

Approved for tabling in the House.



REPUBLIC OF KENYA
THE NATIONAL ASSEMBLY

BA
SNA
22/9/2021


TWELFTH PARLIAMENT – FIFTH SESSION

THE DEPARTMENTAL COMMITTEE ON
TRANSPORT, PUBLIC WORKS AND HOUSING

REPORT ON-

RATIFICATION OF:

- ✓ 1. THE 2014 AND 2018 AMENDMENTS TO THE MARITIME LABOUR CONVENTION, 2006;
2. THE INTERNATIONAL LABOUR ORGANIZATION CONVENTION C185 (AMENDED CONVENTION ON SEAFARERS IDENTITY DOCUMENTS, 2003);
3. THE INTERNATIONAL LABOUR ORGANIZATION CONVENTION C188 (WORK IN FISHING CONVENTION, 2007);
4. THE INTERNATIONAL CONVENTION ON THE STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR FISHING VESSEL PERSONNEL, 1995; AND
5. THE CAPE TOWN AGREEMENT OF 2012 ON SAFETY OF FISHING VESSELS


 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 23 SEP 2021	
DAY: THURSDAY	
TABLED BY:	CHAIR, DC - TRANSPORT, PUBLIC WORKS & HOUSING HON. DAVID PKOSING, MP
CLERK-AT THE-TABLE:	Miriam Wanjiku

DIRECTORATE OF DEPARTMENTAL COMMITTEES
CLERK'S CHAMBERS - NATIONAL ASSEMBLY
PARLIAMENT BUILDINGS
NAIROBI

SEPTEMBER 2021

4 SEP 1953

**Amendments to the Maritime Labour Convention,
2006 (2014 and 2018 Amendments)**

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 23 SEP 2021	
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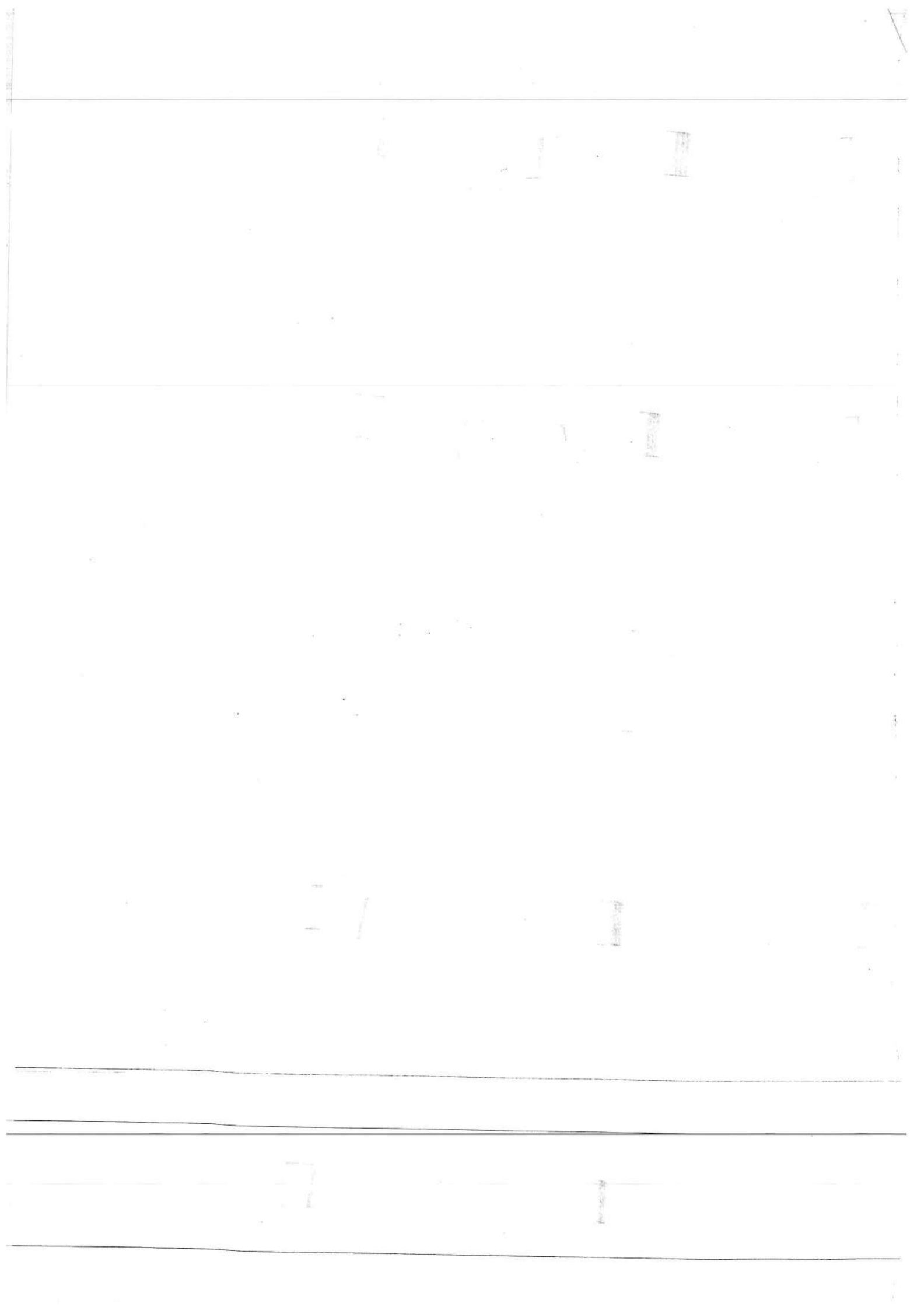


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EXECUTIVE SUMMARY

On 23rd February 2021 five Conventions from the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works were laid before the National Assembly for consideration by the House. These are:

1. The 2014 And 2018 Amendments to The Maritime Labour Convention, 2006;
2. The International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003);
3. The International Labour Organization Convention C188 (Work in Fishing Convention, 2007);
4. The International Convention on The Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995; and
5. The Cape Town Agreement of 2012 on Safety of Fishing Vessels.

Pursuant to section 8 of the Treaty Making and Ratification Act, 2012, they were committed to the Departmental Committee on Transport Public Works and Housing for consideration and report to the House. Once ratified, the Conventions shall become part of our Kenyan laws as provided for in Article 2(6) of the Constitution which provides that "*any treaty or convention ratified by Kenya shall form part of the Law of Kenya under this Constitution*".

In line with Article 118 (1) (b) of the Constitution on public participation in law making process and section 8(3) of the Treaty Making and Ratification Act of 2012, the Committee placed advertisements in two local daily newspapers of 1st of April 2021, requesting for submission of memoranda by the public on the subject matter. There was no response.

On 1st July 2021, the Committee met the Principal Secretary, State Department for Shipping and Maritime, Secretary, Internal Security, Director General, Kenya Coast Guard Services, Director General for Immigration among other government officials. They unanimously recommended the ratification of the Conventions while outlining various benefits especially on protection of seafarers and employment.

The Committee wishes to thank the Offices of the Speaker and the Clerk of the National Assembly for the guidance and technical support accorded to it during consideration of these Conventions.

On behalf of the Committee, it is therefore my pleasant duty and privilege, to lay this report on The Ratification of the 2014 and 2018 amendments to the Maritime Labour Convention, 2006; the International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003); the International Labour Organization Convention C188 (Work in Fishing Convention, 2007); the International Convention on The Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995; and the Cape Town Agreement of 2012 on Safety of Fishing Vessels; for consideration and approval by the House Pursuant to Section 8(4) of the Treaty Making and Ratification Act, 2012 and Standing Order 199.

HON. DAVID L. PKOSING, C.B.S., M.P.
Chairperson -Departmental Committee on Transport Public Works and Housing

1.0 PREFACE

Mandate of the Committee

1. The Departmental Committee on Transport, Public Works and Housing is mandated, pursuant to the Standing Order 216 (5), to;
 - a) *investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned Ministries and departments;*
 - b) *study the programme and policy objectives of Ministries and departments and the effectiveness of the implementation;*
 - c) *study and review all legislation referred to it;*
 - d) *study, access and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
 - e) *investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
 - f) *to vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on Appointments);*
 - g) *examine treaties, agreements and conventions;*
 - h) *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - i) *make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
 - j) *consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
 - k) *Examine any questions raised by Members on a matter within its mandate.*
2. Further, the Second Schedule to the Standing Orders mandates the Committee to consider matters relating to the following subjects: -
 - a) Transport;
 - b) Roads;
 - c) Public works;
 - d) Construction and maintenance of roads, rails and buildings;
 - e) Air and seaports; and
 - f) Housing.
3. In executing this mandate, the Committee oversights various State Departments, namely:
 - a) The State Department of Transport;
 - b) The State Department of Infrastructure;
 - c) The State Department of Housing and Urban Development;
 - d) The State Department of Public Works; and
 - e) The State Department of Shipping and Maritime Affairs.

Membership of the Committee

4. The Departmental Committee on Transport, Public Works & Housing was constituted by the House on Thursday 14th December 2017. It was further re-constituted by the House on 15th July 2020 and currently comprises of the following Members: -

Chairperson

Hon. David Pkosing, C.B.S., M.P.
Pokot South Constituency
Jubilee Party

Vice-Chairperson

Hon. Gathoni Wamuchomba, H.S.C., M.P.
Kiambu County
Jubilee Party

Hon. Abdul Rahim Dawood, M.P.
North Imenti Constituency
Jubilee Party

Hon. David Njuguna Kiaraho, M.P.
Ol Kalou Constituency
Jubilee Party

Hon. Johnson Many Naicca, M.P.
Mumias West Constituency
Orange Democratic Movement Party

Hon. Omar Mwinyi Shimbwa, M.P.
Changamwe Constituency
Orange Democratic Movement Party

Hon. Peris Tobiko, C.B.S., M.P.
Kajiado East Constituency
Jubilee Party

Hon. Samuel Arama, M.P.
Nakuru Town West
Jubilee Party

Hon. Ahmed Abdisalan Ibrahim, M.P.
Wajir North Constituency
Orange Democratic Movement Party

Hon. Ahmed Bashane Gaal, M.P.
Tarbaj Constituency
Peoples Democratic Party

Hon. Ali Wario Guyo, M.P.
Garsen Constituency
Orange Democratic Movement Party

Hon. Dominic Kipkoech Koskei, M.P.
Soitik Constituency
Jubilee Party

Hon. George Aladwa Omwere, M.P.
Makadara Constituency
Orange Democratic Movement Party

