawing up reports to be made pursuant to Article 22 of the ILO Constitution, which indicates the documentation that would be expected by the ILO supervisory system after ratification.

The MLC, 2006 contains the following Explanatory Note regarding the relationships between the differing parts of the Convention and the nature of the obligations under each part.

### **Explanatory note to the Regulations and Code of the Maritime Labour Convention**

1. *This explanatory note, which does not form part of the Maritime Labour Convention, is intended as a general guide to the Convention.*
2. *The Convention comprises three different but related parts: the Articles, the Regulations and the Code.*
3. *The Articles and Regulations set out the core rights and principles and the basic obligations of Members ratifying the Convention. The Articles and Regulations can only be changed by the Conference in the framework of article 19 of the Constitution of the International Labour Organisation (see Article XIV of the Convention).*
4. *The Code contains the details for the implementation of the Regulations. It comprises Part A (mandatory Standards) and Part B (non-mandatory Guidelines). The Code can be amended through the simplified procedure set out in Article XV of the Convention. Since the Code relates to detailed implementation, amendments to it must remain within the general scope of the Articles and Regulations.*

<sup>1</sup> To be found at: [www.ilo.org/mlc](http://www.ilo.org/mlc)

<sup>2</sup> To be found at: [www.ilo.org/mlc](http://www.ilo.org/mlc) under the heading "Reporting obligation".

5. *The Regulations and the Code are organized into general areas under five Titles:*
  - Title 1: Minimum requirements for seafarers to work on a ship*
  - Title 2: Conditions of employment*
  - Title 3: Accommodation, recreational facilities, food and catering*
  - Title 4: Health protection, medical care, welfare and social security protection*
  - Title 5: Compliance and enforcement*
6. *Each Title contains groups of provisions relating to a particular right or principle (or enforcement measure in Title 5), with connected numbering. The first group in Title 1, for example, consists of Regulation 1.1, Standard A1.1 and Guideline B1.1 relating to minimum age.*
7. *The Convention has three underlying purposes:*
  - (a) to lay down, in its Articles and Regulations, a firm set of rights and principles;*
  - (b) to allow, through the Code, a considerable degree of flexibility in the way Members implement those rights and principles; and*
  - (c) to ensure, through Title 5, that the rights and principles are properly complied with and enforced.*
8. *There are two main areas for flexibility in implementation: one is the possibility for a Member, where necessary (see Article VI, paragraph 3), to give effect to the detailed requirements of Part A of the Code through substantial equivalence (as defined in Article VI, paragraph 4).*
9. *The second area of flexibility in implementation is provided by formulating the mandatory requirements of many provisions in Part A in a more general way, thus leaving a wider scope for discretion as to the precise action to be provided for at the national level. In such cases, guidance on implementation is given in the non-mandatory Part B of the Code. In this way, Members which have ratified this Convention can ascertain the kind of action that might be expected of them under the corresponding general obligation in Part A, as well as action that would not necessarily be required. For example, Standard A4.1 requires all ships to provide prompt access to the necessary medicines for medical care on board ship (paragraph 1(b)) and to "carry a medicine chest" (paragraph 4(a)). The fulfilment in good faith of this latter obligation clearly means something more than simply having a medicine chest on board each ship. A more precise indication of what is involved is provided in the corresponding Guideline B4.1.1 (paragraph 4) so as to ensure that the contents of the chest are properly stored, used and maintained.*
10. *Members which have ratified this Convention are not bound by the guidance concerned and, as indicated in the provisions in Title 5 on port State control, inspections would deal only with the relevant requirements of this Convention (Articles, Regulations and the Standards in Part A). However, Members are required under paragraph 2 of Article VI to give due consideration to implementing their responsibilities under Part A of the Code in the manner provided for in Part B. If, having duly considered the relevant Guidelines, a Member decides to provide for different arrangements which ensure the proper storage, use and maintenance of the contents of the medicine chest, to take the example given above, as required by the Standard in Part A, then that is acceptable. On the other hand, by following the guidance provided in Part B, the Member concerned, as well as the ILO bodies responsible for reviewing implementation of international labour Conventions, can be sure without further consideration that the arrangements the Member has provided for are adequate to implement the responsibilities under Part A to which the Guideline relates.*

Article VI, paragraphs 3 and 4, referred to in paragraph 8 of the Explanatory Note, read as follows (emphasis added):

3. *A Member which is not in a position to implement the rights and principles in the manner set out in Part A of the Code **may, unless expressly provided otherwise in this Convention, implement Part A through provisions in its laws and regulations or other measures which are substantially equivalent to the provisions of Part A.***
4. *For the sole purpose of paragraph 3 of this Article, any law, regulation, collective agreement or other implementing measure shall be considered to be substantially equivalent, in the context of this Convention, if the Member satisfies itself that:*
  - (a) it is conducive to the full achievement of the general object and purpose of the provision or provisions of Part A of the Code concerned; and*
  - (b) it gives effect to the provision or provisions of Part A of the Code concerned.*

The flexibility in Article VI does not apply to Title 5 (Compliance and enforcement) of the MLC, 2006.

## How to use this handbook

The following provides, on the **left-hand page** a commentary explaining the purpose of the proposed text on each issue and noting particular points to be considered. The facing **right hand page** or pages sets out model provisions that could be adapted by legislative drafters to fit the national circumstances. The **footnotes** for each provision are not intended for adoption in national law, but are there only to indicate the specific requirements in the MLC, 2006 that are addressed by the provisions. The information in the footnotes will however, also be useful for administrations when developing their national Declaration of Maritime Labour Compliance, Part I (DMLC, Part I: see MLC, 2006, Appendix A5-II) , which is to be carried on board the ships that are in the category that must be certified. It would also be useful for governments when completing the *Article 22 report* to the ILO (A copy of the Art. 22 Report is continued on the **Appendix** to this handbook). A Word and a PDF version are also available on the ILO website at: [www.ilo.org/mlc](http://www.ilo.org/mlc).

Text in the model provisions that is in **bold type** is taken from the mandatory Regulations and Code, Part A (Standards) of the Convention. Text in ordinary type indicates text that is not in the Convention but is suggested as obviously necessary or useful to enable the Convention to be properly implemented. Text in *italics* is taken from the Code, Part B, the Guidelines to the MLC, 2006, which in accordance with Article VI, paragraph 2 of the Convention, must be given due consideration when drafting the national provisions implementing the mandatory provisions of the Convention. Text located between square brackets [...] indicates changes or additions that need to be made to address particular national terminology, situations or determinations (for example to decide the period to be considered as “night” in the context of seafarers under 18) or the name of a competent authority or ministry. Text that may not be applicable to a particular country because of its national situation, for example, has also been placed inside square brackets [ ].

In several sections there is reference to a “**Schedule**”. These model provisions propose nine schedules (Schedules I -IX) as listed at the end of this handbook. The content of these schedules is not set out. This is suggested as one legislative approach to address the need for subsidiary provisions or measures that need to be addressed later after consultations in each country or otherwise determined, perhaps through other national regulations or law. In some cases they contain other country specific information, (for example identifying Shipowner and Seafarer Organizations to be consulted).

## Articles

### Commentary

As noted in the *Explanatory note to the Convention* set out in the introduction to this handbook, the Articles provide an overall framework for the specific requirements set out in Titles 1 to 5. For the most part, national legislation will be concerned with implementing the matters in the Titles, which would, *de facto*, also constitute implementation of the country's international obligations set out in the Articles. However there are some points that must be carefully considered in the Articles when developing legislation. Article II, dealing with "Definitions and scope of application", is central to the process of national implementation. The terms that are used in the MLC, 2006 are not themselves important: if, for example, national legislation refers to "vessels" instead of "ships" (the term used in the MLC, 2006), it can continue to use the term "vessels". What is important is to note the meaning and scope given to each term in the MLC, 2006. The MLC, 2006 (unlike many earlier ILO conventions or the IMO conventions) is much broader in its application in that it does not have a general tonnage limit and does not contain exclusions for ships based on the nature of their voyage. Under Article II, paragraphs 1(i) and 4, the MLC, 2006 applies to all ships, whether publicly or privately owned, that are ordinarily engaged in commercial activities. Subject to any national provisions to the contrary<sup>3</sup>, the MLC, 2006 does not apply to:

- ships which navigate exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;
- ships not ordinarily engaged in commercial activities;
- ship engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks;
- warships or naval auxiliaries.

The MLC, 2006, applies to seafarers on all ships covered by the MLC, 2006. Under Article II, paragraph 1(f) a seafarer is any person who is employed or engaged or works in any capacity on board a ship to which the MLC, 2006 applies. National legislators must therefore make sure that the working and living conditions of all persons who are employed or engaged or work on a ship covered by the MLC, 2006 – whatever those persons are called under the national law (e.g. "seafarers", "crew", "ratings", "officers", "masters", "catering staff") – comply with the minimum requirements for "seafarers" as set out in the MLC, 2006. If a country's law already contains a definition of seafarer or, for example, "seaman" (a word that the MLC, 2006 avoids because it can exclude female seafarers), the legislators will need to amend that national definition if it does not cover all persons who are employed or engaged or work on a ship. The model "definition and scope" provisions in Section 0 assume that there are no existing definitions in national legislation that would apply. As Article II, paragraph 1 also indicates, the term "competent authority" could refer to one or more government departments or agencies or the Minister that has responsibility in whole or in part for implementing the MLC, 2006. It should be noted that Article II allows for some national flexibility to make determinations as to application "in cases of doubt" and for some ships as set out in Article II, paragraph 6. It may be useful to consider including some specific authorizations for determinations by the competent authority in these cases, following the consultation procedures set out in Article II.

The Articles in the MLC, 2006 contain other points under Articles III, IV and V. Article III relates to important obligations which a country is required to satisfy itself that they are addressed; however the legal provisions will usually be found in legislation implementing other important ILO conventions on these matters. Implementation of Articles IV and V simply support Titles 1 to 5 of the MLC, 2006 (Titles 1 to 5 of these model provisions); if those titles are properly addressed, Articles IV and V can be considered as properly complied with. Article VI, paragraphs 3 and 4 provide some flexibility, where deemed necessary, for countries to implement the Code (other than Title 5) through "substantial equivalence".

<sup>3</sup> A country can choose to adopt legislation that is wider in application than the MLC, 2006. This would still be consistent with the Convention.

## Section 0. Definitions and scope

1. For the purposes of this [insert relevant national term – such as instrument or act or law or regulation or order], unless the context otherwise requires:
  - (a) “the Convention” means the Maritime Labour Convention, 2006 adopted by the International Labour Organization;
  - (b) “the competent authority” means [insert name of the national Minister or Ministry or departments responsible for the implementing the Convention];<sup>4</sup>
  - (c) “declaration of maritime labour compliance” means the declaration referred to [in Section 5.1. 3 below ];<sup>5</sup>
  - (d) “foreign ship” means a ship that is flying the flag of a country other than [insert name of country];
  - (e) maritime labour certificate means the certificate referred to [ in Section 5.1.3 below];<sup>6</sup>
  - (f) “seafarer” means any person who is employed or engaged or works in any capacity on board a ship;<sup>7</sup>
  - (g) “seafarers’ employment agreement” means any contract of employment for seafarers [including articles of agreement];<sup>8</sup>
  - (h) “seafarer recruitment and placement service” means any person, company, institution, agency or other organization, which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners;<sup>9</sup>
  - (i) “ship” means a ship other than one which navigates exclusively in inland waters or waters within, or closely adjacent to, sheltered waters or areas where port regulations apply;<sup>10</sup>
  - (j) “shipowner” means the owner of the ship or another organization or person, such as the manager, agent or bareboat charterer, who has assumed the responsibility for the operation of the ship from the owner and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with the Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner;<sup>11</sup>
  - (k) “shipowners’ and seafarers’ organizations” means [the organizations referred to in below];
  - (l) “STCW Convention” means the International Convention on Standards of Training, Certification and Watch-keeping for Seafarers, 1978, as amended.
2. Unless provided otherwise this [insert name of instrument] applies to all seafarers and to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities, other than ships engaged in fishing or in similar pursuits and ships of traditional build such as dhows and junks. It does not apply to warships or naval auxiliaries.<sup>12</sup>
3. The competent authority may, in the event of doubt, as to the application of this [insert name of instrument] make a determination after consultation with the shipowners’ and seafarers’ organizations as to whether or not a person or a category of persons comes within the definition of “seafarer” and as to whether or not a ship or a category of ships comes within the definition of “ship”.<sup>13</sup>
4. Where the competent authority determines that it would not be reasonable or practicable at the present time to apply certain details in provisions of this [insert name of instrument] to a ship or particular categories of ships, those details will not apply to seafarers on the ship or ships concerned to the extent that those seafarers are covered by other provisions relating to those details and that the other provisions fully implement the relevant provisions of the Regulations of the Convention. Such a determination may only be made in consultation with the shipowners’ and seafarers’ organizations and may only be made with respect to ships of less than 200 gross tonnage not engaged in international voyages.<sup>14</sup>
5. Any determinations made under paragraph 3 or 4 above must be communicated by the competent authority to the Director-General of the International Labour Office.<sup>15</sup>

<sup>4</sup> See Article II, para. 1(a).

<sup>5</sup> See Article II, para. 1(b).

<sup>6</sup> See Article II, para. 1(d).

<sup>7</sup> See Article II, para. 1(f).

<sup>8</sup> See Article II, para. 1(g).

<sup>9</sup> See Article II, para. 1(h).

<sup>10</sup> See Article II, para. 1(i).

<sup>11</sup> See Article II, para. 1(j).

<sup>12</sup> See Article II, paras 2 and 4.

<sup>13</sup> See Article II, paras 3 and 5.

<sup>14</sup> See Article II, para. 6.

<sup>15</sup> See Article II, para. 7.

## Title 1: Minimum Requirements for Seafarers to Work on a Ship

### Regulation 1.1; Code Standard A1.1 and Guideline B1.1

#### Commentary

#### Minimum Age

*Purpose: To ensure that no under-age persons work on a ship*

The protection of children against exploitation in the labour market has always been a priority of the ILO, and the need for measures is evident in the maritime sphere no less than in others. The MLC, 2006 does not specify the legal form for implementation; however it must be in a form that is mandatory under the national legal system. These mandatory provisions must:

- require that the minimum age for admission to employment at sea is 16 years of age. A higher national age may, however, be provided for in a country. In addition the MLC, 2006 requires for some positions (e.g., hazardous work) that seafarers must be at least 18 years of age.
- prohibit “night work” by seafarers under the age of 18 subject to some possible flexibility. to allow the competent authority to make exceptions in the case of training programmes and schedules.
- prohibit seafarers under the age of 18 from performing work that is likely to jeopardize their health or safety. The precise definition of this work is not set out in the Convention, but is to be determined as set out in Standard A1.1, paragraph 4. Additional guidance on the kinds of work that might be determined to be hazardous for seafarers under 18 is provided in Guideline B4.3.1.

It should be noted that as a general matter to be given due consideration in connection with all requirements in the MLC, 2006, Guideline B1.1 provides that:

1. *When regulating working and living conditions, Members should give special attention to the needs of young persons under the age of 18.*

There are a number of provisions in the MLC, 2006 where concern for young seafarers is expressly stated, see for e.g., medical certificates, repatriation, leave, hours of work and rest, health and safety protection and accident prevention. It should also be noted that the MLC, 2006 does not provide a minimum age for particular positions on board ships, other than a minimum age of 18 for ships’ cooks (Standard A3.2, paragraph 8. See also Section 3.2 of these model provisions). However there may already be existing national requirements to implement other maritime conventions such as the IMO’s STCW Convention which establish minimum ages for certain positions for seafarers that are covered by the STCW.



## Title 1. Minimum Requirements for Seafarers to Work on a Ship

### Section 1.1 Minimum Age

1. The employment, engagement or work on board a ship of any person under the age of 16 is prohibited.<sup>16</sup>
2. The employment, engagement or work of seafarers under the age of 18 is prohibited where the work is likely to jeopardize their health or safety.
3. The activities or work likely to jeopardize the health or safety of seafarers under the age of 18 are those set out in below as well as those that may be determined as likely to jeopardize their health or safety by the competent authority after consultation with the shipowners' or seafarers' organizations, in accordance with relevant international standards.<sup>17</sup>
4. Night work of seafarers under the age of 18 is prohibited subject to paragraph below. For the purposes of this provision, the term "night" covers the period [between 9 p.m. and 6 a.m. *or any other period that may be determined by the competent authority of at least nine hours starting no later than midnight and ending no earlier than 5 a.m.*].<sup>18</sup>
5. An exception regarding night work may be made by the competent authority in the following situations:<sup>19</sup>
  - (a) when the effective training of the seafarers concerned, in accordance with established programmes and schedules, would be impaired;<sup>20</sup> or
  - (a) when the specific nature of the duty or a recognized training programme requires that seafarers under the age of 18 perform duties at night and the authority determines, after consultation with the shipowners' and seafarers' organizations, that the work will not be detrimental to their health or well-being.<sup>21</sup>
6. No seafarer under the age of 18 shall be employed or engaged or work as a ship's cook.<sup>22</sup>

<sup>16</sup> Regulation 1.1 para. 1, 1.1 para. 2; Standard A1.1 para. 1.

<sup>17</sup> Standard A1.1 para. 4; Guideline B1.1 para. 1.

<sup>18</sup> Regulation 1.1 para. 3; Standard A1.1 para. 2.

<sup>19</sup> Standard A1.1 para. 3.

<sup>20</sup> Standard A1.1 para. 3(a).

<sup>21</sup> Standard A1.1 para. 3(b).

<sup>22</sup> Standard A3.2 para. 8. See also Section 3.2 of these model provisions

## Title 1: Minimum Requirements for Seafarers to Work on a Ship

### Regulation 1.2; Code Standard A1.2 and Guideline B1.2

#### Commentary

#### Medical Certificate

*Purpose: To ensure that all seafarers are medically fit to perform their duties at sea*

Medical examinations are a means not only of protecting the individual seafarer from exposure to the risks of work at sea when not fit to withstand them, but also of protecting all seafarers, any passengers and cargo on board against the possible harm when a seafarer is not medically fit for the duties she or he is to perform. Equally, shipowners benefit from the assurance of medically fit seafarers. The requirements under the MLC, 2006 overlap with amendments on this matter adopted in June 2010 to the STCW Convention of the IMO, for seafarers who are also covered by that convention. The MLC, 2006 (and the STCW Convention) does not answer the question of whether a flag State must or should require an examination in the flag State or how a flag State determines who are to be considered “duly qualified medical practitioners” (especially in the case of medical certificates issued in other countries) and national practice may vary on this matter. In that respect it is especially important that due consideration be given to the international guidance on this matter as provided under Guideline B1.2.1. The competent authority should develop a list of medical practitioners that it recognizes for the purposes of the certificates including, if appropriate, practitioners in other countries, that can provide a certificate for seafarers where a certificate expires on a voyage or where, for urgent reasons, a seafarer has been permitted by the competent authority to work for a limited time without a valid certificate.

The MLC, 2006 also does not address the question of the form of the legislation that must be used to implement these requirements but they must be in a form that would be considered mandatory under the legal system in the country and must address the following:

- seafarers are not allowed to work on a ship unless they are certified as medically fit to perform their duties;
- seafarers’ medical certificates must have been issued by a duly qualified medical practitioner and must still be valid (unless the situation falls within one of the two possible exceptions);
- seafarers are to be given a right to another examination if a certificate is refused or a limitation is imposed;
- a certificate issued in accordance with the STCW requirements or meeting the substance of those requirements for seafarers that are not covered by STCW must be accepted by the competent authority;
- unless a shorter period is required because of the nature of the duties or is required by STCW Convention, the maximum periods of validity for a certificate are:
  - two-year maximum for medical certificates except for seafarers under 18; then it is for one year;
  - six-year maximum for a colour vision certificate (where relevant to the position);
- certificates must be in English for seafarers working on international voyages.

There are two possible exceptions to the requirement for a valid medical certificate. One is where a seafarer is urgently needed on a ship but has an expired certificate; the other is the expiry of a certificate during a voyage. In urgent cases the competent authority in the flag State may permit a seafarer to work. In the second case the expired certificate is regarded as continuing in force until the next port of call where a seafarer can obtain a medical certificate. In both cases the maximum period that a seafarer can work without a valid certificate is three months.

Section 1.2 Medical Certificate

1. Seafarers shall hold a valid medical certificate attesting that they are medically fit to perform the duties that they are to carry out at sea. The medical certificate must have been issued prior to commencing work on a ship.<sup>23</sup>
2. A valid medical certificate issued to a seafarer in accordance with the requirements of the STCW Convention will be considered as meeting the requirements of paragraph 1 above.
3. The competent authority shall, after consultation with the shipowners' and seafarers' organizations, prescribe the nature of the medical examination and certificate. For this purpose, the competent authority shall give due consideration to<sup>24</sup> the ILO/ WHO Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers, including any subsequent versions, and any other applicable international guidelines published by the International Labour Organization, the International Maritime Organization or the World Health Organization<sup>25</sup>.
4. A medical certificate:
  - (a) must be issued by a duly qualified medical practitioner recognized by the competent authority for the purposes of issuing seafarers' medical certificates or, in the case of a certificate solely concerning eyesight, by a person recognized by the competent authority as qualified to issue such a certificate. In order to be recognized, practitioners must enjoy full professional independence in exercising their medical judgement in undertaking medical examination procedures;<sup>26</sup>
  - (b) must state that:
    - (i) the hearing and sight of the seafarer, and the colour vision in the case of a seafarer to be employed in capacities where fitness for the work to be performed is liable to be affected by defective colour vision, are all satisfactory;<sup>27</sup> and
    - (ii) the seafarer is not suffering from any medical condition likely to be aggravated by service at sea or to render the seafarer unfit for such service or to endanger the health of other persons on board.<sup>28</sup>
5. Seafarers that have been refused a certificate or have had a limitation imposed on their ability to work, in particular with respect to time, field of work or trading area, have the right to a further examination by another independent medical practitioner or by an independent medical referee.<sup>29</sup>
6. Unless a shorter period is required by reason of the specific duties to be performed by the seafarer or is required under the STCW Convention:
  - (a) a medical certificate shall be valid for a maximum period of two years unless the seafarer is under the age of 18, in which case the maximum period of validity shall be one year;
  - (b) a certification of colour vision shall be valid for a maximum period of six years.<sup>30</sup>
7. In urgent cases the competent authority may permit a seafarer to work without a valid medical certificate until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that:
  - (a) the period of such permission does not exceed three months; and
  - (b) the seafarer concerned is in possession of an expired medical certificate of recent date.<sup>31</sup>
8. If the period of validity of a certificate expires in the course of a voyage, the certificate shall continue in force until the next port of call where the seafarer can obtain a medical certificate from a qualified medical practitioner, provided that the period shall not exceed three months.<sup>32</sup>
9. Medical certificates for seafarers working on ships ordinarily engaged on international voyages must, as a minimum, be provided in English.<sup>33</sup>

<sup>23</sup> Regulation 1.2 para. 1; Standard A1.2 para. 1.

<sup>24</sup> Standard A1.2 para. 2.

<sup>25</sup> Guideline B1.2 para. 1. In 2013 ILO/imo Guidelines on Medical Examinations for Seafarers were adopted.

<sup>26</sup> Standard A1.2 para. 4.

<sup>27</sup> Standard A1.2 para. 6(a).

<sup>28</sup> Standard A1.2 para. 6(b).

<sup>29</sup> Standard A1.2 para. 5.

<sup>30</sup> Standard A1.2 para. 7.

<sup>31</sup> Standard A1.2 para. 8.

<sup>32</sup> Standard A1.2 para. 9.

<sup>33</sup> Standard A1.2 para. 10.

## Title 1: Minimum Requirements for Seafarers to Work on a Ship

### Regulation 1.3

#### Commentary

##### Training and Qualifications

*Purpose: To ensure that seafarers are trained or qualified to carry out their duties on board ship*

Standards relating to training and qualifications are an indispensable means of minimizing the risks to life on board ships. The work of the ILO and the IMO in this sphere has dealt with wider issues of training policy and human resource development as well as the immediate need to ensure that those serving on board ship are able to function safely. The MLC, 2006 does not specify the legal form to implement these provisions, however the form would need to be mandatory under the national legal system. The MLC, 2006 also does not establish any specific training requirements for the duties that a seafarer may undertake, other than the requirement that all seafarers must have training for personal safety on board ship. This is also a requirement under the IMO's STCW Convention. The MLC, 2006 requires flag States to address the following:

- seafarers must be trained or certified as competent or otherwise qualified to perform their duties in accordance with flag State requirements;
- seafarers must have successfully completed training for personal safety on board ship;
- seafarers that are trained and certified in accordance with the mandatory instruments adopted by the IMO (STCW) are to be considered as meeting these requirements.

#### NOTE

Competency for the training dealt with in the ILO's Certification of Able Seamen Convention, 1946 (No. 74) was formally transferred to the IMO for inclusion under the STCW Convention. These requirements have now been addressed in the amendments to the STCW Convention adopted in June 2010. However for countries that have ratified ILO Convention No. 74, the provisions remain binding until they are replaced by the STCW amendments or five years after entry into force of the MLC, 2006. Since the STCW amendments are expected to enter into force in January 2012, before the MLC, 2006 enters into force, any obligations under Convention No. 74 will cease for countries ratifying the MLC, 2006 (once it enters into force).

Section 1.3 Training and Qualifications

1. **Seafarers must be trained or certified as competent or otherwise qualified to perform their duties.**<sup>34</sup>
2. **All seafarers must have successfully completed training for personal safety on board ship.**<sup>35</sup>
3. **Training and certification in accordance with the STCW Convention or other mandatory instruments adopted by the International Maritime Organization shall be considered as meeting the requirements in paragraph 1.**<sup>36</sup>
4. <sup>37</sup>[The [insert name of national law implementing the Certification of Able Seamen Convention, 1946 (No. 74)] will remain operative until the competent authority decides that it shall be replaced by [insert name of the national law or regulation implementing the STCW Convention].]<sup>38</sup>

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<sup>34</sup> Regulation 1.3 para. 1.

<sup>35</sup> Regulation 1.3 para. 2.

<sup>36</sup> Regulation 1.3 para. 3.

<sup>37</sup> N.B. This provision should be considered for inclusion in the national law only if the country concerned has ratified the ILO's Certification of Able Seamen Convention, 1946 (No. 74).

<sup>38</sup> Regulation 1.3 para. 4.

## Title 1: Minimum Requirements for Seafarers to Work on a Ship

### Regulation 1.4; Code Standard A1.4 and Guideline B1.1

#### Commentary

#### Recruitment and placement

*Purpose: To ensure that seafarers have access to an efficient and well-regulated seafarer recruitment and placement system*

Regulating the operation of seafarer recruitment and placement services, particularly private sector services, has become a necessity as many seafarers are seeking employment on ships flying flags other than those of their own countries. This situation can pose difficulties for seafarers, in the event that the shipowner is not able to fulfil its responsibilities. There is also a concern about unfair practices that have been used by some recruitment services such as high service fees being charged to seafarers and “blacklisting”. The MLC, 2006 provisions are directed to countries that have either public and/or private seafarer recruitment and placement services operating in their territories, however the majority of the mandatory provisions in Standard A1.4 are directed to countries that have private seafarer recruitment and placement services (sometimes called manning or crewing agencies) operating in their territories. The Convention does not, require that a country develop or promote development of these services (in fact it provides that undue proliferation of private services shall not be encouraged). However, if they do exist, they must be regulated in accordance with the MLC, 2006 provisions. The MLC, 2006 requires the development of a system (i.e. licensing or certification or other form of regulation) for regulating private services and also requires that specified matters be implemented in the form of laws and regulations or other measures, including at a minimum the following:

- supervision and control of private seafarer recruitment and placement services to ensure that they are operated in accordance with these requirements;
- prohibit services from using lists or other mechanisms (“blacklisting”)
- seafarers must not be charged for use of these services;
- seafarer recruitment and placement services must establish a system of protection by way of insurance or equivalent measures to compensate seafarers for monetary loss that they may incur as result of the failure of the service or a shipowner;
- seafarer recruitment and placement services must make sure, as far as practicable, that the shipowner has the means to protect seafarers from being stranded in a foreign port.<sup>39</sup>

Public seafarer recruitment and placement services, if any, should be operated in accordance with Guideline B1.4.

There are also obligations for flag States with respect to shipowners that make use of seafarer recruitment and placement services (public or private) based in countries that have not ratified the MLC, 2006. Flag States are required, during a ship inspection, in cases where a shipowner is using a private seafarer recruitment and placement service, to verify that it is regulated in accordance with the Convention. Although not covered by these model provisions, it is noted that the MLC, 2006 has a provision (Standard A1.4, paragraph 3) to specifically address the situation of seafarer recruitment and placement services operated by a national seafarers’ organization for seafarers that are nationals of the same country seeking work on the ships flying the flag of the country. Countries that do not have these services operating on their territory could omit much of the detail in the model provisions below, particularly paragraphs (private services) and/or (public service). It may however be useful to retain these details so as to have the necessary legislation in place should such services subsequently be established.

<sup>39</sup> For example shipowners are required to provide flag States with financial security on this matter ( see Regulation 4.2, para.3).

Section 1.4 Recruitment and placement

1. **All seafarers shall have access to an efficient, adequate and accountable system for finding employment on board ship without charge to the seafarer.**<sup>40</sup> Any public seafarer recruitment and placement service that may be operated in [insert name of country], shall be operated in an orderly manner that protects and promotes seafarers' employment rights as provided in the Convention.<sup>41</sup>
2. Any private seafarer recruitment and placement services operating in [insert name of country] whose primary purpose is the recruitment and placement of seafarers or which recruit and place a significant number of seafarers shall be operated only in conformity with [insert name of the relevant standardized system of licensing or certification or other form of regulation]. The competent authority shall establish modify or change the system only after consultation with the shipowners' and seafarers' organizations. In the event of doubt as to whether this [insert name of instrument] applies to a private recruitment and placement service, the question shall be determined by the competent authority after consultation with the shipowners' and seafarers' organizations.<sup>42</sup>
3. The competent authority shall closely supervise and control all seafarer recruitment and placement services operating in the territory of [insert name of country]. Any licences or certificates or similar authorizations for the operation of private services in the territory may be granted or renewed only after verification that the seafarer recruitment and placement service concerned meets the requirements of this [insert name of instrument].<sup>43</sup>
4. The competent authority shall ensure that adequate machinery and procedures exist for the investigation, if necessary, of complaints concerning the activities of seafarer recruitment and placement services, involving, as appropriate, representatives of shipowners and seafarers.<sup>44</sup>
5. The competent authority shall, in so far as practicable, advise nationals of [insert name of country] on the possible problems of signing on a ship that flies the flag of a State which has not ratified the Convention, until it is satisfied that standards equivalent to those fixed by the Convention are being applied.<sup>45</sup>
6. A shipowner that makes use of a service based in a country that has not ratified the Convention must provide information to the competent authority regarding the regulation of the service to ensure that it is operated in conformity with the standards required by this [insert name of instrument].<sup>46</sup>
7. Private seafarer recruitment and placement services must be operated in accordance with the following requirements:<sup>47</sup>
  - (a) any means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified are prohibited;<sup>48</sup>
  - (b) no fees or other charges for seafarer recruitment or placement or for providing employment to seafarers may be borne directly or indirectly, in whole or in part, by the seafarer, other than the cost of the seafarer obtaining a national statutory medical certificate, the national seafarer's book and a passport or other similar personal travel documents, not including, however, the cost of visas, which must be borne by the shipowner;<sup>49</sup> in particular, *procedures must be adopted to prevent opportunities for exploitation of seafarers arising from the issue of joining advances or any other financial transaction between the shipowner and the seafarers which are handled by the seafarer recruitment and placement services*<sup>50</sup> and for clearly publicizing costs, if any, which the seafarer will be expected to bear in the recruitment process;<sup>51</sup>
  - (c) an up-to-date register of all seafarers recruited or placed through them, must be maintained and available for inspection by the competent authority;<sup>52</sup> in particular, information regarding the *medical examinations, seafarers' identity documents and such other items as may be required for the seafarer to gain employment*<sup>53</sup>; the services must maintain, *with due regard to the right to privacy and the need to protect confidentiality, full*

<sup>40</sup> Regulation 1.4 para. 1.

<sup>41</sup> Standard A1.4 para. 1.

<sup>42</sup> Standard A1.4 para. 2.

<sup>43</sup> Standard A1.4 para. 6.

<sup>44</sup> Standard A1.4 para. 7.

<sup>45</sup> Standard A1.4 para. 8.

<sup>46</sup> Standard A1.4 para. 9.

<sup>47</sup> Standard A1.4 para. 5; Standard A1.4 para. 5(c).

<sup>48</sup> Standard A1.4 para. 5(a).

<sup>49</sup> Standard A1.4 para. 5(b).

<sup>50</sup> Guideline B1.4.1 para. 2(e).

<sup>51</sup> Guideline B1.4.1 para. 2(f).

<sup>52</sup> Standard A1.4 para. 5(c)(i)

<sup>53</sup> Guideline B1.4.1 para. 2(a).





and complete records of the seafarers covered by their recruitment and placement system, which shall include but not be limited to:

- (i) the seafarers' qualifications;
  - (ii) record of employment;
  - (iii) personal data relevant to employment; and
  - (iv) medical data relevant to employment;<sup>54</sup>
- (d) **seafarers must be informed of their rights and duties under their employment agreements prior to or in the process of engagement and proper arrangements must be made for seafarers to examine their employment agreements before and after they are signed and for them to receive a copy of the agreements;**<sup>55</sup>
- (e) services must ensure that seafarers are advised of any particular conditions applicable to the job for which they are to be engaged and of the particular shipowner's policies relating to their employment;<sup>56</sup>
- (f) **seafarers recruited or placed must be qualified and hold the documents necessary for the job concerned, and the seafarers' employment agreements must be in accordance with applicable laws and regulations and any collective bargaining agreement that forms part of the employment agreement;**<sup>57</sup>
- (g) the services must have procedures:
- (i) to ensure, as far as practicable, that all mandatory certificates and documents submitted for employment are up to date and have not been fraudulently obtained and that employment references are verified;<sup>58</sup>
  - (ii) to verify that labour conditions on ships where seafarers are placed are in conformity with applicable collective bargaining agreements concluded between a shipowner and a representative seafarers' organization; and
  - (iii) to supply seafarers, as a matter of policy, only to shipowners that offer terms and conditions of employment to seafarers who comply with applicable laws or regulations or collective agreements;<sup>59</sup>
- (h) the services must **make sure as far as practicable that shipowners have the means to protect seafarers from being stranded in a foreign port;**<sup>60</sup>
- (i) the services must maintain up-to-date lists of the ships for which they provide seafarers, ensuring that there is a means by which the service can be contacted in an emergency at all hours;<sup>61</sup>
- (j) procedures must be in place to ensure that requests for information or advice by families of seafarers while the seafarers are at sea are dealt with promptly and sympathetically and at no cost;<sup>62</sup>
- (k) **the services must examine and respond to any complaint concerning their activities and advise the competent authority of any unresolved complaint;**<sup>63</sup>
- (l) the services must have procedures which are in accordance with the principles of natural justice for dealing with cases of incompetence or indiscipline consistent with national laws and practice and, where applicable, with collective agreements;<sup>64</sup>
- (m) the services must assume obligations to ensure the proper fulfilment by shipowners of the terms of their employment agreements concluded with seafarers<sup>65</sup>, including **establishing a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss that they may**

<sup>54</sup> Guideline B1.4.1 para. 2(b).

<sup>55</sup> Standard A1.4 para. 5(c)(ii). The requirements regarding seafarers' employment agreements under Standard A2.1 ( see Section 2.1 of these model provisions) must also be addressed.

<sup>56</sup> Guideline B1.4.1 para. 2(g).

<sup>57</sup> Standard A1.4 para. 5(c)(iii).

<sup>58</sup> Guideline B1.4.1 para. 2(i).

<sup>59</sup> Guideline B1.4.1 para. 2(k).

<sup>60</sup> Standard A1.4 para. 5(c)(iv).

<sup>61</sup> Guideline B1.4.1 para. 2(c).

<sup>62</sup> Guideline B1.4.1 para. 2(j).

<sup>63</sup> Standard A1.4 para. 5(c)(v).

<sup>64</sup> Guideline B1.4.1 para. 2(h).

<sup>65</sup> Guideline B5.3 para. 1.



**incur as a result of the failure of a recruitment and placement service or the relevant shipowner under the seafarers' employment agreement to meet its obligations to them.<sup>66</sup>**

8. In the case of any public seafarer recruitment and placement service, *the competent authority* shall consider:<sup>67</sup>
- (a) *taking the necessary measures to promote effective cooperation among seafarer recruitment and placement services, whether public or private;*<sup>68</sup>
  - (b) *the needs of the maritime industry at both the national and international levels, when developing training programmes for seafarers that form the part of the ship's crew that is responsible for the ship's safe navigation and pollution prevention operations, with the participation of shipowners, seafarers and the relevant training institutions;*<sup>69</sup>
  - (c) *making suitable arrangements for the cooperation of representative shipowners' and seafarers' organizations in the organization and operation of the public seafarer recruitment and placement services, where they exist;*<sup>70</sup>
  - (d) *determining, with due regard to the right to privacy and the need to protect confidentiality, the conditions under which seafarers' personal data may be processed by seafarer recruitment and placement services, including the collection, storage, combination and communication of such data to third parties;*<sup>71</sup>
  - (e) *maintaining an arrangement for the collection and analysis of all relevant information on the maritime labour market, including the current and prospective supply of seafarers that work as crew classified by age, sex, rank and qualifications, and the industry's requirements, the collection of data on age or sex being admissible only for statistical purposes or if used in the framework of a programme to prevent discrimination based on age or sex;*<sup>72</sup>
  - (f) *ensuring that the staff responsible for the supervision of public and private seafarer recruitment and placement services for ship's crew with responsibility for the ship's safe navigation and pollution prevention operations have had adequate training, including approved sea-service experience, and have relevant knowledge of the maritime industry, including the relevant maritime international instruments on training, certification and labour standards;*<sup>73</sup>
  - (g) *prescribing operational standards and adopting codes of conduct and ethical practices for seafarer recruitment and placement services*<sup>74</sup>;
  - (h) *exercising supervision of the licensing or certification system on the basis of a system of quality standards.*<sup>75</sup>

<sup>66</sup> Standard A1.4 para. 5(c)(vi).

<sup>67</sup> Guideline B1.4.1 para. 1.

<sup>68</sup> Guideline B1.4.1 para. 1(a).

<sup>69</sup> Guideline B1.4.1 para. 1(b).

<sup>70</sup> Guideline B1.4.1 para. 1(c).

<sup>71</sup> Guideline B1.4.1 para. 1(d).

<sup>72</sup> Guideline B1.4.1 para. 1(e).

<sup>73</sup> Guideline B1.4.1 para. 1(f).

<sup>74</sup> Guideline B1.4.1 para. 1(g).

<sup>75</sup> Guideline B1.4.1 para. 1(h).

## Title 2: Conditions of Employment

### Regulation 2.1; Code Standard A2.1 and Guideline B2.1

#### Commentary

#### Seafarers' employment agreements

*Purpose: To ensure that seafarers have a fair employment agreement*

Engagement is the procedure by which seafarers join ships and are employed. In the past this has often been an occasion for coercion and abuse. The MLC, 2006 seeks to ensure that engagement is a voluntary act taking place in fair conditions. The seafarers' employment agreement (SEA) introduced in the MLC, 2006 is a very important document for ensuring that seafarers, shipowners, flag State inspectors and port State control officers have clear information and a record of the terms of employment for the seafarer. It can also be a useful tool for verifying compliance with national laws that implement other requirements of the Convention. The MLC, 2006 does not require a particular format for an agreement; nor does it specify the term used to describe the agreement, as indicated in the inclusive definition of a SEA in Article II, paragraph 1(g) (see Section 0.1 (g) of these model provisions). These model provisions use the term "seafarers' employment agreements". The concern is more with the minimum information that must be found in a SEA. For seafarers whose conditions of employment are established under a collective bargaining agreement, the provisions in the agreement can be incorporated by reference. For seafarers that are not employees but are self-employed, there must be a contract or other information available to provide evidence that the working arrangements comply with the national law implementing the requirements of the MLC, 2006. The Convention requires the adoption of laws and/or regulations on most matters under Standard A2.1. The basic requirements to be addressed are:

- all seafarers must have a signed original of their employment agreement which is signed by both the seafarer and the shipowner (or the shipowner's representative);
- seafarers' employment agreements must, as a minimum, contain all the information required under Standard A2.1, paragraph 4 of the MLC, 2006;
- where a collective bargaining agreement forms all or part of the seafarers' employment agreement, the agreement must be on board the ship with relevant provisions in English (except on ships engaged only in domestic voyages);
- a copy of all applicable seafarers' employment agreements must be kept on board ship and available for review;
- a seafarer must be given a document containing a record of his or her employment on the ship. That document could be a seafarers' discharge book;
- minimum notice periods must be established, in laws or regulations, for early termination of a SEA by either the seafarer or the shipowner.

For seafarers employed through seafarer recruitment and placement services, Regulation 1.4 and Standard 1.4 (see Section 1.4 of these model provisions) must also be considered.

## Title 2. Conditions of employment

### Section 2.1 Seafarers' employment agreements

1. **Seafarers working on board a ship must have a clear written legally enforceable agreement, referred to in this [insert name of instrument] as a seafarers' employment agreement, which must be signed by both the seafarer and the shipowner or a representative of the shipowner (or, where the seafarers are not employees, evidence of contractual or similar arrangements) and must provide them with decent working and living conditions on board the ship as required by this [insert name of instrument].<sup>76</sup>**
2. **Seafarers must be given an opportunity to examine and seek advice on the seafarers' employment agreement before signing, as well as such other facilities as are necessary to ensure that they have freely entered into an agreement with a sufficient understanding of their rights and responsibilities.<sup>77</sup> The shipowner and seafarer concerned must each have a signed original of the seafarers' employment agreement.<sup>78</sup>**
3. **Shipowners must ensure that clear information as to the conditions of employment can be easily obtained on board by the seafarers concerned, including the ship's master, and that such information, including a copy of the seafarers' employment agreement, is also accessible for review by officers of a competent authority, including those in ports to be visited.<sup>79</sup>**
4. **To the extent compatible with applicable law and practice, seafarers' employment agreements shall be understood to incorporate any applicable collective bargaining agreements.<sup>80</sup>**
5. **Where a collective bargaining agreement forms all or part of a seafarers' employment agreement, a copy of that agreement must be available on board. Where the language of the seafarers' employment agreement and any applicable collective bargaining agreement is not in English, the following must also be available in English (except for ships engaged only in domestic voyages):<sup>81</sup>**
  - (a) **a copy of a standard form of the agreement;<sup>82</sup>**
  - (b) **the portions of the collective bargaining agreement that are subject to a port State inspection under the Convention.<sup>83</sup>**
6. **Seafarers' employment agreements shall in all cases contain the following particulars:<sup>84</sup>**
  - (a) **the seafarer's full name, date of birth or age, and birthplace;<sup>85</sup>**
  - (b) **the shipowner's name and address;<sup>86</sup>**
  - (c) **the place where and date when the seafarers' employment agreement is entered into;<sup>87</sup>**
  - (d) **the capacity in which the seafarer is to be employed;<sup>88</sup>**
  - (e) **the amount of the seafarer's wages or the formula used for calculating them;<sup>89</sup>**
  - (f) **the amount of paid annual leave or the formula used for calculating it;<sup>90</sup>**
  - (g) **the termination of the agreement and the conditions thereof, including;<sup>91</sup>**

<sup>76</sup> Regulation 2.1 para. 1; Standard A1.4 para. 1(a).

<sup>77</sup> Standard A2.1 para. 1(b).

<sup>78</sup> Standard A2.1 para. 1(c).

<sup>79</sup> Standard A2.1 para. 1(d).

<sup>80</sup> Regulation 2.1 para. 3. Inclusion of this paragraph and parts of paragraph 5 depends on the national practice regarding collective agreements.

<sup>81</sup> Standard A2.1 para. 2.

<sup>82</sup> Standard A2.1 para. 2(a).

<sup>83</sup> Standard A2.1 para. 2(b). See Regulation 5.2.1 addressed in Section 5.2.1 of these model provisions.

<sup>84</sup> Standard A2.1 para. 4.

<sup>85</sup> Standard A2.1 para. 4(a).

<sup>86</sup> Standard A2.1 para. 4(b).

<sup>87</sup> Standard A2.1 para. 4(c).

<sup>88</sup> Standard A2.1 para. 4(d).

<sup>89</sup> Standard A2.1 para. 4(e).

<sup>90</sup> Standard A2.1 para. 4(f).

<sup>91</sup> Standard A2.1 para. 4(g).



- (i) **if the agreement has been made for an indefinite period, the conditions entitling either party to terminate it, as well as the required notice period, which shall not be less for the shipowner than for the seafarer;**<sup>92</sup>
  - (ii) **if the agreement has been made for a definite period, the date fixed for its expiry;**<sup>93</sup> and
  - (iii) **if the agreement has been made for a voyage, the port of destination and the time which has to expire after arrival before the seafarer should be discharged;**<sup>94</sup>
  - (h) **the health and social security protection benefits to be provided to the seafarer by the shipowner**<sup>95</sup>, *including information on any mandatory social security contributions*<sup>96</sup>;
  - (i) **the seafarer's entitlement to repatriation;**<sup>97</sup>
  - (j) **a reference to the collective bargaining agreement, if applicable;**<sup>98</sup>
  - (k) any other particulars which the competent authority may, after consultation with the shipowners' and seafarers' organizations, require to be included.<sup>99</sup>
7. **The minimum notice period to be given by the seafarers and shipowners for the early termination of a seafarers' employment agreement is [insert the relevant period that is no less than seven days].**<sup>100</sup>
8. **A notice period shorter than the minimum may be given by the seafarer, without penalty, for compassionate or urgent reasons or in other circumstances that are recognized under employment law or practices or in applicable collective bargaining agreements as justifying termination of the employment agreement at shorter notice or without notice.**<sup>101</sup>
9. **Seafarers must be given a document containing a record of their employment on board the ship. The document must not contain any statement as to the quality of the seafarers' work or as to their wages.**<sup>102</sup> *The document must contain sufficient information, with a translation in English, to facilitate the acquisition of further work or to satisfy the sea-service requirements for upgrading or promotion. A seafarers' discharge book may satisfy this requirement.*<sup>103</sup>

<sup>92</sup> Standard A2.1 para. 4(g)(i).

<sup>93</sup> Standard A2.1 para. 4(g)(ii).

<sup>94</sup> Standard A2.1 para. 4(g)(iii).

<sup>95</sup> Standard A2.1 para. 4(h).

<sup>96</sup> Guideline B4.5 paras.6 and 7.

<sup>97</sup> Standard A2.1 para. 4(i).

<sup>98</sup> Standard A2.1 para. 4(j).

<sup>99</sup> See Standard A2.1 para. 4(k).

<sup>100</sup> Standard A2.1 para. 5. The particular national periods are to be determined after consultation with the shipowners' and seafarers' organizations.

<sup>101</sup> Standard A2.1 para. 6.

<sup>102</sup> Standard A2.1 para. 1(e); Standard A2.1 para. 3. The form of the document, the particulars to be recorded and the manner in which such particulars are to be entered, shall be determined by national law.

<sup>103</sup> Guideline B2.1.1 para. 1.

## Title 2: Conditions of employment

### Regulation 2.2; Code Standard A2.2 and Guideline B2.2

#### Commentary

#### Wages

*Purpose: To ensure that seafarers are paid for their services*

Regular and full payment of wages earned and accounting, in detail, to the seafarer is a major obligation upon the shipowner. This is a matter subject to flag State inspection on all ships and for some ships also certification, and is also, potentially, subject to inspection in port States (see Section 5 of these model provisions). The MLC, 2006 does not specify the legal form for implementation of this requirement as it refers to “measures”. However it must be in a form that would be considered mandatory under the national legal system. The measures adopted must at a minimum require that:

- all seafarers must be paid at no greater than monthly intervals and in full for their work in accordance with their employment agreements and any applicable collective agreement;
- seafarers are entitled to an account each month indicating the payments due and paid, including wages, additional payments and the rate of exchange, if the currency differs from that agreed;
- charges for remittances/allotment transmission services must be reasonable and exchange rates in accordance with national requirements.

The MLC, 2006 does not require that provisions be adopted to address either the calculation or level of wages (other than as set out above). However if a country has adopted laws or regulations to govern the level and/or calculation of the wages of seafarers then Guideline B2.2 must be given due consideration.



## Section 2.2 Wages

1. Seafarers must be paid at no greater than monthly intervals and in accordance with their seafarers' employment agreement and any applicable collective agreement.<sup>104</sup>
2. Seafarers must be given a monthly account of the payments due and the amounts paid, including wages, additional payments and the rate of exchange used where payment has been made in a currency or at a rate different from the one agreed to.<sup>105</sup>
3. Shipowners must establish a system for enabling seafarers, at the time of their entering employment or during it, to allot, if they so desire, a proportion of their wages for remittance at regular intervals to their families by bank transfers or similar means.<sup>106</sup> Allotments must be remitted in due time and directly to the person or persons nominated by the seafarers.<sup>107</sup>
4. Any charge for the service under paragraph 3 above shall be reasonable in amount, and the rate of currency exchange, unless otherwise provided, shall be at the prevailing market rate or the official published rate and not unfavourable to the seafarer and shall comply with any other relevant requirements that may be established by law.<sup>108</sup>
5. <sup>109</sup>[Any legal provisions in force at the time of the adoption of this [insert name of instrument] which relate to the amount of the wages to be paid and to the principles governing their calculation shall continue to apply to the extent that they are applicable to seafarers.]

<sup>104</sup> Regulation 2.2 para. 1; Standard A2.2 para. 1.

<sup>105</sup> Standard A2.2 para. 2.

<sup>106</sup> Standard A2.2 para. 3.

<sup>107</sup> Standard A2.2 para. 4(b).

<sup>108</sup> Standard A2.2 para. 5.

<sup>109</sup> See Standard A2.2, para. 6 and Guideline B2.2. This should be included for countries that regulate the level and calculation of seafarers' wages. In addition the guidance in Guideline B2.2 must be given due consideration.

## Title 2: Conditions of employment

### Regulation 2.3; Code Standard A2.3 and Guideline B2.3

#### Commentary

#### Hours of Work and Hours of Rest

*Purpose: To ensure that seafarers have regulated hours of work or hours of rest*

Establishing either maximum hours of work or minimum hours of rest is essential in order to protect seafarers against fatigue due to excessive demands on their time and to ensure in the interests of safety, that hours of work and overtime (even if voluntary), in particular, does not exceed levels that are compatible with the safe and efficient discharge of duties on board. The MLC, 2006 provisions with respect to minimum hours of rest are, for the most part, reflected in the amendments to the IMO's STCW Convention that were adopted in June 2010. This means that it is likely that national provisions will already exist for seafarers covered by the STCW Convention. The MLC, 2006 requires that a country regulate either hours of work or hours of rest, in accordance with the parameters set out in Standard A 2.3. The Convention also provides information as to specific situations including drills, emergency situations and young seafarers.

The MLC, 2006 defines "hours of work" as the time during which seafarers are requested to do work on account of the ship, while "hours of rest" means time outside hours of work which do not include short breaks. Although a country needs to choose between hours of work or hours of rest it is suggested that both definitions be included as they refer to wording in a number of places in Section 2.3 of the model provisions. Although the MLC, 2006 does not address the definition of a short break, breaks of less than a 1 hour or meal breaks would not usually count as rest periods. The MLC, 2006 also establishes a "normal working hours standard" for a work week, which relates in large part to the question of overtime payments.

The MLC, 2006 provides for some flexibility with respect to the minimum hours of rest or maximum hours of work, where a country has laws or regulations or a procedure for the competent authority to authorize or register collective agreements permitting exceptions (in accordance with the MLC, 2006 Standard A2.3, paragraph 13). Although a country is not required to provide this flexibility, these model provisions include text to allow for it.

The MLC, 2006 does not specify the legal form for implementation of these requirements; however the words "establish" and "fix" indicate that it must be in a form that would be considered mandatory under the national legal system. As noted above a collective agreement can provide flexibility; however, if permitted, it must be based on laws or regulations or a procedure whereby the competent authority can register or authorize the particular flexibility.

## Section 2.3 Hours of work and hours of rest

1. **For the purpose of these provisions, the term:**
  - (a) **“hours of work” means time during which seafarers are required to do work on account of the ship;**<sup>110</sup>
  - (b) **“hours of rest” means time outside hours of work; this term does not include short breaks [of one hour or less or a break for a meal].**<sup>111</sup>
2. In accordance with these provisions, a [maximum number of hours of work] [minimum number of hours of rest] shall be observed for seafarers.<sup>112</sup>
3. **The normal working hours’ standard for seafarers, like that for other workers, is based on an eight-hour day with one day of rest per week and rest on public holidays. The competent authority may authorize a collective agreement which determines seafarers’ normal working hours on a basis no less favourable than the paragraphs below.**<sup>113</sup>
4. **The** <sup>114</sup>[maximum hours of work shall be 14 hours in any 24-hour period and 72 hours in any seven-day period] [minimum hours of rest shall be ten hours in any 24-hour period and 77 hours in any seven-day period].<sup>115</sup> **Taking into account the dangers posed by the fatigue of seafarers, especially those whose duties involve navigational safety and the safe and secure operation of the ship,** the competent authority may, after consulting the shipowners’ and seafarers’ organizations, make appropriate [reductions in the maximum hours of work] [increases to the minimum hours of rest].<sup>116</sup>
5. **Hours of rest may be divided into no more than two periods, one of which must be at least six hours in length, and the interval between consecutive periods of rest must not exceed 14 hours.**<sup>117</sup>
6. **Musters, fire-fighting and lifeboat drills, and mandatory drills, must be conducted in a manner that minimizes the disturbance of rest periods and does not induce fatigue.**<sup>118</sup>
7. **When a seafarer is on call, such as when a machinery space is unattended, the seafarer must have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work.**<sup>119</sup>
8. **If no collective agreement or arbitration award exists or if the competent authority determines that the provisions in the agreement or award in respect of paragraph 6 or 7 are inadequate, the competent authority shall determine such provisions to ensure the seafarers concerned have sufficient rest.**<sup>120</sup>
9. **A table with the shipboard working arrangements must be posted in an easily accessible place on-board the ship. The table must contain for every position at least:**
  - (a) **the schedule of service at sea and service in port; and**
  - (b) **the [maximum hours of work] [minimum hours of rest] required under paragraph 4 above or paragraph 12 below.**<sup>121</sup>
10. **This table must be in the form approved by the competent authority and in the working language or languages of the ship and in English.**<sup>122</sup>
11. **Shipowners must maintain records of seafarers’ daily hours of work or of their daily hours of rest in accordance with the form approved by the competent authority. Each seafarer shall receive a copy of the record pertaining to her or him which must be endorsed by the master, or a person authorized by the master, and by the seafarer.**<sup>123</sup>

<sup>110</sup> Standard A2.3 para. 1(a).<sup>111</sup> Standard A2.3 para. 1(b).<sup>112</sup> Standard A2.3 para. 2. Either maximum hours of work or minimum hours of rest.<sup>113</sup> Standard A2.3 para. 3.<sup>114</sup> Choose either maximum hours of work or minimum hours of rest as for paragraph 2.<sup>115</sup> Standard A2.3 para. 5.<sup>116</sup> See Standard A2.3, para. 4.<sup>117</sup> Standard A2.3 para. 6.<sup>118</sup> Standard A2.3 para. 7.<sup>119</sup> Standard A2.3 para. 8.<sup>120</sup> Standard A2.3 para. 9.<sup>121</sup> Standard A2.3 para. 10 Either maximum hours of work or minimum hours of rest as for paragraph 2.<sup>122</sup> Standard A2.3 para. 11.<sup>123</sup> Standard A2.3 para. 12.



12. The competent authority may authorize or register collective agreements permitting exceptions to the limits set out. Any exceptions shall, as far as possible, follow the standards set out in this [insert name of instrument] but may take account of more frequent or longer leave periods or the granting of compensatory leave for watchkeeping seafarers or seafarers working on board ships on short voyages.<sup>124</sup>
13. Nothing in the preceding paragraphs shall be deemed to impair the right of the master of a ship to require a seafarer, including a *young seafarer*<sup>125</sup>, to perform any hours of work necessary for the immediate safety of the ship, persons on board or cargo, or for the purpose of giving assistance to other ships or persons in distress at sea. The master may suspend the schedule of hours of work or hours of rest and require a seafarer to perform any hours of work necessary until the normal situation has been restored. As soon as practicable after the normal situation has been restored, the master must ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.<sup>126</sup>
14. Without prejudice<sup>127</sup> to the general obligation on all seafarers to work during any emergency as provided for in paragraph 13 while *at sea and in port the following provisions apply to all young seafarers under the age of 18*.<sup>128</sup>
- (a) *working hours must not exceed eight hours per day and 40 hours per week and overtime shall be worked only where unavoidable for safety reasons*;<sup>129</sup>
  - (b) *sufficient time must be allowed for all meals, and a break of at least one hour for the main meal of the day shall be assured*;<sup>130</sup> and
  - (c) *a 15-minute rest period as soon as possible following each two hours of continuous work must be allowed*.<sup>131</sup>
15. *Exceptionally the provisions in paragraph need not be applied if*:<sup>132</sup>
- (a) *they are impracticable for young seafarers in the deck, engine room and catering departments assigned to watchkeeping duties or working on a rostered shift-work system*;<sup>133</sup> or
  - (b) *the effective training of young seafarers in accordance with established programmes and schedules would be impaired*.<sup>134</sup>
16. Any *exceptional situations* under paragraph 15 must be recorded, with reasons, and signed by the master.<sup>135</sup>

<sup>124</sup> Standard A2.3 para. 13. Optional flexibility that does not have to be allowed.

<sup>125</sup> Standard A2.3 para. 14.

<sup>126</sup> Standard A2.3 para. 14.

<sup>127</sup> Guideline B2.3 para. 4.

<sup>128</sup> Guideline B2.3 para. 1.

<sup>129</sup> Guideline B2.3 para. 1(a).

<sup>130</sup> Guideline B2.3 para. 1(b).

<sup>131</sup> Guideline B2.3 para. 1(c).

<sup>132</sup> Guideline B2.3 para. 2.

<sup>133</sup> Guideline B2.3 para. 2(a).

<sup>134</sup> Guideline B2.3 para. 2(b).

<sup>135</sup> Guideline B2.3 para. 3.

## Title 2: Conditions of employment

### Regulation 2.4; Code Standard A2.4 and Guideline B2.4

#### Commentary

#### Entitlement to leave

*Purpose: To ensure that seafarers have adequate leave*

Annual leave with pay is an important aspect of maintaining seafarers' physical and mental health and well-being and helps to avoid the danger that fatigue can pose for human and ship safety. Flag States must require that seafarers on its ships are given paid annual leave. The MLC, 2006 requires that flag States adopt laws and regulations determining the minimum annual leave for seafarers working on its ships. The Convention establishes a minimum entitlement of 2.5 days for each calendar month of employment; however the particular method for calculation can vary in laws or regulations or collective agreements that take account of the special needs of seafarers. The MLC, 2006 does not require that a flag State adopt laws or regulations to address the timing or location for taking leave, other than the timing implicit in the word "annual". However there is guidance on these matters in Guideline B2.4.2, which must be given due consideration, and would require that some form of regulatory oversight be adopted to address these specific points. The Convention also provides that justified absences are not to be considered as annual leave. Guideline B2.4.1 dealing with the calculation of annual leave entitlements provides information on the question of absences from work that should not be considered as annual leave. The Convention requires that any agreement to forgo the national minimum leave with pay be prohibited, except in cases provided for by the competent authority. The MLC, 2006 also requires that seafarers be given shore leave – that is some period of time ashore to help ensure health and well being. The following must be addressed in the national laws and regulations:

- seafarers must be given paid annual leave in accordance with the national laws and regulations implementing the MLC, 2006;
- the minimum leave with pay entitlement is to be calculated on the basis of 2.5 calendar days for each month of employment, unless there is a law or regulation or collective agreement that provides for a different method of calculation taking into account the special needs of seafarers;
- unauthorized agreements to give up the minimum annual leave with pay are to be prohibited;
- seafarers are to be granted shore leave to benefit their health and well-being and consistent with the operational requirements of their shipboard positions.

## Section 2.4 Entitlement to leave

1. Seafarers must be given paid annual leave<sup>136</sup>, as provided in paragraph 3 below.<sup>137</sup>
2. Seafarers must be granted shore leave to benefit their health and well-being and consistent with the operational requirements of their positions.<sup>138</sup>
3. Subject to any collective agreement providing for an appropriate method of calculation that takes account of the special needs of seafarers in this respect, the annual leave with pay entitlement must be calculated on the basis of a minimum of 2.5 calendar days per month of employment.<sup>139</sup>
4. Any agreement to forgo the minimum annual leave with pay [as set out above in paragraph 3], except in cases provided for by the competent authority, is prohibited.<sup>140</sup>
5. Length of service is to be calculated on the following basis:
  - (a) absence from work to attend an approved maritime vocational training course or for such reasons as illness or injury or for maternity shall be counted as part of the period of employment.<sup>141</sup>
  - (b) service off-articles shall be counted as part of the period of employment.<sup>142</sup>
6. Annual leave with pay entitlements must be calculated on the basis set out below in paragraphs 7 and 8. Justified absences from work must not be considered as annual leave.<sup>143</sup>
7. The following are not to be counted as part of annual leave with pay:<sup>144</sup>
  - (a) public and customary holidays, whether or not they fall during the annual leave with pay;<sup>145</sup>
  - (b) periods of incapacity for work resulting from illness or injury or from maternity;<sup>146</sup>
  - (c) temporary shore leave granted to a seafarer while under an employment agreement;<sup>147</sup>
  - (d) compensatory leave of any kind, under conditions as determined by the competent authority or through established machinery;<sup>148</sup>
  - (e) time spent awaiting repatriation and repatriation travel time.<sup>149</sup>
8. The level of pay during annual leave shall be at the seafarer's normal level of remuneration provided in the applicable seafarers' employment agreement. For seafarers employed for periods shorter than one year or in the event of termination of the employment relationship, entitlement to leave shall be calculated on a pro-rata basis.<sup>150</sup>
9. The time at which annual leave is to be taken must, unless otherwise fixed by regulation, collective agreement, arbitration award or other means, be determined by the shipowner after consultation and, as far as possible, in agreement with the seafarers concerned or their representatives.<sup>151</sup>
10. In principle, seafarers have the right to take annual leave in the place with which they have a substantial connection, which is normally the same as the place to which they are entitled to be repatriated. Seafarers must not be required without their consent to take annual leave due to them in another place except under the provisions of a seafarers' employment agreement.<sup>152</sup>
11. If seafarers are required to take their annual leave from a place other than that permitted by paragraph 10, they must be entitled to free transportation to the place where they were engaged or recruited, whichever is nearer their home;

<sup>136</sup> Regulation 2.4 para. 1.

<sup>137</sup> Regulation 2.4 para. 1.; Standard A 2.4, para. 1.

<sup>138</sup> Regulation 2.4 para. 2.

<sup>139</sup> Standard A 2.4, para. 2.

<sup>140</sup> Standard A2.4 para. 3.

<sup>141</sup> Guideline B2.4.1 para. 2.

<sup>142</sup> Guideline B2.4.1 para. 1.

<sup>143</sup> Standard A2.4 para. 2.

<sup>144</sup> Guideline B2.4.1 para. 4.

<sup>145</sup> Guideline B2.4.1 para. 1(a).

<sup>146</sup> Guideline B2.4.1 para. 1(b).

<sup>147</sup> Guideline B2.4.1 para. 1(c).

<sup>148</sup> Guideline B2.4.1 para. 1(d).

<sup>149</sup> Guideline B2.5.1 para. 4.

<sup>150</sup> Guideline B2.4.1 para. 3.

<sup>151</sup> Guideline B2.4.2 para. 1.

<sup>152</sup> Guideline B2.4.2 para. 2.





*subsistence and other costs directly involved must be for the account of the shipowner. The travel time involved must not be deducted from the annual leave with pay due to the seafarer.*<sup>153</sup>

12. *A seafarer taking annual leave may only be recalled in cases of extreme emergency and with the seafarer's consent.*<sup>154</sup>
13. *The division of the annual leave with pay into parts, or the accumulation of such annual leave due in respect of one year together with a subsequent period of leave, may be authorized by the competent authority.*<sup>155</sup>
14. *Subject to paragraph 13 and unless otherwise provided in an agreement applicable to the shipowner and the seafarer concerned, a seafarer's annual leave with pay must consist of an uninterrupted period.*<sup>156</sup>
15. *Seafarers under the age of 18 who have served six months or any other shorter period of time under a collective agreement or seafarers' employment agreement without leave on a foreign-going ship which has not returned to their country of residence in that time, and will not return in the subsequent three months of the voyage must be repatriated, at no expense to themselves, to the place of original engagement in their country of residence for the purpose of taking any leave earned during the voyage.*<sup>157</sup>

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<sup>153</sup> Guideline B2.4.2 para. 3.

<sup>154</sup> Guideline B2.4.2 para. 4.

<sup>155</sup> Guideline B2.4.3 para. 1.

<sup>156</sup> Guideline B2.4.3 para. 2.

<sup>157</sup> Guideline B2.4.4 para. 1.

## Title 2: Conditions of employment

### Regulation 2.5; Code Standard A2.5 and Guideline B2.5

#### Commentary

#### Repatriation

*Purpose: To ensure that seafarers are able to return home*

Seafarers frequently work on ships that undertake consecutive voyages covering long distances between ports which are very often far from their country of residence. In the case of illness or injury of a seafarer or when a seafarers' employment agreement expires abroad or whenever service on board exceeds a prescribed period (which must be less than 12 months of service) seafarers must be confident that the flag State concerned requires that shipowners will return the seafarers to their homes or to the place where they joined the ship or the place required by any applicable collective bargaining agreement. This right – called “repatriation” – must normally be without charge to the seafarer concerned. The details of mode of travel and other matters are to be set out in flag State laws and regulations or other measures or collective bargaining agreements. The MLC, 2006 also obliges flag States to require that ships provide financial security to ensure that seafarers are repatriated. The particular form for this security is not specified and it could take a variety of forms (e.g., a bond or insurance) as decided by the flag State.

The Convention allows for some flexibility regarding the legal form chosen for national implementation. However the approach chosen must be mandatory and must address the following matters:

- seafarers are to be repatriated, at no cost to themselves, except where a seafarer has been found, under national law or regulations or other measures or applicable collective agreement to be in serious default of his or her employment obligations;
- ships are required to provide the flag State with financial security to ensure that repatriation will occur;
- a copy of the applicable national provisions regarding repatriation must be carried on ships and be available to seafarers in an appropriate language;
- at a minimum, seafarers must be entitled to repatriation in the following circumstances:
  - when the seafarers' employment agreement expires when abroad;
  - when the seafarers' employment agreement is terminated by a shipowner;
  - when the seafarers' employment agreement is terminated by a seafarer for justified reasons;
  - when the seafarer is no longer able to carry out his or her duties under the employment agreement or cannot be expected to carry them out in the specific circumstances;
  - when the seafarer has served on board a ship for a maximum period (which must be less than 12 months).

## Section 2.5 Repatriation

1. Seafarers have a right to be repatriated at no cost to themselves in the following circumstances:<sup>158</sup>
  - (a) if the seafarers' employment agreement expires while they are abroad;<sup>159</sup> or
  - (b) upon the expiry of the period of notice given in accordance with the provisions of the seafarers' employment agreement<sup>160</sup>, when the seafarers' employment agreement is terminated:<sup>161</sup>
    - (i) by the shipowner; or<sup>162</sup>
    - (ii) by the seafarer for justified reasons;<sup>163</sup>
  - (c) when the seafarer is no longer able to carry out her or his duties under the employment agreement or cannot be expected to carry them out in the specific circumstances;<sup>164</sup>
  - (d) in any event after serving a period of [9<sup>165</sup>] months on board.<sup>166</sup>
2. The following are deemed to be circumstances covered by paragraph 1(b) and (c) above:<sup>167</sup>
  - (a) illness or injury or other medical condition which requires the seafarer's repatriation when found medically fit to travel;<sup>168</sup>
  - (b) shipwreck;<sup>169</sup>
  - (c) the shipowner not being able to continue to fulfil their legal or contractual obligations as an employer of the seafarers by reason of insolvency, sale of ship, change of ship's registration or any other similar reason;<sup>170</sup>
  - (d) the ship being bound for a war zone to which the seafarer does not consent to go;<sup>171</sup> and
  - (e) termination or interruption of employment in accordance with an industrial award or collective agreement, or termination of employment for any other similar reason.<sup>172</sup>
3. Shipowners are prohibited from requiring that seafarers make an advance payment towards the cost of repatriation at the beginning of their employment, and also from recovering the cost of repatriation from the seafarers' wages or other entitlements except where the seafarer has been found, in accordance with national laws or regulations or other measures or applicable collective bargaining agreements, to be in serious default of the seafarer's employment obligations.<sup>173</sup>
4. All ships that fly the flag of [insert name of country] must provide the competent authority with evidence of financial security to ensure that seafarers are duly repatriated.<sup>174</sup>
5. Shipowners are responsible, as a minimum<sup>175</sup>, for the following costs and seafarer's repatriation entitlements:<sup>176</sup>
  - (a) passage to the destination selected for repatriation in accordance with paragraph below;<sup>177</sup>
  - (b) accommodation and food from the moment the seafarers leave the ship until they reach the repatriation destination;<sup>178</sup>
  - (c) pay and allowances from the moment the seafarers leave the ship until they reach the repatriation destination;<sup>179</sup>

<sup>158</sup> Regulation 2.5 para. 1; Standard A2.5 paras. 1.

<sup>159</sup> Standard A2.5 para. 1(a).

<sup>160</sup> Guideline B2.5.1 para. 1(a).

<sup>161</sup> Standard A2.5 para. 1(b).

<sup>162</sup> Standard A2.5 para. 1(b)(i).

<sup>163</sup> Standard A2.5 para. 1(b)(ii).

<sup>164</sup> Standard A2.5 para. 1(c).

<sup>165</sup> The figure of 9 months can be altered. Under Standard A2.5, para. 2(b), it must be less than 12 months. See Guideline B2.5.1, para. 2 for guidance on determining the maximum duration of service periods on board following which a seafarer is entitled to repatriation.

<sup>166</sup> Standard A2.5 para. 2(b).

<sup>167</sup> Guideline B2.5.1 para. 1(b).

<sup>168</sup> Guideline B2.5.1 para. 1(b)(i).

<sup>169</sup> Guideline B2.5.1 para. 1(b)(ii).

<sup>170</sup> Guideline B2.5.1 para. 1(b)(iii).

<sup>171</sup> Guideline B2.5.1 para. 1(b)(iv).

<sup>172</sup> Guideline B2.5.1 para. 1(b)(v).

<sup>173</sup> Standard A2.5 para. 3.

<sup>174</sup> Regulation 2.5 para. 2.

<sup>175</sup> Guideline B2.5.1 para. 3.

<sup>176</sup> Standard A2.5 para. 2(c).

<sup>177</sup> Guideline B2.5.1 para. 3(a).

<sup>178</sup> Guideline B2.5.1 para. 3(b).

<sup>179</sup> Guideline B2.5.1 para. 3(c).



- (d) transportation of 30 kg of the seafarers' personal luggage to the repatriation destination;<sup>180</sup> and
- (e) medical treatment when necessary until the seafarers are medically fit to travel to the repatriation destination.<sup>181</sup>
6. *If, after young seafarers under the age of 18 have served on a ship that flies the flag of [insert name of country], for at least four months during their first foreign-going voyage, it becomes apparent that they are unsuited to life at sea, they must be given the opportunity of being repatriated at no expense to themselves from the first suitable port of call in which there are consular services of [insert name of country] or the State of nationality or residence of the young seafarer. Notification of any such repatriation, with the reasons therefor, shall be given to the authority which issued the papers enabling the young seafarers concerned to take up seagoing employment.*<sup>182</sup>
7. **The Shipowner's duty to cover the costs of repatriation continues until the seafarers concerned are landed at a destination as required under paragraph 8 below or are provided with suitable employment on board a ship proceeding to one of those destinations.**<sup>183</sup>
8. *Shipowners are responsible for repatriation arrangements by appropriate and expeditious means. The normal mode of transport is by air. Seafarers have the right to be repatriated, at their choice to one of the following destinations with which the seafarers have a substantial connection.*<sup>184</sup>
- (a) *the place at which the seafarer agreed to enter into the engagement;*<sup>185</sup>
- (b) *the place stipulated by collective agreement;*<sup>186</sup>
- (c) *the seafarer's country of residence;*<sup>187</sup> or
- (d) *such other place as may be mutually agreed at the time of engagement.*<sup>188</sup>
9. *The entitlement to repatriation may lapse if the seafarers concerned do not claim it within [two years from the date when the seafarers were repatriated or] a reasonable period of time determined by an applicable collective agreement.*<sup>189</sup>
10. **The provisions in this [insert name of instrument] are without prejudice to any right of the shipowner to recover the cost of repatriation under third-party contractual arrangements.**<sup>190</sup>
11. **If a shipowner fails to make arrangements for or to meet the cost of repatriation of seafarers:**<sup>191</sup>
- (a) **the competent authority will arrange for repatriation of the seafarers concerned;**<sup>192</sup>
- (b) **costs incurred in repatriating seafarers shall be recoverable from the shipowner concerned;**<sup>193</sup>
- (c) **the expenses of repatriation shall in no case be a charge upon the seafarers, except as provided above in paragraph 3;**<sup>194</sup>
- (d) the ship or other ships of the shipowner concerned may be detained by the competent authority **until the reimbursement has been made.**<sup>195</sup>
12. **A copy of the present provisions regarding repatriation written in an appropriate language must be carried on board a ship that flies the flag of [insert name of country] and must be available to seafarers.**<sup>196</sup>
13. *Every possible practical assistance shall be given to a seafarer stranded in a foreign port pending repatriation and in the event of delay in the repatriation of the seafarer. Where foreign seafarers are stranded in a port of [insert name of country], the competent authority shall ensure that the consular or local representative of the flag State and the seafarer's State of nationality or State of residence, as appropriate, are informed immediately.*<sup>197</sup>

<sup>180</sup> Guideline B2.5.1 para. 3(d).

<sup>181</sup> Guideline B2.5.1 para. 3(e).

<sup>182</sup> Guideline B2.5.2 para. 3.

<sup>183</sup> Guideline B2.5.1 para. 5.

<sup>184</sup> Guideline B2.5.1 paras 6 and 7.

<sup>185</sup> Guideline B2.5.1 para. 6(a).

<sup>186</sup> Guideline B2.5.1 para. 6(b).

<sup>187</sup> Guideline B2.5.1 para. 6(c).

<sup>188</sup> Guideline B2.5.1 para. 6(d).

<sup>189</sup> Guideline B2.5.1 para. 8.

<sup>190</sup> Standard A2.5 para. 4.

<sup>191</sup> Standard A2.5 para. 5.

<sup>192</sup> Standard A2.5 para. 5(a).

<sup>193</sup> Standard A2.5 para. 5(b).

<sup>194</sup> Standard A2.5 para. 5(c).

<sup>195</sup> Standard A2.5 para. 6.

<sup>196</sup> Standard A2.5 para. 9.

<sup>197</sup> Guideline B2.5.2 para.1.

## Title 2: Conditions of employment

### Regulation 2.6; Code Standard A2.6 and Guideline B2.6

#### Commentary

#### Seafarer Compensation for the Ship's Loss or Foundering

*Purpose: To ensure that seafarers are compensated when a ship is lost or has foundered*

Under the MLC, 2006 seafarers are entitled to adequate compensation in the case of injury, loss or unemployment arising from a ship's loss or foundering. Flag States are required to make rules to ensure that shipowners pay to each seafarer on board an indemnity against unemployment resulting from their ship's loss or foundering. This indemnity may be limited to two months' wages. Aside from the using the term "rules", the Convention does not specify the legal form for implementation; however it must be in a form that is mandatory under the national legal system.

Section 2.6 Seafarer compensation for the ship's loss or foundering

1. **Shipowners must pay each seafarer employed on board an indemnity**, as provided under paragraph 2 below, **against unemployment resulting from the ship's loss or foundering.**<sup>198</sup>
2. **The indemnity** *must be paid for the days during which the seafarer remains in fact unemployed at the same rate as the wages payable under the seafarers' employment agreement. The total indemnity payable to any seafarer is limited to [2] months' wages.*<sup>199</sup>
3. The requirement in paragraph 1 is **without prejudice to any other rights a seafarer may also have for losses or injuries arising from a ship's loss or foundering.**<sup>200</sup>
4. *Seafarers have the same legal remedies for recovering the indemnity as they have for recovering arrears of wages earned during the service.*<sup>201</sup>

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<sup>198</sup> Regulation 2.6 para. 1; Standard A2.6 para. 1

<sup>199</sup> Guideline B2.6.1 para. 1.

<sup>200</sup> Standard A2.6 para. 2.

<sup>201</sup> Guideline B2.6.1 para. 2.

## Title 2: Conditions of employment

### Regulation 2.7; Code Standard A2.7 and Guideline B2.7

#### Commentary

#### Manning Levels

*Purpose: To ensure that seafarers work on board ship with sufficient personnel for the safe, efficient and secure operation of the ship*

It is important that there are a sufficient number of seafarers employed on board a ship to ensure that it is operated safely, efficiently, with regard to security and to take into account concerns about seafarer fatigue and the particulars of a voyage.

The requirements of the MLC, 2006 overlap with, but differ in some respects from those in connection with the safe manning document (SMD) under IMO instruments. For example the MLC, 2006 includes in manning levels seafarers working as catering personnel. The Convention does not require a specific legal form for implementation; however it must be in a form that is mandatory under the national legal system. The MLC, 2006 requires that the following be addressed:

- a sufficient number of seafarers are employed on board to ensure that ships are operated safely, efficiently and with due regard to security under all conditions, taking account concerns about fatigue and the particular nature and conditions of the voyage;
- when establishing the manning levels for a ship, account is taken of the need to ensure sufficient hours of rest and to avoid fatigue. as well as the requirements in IMO instruments relating to safe manning;
- manning levels must be sufficient to comply with the requirements of the Convention including taking account of food and catering requirements.



## Section 2.7 Manning levels

1. **Ships must have a sufficient number of seafarers on board to ensure that they operated safely, efficiently and with due regard to security. Every ship shall be manned by a crew that is adequate, in terms of size and qualifications, to:**
  - (a) **ensure the safety and security of the ship and its personnel, under all operating conditions in accordance with a safe manning document issued or designated by the competent authority, and**
  - (b) **comply with the standards** provided for in this [insert name of instrument].<sup>202</sup>
2. **The competent authority shall determine or approve or revise manning levels taking into account the need to avoid or minimize excessive hours of work to ensure sufficient rest and to limit fatigue, the principles in applicable international instruments, especially those of the International Maritime Organization, on manning levels,**<sup>203</sup> **and all the requirements concerning food and catering** [as set in [Section 3.2 of these model provisions.]].<sup>204</sup>
3. *Complaints concerning manning levels on a ship must be investigated. The competent authority must maintain, or satisfy itself that there is maintained, efficient machinery for the investigation and settlement of such complaints and arrange for representatives of shipowners' and seafarers' organizations to participate, with or without other persons or authorities, in the operation of such machinery.*<sup>205</sup>

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<sup>202</sup> Regulation 2.7 para. 1; Standard A2.7 para. 1.

<sup>203</sup> Regulation 2.7 para. 1; Standard A2.7 para. 2.

<sup>204</sup> Standard A2.7 para. 3.

<sup>205</sup> Guideline B2.7.1.

## Title 2: Conditions of employment

### Regulation 2.8; Code Standard A2.8 and Guideline B2.8

#### Commentary

#### Career and Skill development and Opportunities for Seafarers' Employment

*Purpose: To promote career and skill development and employment opportunities for seafarers*

The MLC, 2006 also supports the promotion of employment opportunities in the maritime sector. The goal of continuous or regular employment for qualified seafarers and a stable and competent work force for shipowners is addressed in these provisions. The obligation to implement is generally directed to countries with an interest in developing their seafaring workforce. A country is required to adopt national policies aimed at strengthening the competencies, qualifications and employment opportunities of seafarers domiciled in its territory. Clear objectives must be established for vocational guidance, education and training, including ongoing training of seafarers whose duties on board ship primarily relate to safe operation and navigation. The Convention does not specify the legal form for implementation other than requiring the adoption of policies and objectives that have been developed after consultation with shipowners' and seafarers' organizations. For countries that operate a register or list governing seafarers' employment the provisions in Guideline B2.8.2 must be given due consideration.

Section 2.8 Career and skill development and opportunities for seafarers' employment

1. **The competent authority shall develop national policies to promote employment in the maritime sector and to encourage career and skill development and employment opportunities for seafarers domiciled in [insert name of country], in order to provide the maritime sector with a stable and competent workforce.**<sup>206</sup>
2. **The aim of these policies shall be to help seafarers strengthen their competencies, qualifications and employment opportunities.**<sup>207</sup>
3. The national policies shall be based on Regulation 2.8 and Standard A2.8 of the Convention, [with due consideration being given to Guideline B2.8]<sup>208</sup>.

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<sup>206</sup> Regulation 2.8 para. 1; Standard A2.8 para. 1.

<sup>207</sup> Standard A2.8 para. 2.

<sup>208</sup> For countries that operate a seafarer register or list.

### Title 3: Accommodation, Recreational Facilities, Food and Catering

#### Regulation 3.1; Code Standard A3.1 and Guideline B3.1

##### Commentary

##### Accommodation and recreational facilities

*Purpose: To ensure that seafarers have decent accommodation and recreational facilities on board*

The MLC, 2006 contains a significant level of technical detail and guidance with respect to standards for on board accommodation and recreational facilities. These provisions, which are directed to flag States, apply to all ships covered by the Convention (see Section 0 of these model provisions). However there are some exceptions and flexibility based on factors such as the age of the ship (existing vs new build), gross tonnage as well as specific adjustments for some categories of ships. These are all set out as as potential, albeit optional, text in these model provisions.

The requirements of the MLC, 2006 Code (Part A read with Part B) relating to ship construction and equipment (the more permanent fixtures on the ship) do not apply to existing ships, unless applied by national law. This applies to ships that were constructed before the entry into force of the MLC, 2006 (existing ships) for the country concerned (i.e. 12 months after its registered ratification or after the 30<sup>th</sup> ratification in the case of the first 30 countries to ratify). These ships remain covered by the general obligation in Regulation 3.1 (and the other Code provisions) to provide and maintain decent accommodation and recreational facilities for seafarers working or living on board, or both, consistent with promoting the seafarers' health and well-being in accordance with national legislation. In addition, these ships must meet the standards relating to ship construction and equipment that are set out in Conventions Nos. 92 and/or 133, if applicable in the country (because of ratification of those Conventions or through substantial equivalence due to ratification of Convention No. 147 or the Protocol of 1996 to Convention No. 147 or otherwise).