Hon. Gideon Mutemi Mulyungi, M.P.
Mwingi Central Constituency
Wiper Democratic Party

Hon. Kulow Maalim Hassan, M.P.
Banisa Constituency
Economic Freedom Party (EFP)

Hon. Mercy Wanjiku Gakuya, M.P.
Kasarani Constituency
Jubilee Party

Hon. Janet Wanyama Nangabo, M.P.
Trans-Nzoia County
Jubilee Party

Hon. Shadrack John Mose, M.P.
KitutuMasaba Constituency
Jubilee Party

Hon. Tom Mboya Odege, M.P.
Nyatike Constituency
Orange Democratic Movement Party

Committee Secretariat

5. The Committee is serviced by the following secretariat staff:-

Ms. ChelagatTungo Aaron
First Clerk Assistant
Head of Secretariat

Mr. Ahmed Salim Abdalla
Second Clerk Assistant

Mr. Ronald Walala
Legal Counsel I

Mr. AbdinasirMoge Yusuf
Fiscal Analyst I

Mr. Eric Kariuki
Research Officer III

Ms. ZainabuWario
Serjeant-at-Arms

Mr. Yeziel Jilo
Serjeant-at-Arms

Mr. Yaqub Ahmed
Media Relations Officer

Mr. Collins Mahamba
Audio Recording Officer

2.0 INTRODUCTION

6. The International Maritime Organization (IMO), the International Labour Organization (ILO) and the Food and Agriculture Organization (FAO) are specialized agencies of the United Nations. Kenya is a member State of all the three UN organizations.
7. Seafarers and fishers work on-board vessels which are socio-technical and complex systems existing inside a hostile environment. They are captive to the work environment as they live and work on-board, are exposed to ever practical risky situations, cultural diversity, as well as hostile internal and external work environments which are incomparable to land. All these factors affect their occupational safety and health (OHS). The State therefore has a duty to secure OHS as either a flag or state, port state or labour supplying state.
8. Pursuant to a Cabinet Memorandum of October 2020, the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works submitted five Conventions for consideration by the House. These are:
 - a) The 2014 And 2018 Amendments to The Maritime Labour Convention, 2006;
 - b) The International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003);
 - c) The International Labour Organization Convention C188 (Work in Fishing Convention, 2007);
 - d) The International Convention on The Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995; and
 - e) The Cape Town Agreement of 2012 on Safety of Fishing Vessels
9. The Outline of the Conventions is provided for as hereunder.

Outline of the Conventions

- a. **The 2014 and 2018 Amendments to The Maritime Labour Convention, 2006;**
10. The Maritime Labour Convention (MLC) sets out seafarers' rights to decent working and living conditions for the world's seafarers and to establish a system of fair competition among ship owners. The MLC has a total of 96 ratifications. Kenya ratified the MLC on 31st July, 2014.
11. The 2014 amendments to the MLC relate to the financial security of seafarers in case of abandonment, and contractual claims for compensation in the event of seafarer's death or long-term disability due to an operational injury, illness or hazard. These amendments enter into force on 18 January 2017. They have been adopted by 105 states, 18 being African.
12. The 2018 amendments to MLC 2006 aim to improve protection of seafarers. The amendments:
 - a) guarantee full payment of seafarers' wages and entitlement during the entitlements during the entire period of captivity and until the seafarers in released and duly repatriated. If the seafarers dies while in captivity, wages and entitlement should be paid until the date of death as determined in accordance with applicable national laws; and
 - b) give guidance on eliminating shipboard harassment and bullying.

b. Convention on seafarers Identity Documents, 2003, as amended (C185)

13. This convention facilitates the entry of seafarers and fishers into the territory of member states, for the purpose of shore leave, transit, transfer or repatriation.
14. After the 9/11 attacks in USA, there was a global change on the general attitude towards border security. This led to the revision of the Seafarers' Identity Convention of 1958 to the Seafarers' Identity Documents Convention No 185 in 2003, which led to the introduction of biometrics aimed at facilitating shore leave, transfers and transit at maritime borders while respecting the security requirements of port states.
15. The convention prescribes the Content, Form and Systems requirements of the Seafarers' Identity Document (SID). Thus, the SID serves as an alternative to the passport and a stand-alone document to facilitate access to shore and transit of seafarers (exempts seafarers from holding a visa).
16. This Convention:
 - a) provides seafarers and fishers an opportunity to go ashore provide a mental and physical break from routine and contributes to good health and better attitudes towards their job;
 - b) enable seafarers and fishers to travel without visa requirement; and
 - c) enables seafarers and fishers to access employment opportunities.

c. Work in Fishing Convention, 2007(C188);

17. The Convention 188 was designed to ensure the fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board, conditions of service, fishers' work agreement, repatriation, recruitment and placement, accommodation and food, occupational safety and health protection, medical care and social security, protection in case of work-related sickness injury or death. It entered into force on 16 November 2017. It has a total of 18 ratification, 6 being African.
18. The Convention establishes minimum labour standards to improve the safety, health and medical care for workers on board fishing vessels, ensuring a minimum age for fishers, payment of minimum wages, and enforcing limits on working hours as well as ensuring they have the protection of a written work agreement and the same social security protections as workers on land. These provisions are vital in preventing workers from being exploited by unscrupulous employers who pay less than the recommended minimum wages, refuse to ensure overtime is voluntary and compensated, and engage in debt bondage and forced labour. Further, ensuring fishers are included fully in the social security system in critical especially if they suffer and occupational accident or illness.

d. International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessels Personnel, 1995 (1995 STCW-F Convention)

19. The STCW-F Convention applies to personnel serving on board seagoing fishing vessels entitled to fly the flag of the party. It sets the regulatory framework for the training and certification of personnel employed in fishing vessels with view to improving the safety of life and property at sea in the fishing industry. It entered into force on 29th September 2012.
20. The STCW-F Convention contributes to the reduction of casualties and brings considerable benefits and advantages to the fishing industry i.e., improving the quality

of education and training provided to personnel employed in fishing vessels; and enhancing the standards of training and safety in the fishing industry and fishing vessel fleets.

21. The Convention is currently under review. The amended version will be adopted in 2022, and will establish two levels of skippers' dependent on tonnage and length of the fishing vessel.

e. Cape Town Agreement of 2012 on Safety of Fishing Vessels

22. This is an international binding agreement which will control the rogue fishing industry, an area which has largely been unregulated over the years, through the control of fishing vessel safety by flag, port coast and states. It will also contribute to the fight against illegal, unprotected and unregulated (IUU) fishing.
23. It sets internationally agreed standards on the design, construction, and equipment of seagoing fishing vessel which are 24 meters or 300 gross tonnage (GT) and above. The requirements are aimed at ensuring that vessels safety by flag, port and coastal states. It will also contribute to the fight against illegal, unreported and unregulated (IUU) fishing.
24. The agreement currently has 14 contracting states. It requires 15 states to enter into force. 2 African states are party to the agreement. It is expected to enter into force on 20th October 2022.

3.0 SUMMARY OF THE PROCESS LEADING TO THE ADOPTION OF THE CONVENTIONS

a. The number of States that are party to the Treaty

25. Amendments of 2014 and 2018 to the Maritime Labour Convention, 2006 has a total of 96 ratifications. Kenya ratified the MLC on 31st July, 2014. These amendments entered into force on 18th January 2017. They have been adopted by 105 States, 18 being African. The amendments entered into force in Kenya tacitly on 26th December 2020. The Convention on Seafarers Identity Documents, 2003, as amended (C185) was entered into force on 8th June 2017. It has a total of 35 ratifications, 5 being African countries. Work in Fishing Convention, 2007 (C188) was entered into force on 16th November 2017. It has a total of 18 ratifications, 6 being African. The International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 was entered into force on 29th September 2012. It has a total ratification of 32 States, 9 being African. It is currently under review. The amended version will be adopted in 2022. The amendments will enter into force under the tacit amendment procedure. The Cape Town Agreement of 2012 on Safety of Fishing Vessels currently has 14 Contracting States. It requires 15 States to enter into force. 2 African States are party to the Agreement. It is expected to enter into force on 20th October 2022.

b. The views of the public on the ratification of the Conventions

26. In view of the restrictions in place due to the COVID-19 pandemic, the Ministry undertook public participation via various fora including newspaper notice, letters to stakeholders and virtual meetings. The Ministry submitted that the following entities presented their views:
- i. State Department for Shipping and Maritime
 - ii. Ministry of Foreign Affairs
 - iii. The National Treasury and Planning
 - iv. The Office of the Attorney General and Department Justice
 - v. State Department for Transport
 - vi. State Department for Transport
 - vii. State Department for Interior and Citizen Services
 - viii. State Department for Fisheries, Aquaculture and Blue Economy
 - ix. State Department for Vocational and Technical Training.
 - x. State Department for University Education and Research
 - xi. Kenya Maritime Authority
 - xii. Kenya National Qualification Authority
 - xiii. Kenya Ships Agents Association
 - xiv. International Transport Workers Federation
 - xv. Seafarers Union of Kenya

27. The Ministry explained that all the entities showed strong support for the ratification and the acceptance of the above-mentioned Conventions, noting their importance in advancing the protection of safety and labour interests of the country's seafarers and fishers.

c. Whether the Agreements sought to be ratified permit reservations and any recommendations on reservations and declarations

28. The Conventions do not permit reservations. However, they permit denunciation as provided for under each Convention.

d. Implications on matters relating to Counties

29. The obligation imposed on Kenya upon ratification relate to its status as a flag state, port state, labour-supplying state. A flag state is a state of a ship's nationality. A port state verifies whether foreign ships comply with international rule and standards. A labour-supplying state is a state that plays a major role in the global maritime labour market, as a significant source of seafarers/fishers. Those form part of the National Government Maritime Administration obligations as under part 1 (3.13, 15,16,18) of the Fourth Schedule of the Constitution, and do not occasion County obligations.

e. Whether expenditure of public funds will be incurred in implementing the Treaties and an estimate, where possible, of the expenditure

30. The implementation and enforcement of the Conventions is anticipated to have financial implications over and above Ministry's current budgetary allocations, partially in the areas of:

- i. Cost of ratification and amending the law
- ii. establishment of adequate training facilities;
- iii. training of trainers;
- iv. training of the Maritime Administration personnel to facilitate proper implementation and enforcement;
- v. adequate equipment for issuance of SID;
- vi. linkage of the Immigration and Kenya Maritime Authority Databases;
- vii. establishment of quality control and evaluation procedures
- viii. modification of certification process in line with the Standards;
- ix. technical assistance and cooperation on implementation and enforcement; and
- x. expounding the scope of Recognized Organizations inspections and certifications.