The MLC, 2006 requires the adoption of laws and regulations as the legal form for implementing the requirement that ships meet minimum standards to ensure that any accommodation for seafarers working or living on board ship, or both is safe and decent and meets the provisions in Standard A3.1. The laws and regulations must also require that ships be inspected to ensure initial and ongoing compliance, including a requirement that frequent recorded inspections of seafarer accommodation areas must be carried out by the ship's master or a designate and must be documented. These inspection requirements interact with the model provisions in Section 5.1 below. In developing and applying the laws and regulations, the Convention requires, after consultation with seafarers' and shipowners' organizations, that the requirements relating to health and safety and accident prevention in Regulation 4.3 (see Section 4.3 of these model provisions), be taken into account. This is to address the specific needs of seafarers who both live and work on ships. As with other parts of the Convention, due consideration must be given to the Guidelines in the MLC, 2006 when adopting the laws and regulations to implement the requirements.

The MLC, 2006 requires that the competent authority pay particular attention to ensuring implementation of the requirements relating to the size of sleeping rooms and other accommodation spaces, heating and ventilation, noise and vibration and other ambient factors, sanitary and related facilities, lighting and hospital accommodation.

## Title 3. Accommodation, recreational facilities, food and catering

### Section 3.1 Accommodation and recreational facilities

1. **Ships must provide and maintain decent accommodations and recreational facilities for seafarers working or living on board, or both, consistent with promoting the seafarers' health and well-being.**<sup>209</sup>
2. With respect to the **requirements** of this [insert name of instrument] **which relate to ship construction and equipment, ships constructed** before [insert date] **when the Convention comes into force for** [insert name of country] shall comply with the following requirements<sup>210</sup>:
  - (a) the general requirement in paragraph 1 above;
  - (b) [<sup>211</sup>**the requirements relating to ship construction and equipment that are set out in the Accommodation of Crews Convention (Revised), 1949 (No. 92);**]
  - (d) [<sup>212</sup>**the requirements relating to ship construction and equipment that are set out in the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133).]**
3. **A ship shall be deemed to have been constructed on the date when its keel is laid or when it is at a similar stage of construction.**<sup>213</sup>
4. **Ships must:**<sup>214</sup>
  - (a) **meet the minimum standards for on-board accommodation and recreational facilities** in this [insert name of instrument], **including the provisions** [set out below in Section 4.3] **on health and safety protection and accident prevention, to ensure that any accommodation for seafarers, working or living on board, or both, is safe, decent** <sup>215</sup> **in light of the specific needs of seafarers that both live and work on board ship.**<sup>216</sup>
  - (b) **be inspected** in accordance with the provisions in [Section 5.1.4 below] and paragraph 5 below **to ensure initial and ongoing compliance with those standards.**<sup>217</sup>
5. **Frequent inspections must be carried out on board ships by, or under the authority of, the master, to ensure that seafarer accommodation is clean, decently habitable and maintained in a good state of repair. The results of each such inspection must be recorded and be available for review.**<sup>218</sup>
6. **Where there is need to take account, without discrimination, of the interests of seafarers having differing and distinctive religious and social practices, the competent authority may, after consultation with the shipowners' and seafarers' organizations, permit fairly applied variations in respect of the requirements [in these provisions] on condition that such variations do not result in overall facilities less favourable than those which would result from the application of those requirements.**<sup>219</sup>
7. [The competent authority **may, after consultation with the shipowners' and seafarers' organizations, exempt ships of less than 200 gross tonnage** from certain requirements as specified below [in paragraphs [insert the applicable paragraph numbers] ] provided that all of the following conditions are met:
  - (a) **the exemption must be expressly permitted** below with respect to the requirement concerned;
  - (b) **the exemption must be reasonable, taking account of the size of the ship and the number of persons on board;**
  - (c) **the exemption can be clearly justified on strong grounds due to particular circumstances;** and

<sup>209</sup> Regulation 3.1 para. 1.

<sup>210</sup> Regulation 3.1 para. 2.

<sup>211</sup> Subparagraph (b) should be omitted if the country has not ratified either Convention No. 92 or ILO Convention No. 147 (unless the requirements of Convention No. 92 are applicable in some other way in the country).

<sup>212</sup> Subparagraph (c) should be omitted if the country has not ratified either Convention No. 133 or the 1996 Protocol to Convention No. 147 (unless the requirements of Convention No. 133 are applicable in some other way in the country).

<sup>213</sup> Regulation 3.1 para. 2.

<sup>214</sup> Standard A3.1 para. 1.

<sup>215</sup> Standard A3.1 para. 1(a); Standard A3.1, para. 5.

<sup>216</sup> Standard A3.1 para. 2(a).

<sup>217</sup> Standard A3.1 para. 1(b).

<sup>218</sup> Standard A3.1 para. 18.

<sup>219</sup> Standard A3.1 para. 19.



- (d) the exemption is subject to the need to protect the seafarers' health and safety.<sup>220]</sup>
8. With respect to the general requirements for design and construction:<sup>221</sup>
- (a) there must be adequate headroom in all seafarer accommodation; the minimum permitted headroom where full and free movement is necessary shall be not less than 203 centimetres; the competent authority may permit some limited reduction in headroom in any space, or part of any space, in such accommodation where it is satisfied that such reduction:<sup>222</sup>
    - (i) is reasonable;<sup>223</sup> and
    - (ii) will not result in discomfort to the seafarers;<sup>224</sup>
  - (b) the accommodation shall be adequately insulated;<sup>225</sup>
  - (c) in ships other than passenger ships, as defined in Regulation 2(e) and (f) of the International Convention for the Safety of Life at Sea, 1974, as amended (the SOLAS Convention), sleeping rooms shall be situated above the load line amidships or aft, except that in exceptional cases, where the size, type or intended service of the ship renders any other location impracticable, sleeping rooms may be located in the fore part of the ship, but in no case forward of the collision bulkhead;<sup>226</sup>
  - (d) in passenger ships, and in special ships constructed in compliance with the IMO Code of Safety for Special Purpose Ships, 1983, and subsequent versions (hereinafter called "special purpose ships"), the competent authority may, on condition that satisfactory arrangements are made for lighting and ventilation, permit the location of sleeping rooms below the load line, but in no case shall they be located immediately beneath working alleyways;<sup>227</sup>
  - (e) there shall be no direct openings into sleeping rooms from cargo and machinery spaces or from galleys, storerooms, drying rooms or communal sanitary areas; that part of a bulkhead separating such places from sleeping rooms and external bulkheads shall be efficiently constructed of steel or other approved substance and be watertight and gas-tight;<sup>228</sup>
  - (f) the materials used to construct internal bulkheads, panelling and sheeting, floors and joinings must be suitable for the purpose and conducive to ensuring a healthy environment;<sup>229</sup>
  - (g) external bulkheads of sleeping rooms and mess rooms must be adequately insulated; all machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced must be adequately insulated where there is a possibility of resulting heat effects in adjoining accommodation or passageways; measures must also be taken to provide protection from heat effects of steam or hot-water service pipes or both;<sup>230</sup>
  - (h) sleeping rooms, mess rooms, recreation rooms and alleyways in the accommodation space must be adequately insulated to prevent condensation or overheating;<sup>231</sup>
  - (i) the bulkhead surfaces and deckheads must be of material with a surface easily kept clean; no form of construction likely to harbour vermin shall be used;<sup>232</sup> the bulkhead surfaces and deckheads in sleeping rooms and mess rooms must be capable of being easily kept clean and light in colour with a durable, nontoxic finish.<sup>233</sup>
  - (j) the decks in all seafarer accommodation must be of approved material and construction and must provide a non-slip surface impervious to damp and easily kept clean,<sup>234</sup> where the floorings are made of composite materials, the joints with the sides must be profiled to avoid crevices;<sup>235</sup>

<sup>220</sup> Standard A3.1 paras 20 and 21. This flexibility is optional.

<sup>221</sup> Standard A3.1 para. 1.

<sup>222</sup> Standard A3.1 para. 6(a).

<sup>223</sup> Standard A3.1 para. 6(a)(i).

<sup>224</sup> Standard A3.1 para. 6(a)(ii).

<sup>225</sup> Standard A3.1 para. 6(b).

<sup>226</sup> Standard A3.1 para. 6(c).

<sup>227</sup> Standard A3.1 para. 6(d).

<sup>228</sup> Standard A3.1 para. 6(e).

<sup>229</sup> Standard A3.1 para. 6(f).

<sup>230</sup> Guideline B3.1.1 para. 1.

<sup>231</sup> Guideline B3.1.1 para. 2.

<sup>232</sup> Guideline B3.1.1 para. 3.

<sup>233</sup> Guideline B3.1.1 para. 4.

<sup>234</sup> Guideline B3.1.1 para. 5.

<sup>235</sup> Guideline B3.1.1 para. 6.





- (k) **proper lighting and sufficient drainage must be provided;**<sup>236</sup> and
- (l) **accommodation and recreational and catering facilities must meet the requirements** set out below in [Section 4.3], **on health and safety protection and accident prevention, with respect to preventing the risk of exposure to hazardous levels of noise and vibration and other ambient factors and chemicals on board ships, and to provide an acceptable occupational and on-board living environment for seafarers.**<sup>237</sup> In particular:
- (i) *accommodation and recreational and catering facilities must be located as far as practicable from the engines, steering gear rooms, deck winches, ventilation, heating and air-conditioning equipment and other noisy machinery and apparatus;*<sup>238</sup>
  - (ii) *acoustic insulation or other appropriate sound-absorbing materials must be used in the construction and finishing of bulkheads, deckheads and decks within the sound-producing spaces as well as self-closing noise-isolating doors for machinery spaces;*<sup>239</sup>
  - (iii) *engine rooms and other machinery spaces must be provided, wherever practicable, with soundproof centralized control rooms for engine-room personnel; working spaces, such as the machine shop, must be insulated, as far as practicable, from the general engine-room noise and measures must be taken to reduce noise in the operation of machinery.*<sup>240</sup>
  - (iv) *the limits for noise levels for working and living spaces must be in conformity with the ILO international guidelines on exposure levels, including those in the ILO code of practice entitled “Ambient factors in the workplace, 2001”, and, where applicable, the specific protection recommended by the International Maritime Organization, and with any subsequent amending and supplementary instruments for acceptable noise levels on board ships; a copy of the applicable instruments in English or the working language of the ship should be carried on board and should be accessible to seafarers;*<sup>241</sup>
  - (v) *accommodation or recreational or catering facilities must not be exposed to excessive vibration;*<sup>242</sup>
  - (vi) *ships regularly trading to mosquito-infested ports must be fitted with appropriate devices.*<sup>243</sup>
9. **With respect to requirements for ventilation and heating:**<sup>244</sup>
- (a) **sleeping rooms and mess rooms must be adequately ventilated;**<sup>245</sup> *the system of ventilation for sleeping rooms and mess rooms must be controlled so as to maintain the air in a satisfactory condition and to ensure a sufficiency of air movement in all conditions of weather and climate;*<sup>246</sup>
  - (b) **ships, except those regularly engaged in trade where temperate climatic conditions do not require this, must be equipped with air conditioning for seafarer accommodation, for any separate radio room and for any centralized machinery control room;**<sup>247</sup> in particular, *air-conditioning systems, whether of a centralized or individual unit type, must be designed to:*<sup>248</sup>
    - (i) *maintain the air at a satisfactory temperature and relative humidity as compared to outside air conditions, ensure a sufficiency of air changes in all air-conditioned spaces, take account of the particular characteristics of operations at sea and not produce excessive noises or vibrations;*<sup>249</sup> and
    - (ii) *facilitate easy cleaning and disinfection to prevent or control the spread of disease.*<sup>250</sup>

<sup>236</sup> Standard A3.1 para. 6(g).

<sup>237</sup> Standard A3.1 para. 6(h).

<sup>238</sup> Guideline B3.1.12 para. 1.

<sup>239</sup> Guideline B3.1.12 para. 2.

<sup>240</sup> Guideline B3.1.12 para. 3.

<sup>241</sup> Guideline B3.1.12 para. 4.

<sup>242</sup> Guideline B3.1.12 para. 5.

<sup>243</sup> Standard A3.1 para. 16.

<sup>244</sup> Standard A3.1 para. 7.

<sup>245</sup> Standard A3.1 para. 7(a).

<sup>246</sup> Guideline B3.1.2 para. 1.

<sup>247</sup> Standard A3.1 para. 7(b).

<sup>248</sup> Guideline B3.1.2 para. 2.

<sup>249</sup> Guideline B3.1.2 para. 2(a).

<sup>250</sup> Guideline B3.1.2 para. 2(b).



- (c) **all sanitary spaces must have ventilation to the open air, independently of any other part of the accommodation;**<sup>251</sup>
- (d) **adequate heat through an appropriate heating system must be provided, except in ships exclusively on voyages in tropical climates;**<sup>252</sup> furthermore:
- (i) *the system of heating the seafarer accommodation must be in operation at all times when seafarers are living or working on board and conditions require its use*<sup>253</sup>;
- (ii) *in all ships in which a heating system is required, the heating must be by means of hot water; warm air; electricity, steam or equivalent except that within the accommodation area, steam must not be used as a medium for heat transmission;*
- (iii) *the heating system must be capable of maintaining the temperature in seafarer accommodation at [a satisfactory level under normal conditions of weather and climate likely to be met within the trade in which the ship is engaged],*<sup>254</sup>
- (iv) *radiators and other heating apparatus must be placed and, where necessary, shielded so as to avoid risk of fire or danger or discomfort to the occupants;*<sup>255</sup> and
- (e) *power for the operation of the air conditioning and other aids to ventilation required by the preceding subparagraphs must be available at all times when seafarers are living or working on board and conditions so require; however, this power need not be provided from an emergency source.*<sup>256</sup>
10. [Ships of less than 200 gross tonnage may, subject to the conditions set out in paragraph 7 above, be exempted from the requirement in paragraph 9 (b).<sup>257</sup>]
11. **With respect to requirements for lighting, subject to such special arrangements as may be permitted by the competent authority for passenger ships, sleeping rooms and mess rooms must be lit by natural light and provided with adequate artificial light.**<sup>258</sup> In particular:
- (a) *electric light must be provided in seafarers' accommodation;*
- (b) *if there are not two independent sources of electricity for lighting, additional lighting must be provided by properly constructed lamps or lighting apparatus for emergency use;*<sup>259</sup>
- (c) *in seafarers' sleeping rooms an electric reading lamp must be installed at the head of each berth;*<sup>260</sup>
- (d) *all seafarer accommodation must comply with the following standards of natural and artificial lighting: [insert national standards that are to be fixed by the competent authority].*<sup>261</sup>
12. **When sleeping accommodation on board ships is required, the following requirements for sleeping rooms apply:**<sup>262</sup>
- (a) **in ships other than passenger ships, an individual sleeping room must be provided for each seafarer; [in the case of ships of less than 3,000 gross tonnage or special purpose ships, exemptions from this requirement may be granted by the competent authority after consultation with the shipowners' and seafarers' organizations];**<sup>263</sup>
- (b) **Subject to the minimum floor area requirements set out below in paragraph 13:**
- (i) **on ships of less than 3,000 gross tonnage other than passenger ships and special purpose ships, sleeping rooms may be occupied by a maximum of two seafarers;**<sup>264</sup>

<sup>251</sup> Standard A3.1 para. 7(c).

<sup>252</sup> Standard A3.1 para. 7(d).

<sup>253</sup> Guideline B3.1.3 para. 1.

<sup>254</sup> Guideline B3.1.3 para. 2. *The competent authority should prescribe the standard to be provided.*

<sup>255</sup> Guideline B3.1.3 para. 3.

<sup>256</sup> Guideline B3.1.2 para. 3.

<sup>257</sup> Standard A3.1 para 20(a). This is optional.

<sup>258</sup> Standard A3.1 para. 8. Guideline B3.1.4 para. 3. *Suitable standards of natural and artificial lighting should be fixed by the competent authority.*

<sup>259</sup> Guideline B3.1.4 para. 1.

<sup>260</sup> Guideline B3.1.4 para. 2.

<sup>261</sup> Guideline B3.1.4 para. 3.

<sup>262</sup> Standard A3.1 para. 9.

<sup>263</sup> Standard A3.1 para. 9(a).

<sup>264</sup> Standard A3.1 para. 9(h).



- (ii) **on passenger ships, sleeping rooms may be occupied by a maximum of four seafarers not carrying out the duties of ships' officers;**<sup>265</sup> *in the case of seafarers performing the duty of petty officers, there must be no more than two persons per sleeping room;*<sup>266</sup>
- (iii) **on special purpose ships sleeping rooms may accommodate more than four persons;**<sup>267</sup>
- (c) **separate sleeping rooms must be provided for men and for women;**<sup>268</sup>
- (d) *as far as practicable, sleeping rooms of seafarers must be so arranged that watches are separated and that no seafarers working during the day share a room with watchkeepers;*<sup>269</sup>
- (e) **sleeping rooms must be of adequate size and properly equipped so as to ensure reasonable comfort and to facilitate tidiness;**<sup>270</sup> accordingly:
  - (i) *where the size of the ship, the activity in which it is to be engaged and its layout make it reasonable and practicable, sleeping rooms must be planned and equipped with a private bathroom, including a toilet, so as to provide reasonable comfort for the occupants and to facilitate tidiness;*<sup>271</sup>
  - (ii) **for each occupant, the furniture, which must be of smooth, hard material not liable to warp or corrode,**<sup>272</sup> **must include a clothes locker of ample space (minimum 475 litres) and a drawer or equivalent space of not less than 56 litres; if the drawer is incorporated in the clothes locker then the combined minimum volume of the clothes locker must be 500 litres; it must be fitted with a shelf and be able to be locked by the occupant so as to ensure privacy;**<sup>273</sup>
  - (iii) **each sleeping room must be provided with a table or desk, which may be of the fixed, drop-leaf or slide-out type, and with comfortable seating accommodation as necessary;**<sup>274</sup>
  - (iv) sleeping rooms must be fitted with curtains or equivalent for the sidelights,<sup>275</sup> as well as a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks;<sup>276</sup>
- (f) **berths must meet the following standards:**
  - (i) **a separate berth for each seafarer must in all circumstances be provided;**<sup>277</sup>
  - (ii) **the minimum inside dimensions of a berth must be at least 198 centimetres by 80 centimetres;**<sup>278</sup>
  - (iii) *there must be adequate berth arrangements on board, making it as comfortable as possible for the seafarer and any partner who may accompany the seafarer;*<sup>279</sup>
  - (iv) *berths must not be arranged in tiers of more than two; in the case of berths placed along the ship's side, there must be only a single tier where a sidelight is situated above a berth;*<sup>280</sup>
  - (v) *the lower berth in a double tier must be not less than 30 centimetres above the floor; the upper berth must be placed approximately midway between the bottom of the lower berth and the lower side of the deckhead beams;*<sup>281</sup>
  - (vi) *the framework and the lee-board, if any, of a berth must be of approved material, hard, smooth, and not likely to corrode or to harbour vermin;*<sup>282</sup>

<sup>265</sup> Standard A3.1 para. 9(i).

<sup>266</sup> Guideline B3.1.5 para. 4.

<sup>267</sup> Standard A3.1 para. 9(j).

<sup>268</sup> Standard A3.1 para. 9(b).

<sup>269</sup> Guideline B3.1.5 para. 3.

<sup>270</sup> Standard A3.1 para. 9(c).

<sup>271</sup> Guideline B3.1.5 para. 2.

<sup>272</sup> Guideline B3.1.5 para. 13.

<sup>273</sup> Standard A3.1 para. 9(n).

<sup>274</sup> Standard A3.1 para. 9(o).

<sup>275</sup> Guideline B3.1.5 para. 14.

<sup>276</sup> Guideline B3.1.5 para. 15.

<sup>277</sup> Standard A3.1 para. 9(d).

<sup>278</sup> Standard A3.1 para. 9(e).

<sup>279</sup> Guideline B3.1.5 para. 1.

<sup>280</sup> Guideline B3.1.5 para. 7.

<sup>281</sup> Guideline B3.1.5 para. 8.

<sup>282</sup> Guideline B3.1.5 para. 9.



- (vii) *if tubular frames are used for the construction of berths, they must be completely sealed and without perforations which would give access to vermin;*<sup>283</sup>
  - (viii) *each berth must be fitted with a comfortable mattress with cushioning bottom or a combined cushioning mattress, including a spring bottom or a spring mattress; the mattress and cushioning material used must be made of approved material.*
  - (ix) *stuffing of material likely to harbour vermin must not be used;*<sup>284</sup>
  - (x) *when one berth is placed over another; a dust-proof bottom must be fitted beneath the bottom mattress or spring bottom of the upper berth;*<sup>285</sup>
  - (xi) *clean good quality*<sup>286</sup> *bedding must be supplied by the shipowner to all seafarers for use on board during service on the ship, and such seafarers must be responsible for their return at times specified by the master and on completion of service in the ship.*<sup>287</sup>
13. Unless otherwise provided, **sleeping rooms must have the minimum floor areas** set out below (*space occupied by berths and lockers, chests of drawers and seats must be included in the measurement of the floor area; small or irregularly shaped spaces which do not add effectively to the space available for free movement and cannot be used for installing furniture must be excluded*):<sup>288</sup>
- (a) **in single berth seafarers' sleeping rooms the floor area must not be less than:**<sup>289</sup>
    - (i) **4.5 square metres in ships of less than 3,000 gross tonnage;**<sup>290</sup>
    - (ii) **5.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;**<sup>291</sup>
    - (iii) **7 square metres in ships of 10,000 gross tonnage or over;**<sup>292</sup>
  - (b) **in order to provide single berth sleeping rooms on ships of less than 3,000 gross tonnage, passenger ships and special purpose ships, the competent authority may allow a reduced floor area;**<sup>293</sup>
  - (c) **in ships of less than 3,000 gross tonnage other than passenger ships and special purpose ships, where sleeping rooms are occupied by two seafarers, the floor area of such sleeping rooms must not be less than 7 square metres;**<sup>294</sup>
  - (d) **on passenger ships and special purpose ships the floor area of sleeping rooms for seafarers not performing the duties of ships' officers must not be less than:**<sup>295</sup>
    - (i) **7.5 square metres in rooms accommodating two persons;**<sup>296</sup>
    - (ii) **11.5 square metres in rooms accommodating three persons;**<sup>297</sup>
    - (iii) **14.5 square metres in rooms accommodating four persons;**<sup>298</sup>
  - (e) **on special purpose ships sleeping rooms where more than four seafarers are accommodated, the floor area must not be less than 3.6 square metres per person;**<sup>299</sup>
  - (f) **on ships other than passenger ships and special purpose ships, for seafarers who perform the duties of ships' officers where no private sitting room or day room is provided, the floor area per person must not be less than:**<sup>300</sup>

<sup>283</sup> Guideline B3.1.5 para. 10.

<sup>284</sup> Guideline B3.1.5 para. 11.

<sup>285</sup> Guideline B3.1.5 para. 12.

<sup>286</sup> Guideline B3.1.10 para. 1(b).

<sup>287</sup> Guideline B3.1.10 para. 1(a).

<sup>288</sup> Guideline B3.1.5 para. 6.

<sup>289</sup> Standard A3.1 para. 9(f).

<sup>290</sup> Standard A3.1 para. 9(f)(i).

<sup>291</sup> Standard A3.1 para. 9(f)(ii).

<sup>292</sup> Standard A3.1 para. 9(f)(iii).

<sup>293</sup> Standard A3.1 para. 9(g).

<sup>294</sup> Standard A3.1 para. 9(h).

<sup>295</sup> Standard A3.1 para. 9(i).

<sup>296</sup> Standard A3.1 para. 9(i)(i).

<sup>297</sup> Standard A3.1 para. 9(i)(ii).

<sup>298</sup> Standard A3.1 para. 9(i)(iii).

<sup>299</sup> Standard A3.1 para. 9(j).

<sup>300</sup> Standard A3.1 para. 9(k).





- (i) **7.5 square metres in ships of less than 3,000 gross tonnage;**<sup>301</sup>
  - (ii) **8.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;**<sup>302</sup>
  - (iii) **10 square metres in ships of 10,000 gross tonnage or over;**<sup>303</sup>
- (g) **on passenger ships and special purpose ships, the floor area for seafarers performing the duties of ships' officers where no private sitting room or day room is provided, the floor area per person for junior officers must not be less than 7.5 square metres and for senior officers not less than 8.5 square metres; junior officers are understood to be at the operational level, and senior officers at the management level;**<sup>304</sup>
- (h) **the master, the chief engineer and the chief navigating officer, and where practicable the second engineer officer,**<sup>305</sup> *must have, in addition to their sleeping rooms, an adjoining sitting room, day room or equivalent additional space; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations;*<sup>306</sup>
14. [Ships of less than 200 gross tonnage may, subject to the conditions set out in paragraph 7 above, be exempted from the requirements in subparagraphs (a) and (c) to of paragraph 13 in so far as those subparagraphs relate to floor area.]<sup>307</sup>
15. **Mess rooms must comply with the following standards:**<sup>308</sup>
- (a) **they must be located apart from the sleeping rooms and as close as practicable to the galley; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations;**<sup>309</sup>
  - (b) **they must be of adequate size and comfort and properly furnished and equipped (including ongoing facilities for refreshment), taking account of the number of seafarers likely to use them at any one time;**<sup>310</sup>
  - (c) **provision must be made for separate or common mess room facilities as appropriate;**<sup>311</sup> *the decision in this respect must be taken after consultation with seafarers' and shipowners' representatives and subject to the approval of the competent authority; account should be taken of factors such as the size of the ship and the distinctive cultural, religious and social needs of the seafarers;*<sup>312</sup>
  - (d) *where separate mess room facilities are to be provided to seafarers, then separate mess rooms must be provided for the*<sup>313</sup> *master and officers and for*<sup>314</sup> *petty officers and other seafarers;*<sup>315</sup>
  - (e) *on ships other than passenger ships, the floor area of mess rooms for seafarers must be not less than 1.5 square metres per person of the planned seating capacity;*<sup>316</sup>
  - (f) *in all ships, mess rooms must be equipped with tables and appropriate seats, fixed or movable, sufficient to accommodate the greatest number of seafarers likely to use them at any one time;*<sup>317</sup>
  - (g) *the tops of tables and seats must be of damp-resistant material;*<sup>318</sup>
  - (h) *there must be available at all times when seafarers are on board:*<sup>319</sup>
    - (i) *a refrigerator, which must be conveniently situated and of sufficient capacity for the number of persons using the mess room or mess rooms;*<sup>320</sup>

<sup>301</sup> Standard A3.1 para. 9(k)(i).

<sup>302</sup> Standard A3.1 para. 9(k)(ii).

<sup>303</sup> Standard A3.1 para. 9(k)(iii).

<sup>304</sup> Standard A3.1 para. 9(l).

<sup>305</sup> Guideline B3.1.5 para. 5.

<sup>306</sup> Standard A3.1 para. 9(m).

<sup>307</sup> Standard A3.1, para. 20(b). This flexibility is optional.

<sup>308</sup> Standard A3.1 para. 10.

<sup>309</sup> Standard A3.1 para. 10(a).

<sup>310</sup> Standard A3.1 para. 10(b).

<sup>311</sup> Standard A3.1 para. 10(b).

<sup>312</sup> Guideline B3.1.6 para. 1.

<sup>313</sup> Guideline B3.1.6 para. 2.

<sup>314</sup> Guideline B3.1.6 para. 2(a).

<sup>315</sup> Guideline B3.1.6 para. 2(b).

<sup>316</sup> Guideline B3.1.6 para. 3.

<sup>317</sup> Guideline B3.1.6 para. 4.

<sup>318</sup> Guideline B3.1.6 para. 7.

<sup>319</sup> Guideline B3.1.6 para. 5.

<sup>320</sup> Guideline B3.1.6 para. 5(a).



- (ii) *facilities for hot beverages<sup>321</sup> and cool water;<sup>322</sup>*
- (iii) *where available pantries are not accessible to mess rooms, adequate lockers for mess utensils and proper facilities for washing utensils must be provided;<sup>323</sup>*
- (iv) *mess utensils, including plates, cups and other mess utensils, of approved material which can be easily cleaned<sup>324</sup>, must be supplied by the shipowner to all seafarers for use on board during service on the ship, and such seafarers must be responsible for their return at times specified by the master and on completion of service in the ship.<sup>325</sup>*

16. **With respect to requirements for sanitary facilities:<sup>326</sup>**

- (a) **all seafarers must have convenient access on the ship to sanitary facilities meeting minimum standards of health and hygiene and reasonable standards of comfort, with separate sanitary facilities being provided for men and for women;<sup>327</sup>**
- (b) **there must be sanitary facilities within easy access of the navigating bridge and the machinery space or near the engine room control centre; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations;<sup>328</sup>**
- (c) **in all ships a minimum of one toilet, one wash basin and one tub or shower or both for every six persons or less who do not have personal facilities must be provided at a convenient location;<sup>329</sup>**
- (d) **with the exception of passenger ships, each sleeping room must be provided with a washbasin having hot and cold running fresh water, except where such a washbasin is situated in the private bathroom provided;<sup>330</sup> [ships of less than 200 gross tonnage may, subject to the conditions set out in paragraph 7 above, be exempted from this requirement<sup>331</sup>];**
- (e) *where separate facilities for engine department personnel to change their clothes are provided, they must be<sup>332</sup> located outside the machinery space but with easy access to it;<sup>333</sup> and must be fitted with individual clothes lockers as well as with tubs or showers or both and washbasins having hot and cold running fresh water;<sup>334</sup>*
- (f) **in passenger ships normally engaged on voyages of not more than four hours' duration, the competent authority may approve special arrangements or a reduction in the number of facilities required;<sup>335</sup>**
- (g) **hot and cold running fresh water must be available in all wash places;<sup>336</sup>**
- (h) *washbasins and tub baths must be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode;<sup>337</sup>*
- (i) *all toilets must be of an approved pattern and provided with an ample flush of water or with some other suitable flushing means, such as air, which are available at all times and independently controllable;<sup>338</sup>*
- (j) *sanitary accommodation intended for the use of more than one person must comply with the following:<sup>339</sup>*
  - (i) *floors must be of approved durable material, impervious to damp, and must be properly drained;<sup>340</sup>*

<sup>321</sup> Guideline B3.1.6 para. 5(b).

<sup>322</sup> Guideline B3.1.6 para. 5(c).

<sup>323</sup> Guideline B3.1.6 para. 6.

<sup>324</sup> Guideline B3.1.10 para. 1(b).

<sup>325</sup> Guideline B3.1.10 para. 1(a).

<sup>326</sup> Standard A3.1 para. 11.

<sup>327</sup> Standard A3.1 para. 11(a).

<sup>328</sup> Standard A3.1 para. 11(b).

<sup>329</sup> Standard A3.1 para. 11(c).

<sup>330</sup> Standard A3.1 para. 11(d).

<sup>331</sup> Standard A3.1, para. 20(a). This flexibility is optional.

<sup>332</sup> Guideline B3.1.9 para. 1.

<sup>333</sup> Guideline B3.1.9 para. 1(a).

<sup>334</sup> Guideline B3.1.9 para. 1(b).

<sup>335</sup> Standard A3.1 para. 11(e).

<sup>336</sup> Standard A3.1 para. 11(f).

<sup>337</sup> Guideline B3.1.7 para. 1.

<sup>338</sup> Guideline B3.1.7 para. 2.

<sup>339</sup> Guideline B3.1.7 para. 3.

<sup>340</sup> Guideline B3.1.7 para. 3(a).



- (ii) *bulkheads must be of steel or other approved material and must be watertight up to at least 23 centimetres above the level of the deck;*<sup>341</sup>
  - (iii) *the accommodation must be sufficiently lit, heated and ventilated;*<sup>342</sup>
  - (iv) *toilets must be situated convenient to, but separate from, sleeping rooms and wash rooms, without direct access from the sleeping rooms or from a passage between sleeping rooms and toilets to which there is no other access; this requirement does not apply where a toilet is located in a compartment between two sleeping rooms having a total of not more than four seafarers;*<sup>343</sup>
  - (v) *where there is more than one toilet in a compartment, they must be sufficiently screened to ensure privacy;*<sup>344</sup>
  - (vi) *towels, soap and toilet paper for all seafarers must be provided by the shipowner.*<sup>345</sup>
17. **Ships carrying 15 or more seafarers and engaged in a voyage of more than three days' duration must provide separate hospital accommodation to be used exclusively for medical purposes**<sup>346</sup> and complying with the following requirements:
- (a) **hospital accommodation must, in all weathers, be easy of access, provide comfortable housing for the occupants and be conducive to their receiving prompt and proper attention;**<sup>347</sup> in particular:
    - (i) *it must be designed so as to facilitate consultation and the giving of medical first aid and to help prevent the spread of infectious diseases;*<sup>348</sup>
    - (ii) *the arrangement of the entrance, berths, lighting, ventilation, heating and water supply must be designed to ensure the comfort and facilitate the treatment of the occupants;*<sup>349</sup>
    - (iii) *the number of hospital berths required will be prescribed by the competent authority;*<sup>350</sup>
  - (b) *sanitary accommodation must be provided for the exclusive use of the occupants of the hospital accommodation, either as part of the accommodation or in close proximity thereto; such sanitary accommodation must comprise a minimum of one toilet, one washbasin and one tub or shower.*<sup>351</sup>
18. **Appropriately situated and furnished laundry facilities must be available.**<sup>352</sup> *The laundry facilities must include:*
- (a) *washing machines;*<sup>353</sup>
  - (b) *drying machines or adequately heated and ventilated drying rooms;*<sup>354</sup> and
  - (c) *irons and ironing boards or their equivalent.*<sup>355</sup>
19. [Ships of less than 200 gross tonnage may, subject to the conditions set out in paragraph 7 above, be exempted from the requirement in paragraph 18.<sup>356</sup>]
20. **Appropriate seafarers' recreational facilities, amenities and services, as adapted to meet the special needs of seafarers who must live and work on ships, must be provided on board for the benefit of all seafarers, taking into account the provisions on health and safety protection and accident prevention in [Section 4.3 of these model provisions.**<sup>357</sup> *Recreational facilities and services must be reviewed frequently to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry.*<sup>358</sup> **In particular, ships must:**

<sup>341</sup> Guideline B3.1.7 para. 3(b).

<sup>342</sup> Guideline B3.1.7 para. 3(c).

<sup>343</sup> Guideline B3.1.7 para. 3(d).

<sup>344</sup> Guideline B3.1.7 para. 3(e).

<sup>345</sup> Guideline B3.1.10 para. 1(c).

<sup>346</sup> Standard A3.1 para. 12.

<sup>347</sup> Standard A3.1 para. 12.

<sup>348</sup> Guideline B3.1.8 para. 1.

<sup>349</sup> Guideline B3.1.8 para. 2.

<sup>350</sup> Guideline B3.1.8 para. 3.

<sup>351</sup> Guideline B3.1.8 para. 4.

<sup>352</sup> Standard A3.1 para. 13.

<sup>353</sup> Guideline B3.1.7 para. 4(a).

<sup>354</sup> Guideline B3.1.7 para. 4(b).

<sup>355</sup> Guideline B3.1.7 para. 4(c).

<sup>356</sup> Standard A3.1 para. 20(a). This flexibility is optional.

<sup>357</sup> Standard A3.1 para. 17.

<sup>358</sup> Guideline B3.1.11 para. 1.



- (a) **have a space or spaces on open deck to which the seafarers can have access when off duty, which are of adequate area having regard to the size of the ship and the number of seafarers on board;**<sup>359</sup>
- (b) **be provided with separate offices or a common ship's office for use by deck and engine departments; ships of less than 3,000 gross tonnage may be exempted by the competent authority from this requirement after consultation with the shipowners' and seafarers' organizations concerned;**<sup>360</sup>
- (c) provide *furnishings for recreational facilities that as a minimum include a bookcase and facilities for reading, writing and, where practicable, games,*<sup>361</sup> *and where appropriate, a canteen;*<sup>362</sup>
- (d) *include the following facilities at no cost to the seafarer, where practicable:*<sup>363</sup>
  - (i) *a smoking room;*<sup>364</sup>
  - (ii) *television viewing and the reception of radio broadcasts;*<sup>365</sup>
  - (iii) *showing of films, the stock of which must be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;*<sup>366</sup>
  - (iv) *sports equipment including exercise equipment, table games and deck games;*<sup>367</sup>
  - (v) *facilities for swimming;*<sup>368</sup>
  - (vi) *a library containing vocational and other books, the stock of which must be adequate for the duration of the voyage and changed at reasonable intervals;*<sup>369</sup>
  - (vii) *facilities for recreational handicrafts;*<sup>370</sup>
  - (viii) *electronic equipment such as a radio, television, video recorders, DVD/CD player, personal computer and software and cassette recorder/player;*<sup>371</sup>
  - (ix) *where appropriate, the provision of bars on board for seafarers unless these are contrary to national, religious or social customs;*<sup>372</sup> *and*
  - (x) *reasonable access to ship-to-shore telephone communications, and email and Internet facilities, where available, with any charges for the use of these services being reasonable in amount;*<sup>373</sup>
- (e) *ensure that the forwarding of seafarers' mail is as reliable and expeditious as possible; efforts should also be considered for avoiding seafarers being required to pay additional postage when mail has to be readdressed owing to circumstances beyond their control;*<sup>374</sup>
- (f) *whenever possible and reasonable, expeditiously grant seafarers permission to have their partners, relatives and friends as visitors on board their ship when in port; such measures must meet any concerns for security clearances;*<sup>375</sup>
- (g) *allow seafarers to be accompanied by their partners on occasional voyages where this is practicable and reasonable; such partners must carry adequate insurance cover against accident and illness; the shipowners must give every assistance to the seafarer to effect such insurance.*<sup>376</sup>

<sup>359</sup> Standard A3.1 para. 14.

<sup>360</sup> Standard A3.1 para. 15.

<sup>361</sup> Guideline B3.1.11 para. 2.

<sup>362</sup> Guideline B3.1.11 para. 3.

<sup>363</sup> Guideline B3.1.11 para. 4.

<sup>364</sup> Guideline B3.1.11 para. 4(a).

<sup>365</sup> Guideline B3.1.11 para. 4(b).

<sup>366</sup> Guideline B3.1.11 para. 4(c).

<sup>367</sup> Guideline B3.1.11 para. 4(d).

<sup>368</sup> Guideline B3.1.11 para. 4(e).

<sup>369</sup> Guideline B3.1.11 para. 4(f).

<sup>370</sup> Guideline B3.1.11 para. 4(g).

<sup>371</sup> Guideline B3.1.11 para. 4(h).

<sup>372</sup> Guideline B3.1.11 para. 4(i).

<sup>373</sup> Guideline B3.1.11 para. 4(j).

<sup>374</sup> Guideline B3.1.11 para. 5.

<sup>375</sup> Guideline B3.1.11 para. 6.

<sup>376</sup> Guideline B3.1.11 para. 7.

## Title 3: Accommodation, Recreational Facilities, Food and Catering

### Regulation 3.2; Code Standard A3.2 and Guideline B3.2

#### Commentary

#### Food and catering

*Purpose: To ensure that seafarers have access to good quality food and drinking water provided under regulated hygienic conditions*

The MLC, 2006 recognizes the importance of ensuring that sufficient food and drinking water of appropriate quality is on board ship and that food is prepared by trained catering personnel. The Convention provides some flexibility as to the legal form for implementation in that it requires national laws and regulations or other measures. However it would require that implementation be in a form that is considered mandatory under the national legal system.

The main requirements are that:

- food and drinking water must be of appropriate quality, nutritional value and quality, taking into account the requirements of the ship and the differing cultural and religious backgrounds of seafarers on the ship;
- food is provided free of charge to seafarers during the period of engagement.
- seafarers employed as ships' cooks with responsibility for preparing food must be trained and qualified for their positions;
- seafarers working as ships' cooks must not be less than 18 years;
- frequent and documented inspections of food, drinking water and catering facilities must be carried out by the ship's master or a designate.

It will be recalled that the minimum age of 18 for ships' cooks was dealt with in Section 1.1 of these model provisions. It could instead be included in this Section.



Section 3.2 Food and catering

1. **Ships must, in accordance with paragraphs 2 and 3 below, carry on board and serve food and drinking water that is of appropriate quality, nutritional value and quantity and adequately covers the requirements of the ship.**<sup>377</sup>
2. **Seafarers on board a ship must be provided with food free of charge during the period of engagement.**<sup>378</sup>
3. **The following minimum standards for food and catering apply:**
  - (a) **food and drinking water supplies, having regard to the number of seafarers on board, their religious requirements and cultural practices as they pertain to food, and the duration and nature of the voyage, must be suitable in respect of quantity, nutritional value, quality and variety;**<sup>379</sup>
  - (b) **the organization and equipment of the catering department must be such as to permit the provision to the seafarers of adequate, varied and nutritious meals prepared and served in hygienic conditions;**<sup>380</sup>
  - (c) **catering staff must be properly trained or instructed for their positions,**<sup>381</sup> **and any seafarers engaged as ships' cooks**<sup>382</sup> **must have completed a training course approved or recognized by the competent authority, which covers practical cookery, food and personal hygiene, food storage, stock control, and environmental protection and catering health and safety.**<sup>383</sup>
4. **Seafarers shall only be qualified as ships' cooks if they:**<sup>384</sup>
  - (a) *have served at sea for a minimum period to be prescribed by the competent authority, which could be varied to take into account existing relevant qualifications or experience;*<sup>385</sup>
  - (b) *have passed an examination prescribed by the competent authority or passed an equivalent examination at an approved training course for cooks*<sup>386</sup> *or hold a certificate of qualification as ships' cook issued by countries which have ratified the Maritime Labour Convention, 2006, or the Certification of Ships' Cooks Convention, 1946 (No. 69), or other approved body.*<sup>387</sup>
5. **On ships operating with a prescribed manning of less than ten which, by virtue of the size of the crew or the trading pattern, may not be required by the competent authority to carry a fully qualified cook, anyone processing food in the galley must be trained or instructed in areas including food and personal hygiene as well as handling and storage of food on board ship.**<sup>388</sup>
6. **In circumstances of exceptional necessity, the competent authority may issue a dispensation permitting a non-fully qualified cook to serve in a specified ship for a specified limited period, until the next convenient port of call or for a period not exceeding one month, provided that the person to whom the dispensation is issued is trained or instructed in areas including food and personal hygiene as well as handling and storage of food on board ship.**<sup>389</sup>
7. **Frequent documented inspections must be carried out on board ships, by or under the authority of the master, with respect to:**<sup>390</sup>
  - (a) **supplies of food and drinking water;**<sup>391</sup>
  - (b) **all spaces and equipment used for the storage and handling of food and drinking water;**<sup>392</sup>
  - (c) **galley and other equipment for the preparation and service of meals.**<sup>393</sup>

<sup>377</sup> Regulation 3.2 para. 1.

<sup>378</sup> Regulation 3.2 para. 2.

<sup>379</sup> Standard A3.2 para. 2(a).

<sup>380</sup> Standard A3.2 para. 2(b).

<sup>381</sup> Standard A3.2 para. 2(c).

<sup>382</sup> Regulation 3.2 para. 3.

<sup>383</sup> Standard A3.2 para. 4.

<sup>384</sup> Guideline B3.2.2 para. 1.

<sup>385</sup> Guideline B3.2.2 para. 1(a).

<sup>386</sup> Guideline B3.2.2 para. 1(b). *The prescribed examination may be conducted and certificates granted either directly by the competent authority or, subject to its control, by an approved school for the training of cooks.*

<sup>387</sup> Guideline B3.2.2 para. 2.

<sup>388</sup> Standard A3.2 para. 5.

<sup>389</sup> Standard A3.2 para. 6.

<sup>390</sup> Standard A3.2 para. 7.

<sup>391</sup> Standard A3.2 para. 7(a).

<sup>392</sup> Standard A3.2 para. 7(b).

<sup>393</sup> Standard A3.2 para. 7(c).



8. *The competent authority shall:*

- (a) *in cooperation with other relevant agencies and organizations, collect up-to-date information on nutrition and on methods of purchasing, storing, preserving, cooking and serving food, with special reference to the requirements of catering on board a ship; this information shall be made available, free of charge or at reasonable cost, to manufacturers of and traders in ships' food supplies and equipment, masters, stewards and cooks, and to shipowners' and seafarers' organizations concerned; appropriate forms of publicity, such as manuals, brochures, posters, charts or advertisements in trade journals should be used for this purpose;*<sup>394</sup>
- (b) *issue recommendations to avoid wastage of food, facilitate the maintenance of a proper standard of hygiene, and ensure the maximum practicable convenience in working arrangements;*<sup>395</sup>
- (c) *work with relevant agencies and organizations to develop educational materials and on-board information concerning methods of ensuring proper food supply and catering services;*<sup>396</sup>
- (d) *work in close cooperation with the shipowners' and seafarers' organizations and with other national or local authorities dealing with questions of food and health; it may where necessary utilize the services of such authorities.*<sup>397</sup>

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<sup>394</sup> Guideline B3.2.1 para. 1.

<sup>395</sup> Guideline B3.2.1 para. 2.

<sup>396</sup> Guideline B3.2.1 para. 3.

<sup>397</sup> Guideline B3.2.1 para. 4.

## Title 4: Health Protection, Medical Care, Welfare and Social Security Protection

### Regulation 4.1; Code Standard A4.1 and Guideline B4.1

#### Commentary

#### Medical care on board ship and ashore

*Purpose: To protect the health of seafarers and ensure their prompt access to medical care on board ship and ashore*

The MLC, 2006 requirements under Regulation 4.1 are primarily directed to flag States and address access to medical care for seafarers working on board ships. It also has provisions directed to port States and coastal States regarding access to medical care for seafarers on foreign ships in their ports or territories. It should be noted that the cost of medical care ashore is addressed below in Section 4.2 of these model provisions. The majority of the requirements are directed to flag States to “ensure” that adequate measures are adopted to protect the health of seafarers on their ships and to ensure access to medical care while working on board ships. The standard for care on board a ship must be as comparable as possible to that which is generally provided to workers ashore. The MLC, 2006 requires that laws and regulation be adopted for some requirements, while in other cases, the country is required to ensure that measures are adopted. The latter wording allows for some flexibility; however the legal form of implementation would need to be regarded as mandatory under the national legal system. A number of the requirements reflect terminology and standards that are also found in the IMO’s STCW Convention. These provisions in this Section are also linked to Section 3.1 in these model provisions in connection with hospital accommodation on ships. The main requirements for flag States are that the following must be addressed:

- seafarers must be covered by adequate measures for the protection of their health and have access to prompt and adequate medical care, including essential dental care, whilst working on board;
- medical care on board ship must include, on some voyages, a qualified medical doctor or at least one appropriately qualified seafarer in charge, an approved medicine chest, medical equipment and a medical guide as well as a pre-arranged communication system for obtaining onshore specialist medical advice;
- health protection and care are to be provided at no cost to the seafarer, in accordance with national law and practice;
- seafarers must be allowed to visit a qualified medical doctor or dentist without delay in ports of call, where practicable;
- the competent authority must adopt a standard medical report form for use by ships’ masters and on-board and onshore medical personnel.

## Title 4. Health protection, medical care, welfare and social security protection

### Section 4.1 Medical care on board ship and ashore

1. **All seafarers working on board a ship must be covered by adequate measures for the protection of their health and must have access to prompt and adequate medical care<sup>398</sup> that is as comparable as possible to that which is generally available to workers ashore in [insert name of the country].<sup>399</sup>**
2. **The protection and care under paragraph 1 must, in principle, be provided at no cost to the seafarers.<sup>400</sup>**
3. **Shipowners must adopt measures to provide for health protection and medical care, including essential dental care, for seafarers working on board. These measures must:<sup>401</sup>**
  - (a) **ensure the application to seafarers of any general provisions on occupational health protection and medical care relevant to their duties, as well as of special provisions specific to work on board ship;<sup>402</sup>**
  - (b) **ensure that seafarers are given health protection and medical care as comparable as possible to that which is generally available to workers ashore, including prompt access to the necessary medicines, medical equipment and facilities for diagnosis and treatment and to medical information and expertise;<sup>403</sup>**
  - (c) **give seafarers the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable;<sup>404</sup>**
  - (d) **ensure that, to the extent consistent with national law and practice, medical care and health protection services while a seafarer is on board ship or landed in a foreign port are provided free of charge to seafarers;<sup>405</sup> and**
  - (e) **not be limited to treatment of sick or injured seafarers but include measures of a preventive character such as health promotion and health education programmes.<sup>406</sup>**
4. **A standard medical report form, adopted by the competent authority, in order to facilitate the exchange of medical and related information concerning individual seafarers between ship and shore in cases of illness or injury<sup>407</sup>, must be used by ships' masters and relevant onshore and on-board medical personnel. When completed, the form and its contents must be kept confidential and must only be used to facilitate the treatment of seafarers.<sup>408</sup>**
5. **The following minimum requirements for on-board hospital and medical care facilities and equipment and training on ships apply:<sup>409</sup>**
  - (a) **all ships must carry a medicine chest, medical equipment and a medical guide, the specifics of which shall be prescribed and subject to regular inspection by the competent authority, taking into account the type of ship, the number of persons on board and the nature, destination and duration of voyages and relevant national and international recommended medical standards. In particular:<sup>410</sup>**
    - (i) *the medicine chest and its contents, as well as the medical equipment and medical guide carried on board, must be properly maintained and inspected at intervals, not exceeding 12 months, by responsible persons designated by the competent authority, who must ensure that the labelling, expiry dates and conditions of storage of all medicines and directions for their use are checked and all equipment functioning as required;<sup>411</sup>*
    - (ii) **as a minimum the approved medical guides **that must be kept on board** are the most recent edition of the *International Medical Guide for Ships, the Medical First Aid Guide for Use in Accidents Involving***

<sup>398</sup> Regulation 4.1 para. 1.

<sup>399</sup> Regulation 4.1 para. 4.

<sup>400</sup> Regulation 4.1 para. 2.

<sup>401</sup> Standard A4.1 para. 1.

<sup>402</sup> Standard A4.1 para. 1(a).

<sup>403</sup> Standard A4.1 para. 1(b).

<sup>404</sup> Standard A4.1 para. 1(c).

<sup>405</sup> Standard A4.1 para. 1(d). See the requirements in Section 4.2 of these model provisions.

<sup>406</sup> Standard A4.1 para. 1(e).

<sup>407</sup> Guideline B4.1 para. 1.

<sup>408</sup> Standard A4.1 para. 2.

<sup>409</sup> Standard A4.1 paras 3 & 4. See also Section 3.1 of these model provisions.

<sup>410</sup> Standard A4.1 para. 4(a).

<sup>411</sup> Guideline B4.1.1 para. 4.



*Dangerous Goods, the Document for Guidance – An International Maritime Training Guide, and the medical section of the International Code of Signals;*<sup>412</sup> where a cargo, which is classified dangerous, has not been included in the most recent edition of the Medical First Aid Guide for Use in Accidents Involving Dangerous Goods, the necessary information on the nature of the substances, the risks involved, the necessary personal protective devices, the relevant medical procedures and specific antidotes must be made available to the seafarers; the antidotes and personal protective devices must be on board whenever dangerous goods are carried; this information must be integrated with the ship's policies and programmes on occupational safety and health as set out in [Section 4.3 of these model provisions].<sup>413</sup>

- (b) **ships carrying 100 or more persons and ordinarily engaged on international voyages of more than three days' duration must carry a qualified medical doctor who is responsible for providing medical care; the competent authority may require that other ships carry a medical doctor, taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board;**<sup>414</sup>
- (c) **ships which do not carry a medical doctor must have either at least one seafarer on board who is in charge of medical care and administering medicine as part of their regular duties or at least one seafarer on board competent to provide medical first aid; persons in charge of medical care on board who are not medical doctors must have satisfactorily completed training in medical care that meets the requirements of the STCW Convention; seafarers designated to provide medical first aid must have satisfactorily completed training in medical first aid that meets the requirements of the STCW Convention; without prejudice to any further standards that may be adopted by the competent authority taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board;**<sup>415</sup>
  - (i) *ships which ordinarily are capable of reaching qualified medical care and medical facilities within eight hours must have at least one designated seafarer with the approved medical first-aid training required by the STCW Convention which will enable such persons to take immediate, effective action in case of accidents or illnesses likely to occur on board a ship and to make use of medical advice by radio or satellite communication;*<sup>416</sup> and
  - (ii) *all other ships must have at least one designated seafarer with approved training in medical care required by the STCW Convention, including practical training and training in life-saving techniques such as intravenous therapy, which will enable the persons concerned to participate effectively in coordinated schemes for medical assistance to ships at sea, and to provide the sick or injured with a satisfactory standard of medical care during the period they are likely to remain on board;*<sup>417</sup>
- (d) *the medical training referred to in subparagraph (c) above must be based on the contents of the most recent editions of the medical guides referred to in subparagraph (a)(ii) above;*<sup>418</sup>
- (e) *persons referred to in subparagraph (c)(i) and (ii) above and such other seafarers as may be required by the competent authority must undergo, at approximately five-year intervals, refresher courses to enable them to maintain and increase their knowledge and skills and to keep up-to-date with new developments;*<sup>419</sup>
- (f) **the competent authority must ensure by a prearranged system that medical advice by radio or satellite communication to ships at sea, including specialist advice, is available 24 hours a day; medical advice, including the onward transmission of medical messages by radio or satellite communication between a ship and those ashore giving the advice, is available free of charge to all ships irrespective of the flag that they fly.**<sup>420</sup> In addition:
  - (i) *all ships must carry a complete and up-to-date list of radio stations through which medical advice can be obtained and, if equipped with a system of satellite communication, carry an up-to-date and complete list of coast earth stations through which medical advice can be obtained;*

<sup>412</sup> Guideline B4.1.1 para. 4.

<sup>413</sup> Guideline B4.1.1 para. 5.

<sup>414</sup> Standard A4.1 para. 4(b).

<sup>415</sup> Standard A4.1 para. 4(c).

<sup>416</sup> Guideline B4.1.1 para. 1(a).

<sup>417</sup> Guideline B4.1.1 para. 1(b).

<sup>418</sup> Guideline B4.1.1 para. 2.

<sup>419</sup> Guideline B4.1.1 para. 3.

<sup>420</sup> Standard A4.1 para. 4(d).





- (ii) *seafarers with responsibility for medical care or medical first aid on board must be instructed in the use of the ship's medical guide and the medical section of the most recent edition of the International Code of Signals so as to enable them to understand the type of information needed by the advising doctor as well as the advice received.*<sup>421</sup>
6. The competent authority may *adopt measures to secure proper and sufficient medical care for the dependants of seafarers domiciled in [insert name of country] pending the development of a medical care service which would include within its scope workers generally and their dependants where such services do not exist and should inform the International Labour Office concerning measures taken for this purpose.*<sup>422</sup>
7. **Seafarers on board foreign ships in the territory of [insert name of country] who are in need of immediate medical care will be given access to medical facilities on shore**<sup>423</sup> including:<sup>424</sup>
- (a) *outpatient treatment for sickness and injury;*<sup>425</sup>
- (b) *hospitalization when necessary;*<sup>426</sup>
- (c) *facilities for dental treatment, especially in cases of emergency.*<sup>427</sup>
8. *Suitable measures shall be taken to facilitate the treatment of seafarers suffering from disease. In particular, seafarers shall be promptly admitted to clinics and hospitals ashore, without difficulty and irrespective of nationality or religious belief, and, whenever possible, arrangements shall be made to ensure, when necessary, continuation of treatment to supplement the medical facilities available to them.*<sup>428</sup>
9. The competent authority may participate in *international cooperation activities, based on bilateral or multilateral agreements or consultations among countries,*<sup>429</sup> *in the area of assistance, programmes and research in health protection and medical care for seafarers, including:*<sup>430</sup>
- (a) *developing and coordinating search and rescue efforts and arranging prompt medical help and evacuation at sea for the seriously ill or injured on board a ship through such means as periodic ship position reporting systems, rescue coordination centres and emergency helicopter services, in conformity with the International Convention on Maritime Search and Rescue, 1979, as amended, and the International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual;*<sup>431</sup>
- (b) *making optimum use of all ships carrying a doctor and stationing ships at sea which can provide hospital and rescue facilities;*<sup>432</sup>
- (c) *compiling and maintaining an international list of doctors and medical care facilities available worldwide to provide emergency medical care to seafarers;*<sup>433</sup>
- (d) *landing seafarers ashore for emergency treatment;*<sup>434</sup>
- (e) *repatriating seafarers hospitalized abroad as soon as practicable, in accordance with the medical advice of the doctors responsible for the case, which takes into account the seafarer's wishes and needs;*<sup>435</sup>
- (f) *arranging personal assistance for seafarers during repatriation, in accordance with the medical advice of the doctors responsible for the case, which takes into account the seafarer's wishes and needs;*<sup>436</sup>
- (g) *endeavouring to set up health centres for seafarers to.*<sup>437</sup>

<sup>421</sup> Guideline B4.1.1 para. 6.

<sup>422</sup> Guideline B4.1.5 para. 1.

<sup>423</sup> Regulation 4.1 para. 3.

<sup>424</sup> Guideline B4.1.3 para. 2.

<sup>425</sup> Guideline B4.1.3 para. 2(a).

<sup>426</sup> Guideline B4.1.3 para. 2(b).

<sup>427</sup> Guideline B4.1.3 para. 2(c).

<sup>428</sup> Guideline B4.1.3 para. 3.

<sup>429</sup> Guideline B4.1.4 para. 2.

<sup>430</sup> Guideline B4.1.4 para. 1.

<sup>431</sup> Guideline B4.1.4 para. 1(a).

<sup>432</sup> Guideline B4.1.4 para. 1(b).

<sup>433</sup> Guideline B4.1.4 para. 1(c).

<sup>434</sup> Guideline B4.1.4 para. 1(d).

<sup>435</sup> Guideline B4.1.4 para. 1(e).

<sup>436</sup> Guideline B4.1.4 para. 1(f).

<sup>437</sup> Guideline B4.1.4 para. 1(g).



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- (i) *conduct research on the health status, medical treatment and preventive health care of seafarers;*<sup>438</sup> *and*
- (ii) *train medical and health service staff in maritime medicine;*<sup>439</sup>
- (h) *collecting and evaluating statistics concerning occupational accidents, diseases and fatalities of seafarers and integrating and harmonizing the statistics with any existing national system of statistics on occupational accidents and diseases covering other categories of workers;*<sup>440</sup>
- (i) *organizing international exchanges of technical information, training material and personnel, as well as international training courses, seminars and working groups;*<sup>441</sup>
- (j) *providing all seafarers with special curative and preventive health and medical services in port, or making available to them general health, medical and rehabilitation services;*<sup>442</sup> *and*
- (k) *arranging for the repatriation of the bodies or ashes of deceased seafarers, in accordance with the wishes of the next of kin and as soon as practicable.*<sup>443</sup>

<sup>438</sup> Guideline B4.1.4 para. 1(g)(i).

<sup>439</sup> Guideline B4.1.4 para. 1(g)(ii).

<sup>440</sup> Guideline B4.1.4 para. 1(h).

<sup>441</sup> Guideline B4.1.4 para. 1(i).

<sup>442</sup> Guideline B4.1.4 para. 1(j).

<sup>443</sup> Guideline B4.1.4 para. 1(k).

## Title 4: Health Protection, Medical Care, Welfare and Social Security Protection

### Regulation 4.2; Code Standard A4.2 and Guideline B4.2

#### Commentary

#### Shipowners' liability

*Purpose: To ensure that seafarers are protected from the financial consequences of sickness, injury or death occurring in connection with their employment*

In addition to providing for health protection and medical care on board and ashore the MLC, 2006 also requires that flag States ensure that all seafarers employed on their ships have material assistance and support from shipowners with respect to the financial consequences of sickness, injury or death occurring while they are serving under a seafarers' employment agreement or arising from the employment under such an agreement. These financial consequences include loss of wages and also medical and other costs. These provisions complement those in Sections 4.1 and 4.5 of these model provisions.

The Convention requires that laws and regulations be adopted to implement this requirement. National laws or regulations may allow certain limitations on shipowners' liability as well as the exclusion of liability in some cases. Flag states must require financial security from shipowners with respect to their liability to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard. The particular form of this security is not specified and could take various forms (e.g. insurance or a bond).

The main requirements that must be addressed are:

- shipowners are liable to bear the costs, including wages, in full or in part, for seafarers working on their ships in respect of sickness and injury of the seafarers occurring between the date of commencing duty and the date upon which they are deemed duly repatriated, or arising from their employment between those dates, Where this sickness or injury results in incapacity for work, for seafarers no longer on board, the liability for wages may be limited to a period which is no less than 16 weeks from the day of the injury or the commencement of the sickness;
- shipowners are liable to cover the expense of medical care, including medical treatment and the supply of medicines and therapeutic appliances, and board and lodging away from home until the sick or injured seafarer has recovered or until the sickness or incapacity has been declared of a permanent character. This liability may be limited to no less than 16 weeks;
- shipowners must be required to provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard, as set out in national law, the seafarers' employment agreement or a collective agreement;
- shipowners are liable to pay the cost of burial services in the case of death on board or ashore during the period of engagement;
- shipowners must take measures to safeguard the property of seafarers left on board by sick, injured or deceased seafarers.

Section 4.2 Shipowners' liability

1. Seafarers working on board a ship have a right to material assistance and support from the shipowner with respect to the financial consequences of sickness, injury or death occurring while they are serving under a seafarers' employment agreement or arising from their employment under such agreement.<sup>444</sup>
2. The right under paragraph 1 does not affect any other legal remedies that a seafarer may seek.<sup>445</sup>
3. Shipowners must provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard, as set out in [Schedule III of the model provisions] or in the seafarers' employment agreement or any applicable collective agreement;<sup>446</sup>
4. Shipowners are responsible for health protection and medical care of all seafarers working on board and are liable for the costs for all seafarers working on their ships in respect of sickness and injury of the seafarers occurring between the date of commencing duty and the date upon which they are deemed duly repatriated, or arising from their employment between those dates to the extent provided below:<sup>447</sup>
  - (a) shipowners must defray the expense of medical care, including medical treatment and the supply of the necessary medicines and therapeutic appliances, and board and lodging away from home until the sick or injured seafarer has recovered, or until the sickness or incapacity has been declared of a permanent character;<sup>448</sup>
  - (b) shipowners must pay the cost<sup>449</sup> of burial expenses in the case of death occurring on board or ashore during the period of engagement;<sup>450</sup> these expenses may be reimbursed by an insurance institution in cases in which funeral benefit is payable in respect of the deceased seafarer under laws or regulations relating to social insurance or workers' compensation;<sup>451</sup>
  - (c) where the sickness or injury results in incapacity for work, shipowners must:<sup>452</sup>
    - (i) pay full wages (exclusive of bonuses<sup>453</sup>) as long as the sick or injured seafarers remain on board or until the seafarers have been repatriated in accordance with [Section 2.5 above of this [name of instrument]];<sup>454</sup>
    - (ii) pay wages in whole or in part as prescribed in [Schedule IV of these model provisions] or as provided for in collective agreements from the time when the seafarers are repatriated or landed until their recovery [or if earlier, until they are entitled to cash benefits under the applicable social security legislation].<sup>455</sup>
5. [The liability of the shipowner under paragraph 4(a) is limited to [16<sup>456</sup>] weeks from the day of the injury or the commencement of the sickness<sup>457</sup>] [and shall cease from the time at which the seafarer can claim medical benefits under a scheme of compulsory sickness insurance, compulsory accident insurance or workers' compensation for accidents].<sup>458</sup>
6. [The liability of the shipowner to pay wages in whole or in part in respect of a seafarer no longer on board is limited to [16<sup>459</sup>] weeks from the day of the injury or the commencement of the sickness<sup>460</sup>] [and shall cease from the time at which the seafarer can claim medical benefits under a scheme of compulsory sickness insurance, compulsory accident insurance or workers' compensation for accidents].<sup>461</sup>

<sup>444</sup> Regulation 4.2 para. 1.

<sup>445</sup> Regulation 4.2 para. 2.

<sup>446</sup> Standard A4.2 para. 1(b).

<sup>447</sup> Standard A4.2 para. 1.

<sup>448</sup> Standard A4.2 para. 1(c).

<sup>449</sup> Standard A4.2 para. 6. National laws or regulations may exempt the shipowner from liability to defray the expense of medical care and board and lodging and burial expenses in so far as such liability is assumed by the public authorities.

<sup>450</sup> Standard A4.2 para. 1(d).

<sup>451</sup> Guideline B4.2 para. 3.

<sup>452</sup> Standard A4.2 para. 3.

<sup>453</sup> Guideline B4.2 para. 1.

<sup>454</sup> Standard A4.2 para. 3(a).

<sup>455</sup> Standard A4.2 para. 3(b).

<sup>456</sup> The figure of 16 can be altered, but under Standard A4.2, para. 2, it may not be less than 16 weeks.

<sup>457</sup> Standard A4.2, para. 2. This is an optional provision.

<sup>458</sup> Guideline B4.2 para. 2.

<sup>459</sup> The figure of 16 can be altered, but under Standard A4.2, para. 4, it may not be less than 16 weeks.

<sup>460</sup> Standard A4.2 para. 4. This is an optional provision.

<sup>461</sup> Guideline B4.2 para. 2.





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7. [Shipowners are not liable in respect of:<sup>462</sup>
  - (a) [injury incurred otherwise than in the service of the ship;<sup>463</sup>
  - (b) [injury or sickness due to the wilful misconduct of the sick, injured or deceased seafarer;<sup>464</sup>
  - (c) [sickness or infirmity intentionally concealed when the engagement is entered into.<sup>465</sup>]]
8. Shipowners or their representatives must take measures for safeguarding property left on board by sick, injured or deceased seafarers and for returning it to them or to their next of kin.<sup>466</sup>

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<sup>462</sup> Standard A4.2 para. 5. This is an optional provision.

<sup>463</sup> Standard A4.2 para. 5(a).

<sup>464</sup> Standard A4.2 para. 5(b).

<sup>465</sup> Standard A4.2 para. 5(c).

<sup>466</sup> Standard A4.2 para. 7.



## Title 4: Health Protection, Medical Care, Welfare and Social Security Protection

### Regulation 4.3; Code Standard A4.3 and Guideline B4.3

#### Commentary

#### Health and safety protection and accident prevention

*Purpose: To ensure that seafarers' work environment on board ships promotes occupational safety and health*

The MLC, 2006 contains a significant number of technical details and guidance in Standard A4.3 and Guideline B4.3 directed to flag State obligations regarding what is usually called marine or maritime occupational safety and health (MOSH). These provisions are also linked to those under Section 3.1 of these model provisions. The MLC, 2006 specifies the areas in which occupational safety and health policies and programmes are to be adopted, effectively implemented and promoted on ships and which are also to be the subject of legal standards covering occupational safety and health protection and accident prevention. Such policies and programmes and legal standards may already exist for ships in the country concerned or that country may have global policies and programmes covering these subjects, which will need to be supplemented or adapted so as also to cover conditions on board ship. These model provisions seek to provide the necessary legislative basis for adopting and/or completing as well as updating – in the light of a rapidly evolving technology – the required policies, programmes and standards for ships. The model provisions do not seek to cover the technical details that would need to be developed, based on international and industry guidance and tripartite consultation. For countries that do not yet have the necessary policies and programmes in place, the model provisions suggest using a subsidiary instrument- a schedule (Schedule V) to set out a national occupational safety and health policy and programme for ships, which follows the detailed provisions set out under Regulation 4.3 and Standard A 4.3 and would be developed and implemented by the competent authority after consultation with the shipowners' and seafarers' organizations.

It is noted that a number of matters may also overlap to some extent with requirements under the IMO's ISM Code and may already be partly implemented. The Convention requires that legal implementation of the requirements take the form of laws and regulations and other measures. This requires that the form adopted must be considered mandatory in the national legal system, but may comprise a mix of forms to address modern approaches to regulation. The main requirements that must be addressed are:

- working, living and training environments on ships must be safe and hygienic and conform to national laws and other measures for occupational safety and health protection and accident prevention on board ship;
- reasonable precautions are to be taken on ships to prevent occupational accidents, injuries and diseases including the risk of exposure to harmful levels of ambient factors and chemicals as well as the risk of injury or disease that may result from the use of equipment and machinery on the ship;
- ships must have an occupational safety and health policy and programme that both prevents occupational accidents, injuries and diseases and provides for continuous improvement in prevention, with a particular concern for the safety and health of seafarers under the age of 18 (see Section 1.1 of these model provisions);
- ships with five or more seafarers must have a ship safety committee, which includes participation of the seafarer safety representatives;
- occupational accidents, injuries and diseases must be reported;
- shipowners are required to conduct risk evaluation for occupational safety and health management, taking into account relevant statistical data.



Section 4.3 Health and safety protection and accident prevention

1. **Seafarers must be provided with occupational health protection consistent with their right to live, work and train on board ship in a safe and hygienic environment.**<sup>467</sup>
2. After consultation with the seafarers' and shipowners' organizations, **the competent authority shall** – in accordance with the national occupational safety and health policy referred to in paragraph 3 below and keeping in mind the requirements of this Section 4.3 – **set and maintain standards for occupational safety and health protection and accident prevention** to be observed **on-board** ships<sup>468</sup>.
3. **The competent authority shall, after consultation with the seafarers' and shipowners' organizations, adopt and keep under continuous review guidelines for the management of seafarer occupational safety and health on board.** These guidelines shall be based on the basic national occupational safety and health policy and programme for ships [which is set out in Schedule V below.<sup>469</sup>] *Relevant provisions or recommendations adopted by the appropriate national authorities or organizations or international organizations should be taken into account by those preparing texts of occupational safety and health protection and accident prevention measures or recommended practices.*<sup>470</sup> *In formulating occupational safety and health protection and accident prevention programmes, the competent authority should have due regard to any code of practice concerning the safety and health of seafarers which may have been published by the International Labour Organization.*<sup>471</sup>
4. The guidelines adopted under paragraph 3 above shall take account of Guidelines B4.3.2 to B4.3.10 of the Convention as well as the ILO code of practice entitled *Accident prevention on board ship at sea and in port, 1996, and subsequent versions and other related ILO and other international standards and guidelines and codes of practice regarding occupational safety and health protection, including any exposure levels that they may identify*<sup>472</sup>. The guidelines shall give priority to the following matters, in particular:<sup>473</sup>
  - (a) *structural features of the ship, including means of access and asbestos-related risks;*<sup>474</sup>
  - (b) ***machinery;***<sup>475</sup>
  - (c) *the effects of the extremely low or high temperature of any surfaces with which seafarers may be in contact;*<sup>476</sup>
  - (d) ***the effects of noise in the workplace and in shipboard accommodation;***<sup>477</sup>
  - (e) ***the effects of vibration in the workplace and in shipboard accommodation;***<sup>478</sup>
  - (f) ***the effects of ambient factors, other than those referred to in subparagraphs (d) and (e), in the workplace and in shipboard accommodation, including tobacco smoke;***<sup>479</sup>
  - (g) *special safety measures on and below deck;*<sup>480</sup>
  - (h) *loading and unloading equipment;*<sup>481</sup>
  - (i) *fire prevention and fire-fighting;*<sup>482</sup>
  - (j) *anchors, chains and lines;*<sup>483</sup>
  - (k) *dangerous cargo and ballast;*<sup>484</sup>
  - (l) ***personal protective equipment for seafarers;***<sup>485</sup>

<sup>467</sup> Regulation 4.3 para. 1.

<sup>468</sup> Regulation 4.3 para. 3.

<sup>469</sup> Regulation 4.3, para. 2.

<sup>470</sup> Guideline B4.3.8 para. 2.

<sup>471</sup> Guideline B4.3.8 para. 3.

<sup>472</sup> Guideline B4.3.1 para. 1.

<sup>473</sup> Guideline B4.3.1 para. 2.

<sup>474</sup> Guideline B4.3.1 para. 2(b).

<sup>475</sup> Guideline B4.3.1 para. 2(c); Standard A 4.3, para. 1 (b).

<sup>476</sup> Guideline B4.3.1 para. 2(d).

<sup>477</sup> Guideline B4.3.1 para. 2(e); Standard A3.1, para. 5(h).

<sup>478</sup> Guideline B4.3.1 para. 2(f); Standard A3.1, para. 5(h).

<sup>479</sup> Guideline B4.3.1 para. 2(g); Standard A5.3, para.5 (h); Standard A 4.3, para. 1 (b).

<sup>480</sup> Guideline B4.3.1 para. 2(h).

<sup>481</sup> Guideline B4.3.1 para. 2(i).

<sup>482</sup> Guideline B4.3.1 para. 2(j).

<sup>483</sup> Guideline B4.3.1 para. 2(k).

<sup>484</sup> Guideline B4.3.1 para. 2(l).

<sup>485</sup> Guideline B4.3.1 para. 2(m); Standard A 4.3, para. 1 (c).



- (m) *work in enclosed spaces;*<sup>486</sup>
  - (n) *physical and mental effects of fatigue;*<sup>487</sup>
  - (o) *the effects of drug and alcohol dependency;*<sup>488</sup>
  - (p) *HIV/AIDS protection and prevention; and*<sup>489</sup>
  - (q) *emergency and accident response.*<sup>490</sup>
5. *The assessment of risks and reduction of exposure on the matters referred to in paragraph 4 above shall take account of the physical occupational health effects, including manual handling of loads, noise and vibration, the chemical and biological occupational health effects, the mental occupational health effects, the physical and mental health effects of fatigue, and occupational accidents. The necessary measures shall take due account of the preventive principle according to which, among other things, combating risk at the source, adapting work to the individual, especially as regards the design of workplaces, and replacing the dangerous by the non-dangerous or the less dangerous, have precedence over personal protective equipment for seafarers.*<sup>491</sup>
6. *In addition, the competent authority shall ensure that the implications for health and safety are taken into account, particularly in the following areas:*<sup>492</sup>
- (a) *emergency and accident response;*<sup>493</sup>
  - (b) *the effects of drug and alcohol dependency;*<sup>494</sup> *and*
  - (c) *HIV/AIDS protection and prevention.*<sup>495</sup>
7. **Compliance with the requirements of applicable international instruments on the acceptable levels of exposure to workplace hazards on board ships and on the development and implementation of ships' occupational safety and health policies and programmes will be considered as meeting the requirements set out in this Section 4.3.**<sup>496</sup>
8. **Shipowners must adopt and promote on-board occupational safety and health management policies and programmes, consistent with the guidelines referred to in paragraph 3 above, that:**
- (a) **include reasonable precautions to prevent occupational accidents, injuries and diseases on board ship, including measures to reduce and prevent the risk of exposure to harmful levels of ambient factors and chemicals as well as the risk of injury or disease that may arise from the use of equipment and machinery on board ships;**<sup>497</sup>
  - (b) **include training and instruction of seafarers**<sup>498</sup> **and other on-board programmes for the prevention of occupational accidents, injuries and diseases and for continuous improvement in occupational safety and health protection, that involve seafarers' representatives and all other persons concerned in their implementation, taking account of preventive measures, including engineering and design control, substitution of processes and procedures for collective and individual tasks, and the use of personal protective equipment;**<sup>499</sup> *the curriculum for the training must be reviewed periodically and brought up to date in the light of development in types and sizes of ships and in their equipment, as well as changes in manning practices, nationality, language and the organization of work on board ships;*<sup>500</sup>
  - (c) **require the inspection, reporting and correcting of unsafe conditions and provide for the investigation and reporting of on-board occupational accidents**<sup>501</sup> *and occupational injuries and diseases; all such events must be reported so that they can be investigated and comprehensive statistics can be kept, analysed and published, tak-*

<sup>486</sup> Guideline B4.3.1 para. 2(n).

<sup>487</sup> Guideline B4.3.1 para. 2(o).

<sup>488</sup> Guideline B4.3.1 para. 2(p).

<sup>489</sup> Guideline B4.3.1 para. 2(q).

<sup>490</sup> Guideline B4.3.1 para. 2(r).

<sup>491</sup> Guideline B4.3.1 paras 1-3.

<sup>492</sup> Guideline B4.3.1 paras 1-4

<sup>493</sup> Guideline B4.3.1 paras 1-4(a).

<sup>494</sup> .Guideline B4.3.1 paras 1-4(b).

<sup>495</sup> Guideline B4.3.1 paras 1-4(c).

<sup>496</sup> Standard A4.3 para. 4.

<sup>497</sup> Standard A4.3 para. 1(b).

<sup>498</sup> Standard A4.3 para. 1(a).

<sup>499</sup> Standard A4.3 para. 1(c).

<sup>500</sup> Guideline B4.3.9 para. 1.

<sup>501</sup> Standard A4.3 para. 1(d).



#### Title 4. Health Protection, Medical Care, Welfare and Social Security Protection

*ing account of protection of the personal data of the seafarers concerned; reports must not be limited to fatalities or to accidents involving the ship;<sup>502</sup> due regard should be had to any international system or model for recording accidents to seafarers which may have been established by the International Labour Organization;<sup>503</sup>*

- (d) **provide special attention to the safety and health of seafarers under the age of 18;**<sup>504</sup>
  - (e) **specify the duties of the master or a person designated by the master, or both, to take specific responsibility for the implementation of and compliance with the ship's occupational safety and health policy and programme;**<sup>505</sup>
  - (f) **specify the authority of the ship's seafarers appointed or elected as safety representatives to participate in meetings of the ship's safety committee; such a committee must be established on board a ship on which there are five or more seafarers.**<sup>506</sup>
  - (g) **include risk evaluation<sup>507</sup> in relation to management of occupational safety and health that refer to appropriate statistical information from their ships and from general statistics provided by the competent authority.**<sup>508</sup>
9. With respect to young seafarers referred to under paragraph 8(d), *except where they are recognized as fully qualified in a pertinent skill by the competent authority, the standards set in accordance with paragraph 2 must specify restrictions on young seafarers undertaking, without appropriate supervision and instruction, certain types of work presenting special risk of accident or of detrimental effect on their health or physical development, or requiring a particular degree of maturity, experience or skill. In determining the types of work to be restricted by the regulations, the competent authority might consider in particular work involving:*<sup>509</sup>
- (a) *the lifting, moving or carrying of heavy loads or objects;*<sup>510</sup>
  - (b) *entry into boilers, tanks and cofferdams;*<sup>511</sup>
  - (c) *exposure to harmful noise and vibration levels;*<sup>512</sup>
  - (d) *operating hoisting and other power machinery and tools, or acting as signallers to operators of such equipment;*<sup>513</sup>
  - (e) *handling mooring or tow lines or anchoring equipment;*<sup>514</sup>
  - (f) *rigging;*<sup>515</sup>
  - (g) *work aloft or on deck in heavy weather;*<sup>516</sup>
  - (h) *nightwatch duties;*<sup>517</sup>
  - (i) *servicing of electrical equipment;*<sup>518</sup>
  - (j) *exposure to potentially harmful materials, or harmful physical agents such as dangerous or toxic substances and ionizing radiations;*<sup>519</sup>
  - (k) *the cleaning of catering machinery;*<sup>520</sup> *and*
  - (l) *the handling or taking charge of ships' boats.*<sup>521</sup>

<sup>502</sup> Guideline B4.3.5 para. 1; Standard A3.1 para. 2 (a).

<sup>503</sup> Guideline B4.3.5 para. 3.

<sup>504</sup> Standard A4.3 para. 2(b).

<sup>505</sup> Standard A4.3 para. 2(c).

<sup>506</sup> Standard A4.3 para. 2(d).

<sup>507</sup> Standard A4.3 para 1(a); Standard A 4.3 para. 8.

<sup>508</sup> Standard A4.3 para. 8.

<sup>509</sup> Guideline B4.3.10 para. 2.

<sup>510</sup> Guideline B4.3.10 para. 2(a).

<sup>511</sup> Guideline B4.3.10 para. 2(b).

<sup>512</sup> Guideline B4.3.10 para. 2(c).

<sup>513</sup> Guideline B4.3.10 para. 2(d).

<sup>514</sup> Guideline B4.3.10 para. 2(e).

<sup>515</sup> Guideline B4.3.10 para. 2(f).

<sup>516</sup> Guideline B4.3.10 para. 2(g).

<sup>517</sup> Guideline B4.3.10 para. 2(h).

<sup>518</sup> Guideline B4.3.10 para. 2(i).

<sup>519</sup> Guideline B4.3.10 para. 2(j).

<sup>520</sup> Guideline B4.3.10 para. 2(k).

<sup>521</sup> Guideline B4.3.10 para. 2(l).

## Title 4: Health Protection, Medical Care, Welfare and Social Security Protection

### Regulation 4.4; Code Standard A4.4 and Guideline B4.4

#### Commentary

##### Access to shore-based welfare facilities

*Purpose: To ensure that seafarers working on board a ship have access to shore-based facilities and services to secure their health and well-being*

The MLC, 2006 emphasizes the importance of access to shore-based facilities for seafarers' welfare. The provisions in Regulation 4.4 and the Code do not require that the port State take responsibility for operating such services. However it has an obligation to designate them and encourage their establishment and, where they exist, their regulation to ensure accessibility for all seafarers. The MLC, 2006 does not require a specific legal form for implementation, however the following must be addressed:

- shore-based welfare facilities, if they exist in the respective country, must be accessible to all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin, or the flag State of their ship;
- development of welfare facilities must be promoted in appropriate ports determined after consultation with shipowners' and seafarers' organizations;
- establishment of welfare boards must be encouraged to regularly review welfare facilities and service for appropriateness in light of changes in the needs of seafarers resulting from developments in the shipping industry.

Section 4.4 Access to shore-based welfare facilities

1. **The competent authority shall promote the development of welfare facilities in appropriate ports of [insert name of country] determined, after consultation with the shipowners' and seafarers' organizations<sup>522</sup> (see [Schedule I of these model provisions]), to ensure that adequate welfare facilities and services are provided<sup>523</sup>, that take into account the special needs of seafarers, especially when in foreign countries and when entering war zones, in respect of their safety, health and spare-time activities<sup>524</sup>; including:<sup>525</sup>**
  - (a) *meeting and recreation rooms as required;*<sup>526</sup>
  - (b) *facilities for sports and outdoor facilities, including competitions;*<sup>527</sup>
  - (c) *educational facilities;*<sup>528</sup>
  - (d) *where appropriate, facilities for religious observances and for personal counselling.*<sup>529</sup>
2. *The welfare facilities and services under paragraph 1 shall be provided, in accordance with national conditions and practice, by one or more of the following:*<sup>530</sup>
  - (a) *public authorities;*<sup>531</sup>
  - (b) *shipowners' and seafarers' organizations concerned under collective agreements or other agreed arrangements; and*<sup>532</sup>
  - (c) *voluntary organizations.*<sup>533</sup>
3. *These facilities under paragraph 1 may be provided by making available to seafarers in accordance with their needs facilities designed for more general use.*<sup>534</sup>
4. **Seafarers' welfare facilities must be available for the use of all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin and irrespective of the flag State of the ship on which they are employed or engaged or work.**<sup>535</sup> *Without in any way infringing this principle, it may be necessary in certain ports to permit several types of facilities, comparable in standard but adapted to the customs and needs of different groups of seafarers.*<sup>536</sup>
5. **The competent authority shall take the necessary measures to encourage the establishment of welfare boards which shall regularly review welfare facilities and services to ensure that they are appropriate in the light of changes in the needs of seafarers resulting from technical, operational and other developments in the shipping industry.**<sup>537</sup>
6. *The welfare boards should be established, at the port, regional and national levels, as appropriate,*<sup>538</sup> *with supervisory functions including the participation of shipowners' and seafarers' organizations.*<sup>539</sup> *Their functions should include:*<sup>540</sup>
  - (a) *keeping under review the adequacy of existing welfare facilities and monitoring the need for the provision of additional facilities or the withdrawal of underutilized facilities;*<sup>541</sup> *and*
  - (b) *assisting and advising those responsible for providing welfare facilities and ensuring coordination between them.*<sup>542</sup>

<sup>522</sup> Standard A4.4 para. 2.