4.0 CONSIDERATION OF THE CONVENTIONS

31. On 1st July 2021, the Departmental Committee held a meeting with the Principal Secretary in the State Department for Maritime, the Secretary for Internal Security and other officials from the Ministry. The meeting was interactive with the Committee members having a better understanding of the Conventions and the benefits expected for the country.
32. In her submissions, the Principal Secretary for Shipping and Maritime explained that one of the key mandates of the Ministry of Transport, Infrastructure, Housing, Urban Development and Public Works is the development of skills and competencies necessary for the development of Kenya's maritime sector as a necessary prerequisite to the growth of the Blue Economy. Towards fulfilment of various aspects of this mandate, the Ministry therefore commenced the process towards the ratification of the five key Conventions that support capacity building as well as ensure the safety of the seafarers while employed on board the ship.
33. The PS explained that the Conventions protect the rights, occupational safety, health and welfare of persons while in their work environment on board foreign going ships. She submitted that the Conventions have all been universally adopted through the joint action of two specialised agencies of the United Nations, namely: -
 - a) the International Maritime Organization (IMO), charged with setting global standards for safety, security of shipping and marine environmental protection; and
 - b) the International Labour Organization (ILO), charged with improving labour conditions and standards throughout the world.
34. The Principal Secretary observed that Kenya is a member of both the IMO and ILO, but while we have ratified the MLC 2006, we are yet to ratify its later amendments. This therefore exposes Kenyan seafarers and fisher-folk to risk arising from the fact that they live and work on-board sea-going ships that are mostly foreign-owned or registered. Being captive to the work environment also exposes them to risky situations, cultural diversity, as well as potentially hostile internal and external work environments, all of which are incomparable with what their compatriots working on land, face.
- a) Ratification of the Conventions will help therefore make it possible for Kenya to achieve the following specific benefits:
 - a) Protection of Seafarers;
 - b) Facilitate the access to shore facilities as well as transit to Seafarers and Fishers;
 - c) Protection of Fishers;
 - d) Training and Certification of Fishing Vessel Personnel; and
 - e) Safety of Fishing Vessels.
35. The Committee however sought further clarifications, from the Ministry of Interior, regarding the Seafarers' Identification Document (SID) as provided for in the Convention on seafarers Identity Documents, 2003, as amended (C185). The Committee wanted to know whether the SID was replacing visa and if not, which other documents will be used together with the SID. The Committee also wanted to know which other documents protect seafarers, as well as the features of the SID. The Committee further wanted clarification on whether there was an interlinkage between

the SID database and immigration data base; especially for security purposes. The Committee therefore directed the Ministry of Interior to submit a written report responding to the issues raised by the Committee.

36. On 10th August 2021 the Committee confirmed the receipt of the Report from the Principal Secretary for Interior on the Seafarers' Identification Document (SID). The Committee considered the same and noted that the report by the Ministry of Interior was comprehensive and addressed all issues that the Committee had raised when considering the Maritime Conventions and in particular, the International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003).
37. The Committee, being satisfied with the submissions by the Ministry of Interior and Co-ordination of National Government on the Seafarers' Identity Documents (SID), resolved to recommend to the House, the ratification of the following Conventions:
- 1) Amendments to the Maritime Labour Convention, 2006 (2014 and 2018 Amendments);
 - 2) International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003);
 - 3) International Labour Organization Convention C188 (Work in Fishing Convention, 2007);
 - 4) International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995; and
 - 5) Cape Town Agreement of 2012 on Safety of Fishing Vessels.
38. In its meeting held on 14th August 2021, the Committee therefore adopted this Report, recommending the ratification of all the five Conventions.

5.0 COMMITTEE'S OBSERVATIONS

39. The Constitution in Article 2 (6) provides for the entrenchment of these Conventions into the laws of Kenya.
40. The Conventions are in line with the spirit of the Constitution of Kenya, as they address protection and the well-being of Kenyans in recognition of the essential values of human dignity, human rights and equality. The Conventions also promote access to quality education, the well-being of maritime labour; and the employment of Kenyans.
41. The 2018 amendments to MLC 2006 aim to provide protection to seafarers. The amendments will guarantee full payment of seafarers' wages and entitlements during the entire period of captivity and until the seafarer is released and duly repatriated. If the seafarer dies while in captivity, wages and entitlements should be paid until the date of death as determined in accordance with applicable national laws. These amendments will also give guidance on eliminating shipboard harassment and bullying.
42. The Convention on Seafarers Identity Documents, 2003, as amended (C185) facilitates the entry of seafarers and fishers into the territory of Member States, for the purposes of shore leave, transit, transfer or repatriation. This Convention provides seafarers and fishers an opportunity to go ashore and provides a mental and physical break from routine and contributes to good health and better attitudes towards their job. The Convention also enables seafarers and fishers to travel without the visa requirement; and therefore, enables seafarers and fishers to access numerous employment opportunities.
43. Work in Fishing Convention, 2007 (C188) establishes minimum labour standards to improve the safety, health and medical care for workers on board fishing vessels and provides for the minimum age for fishers. The Convention also provides for the payment of minimum wages, limits on working hours and a written work agreement and social security protections for fishers.
44. The International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 contributes to the reduction of casualties and brings considerable benefits and advantages to the fishing industry, i.e., improving the quality of education and training provided to personnel employed in fishing vessels; and enhancing the standard of training and safety in the fishing industry and fishing vessel fleets.
45. The Cape Town Agreement of 2012 on Safety of Fishing Vessels aims to guarantee the safety of fishing vessels through flag and port State controls. The agreement will also contribute to the fight against illegal, unreported and unregulated fishing.
46. Ratification of the five Conventions will assist Kenya in realizing her Blue Economy aspirations, the Big Four Agenda, as well as the United Nations Sustainable Development Goals.
47. The Conventions as presented satisfy the requirements of the Treaty Making and Ratification Act, 2012 as provided for in section 7 and section 8 of the Act.

6.0 COMMITTEE'S RECOMMENDATION

48. The Committee recommends that the House **approves** the ratification of the following Conventions as the approvals are in Kenya's national interest:

- 1) Amendments to the Maritime Labour Convention, 2006 (2014 and 2018 Amendments);
- 2) International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003);
- 3) International Labour Organization Convention C188 (Work in Fishing Convention, 2007);
- 4) International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995; and
- 5) Cape Town Agreement of 2012 on Safety of Fishing Vessels.

Signed



Hon. David L. Pkosing, C.B.S., M.P.

Chairperson

DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS &
HOUSING

Date

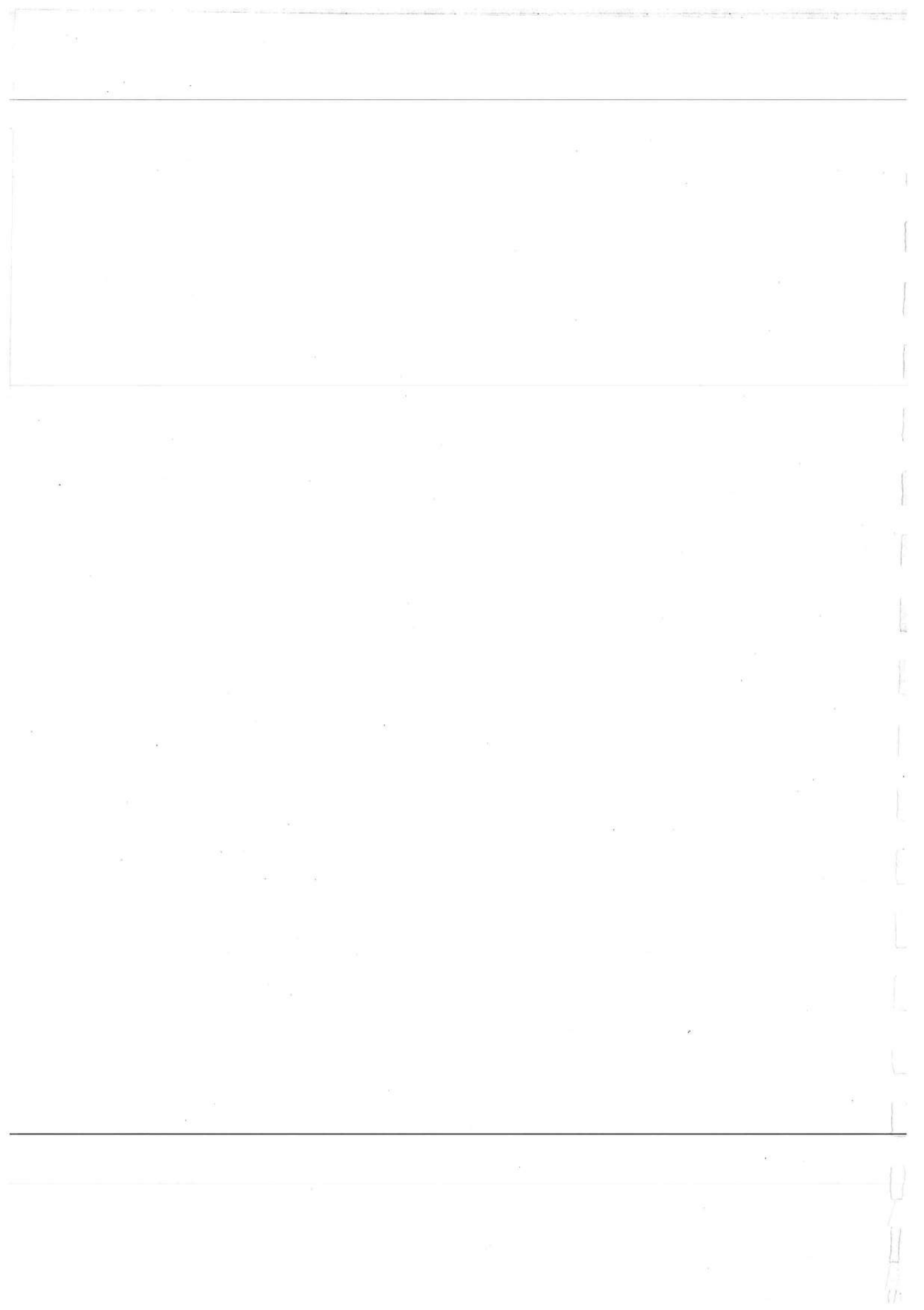
22/9/2021

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 23 SEP 2021	
TABLED BY:	DAY.
CLERK-AT THE-TABLE	

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Minutes

of sittings of the Committee



MINUTES OF THE FOURTY FOURTH (44TH) SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING HELD ON SATURDAY, 14TH AUGUST 2021 AT 9.30 A.M. AT MASHUA ROOM, SERENA HOTEL MOMBASA

MEMBERS PRESENT

1. Hon. David L. Pkosing, M.P. - Chairperson
2. Hon. David Njuguna Kiaraho, M.P.
3. Hon. Omar Mwinyi Shimbwa, M.P.
4. Hon. Peris Pesi Tobiko, M.P.
5. Hon. Samuel Arama, M.P.
6. Hon. Ali Wario Guyo, M.P.
7. Hon. Dominic Koskei, M.P.
8. Hon. Gideon Mulyungi, M.P.
9. Hon. Janet Nangabo, M.P.
10. Hon. Shadrack John Mose, M.P.
11. Hon. Tom Mboya Odege, M.P.