<sup>523</sup> Guideline B4.4.1 para. 1(a).

<sup>524</sup> Guideline B4.4.1 para. 1(b).

<sup>525</sup> Guideline B4.4.2 para. 3.

<sup>526</sup> Guideline B4.4.2 para. 3(a).

<sup>527</sup> Guideline B4.4.2 para. 3(b).

<sup>528</sup> Guideline B4.4.2 para. 3(c).

<sup>529</sup> Guideline B4.4.2 para. 3(d).

<sup>530</sup> Guideline B4.4.2 para. 2.

<sup>531</sup> Guideline B4.4.2 para. 2(a).

<sup>532</sup> Guideline B4.4.2 para. 2(d).

<sup>533</sup> Guideline B4.4.2 para. 2(c).

<sup>534</sup> Guideline B4.4.2 para. 4.

<sup>535</sup> Standard A4.4 para. 1.

<sup>536</sup> Guideline B4.4.2 para. 7.

<sup>537</sup> Standard A4.4 para. 3.

<sup>538</sup> Guideline B4.4.3 para. 1.

<sup>539</sup> Guideline B4.4.1 para. 2.

<sup>540</sup> Guideline B4.4.3 para. 1.

<sup>541</sup> Guideline B4.4.3 para. 1(a).

<sup>542</sup> Guideline B4.4.3 para. 1(b).





#### Title 4. Health Protection, Medical Care, Welfare and Social Security Protection

7. Welfare boards should, in particular, be responsible for ensuring that:
  - (a) *information is disseminated among seafarers concerning facilities open to the general public in ports of call, particularly transport, welfare, entertainment and educational facilities and places of worship, as well as facilities provided specifically for seafarers;*<sup>543</sup>
  - (b) *shipowners and seafarers entering port are aware of any special laws and customs, the contravention of which may jeopardize their freedom;*<sup>544</sup>
  - (c) *adequate means of transport at moderate prices are available at any reasonable time in order to enable seafarers to reach urban areas from convenient locations in the port;*<sup>545</sup>
  - (d) *port areas and access roads have adequate lighting and signposting and regular patrols for the protection of seafarers;*<sup>546</sup>
  - (e) *hotels or hostels suitable for seafarers are available where there is need for them with facilities equal to those found in a good-class hotel; they should, wherever possible be located in good surroundings away from the immediate vicinity of the docks, be properly supervised and reasonably priced; where necessary and possible, provision should be made for accommodating seafarers' families;*<sup>547</sup>
  - (f) *measures are taken to expedite a free circulation among ships, central supply agencies and welfare establishments of welfare materials such as films, books, newspapers and sports equipment for use by seafarers on board their ships and in welfare centres ashore;*<sup>548</sup>
  - (g) *technically competent persons are, as necessary, employed full time in the operation of seafarers' welfare facilities and services, in addition to any voluntary workers.*<sup>549</sup>
8. *As appropriate, consuls of maritime States and local representatives of foreign welfare organizations may be associated with the work of welfare boards.*<sup>550</sup>
9. *For the protection of foreign seafarers in ports of [insert name of country], the competent authority shall take measures to facilitate.*<sup>551</sup>
  - (a) *access to consuls of their State of nationality or State of residence;*<sup>552</sup> and
  - (b) *effective cooperation between consuls and the local or national authorities.*<sup>553</sup>
10. *Foreign seafarers who are detained in a port must be dealt with promptly under due process of law and with appropriate consular protection.*<sup>554</sup>
11. *Whenever a foreign seafarer is detained for any reason the competent authority must, if the seafarer so requests, immediately inform the flag State and the State of nationality of the seafarer. The competent authority must promptly inform the seafarer of the right to make such a request. The competent authority must allow consular officers of these States immediate access to the seafarer and regular visits thereafter so long as the seafarer is detained.*<sup>555</sup>
12. *The competent authority shall take measures, whenever necessary, to ensure the safety of foreign seafarers from aggression and other unlawful acts while ships are in this country's territorial waters and especially in approaches to ports.*<sup>556</sup>
13. *The competent authority shall ensure that every effort is made by those responsible in port and on board a ship to facilitate shore leave for seafarers as soon as possible after a ship's arrival in port.*<sup>557</sup>

<sup>543</sup> Guideline B4.4.5 para. 1.

<sup>544</sup> Guideline B4.4.5 para. 3.

<sup>545</sup> Guideline B4.4.5 para. 2.

<sup>546</sup> Guideline B4.4.5 para. 4.

<sup>547</sup> Guideline B4.4.2 para. 6.

<sup>548</sup> Guideline B4.4.1 para. 3.

<sup>549</sup> Guideline B4.4.2 para. 8.

<sup>550</sup> Guideline B4.4.3 para. 3.

<sup>551</sup> Guideline B4.4.6 para. 1.

<sup>552</sup> Guideline B4.4.6 para. 1(a).

<sup>553</sup> Guideline B4.4.6 para. 1(b).

<sup>554</sup> Guideline B4.4.6 para. 2.

<sup>555</sup> Guideline B4.4.6 para. 3.

<sup>556</sup> Guideline B4.4.6 para. 4.

<sup>557</sup> Guideline B4.4.6 para. 5.



#### Title 4. Health Protection, Medical Care, Welfare and Social Security Protection

14. *The competent authority should cooperate with other countries in promoting the welfare of seafarers at sea and in port. Such cooperation may include the following:*<sup>558</sup>
- (a) *consultations among competent authorities aimed at the provision and improvement of seafarers' welfare facilities and services, both in port and on board ships;*<sup>559</sup>
  - (b) *agreements on the pooling of resources and the joint provision of welfare facilities in major ports so as to avoid unnecessary duplication;*<sup>560</sup>
  - (c) *organization of international sports competitions and encouragement of the participation of seafarers in sports activities;*<sup>561</sup>
  - (d) *organization of international seminars on the subject of welfare of seafarers at sea and in port.*<sup>562</sup>

<sup>558</sup> Guideline B4.4.1 para. 4.

<sup>559</sup> Guideline B4.4.1 para. 4(a).

<sup>560</sup> Guideline B4.4.1 para. 4(b).

<sup>561</sup> Guideline B4.4.1 para. 4(c).

<sup>562</sup> Guideline B4.4.1 para. 4(d).

## Title 4: Health Protection, Medical Care, Welfare and Social Security Protection

### Regulation 4.5; Code Standard A4.5 and Guideline B4.5

#### Commentary

#### Social security

*Purpose: To ensure that measures are taken with a view to providing seafarers with access to social security protection*

The majority of the obligations under the MLC, 2006, Regulation 4.5 and the Code, which deal with social security, are directed to the country in which the seafarer is ordinarily resident. There are also some specific obligations directed to flag States, essentially confirming the complementary obligations under Regulation 4.1 and 4.2 and other provisions in the MLC, 2006 related to social protection. There is also a more general obligation on all countries to cooperate to try to ensure that, irrespective of residence or nationality, seafarers are not left without social security protection. The legal form and system for implementing these requirements is flexible and may take the form of laws or regulations or private schemes or collective bargaining agreements or a combination of these. It can also involve bilateral or multilateral agreements to ensure maintenance of coverage under contributory or non-contributory systems or involve provisions adopted within the framework of regional economic integration organizations. The details of the coverage in question will usually be found in the national laws or regulations relating to the particular social security benefits. However some provisions are also required in one of the above noted formats, in order to clarify the general right to protection provided by the country of residence. The main requirements are:

- ratification of the MLC, 2006 must not diminish the level of social security protection already existing in the country concerned;
- the level of obligations relating to social security protection in any given country will depend upon the national circumstances of that country and the availability of international cooperation;
- each country must take steps to achieve progressively comprehensive social security for seafarers;
- at a minimum, steps need to be taken, in accordance with national circumstances, to ensure that all seafarers ordinarily resident (and their dependants, to the extent provided by national law) in the territory of the country are entitled to social security protection in the branches of social security notified by the country concerned to the Director-General of the International Labour Office at the time of ratification. These must include at least three of the following nine branches: medical care, sickness benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit;
- social security protection must be no less favourable than that enjoyed by shoreworkers resident in the country's territory;
- consideration must also be given to ways in which, in accordance with national law and practice in the country, comparable benefits will be provided to seafarers in the absence of adequate coverage in the branches specified;
- countries must cooperate with each other to ensure the maintenance of acquired social security rights or rights in the course of acquisition.

Section 4.5 Social security

1. Seafarers and their **dependants**<sup>563</sup> are covered by the social security scheme [set out in Schedule VI to this [insert name of instrument]] in accordance with the below paragraphs, **with this coverage being progressively extended and increased from time to time, by decisions of the competent authority, until comprehensive social security protection is achieved**<sup>564</sup>.
2. **This scheme consists of [three or more as specified below] of the following branches of social security protection, which complement the protection provided for under** [Sections 4.1 and 4.2 of these model provisions]:
  - (a) *medical care,*
  - (b) *sickness benefit,*
  - (c) *unemployment benefit,*
  - (d) *old-age benefit,*
  - (e) *employment injury benefit,*
  - (f) *family benefit,*
  - (g) *maternity benefit,*
  - (h) *invalidity benefit,*
  - (i) *survivors' benefit.*<sup>565</sup>
3. As from the entry into force of this [insert name of instrument]:
  - (a) **all seafarers who are ordinarily resident in** [insert name of country] **shall enjoy the protection set out** [in Schedule VI] **in the branches of social security specified in paragraph 2 under** [insert (a), (b), (c), ... according to the branches covered in the country at the time of entry into force of the instrument<sup>566</sup>];
  - (b) [subparagraph (a) shall also apply to seafarers who are nationals of [insert name of country]<sup>567</sup>];
  - (c) [subparagraph (a) shall also apply to seafarers who are nationals of or ordinarily resident in countries designated by the competent authority<sup>568</sup>; *the seafarers concerned will be advised of the means by which the various branches of social security protection will be provided.*<sup>569</sup>]
  - (d) seafarers shall also enjoy any social security benefits that **are inherent in the general obligations of** [insert name of country] **under international law** as determined by the competent authority;<sup>570</sup>
  - (e) seafarers under [(a) to (c)] shall also enjoy **any more favourable conditions** to which seafarers in their situation were entitled under the law of [insert name of country] prior to the entry into force of this [insert name of instrument];<sup>571</sup>
  - (f) the **dependants** of the seafarers referred to in this paragraph will also be covered by the social security protection enjoyed by the seafarers concerned, **to the extent provided for in the law of** [name of country] as determined by the competent authority.<sup>572</sup>
4. In order **to achieve progressively comprehensive social security protection for all seafarers**<sup>573</sup> under the jurisdiction of [insert name of country], the competent authority **shall** periodically review<sup>574</sup> the social security protection

<sup>563</sup> Regulation 4.5, para 1. Paragraph 1 describes the *full* coverage by social security protection that must be made progressively available to seafarers *as and when national circumstances permit*. The *actual* (more limited) coverage at the time of entry into force of the new instrument must be specified in paragraph 2 below (paragraph 3 (f) would specify the extent to which *dependants* are covered) or the coverage can be left to the competent authority to determine in accordance with national circumstances.

<sup>564</sup> See Regulation 4.5, para. 2.

<sup>565</sup> Standard A4.5, para. 1.

<sup>566</sup> At the time of ratification, the protection to be provided must include at least three of the nine branches. Guideline B4.5, para. 1 recommends that these branches be medical care, sickness benefit and employment injury benefit. The list of branches should also include any branches of social security covering other (non-seafarer) workers ordinarily resident in the country – see Regulation 4.5, para. 3 and Standard A4.5, para. 3.

<sup>567</sup> See Guideline B4.5, para. 5. Include if applicable.

<sup>568</sup> See Standard A4.5, para. 6, Guideline B4.5, paras 2 and 5. Include if applicable.

<sup>569</sup> Guideline B.4.5 para. 2.

<sup>570</sup> Standard A4.5 para. 5.

<sup>571</sup> Regulation 4.5 para. 1.

<sup>572</sup> See Regulation 4.5, para. 1.

<sup>573</sup> Regulation 4.5 para. 2.

<sup>574</sup> Guideline B4.5 para. 5.



#### Title 4. Health Protection, Medical Care, Welfare and Social Security Protection

available to seafarers in accordance with paragraph 3, giving consideration to any subsequent improvement **in the national circumstances** as well as to the prospects for making use, where possible and appropriate, of **bilateral or multilateral agreements, contribution-based systems**<sup>575</sup>, *insurance or other effective means*<sup>576</sup> for increasing or extending the protection **or providing comparable benefits to seafarers in the absence of adequate coverage**.<sup>577</sup>

5. **The competent authority shall cooperate, through bilateral or multilateral agreements or other arrangements, to ensure the maintenance of social security rights, provided through contributory or non-contributory schemes, which have been acquired, or are in the course of acquisition, by all seafarers regardless of residence.**<sup>578</sup> *Where seafarers are subject to more than one national legislation covering social security, the competent authority shall cooperate in order to determine by mutual agreement which legislation is to apply, taking into account such factors as the type and level of protection under the respective legislations which is more favourable to the seafarer concerned as well as the seafarer's preference.*<sup>579</sup>
6. **The competent authority shall establish fair and effective procedures for the settlement of disputes**<sup>580</sup> to cover all disputes *relevant to the claims of the seafarers concerned, irrespective of the manner in which the coverage is provided.*<sup>581</sup>

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<sup>575</sup> Standard A4.5 para. 3.

<sup>576</sup> Guideline B4.5 para. 2.

<sup>577</sup> Standard A4.5 para. 6.

<sup>578</sup> Standard A4.5 para. 8.

<sup>579</sup> Guideline B4.5 para. 3.

<sup>580</sup> Standard A4.5 para. 9.

<sup>581</sup> Guideline B4.5 para. 4.

## Title 5: Compliance and Enforcement

### Commentary

The provisions in the MLC, 2006 Title 5, Regulations 5.1, 5.2 and 5.3 and the sub-regulations and related Code provisions and Appendices differ in structure and approach from the other parts of the Convention, although the Title is divided into Regulations, Standards and Guidelines. As in the other Titles, the provisions are mostly directed to flag States to require that they establish an inspection system to verify and certify the implementation of the obligations on board ships as set out, for the most part, under Titles 1 to 4 of the MLC, 2006. They also address port State inspection/control (PSC) of these matters as well as the enforcement obligations of countries with labour-supplying responsibilities, also set out in Titles 1 to 4. Although this handbook provides model provisions, as set out below, it is important to note that for flag States, in particular, many of the items in Regulation 5.1 and its sub-regulations and Code will already be in place under existing maritime law relating to maritime labour inspections under ILO Conventions No. 147 and No. 178 (for ratifying countries) and certification for ship safety, security and marine pollution and other matters under the IMO Conventions. Similarly many, or perhaps all, of the elements of the requirements under Regulation 5.2 and the code that are directed to PSC may already be in national laws or systems with respect to other international maritime conventions and as an aspect of the country's responsibilities under applicable regional port State control arrangements (memorandum of understandings (PSC MOUs)). The main concern is to ensure that the particulars of the MLC, 2006 with respect to enforcement are addressed in national laws or regulations and/or a system. Detailed guidance on the more practical aspects of implementation for flag State and port States was adopted by an international tripartite meeting of experts held at the ILO in 2008. *The Guidelines for flag State inspections under the Maritime Labour Convention, 2006* and the *Guidelines for port State control officers carrying out inspections under the Maritime Labour Convention, 2006* are intended to assist governments when establishing the national systems under the MLC, 2006. They are available at:

<http://www.ilo.org/global/standards/maritime-labour-convention/lang--en/index.htm>

It is also important to note, with respect to the form of implementation, that the possibility of implementation through substantial equivalence, under Article VI, paragraphs 3 and 4, is not applicable to Title 5.

### Regulation 5.1 – Flag State responsibilities

From a legal perspective Regulation 5.1 implements the obligations under Article V, paragraphs 2 and 3 of the MLC, 2006. It is structurally complex in that it sets out the general framework and obligations of flag States, mainly with respect to the ship inspection and certification system, which are then addressed, in more detail on specific points, in the six sub-regulations (Regulation 5.1.1- 5.1.6) and the related Code provisions. For the most part (other than Regulation 5.1.5, Standard A5.1.5 and Guideline B5.1.5 and Regulation 5.1.6), these are inter-related aspects of the basic requirement that flag States “establish a system” and “require” certain actions. These provisions do not address the legal form of implementation. Depending on the legal approach adopted, a country may find it sufficient to adopt legislation on the general obligations, if provisions do not already exist, to empower the competent authority to establish a system, issue certificates etc, with the more operational aspects of the system established in other instruments, or it may wish to adopt detailed laws and/or regulations for the system. These model provisions follow the Convention text closely and set out provisions that can be adapted for use in both a more general “enabling” approach or a more detailed regulatory approach.





## Regulation 5.1 – Flag State responsibilities

### Regulation 5.1.1; Code Standard A5.1.1 and Guideline B5.1.1

#### Commentary

#### General principles

*Purpose: To ensure that each Member implements its responsibilities under the Convention with respect to ships that fly its flag*

Regulation 5.1.1 and the Code (Standard 5.1.1 and Guideline B5.1.1) set out the over-arching general obligations for flag States. The subsequent Regulations 5.1.2 to 5.1.6 and the related Code provisions including the related Appendices set out more specific elements of these obligations. The core obligations under Regulation 5.1.1 are:

- each country must have an effective system for the inspection and certification of labour conditions on ships that fly its flag, with clear objectives and standards covering the administration of this system, as well as adequate overall procedures for the assessment of the extent to which those objectives and standards are being attained (this information must be reported to the ILO in the country's Article 22 report);
- the competent authority of the flag State must appoint a sufficient number of qualified inspectors, (including those supplied by a recognized organization (RO), if the competent authority so decides) to carry out its inspection and certification functions;
- a maritime labour certificate complemented by a declaration of maritime labour compliance (in the national version of the model forms in Appendix A5-II of the MLC, 2006), that is issued by the competent authority (see Sections 5.1.3 and 5.1.4 of these model provisions) will constitute *prima facie* evidence that the MLC, 2006 requirements, as implemented nationally, for working and living conditions for seafarers have been met to the extent certified.
- a copy of the MLC, 2006 must be available on board all ships.

## Title 5. Compliance and Enforcement

### Section 5.1 Flag State responsibilities

#### 5.1.1. General principles

1. The competent authority **shall establish an effective system for the inspection and certification of maritime labour conditions, in accordance with** [Sections 5.1.3 and 5.1.4 of these model provisions] of this [insert name of the instrument], on ships that fly the flag of [insert name of country].<sup>582</sup>
2. The competent authority **may, where appropriate** in accordance with [Section 5.1.2 below], **authorize public institutions or other organizations which it recognizes as competent and independent to carry out inspections or to issue certificates or to do both.**
3. The competent authority **shall establish clear objectives and standards covering the administration of the inspection and certification system** referred to paragraph 1 above, **as well as adequate overall procedures for its assessment of the extent to which those objectives and standards are being attained.**<sup>583</sup>
4. **Ships must have a copy of the Convention available on board.**<sup>584</sup>

<sup>582</sup> Regulation 5.1.1 para. 1; Regulation 5.1.1 para. 2.

<sup>583</sup> Standard A5.1.1 para. 1. Information about the system referred to in paragraph 2 of Regulation 5.1.1 of the MLC, 2006, including the method used for assessing its effectiveness, shall be included in the reports of the country concerned to the International Labour Office pursuant to article 22 of the *Constitution of the International Labour Organization*. Standard A5.1.1 para.5.

<sup>584</sup> Standard A5.1.1 para. 2.

## Title 5: Compliance and Enforcement

### Regulation 5.1 – Flag State responsibilities

#### Regulation 5.1.2; Code Standard A5.1.2 and Guideline B5.1.2

##### Commentary

##### Authorization of recognized organizations

As explained in the commentary on Regulation 5.1.1 a country may choose to authorize public institutions or other organizations (for example, ship classification societies) to carry out many of its flag State responsibilities regarding ship inspection and certification. Under the MLC, 2006 such an institution or organization is described as a “recognized organization” (RO), in line with the terminology in other maritime Conventions such as those adopted by the IMO. However, even if the flag State delegates these responsibilities, it still remains responsible under international law, and as stated in the Convention, for the inspection and certification of its ships.

The key concern in Regulation 5.1.2 is that, where organizations are authorized/recognized to carry out ship inspection and certification activities on behalf of the flag State, they must be qualified to do so and must be subject to oversight by the flag State administration. The Convention does not specify a legal form for implementation of these requirements. The core points to be addressed are:

- recognized organizations that have demonstrated the necessary competence and independence may be authorized by the competent authority to carry out certain inspection and certification functions, provided that those functions are expressly mentioned in the Code of the Convention as being carried out by the competent authority or a recognized organization;
- countries must establish a system to ensure the adequacy of the work performed by recognized organizations, and have procedures for communication with, and oversight of, such organizations;
- countries must provide the International Labour Office with the current list of ROs, specifying the functions authorized.

## 5.1.2. Authorization of recognized organizations

1. **The competent authority may recognize public institutions or other organizations as competent and independent, for the purpose of carrying out inspections or certification of ships to determine compliance with the provisions of this [insert name of instrument].**<sup>585</sup>
2. **Before recognizing an organization under paragraph 1 above, the competent authority shall review the competency and independence of the organization concerned and determine whether the organization has demonstrated, to the extent necessary for carrying out the activities covered by the authorization conferred on it, that the organization:**<sup>586</sup>
  - (a) **has the necessary knowledge of the requirements of the Convention as well as of applicable national laws and regulations and relevant international instruments;**<sup>587</sup> *and has the necessary expertise in the relevant aspects of the Convention and an appropriate knowledge of ship operations, including the minimum requirements for seafarers to work on a ship, conditions of employment, accommodation, recreational facilities, food and catering, accident prevention, health protection, medical care, welfare and social security protection;*<sup>588</sup>
  - (b) **is of the appropriate size, structure, experience and capability commensurate with the type and degree of authorization;**<sup>589</sup> *the organization seeking recognition must demonstrate the technical, administrative and managerial competence and capacity to ensure the provision of timely service of satisfactory quality;*<sup>590</sup> *in this respect, the competent authority must determine whether the organization:*<sup>591</sup>
    - (i) *has adequate technical, managerial and support staff;*<sup>592</sup>
    - (ii) *has sufficient qualified professional staff to provide the required service, representing an adequate geographical coverage;*<sup>593</sup>
    - (iii) *has proven ability to provide a timely service of satisfactory quality;*<sup>594</sup>
    - (iv) *is independent and accountable in its operations;*<sup>595</sup>
  - (c) **has the ability to maintain and update the expertise of its personnel;**<sup>596</sup> *recognized organizations must develop a system for the qualification of staff employed by them as inspectors to ensure the timely updating of their knowledge and expertise.*<sup>597</sup>
3. *The competent authority shall conclude a written agreement with any organization that it recognizes for purposes of an authorization. The agreement shall include the following elements:*<sup>598</sup>
  - (a) *scope of application;*<sup>599</sup>
  - (b) *purpose;*<sup>600</sup>
  - (c) *general conditions;*<sup>601</sup>
  - (d) *the execution of functions under authorization;*<sup>602</sup>
  - (e) *legal basis of the functions under authorization;*<sup>603</sup>

<sup>585</sup> Standard 5.1.2 para. 1.<sup>586</sup> Standard A5.1.2 para. 1.<sup>587</sup> Standard A5.1.2 para. 1(c).<sup>588</sup> Standard A5.1.2 para. 1(a).<sup>589</sup> Standard A5.1.2 para. 1(d).<sup>590</sup> Guideline B5.1.2 para. 1.<sup>591</sup> Guideline B5.1.2 para. 2.<sup>592</sup> Guideline B5.1.2 para. 2 (a).<sup>593</sup> Guideline B5.1.2 para. 2(b).<sup>594</sup> Guideline B5.1.2 para. 2(c).<sup>595</sup> Guideline B5.1.2 para. 2(d).<sup>596</sup> Standard A5.1.2 para. 1(b).<sup>597</sup> Guideline B5.1.2 para. 4.<sup>598</sup> Guideline B5.1.2 para. 3.<sup>599</sup> Guideline B5.1.2 para. 3(a).<sup>600</sup> Guideline B5.1.2 para. 3(b).<sup>601</sup> Guideline B5.1.2 para. 3(c).<sup>602</sup> Guideline B5.1.2 para. 3(d).<sup>603</sup> Guideline B5.1.2 para. 3(e).



- (f) *reporting to the competent authority;*<sup>604</sup>
  - (g) *specification of the authorization from the competent authority to the recognized organization;*<sup>605</sup> and
  - (h) *the competent authority's supervision of activities delegated to the recognized organization.*<sup>606</sup>
4. **Any authorizations granted with respect to inspections must, as a minimum, empower the recognized organization to require the rectification of deficiencies that it identifies in seafarers' working and living conditions and to carry out inspections in this regard at the request of a port State.**<sup>607</sup>
  5. *Recognized organizations must maintain records of the services performed by them such that they are able to demonstrate achievement of the required standards in the items covered by the services.*<sup>608</sup>
  6. The competent authority shall **establish:**<sup>609</sup>
    - (a) **a system to ensure the adequacy of work performed by recognized organizations, which includes information on all applicable national laws and regulations and relevant international instruments;**<sup>610</sup> and
    - (b) **procedures for communication with and oversight of such organizations**<sup>611</sup> that take into account the *Guidelines for the Authorization of Organizations Acting on Behalf of the Administration, adopted in the framework of the International Maritime Organization.*<sup>612</sup>
  7. *The competent authority shall make appropriate arrangements to promote effective cooperation between public institutions and other organizations concerned with seafarers' shipboard working and living conditions.*<sup>613</sup>
  8. The competent authority shall **provide the International Labour Office with a current list of any recognized organizations authorized to act on its behalf and shall keep the list up to date. The list shall specify the functions that the recognized organizations have been authorized to carry out.**<sup>614</sup>

<sup>604</sup> Guideline B5.1.2 para. 3(f).

<sup>605</sup> Guideline B5.1.2 para. 3(g).

<sup>606</sup> Guideline B5.1.2 para. 3(h).

<sup>607</sup> Standard A5.1.2 para. 2.

<sup>608</sup> Guideline B5.1.2 para. 5.

<sup>609</sup> Standard A5.1.2 para. 3.

<sup>610</sup> Standard A5.1.2 para. 3(a).

<sup>611</sup> Standard A5.1.2 para. 3(b).

<sup>612</sup> Guideline B5.1.2 para. 6.

<sup>613</sup> Guideline B5.1.1 para. 1.

<sup>614</sup> Standard A5.1.2 para. 4.

## Title 5: Compliance and Enforcement

### Regulation 5.1 – Flag State responsibilities

#### Regulation 5.1.3; Code Standard A5.1.3 and Guideline B5.1.3

##### Commentary

##### Maritime labour certificate and declaration of maritime labour compliance

As explained earlier in the commentary on Regulation 5.1.1, a flag State must establish a system of inspection for all its ships, including procedures for certification of ships that require certification, regarding compliance with its national provisions implementing the MLC, 2006. As also noted in the general commentary introducing the Title 5 requirements addressed in Sections 5.1- 5.3 of these model provisions, detailed international guidance on more practical implementation matters was adopted by a tripartite meeting of experts held at the ILO in 2008. For most flag States a system for the inspection and certification of ships with respect to other maritime conventions, particularly those of the IMO will already be established. The MLC, 2006 certification requirements were designed to fit, as much as possible, within the existing systems for ship inspection and certification. Regulation 5.1.3 and the Code address the details of the ship certification, including identifying which ships must be certified. However the provisions in Regulation 5.1.4 and the Code relating to ship inspection generally are also relevant. The MLC, 2006 in Appendix A5-II contains model forms for the documents that countries must adopt. These model provisions propose the use of schedules where these national documents, when prepared, could be included. They must be issued by the competent authority or a recognized organization, if authorized, and must be carried on ships that fly the country's flag, when the ships are 500 gross tonnage or more and engaged in international voyages or if they operate from a port or between ports in another country. The documents can also be requested by a shipowner for other ships (e.g., under 500 gross tonnage or operating on domestic voyages only). A maritime labour certificate (MLC), complemented by a declaration of maritime labour compliance (DMLC Parts I and II), is considered to constitute *prima facie* evidence that the ship has been duly inspected by the flag State's competent authority and that the requirements of the MLC, 2006 relating to working and living conditions of the seafarers have been met to the extent so certified. As also explained earlier the MLC, 2006 does not specify the legal form for implementation of the system to be established under Title 5; however the language of the MLC, 2006 provisions, for example, "shall require" combined with the nature of labour inspection and certification indicates that the form should be mandatory under the national legal system. The main requirements to be addressed are:

- ships must carry a valid MLC and the associated two-part DMLC, if the ship is 500 gross tonnage or more and engaged in international voyages or if it operates from a port or between ports, in another country (or for ships under 500 gross tonnage or operating only on domestic voyages, if requested by the shipowner);
- the MLC must certify that the working and living conditions of the seafarers on the ship have been inspected and meet the requirements of the country's laws or regulations or other measures implementing the Convention. Other than the case of an interim MLC a DMLC must be attached to the MLC. Part I of the DMLC, which is to be drawn up by the competent authority, identifies the national requirements in 14 areas listed in the MLC, 2006 Appendix A5.1; Part II, which is drawn up by the shipowner and certified by the competent authority or recognized organization, identifies the measures adopted to ensure ongoing compliance with those national requirements;
- these must be inspections related to issuance of the MLC and, in prescribed circumstances, the MLC ceases to be valid or must be withdrawn.



### 5.1.3 Maritime labour certificate and declaration of maritime labour compliance

1. This Section applies to every ship that flies the flag of [insert name of country] and is:<sup>615</sup>
  - (a) **500 gross tonnage or over and engaged in international voyages;**<sup>616</sup>
  - (b) **500 gross tonnage or over and operates from a port, or between ports, in a country other than** [insert name of country].<sup>617</sup>
  - (c) **For the purpose of these paragraphs, “international voyage” means a voyage from a country to a port outside such a country.**<sup>618</sup>
2. This Section also applies to a ship not covered by paragraphs 1(a) or (b) above, at the request of the shipowner to the competent authority.<sup>619</sup>
3. Every ship to which this Section applies must carry and maintain a current valid maritime labour certificate issued to the ship by the competent authority, or by a recognized organization duly authorized for this purpose, which shall complete the form for this certificate that is contained in [Schedule VII below<sup>620</sup>], and affix to the form their signature and the seal or stamp of the issuing authority.<sup>621</sup>
4. A declaration of maritime labour compliance must be attached to the maritime labour certificate. The declaration consists of two parts:
  - (a) **Part I** summarizes, in accordance with Standard A5.1.3, paragraph 10(a) of the Convention, **the requirements of [insert name of country] laws or regulations or other measures implementing the requirements of the Convention regarding the working and living conditions of seafarers on ships; it is drawn up by the competent authority**<sup>622</sup> using the form contained in [Schedule VIII below];<sup>623</sup>
  - (b) **Part II identifies the measures adopted by the shipowner to ensure ongoing compliance on the ship with the national requirements and the measures proposed to ensure that there is continuous improvement; it must be drawn up by the shipowner**<sup>624</sup> based on the form contained in [Schedule IX below]<sup>625</sup> and certified by the competent authority or recognized organization **duly authorized for this purpose**<sup>626</sup>; the following requirements apply:
    - (i) *the measures drawn up by the shipowner, must, in particular, indicate the occasions on which ongoing compliance with particular national requirements will be verified, the persons responsible for verification, the records to be taken, as well as the procedures to be followed where non-compliance is noted;*
    - (ii) *Part II may take a number of forms and may make reference to other more comprehensive documentation covering policies and procedures relating to other aspects of the maritime sector; for example documents required by the International Safety Management (ISM) Code or the information required by Regulation 5 of the SOLAS Convention, Chapter XI-1 relating to the ship’s Continuous Synopsis Record;*<sup>627</sup>
    - (iii) *the measures to ensure ongoing compliance must include general international requirements for the shipowner and master to keep themselves informed of the latest advances in technology and scientific findings concerning workplace design, taking into account the inherent dangers of seafarers’ work, and to inform the seafarers’ representatives accordingly.*<sup>628</sup>

<sup>615</sup> Regulation 5.1.3 para. 1.

<sup>616</sup> Regulation 5.1.3 para. 1(a).

<sup>617</sup> Regulation 5.1.3 para. 1(b).

<sup>618</sup> Regulation 5.1.3 para. 1.

<sup>619</sup> Regulation 5.1.3 para. 2.

<sup>620</sup> Regulation 5.1.3 para. 5; Standard A5.1.3 para. 9.

<sup>621</sup> Regulation 5.1.3 para. 3; Regulation 5.1.4 paras 1 and 2; Appendix A5-II.

<sup>622</sup> Regulation 5.1.3 para. 4; Standard A5.1.3 para. 10(a). *The statement of national requirements in Part I of the declaration of maritime labour compliance should include or be accompanied by references to the legislative provisions relating to seafarers’ working and living conditions in each of the matters listed in Appendix A5-I of the MLC, 2006. Where national legislation precisely follows the requirements stated in the MLC, 2006, a reference may be all that is necessary. Where a provision of the Convention is implemented through substantial equivalence as provided under Article VI, paragraph 3, this provision should be identified and a concise explanation should be provided. Where an exemption is granted by the competent authority as provided in Title 3 of the MLC, 2006 the particular provision or provisions concerned must be clearly indicated. Guideline B5.1.3 para. 1. The declaration of maritime labour compliance should be drafted in clear terms designed to help all persons concerned, such as flag State inspectors, authorized officers in port States and seafarers, to check that the requirements are being properly implemented. Guideline B5.1.3 para. 4.*

<sup>623</sup> Regulation 5.1.3 para. 5; Standard A5.1.3 para. 9.

<sup>624</sup> Regulation 5.1.3 para. 4; Standard A5.1.3 para. 10(b).

<sup>625</sup> Regulation 5.1.3 para. 5; Standard A5.1.3 para. 9.

<sup>626</sup> Standard A5.1.3, para. 10.

<sup>627</sup> Guideline B5.1.3 para. 2.

<sup>628</sup> Guideline B5.1.3 para. 3.



5. **A maritime labour certificate, complemented by a declaration of maritime labour compliance, constitutes prima facie evidence that the ship has been duly inspected and that the requirements of the Convention relating to working and living conditions of the seafarers have been met to the extent so certified.**<sup>629</sup>
6. The maritime labour certificate may be issued only **where the competent authority or a recognized organization duly authorized for this purpose has ascertained through inspection**, as provided for in [Section 5.1.4 below], **that the ship concerned meets the standards of this** [insert name of instrument].<sup>630</sup>
7. **The maritime labour certificate is issued for a period of five years** [or any shorter period that may be considered appropriate by the competent authority or recognized organization in a particular case].<sup>631</sup>
8. **The validity of the maritime labour certificate is subject to an intermediate inspection by the competent authority, or by a recognized organization duly authorized for this purpose, to ensure continuing compliance. If only one intermediate inspection is carried out and the period of validity of the certificate is five years, it must take place between the second and third anniversary dates of the certificate. Anniversary date means the day and month of each year which will correspond to the date of expiry of the maritime labour certificate. The scope and depth of the intermediate inspection must be equal to an inspection for renewal of the certificate. A certificate must be endorsed following satisfactory intermediate inspection.**<sup>632</sup>
9. The maritime labour certificate may be renewed subject to a new inspection in accordance with paragraph 6 above **to ascertain that the ship concerned continues to meet the standards of this** [insert name of instrument]<sup>633</sup>. **When the renewal inspection has been completed within three months before the expiry of the existing maritime labour certificate, the new maritime labour certificate is valid from the date of completion of the renewal inspection for a period not exceeding five years from the date of expiry of the existing certificate.**<sup>634</sup> **When the renewal inspection is completed more than three months before the expiry date of the existing maritime labour certificate, the new maritime labour certificate is valid for a period not exceeding five years starting from the date of completion of the renewal inspection.**<sup>635</sup>
10. **A maritime labour certificate may be issued on an interim basis:**<sup>636</sup>
  - (a) **to new ships on delivery;**<sup>637</sup>
  - (b) **when a ship changes flag;**<sup>638</sup>
  - (c) **when a shipowner assumes responsibility for the operation of a ship which is new to that shipowner.**<sup>639</sup>
11. **An interim maritime labour certificate may be issued for a period not exceeding six months by the competent authority or a recognized organization duly authorized for this purpose**<sup>640</sup> **following verification that:**<sup>641</sup>
  - (a) **the ship has been inspected, as far as reasonable and practicable, for the matters covered by the 14 items listed in the declaration of maritime labour compliance, taking into account verification of items under subparagraphs (b), (c) and (d) of this paragraph;**<sup>642</sup>
  - (b) **the shipowner has demonstrated to the competent authority or recognized organization that the ship has adequate procedures to comply with the standards of this** [insert name of instrument];<sup>643</sup>

<sup>629</sup> Regulation 5.1.1 para. 4.

<sup>630</sup> Regulation 5.1.3 para. 6.

<sup>631</sup> Standard A5.1.3 para. 1.

<sup>632</sup> Standard A5.1.3 para. 2.

<sup>633</sup> Regulation 5.1.3 para. 6.

<sup>634</sup> Standard A5.1.3 para. 3.

<sup>635</sup> Standard A5.1.3 para. 4.

<sup>636</sup> Standard A5.1.3 para. 5.

<sup>637</sup> Standard A5.1.3 para. 5(a).

<sup>638</sup> Standard A5.1.3 para. 5(b). Guideline B5.1.3 para. 6 provides that: *When a ship changes flag as referred to in Standard A5.1.3, paragraph 14(c) of the MLC, 2006, and where both States concerned have ratified the MLC, 2006, the Member whose flag the ship was formerly entitled to fly should, as soon as possible, transmit to the competent authority of the other country copies of the maritime labour certificate and the declaration of maritime labour compliance carried by the ship before the change of flag and, if applicable, copies of the relevant inspection reports if the competent authority so requests within three months after the change of flag has taken place.*

<sup>639</sup> Standard A5.1.3 para. 5(c).

<sup>640</sup> Standard A5.1.3 para. 6.

<sup>641</sup> Standard A5.1.3 para. 7.

<sup>642</sup> Standard A5.1.3 para. 7(a).

<sup>643</sup> Standard A5.1.3 para. 7(b).



- (c) **the master is familiar with the requirements of this [insert name of instrument] and the responsibilities for implementation;**<sup>644</sup> and
- (d) **relevant information has been submitted to the competent authority or recognized organization to produce a declaration of maritime labour compliance.**<sup>645</sup>
12. **An inspection in accordance with paragraph 6 above shall be carried out prior to expiry of the interim certificate to enable issue of the full-term maritime labour certificate. No further interim certificate may be issued following the initial six months. A declaration of maritime labour compliance need not be issued for the period of validity of the interim certificate.**<sup>646</sup>
13. **The results of all subsequent inspections or other verifications carried out with respect to the ship concerned and any significant deficiencies found during any such verification must be recorded, together with the date when the deficiencies were found to have been remedied. This record, accompanied by an English-language translation where it is not in English, must be [inscribed upon] [appended to] the declaration of maritime labour compliance [or made available in some other way] to seafarers, flag State inspectors, authorized officers in port States and shipowners' and seafarers' representatives.**<sup>647</sup>
14. **A current valid maritime labour certificate and declaration of maritime labour compliance, accompanied by an English-language translation where it is not in English, shall be carried on the ship and a copy shall be posted in a conspicuous place on board where it is available to the seafarers. A copy shall be made available upon request, to seafarers, flag State inspectors, authorized officers in port States, and shipowners' and seafarers' representatives.**<sup>648</sup>
15. **The requirement for an English-language translation in paragraphs 13 and 14 does not apply in the case of a ship not engaged in an international voyage.**<sup>649</sup>
16. **A maritime labour certificate, including an interim certificate where applicable, will cease to be valid in any of the following cases:**<sup>650</sup>
- (a) **if the relevant inspections are not completed within the periods specified under paragraph 9 above;**<sup>651</sup>
- (b) **if the certificate is not endorsed in accordance with paragraph 8;**<sup>652</sup>
- (c) **when a ship changes flag;**<sup>653</sup>
- (d) **when a shipowner ceases to assume the responsibility for the operation of a ship;**<sup>654</sup>
- (e) **when substantial changes have been made to the structure or equipment covered in [Section 3.1 of these model provisions].**<sup>655</sup>
17. **In the case referred to in paragraph 16(c), (d) or (e), a new certificate may only be issued when the competent authority or a recognized organization issuing the new certificate is fully satisfied that the ship is in compliance with the requirements set out above.**<sup>656</sup>
18. **A maritime labour certificate shall be withdrawn by the competent authority or a recognized organization duly authorized for this purpose, if there is evidence that the ship is not in compliance with the requirements of this [insert name of instrument] and any required corrective action has not been taken.**<sup>657</sup>
19. **When considering whether a maritime labour certificate should be withdrawn in accordance with paragraph 18 the competent authority or the recognized organization shall take into account the seriousness or the frequency of the deficiencies.**<sup>658</sup>

<sup>644</sup> Standard A5.1.3 para. 7(c).