MEMBERS ABSENT WITH APOLOGY

12. Hon. Gathoni Wamuchomba, M.P. - Vice Chairperson
13. Hon. Abdul Rahim Dawood, M.P.
14. Hon. Johnson Manya Naicca, M.P.
15. Hon. Ahmed Abdisalan Ibrahim, M.P.
16. Hon. Ahmed Bashane Gaal, M.P.
17. Hon. George Aladwa Omwera, M.P.
18. Hon. Kulow Maalim Hassan, M.P.
19. Hon. Mercy Wanjiku Gakuya, M.P.

SECRETARIAT

- | | | |
|------------------------|---|--------------------|
| 1. Mr. Ahmed Salim | - | Clerk Assistant II |
| 2. Mr. Ronald Walala | - | Legal Counsel |
| 3. Mr. Eric Kariuki | - | Research Officer |
| 4. Mr. Abdinasir Moge | - | Fiscal Analyst |
| 5. Ms. Zainab Wario | - | Sergeant-at-arm |
| 6. Mr. Collins Mahamba | - | Audio Officer |
| 7. Ms. Mercy Mutuku | - | Legislative Fellow |
| 8. Mr. Boniface Matano | - | Legislative Fellow |
| 9. Ms. Lilian Seurei | - | Secretary |

MIN No. TPWH 253/2021:

PRELIMINARIES

The Chairman called the meeting to order at thirty-five minutes past nine o'clock followed by a word of prayer. The Chairman informed the Honorable Members that the Committee was meeting to adopt the Reports on consideration of the following treaties:

1. Bilateral Air Services between Kenya and Russia;
2. Bilateral Air Services between Kenya and Botswana; and between Kenya and South Africa; and

3. The Acceptance of 2014 and 2018 Amendments to the Maritime Labour Convention, 2006; Acceptance of the International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003); Acceptance of International Labour Organization Convention C188 (Work in Fishing Convention, 2007); Acceding to the International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995; and Ratification of the Cape Town Agreement of 2012 on Safety of Fishing Vessels.

The agenda of the meeting was therefore adopted after being proposed by the Hon. Tom Odege, MP and seconded by the Hon. Omar Mwinyi, MP.

MIN No. TPWH 254/2021:

CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS

Minutes of the 43rd sitting which was held on 13th August 2021 were confirmed as a true record of the proceedings, after having been proposed by the Hon. Shadrack Mose, MP, and seconded by the Hon. Peris Tobiko, MP.

MIN NO. TPWH 255/2021:

ADOPTION OF THE REPORT ON RATIFICATION OF THE BILATERAL AIR SERVICES BETWEEN KENYA AND RUSSIA

The Committee resolved to recommend to the House the ratification of the Bilateral Air Services Agreement between Kenya and Russia as the approval is in Kenya's national interest.

Adoption of the Report

The Report was adopted after having been proposed by the Hon. Omar Mwinyi, MP, and seconded by the Hon. Janet Nangabo, MP.

MIN NO. TPWH 256/2021:

ADOPTION OF THE REPORT ON RATIFICATION OF THE 2014 AND 2018 AMENDMENTS TO THE MARITIME LABOUR CONVENTION, 2006; ILO CONVENTION C185 (AMENDED CONVENTION ON SEAFARERS IDENTITY DOCUMENTS, 2003); ILO CONVENTION C188 (WORK IN FISHING CONVENTION, 2007); ACCEDING TO THE INTERNATIONAL CONVENTION ON THE STANDARDS OF TRAINING, CERTIFICATION AND WATCHKEEPING FOR FISHING VESSEL PERSONNEL, 1995; AND THE CAPE TOWN AGREEMENT OF 2012 ON SAFETY OF FISHING VESSELS

The Committee resolved to recommend to the House the ratification of the following protocols as the approvals are in Kenya's national interest:

1. The Acceptance of 2014 and 2018 Amendments to the Maritime Labour Convention, 2006;

2. Acceptance of the International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003);
3. Acceptance of International Labour Organization Convention C188 (Work in Fishing Convention, 2007);
4. Acceding to the International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995; and
5. Ratification of the Cape Town Agreement of 2012 on Safety of Fishing Vessels

Adoption of the Report

The Report was adopted after having been proposed by the Hon. Dominic Koskei and seconded by Hon. Peris Tobiko.

MIN NO. TPWH 257/2021:

ADOPTION OF THE REPORT ON RATIFICATION OF THE BILATERAL AIR SERVICES BETWEEN BOTSWANA; AND BETWEEN KENYA AND SOUTH AFRICA

The Committee confirmed that the Ministry had complied with the Committee directions which were given on 17th November 2020, and the law, and that a new Explanatory Memorandum signed by the Cabinet Secretary on 3rd February 2021 was forwarded to and received by the National Assembly vide a Ministry's letter dated 4th February 2021 and referenced MOT&I/C/AT/028/7/1 VOL.IV(54).

The Committee therefore resolved to recommend to the House the ratification of the Bilateral Air Services Agreement between Kenya and Botswana and the ratification of the Bilateral Air Services Agreement between Kenya and South Africa, as the approvals are in Kenya's national interest.

Adoption of the Report

The Report was adopted after having been proposed by the Hon. Samuel Arama, MP, and seconded by the Hon. Tom Odege, MP.

MIN No. TPWH 258/2021:

ANY OTHER BUSINESS

1. The Committee noted the receipt of Responses to Members Questions as received from the National Treasury through a letter dated 30th July 2021. The Responses were on Question Numbers 126/2021, 143/2021, 038/2021 and 209/2021. The Committee further noted receipt of responses from the Ministry of Transport dated 28th July 2021 on Question Numbers 111/2021, 146/2021, 175/2021, 206/2021, 210/2021 and 195/2021. The Responses to be shared with Table Office for the relevant Members to be informed.
2. In line with its oversight role, the Committee resolved to conduct inspection tours in the Coast Region during the September 2021 recess noting that there were many projects being undertaken by the government which fall under its purview. These include the Changanwe Interchange, Makupa Bridge, the Dongo Kundu Bypass and the Lamu Port. The Committee underscored the need to support the government's *Big 4 Agenda* programs and the *Vision 2030* projects; noting that the visits will boost the government efforts to deliver infrastructural developments in line with the said development blueprints. The Committee further resolved that the entire membership of the Committee should take part in the visits.
3. Members resolved to postpone all Committee activities for at least one week from 14th August 2021 or until further notice.

ADJOURNMENT

Signed.....*DNP Kon*.....

Date 22/9/2021

MINUTES OF THE FOURTY FIRST (41ST) SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING HELD ON TUESDAY, 10TH AUGUST 2021 AT 10.00 A.M. AT 5TH FLOOR, CONTINENTAL HOUSE

MEMBERS PRESENT

1. Hon. David L. Pkosing, M.P. - Chairperson
2. Hon. Abdul Rahim Dawood, M.P. - *virtually*
3. Hon. David Njuguna Kiaraho, M.P. - *virtually*
4. Hon. Omar Mwinyi Shimbwa, M.P.
5. Hon. Peris Pesi Tobiko, M.P. - *virtually*
6. Hon. Samuel Arama, M.P. - *virtually*
7. Hon. Ali Wario Guyo, M.P. - *virtually*
8. Hon. Dominic Koskei, M.P. - *virtually*
9. Hon. Janet Nangabo, M.P. - *virtually*
10. Hon. Kulow Maalim Hassan, M.P. - *virtually*
11. Hon. Mercy Wanjiku Gakuya, M.P. - *virtually*
12. Hon. Tom Mboya Odege, M.P. - *virtually*

MEMBERS ABSENT WITH APOLOGY

13. Hon. Gathoni Wamuchomba, M.P. - Vice Chairperson
14. Hon. Johnson Many Naicca, M.P.
15. Hon. Ahmed Abdisalan Ibrahim, M.P.
16. Hon. Ahmed Bashane Gaal, M.P.
17. Hon. George Aladwa Omwera, M.P.
18. Hon. Gideon Mulyungi, M.P.
19. Hon. Shadrack John Mose, M.P.

SECRETARIAT

- | | | |
|------------------------|---|--------------------|
| 1. Mr. Ahmed Salim | - | Clerk Assistant II |
| 2. Mr. Ronald Walala | - | Legal Counsel |
| 3. Mr. Eric Kariuki | - | Research Officer |
| 4. Ms. Zainab Wario | - | Sergeant-at-arm |
| 5. Mr. Collins Mahamba | - | Audio Officer |
| 6. Ms. Mercy Mutuku | - | Legislative Fellow |
| 7. Mr. Boniface Matano | - | Legislative Fellow |

MIN No. TPWH 239/2021:

PRELIMINARIES

The Chairman called the meeting to order at thirteen minutes past ten o'clock followed by a word of prayer. The Chairman informed the Honorable Members that the Committee was meeting to:

1. Consider and adopt the Report on Consideration for Ratification of The Agreement Amending the Air Transport Agreement Between Kenya and The United States of America; and
2. Consider the Report by the Ministry of Interior on the Seafarers' Identity Documents Convention as amended (C185).

The agenda of the meeting was therefore adopted after being proposed by the Hon. Omar Mwinyi, MP and seconded by the Hon. Ali Wario, MP.

MIN No. TPWH 240/2021:

**CONFIRMATION OF THE MINUTES OF THE
PREVIOUS SITTINGS**

Confirmation of minutes of the previous sitting was deferred.

MIN NO. TPWH 241/2021:

**ADOPTION OF THE REPORT ON RATIFICATION
OF AGREEMENT AMENDING THE AIR
TRANSPORT AGREEMENT BETWEEN KENYA
AND THE UNITED STATES OF AMERICA**

The Committee considered the draft report and observed that:

1. The Agreement, as signed on 5th February 2020, is proposing to amend the Air Transport Agreement entered into between Kenya and the United States of America signed in Washington DC on 8th June 2008.
2. Ratification of the Agreement will open expanded operations/markets for Kenyan/US air operators, facilitate the movement of goods, passengers and mail; offering more flexibility in meeting demands and express delivery meeting customer needs more efficiently. This will in turn generate trade, promote tourism, and create employment opportunities for the two States. In addition, the Federal Express Corporation (FEDEX) of the US had expressed interest in setting up a base in JKIA. This will open up immense opportunities for Kenya.
3. The Agreement as presented satisfies the requirements of the Treaty Making and Ratification Act, 2012 as provided for in section 7 and section 8 of the Act.

The Committee therefore resolved to recommend to the House the ratification of the Agreement signed on 5th February 2020, amending the Air Transport Agreement entered into between Kenya and the United States of America; which was signed in Washington DC on 8th June 2008, as the approval is in Kenya's national interest.

Adoption of the Report

The Report was adopted after having been proposed by the Hon. Samuel Arama, MP, and seconded by the Hon. Tom Odege, MP.

MIN NO. TPWH 242/2021:

**CONSIDERATION OF THE REPORT BY THE
MINISTRY OF INTERIOR ON THE SEAFARERS'
IDENTIFICATION DOCUMENT (SID)**

The Committee went through the report by the Principal Secretary for Interior, on the Seafarers' Identification Document (SID). The Committee noted that the report by the Ministry of Interior was comprehensive and addressed all issues that the Committee had raised when considering the Maritime Conventions and in particular, the International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003).

Way Forward

The Committee resolved to recommend to the House, the ratification of the following conventions:

1. Amendments to the Maritime Labour Convention, 2006 (2014 and 2018 Amendments);
2. International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003);
3. International Labour Organization Convention C188 (Work in Fishing Convention, 2007);
4. International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995; and
5. Cape Town Agreement of 2012 on Safety of Fishing Vessels.

MIN No. TPWH 243/2021:

ANY OTHER BUSINESS

1. The Committee directed the Clerk's Office to liaise with the relevant State Departments to get a list of possible foreign activities such as conferences with a view to afford Members attend some of them.
2. The Committee resolved to conduct local field visits to various parts of the country as part of its oversight roles. In this regard, the Clerk's Office was directed to come up with a draft program for the visits and plan for procurement of helicopters to assist Members effectively and securely access areas in the North Eastern and Coast regions. These include visits to roads in North Eastern region, LAPSET roads and projects, Tana River, Moyale among other areas.

MIN No. TPWH 244/2021:

ADJOURNMENT

There being no other business, the sitting was adjourned at three minutes past eleven o'clock. Next meeting to be held on Friday, the 13th day of August 2021, in Mombasa County.

Signed.....



(Chairperson)

Date.....

13 / 8 / 2021



MINUTES OF THE THIRTY FIRST (31ST) SITTING OF THE DEPARTMENTAL COMMITTEE ON TRANSPORT, PUBLIC WORKS & HOUSING HELD ON THURSDAY, 1ST JULY 2021 AT 10.00 A.M. AT 5TH FLOOR, CONTINENTAL HOUSE

MEMBERS PRESENT

1. Hon. David L. Pkosing, M.P. - Chairperson
2. Hon. Abdul Rahim Dawood, M.P. - *virtually*
3. Hon. David Njuguna Kiaraho, M.P. - *virtually*
4. Hon. Johnson Many Naicca, M.P. - *virtually*
5. Hon. Omar Mwinyi Shimbwa, M.P. - *virtually*
6. Hon. Samuel Arama, M.P. - *virtually*
7. Hon. Ahmed Bashane Gaal, M.P. - *virtually*
8. Hon. Ali Wario Guyo, M.P. - *virtually*
9. Hon. Dominic Koskei, M.P. - *virtually*
10. Hon. Kulow Maalim Hassan, M.P. - *virtually*
11. Hon. Shadrack John Mose, M.P. - *virtually*
12. Hon. Tom Mboya Odege, M.P. - *virtually*

MEMBERS ABSENT WITH APOLOGY

13. Hon. Gathoni Wamuchomba, M.P. - Vice Chairperson
14. Hon. Peris Pesi Tobiko, M.P.
15. Hon. Ahmed Abdisalan Ibrahim, M.P.
16. Hon. George Aladwa Omwera, M.P.
17. Hon. Gideon Mulyungi, M.P.
18. Hon. Janet Nangabo, M.P.
19. Hon. Mercy Wanjiku Gakuya, M.P.

SECRETARIAT

- | | | |
|----------------------------|---|-------------------------------------|
| 1. Mr. Ahmed Salim Abdalla | - | Clerk Assistant II |
| 2. Mr. Ronald Walala | - | Legal Counsel |
| 3. Ms. Winnie Kulei | - | Research Officer - <i>virtually</i> |
| 4. Mr. Yeziel Jillo | - | Sergeant-at-arm |
| 5. Mr. Eugene Luteshi | - | Audio Officer |

IN ATTENDANCE

- | | | |
|------------------------------|---|---|
| 1. Mrs. Nancy Karigithu, CBS | - | PS Shipping and Maritime Affairs (SDSMA) |
| 2. Mr. Wilson Njenga | - | Secretary, Internal Security (Ministry of Interior) |
| 3. Brig. (Rtd.) L. Naisho | - | DG, Kenya Coast Guard Services |
| 4. Mr. Alexander Muteshi | - | Director General, Immigration |
| 5. Ms. Annette Mureithi | - | Technical Adviser, SDSM |
| 6. Mr. Fredrick Luke Samba | - | Kenya Maritime Authority |
| 7. Ms. Wilfred Kagimbi | - | Technical Adviser, SDSM |
| 8. Mr. Ben Enyenze | - | |

State Department for Transport

- | | | |
|------------------------|---|--------------------------------|
| 9. Mr. Solomon Kitungu | - | Principal Secretary, Transport |
| 10. Mr. Alex Gitari | - | Ag. Managing Director, KAA |
| 11. Mr. Gilbert Kibe | - | Director General, KCAA |
| 12. Mr. Nicholas Bodo | - | Air Transport |
| 13. Mr. J. Koech | - | |

MIN No. TPWH 163/2021:

PRELIMINARIES

The Chairman called the meeting to order at ten minutes past ten o'clock followed by a word of prayer. The Chairman informed the Honorable Members that the Committee was meeting to consider the following agenda:

1. The Maritime Conventions
2. Bilateral Air Services Agreements between Kenya and Russia; and Kenya and USA
3. The Landlord and Tenant Bill, 2021 (Legal Briefing)

The agenda of the meeting was therefore adopted after being proposed by the Hon. David Kiaraho, MP and seconded by the Hon. Ahmed Bashane, MP.

MIN No. TPWH 164/2021:

CONFIRMATION OF THE MINUTES OF THE PREVIOUS SITTINGS

Confirmation of minutes of the previous sitting was deferred.

MIN NO. TPWH 165/2021:

CONSIDERATION OF FIVE MARITIME CONVENTIONS BEFORE THE COMMITTEE

The Principal Secretary took Members through the five Conventions. In brief, she explained as follows:

The Acceptance of 2014 and 2018 Amendments to the Maritime Labour Convention, 2006
Meant to ensure decent working for workers onboard ships. For protection of seafarers from harassment. Rights to wages, repatriation in case the ship owner goes bankrupt, guidelines to limit bullying. In case of death or other injury, it ensures financial security.

Acceptance of the International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003)

Seafarers have to access their place of work from any place where the ship is. Ships also don't wait for seafarers to board as it is in the normal business of bringing in cargo. Travel issues a bit prohibitive at times. This is why IMO came up with this Seafarers Identity Document guidelines to make the prolonged visa application and processing out of place. Seafarers can therefore access airports and other countries without the visa or the cumbersome travel requirements. The Ministry working closely with immigration on this. The Convention came into force in June 2017, and therefore important to ratify it so that our seafarers access the benefits.

Acceptance of International Labour Organization Convention C188 (Work in Fishing Convention, 2007)

Whereas in cargo ships you want to create more space for cargo, in fishing, they want to create fishing gears and equipment. People work in long hours, and exposed to unfavorable conditions. This will bring minimum requirements for work, conditions of service, work agreements, repatriation, recruitment, occupational health, medical care and protection in case fishermen are sick or injured or die.

Acceding to the International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995

This seeks to make the training standards and certifications the same. We will be able to issue certificates to fishermen, which will be recognized globally and therefore provide more jobs. The aim is to create a large pool of qualified personnel in the country, who we can also export outside.

Ratification of the Cape Town Agreement of 2012 on Safety of Fishing Vessels

This deals with safety from the point of view of construction of the vessel. To create minimum construction requirements. The regulatory bodies will therefore be able to inspect ships arriving in the country.

Responding to Members questions, the PS submitted that:

In case any criminal activity is committed by the seafarers, the law applicable will be the law of the flag. Countries work closely with IMO and there is also information sharing among states on all incidents.

The SID does not work alone. There is Continuous Discharge Book and Certificate (CDC) issued by the country he is coming from. IT is signed by the ship owner that the seafarers is working with When leaving. A seafarer must show the CDC, passport and evidence that he is going to join a vessel.

Way Forward:

Internal Security to submit a written report by 8th July 2021 responding to issues raised by Members, among them: -

1. Is the SID replacing visa? If not, which other documents accompany SID?
2. Which other documents protect Seafarers?
3. How the SID looks like in terms of features.
4. Is there interlinkage between the SID database and immigration data base, for Security purposes.

MIN NO. TPWH 166/2021:

CONSIDERATION OF THE BILATERAL AIR SERVICES AGREEMENT BETWEEN KENYA AND RUSSIA

The Principal Secretary for Transport gave an outline of the contents of the agreement between Kenya and Russia. Members wanted to know the statics on the passenger traffic between Kenya and Russia and any other information on the expected economic impact of the agreement. The Ministry submitted that whereas the data was not readily available, it was worth noting that the education sector, merchandise, export and import business, tourism, coffee sector, among others will positively be impacted by the direct flights between the two nations as connection to Russia through other countries may be quite expensive at the moment. It was noted that Russia being a hub in Eastern Europe, it will open our market shares in that region.

Way Forward

The Ministry was asked to forward a brief write-up on the economic advantages of the expected ratification of the agreement between Kenya and Russia.