<sup>645</sup> Standard A5.1.3 para. 7(d).

<sup>646</sup> Standard A5.1.3 para. 8.

<sup>647</sup> Standard A5.1.3 para. 11.

<sup>648</sup> Regulation 5.1.3 para. 6; Standard A5.1.3 para. 12.

<sup>649</sup> Standard A5.1.3 para. 13.

<sup>650</sup> Standard A5.1.3 para. 14.

<sup>651</sup> Standard A5.1.3 para. 14(a).

<sup>652</sup> Standard A5.1.3 para. 14(b).

<sup>653</sup> Standard A5.1.3 para. 14(c).

<sup>654</sup> Standard A5.1.3 para. 14(d).

<sup>655</sup> Standard A5.1.3 para. 14(e).

<sup>656</sup> Standard A5.1.3 para. 15.

<sup>657</sup> Standard A5.1.3 para. 16.

<sup>658</sup> Standard A5.1.3 para. 17.

## Title 5: Compliance and Enforcement

### Regulation 5.1 – Flag State responsibilities

#### Regulation 5.1.4; Code Standard A5.1.4 and Guideline B5.1.4

##### Commentary

##### Inspection and enforcement

As explained earlier in the introductory commentary on Regulation 5.1, a flag State must establish a system of inspection for all its ships, including certification for ships that require certification, regarding compliance with the national requirements implementing the MLC, 2006. As also noted in the general commentary introducing the Title 5 requirements, detailed international guidance on more practical implementation matters was adopted by a tripartite meeting of experts held at the ILO in 2008.

For most flag States a system for the inspection and certification of ships with respect to other maritime conventions, particularly those of the IMO will already be established. The requirements in Regulation 5.1.4 and the Code complement the details in connection with certification in 5.1.3. However the focus is more on the general inspection system and applies to all ships operating under the jurisdiction of the flag State, including ships that do not need to be certified. As noted above in the commentary on Section 5.1.2 of these model provisions, if authorized by a flag State a recognized organization may carry out most of the flag State inspection activities and would be need to be given the regulatory authority of a flag State inspector. As explained earlier in the introductory comments, the MLC, 2006 does not specify the legal form for implementation of the system to be established under Title 5; however the nature of labour inspection and certification indicates that the form should be mandatory under the national legal system. The main requirements to be addressed are:

- ships must be inspected at intervals required for the purpose of the certification (as set out above in Section 5.1.3 of these model provisions), but at least every three years;
- adequate rules must be adopted to ensure that inspectors have the training, competence, terms of reference, guidelines, powers, status and independence necessary to perform inspections effectively;
- where a complaint is received or there are serious deficiencies, the matter must be investigated and any deficiencies remedied;
- in serious cases inspectors (including those from organizations if authorized for this function) must have the power to prohibit a ship from leaving port until necessary actions are taken;
- inspectors must submit a report of each inspection to the competent authority, which must maintain records of inspections and publish an annual report.

## 5.1.4. Inspection and enforcement

1. The competent authority **shall maintain a system of inspection of the conditions for seafarers on ships that fly the flag of** [insert name of country], **including verification that the measures relating to working and living conditions as set out in the declaration of maritime labour compliance, where applicable, are being followed.**<sup>659</sup>
2. *The competent authority shall develop a compliance and enforcement policy to ensure consistency and otherwise guide inspection and enforcement activities related to this* [insert name of instrument]. *Copies of this policy shall be provided to all inspectors and relevant law-enforcement officials and shall be made available to the public and shipowners and seafarers.*<sup>660</sup>
3. **Inspections shall take place at the intervals required under** [Section 5.1.3 of these model provisions], **where applicable. Intervals shall in no case exceed three years.**<sup>661</sup> **Inspections of seafarer accommodation must be carried out when:**<sup>662</sup>
  - (a) **a ship is registered or re-registered;**<sup>663</sup> **or**
  - (b) **the seafarer accommodation on a ship has been substantially altered.**<sup>664</sup>
4. **If the competent authority receives a complaint which it does not consider manifestly unfounded or obtains evidence that a ship that flies the flag of** [insert name of country] **does not conform to the requirements of** [insert name of instrument] **or that there are serious deficiencies in the implementation of the measures set out in the declaration of maritime labour compliance, the competent authority shall investigate the matter and ensure that action is taken to remedy any deficiencies found.**<sup>665</sup>
5. *The competent authority shall establish simple procedures to enable it to receive information in confidence concerning possible breaches of this* [insert name of instrument] *presented by seafarers directly or by representatives of the seafarers, and permit inspectors to investigate such matters promptly, including:*<sup>666</sup>
  - (a) *enabling masters, seafarers or representatives of the seafarers to request an inspection when they consider it necessary;*<sup>667</sup> *and*
  - (b) *supplying technical information and advice to shipowners and seafarers and organizations concerned as to the most effective means of complying with the requirements of this* [insert name of instrument] *and of bringing about a continual improvement in seafarers' on-board conditions.*<sup>668</sup>
6. **The competent authority shall appoint a sufficient number of qualified**<sup>669</sup> **inspectors to fulfil the responsibilities in paragraph 1 above.**<sup>670</sup>
7. **The competent authority shall adopt adequate rules that are effectively enforced to guarantee that inspectors have the status and conditions of service to ensure that they are independent of changes of government and of improper external influences.**<sup>671</sup>
8. **Inspectors must not undertake duties which might, because of their number or nature, interfere with effective inspection or prejudice in any way their authority or impartiality in their relations with shipowners, seafarers or other interested parties. In particular, inspectors:**<sup>672</sup>
  - (a) **are prohibited from having any direct or indirect interest in any operation which they are called upon to inspect;**<sup>673</sup> **and**

<sup>659</sup> Guideline B5.1.4 para. 1..<sup>660</sup> Guideline B5.1.4 para. 2.<sup>661</sup> Standard A5.1.4 para. 4.<sup>662</sup> Standard A3.1 para. 3.<sup>663</sup> Standard A3.1 para. 3(a).<sup>664</sup> Standard A3.1 para. 3(b).<sup>665</sup> Standard A5.1.4 para. 5.<sup>666</sup> Guideline B5.1.4 para. 3.<sup>667</sup> Guideline B5.1.4 para. 3(a).<sup>668</sup> Guideline B5.1.4 para. 3(b).<sup>669</sup> Standard A5.1.4 para. 3. The inspectors must have the training, competence, terms of reference, powers, status and independence necessary or desirable so as to enable them to carry out the verification and ensure the compliance referred to in paragraph 1 of Standard A5.1.4 of the MLC, 2006.<sup>670</sup> Standard A5.1.4 para. 2.<sup>671</sup> Standard A5.1.4 para. 6.<sup>672</sup> Standard A5.1.4 para. 11.<sup>673</sup> Standard A5.1.4 para. 11(a).





- (b) **subject to appropriate sanctions or disciplinary measures, must not reveal, even after leaving service, any commercial secrets or confidential working processes or information of a personal nature which may come to their knowledge in the course of their duties.**<sup>674</sup>
9. *The competent authority shall have the resources necessary to fulfil their functions. In particular:*<sup>675</sup>
- (a) *duly qualified technical experts and specialists may be called upon, as needed, to assist in the work of inspectors;*<sup>676</sup> and
- (b) *inspectors shall be provided with conveniently situated premises, equipment and means of transport adequate for the efficient performance of their duties.*<sup>677</sup>
10. *Inspectors must have qualifications and adequate training to perform their duties and where possible must have a maritime education or experience as a seafarer. They must have adequate knowledge of seafarers' working and living conditions and of the English language and must*<sup>678</sup> *be fully trained and sufficient in numbers to secure the efficient discharge of their duties with due regard to:*<sup>679</sup>
- (a) *the importance of the duties which the inspectors have to perform, in particular the number, nature and size of ships subject to inspection and the number and complexity of the legal provisions to be enforced;*<sup>680</sup>
- (b) *the resources placed at the disposal of the inspectors;*<sup>681</sup> and
- (c) *the practical conditions under which inspections must be carried out in order to be effective.*<sup>682</sup>
11. **Inspectors, with proper credentials**<sup>683</sup> **acting in accordance with the policy** referred to in paragraph 2 above **have the following powers:**<sup>684</sup>
- (a) **to board a ship**<sup>685</sup> *that flies the flag of [insert name of country] freely and without previous notice; when commencing the ship inspection, inspectors must provide notification of their presence to the master or person in charge and, where appropriate, to the seafarers or their representatives;*<sup>686</sup>
- (b) **to carry out any examination, test or inquiry which they may consider necessary in order to satisfy themselves that the standards are being strictly observed**<sup>687</sup>, **including the following:**<sup>688</sup>
- (i) *to question the master, seafarer or any other person, including the shipowner or the shipowner's representative, on any matter concerning the application of the requirements under laws and regulations, in the presence of any witness that the person may have requested;*<sup>689</sup>
- (ii) *to require the production of any books, log books, registers, certificates or other documents or information directly related to matters subject to inspection, in order to verify compliance;*<sup>690</sup>
- (iii) *to enforce the posting of notices as required;*<sup>691</sup>
- (iv) *to take or remove, for the purpose of analysis, samples of products, cargo, drinking water, provisions, materials and substances used or handled;*<sup>692</sup> *when a sample is being taken or removed, the shipowner or the shipowner's representative, and where appropriate a seafarer, must be notified or must be present at the time the sample is taken or removed and the quantity of such a sample must be properly recorded by the inspector;*<sup>693</sup>

<sup>674</sup> Standard A5.1.4 para. 11(b).

<sup>675</sup> Guideline B5.1.4 para. 1.

<sup>676</sup> Guideline B5.1.4 para. 1(a).

<sup>677</sup> Guideline B5.1.4 para. 1(b).

<sup>678</sup> Guideline B5.1.4 para. 5.

<sup>679</sup> Guideline B5.1.4 para. 4.

<sup>680</sup> Guideline B5.1.4 para. 4(a).

<sup>681</sup> Guideline B5.1.4 para. 4(b).

<sup>682</sup> Guideline B5.1.4 para. 4(c).

<sup>683</sup> Guideline B5.1.4 para. 8.

<sup>684</sup> Standard A5.1.4 para. 7.

<sup>685</sup> Standard A5.1.4 para. 7(a).

<sup>686</sup> Guideline B5.1.4 para. 8(a).

<sup>687</sup> Standard A5.1.4 para. 7(b).

<sup>688</sup> Guideline B5.1.4 para. 8.

<sup>689</sup> Guideline B5.1.4 para. 8(b).

<sup>690</sup> Guideline B5.1.4 para. 8(c).

<sup>691</sup> Guideline B5.1.4 para. 8(d).

<sup>692</sup> Guideline B5.1.4 para. 8(e).

<sup>693</sup> Guideline B5.1.4 para. 9.



- (c) **to require that any deficiency is remedied and, where they have grounds to believe that deficiencies constitute a serious breach of the requirements of this [insert name of instrument], or represent a significant danger to seafarers' safety, health or security, to prohibit a ship from leaving port until necessary actions are taken.**<sup>694</sup>
12. *Inspectors should also at a minimum have the power:*<sup>695</sup>
- (a) *following an inspection, to bring immediately to the attention of the shipowner, the operator of the ship or the master, deficiencies which may affect the health and safety of those on board ship;*<sup>696</sup>
- (b) *to alert the competent authority and, if applicable, the recognized organization to any deficiency or abuse not specifically covered by existing laws or regulations and submit proposals to them for the improvement of the laws or regulations;*<sup>697</sup> and
- (c) *to notify the competent authority of any occupational injuries or diseases affecting seafarers in such cases and in such manner as may be prescribed by laws and regulations.*<sup>698</sup>
13. **Inspectors have the discretion to give advice instead of instituting or recommending proceedings when there is no clear breach of the requirements of this [insert name of instrument] that endangers the safety, health or security of the seafarers concerned and where there is no prior history of similar breaches.**<sup>699</sup>
14. **Inspectors must treat as confidential the source of any grievance or complaint alleging a danger or deficiency in relation to seafarers' working and living conditions or a violation of laws and regulations and give no intimation to the shipowner, the shipowner's representative or the operator of the ship that an inspection was made as a consequence of such a grievance or complaint.**<sup>700</sup>
15. **Inspectors must submit a report of each inspection to the competent authority. One copy of the report in English or in the working language of the ship must be provided to the master of the ship and another copy must be posted on the ship's notice board for the information of the seafarers and, upon request, sent to their representatives.**<sup>701</sup>
16. **The competent authority shall maintain records of inspections of the conditions for seafarers on ships of [insert name of country].**<sup>702</sup>
17. **The annual report on inspection activities will be published within a reasonable time, not exceeding six months after the end of the year.**<sup>703</sup> *It will contain the following information:*<sup>704</sup>
- (a) *a list of laws and regulations in force relevant to seafarers' working and living conditions and any amendments which have come into effect during the year;*<sup>705</sup>
- (b) *details of the organization of the system of inspection;*<sup>706</sup>
- (c) *statistics of ships or other premises subject to inspection and of ships and other premises actually inspected;*<sup>707</sup>
- (d) *statistics on all seafarers subject to the laws and regulations of [insert name of country];*<sup>708</sup>
- (e) *statistics and information on violations of legislation, penalties imposed and cases of detention of ships;*<sup>709</sup>
- (f) *statistics on reported occupational injuries and diseases affecting seafarers.*<sup>710</sup>

<sup>694</sup> Standard A5.1.4 para. 7(c).

<sup>695</sup> Guideline B5.1.4 para. 8. These are considered as minimum. There may be other powers provided.

<sup>696</sup> Guideline B5.1.4 para. 8(f).

<sup>697</sup> Guideline B5.1.4 para. 8(g).

<sup>698</sup> Guideline B5.1.4 para. 8(h).

<sup>699</sup> Standard A5.1.4 para. 9.

<sup>700</sup> Standard A5.1.4 para. 10.

<sup>701</sup> Standard A5.1.4 para. 12.

<sup>702</sup> Standard A5.1.4 para. 13.

<sup>703</sup> Standard A5.1.4 para. 13.

<sup>704</sup> Guideline B5.1.4 para. 10.

<sup>705</sup> Guideline B5.1.4 para. 10(a).

<sup>706</sup> Guideline B5.1.4 para. 10(b).

<sup>707</sup> Guideline B5.1.4 para. 10(c).

<sup>708</sup> Guideline B5.1.4 para. 10(d).

<sup>709</sup> Guideline B5.1.4 para. 10(e).

<sup>710</sup> Guideline B5.1.4 para. 10(f).



18. **In the case of an investigation pursuant to a major incident, the report must be submitted to the competent authority as soon as practicable, but not later than one month following the conclusion of the investigation.**<sup>711</sup>
19. **When an inspection is conducted or when measures are taken, all reasonable efforts must be made to avoid a ship being unreasonably detained or delayed.**<sup>712</sup>
20. **Compensation shall be payable in accordance with [insert reference to applicable national law or regulations or include relevant national provisions] for any loss or damage suffered as a result of the wrongful exercise of the inspectors' powers. The burden of proof in each case is on the complainant.**<sup>713</sup>
21. **The following penalties and other corrective measures for breaches of the requirements of this [insert name of instrument] and for obstructing inspectors in the performance of their duties apply: [insert relevant national penalties etc].**<sup>714</sup>
22. **Any action taken pursuant to paragraph 11 (c) above is subject to a right of appeal to a judicial or administrative authority.**<sup>715</sup>

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<sup>711</sup> Standard A5.1.4 para. 14.

<sup>712</sup> Standard A5.1.4 para. 15.

<sup>713</sup> Standard A5.1.4 para. 16.

<sup>714</sup> Standard A5.1.4 para. 17.

<sup>715</sup> Standard A5.1.4 para. 8.

## Title 5: Compliance and Enforcement

### Regulation 5.1 – Flag State responsibilities

#### Regulation 5.1.5; Code Standard A5.1.5 and Guideline B5.1.5

##### Commentary

##### On-board complaint procedures

Although most of Title 5 is concerned with the government based inspection and enforcement obligations, an important aspect of the compliance system established in the MLC, 2006 relates to the role of seafarer complaints in identifying deficiencies in compliance and the need to provide procedures whereby concerns can be safely voiced by individual seafarers or other interested parties, without fear of reprisal (victimization). The flag State's obligation to establish a system related to the receipt of complaints by the competent authority was set out in Section 5.1.4 of these model provisions. These model provisions address the obligation under Regulation 5.1.5 of the MLC, 2006 that flag States require ships to have "on-board complaint procedures". The procedures are to allow seafarers to lodge complaints about any breach of the requirements of the Convention (including seafarers' rights), as implemented nationally. Compliance with this requirement is a matter for ship inspection and certification ( see Section 5.1.3 and 5.1.4 of these model provisions).

The MLC, 2006 requires that the main form for legal implementation for this requirement is laws or regulations. However Guideline B5.1.5 recommends that model procedures be developed by the competent authority in close consultation with shipowners and seafarers organizations. Aspects of this procedure may be subject to, or even partially implemented by, provisions in an applicable collective agreement. This reflects the fact that a seafarers' employment agreement (see Section 2.1 of these model provisions) can take the form of a collective agreement, which may also contain procedures for complaints regarding breaches of the agreement. The model provisions in Section 5.1.5 that follow do not set out a model procedure but instead are intended to authorize the competent authority to develop one taking into account various parameters. The basic requirements under the MLC, 2006 to be addressed are:

- ships must have on-board procedures for the fair, effective and expeditious handling of seafarers' complaints alleging breaches of the requirements of the Convention;
- all seafarers must be provided with a copy of the on-board complaint procedures applicable on the ship;
- the procedures must seek to resolve complaints at the lowest level possible, but seafarers must have the right to complain directly to the master and to appropriate external authorities;
- victimization of seafarers for filing complaints must be prohibited;
- seafarers must have the right to be accompanied or represented during the complaints procedure.

## 5.1.5. On-board complaint procedures

1. **Ships must have an approved on-board complaint procedures for the fair, effective, well-documented<sup>716</sup> and expeditious handling of seafarer complaints alleging breaches of the requirements of this [insert name of instrument].<sup>717</sup>**
2. **Any adverse action taken by any person with respect to a seafarer for lodging a complaint, which is not manifestly vexatious or maliciously made,<sup>718</sup> is considered victimization and is prohibited.<sup>719</sup>**
3. **Shipowners must provide all seafarers working on a ship with a copy of the approved on-board complaint procedures applicable on the ship.<sup>720</sup>**
4. **On-board complaint procedures that are approved by the competent authority must:**
  - (a) **seek to resolve complaints at the lowest level possible; however, in all cases, seafarers must have a right to complain directly to the master and, where they consider it necessary, to appropriate external authorities;<sup>721</sup>**
  - (b) **include the right of the seafarer to be accompanied or represented during the complaints procedure, as well as safeguards against the possibility of victimization of seafarers for filing complaints;<sup>722</sup> in order to help avoid problems of victimization of seafarers making complaints, the procedures should encourage the nomination of a person on board who can advise seafarers on the procedures available to them and, if requested by the complainant seafarer, also attend any meetings or hearings into the subject matter of the complaint;<sup>723</sup>**
  - (c) **include contact information for the competent authority and, where different, the competent authority in the seafarers' country of residence, as well as the name of a person or persons on board the ship who can, on a confidential basis, provide seafarers with impartial advice on their complaint and otherwise assist them in following the complaint procedures available to them on board the ship.<sup>724</sup>**
5. *Subject to any relevant provisions of an applicable collective agreement, the competent authority shall, in close consultation with the shipowners' and seafarers' organizations, develop a model for fair, expeditious and well-documented on-board complaint-handling procedures<sup>725</sup>; the following procedures must, at a minimum, be among those discussed during this consultative process:<sup>726</sup>*
  - (a) *complaints should be addressed to the head of the department of the seafarer lodging the complaint or to the seafarer's superior officer;<sup>727</sup>*
  - (b) *the head of department or superior officer must then attempt to resolve the matter within prescribed time limits appropriate to the seriousness of the issues involved;<sup>728</sup>*
  - (c) *if the head of department or superior officer cannot resolve the complaint to the satisfaction of the seafarer, the latter may refer it to the master, who must handle the matter personally;<sup>729</sup>*
  - (d) *seafarers must at all times have the right to be accompanied and to be represented by another seafarer of their choice on board the ship concerned;<sup>730</sup>*
  - (e) *all complaints and the decisions on them must be recorded and a copy provided to the seafarer concerned;<sup>731</sup>*
  - (f) *if a complaint cannot be resolved on board, the matter must be referred ashore to the shipowner, who must be given an appropriate time limit for resolving the matter, where appropriate, in consultation with the seafarers concerned or any person they may appoint as their representative;<sup>732</sup> and*

<sup>716</sup> Guideline B5.1.5 para. 1.

<sup>717</sup> Regulation 5.1.5 para. 1; Standard A5.1.5 para. 1.

<sup>718</sup> Standard A5.1.5 para. 3.

<sup>719</sup> Regulation 5.1.5 para. 2.

<sup>720</sup> Standard A5.1.5 para. 4.

<sup>721</sup> Standard A5.1.5 para. 2.

<sup>722</sup> Standard A5.1.5 para. 3.

<sup>723</sup> Guideline B5.1.5 para. 1(b).

<sup>724</sup> Standard A5.1.5 para. 4.

<sup>725</sup> Guideline B5.1.5 para. 1.

<sup>726</sup> Guideline B5.1.5 para. 2.

<sup>727</sup> Guideline B5.1.5 para. 2(a).

<sup>728</sup> Guideline B5.1.5 para. 2(b).

<sup>729</sup> Guideline B5.1.5 para. 2(c).

<sup>730</sup> Guideline B5.1.5 para. 1(d).

<sup>731</sup> Guideline B5.1.5 para. 2(e).

<sup>732</sup> Guideline B5.1.5 para. 2(f).





- (g) *in all cases seafarers must have a right to file their complaints directly with the master and the shipowner and competent authorities.*<sup>733</sup>
6. **Any act of victimization** as defined in paragraph 2 **is subject to a penalty of** [insert relevant amount or refer to another law, if any, that applies].<sup>734</sup>
7. **The paragraphs set out above are without prejudice to a seafarer's right to seek redress through whatever legal means the seafarer considers appropriate.**<sup>735</sup>

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<sup>733</sup> Guideline B5.1.5 para. 2(g).

<sup>734</sup> Regulation 5.1.5 para. 2.

<sup>735</sup> Regulation 5.1.5 para. 3.

## **Title 5: Compliance and Enforcement**

### **Regulation 5.1 – Flag State responsibilities**

#### **Regulation 5.1.6; Code Standard A5.1.6 and Guideline B5.1.6**

##### **Commentary**

##### **Marine casualties**

The MLC, 2006 contains a regulation (Regulation 5.1.6) that complements the existing provisions regarding flag State' obligations under an IMO instrument, to hold an inquiry into any serious marine casualties leading to injury or loss of life, involving its ships. It is likely that these provisions are already addressed for the most part in national law or practice. The MLC, 2006 provides the additional element regarding international cooperation and the requirement that the report of the inquiry is normally to be made public. The Convention does not address the legal form for implementation of this requirement, which is directed to an action by the competent authority in the flag State, in one case, and all States, in connection with cooperation. However it must be in a mandatory form under the national legal system and must address the following:

- an official inquiry must be held into any serious marine casualty, leading to injury or loss of life, that involves ships flying the flag of the country concerned;
- the report of the inquiry is normally to be made public;
- countries must cooperate in the investigation of serious maritime casualties.

5.1.6. Marine casualties

1. The competent authority **shall hold an official inquiry into any serious marine casualty, leading to injury or loss of life, that involves a ship that flies the flag of [insert name of country]. The final report of an inquiry must normally be made public.**<sup>736</sup>
2. **The competent authority shall cooperate with the competent authorities in other countries to facilitate the investigation of serious marine casualties.**<sup>737</sup>

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<sup>736</sup> Regulation 5.1.6 para. 1.

<sup>737</sup> Regulation 5.1.6 para. 2.

## Title 5: Compliance and Enforcement

### Regulation 5.2 – Port State responsibilities

#### Regulation 5.2.1; Code Standard A5.2.1 and Guideline B5.2.1

##### Commentary

##### Inspection in port

*Purpose: To enable each Member to implement its responsibilities under the Convention regarding international cooperation in the implementation and enforcement of the Convention standards on foreign ships*

Article V of the MLC, 2006 establishes a responsibility for countries, when they act as port States, with respect to the inspection of foreign flag ships that enter their ports. This responsibility known more usually as port State control (PSC) is also the subject of a number of regional memoranda of understanding (PSC MOU) between countries with respect to inspection of ships, when they enter their ports, for compliance with international standards. Under the MLC, 2006 the responsibility for inspecting ships under PSC is permissive as ships “may be inspected”, but there is also an obligation (under Article V, para. 7) to ensure that ships of countries that have not ratified the MLC, 2006 are not given more favourable treatment than ship of countries that have ratified the Convention or the country’s own ships (which would, for example, be the case if foreign ships were not inspected at all). Port State control is a key part of the international regulatory system for ensuring ongoing compliance by ships while they are on international voyages and is an important example of international cooperation. As with the previous provisions, the MLC, 2006 was designed as much as possible to fit within the established system for such inspections, and in that respect there may already be a law or practice for other maritime conventions including ILO Convention No 147, which is already covered by some PSC MOUs, or IMO Conventions. However there are some specific points in the MLC, 2006 that must also be considered.

The provisions in Regulation 5.2.1 and Standard A5.2.1 do not address the legal form for implementation of the requirements; however Standard A5.2.1 requires the adoption of an “effective port State inspection and monitoring system” and Guideline B5.2.1 recommends the adoption of an inspection policy. In addition, the form for implementation that is chosen should be appropriate under the national legal system for authorizing activities of government departments or officials. As noted in the introductory commentary on Title 5, detailed guidelines on more practical aspects of implementation for port States were adopted by an international tripartite meeting of experts held at the ILO in 2008. *The Guidelines for port State control officers carrying out inspections under the Maritime Labour Convention, 2006* are intended to assist governments when establishing the national systems under the MLC, 2006. The main requirements to be addressed are:

- every foreign ship calling, in its normal course of its business or for operational reasons, in a port may be subject of inspection by an authorized officer of the port State under an effective port State inspection and monitoring system, for the purpose of reviewing compliance with the requirements of the Convention relating to the working and living conditions of seafarers on the ship;
- a valid maritime labour certificate and declaration of maritime labour compliance must be accepted as prima facie evidence of compliance. The inspection must then be limited to a review of the certificate and declaration, except in specific cases;
- a more detailed inspection may or must be carried out in the cases where the working and living conditions believed or alleged to be defective could constitute a clear hazard to the safety, health or security of seafarers or where the authorized officer has clear grounds to believe that any deficiency constitute a serious breach of the requirements of the Convention.
- prescribed procedures must be followed where deficiencies or non-conformities are found, including the detention of the ship in port until rectification or acceptance by the authorized officers of a plan of action for rectification.
- the more detailed inspection must, in principle, cover the 14 areas prescribed for PSC under Appendix A5-III of the MLC, 2006, except in the case of a complaint.
- all possible efforts must be made to avoid a ship being unduly detained or delayed and compensation must be paid for any loss or damage where a ship is found to be unduly detained or delayed.

## Section 5.2 Port State responsibilities

## 5.2.1. Inspection in port

1. **Every foreign ship calling, in the normal course of its business or for operational reasons, in the port of [insert name of country] may be subject to an inspection, carried out by authorized officers<sup>738</sup>, to review compliance with the requirements of the Convention (including seafarers' rights) relating to the working and living conditions of seafarers on the ship.<sup>739</sup>**
2. **A valid maritime labour certificate and declaration of maritime labour compliance shall be accepted as *prima facie* evidence of compliance with the requirements of the Convention (including seafarers' rights). Accordingly, inspection in ports shall, except in the circumstances specified below in paragraph 4, be limited to a review of the certificate and declaration.<sup>740</sup>**
3. **The competent authority shall establish an effective port State inspection and monitoring system<sup>741</sup> to help ensure that the working and living conditions for seafarers on foreign ships entering a port of [insert name of country] meet the requirements of the Convention (including seafarers' rights).<sup>742</sup> In particular the competent authority shall develop an inspection policy for authorized officers carrying out inspections under paragraph 1. The objective of the policy must be to ensure consistency and to otherwise guide inspection and enforcement activities related to the requirements of the Convention (including seafarers' rights) and must provide authorized officers with guidance, as to the kinds of circumstances justifying detention of a ship under paragraph 9 below.<sup>743</sup> Copies of this policy must be provided to all authorized officers and must be available to the public and to shipowners and seafarers.<sup>744</sup>**
4. **Where an authorized officer, having come on board to carry out an inspection and requested, where applicable, the maritime labour certificate and the declaration of maritime labour compliance, finds that:<sup>745</sup>**
  - (a) **the required documents are not produced or maintained or are falsely maintained or that the documents produced do not contain the information required by the Convention or are otherwise invalid; or<sup>746</sup>**
  - (b) **there are clear grounds for believing that the working and living conditions on the ship do not conform to the requirements of the Convention;<sup>747</sup> or**
  - (c) **there are reasonable grounds to believe that the ship has changed flag for the purpose of avoiding compliance with the Convention;<sup>748</sup> or**
  - (d) **there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of the Convention;<sup>749</sup>**

**a more detailed inspection may be carried out to ascertain the working and living conditions on board the ship. Such inspection shall in any case be carried out where the working and living conditions believed or alleged to be defective could constitute a clear hazard to the safety, health or security of seafarers or where the authorized officer has grounds to believe that any deficiencies constitute a serious breach of the requirements of the Convention (including seafarers' rights).<sup>750</sup>**

<sup>738</sup> Regulation 5.2.1 para. 3.

<sup>739</sup> Regulation 5.2.1 para. 1.

<sup>740</sup> Regulation 5.2.1 para. 2.

<sup>741</sup> Information about this system, including the method used for assessing its effectiveness, must be included in the reports of the country concerned pursuant to article 22 of the *Constitution of the International Labour Organization*. Regulation 5.2.1, para. 5.

<sup>742</sup> Regulation 5.2.1 para. 4.

<sup>743</sup> Standard A5.2.1 para. 7. When developing a policy relating to the circumstances warranting a detention of the ship the competent authority must consider that, with respect to the breaches the seriousness could be due to the nature of the deficiency concerned. This would be particularly relevant in the case of the violation of fundamental rights and principles or seafarers' employment and social rights under Articles III and IV of the MLC, 2006. For example, the employment of a person who is under age must be considered as a serious breach even if there is only one such person on board. In other cases, the number of different defects found during a particular inspection must be taken into account: for example, several instances of defects relating to accommodation or food and catering which do not threaten safety or health might be needed before they must be considered as constituting a serious breach. Guideline B5.2 para. 2.

<sup>744</sup> Guideline B5.2.1 para. 1.

<sup>745</sup> Standard A5.2.1 para. 1.

<sup>746</sup> Standard A5.2.1 para. 1(a).

<sup>747</sup> Standard A5.2.1 para. 1(b).

<sup>748</sup> Standard A5.2.1 para. 1(c).

<sup>749</sup> Standard A5.2.1 para. 1(d).

<sup>750</sup> Standard A5.2.1 para. 1.



5. **Where a more detailed inspection is carried out on a foreign ship in the circumstances set out in paragraph 4(a), 4(b) or 4(c), it shall in principle cover the matters listed in Appendix A5-III of the Convention,** which correspond to the 14 items listed in the declaration of maritime labour compliance.<sup>751</sup>
6. **In the case of a complaint under paragraph 4(d), the inspection shall generally be limited to matters within the scope of the complaint, although a complaint, or its investigation, may provide clear grounds for a detailed inspection in accordance with paragraph 4(b). For the purpose of paragraph 4(d), complaint means information submitted by a seafarer, a professional body, an association, a trade union or, generally, any person with an interest in the safety of the ship, including an interest in safety or health hazards to seafarers on board.**<sup>752</sup>
7. **Where, following a more detailed inspection, the working and living conditions on the ship are found not to conform to the requirements of the Convention, the authorized officer shall forthwith bring the deficiencies to the attention of the master of the ship, with required deadlines for their rectification. In the event that such deficiencies are considered by the authorized officer to be significant, or if they relate to a complaint made in accordance with paragraph 4(d), the authorized officer shall bring the deficiencies to the attention of the seafarers' and shipowners' organizations (see [Schedule I of these model provisions]) and may:**<sup>753</sup>
  - (a) **notify a representative of the flag State;**<sup>754</sup>
  - (b) **provide the competent authorities of the next port of call with the relevant information.**<sup>755</sup>
8. **A copy of the officer's report, which must be accompanied by any reply received from the competent authorities of the flag State within the prescribed deadline, may be transmitted to the Director-General of the International Labour Office with a view to such action as may be considered appropriate and expedient in order to ensure that a record is kept of such information and that it is brought to the attention of parties which might be interested in availing themselves of relevant recourse procedures.**<sup>756</sup>
9. **Where, following a more detailed inspection by an authorized officer, the ship is found not to conform to the requirements of the Convention and:**<sup>757</sup>
  - (a) **the conditions on board are clearly hazardous to the safety, health or security of seafarers;**<sup>758</sup> or
  - (b) **the non-conformity constitutes a serious or repeated breach of the requirements of the Convention (including seafarers' rights);**<sup>759</sup>

the authorized officer shall take steps to ensure that the ship does not proceed to sea until any non-conformities that fall within the scope of subparagraph (a) or (b) of this paragraph have been rectified, or until the authorized officer has accepted a plan of action to rectify such non-conformities and is satisfied that the plan will be implemented in an expeditious manner. If the ship is prevented from sailing, the authorized officer shall forthwith notify the flag State accordingly and invite a representative of the flag State to be present, if possible, requesting the flag State to reply within a prescribed deadline. The authorized officer shall also inform forthwith the shipowners' and seafarers' organizations (listed in [Schedule I below]).<sup>760</sup>
10. **All possible efforts shall be made to avoid a ship being unduly detained or delayed. If a ship is found to be unduly detained or delayed, compensation shall be paid for any loss or damage suffered. The burden of proof in each case shall be on the complainant.**<sup>761</sup>

<sup>751</sup> Standard A5.2.1 para. 2.

<sup>752</sup> Standard A5.2.1 para. 3.

<sup>753</sup> Standard A5.2.1 para. 4.

<sup>754</sup> Standard A5.2.1 para. 4(a).

<sup>755</sup> Standard A5.2.1 para. 4(b).

<sup>756</sup> Standard A5.2.1 para. 5.

<sup>757</sup> Standard A5.2.1 para. 6.

<sup>758</sup> Standard A5.2.1 para. 6(a).

<sup>759</sup> Standard A5.2.1 para. 6(b).

<sup>760</sup> Standard A5.2.1 para. 6.

<sup>761</sup> Standard A5.2.1 para. 8.

## Title 5: Compliance and Enforcement

### Regulation 5.2 – Port State responsibilities

#### Regulation 5.2.2; Code Standard A5.2.2 and Guideline B5.2.2

##### Commentary

##### Onshore seafarer complaint-handling procedures

As noted earlier in the commentary on Regulation 5.1.5, seafarers' complaints are an important source of information that can assist in assuring ongoing compliance by ships with the flag State's requirements under the MLC, 2006. Regulation 5.2.2 addresses the obligation of port States to provide procedures allowing seafarers to make complaints onshore about the conditions on ships. This provision interacts with Regulation 5.2.1 on PSC in situations where the PSCO may be required to conduct a more detailed investigation or to consider detention of a ship. The Convention does not address the legal form for implementation of this requirement. However Regulation 5.2.2 concerns the activities of a government department and would probably need to be in a legal form used by the government concerned for similar activities. The main requirements are that:

- a complaint by a seafarer alleging a breach of the requirements of the Convention may be reported to an authorized officer in the port at which the seafarer's ship has called;
- the authorized officer must undertake an initial investigation. If the complaint raises matter within the scope of the port State control under Regulation 5.2.1 and the Code (see Section 5.2.1 of these model provisions) a more detailed inspection may be carried out. Otherwise, where appropriate, the authorized officer must seek to promote a resolution of the complaint at the ship-board level;
- if the investigation of the complaint reveals a non-conformity justifying detention of the ship, the procedure provided for in the port State inspection under Regulation 5.2.1 and the Code (see Section 5.2.1 of these model provisions) must be followed. Otherwise, if the complaint has not been resolved, the authorized officer is required notify the flag State, seeking advice and a corrective plan of action.
- if the complaint is still not resolved, the port State must transmit a copy of the authorized officer's report, accompanied by any reply from the flag State, to the Director-General of the International Labour Office; the appropriate shipowners' and seafarers' organizations in the port State are similarly informed.
- appropriate steps must be taken to safeguard the confidentiality of complaints made by seafarers.



## 5.2.2. Onshore seafarer complaint-handling procedures

1. **Seafarers on foreign ships who allege a breach of the requirements of the Convention (including seafarers' rights) have the right to report such a complaint in order to facilitate a prompt and practical means of redress.**<sup>762</sup>
2. **A complaint by a seafarer alleging a breach of the requirements of the Convention (including seafarers' rights) may be reported to an authorized officer in the port at which the seafarer's ship has called. In such cases, the authorized officer shall undertake an initial investigation,**<sup>763</sup> taking account of the following principles:
  - (a) *the authorized officer should first check whether the complaint is of a general nature which concerns all seafarers on the ship, or a category of them, or whether it relates only to the individual case of the seafarer concerned;*<sup>764</sup>
  - (b) *if the complaint relates to an individual case, the authorized officer must ascertain whether the ship's on-board complaint procedures required under Regulation 5.1.5 and the Code of the Convention have been explored*<sup>765</sup> and an examination of the results of any on-board complaint procedures for the resolution of the complaint concerned should be undertaken;<sup>766</sup>
  - (c) *if such procedures have not been explored, the authorized officer should suggest that the complainant take advantage of any such procedures available; there should be good reasons for considering a complaint before any on-board complaint procedures have been explored; such reasons would include the inadequacy of, or undue delay in, the internal procedures or the complainant's fear of reprisal for lodging a complaint;*<sup>767</sup>
  - (d) *if the complaint is of a general nature,*<sup>768</sup> **the authorized officer should consider conducting a more detailed inspection in accordance with** [Section 5.2.1 of these model provisions].<sup>769</sup>
3. *In any investigation of a complaint, the authorized officer must give the master, the shipowner and any other person involved in the complaint a proper opportunity to make known their views.*<sup>770</sup>
4. **The authorized officer shall, where appropriate, seek to promote a resolution of the complaint at the ship-board level.**<sup>771</sup>
5. **In the event that the investigation or an inspection reveals a non-conformity that falls within the scope of paragraph [9 of Section 5.2.1 of this [insert name of instrument]], the provisions of that paragraph shall be applied.**<sup>772</sup>
6. **Where the provisions of paragraph 5 do not apply, and the complaint has not been resolved at the ship-board level, the authorized officer must forthwith notify the flag State, seeking, within a prescribed deadline, advice and a corrective plan of action.**<sup>773</sup>
7. *In the event that the flag State demonstrates, that it will handle the matter; and that it has in place effective procedures for this purpose and has submitted an acceptable plan of action, the authorized officer may refrain from any further involvement with the complaint.*<sup>774</sup>
8. **Where the complaint has not been resolved following action taken in accordance with paragraph 6, the port State shall transmit a copy of the authorized officer's report to the Director-General. The report must be accompanied by any reply received within the prescribed deadline from the competent authority of the flag State. The seafarers' and shipowners' organizations (see [Schedule I of these model provisions]) shall be similarly informed. In addition, statistics and information regarding complaints that have been resolved shall be regularly submitted by the competent authority to the Director-General. Both such submissions are provided in order that, on the basis of such action as may be considered appropriate and expedient, a record is kept of such information and is brought to the attention of parties, including shipowners' and seafarers' organizations, which might be interested in availing themselves of relevant recourse procedures.**<sup>775</sup>
9. **Appropriate steps shall be taken to safeguard the confidentiality of complaints made by seafarers.**<sup>776</sup>

<sup>762</sup> Regulation 5.2.2 para. 1.<sup>763</sup> Standard A5.2.2 para. 1.<sup>764</sup> Guideline B5.2.2 para. 1.<sup>765</sup> Standard A5.2.2 para. 2.<sup>766</sup> Guideline B5.2.2 para. 3.<sup>767</sup> Guideline B5.2.2 para. 3.<sup>768</sup> Guideline B5.2.2 para. 2.<sup>769</sup> Standard A5.2.2 para. 2.<sup>770</sup> Guideline A5.2.2 para. 4.<sup>771</sup> Standard A5.2.2 para. 3.<sup>772</sup> Guideline B5.2.1 para. 4.<sup>773</sup> Standard A5.2.2 para. 5.<sup>774</sup> Guideline B5.2.1 para. 5.<sup>775</sup> Standard A5.2.2 para. 6.<sup>776</sup> Standard A5.2.2 para. 7.