MIN NO. TPWH 167/2021:

CONSIDERATION OF THE BILATERAL AIR SERVICES AGREEMENT BETWEEN KENYA AND USA

The Committee noted that the revised Explanatory Memorandum on the Bilateral Air Services Agreement Between Kenya and USA was yet to be submitted to the Committee. The Ministry explained that they had forwarded the said memorandum earlier. The Ministry was directed to forwarded the copy to the Clerk of the Committee before scheduling another meeting to consider the same.

MIN NO. TPWH 168/2021:

CONSIDERATION OF THE LANDLORD AND
TENANTS BILL, 2021

The Committee noted that the preceding agendas have taken a lot of time and that the legal briefing on the Landlord and Tenant Bill, 2021 be postponed to a later day as shall later be communicated.

MIN NO. TPWH 169/2021:

ANY OTHER BUSINESS

The Committee resolved to postpone all Committee activities and meetings to the last week of recess to afford the Honorable Members time to attend to their constituents during recess.

MIN No. TPWH 170/2021:

ADJOURNMENT

There being no other business, the sitting was adjourned at forty-five minutes past noon. Next meeting to be held on notice.

Signed.....

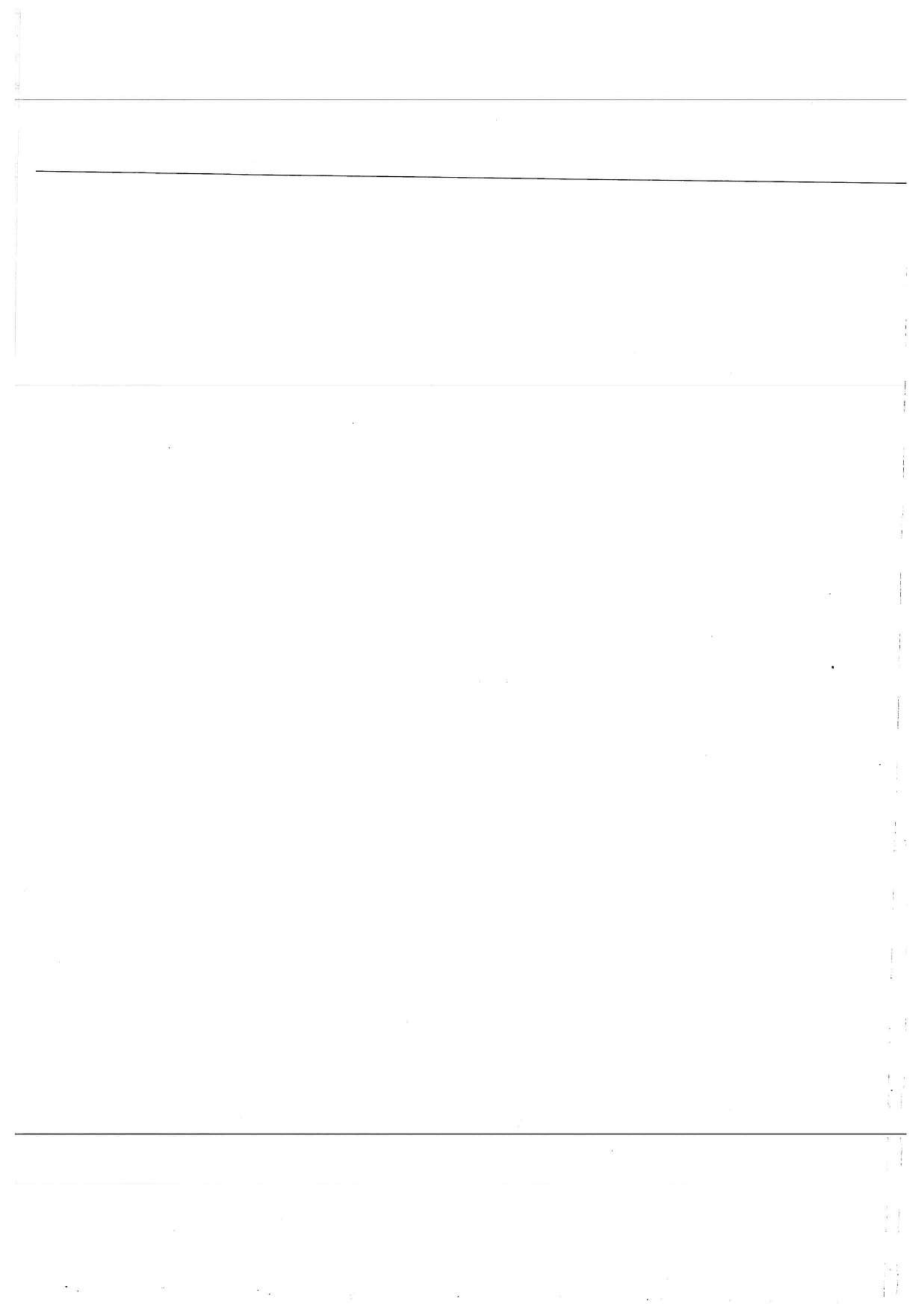
(Chairperson)

Date.....

3/8/2021

List of Members

present during adoption of the report



Adoption of the Report

We, the members of the Departmental Committee on Transport, Public Works and Housing have adopted this Report on the Acceptance of 2014 and 2018 Amendments to the Maritime Labour Convention, 2006; Acceptance of the International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003); Acceptance of International Labour Organization Convention C188 (Work in Fishing Convention, 2007); Acceding to the International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995; and Ratification of the Cape Town Agreement of 2012 on Safety of Fishing Vessels for consideration and approval by the House Pursuant to Section 8(4) of the Treaty Making and Ratification Act, 2012 and Standing Order 199.

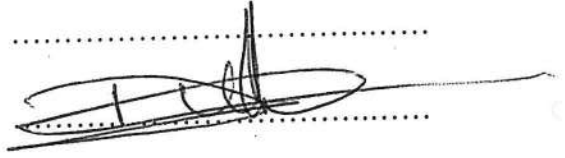
1. Hon. David Pkosing, CBS-Chairperson



2. Hon. Gathoni Wamuchomba, HSC-V/Chair

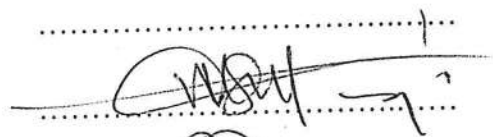
3. Hon. Abdul Rahim Dawood

4. Hon. David Njuguna Kiaraho

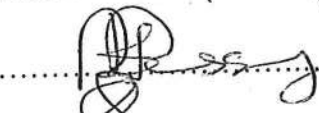


5. Hon. Johnson Many Naicca

6. Hon. Omar Mwinyi Shimbwa



7. Hon. Peris Pesi Tobiko, CBS



8. Hon. Samuel Arama



9. Hon. Ahmed Abdisalan Ibrahim

10. Hon. Ahmed Bashane Gaal

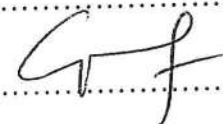
11. Hon. Ali Wario Guyo



12. Hon. Dominic Kipkoech Koskei

13. Hon. George Aladwa Omwera

14. Hon. Gideon Mutemi Mulyungi



15. Hon. Kulow Maalim Hassan

16. Hon. Mercy Wanjiku Gakuya

17. Hon. Janet Wanyama Nangabo

18. Hon. Shadrack John Mose

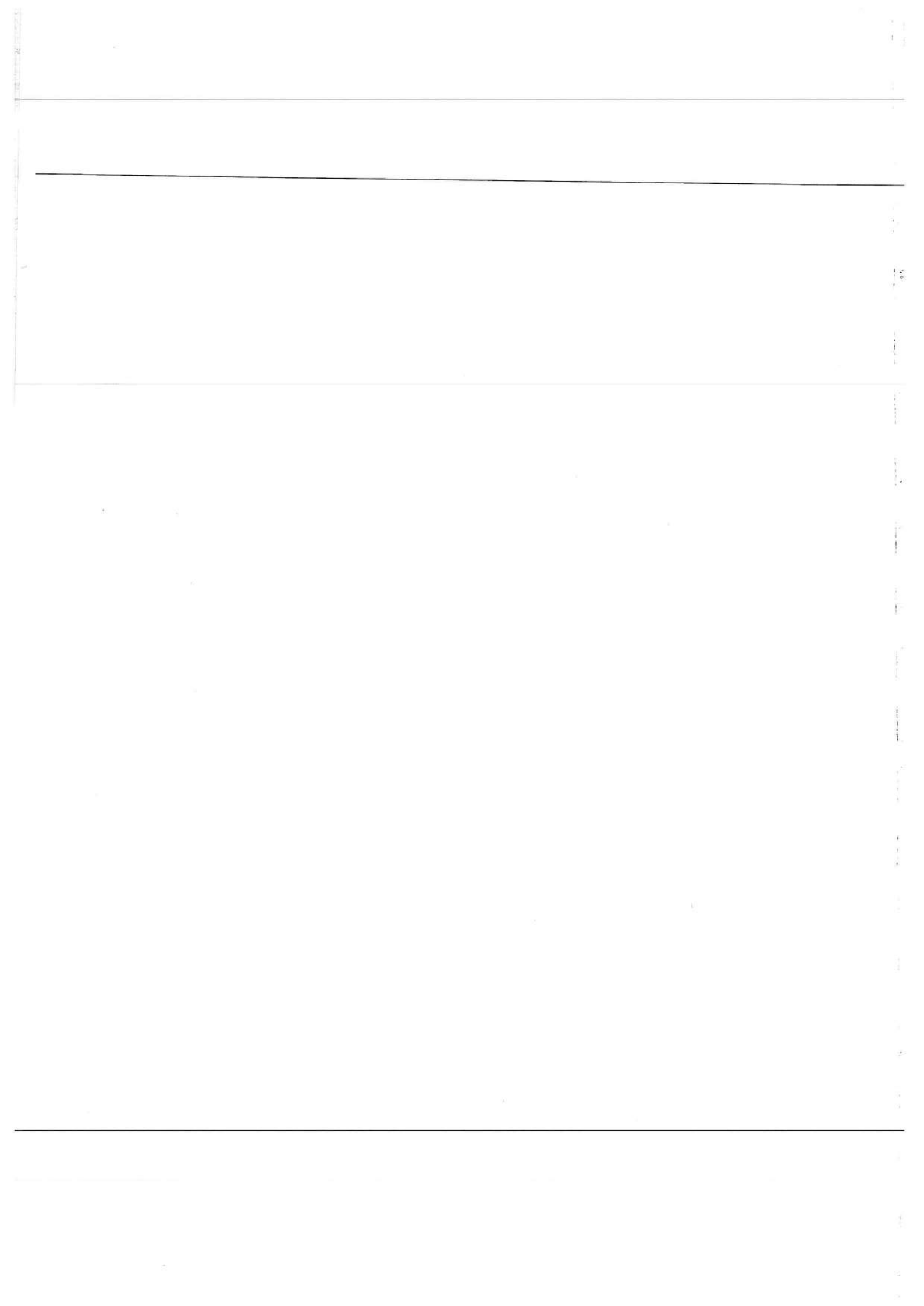


19. Hon. Tom Mboya Odege



Newspaper advertisement

inviting the public to make
representations on the Conventions



Assault Crutches taken from boy 'to hide evidence'



Pupils act the administration of corporal punishment by a teacher. Aimeel Preparatory School director Christine Onyango is accused of breaking a pupil's leg. FILE INATION

School director denies injuring candidate just days to national exam

Woman says son made to wear closed shoes despite broken ankle

BY STEVE OTIENO
AND SIMON CIURI

A teacher has denied breaking his pupil's ankle and forcing the boy to have a plaster on the injured leg removed before a scheduled medical review.

The Standard Eight pupil wrote the Kenya Certificate of Primary Education (KCPE) examination last week.

The plaster was removed two days to the examination and he was forced to wear closed shoes by the teacher, a court was told.

The boy's mother said the manager and director of Aimeel Preparatory School in Ruiru, Mr Christine Onyango, got rid of the plaster and crutches our days before conclusion of the national tests in an attempt to tamper with evidence.

The teacher, who reportedly assaulted the boy on March 14, was rained for grievous harm in hika on Friday last week.

He denied the charge and was freed on Sh100,000 cash bail.

In an affidavit, the woman said school manager attacked her son, who sustained serious injuries as shown in an X-ray on the right leg.

"There is a greenstick fracture of the distal tibia. There is also a dislocation of the right ankle due to reduced joint space. Soft tissue swelling noted around the ankle," reads the March 26 affidavit.

She said she took her child to

Ruiru Hospital where a cast was put on the broken leg, adding that he was given crutches.

It was then recommended that the child be returned to the hospital for a review on March 20.

The woman told the Thika magistrate's court that the teacher took her son to another hospital without her consent and had the plaster removed and the crutches taken.

"On March 20, the accused and the school matron forced my child to go to Ruiru X-Ray Centre where the plaster was removed and crutches confiscated. My son protested as he was still in pain," she said.

The mother added that the boy was forced to wear shoes "despite crying relentlessly in pain".

The reason the school hurriedly removed the plaster and took the crutches was to ensure the child's photos were not taken to show the extent of the injuries.

Injured pupil's mother



She said the teacher knew the child would be concluding his KCPE tests on March 24 and needed to act swiftly before the parent came for him.

She wants to know why the school did not consult her before the removal of the plaster or taking the boy to Ruiru Hospital where he was expected to appear for a review.

"The reason the school hurriedly removed the plaster and took the crutches was to ensure the child's photos were not taken to show the extent of the injuries," she told the court.

"I intended to have the photos as evidence."

The woman added that another child was assaulted before her son was injured at the same school. She said the other child had convulsions but was not as badly injured as her son.

The complainant expressed fears of witnesses being interfered with, "owing to the accused's position".

She also said her son could be victimised and frustrated when he goes for his KCPE test results, leaving certificate and other documents needed to join high school.

The parent filed the complaint against the teacher at Matangi-Ini police post.

The case will be heard on April 20.

newdesk@ke.nationmedia.com

Secret space centre in Manyani attracts attention of superpowers

BY NATION REPORTER

Kenya is attracting attention from superpowers after details emerged about a sophisticated space centre in Manyani, Taita Taveta county.

So secretive has the project been that only local rocket scientists who have been involved in it for years, and select government officials who have taken a special oath, are privy to the developments.

A source intimated that the project has been handled more stealthily than Area 51 in the United States, with entries and exits from the 23-acre property a closely-guarded affair.

"A number of superpowers are getting suspicious. At very high levels, assurances have had to be given that this is not a nuclear programme but a move to rival National Aeronautic Space Administration (Nasa) and other agencies in space exploration," said the source who cannot be named due to the oath taken.

The triple-digit-billion-shilling centre will soon see the launch of a massive satellite that will be orbiting the earth on a scientific mission. The satellite will have specialised equipment that can, for instance, detect guns in the hands of civilians in Kapedoni and other areas to make disarmament operations easy.

On the day the satellite will be launched into space, a source told the Nation, those living near the centre will be treated to a spectacle as the rocket burns tonnes of liquid hydrogen while beating the force of gravity to head to the atmosphere.

Hot on the heels of the launch of the satellite will be the sending of two Kenyan astronauts to the far side of Mars by mid-2022.

The astronauts to take part in the mission have been undergoing intense training at the 2030 Vision University where they are now experts in zero-gravity manoeuvres, mid-space rocket repair, alien combat and other areas.

The Nation understands that Manyani was considered the ideal site for the space centre and mission because of its proven ability to host secret missions.

"It is also located in a prime area: Not too near or far from the Indian Ocean. There are large uninhabited tracts of land nearby so there will be minimal loss of human life in case of a mishap," says a top-secret blueprint document.

The reason jitters are growing in the United States, Russia, China and other global powers, is the suspicion that the centre can be used for long-range missile tests like the Tongchang-ri and Haeju-ni in North Korea.

Kenya has, however, said it has no interest in nuclear warfare, though a source said Nairobi might be working on miniature Hiroshima-type bombs to help the military annihilate enemies and terrorists in seconds.

"The focus is not warfare. All the attention is on space exploration and how Kenya can be a dominant player there," a source told the Nation.

"Only Kenyan scientists have been involved in it and that is why so much about the project is unknown to the world."

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

TWELFTH PARLIAMENT (FIFTH SESSION)

INVITATION FOR PUBLIC PARTICIPATION & SUBMISSION OF MEMORANDA

(Article 118 (1) (b) of the Constitution and Section 8 of the Treaty Making and Ratification Act, 2012)

In the matter of consideration by the National Assembly of:
The Acceptance of 2014 and 2018 Amendments to the Maritime Labour Convention, 2006;
Acceptance of the International Labour Organization Convention C185 (Amended Convention on Seafarers' Identity Documents, 2003);
Acceptance of International Labour Organization Convention C188 (Work in Fishing Convention, 2007);
According to the International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995; and
Ratification of the Cape Town Agreement of 2012 on Safety of Fishing Vessels

SUBMISSION OF MEMORANDA

Article 118(1) (b) of the Constitution provides that: "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Further, Section 8 of the Treaty Making and Ratification Act provides for the consideration and ratification of treaties by Parliament, and subsection (3) states that: "The relevant parliamentary committee shall, during its consideration of the Treaty, ensure public participation in the ratification process in accordance with laid down parliamentary procedures".

The main purpose of the 2014 and 2018 amendments to the Maritime Labour Convention, 2006 is to protect seafarers while the Convention on Seafarers' Identity Documents, 2003 as amended (C185) facilitates the entry of seafarers and fishers into the territory of Member States for the purposes of shore leave, transit, transfer or repatriation. The Work in Fishing Convention, 2007 (C188) establishes minimum labour standards to improve the safety, health and medical care for workers on board fishing vessels, among other social security protections. The International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 sets the regulatory framework for the training and certification of personnel employed on board fishing vessels with a view to improving the safety of life and property at sea in the fishing industry. The Cape Town Agreement of 2012 sets international standards on the design, construction, and equipment of seagoing fishing vessels which are 24 meters or 300 gross tonnage and above.

The aforementioned Conventions have been submitted to the National Assembly pursuant to the provisions of Section 8 of the Treaty Making & Ratification Act, 2012 and subsequently committed to the Departmental Committee on Transport, Public Works and Housing for examination in line with the provisions of Standing Order 24(5)(a) and report to the House.

Pursuant to Article 118(1) (b) of the Constitution and Section 8 of the Treaty Making & Ratification Act, 2012, the Committee invites members of the public to submit written representations they may have on the said Conventions. The documents can be accessed from the parliamentary website at <http://www.parliament.go.ke/ke/ke-national-assembly/house-business/papers/ind>. The representations may be forwarded to Clerk of the National Assembly, P.O. Box 49842-00100, Nairobi, hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi, or emailed to clerk@parliament.go.ke, to be received on or before Friday, 16th April, 2021 at 5:00 pm.

MICHAEL R. SIALA, CBS
CLERK OF THE NATIONAL ASSEMBLY

NEWS GENERAL

PHOTO STORY



Transport CS James Macharia during an inspection tour of the ongoing construction of the Nairobi Expressway yesterday. The CS is consulting with project engineer Stanley Mwawasi of Kenya National Highways Authority and other workers. /HANDOUT

WORKED FOR 14 YEARS

Ex-cop jailed 2 years for impersonation

John Chacha Nyamohanga, alias Moses Mogaya, was employed as an AP using a KDF man's KCSE certificate

CAROLYNE KUBWA
@TheStarKenya



An officer who served in the National Police Service for 14 years has been handed two-year imprisonment for impersonation.

John Chacha Nyamohanga, alias Moses Mogaya, was convicted after a Nairobi court found him guilty of using a KDF officer's KCSE certificate.

He was given an alternative fine of Sh500,000.

In a judgment delivered on March 23 by chief magistrate Douglas Ogoti, the court found that Nyamohanga uttered a KCSE certificate on January 3, 2007 to the Administration Police Service for purposes of employment.

The certificate lawfully belonged to one John Chacha Mwitia—a KDF officer.

The court noted that the accused earned a salary he never deserved for 14 years. The case, as other cases involving economic crimes, was proved by a trail of documents that spoke louder than oral evidence, the magistrate said.

"However, since he cooperated in the trial, I will sentence him to a fine of Sh500,000 in default he will serve a jail term of two years," Ogoti ruled.

It was the prosecution's case that Felix Chacha Nyamatera, a teacher at Getonganya Primary School was approached on February 27, 2017 by EACC officers who asked whether he knew John Chacha Nyamohanga.

Nyamatera taught at the school between 2009 and April 2018.

He told the sleuths that Nyamohanga was a neighbour since childhood and was working with the Kenya Defence Forces.

The father was called Charles Nyamohanga Mwese. He identified a KCPE printout reading 1998 for Getonganya Primary School. The name on the certificate was Chacha John N. Samu Ireri was teaching at Kubweye Secondary School for 20 years from 1996. EACC officers went there and sought information about Chacha Nyamohanga and Moses Mogaya. She recognised Moses Mogaya in court and not John Nyamohanga.