## Title 5: Compliance and Enforcement

### Regulation 5.3 – Labour-supplying responsibilities

#### Regulation 5.3; Code Standard A5.3 and Guideline B5.3

##### Commentary

##### Labour-supplying responsibilities

*Purpose: To ensure that each Member implements its responsibilities under this Convention as pertaining to seafarer recruitment and placement and the social protection of its seafarers*

Regulation 5.1.3 provides obligations with respect to the enforcement of what are called the “labour-supplying responsibilities” of States as set out in Titles 1 to 4 of the MLC, 2006. It also implements Article V, paragraph 1 and 5. These responsibilities include the regulation of seafarer recruitment and placement services and the provision of social security. The provisions under Regulation 5.3 and the Code do not specify the form of legal implementation, and to a large extent effective implementation of the obligation in relevant provisions in Titles 1 to 4 would constitute implementation of this obligation, at least with respect to Regulation 4.5. However to the extent that it is directed to governmental agencies, the form should be mandatory under the national legal system. The main requirements are that:

- the country must establish an effective inspection and monitoring system for enforcing its labour-supplying responsibilities, particularly those regarding the recruitment and placement of seafarers;
- the country must also implement social responsibilities for seafarers that are its nationals or residents or are otherwise domiciled in its territory;
- the country must report on its system for enforcing these obligations in its Article 22 report under the ILO Constitution (see the Appendix of this handbook).

Section 5.3 Labour-supplying responsibilities

1. The competent authority **shall establish an effective system for enforcing the requirements of this** [insert name of instrument] **applicable to the operation and practice of seafarer recruitment and placement services established on its territory, through inspection and monitoring and legal proceedings for breaches of licensing and other operational requirements provided for** under [Section 1.4 of these model provisions] of [insert name of instrument].<sup>777</sup>

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<sup>777</sup> Standard A5.3 para. 1.



**Schedules I – IX**

<b>Schedule I</b>	<b>List of Shipowners' and Seafarers' Organizations to be consulted</b>
<b>Schedule II</b>	<b>Activities or work likely to jeopardize the health or safety of seafarers under the age of 18</b>
<b>Schedule III</b>	<b>Compensation in the event of the death or long-term disability</b>
<b>Schedule IV</b>	<b>Shipowner liability to pay wages where sickness or injury results in incapacity for work</b>
<b>Schedule V</b>	<b>Basic national occupational safety and health policy and programme for ships</b>
<b>Schedule VI</b>	<b>Social security scheme</b>
<b>Schedule VII</b>	<b>National form for the Maritime labour certificate</b>
<b>Schedule VIII</b>	<b>National form for Part I of the Declaration of maritime labour compliance</b>
<b>Schedule IX</b>	<b>National form for Part II of the Declaration of maritime labour compliance</b>

**Note:** These are matters to be developed by national administrations to reflect particular normal situations.



## Maritime Labour Convention, 2006

## INTERNATIONAL LABOUR OFFICE GENEVA

## REPORT FORM

## FOR THE

## Maritime Labour Convention, 2006

The present report form is for the use of countries which have ratified the Convention. It has been approved by the Governing Body of the International Labour Office, in accordance with article 22 of the ILO Constitution, which reads as follows: “Each of the Members agrees to make an annual report to the International Labour Office on the measures which it has taken to give effect to the provisions of Conventions to which it is a party. These reports shall be made in such form and shall contain such particulars as the Governing Body may request.”

The matters with which this Convention deals may be beyond the immediate competence of the ministry responsible for labour questions, so that the preparation of a full report on the Convention may necessitate consultation of other interested ministries or government agencies.

## PRACTICAL GUIDANCE FOR DRAWING UP REPORTS

*First report*

1. If this is your Government’s first report following the entry into force of the Convention in your country, full information should be given on the way in which your country has given effect to its obligations under the Convention, including actions taken on each of the questions set out in this report form.

*Subsequent reports*

2. In subsequent reports, information need normally be given only on the following points:

- (a) any new legislative or other measures affecting the application of the Convention;
- (b) replies to the questions in the report form on the practical application of the Convention (for example, statistics, results of inspections, judicial or administrative decisions) and on the communication of copies of the report to the representative organizations of employers and workers and on any observations received from these organizations;
- (c) **replies to comments by the supervisory bodies** – The report must contain replies to any comments regarding the application of the Convention in your country which have been addressed to your government by the Committee of Experts on the Application of Conventions and Recommendations or by the Conference Committee on the Application of Standards.

*Use of this report form*

3. This report form is divided into two parts. **Part I “General questions” asks for information and supporting materials. Part II “Specific information” indicates some questions that should be covered in the report. The report form has been designed to facilitate completion** from both a physical and a substantive point of view. Members are, in the first place, invited to use the electronic version of the report form and to insert the requested information in the expandable field beside each question. For those national administrations that are not in a position to use the electronic report form, a paper copy is also attached and responses may be provided by referring to the relevant questions.

4. From a substantive point of view, one of the innovations in the Convention is its emphasis on ensuring that there is not only compliance with its provisions but also documentary evidence of compliance. Consequently, in implementing the Convention, Members will already have produced documents such as the Declaration of Maritime Labour Compliance (DMLC), required by Regulation 5.1.3 and providing information that is also needed for reporting under article 22 of the Constitution. To take advantage of information already provided, a number of questions in Part II of this form suggest the following statement as a possible answer:

“Adequate information on all matters is to be found in the enclosed DMLC, Part I /Part II .

5. If the information in the DMLC, Part I and/or Part II covers all the subject of the section concerned and fully complies with the requirements in Standard A5.1.3 paragraph 10(a) and/or (b), with due consideration being given to Guide-

line B5.1.3, one or both boxes at the end of this statement can be checked (☐), in which case the individual questions in the section concerned need not be answered. However, additional information on how the Regulation concerned is implemented in your country may be provided in a section located underneath the questions concerned. If the information in the DMLC concerning national implementing measures is not also applicable to ships that are not subject to certification (see Regulation 5.1.3, paragraph 1), additional information should be provided concerning the measures applicable to those categories of ships. In addition, some of the Regulations or Standards envisage that the competent authority in each member State produce various kinds of documents related to implementation of obligations (for example, the standard medical report form for use on board ships flying the Member’s flag as required by Standard A4.1, paragraph 2, and Guideline B4.1.2). Where relevant, copies of these particular documents are requested under the heading “Documentation”.

6. Furthermore, in order to avoid the need to refer in detail to the content of specific measures, reference can be made in this form to the relevant provisions of the legislation, collective agreement or other document concerned which has been provided to the Office in English, French or Spanish (in connection with Part I, “General questions”).

7. Beneath the section for “Additional information”, there is a section headed “Explanations”. Explanations are required where a national implementing measure differs from the requirements set out in Standards found in Part A of the Code of the Maritime Labour Convention, 2006. This would include, for example, cases of substantial equivalence referred to in Article VI, paragraph 3, and of determinations that have been made regarding the application of differing national measures that are provided for on the basis of Article II, paragraph 6. Even though the substantial equivalence may have been referred to in the DMLC, Part I, an explanation should be provided, in particular, as to the ways in which the Member concerned was not in a position to implement the rights and principles concerned in the manner set out in Part A of the Code (Article VI, paragraph 3) and as to how the national measure complies in all material respects with the corresponding Part A requirement. In the case of a determination under Article II, paragraph 6, which is also to be reported to the Director-General of the International Labour Office (Article II, paragraph 7), an explanation should be provided as to the reason for a determination that it would not be reasonable or practicable at the present time to apply certain details of the Code to a ship or particular categories of ships (Article II, paragraph 6).

8. It should be noted that this report form takes account of the Articles and Regulations and the provisions of Part A of the Code of the Maritime Labour Convention, 2006, and also refers, where appropriate, to the Guidelines, which comprise Part B of the Code. These Guidelines are not mandatory. Their purpose is to provide guidance as to the way in which Members should implement the (mandatory) provisions in Part A of the Code. In accordance with Article VI, paragraph 2, Members are required to “give due consideration to implementing their responsibilities in the manner provided for in Part B of the Code”. The special status of the Guidelines in Part B of the Code is reflected in the example and the explanation set out in paragraphs 9 and 10 of the Explanatory Note to the Regulations and Code. Paragraph 10 states, in its last sentence, “... by following the guidance provided in Part B, the Member concerned, as well as the ILO bodies responsible for reviewing implementation of international labour Conventions, can be sure without further consideration that the arrangements the Member has provided for are adequate to implement the responsibilities under Part A to which the Guideline relates”. This statement is based on the 2003 Legal Adviser’s opinion on the relationship between Parts A and B of the Code (see appendix to this report form for the full text of this Opinion).

### Article 22 of the Constitution of the ILO

Report for the period ..... to .....  
 made by the Government of .....  
 on the  
**Maritime Labour Convention, 2006**  
 (ratification registered on .....)

## Part I. General questions

### I. Implementing measures

Please give a list of the laws and regulations and collective agreements implementing the provisions of the Convention, with particular reference to the seafarers’ employment and social rights referred to in Article IV. **Please provide a copy of those laws or regulations and collective agreements. If any of this material is available from the Internet, the link to the relevant document may be provided instead of the document itself.**



If, in your country, ratification of the Convention gives the force of national law to its terms, please indicate by virtue of what constitutional provisions the ratification has had this effect.

## II. Principal documents

Please provide, in English, French or Spanish (or the English translation required by Standard A5.1.3, paragraph 12), a copy of the standard Maritime Labour Certificate, including Part I of the Declaration of Maritime Labour Compliance (DMLC) as well as an example or examples of a Part II of the DMLC which have been prepared by a shipowner and have been accepted by your country, when certifying a ship or ships. (Specific identifying information regarding the ship or shipowner should be removed from the example or examples.) Additional documentation on other matters will be requested in Part II of this report form.

## III. Fundamental rights and principles

Please indicate how account has been taken, in the context of the Convention, of the following fundamental rights and principles referred to in Article III:

(a) unless your country has ratified Conventions Nos 87 and 98: freedom of association and the effective recognition of the right to collective bargaining;	
(b) unless your country has ratified Conventions Nos 29 and 105: the elimination of all forms of forced or compulsory labour;	
(c) unless your country has ratified Conventions Nos 138 and 182: the effective abolition of child labour;	
(d) unless your country has ratified Conventions Nos 100 and 111: the elimination of discrimination in respect of employment and occupation.	

## IV. Competent authority and consultation

Please identify the competent authority or authorities having power to issue and enforce regulations, orders or other instructions in respect of subject matter covered by the Convention (Article II, paragraph 1(a)).	
Please list the shipowners' and the seafarers' organizations that the competent authority or authorities consult in matters relating to the implementation of the Convention.	

## V. Scope of application

Do the measures implementing the Convention cover, as a seafarer, any person who is employed or engaged or works in any capacity on board a ship to which the Convention applies (Article II, paragraphs 1(f) and 2)?	If no, please explain:
Have cases of doubt as to whether any categories of persons are to be regarded as seafarers arisen?	If yes, please provide full information on the consultation process and its result (Article II, paragraph 3):
Have cases of doubt arisen as to whether a ship or a particular category of ship, or a similar navigating means, is covered by the Convention?	If yes, please provide full information on the consultation process and its result (Article II, paragraph 5):

## VI. Enforcement

Please summarize the provisions of laws or regulations or other measures which prohibit violations of the requirements of the Convention and, in accordance with international law, establish sanctions or require the adoption of corrective measures to discourage such violations (Article V, paragraph 6).	
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## VII. Statistical information

Please *either* provide the data requested below *or* refer below to relevant reports submitted to UNCTAD (*Annual Review of Maritime Transport*), IMO, WHO, etc., and supply a copy of those reports or a reference to a public web site containing this data:

Data requested	Ships on international voyages or voyages between ports in other countries	Ships not on international voyages or voyages between ports in other countries	The information is only an estimate as data is not formally collected on this matter
Number of seafarers working on flag ships that are covered by the Convention			
Number of seafarers who are nationals or residents or otherwise domiciled in the territory			
Number (if any) of private recruitment and placement services operating in the territory			
Gender distribution among seafarers			
Number of ships flying your flag which are 3,000 GT or over			
Number of ships <3,000 GT and ≥ 500 GT			
Number of ships <500 and ≥ 200 GT (please indicate if estimated)			
Number of ships <200 GT (please indicate if estimated)			

## Part II. Specific information

1. This section of the report follows the same organization as the Maritime Labour Convention, 2006 (MLC, 2006). It is divided into five Titles (Titles 1–5). Each Title sets out the related Regulations and Code provisions and asks for specific information on how they have been given effect in your country. For convenience, this form contains a description of the basic requirements in each area.<sup>1</sup> The relevant provisions of the Convention are identified in each question, so that their text can be consulted.

2. It will be noted that the provisions under each Regulation also include a reference to the Guidelines in Part B of the Code to the Convention. As mentioned above at point 8 in the guidance for drawing up reports, it is not mandatory for Members to follow the Guidelines when implementing the Regulations and Standards. However, if a Member has chosen to do so, the ILO supervisory bodies would not have to consider further the adequacy or sufficiency of the Member's implementation of the relevant provisions of the Convention.

### Title 1. Minimum requirements for seafarers to work on a ship

#### Regulation 1.1 – Minimum age Standard A1.1; see also Guideline B1.1

- Persons below the age of 16 shall not be employed or engaged or work on a ship.
- Seafarers under the age of 18 shall not be employed or engaged or work where the work is likely to jeopardize their health or safety.
- Night work for seafarers under the age of 18 is prohibited.  
("Night" covers a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m.)
- Special attention should be paid to the needs of seafarers under the age of 18, in accordance with national laws and regulations.

Adequate information on all matters is to be found in the enclosed DMLC, Part I /Part II

**Please check one or both boxes or provide the information in the right-hand column below.**

<sup>1</sup> The description of basic requirements is based on the text of the MLC, 2006 as well as the *Guidelines for flag State inspections under the Maritime Labour Convention, 2006* (MEFS/2008/8(Rev.)), adopted by the tripartite experts meeting in September 2008.

What is the minimum age of seafarers? (Regulation 1.1, paragraph 1; Standard A1.1, paragraph 1)	
What period is defined as “night”? (Standard A1.1, paragraph 2)	
Is night work prohibited for seafarers under 18? (Standard A1.1, paragraph 2)	
Are any exceptions made to the night work prohibition? (Standard A1.1, paragraph 3)	If yes, please summarize the exceptions:
Is employment of seafarers under 18 prohibited where the work is likely to jeopardize their health or safety? (Standard A1.1, paragraph 4)	
What types of work have been determined to be likely to jeopardize the health or safety of seafarers under 18? (Standard A1.2, paragraph 4)	
<b>Additional information</b> concerning implementation of Regulation 1.1 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	

### Regulation 1.2 – Medical certificate Standard A1.2; see also Guideline B1.2

- Seafarers are not allowed to work on a ship unless they are certified as medically fit to perform their duties.
- A certificate must be in English for seafarers working on ships ordinarily engaged on international voyages.
- The medical certificate must have been issued by a duly qualified medical practitioner and must be still valid.
- The period of validity for a certificate:
  - two-year maximum for medical certificates except for seafarers under 18; then it is one year;
  - six-year maximum for a colour vision certificate.

*NB. Certificates issued in accordance with, or meeting the substance of, the applicable requirements, under the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), as amended, are to be accepted as meeting these requirements.*

Adequate information on all matters is to be found in the enclosed DMLC, Part I /Part II

**Please check one or both boxes or provide the information in the right-hand column below.**

Are seafarers required to be certified as medically fit to perform their duties? (Regulation 1.2, paragraph 1; Standard A1.2, paragraph 1)	
What requirements (or guidance) have been established concerning the nature of the medical examination and the right of appeal? (Standard A1.2, paragraphs 2 and 5)	
What are the requirements concerning persons who can issue medical certificates and any certificate solely concerning eyesight? (Standard A1.2, paragraph 4)	
What are the periods of validity for medical and colour vision certificates? (Standard A1.2, paragraph 7)	
<b>Additional information</b> concerning implementation of Regulation 1.2 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	
<b>Documentation:</b> please provide, in English (see Standard A1.2, paragraph 10) an example of the standard wording in medical certificates.	

### Regulation 1.3 – Training and qualifications

- Seafarers must be trained or certified as competent or otherwise qualified to perform their duties on board ship.
- Seafarers must have successfully completed training for personal safety on board ship.
- Obligations under Convention No. 74, if ratified, continue to apply.

*NB. Training and certification in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), as amended, is to be accepted as meeting these requirements.*

Adequate information on all matters is to be found in the enclosed DMLC, Part I <input type="checkbox"/> /Part II <input type="checkbox"/>	
<b>Please check one or both boxes or provide the information in the right-hand column below.</b>	
Do all seafarers have to be trained, certified or otherwise qualified for the duties they are to carry out on board ship? <i>(Regulation 1.3, paragraph 1 – see also paragraph 4)</i>	
Are all seafarers required to successfully complete training for personal safety on board ship? <i>(Regulation 1.3, paragraph 2)</i>	
Is training and certification in accordance with the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978 (STCW), as amended, accepted? <i>(Regulation 1.3, paragraph 3)</i>	
<b>Additional information</b> concerning implementation of Regulation 1.3 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	

<b>Regulation 1.4 – Recruitment and placement Standard A1.4; see also Guideline B1.4.1</b>	
<ul style="list-style-type: none"> <li>■ Seafarer recruitment and placement services must not charge seafarers for their services.</li> <li>■ If private seafarer recruitment and placement services are operating in their territory, Members are responsible for establishing an effective inspection and monitoring system with respect to those services <i>(Regulation 5.3; Standard A5.3, paragraph 1)</i>.</li> <li>■ If seafarer recruitment and placement services for nationals to work on flag ships are operated by seafarers' organizations in the Member's territory it must be operated in accordance with Standard A1.4 in the Convention.</li> <li>■ Any public seafarer or recruitment service in a Member's territory must be operated in an orderly manner that promotes seafarers' employment rights under the Convention.</li> <li>■ Flag States are responsible for requiring, in cases where shipowners use recruitment and placement services based in States not party to the MLC, 2006, that these shipowners have an appropriate system in place for ensuring, as far as practicable, that these recruitment and placement services meet the requirements under <i>Standard A1.4</i>.</li> </ul>	
	<b>Please check the boxes below or provide the information requested.</b>
If <b>private</b> seafarer recruitment and placement services, or services operated by seafarers' organizations to place seafarers on national flag ships, are operating in your country, please provide information about the standardized system for licensing or certification or other form of regulation <i>(Regulation 1.4; Standard A1.4, paragraphs 2, 3, 4 and 5)</i> and the inspection and monitoring system for those services <i>(Standard A1.4, paragraph 6)</i> .	No private services operate in our country <input type="checkbox"/>
If <b>public</b> recruitment and placement services are operating in your country, please state the basic principles ensuring that they are operated in an orderly manner <i>(Standard A1.4, paragraph 1)</i> . See guidance in <i>Guideline B1.4.1, paragraph 2</i> .	No public services operate in our country <input type="checkbox"/>
If public or private recruitment placement services are operating in your country, please outline the machinery and procedures for investigating complaints about their activities. <i>(Standard A1.4, paragraph 7)</i> .	No public or private services operate in our country <input type="checkbox"/>
Where shipowners use recruitment and placement services that operate in countries that have not ratified the Convention, what kind of action is expected of them in order to ensure, as far as practicable, that the services concerned meet the requirements of the Convention? <i>(Regulation 1.4, paragraph 3; Standard A1.4, paragraphs 9 and 10)</i>	Adequate information on this matter is to be found in the enclosed DMLC, Part I <input type="checkbox"/> /Part II <input type="checkbox"/>
<b>Additional information</b> concerning implementation of Regulation 1.4 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	

## Title 2. Conditions of employment

### Regulation 2.1 – Seafarers' employment agreements Standard A2.1; see also Guideline B2.1

- All seafarers must have a seafarers' employment agreement (SEA) signed by both the seafarer and the shipowner or shipowner's representative (or, where they are not employees, other evidence of contractual or similar arrangements).
- A SEA must, at a minimum, contain the matters set out in Standard A2.1, paragraph 4(a)–(j) and, as applicable, (k), of the MLC, 2006 (*Standard A2.1, paragraph 4*).
- Where a collective bargaining agreement forms all or part of the SEA, the agreement must be on board the ship with relevant provisions in English (except for ships engaged only in domestic voyages) (*Standard A2.1, paragraph 2*).
- Seafarers are to be given an opportunity to examine and seek advice on a SEA before signing (*Standard A2.1, paragraph 1(b)*).
- Seafarers must be given a document containing a record of their employment (that does not contain any statement as to the quality of their work or wages) on the ship (*Standard A2.1, paragraphs 1(e) and 3; (Guideline B 2.1.1, paragraph 1)*).
- Information about the conditions for their employment must be easy for seafarers to obtain when on board ship and must be accessible for inspection-related reviews.
- Minimum notice periods for early termination of a SEA must be established in laws or regulations.

Adequate information on all matters is to be found in the enclosed DMLC, Part I /Part II

seafarers' employment agreement /collective agreement provisions

(A link to a publicly accessible web site containing the applicable collective agreement may also be provided)

**Please check one or more boxes or provide the information in the right-hand column below.**

What are the minimum notice periods to be given by seafarers and by ship-owners for the early termination of a seafarer's employment agreement?

(*Standard A2.1, paragraph 5*)

Do national laws or regulations or collective agreements provide for circumstances justifying termination of the employment agreement at shorter notice or without notice?

(*Standard A2.1, paragraph 6*)

If yes, please summarize the provisions concerned:

Please summarize your country's requirements to ensure that seafarers are given an opportunity to review and seek advice on their SEA before signing.

(*Standard A2.1, paragraph 1(b)*)

Please summarize your country's requirements to ensure that seafarers have easy access on board ship to information about their conditions of employment.

(*Standard A2.1, paragraph 1(d)*)

**Additional information** concerning implementation of Regulation 2.1 (see above: Practical guidance for drawing up reports, point 5).

**Explanations** (see above: Practical guidance for drawing up reports, point 7).

**Documentation:** please provide in English (*see Standard A2.1, paragraph 2* (see guidance in *Guideline B2.1.1, paragraph 1*)):

- an example of the approved document for seafarers' record of employment (*Standard A2.1, paragraphs 1 and 3*);
- a standard form example of a seafarers' employment agreement (*Standard A2.1, paragraph 2(a)*);
- the relevant portion of any applicable collective bargaining agreement (*Standard A2.1, paragraph 2(b)*).

### Regulation 2.2 – Wages Standard A2.2; see also Guideline B2.2

- Seafarers must be paid at no greater than monthly intervals and in full for their work in accordance with their employment agreements and any applicable collective agreement.
- Seafarers are entitled to an account each month indicating their monthly wage and any authorized\* deductions (such as allotments\*\*).
- Flag States may wish to consider requiring shipowners to carry on board their ships' documents such as a copy of payroll or electronic record sheets.
- Charges for remittances/allotment transmission services must be reasonable and exchange rates in accordance with national requirements.

\* No unauthorized deductions, such as payments for travel to or from the ship.

\*\* An allotment is an arrangement whereby a proportion of seafarers' earnings are regularly remitted, on their request, to their families or dependants or legal beneficiaries whilst the seafarers are at sea.

Adequate information on all matters is to be found in the enclosed DMLC, Part I <input type="checkbox"/> /Part II <input type="checkbox"/>	
<b>Please check one or both boxes or provide the information in the right-hand column below.</b>	
What are the main items that must be included in the monthly account that seafarers are entitled to receive on board ship? <i>(Regulation 2.2 and Standard A2.2, paragraph 2)</i>	
Please outline the measures taken by shipowners to provide seafarers with a means to transmit all or part of their earnings to their families or dependants or legal beneficiaries. <i>(Standard A2.2, paragraphs 3 and 4)</i>	
What is the basis for determining the reasonable charge, if any is made, by shipowners for transmission services and for determining any relevant exchange rate? <i>(Standard A2.2, paragraph 5)</i>	
For countries that adopt national laws or regulations to govern the calculation or amount of seafarers' wages, has the guidance in Guideline B2.2 been given due consideration (Standard A2.2, paragraph 6)?	If yes, please summarize or provide a reference to the relevant national legislation provided under Part I, item I.
<b>Additional information</b> concerning implementation of Regulation 2.2 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	

<b>Regulation 2.3 – Hours of work and hours of rest</b> <b>Standard A2.3; see also Guideline B2.3</b>	
<ul style="list-style-type: none"> <li>■ The maximum hours of work or the minimum hours of rest must be established in national laws or regulations (the minimum hours of rest must not be less than ten hours in any 24-hour period and 77 hours in any seven-day period, or the maximum hours of work must not exceed 14 hours in any 24-hour period and 72 hours in any seven-day period).</li> <li>■ Account must be taken of the danger posed by the fatigue of seafarers.</li> <li>■ Hours of rest may be divided into no more than two periods, one of which must be at least six hours; the interval between consecutive periods of rest must not exceed 14 hours.</li> <li>■ Any mandatory musters or drills must be conducted in a way that minimizes disturbance of rest hours and does not induce fatigue.</li> <li>■ Seafarers on call must be given compensatory rest if the normal rest period is interrupted.</li> <li>■ A schedule/table of service at sea and service at port for all positions, in a standardized format in the working language(s) of the ship and English, and the applicable limits under a law or regulation or a collective agreement, must be posted in an accessible location on board ships.</li> <li>■ Seafarers' daily hours of work or rest must be recorded in an approved standard format and in the working language(s) of the ship and English and must be endorsed by the seafarer (who is given a copy) and the master (or authorized person).</li> </ul>	
Adequate information on all matters is to be found in the enclosed DMLC, Part I <input type="checkbox"/> /Part II <input type="checkbox"/>	
<b>Please check one or both boxes or provide the information in the right-hand column below.</b>	
Are the requirements in your country that implement Regulation 2.3 based on maximum hours of work <i>or</i> on minimum hours of rest? <i>(Regulation 2.3, paragraphs 1 and 2)</i>	Maximum hours of work <input type="checkbox"/> Minimum hours of rest <input type="checkbox"/>
Please indicate how account is taken of the danger posed by the fatigue of seafarers. <i>(Standard A2.3, paragraph 4)</i>	
Please state the maximum hours of work or minimum hours of rest, including any measures that may have been adopted for seafarers under the age of 18. <i>(Standard A2.3, paragraphs 2 and 5; Standard A1.1, paragraph 2; see guidance in Guideline B2.3.1)</i>	How many hours of work per 24 hours? — How many hours of work per seven days? — <i>or</i> How many hours of rest per 24 hours? — How many hours of rest per seven days? — Measures for seafarers under the age of 18:
Are more than two periods of rest per 24 hours prohibited in all cases? Must one period of rest per 24 hours always be at least six hours in length? Must the interval between periods of rest in all cases be 14 hours at most? <i>(Standard A2.3, paragraph 6)</i>	If the answer to any question is "no", please provide the necessary information.

Please indicate the requirements relating to the minimizing of disturbances by drills etc. and the granting of compensatory rest covered by <i>Standard A2.3, paragraphs 7, 8, 9 and 14.</i>	
What is the normal working hours standard for seafarers, including any measures that may have been adopted for seafarers under the age of 18? ( <i>Standard A2.3, paragraph 3; Standard A1.1, paragraph 2; see guidance in Guideline B2.3.1</i> )	
Have any collective agreements been authorized or registered that permit exceptions to the established limits? ( <i>Standard A2.3, paragraph 13</i> )	If yes, please provide a copy of the relevant provisions under “Documentation” below.
What measures are taken to ensure the recording of accurate daily hours of work or rest? ( <i>Standard A2.3, paragraph 12</i> )	
<b>Additional information</b> concerning implementation of Regulation 2.3 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	
<b>Documentation:</b> Please provide, in English ( <i>see Standard A2.3, paragraphs 10 and 11</i> ):	
<ul style="list-style-type: none"> <li>– a copy of the approved standardized table for shipboard working arrangements (<i>Standard A2.3, paragraphs 10 and 11</i>);</li> <li>– a copy of the standard form established by the competent authority for the recording of seafarers' daily hours of work or their daily hours of rest (<i>Standard A2.3, paragraph 12</i>);</li> <li>– a copy of any authorized or registered collective agreement provisions that establish seafarers' normal working hours or permit exceptions to the established limits (<i>Standard A2.3, paragraphs 3 and 13</i>).</li> </ul>	

<b>Regulation 2.4 – Entitlement to leave Standard A2.4; see also Guideline B2.4</b>	
<ul style="list-style-type: none"> <li>■ Seafarers must be given paid annual leave.</li> <li>■ Seafarers are to be granted shore leave to benefit their health and well-being and consistent with the operational requirements of their positions.</li> <li>■ The minimum annual paid leave must be determined in laws and regulations.</li> <li>■ Subject to any collective agreement or national laws or regulations providing a differing method of calculation, the entitlement to paid annual leave is to be calculated on the basis of 2.5 calendar days per month of employment.</li> <li>■ Except in cases authorized by the competent authority, any agreement to forgo the minimum leave must be prohibited.</li> </ul>	
Adequate information on all matters is to be found in the enclosed seafarers' employment agreement <input type="checkbox"/> /collective agreement provisions <input type="checkbox"/>	
<b>Please check one or both boxes or provide the information in the right-hand column below.</b>	
What is the minimum paid annual leave for seafarers on ships flying the flag of your country? ( <i>Standard A2.4, paragraphs 1 and 2</i> )	
How are seafarers' entitlements to paid annual leave calculated in your country? ( <i>Standard A2.4, paragraph 2; See also guidance in Guideline B2.4</i> )	
Have any agreements to forgo annual leave with pay been authorized by the competent authority in your country? ( <i>Standard A2.4, paragraph 3</i> )	If yes, please indicate the criteria for granting such authorizations:
Are shipowners required to give seafarers appropriate shore leave? ( <i>Regulation 2.4, paragraph 2</i> )	
<b>Additional information</b> concerning implementation of Regulation 2.4 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	
<b>Documentation:</b> Please provide a copy of the provisions in any applicable collective agreement which provides for the calculation of the minimum paid annual leave on a basis that differs from a minimum of 2.5 days per month of employment ( <i>Standard A2.4, paragraph 2</i> ). Where the provisions are not available in English, French or Spanish, please provide a summary in one of these languages.	

**Regulation 2.5 – Repatriation****Standard A2.5; see also Guideline B2.5**

- Seafarers are to be repatriated, at no cost to themselves except to the extent that the Code permits otherwise.
- Seafarers are entitled to repatriation in the following circumstances:
  - if the seafarers' employment agreement expires while they are abroad;
  - when their seafarers' employment agreement is terminated:
    - by the shipowner; or
    - by the seafarer for justified reasons; and
  - when the seafarers are no longer able to carry out their duties under their employment agreement or cannot be expected to carry them out in the specific circumstances.
- Seafarers' repatriation entitlements are to be provided for in national laws and regulations or other measures or collective bargaining agreements.
- Ships must provide financial security to ensure that repatriation will occur.
- A copy of the applicable national provisions regarding repatriation must be carried on ships and made available to seafarers in an appropriate language.
- Repatriation of seafarers on ships coming into port or navigating a country's waters is to be facilitated.
- Repatriation of a seafarer is not to be refused because of the financial situation of the shipowner or the shipowner's refusal to replace a seafarer.

Adequate information on all matters is to be found in the enclosed seafarers' employment agreement /collective agreement provisions

**Please check one or both boxes or provide the information in the right-hand column below.**

What kind of financial security is provided by ships flying the flag of your country? <i>(Regulation 2.5, paragraph 2)</i>	
What are the circumstances (including the maximum period of service on board a ship) in which a seafarer has a right to repatriation? <i>(Regulation 2.5, paragraph 1; Standard A2.5, paragraphs 1 and 2; see guidance in Guideline B2.5.1, paragraphs 1 and 2)</i>	
Are there any circumstances in which a seafarer can be expected to pay for the cost of his or her repatriation? <i>(Standard A2.5, paragraph 3)</i>	If yes, please indicate the circumstances:
What entitlements are to be accorded by shipowners for the repatriation of seafarers? <i>(Standard A2.5, paragraph 2(c); see guidance in Guideline B2.5.1, paragraphs 3–5)</i>	
Has your country refused a request to facilitate repatriation of a seafarer? <i>(Standard A2.5, paragraphs 7 and 8)</i>	If yes, please provide information.

**Additional information** concerning implementation of Regulation 2.5 (see above: Practical guidance for drawing up reports, point 5).

**Explanations** (see above: Practical guidance for drawing up reports, point 7).

**Documentation:** Please provide:

- a copy of the provisions on seafarers' entitlement to repatriation in any applicable collective bargaining agreements  
*(Standard A2.5, paragraph 2);*
- an example of the kind of documentation that is accepted or issued with respect to the financial security that must be provided by shipowners  
*(Regulation 2.5, paragraph 2).*

Where this material is not available in English, French or Spanish, please provide a summary in one of these languages.

**Regulation 2.6 – Seafarers' compensation for the ship's loss or foundering****Standard A2.6; see also Guideline B2.6**

- Rules must be made to ensure that shipowners pay seafarers on board an indemnity against unemployment resulting from their ship's loss or foundering.

Adequate information on all matters is to be found in the enclosed seafarers' employment agreement /collective agreement provisions

**Please check one or both boxes or provide the information in the right-hand column below.**



How is the indemnity to be provided by shipowners to seafarers against injury, loss or unemployment in the case of a ship's loss or foundering calculated (including any limitations)? (Standard A2.6, paragraph 1; see guidance in Guideline B2.6, paragraph 1)	
<b>Additional information</b> concerning implementation of Regulation 2.6 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	

<b>Regulation 2.7 – Manning levels</b> <b>Standard A2.7; see also Guideline B2.7</b>	
<ul style="list-style-type: none"> <li>■ Ships must have a sufficient number of seafarers employed on board to ensure that ships are operated safely, efficiently and with due regard to security under all conditions, taking into account concerns about fatigue and the particular nature and conditions of voyage.</li> <li>■ Ships must comply with the manning levels listed on the safe manning document (SMD) or equivalent issued by the competent authority.</li> <li>■ Manning levels must take account of food and catering requirements.</li> </ul>	
Adequate information on all matters is to be found in the enclosed DMLC, Part I <input type="checkbox"/> /Part II <input type="checkbox"/>	
<b>Please check one or both boxes or provide the information in the right-hand column below.</b>	
Do the safe manning levels which are determined or approved by the competent authority avoid or minimize excessive hours of work and ensure sufficient rest for seafarers to assure the safety and security of the ship and its personnel in all operating conditions and considering the particular nature and conditions of a voyage? (Regulation 2.7; Standard A2.7, paragraphs 1 and 2; see guidance in Guideline B2.7)	
How do the safe manning levels take into account the requirements under Regulation 3.2 and Standard A3.2 concerning food and catering? (Standard A2.7, paragraph 3)	The answer is apparent from the documentation requested below <input type="checkbox"/>
If there are complaints or disputes about determinations on the safe manning levels on a ship, how are these addressed? (see guidance in Guideline B2.7)	
<b>Additional information</b> concerning implementation of Regulation 2.7 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	
<b>Documentation:</b> For each type of ship (passenger, cargo, etc.) please provide, in English, a typical example of a safe manning document or equivalent issued by the competent authority (Standard A2.7, paragraph 1), together with information showing the type of ship concerned, its gross tonnage and the number of seafarers normally working on it.	

<b>Regulation 2.8 – Career and skill development and opportunities for seafarers' employment</b> <b>Standard A2.8; see also Guideline B2.8</b>	
<ul style="list-style-type: none"> <li>■ Each Member must have national policies aimed at strengthening the competencies, qualifications and employment opportunities of seafarers domiciled in its territory.</li> <li>■ Clear objectives must be established for vocational guidance, education and training, including ongoing training of seafarers whose duties on board ship primarily relate to safe operation and navigation.</li> </ul>	
According to our records, there are no seafarers domiciled in our territory <input type="checkbox"/>	
<b>Please check the box or provide the information in the right-hand column below.</b>	
Does your country have national policies to encourage the career and skill development and employment opportunities for seafarers that are domiciled in your country? (Regulation 2.8, paragraph 1; Standard A2.8, paragraphs 1 and 3; see guidance in Guideline B2.8.1)	Please provide relevant information:
Does your country have a register or list of seafarers that govern their access to employment (see guidance in Guideline B2.8.2)?	There are no registers or lists governing seafarers' employment <input type="checkbox"/>
<b>Additional information</b> concerning implementation of Regulation 2.8 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	

### Title 3. Accommodation, recreational facilities, food and catering

#### Regulation 3.1 – Accommodation and recreational facilities Standard A3.1; see also Guideline B3.1

- All ships must be in compliance with the minimum standards established by the MLC, 2006, providing and maintaining decent accommodation and recreational facilities for seafarers working or living on ships, or both, consistent with promoting seafarers' health and well-being.
  - Seafarer accommodation must be safe and decent and must meet national requirements implementing the MLC, 2006 (*Standard A3.1, paragraph 1*).
  - Frequent inspections of seafarer accommodation areas must be carried out by the master or a designate (*Standard A3.1, paragraph 18*) and recorded; the records must be available for review.
  - Particular attention must be paid to the requirements relating to:
    - the size of rooms and other accommodation spaces (*Standard A3.1, paragraphs 9 and 10*);
    - heating and ventilation (*Standard A3.1, paragraph 7*);
    - noise and vibration and other ambient factors (*Standard A3.1, paragraph 6(h)*);
    - sanitary and related facilities (*Standard A3.1, paragraphs 11 and 13*);
    - lighting (*Standard A3.1, paragraph 8*);
    - hospital accommodation (*Standard A3.1, paragraph 12*).
  - The requirements under Regulation 3.1 also cover:
    - recreational facilities (*Standard A3.1, paragraphs 14 and 17*);
    - occupational safety and health and accident prevention requirements on ships, in light of the specific needs of seafarers who both live and work on ships (*Standard A3.1, paragraphs 2(a) and 6(h)*).
  - Ships that were constructed\* before the entry into force of the MLC, 2006, for your country must:
    - provide and maintain decent accommodation and recreational facilities for seafarers working or living on board, or both, consistent with promoting the seafarers' health and well-being in accordance with national legislation (*Regulation 3.1, paragraph 1*); and
    - meet the standards set out in Conventions Nos 92 and/or 133, if applicable in your country (because of ratification, through substantial equivalence due to ratification of Convention No.147, the Protocol of 1996 to Convention No. 147 or otherwise) (*Regulation 3.1, paragraph 2*).
- The requirements of the Code relating to ship construction and equipment do not apply to these ships, unless applied by national law. The other Code requirements do apply.

\* A ship is deemed to be constructed on the date its keel is laid or when it is at a similar stage of construction.

Adequate information on all matters is to be found in the enclosed DMLC, Part I /Part II

**Please check one or both boxes or provide the information in the right-hand column below.**

Has your country adopted laws and regulations to ensure that all ships covered by the Convention which fly its flag (including those constructed prior to the Convention's entry into force for your country) maintain decent accommodation and recreational facilities for seafarers on board? ( <i>Regulation 3.1, paragraph 1; Standard A3.1, paragraph 1</i> )	If yes, please summarize the content of the legislative provisions concerned:
For ships constructed prior to the Convention's entry into force for your country, are the relevant requirements in Convention No. 92 or No. 133 (or of Convention No. 147 or its Protocol) applicable with respect to matters relating to construction and equipment? ( <i>Regulation 3.1, paragraph 2</i> )	If no, please indicate the kinds of requirements that are considered to relate to construction and equipment and are thus not applicable to those ships:
Do the laws and regulations establishing the minimum standards for seafarers' on-board accommodation and recreational facilities take account of the requirements in Regulation 4.3 and the Code regarding occupational safety and health and accident prevention? ( <i>Standard A3.1, paragraph 2(a)</i> )	If no, please explain how these concerns are taken into account:
Are the inspections required under Regulation 5.1.4 carried out when a ship is registered or re-registered and/or when seafarer accommodation is substantially altered? ( <i>Standard A3.1, paragraph 3</i> )	If no, please explain:
Please summarize the content of your country's general requirements for accommodation implementing <i>paragraph 6(a)–(f) of Standard A3.1</i> .	

Have any exceptions (other than for passenger ships and special purpose ships) been made with respect to the location of sleeping rooms? <i>(Standard A3.1, paragraph 6(c) and (d))</i>	If yes, please indicate the kinds of exceptions made:
Please summarize the content of your country's measures to prevent exposure to hazardous levels of noise and vibration and other ambient factors. <i>(Standard A3.1, paragraph 6(h))</i>	
Please summarize the content of your country's requirements for heating and ventilation implementing <i>paragraph 7 of Standard A3.1.</i>	
Please summarize the content of your country's requirements for lighting implementing <i>paragraph 8 of Standard A3.1.</i>	
Please summarize the content of your country's requirements for sleeping rooms implementing <i>paragraph 9 of Standard A3.1.</i>	
Please summarize the content of your country's requirements for mess rooms implementing <i>paragraph 10 of Standard A3.1.</i>	
Please summarize the content of your country's requirements for sanitary and laundry facilities implementing <i>paragraphs 11 and 13 of Standard A3.1.</i>	
Please summarize the content of your country's requirements for hospital accommodation implementing <i>paragraph 12 of Standard A3.1.</i>	
Please summarize the content of your country's requirements for recreational facilities, amenities and services implementing <i>paragraphs 14, 15 and 17 of Standard A3.1.</i>	
Have any exemptions for ships less than 200 GT been given? <i>(Standard A3.1, paragraphs 20 and 21)</i>	If yes, please indicate the kinds of exemptions given:
Have any variations to take account of the interest of seafarers having differing and distinctive religious and social practices been permitted? <i>(Standard A3.1, paragraph 19)</i>	If yes, please indicate the kinds of variations permitted:
What is the required frequency for on-board inspections of seafarers' accommodation that are to be carried out by or under the authority of the master and what are the requirements for recording and review of those inspections? <i>(Standard A3.1, paragraph 18)</i>	
<b>Additional information</b> concerning implementation of Regulation 3.1 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	

**Regulation 3.2 – Food and catering**  
**Standard A3.2; see also Guideline B3.2**

- Food and drinking water must be of appropriate quality, nutritional value and quantity, taking into account the requirements of the ship and the differing cultural and religious backgrounds of seafarers on the ship.
  - Food is to be provided free of charge to seafarers during the period of engagement.
  - Seafarers employed as ships' cooks\* with responsibility for preparing food must be trained and qualified for their positions.
  - Seafarers working as ships' cooks must not be less than 18 years old.
  - Frequent and documented inspections of food, water and catering facilities must be carried out by the master or a designate.
- \* "Ship's cook" means a seafarer with responsibility for food preparation (*Regulation 3.2, paragraph 3; Standard A3.2, paragraphs 3 and 4*).

Adequate information on all matters is to be found in the enclosed DMLC, Part I /Part II

**Please check one or both boxes or provide the information in the right-hand column below.**

Are shipowners required to provide seafarers, free of charge, during their period of engagement, food and drinking water on board ship that is of appropriate quality, nutritional value and quantity taking into account the differing cultural and religious backgrounds of seafarers?  
*(Regulation 3.2, paragraphs 1 and 2; Standard A3.2, paragraph 2(a))*

Are ships provided with instructions or guidance concerning the organization and equipment of catering departments so as to meet the requirements of <i>Standard A3.2, paragraph 2(b)</i> ?	If yes, please indicate the nature and frequency of the instructions or guidance:
Are ships' cooks required to have completed a training course approved or recognized by the competent authority? <i>(Standard A3.2, paragraphs 2(c), 3 and 4)</i>	If yes, please outline the main elements of the training course:
Have dispensations been issued to permit a non-fully qualified cook to serve as ship's cook pursuant to <i>Standard A3.2, paragraph 6</i> ?	If yes, please indicate the frequency and the kind of cases in which dispensations were issued:
What is the required frequency and format for the documented on-board inspections by or under the authority of the master of: – supplies of food and drinking water; – spaces and equipment used for storage and handling of food and drinking water; – the galley and other equipment used for the preparation and service of food? <i>(Standard A3.2, paragraph 7)</i>	
Are ships' cooks required to be over the age of 18? <i>(Standard A3.2, paragraph 8)</i>	
<b>Additional information</b> concerning implementation of Regulation 3.2 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	

#### Title 4. Health protection, medical care, welfare and social security protection

<b>Regulation 4.1 – Medical care on board ship and ashore</b> <b>Standard A4.1; see also Guideline B4.1</b>	
<ul style="list-style-type: none"> <li>■ Seafarers must be covered by adequate measures for the protection of their health and have access to prompt and adequate medical care, including essential dental care, whilst working on board.</li> <li>■ The medical care on board must include a qualified medical doctor (or, in permitted cases, at least one seafarer in charge), a medicine chest, medical equipment and a medical guide as well as a prearranged system for obtaining onshore specialist medical advice.</li> <li>■ Health protection and care are to be provided at no cost to the seafarer, in accordance with national law and practice.</li> <li>■ Seafarers must be allowed to visit a qualified medical doctor or dentist without delay in ports of call, where practicable.</li> </ul>	
<i>MEDICAL CARE ON BOARD</i>	
Adequate information on all matters is to be found in the enclosed DMLC, Part I <input type="checkbox"/> /Part II <input type="checkbox"/> seafarers' employment agreement <input type="checkbox"/> /collective agreement provisions <input type="checkbox"/> <b>Please check one or more boxes or provide the information in the right-hand column below.</b>	
Are measures in place to ensure that seafarers on ships flying your country's flag have health protection including access to prompt on-board medical diagnosis and treatment by qualified medical and/or dental personnel, and access to the necessary facilities, medicines, equipment and expertise, that is comparable to care available for workers ashore?  <i>(Regulation 4.1, paragraph 1; Standard A4.1, paragraphs 1(a) and (b), 3 and 4(a)–(c))</i>	If yes, please summarize the content of the relevant requirements:
In what circumstances must a seafarer be permitted by the shipowner/master to visit a qualified medical doctor or dentist without delay in ports of call?  <i>(Standard A4.1, paragraph 1(c))</i>	
Is medical and dental treatment, required medicine and related care on-board provided to seafarers free of charge?  <i>(Regulation 4.1, paragraph 2; Standard A4.1, paragraph 1(d))</i>	If no, please indicate the extent to which seafarers may have to cover the cost:

Must shipowners bear the cost of medical care provided to seafarers when landed in a foreign port? <i>(Regulation 4.1, paragraph 2; Standard A4.1, paragraph 1(d))</i>	If no, please indicate the extent to which seafarers may have to cover the cost:
Are ships' medicine chests, medical equipment and medical guides inspected at regular intervals, to ensure that they are properly maintained? <i>(Standard A4.1, paragraph 4(a); see guidance in Guideline B4.1.1, paragraph 4)</i>	If yes, please indicate the frequency:
Are ships required to carry appropriate equipment and maintain up to date contact information for radio or satellite communication to obtain onshore medical advice while on a voyage? <i>(Standard A4.1, paragraphs 1(b) and 4(d); see guidance in Guideline B4.1.1, paragraph 6)</i>	
<i>MEDICAL CARE ASHORE</i>	
Are seafarers on board ships voyaging in your country's waters or visiting its ports given access to medical facilities on shore when in need of immediate medical or dental care? <i>(Regulation 4.1, paragraph 3; see guidance in Guideline B4.1.3)</i>	Our country is landlocked <input type="checkbox"/>
Is there a law or regulation to provide for a system using satellite or radio or similar forms of communication, to provide medical advice, free of charge, 24 hours a day to all ships? <i>(Standard A4.1, paragraph 4(d))</i>	Our country is landlocked <input type="checkbox"/> If no, please explain whether any level of service is provided and, where applicable, identify any barriers to providing such services:
<b>Additional information</b> concerning implementation of Regulation 4.1 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	
<b>Documentation:</b> Please provide:	
<ul style="list-style-type: none"> <li>– an example of the standard medical report form for seafarers (<i>Standard A4.1, paragraph 2; see guidance in Guideline B4.1.2, paragraph 1</i>);</li> <li>– a copy of the requirements for the medicine chest and medical equipment and for the medical guide (<i>Standard A4.1, paragraph 4(a); see guidance in Guideline B4.1.1, paragraphs 4 and 5</i>).</li> </ul>	

**Regulation 4.2 – Shipowners' liability**  
**Standard A4.2; see also Guideline B4.2**

- Seafarers have a right to material assistance and support from the shipowner with respect to the financial consequences of sickness, injury or death occurring while they are serving under a SEA or arising from their employment under such agreement.
- Shipowners are liable to defray the expense of medical care, including medical treatment and the supply of the necessary medicines and therapeutic appliances, and board and lodging away from home until the sick or injured seafarer has recovered, or until the sickness or incapacity has been declared of a permanent character.
- Shipowners are to provide financial security to assure compensation in the event of the death or long-term disability of seafarers due to an occupational injury, illness or hazard, as set out in national law, the SEA or collective agreement.
- Measures are to be taken to safeguard the property of seafarers left on board by sick, injured or deceased seafarers.

Adequate information on all matters is to be found  
in the enclosed seafarers' employment agreement /collective agreement provisions

**Please check one or both boxes or provide the information in the right-hand column below.**

Has your country adopted legal provisions requiring shipowners to provide seafarers with material assistance and support with respect to the financial consequences, including burial expenses, of sickness, injury or death occurring while serving under seafarers' employment agreements or arising from their employment under such agreements? <i>(Regulation 4.2, paragraph 1; Standard A4.2, paragraphs 1 and 3)</i>	If yes, please provide a reference to those provisions if they are in English, French or Spanish; otherwise, please summarize their content:
Do your national laws or regulations limit the period during which a shipowner will continue to be liable to cover medical and other expenses incurred due to the seafarers' injury or sickness and to pay wages to the seafarers when no longer on board? <i>(Standard A4.2, paragraphs 2 and 4)</i>	If yes, please specify the number of weeks, from the day of the injury or the commencement of the sickness, during which the shipowner remains liable:

Do your national laws or regulations exclude the shipowners' liability in certain cases? <i>(Standard A4.2, paragraph 5)</i>	If yes, please indicate those cases:
What kinds of financial security are shipowners required to provide in order to assure compensation in the event of death or long-term disability of seafarers due to an occupational injury, illness or hazard? <i>(Standard A4.2, paragraph 1(b))</i>	
Are there circumstances in which the shipowners' liability for the expense of medical care and board and lodging and burial expenses are assumed by the public authorities? <i>(Standard A4.2, paragraph 6; see guidance in Guideline B4.2, paragraphs 2 and 3)</i>	If yes, please indicate the circumstances:
Are shipowners or their representatives required to safeguard the personal property of sick or injured or deceased seafarers and/or to return it to them or their next of kin? <i>(Standard A4.2, paragraph 7)</i>	
<b>Additional information</b> concerning implementation of Regulation 4.2 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	
<b>Documentation:</b> Please provide an example of the kind of documentation that is accepted or issued with respect to the financial security that must be provided by shipowners <i>(Standard A4.2, paragraph 1(b))</i> . Where this material is not available in English, French or Spanish, please provide a summary in one of these languages.	

**Regulation 4.3 – Health and safety protection and accident prevention  
Standard A4.3; see also Guideline B4.3**

- The working, living and training environment on ships must be safe and hygienic and conform to national laws and regulations and other measures for occupational safety and health protection and accident prevention on board ship. Reasonable precautions are to be taken on the ships to prevent occupational accidents, injuries and diseases including risk of exposure to harmful levels of ambient factors and chemicals as well as the risk of injury or disease that may result from the use of equipment and machinery on the ship.
- Ships must have an occupational safety and health policy and programme to prevent occupational accident injuries and diseases, with a particular concern for the safety and health of seafarers under the age of 18.
- A ship safety committee, which includes participation by the seafarer safety representative, is required (for ships with five or more seafarers).
- Risk evaluation is required for on-board occupational safety and health management (taking into account relevant statistical data).

Adequate information on all matters is to be found in the enclosed DMLC, Part I /Part II

**Please check one or both boxes or provide the information in the right-hand column below.**

Has your country adopted national laws and regulations and taken other measures, including the development and promulgation of national guidelines for the management of occupational safety and health, to protect seafarers that live, work and train on board ships flying its flag? <i>(Regulation 4.3, paragraphs 1–3)</i>	If yes, please provide a reference to those provisions if they are in English, French or Spanish; otherwise, please summarize their content:
Do those laws and regulations and other measures address all matters in Standard A4.3, paragraphs 1 and 2, including any measures taken to protect seafarers under the age of 18? <i>(Standard A4.3, paragraphs 1 and 2; see guidance in Guideline B4.3)</i>	If no, please indicate the matters that are not addressed:
Are those laws and regulations and other measures reviewed regularly, in consultation with shipowners' and seafarers' organizations, with a view to their revision to account for changes in technology and research and the need for continuous improvement? <i>(Standard A4.3, paragraph 3)</i>	
Are ships with five or more seafarers on board required to have a safety committee which includes seafarer representatives? <i>(Standard A4.3, paragraph 2(d))</i>	

Are occupational accidents, injuries and diseases reported taking into account guidance from the ILO? <i>(Standard A4.3, paragraphs 5(a) and 6)</i>	If no, please explain what reports are required:
Are shipowners required to conduct risk evaluations for occupational safety and health on board ship? <i>(Standard A4.3, paragraph 8)</i>	If no, please explain what shipowners are required to do with respect to ascertaining and preventing risks:
<b>Additional information</b> concerning implementation of Regulation 4.3 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	
<b>Documentation:</b> Please provide, in English, French or Spanish:	
<ul style="list-style-type: none"> <li>– an example of a document (e.g. Part II of the DMLC outlining a shipowner's practices or on-board programmes (including risk evaluation) for preventing occupational accidents, injuries and diseases <i>(Standard A4.3, paragraphs 1(c), 2(b) and 8)</i>;</li> <li>– a copy of the relevant national guidelines <i>(Regulation 4.3, paragraph 2)</i>;</li> <li>– a copy of the document(s) used for reporting unsafe conditions or occupational accidents on board ship <i>(Standard A 4.3, paragraph 1(d))</i>.</li> </ul>	

**Regulation 4.4 – Access to shore-based welfare facilities**  
**Standard A4.4; see also Guideline B4.4**

- Shore-based welfare facilities, if they exist in your country, must be accessible to all seafarers, irrespective of nationality, race, colour, sex, religion, political opinion or social origin, or the flag State of their ship.
- The development of welfare facilities should be promoted in appropriate ports determined after consultation with shipowners' and seafarers' organizations.
- The establishment of welfare boards must be encouraged to regularly review welfare facilities and service for appropriateness in the light of changes in the needs of seafarers resulting from developments in the shipping industry.

Our country is landlocked

**Please check the above box or provide the information in the right-hand column below.**

How many shore-based seafarer welfare facilities are operating in your country?	
Please provide information on plans for the development or further development of seafarer welfare facilities in your country. <i>(Standard A4.4, paragraph 2)</i>	
Is access to shore-based welfare facilities or services restricted in the case of certain categories of visiting seafarers coming into port? <i>(Regulation 4.4, paragraph 1; Standard A4.4., paragraph 1)</i>	If yes, please indicate the kind of restrictions applied:
Have one or more welfare boards been established? <i>(Standard A4.4, paragraph 3)</i>	If yes, please outline their composition and activities:

**Additional information** concerning implementation of Regulation 4.4 (see above: Practical guidance for drawing up reports, point 5).

**Explanations** (see above: Practical guidance for drawing up reports, point 7).

**Documentation:** Please provide, in English, French or Spanish:

- a list of all seafarers' shore-based welfare facilities and services, if any, operating in your country;
- a copy of a report or review prepared by a welfare board, if any, on the welfare services.

**Regulation 4.5 – Social security**  
**Standard A4.5; see also Guideline B4.5**

- All seafarers ordinarily resident in your country's territory are entitled to social security protection, complementing the protection provided by medical care and shipowners' liability, in the branches of social security notified by your country to the ILO Director-General (which must include at least three of the nine branches specified).
- Social security protection must be no less favourable than that enjoyed by shoreworkers resident in your country's territory. This responsibility can be satisfied, for example, through appropriate bilateral or multilateral agreements or contribution-based schemes.
- Your country must take steps, according to its national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for seafarers. The present report must include information regarding steps taken by your country to extend protection to branches other than those at present notified to the ILO.
- Consideration must also be given to ways in which, in accordance with your national law and practice, comparable benefits will be provided to seafarers in the absence of adequate coverage in the nine branches specified.
- To the extent consistent with its national law and practice, your country must cooperate with others to ensure the maintenance of social security rights acquired or in the course of acquisition.
- Fair and effective procedures for the settlement of disputes must be established.

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*In the right-hand column below, please provide the answer and information relating to the following question: With respect to each of the nine branches listed in the left-hand column, is the complementary social security protection provided to seafarers ordinarily resident in your country? If yes, please indicate – by reference to the documentation requested below – the main benefits provided in the branch concerned. (Standard A4.5, paragraphs 1 and 3)*

Medical care	No <input type="checkbox"/> Yes <input type="checkbox"/> Main benefits provided:
Sickness benefit	No <input type="checkbox"/> Yes <input type="checkbox"/> Main benefits provided:
Unemployment benefit	No <input type="checkbox"/> Yes <input type="checkbox"/> Main benefits provided:
Old-age benefit	No <input type="checkbox"/> Yes <input type="checkbox"/> Main benefits provided:
Employment injury benefit	No <input type="checkbox"/> Yes <input type="checkbox"/> Main benefits provided:
Family benefit	No <input type="checkbox"/> Yes <input type="checkbox"/> Main benefits provided:
Maternity benefit	No <input type="checkbox"/> Yes <input type="checkbox"/> Main benefits provided:
Invalidity benefit	No <input type="checkbox"/> Yes <input type="checkbox"/> Main benefits provided:
Survivors' benefit	No <input type="checkbox"/> Yes <input type="checkbox"/> Main benefits provided:
Are there any branches in which benefits are provided that are less favourable than those provided to shoreworkers resident in your country? <i>(Regulation 4.5, paragraph 3; Standard A4.5, paragraph 3)</i>	If yes, please indicate the branches concerned:
Are dependants of seafarers ordinarily resident in your country provided with social security protection? <i>(Regulation 4.5, paragraph 1)</i>	
Please indicate any steps taken or plans being made or discussed in your country to improve the benefits currently provided to seafarers or to extend social security protection for seafarers to branches not covered at present. <i>(Regulation 4.5, paragraph 2; Standard A4.5, paragraph 11)</i>	
Please indicate any bilateral or multilateral arrangements in which your country participates regarding the provision of social security protection, including the maintenance of rights acquired or in the course of acquisition. <i>(Regulation 4.5, paragraph 2; Standard A4.5, paragraphs 3, 4 and 8)</i>	
Are shipowners' and, if applicable, seafarers' contributions to relevant social protection and social security systems or schemes monitored to verify that the contributions are made? <i>(Standard A4.5, paragraph 5; see guidance in Guideline B4.5, paragraphs 6 and 7)</i>	
Has your country adopted any measures for providing benefits to non-resident seafarers working on ships flying its flag who do not have adequate social security coverage? <i>(Standard A4.5, paragraphs 5 and 6; see guidance in Guideline B4.5, paragraph 5)</i>	
<b>Additional information</b> concerning implementation of Regulation 4.5 (see above: Practical guidance for drawing up reports, point 5).	
<b>Explanations</b> (see above: Practical guidance for drawing up reports, point 7).	



## Title 5. Compliance and enforcement

Note:

Title 5 has three primary Regulations (*Regulation 5.1, Flag State responsibilities; Regulation 5.2, Port State responsibilities; and Regulation 5.3, Labour-supplying responsibilities*). These three Regulations prescribe the details of the basic obligations set out in Article V, Implementation and enforcement responsibilities (see paragraphs 2–7).

Regulations 5.1 and 5.2 comprise a number of Regulations, each with its own Part A – *Standards* and Part B – *Guidelines*. They are dealt with in this report as separate Regulations, for example Regulation 5.1.1 – General principles.

<b>Regulation 5.1 – Flag State responsibilities</b>	
<b>Regulation 5.1.1 – General principles</b> <b>Standard A5.1.1; see also Guideline B5.1.1</b> <b>With reference also to Regulation 5.1.4 and Standard A5.1.4, paragraphs 1 and 2</b>	
<ul style="list-style-type: none"> <li>■ Each country must have an effective system for the inspection and certification of labour conditions on ships flying its flag, with clear objectives and standards covering the administration of this system, as well as adequate overall procedures for the assessment of the extent to which those objectives and standards are being attained.</li> <li>■ The competent authority must appoint a sufficient number of qualified inspectors to fulfil its inspection and certification functions.</li> </ul>	
Please describe the basic structure and objectives of your country's system (including measures to assess its effectiveness) for the inspection and certification of maritime labour conditions in accordance with Regulations 5.1.3 and 5.1.4 to ensure that the working and living conditions for seafarers on ships that fly its flag meet, and continue to meet, the standards in the Convention.  <i>(Regulation 5.1.1, paragraphs 2 and 5; Standard A5.1.1, paragraph 1; Regulation 5.1.2, paragraph 2)</i>	
Are ships flying your country's flag required to have a copy of the Convention available on board?  <i>(Standard A5.1.1, paragraph 2)</i>	If yes, please provide the reference for this requirement:
<b>Additional information</b> concerning implementation of Regulation 5.1.1.	
<b>Documentation:</b> Please provide, in English, French or Spanish:	
<ul style="list-style-type: none"> <li>■ a report or other document containing information on the objectives and standards established for your country's inspection and certification system, including the procedures for its assessment;</li> <li>■ information on the budgetary allocation during the period covered by this report for the administration of your country's inspection and certification system and the total income received during the same period on account of inspection and certification services;</li> <li>■ the following statistical information:             <ul style="list-style-type: none"> <li>– number of ships flying your country's flag that were inspected during the period covered by this report for compliance with the requirements of the Convention;</li> <li>– number of inspectors, appointed by the competent authority or by a duly authorized recognized organization, carrying out those inspections during the period covered by this report;</li> <li>– number of full-term (up to five years) maritime labour certificates currently in force;</li> <li>– number of interim certificates issued during the period covered by this report in accordance with <i>Standard A5.1.3, paragraph 5</i>.</li> </ul> </li> </ul>	

<b>Regulation 5.1 – Flag State responsibilities</b>	
<b>Regulation 5.1.2 – Authorization of recognized organizations</b> <b>Standard A5.1.2; see also Guideline B5.1.2 (and Regulation 5.1.1, paragraph 3)</b>	
<ul style="list-style-type: none"> <li>■ Recognized organizations may be authorized to carry out certain inspection and certification functions, provided that:             <ul style="list-style-type: none"> <li>– those functions are expressly mentioned in the Code of the Convention as being carried out by the competent authority or a recognized organization;</li> <li>– the functions come within the authorization conferred by the competent authority;</li> <li>– the recognized organization has demonstrated that it has the necessary competence and independence.</li> </ul> </li> <li>■ Countries must establish a system to ensure the adequacy of work performed by recognized organizations, and have procedures for communication with and oversight of such organizations.</li> <li>■ They must provide the ILO with the current list of recognized organizations, specifying the functions authorized.</li> </ul>	

Our country does not make use of recognized organizations <input type="checkbox"/>	
<b>Please check the above box or provide the information in the right-hand column below.</b>	
Has your country adopted laws or regulations or other measures governing the authorization of recognized organizations for inspection and certification functions?	If yes, please provide a reference to those provisions if they are in English, French or Spanish, or summarize their content:
Are all recognized organizations granted the power to require rectification of deficiencies on ships and to carry out inspections at the request of port States? <i>(Standard A5.1.2, paragraph 2)</i>	
Has your country provided the ILO with a current list of recognized organizations authorized to act on your country's behalf, specifying the functions authorized? <i>(Standard A5.1.2, paragraph 4)</i>	Yes <input type="checkbox"/> No, the information is attached to this report <input type="checkbox"/>
Please describe how your country reviews the competence and independence of recognized organizations; including information on any system established for oversight and communication of relevant information to authorized organizations. <i>(Regulation 5.1.2, paragraph 2; Standard A5.1.2, paragraph 1)</i>	This information is already included above in connection with Regulation 5.1.1 <input type="checkbox"/>
<b>Additional information</b> concerning implementation of Regulation 5.1.2.	
<b>Documentation:</b> Please provide, in English, French or Spanish, an example or examples of authorizations, given to recognized organizations <i>(Regulation 5.1.1, paragraph 5; Regulation 5.1.2, paragraph 2)</i> .	

<b>Regulation 5.1 – Flag State responsibilities</b>	
<b>Regulation 5.1.3 – Maritime labour certificate and declaration of maritime labour compliance Standard A5.1.3; see also Guideline B5.1.3</b>	
<ul style="list-style-type: none"> <li>■ Ships must carry a maritime labour certificate if:                             <ul style="list-style-type: none"> <li>– they are 500 GT or more and engaged in international voyages, or</li> <li>– they are 500 GT or more and fly the flag of a country and are operating from a port, or between ports, in another country, or</li> <li>– a certificate is requested by the shipowner.</li> </ul> </li> <li>■ The certificate certifies that the working and living conditions of the seafarers on the ship have been inspected and meet the requirements of your country's laws or regulations or other measures implementing the Convention.</li> <li>■ The certificate is issued after the 14 matters listed in Appendix A5-I have been inspected and found to be in compliance, for a period not exceeding five years, subject to at least one intermediate inspection during that period.</li> <li>■ In prescribed cases, an interim certificate may be issued, only once, for a period not exceeding six months.</li> <li>■ A declaration of maritime labour compliance (DMLC) must be attached to the certificate (if full term); Part I of the DMLC, which is drawn up by the competent authority, identifies the national requirements relating to the 14 matters listed in Appendix A5-I, Part II, which is drawn up by the shipowner and certified by the competent authority or a duly authorized recognized organization, identifies the measures adopted to ensure ongoing compliance with those national requirements.</li> <li>■ The form and content of the certificates and the DMLC are prescribed in <i>Standard A5.1.3</i> and Appendix A5-II.</li> <li>■ In prescribed circumstances, a maritime labour certificate ceases to be valid or must be withdrawn.</li> </ul>	
<i>In the right-hand column below please provide a reference to the national provisions or other measures implementing the corresponding requirements of the Convention in the left-hand column, if those provisions or measures are in English, French or Spanish; otherwise please provide the reference and summarize the content of those provisions or measures.</i>	
The cases in which a maritime labour certificate is required; the maximum period of issue; the scope of the prior inspection; the requirement for an intermediate inspection; the provisions for renewal of the certificate. <i>(Regulation 5.1.3; Standard A5.1.3, paragraphs 1–4)</i>	
The cases in which a maritime labour certificate may be issued on an interim basis <i>(Standard A5.1.3, paragraphs 5(a)–(c))</i> ; the maximum period of issue of interim certificates, if issued; the scope of the prior inspection required if interim certificates are issued. <i>(Standard A5.1.3, paragraphs 5–8)</i>	

The requirements for posting on the ship, and for making available for review, the maritime labour certificate and the declaration of maritime labour compliance. <i>(Regulation 5.1.3, paragraph 6; Standard A5.1.3, paragraphs 12 and 13)</i>	
The circumstances in which a maritime labour certificate ceases to be valid. <i>(Standard A5.1.3, paragraphs 14 and 15; see guidance in Guideline B5.1.3, paragraph 6)</i>	
The circumstances in which a maritime labour certificate must be withdrawn. <i>(Standard A5.1.3, paragraphs 16 and 17)</i>	
<b>Additional information</b> concerning implementation of Regulation 5.1.3.	
<b>Documentation:</b> if available in your country, please provide, in English, a copy of the national interim maritime labour certificate.	

<b>Regulation 5.1 – Flag State responsibilities</b>	
<b>Regulation 5.1.4 – Inspection and enforcement</b> <b>Standard A5.1.4; see also Guideline B5.1.4</b>	
<ul style="list-style-type: none"> <li>■ Adequate rules must be made to ensure that inspectors have the training, competence, terms of reference, guidelines, powers, status and independence necessary or desirable to perform inspections effectively.</li> <li>■ Ships must be inspected at the intervals required for the purposes of certification, where applicable, and in no case at an interval exceeding three years.</li> <li>■ Where a complaint is received that is not manifestly unfounded, or there is evidence of non-conformity with the requirements of the Convention or there are serious deficiencies in the implementation of the measures in the declaration of maritime labour compliance, the matter must be investigated and any deficiencies remedied.</li> <li>■ If there are grounds to believe that deficiencies constitute a serious breach of the requirements of this Convention (including seafarers' rights), or represent a significant danger to seafarers' safety, health or security, inspectors must have the power to prohibit a ship from leaving port until necessary actions are taken (subject to any right of appeal).</li> <li>■ All reasonable efforts must be made to avoid a ship being unreasonably detained or delayed. Compensation must be paid in the case of the wrongful exercise of the inspectors' powers.</li> <li>■ Adequate penalties and other corrective measures must be effectively enforced for breaches of the requirements of the Convention (including seafarers' rights) and for obstructing inspectors in the performance of their duties.</li> <li>■ Inspectors must treat as confidential the source of any grievance or complaint alleging a danger or deficiency in relation to seafarers' working and living conditions or a violation of laws and regulations.</li> <li>■ Inspectors must submit a report of each inspection to the competent authority, to be posted on the ship and sent, upon request, to the seafarers' representatives. The competent authority must maintain records of the inspections and publish an annual report.</li> </ul>	
Are all ships covered by the Convention that fly your country's flag inspected for compliance with the Convention's requirements at least once every three years? <i>(Regulation 5.1.4, paragraph 1; Standard A5.1.4, paragraph 4)</i>	If no, please indicate any categories of ships that are not inspected at all or inspected at greater than three-year intervals:
Please indicate the qualifications and training required for flag State inspectors carrying out inspections under the Convention. <i>(Standard A5.1.4, paragraph 3)</i>	
Please summarize the measures adopted to guarantee that inspectors have a status and conditions of service ensuring that they are independent of changes of government and of improper external influences; and please indicate the manner in which those measures are enforced. <i>(Standard A5.1.4, paragraphs 3, 6, 11(a) and 17)</i>	
Are inspectors issued with a copy of the ILO's 2008 <i>Guidelines for flag State inspections under the Maritime Labour Convention, 2006</i> , or similar national guidelines and/or policy? <i>(Standard A5.1.4, paragraph 7; see guidance in Guideline B5.1.4, paragraph 2)</i>	
Please summarize the procedures for receiving and investigating complaints, and ensuring that their source is kept confidential. <i>(Standard A5.1.4, paragraphs 5, 10 and 11(b); see guidance in Guideline B5.1.4, paragraph 3)</i>	

<p>Please describe the arrangements made to ensure that inspectors submit a report of each inspection to the competent authority, that a copy is furnished to the master and another posted on the ship's notice board.</p> <p><i>(Standard A5.1.4, paragraph 12)</i></p>	
<p>In what kinds of cases will a ship be prohibited from leaving port until necessary actions are taken to remedy deficiencies under the Convention?</p> <p><i>(Standard A5.1.4, paragraph 7(c))</i></p>	
<p>Please identify, and outline the content of, the legal provisions or principles under which compensation must be paid for any loss or damage from the wrongful exercise of the inspectors' powers, and where applicable, please provide examples in which shipowners have been awarded compensation.</p> <p><i>(Standard A5.1.4, paragraph 16)</i></p>	
<p><b>Additional information</b> concerning implementation of Regulation 5.1.4.</p>	
<p><b>Documentation:</b> Please provide:</p> <ul style="list-style-type: none"> <li>– a copy of the annual reports on inspection activities, in English, French or Spanish, that have been issued in accordance with <i>Standard A5.1.4, paragraph 13</i>, during the period covered by this report;</li> <li>– a standard document issued to or signed by inspectors setting out their functions and powers (<i>Standard A5.1.4, paragraph 7</i>; see guidance in <i>Guideline B5.1.4, paragraphs 7 and 8</i>), together with a summary in English, French or Spanish if the document is not in one of those languages;</li> <li>– a copy of any national guidelines issued to inspectors in implementation of <i>Standard A5.1.4, paragraph 7</i>, with an indication of the content in English, French or Spanish if the guidelines are not in one of those languages;</li> <li>– a copy of the form used for an inspector's report (<i>Standard A5.1.4, paragraph 12</i>);</li> <li>– a copy of any documentation that is available informing seafarers and interested others about the procedures for making a complaint (in confidence) regarding a breach of the requirements of the Convention (including seafarers' rights) (<i>Standard A5.1.4, paragraph 5</i>; see guidance in <i>Guideline B5.1.4, paragraph 3</i>), with an indication of the content in English, French or Spanish if the documentation is not in one of those languages.</li> </ul>	

<p><b>Regulation 5.1 – Flag State responsibilities</b></p>	
<p><b>Regulation 5.1.5 – On-board complaint procedures</b>  <b>Standard A5.1.5; see also Guideline B5.1.5</b></p>	
<ul style="list-style-type: none"> <li>■ Ships must have on-board procedures for the fair, effective and expeditious handling of seafarers' complaints alleging breaches of the requirements of the MLC, 2006 (including seafarers' rights).</li> <li>■ Those procedures must seek to resolve complaints at the lowest level possible although seafarers must have a right to complain directly to the master and to appropriate external authorities.</li> <li>■ The procedures must include the right of the seafarer to be accompanied or represented during the complaints procedure, as well as safeguards against the possibility of victimization for filing complaints. Such victimization must be prohibited.</li> <li>■ All seafarers must be provided with a copy of the on-board complaint procedures applicable on the ship.</li> </ul>	
<p>Adequate information on all matters is to be found in the enclosed DMLC, Part I <input type="checkbox"/>/Part II <input type="checkbox"/></p>	
<p><b>Please check one or both boxes or provide the information in the right-hand column below.</b></p>	
<p>Has the competent authority in your country developed a model for a fair and expeditious and well-documented on-board complaint procedure for ships that fly your country's flag?</p> <p><i>(Regulation 5.1.5, paragraph 1; Standard A5.1.5, paragraphs 1–3; see guidance in Guideline B5.1.5, paragraphs 1 and 2)</i></p>	<p>If yes, please indicate the extent to which this model must be followed by shipowners:</p>
<p>Please identify, and outline the content of, the legal provisions or principles under which victimization of seafarers for filing a complaint is prohibited and penalized in your country.</p> <p><i>(Regulation 5.1.5, paragraph 2)</i></p>	
<p>Please outline the arrangements made to ensure that all seafarers are provided with a copy of the on-board complaint procedures applicable on the ship, including contact information relevant to that ship and to the seafarers concerned.</p> <p><i>(Standard A5.1.5, paragraph 4)</i></p>	
<p><b>Additional information</b> concerning implementation of Regulation 5.1.5.</p>	
<p><b>Documentation:</b> Please provide a copy of your country's model for on-board complaint procedures, if developed, or of typical procedures that are followed on ships that fly its flag, with a translation into English, French or Spanish if the procedures are not in one of these languages.</p>	

<b>Regulation 5.1 – Flag State responsibilities</b>	
<b>Regulation 5.1.6 – Marine casualties</b>	
<ul style="list-style-type: none"> <li>■ An official inquiry must be held into any serious marine casualty, leading to injury or loss of life, that involves ships flying your country's flag.</li> <li>■ ILO Members must cooperate in the investigation of serious marine casualties.</li> </ul>	
Please indicate the relevant legal provisions and any other measures implementing Regulation 5.1.6, providing a summary in English, French or Spanish if the provisions or measures are not in one of those languages.	
Please describe what arrangements and requirements exist for holding an official inquiry into cases of serious marine casualties that involve a ship flying your country's flag and lead to injury or loss of life, indicating whether the final reports of such inquiries are normally made public ( <i>Regulation 5.1.6, paragraph 2</i> ).	
Please supply information on the number of inquiries held during the period covered by this report.	
<b>Additional information</b> concerning implementation of Regulation 5.1.6.	

<b>Regulation 5.2 – Port State responsibilities</b>	
<b>Regulation 5.2.1 – Inspections in port</b> <b>Standard A5.2.1; see also Guideline B5.2.1</b>	
<ul style="list-style-type: none"> <li>■ Every foreign ship calling, in the normal course of its business or for operational reasons, in a port may be the subject of inspection by an authorized officer of your country for the purpose of reviewing compliance with the requirements of the Convention (including seafarers' rights) relating to the working and living conditions of seafarers on the ship.</li> <li>■ The inspection must be based on an effective port State inspection and monitoring system.</li> <li>■ If a ship carries a maritime labour certificate issued in accordance with the Convention, that certificate and the declaration of maritime labour compliance attached to it must be accepted as prima facie evidence of compliance. The inspection must then be limited to a review of the certificate and declaration, except in the cases specified under (a)–(d) of Standard A5.2.1, paragraph 1.</li> <li>■ In these cases specified in Standard A5.2.1, paragraph 1 (a) – (d) a more detailed inspection may be carried out. Such inspection must be carried out where the working and living conditions believed or alleged to be defective could constitute a clear hazard to the safety, health or security of seafarers or where the authorized officer has grounds to believe that any deficiencies constitute a serious breach of the requirements of the Convention (including seafarers' rights).</li> <li>■ The more detailed inspection must, in principle, cover the 14 matters listed in Appendix A5-III, except in the case of a complaint.</li> <li>■ The procedures to be followed where deficiencies or non-conformities are found (including the detention of the ship in port until rectification or acceptance by the authorized officer of a plan of action for rectification) are set out in Standard A5.2.1, paragraphs 4–6.</li> <li>■ All possible efforts must be made to avoid a ship being unduly detained or delayed. Compensation must be paid for any loss or damage where a ship is found to be unduly detained or delayed.</li> </ul>	
Our country is not a port State <input type="checkbox"/>	
<b>Please check the above box or provide the information in the right-hand column below.</b>	
Please specify any regional port State control Memorandum of Understanding (MOU) in which your country participates. <i>(Regulation 5.2.1, paragraph 3)</i>	
Has your country established an effective port State inspection and monitoring system, for the purpose of reviewing compliance with the requirements of the MLC, 2006 (including seafarers' rights)? <i>(Regulation 5.2.1, paragraphs 1, 4 and 5)</i>	If yes, please describe the system, including the method used for assessing its effectiveness:
Please indicate the number of authorized officers appointed by the competent authority and please provide information on the qualifications and training required for carrying out port State control.	
Are authorized officers given guidance as to the kinds of circumstances justifying detention of ship (such as the relevant guidance contained in the ILO's 2008 <i>Guidelines for port State control officers carrying out inspections under the Maritime Labour Convention, 2006</i> , or similar national guidance or guidance provided by a regional port State control MOU)? <i>(Standard A5.2.1, paragraph 7)</i>	If yes, please identify the guidance:

<p>Please identify, and outline the content of, the legal provisions or principles under which compensation must be paid for any loss or damage for a ship being unduly detained or delayed and, where applicable, please provide examples in which shipowners have been awarded compensation.</p> <p><i>(Standard A5.2.1, paragraph 8)</i></p>	
<p><b>Additional information</b> concerning implementation of Regulation 5.2.1.</p>	
<p><b>Documentation:</b> Please provide:</p> <ul style="list-style-type: none"> <li>■ a copy of any national guidelines issued to inspectors in implementation of <i>Standard A5.2.1, paragraph 7</i>, with an indication of the content in English, French or Spanish if the guidelines are not in one of those languages;</li> <li>■ the following statistical information for the period covered by this report:                     <ul style="list-style-type: none"> <li>– number of foreign ships inspected in port;</li> <li>– number of more detailed inspections carried out according to <i>Standard A5.2.1, paragraph 1</i>;</li> <li>– number of cases where significant deficiencies were detected;</li> <li>– number of detentions of foreign ships due, wholly or partly, to conditions on board ship that are clearly hazardous to the safety, health or security of seafarers, or constitute a serious or repeated breach of the requirements of MLC, 2006, (including seafarers' rights).</li> </ul> </li> </ul> <p>Note: If this information is also provided in connection with a regional PSC arrangement, a copy of that report or link to the relevant web site where this data can be accessed is sufficient.</p>	

<p><b>Regulation 5.2 – Port State responsibilities</b></p>	
<p><b>Regulation 5.2.2 – Onshore complaint-handling procedures</b>  <b>Standard A5.2.2; see also Guideline B5.2.2</b></p>	
<ul style="list-style-type: none"> <li>■ A complaint by a seafarer alleging a breach of the requirements of this Convention (including seafarers' rights) may be reported to an authorized officer in the port at which the seafarer's ship has called.</li> <li>■ The authorized officer must undertake an initial investigation. If the complaint falls within the scope of <i>Standard A5.2.1</i>, a more detailed inspection may be carried out. Otherwise, where appropriate, the authorized officer must seek to promote a resolution of the complaint at the ship-board level.</li> <li>■ If the investigation or the inspection reveals a non-conformity justifying detention of the ship, the procedure provided for in <i>Standard A5.2.1, paragraph 6</i>, must be followed.</li> <li>■ Otherwise, if the complaint has not been resolved, the authorized officer notifies the flag State, seeking advice and a corrective plan of action.</li> <li>■ If the complaint is still not resolved, the port State must transmit a copy of the authorized officer's report, accompanied by any reply from the flag State, to the ILO Director-General; the appropriate shipowners' and seafarers' organizations in the port State are similarly informed.</li> <li>■ Appropriate steps must be taken to safeguard the confidentiality of complaints made by seafarers.</li> </ul>	
<p>Our country is not a port State <input type="checkbox"/></p> <p><b>Please check the above box or provide the information in the right-hand column below.</b></p>	
<p>Has your country established procedures, including steps taken to safeguard confidentiality, for seafarers calling at its ports to report a complaint alleging breach of the requirements of the MLC, 2006 (including seafarers' rights)?</p> <p><i>(Regulation 5.2.2, paragraph 1; Standard A5.2.2, paragraphs 1–7; see guidance in Guideline B5.2.2)</i></p>	<p>If yes, please describe the procedures, referring to the corresponding legal provisions or measures:</p>
<p>Please provide information on the number of such complaints that were reported during the period covered by this report and on the complaints that were resolved and reported to the ILO Director-General.</p> <p><i>(Standard A5.2.2, paragraph 6)</i></p>	
<p><b>Additional information</b> concerning implementation of Regulation 5.2.2.</p>	
<p><b>Documentation:</b> Please provide, in English, French or Spanish a copy of a document, if any, that describes the onshore complaint handling procedures.</p>	

<b>Regulation 5.3 – Labour-supplying responsibilities</b>	
<b>Standard A5.3; see also Guideline B5.3</b>	
<ul style="list-style-type: none"> <li>■ ILO Members must establish an effective inspection and monitoring system for enforcing their labour-supplying responsibilities, particularly those regarding the recruitment and placement of seafarers.</li> <li>■ Members must also implement social security responsibilities for seafarers that are its nationals or residents or are otherwise domiciled in their territory.</li> </ul>	
There are no seafarers in our country <input type="checkbox"/>	
<b>Please check the above box or provide the information in the right-hand column below.</b>	
Please describe the system in your country for the inspection and monitoring and enforcement (including legal proceedings for breaches of the requirements under Regulation 1.4) of its labour-supplying responsibilities under the MLC, 2006, including the method used for assessing its effectiveness.  <i>(Regulation 5.3, paragraphs 3 and 4; Standard A5.3, referring to Standard A1.4)</i>	This information has been provided in the context of Regulation 1.4 <input type="checkbox"/>
If you have seafarers who are nationals or ordinarily resident or domiciled in your country, have arrangements been made to ensure that they receive social security protection irrespective of the flag of the ship on which they are working?  <i>(Regulation 5.3, paragraph 1)</i>	This question has been answered in the context of Regulation 4.5 <input type="checkbox"/>
<b>Additional information</b> concerning implementation of Regulation 5.3.	