Ireru informed the court that John Chacha Nyamohanga was admitted to Form 1 in 1999. His guardian's name was Johannes M Mwiese and he sat his KCSE in 2002 and later joined KDF.

On Moses Mogaya, the witness informed the court that she said Mogaya joined the school in 1997. He was born in 1980 and was admitted as Mwitia Moses M with Mogaya M. Rube as the guardian's name.

The last school he attended was Nyabohane Primary School. Ireri said Mogaya informed her that he was a police officer when they met later on.

Motera Matiko Mosiaga was the Nyangonge assistant chief. The area is in Bugumbe East location, Masaba division in Kuria West subcounty.

He said he knew both the accused and one John Nyamohanga Chacha. He recognised the accused in court as Moses Mwitia Mogaya who through his identification documents was John Chacha Nyamohanga.

Paul Ndirima was the assistant director of human resources at the AP headquarters.

He produced 13 documents of the accused starting with his KCPE certificate to his appointment letter as a police officer.

'SINCE HE COOPERATED IN THE TRIAL, I WILL SENTENCE HIM TO A FINE OF SH500,000. IN DEFAULT, HE WILL SERVE A JAIL TERM OF TWO YEARS'

NO SMARTPHONES, INTERNET

Cases adjourned as litigants decry costly virtual hearings

ANNETTE WAMBULWA
@TheStarKenya

Virtual court hearings are expensive. Most court users also lack the required tools for virtual proceedings. That is what most litigants said following the scaling down of Judiciary operations after the third wave of Covid-19 infections.

The move is aimed at minimising the chances of the possible spread of the virus.

On Monday, most litigants were caught unawares at the Millman law courts in Nairobi where they were turned away.

Millman chief magistrate Francis Andayi addressed them outside the court and advised that they use the links provided to access the courts for mentions of their cases.

Due to the lockdown imposed on the five 'disease-infested' counties of Nairobi, Machakos, Kiambu, Nakuru and Kajulu, most litigants are unable to physically attend sessions for their cases.

A litigant told the Star he was asked to access the court virtually but was unable to owing to logistics.

Litigants are required to log onto Kenya Law.org and search for the cause list that links one to his/her respective court. For one to be able to access a virtual court, you must have a smartphone and data bundles to be able to log in.

But disgruntled litigants said some of them cannot even afford a meal.

This has led to the adjournment of most cases that were scheduled for physical hearings in the criminal courts.

Lawyer Shadrack Wambui whose cases have been adjourned said it was hard for criminal cases to proceed virtually.

"It is obviously difficult for criminal cases to proceed virtually for the mere reason that documents in criminal cases especially evidence is not served in advance to the court. The trial entails the production of these documents in piecemeal as the case proceeds," Wambui said.

'IT IS OBVIOUSLY DIFFICULT FOR CRIMINAL CASES TO PROCEED VIRTUALLY'

REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY TWELFTH PARLIAMENT (FIFTH SESSION)

INVITATION FOR PUBLIC PARTICIPATION: SUBMISSION OF MEMORANDA

(Article 118(1)(b) of the Constitution and Section 8 of the Treaty Making and Ratification Act, 2012)

In the matter of consideration by the National Assembly of:
The Acceptance of 2014 and 2018 Amendments to the Maritime Labour Convention, 2006;
Acceptance of the International Labour Organization Convention C185 (Amended Convention on Seafarers Identity Documents, 2003);
Acceptance of International Labour Organization Convention C186 (Work in Fishing Convention, 2007);
According to the International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995; and
Ratification of the Cape Town Agreement of 2012 on Safety of Fishing Vessels

SUBMISSION OF MEMORANDA

Article 118(1)(b) of the Constitution provides that, "Parliament shall facilitate public participation and involvement in the legislative and other business of Parliament and its Committees". Further, Section 8 of the Treaty Making and Ratification Act provides for the consideration and ratification of treaties by Parliament, and subsection (3) states that, "the relevant parliamentary committee shall, during its consideration of the Treaty, ensure public participation in the ratification process in accordance with laid down parliamentary procedures".

The main purpose of the 2014 and 2018 amendments to the Maritime Labour Convention, 2006 is to protect seafarers while the Convention on Seafarers Identity Documents, 2003 as amended (C185) facilitates the entry of seafarers and fishers into the territory of Member States for the purposes of shore leave, transit, transfer or repatriation. The Work in Fishing Convention, 2007 (C186) establishes minimum labour standards to improve the safety, health and medical care for workers on board fishing vessels, among other social security protections. The International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 sets the regulatory framework for the training and certification of personnel employed on board fishing vessels with a view to improving the safety of life and property at sea in the fishing industry. The Cape Town Agreement of 2012 sets international standards on the design, construction, and equipment of seagoing fishing vessels which are 24 meters or 300 gross tonnage and above.

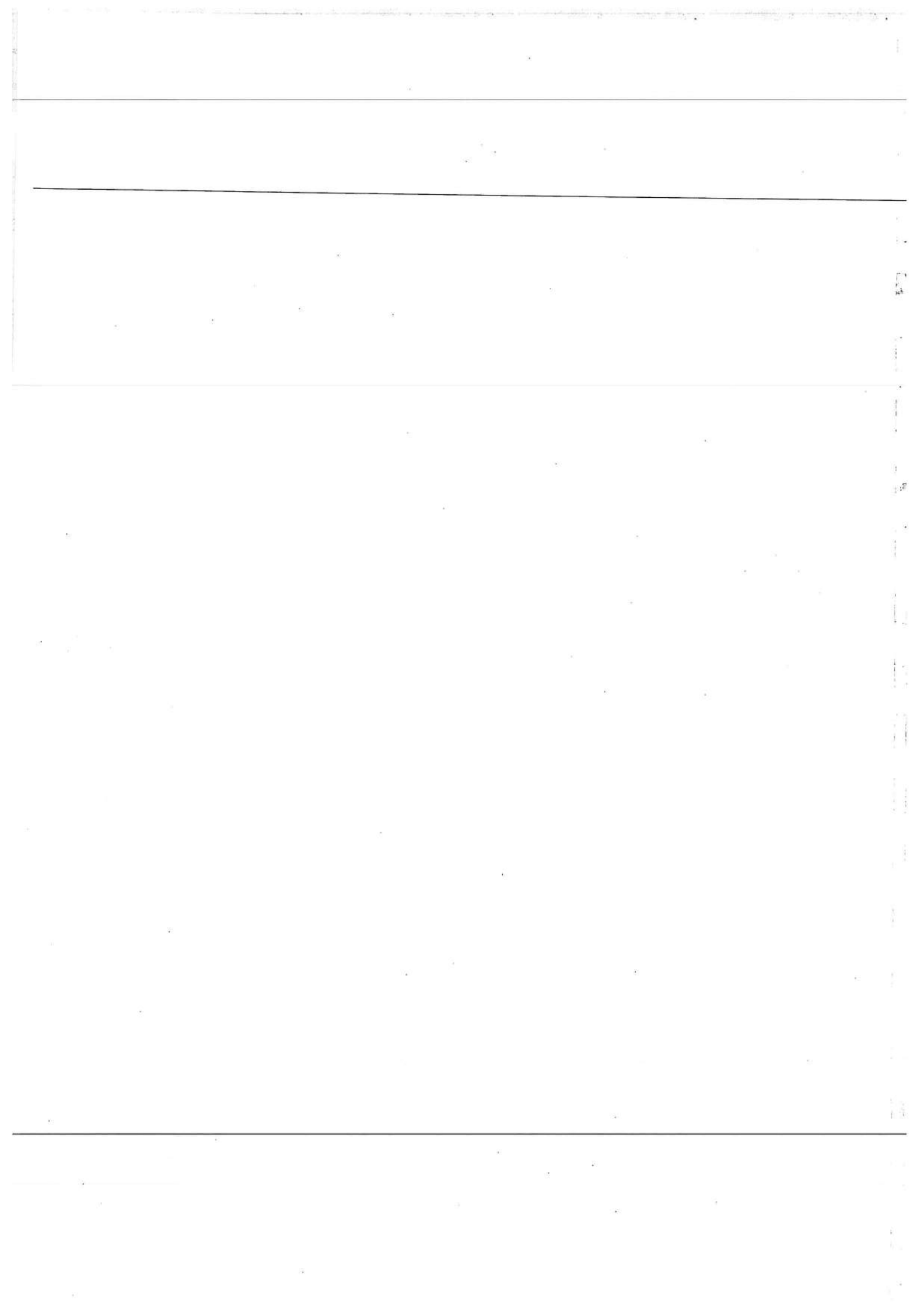
The aforementioned Conventions have been submitted to the National Assembly pursuant to the provisions of Section 8 of the Treaty Making & Ratification Act, 2012 and subsequently committed to the Departmental Committee on Transport, Public Works and Housing for examination in line with the provisions of Standing Order 216(5)(a) and report to the House.

Pursuant to Article 118(1)(b) of the Constitution and Section 8 of the Treaty Making & Ratification Act, 2012, the Committee invites members of the public to submit written representations they may have on the said Conventions. The documents can be accessed from the parliamentary website at <http://www.parliament.go.ke/the-national-assembly/house-business/paper-laid>. The representations may be forwarded to Clerk of the National Assembly, P.O. Box 41842-00100, Nairobi; hand-delivered to the Office of the Clerk, Main Parliament Buildings, Nairobi; or emailed to clerk@parliament.go.ke to be received on or before Friday, 16th April, 2021 at 5:00 pm.

MICHAEL R. SIALAI, CBS
CLERK OF THE NATIONAL ASSEMBLY


Explanatory Memorandum

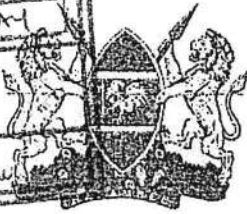
on the Conventions



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		REPUBLIC OF KENYA	
THE NATIONAL ASSEMBLY		PAPERS LAID	
DATE: 23 FEB 2021		DAY: TUESDAY	
TABLED BY	LOM		
CLERK-AT THE-TABLE:	Manah Wanjiku		



CABINET MEMORANDUM ON THE
ACCEPTANCE OF AMENDMENTS TO MARITIME LABOUR
CONVENTION, 2006;
ACCEPTANCE OF ILO CONVENTION C185;
ACCEPTANCE OF ILO CONVENTION C188;
ACCEDING TO THE STCW- F CONVENTION; AND
RATIFICATION OF THE CAPE TOWN AGREEMENT

BY

THE MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING,
URBAN DEVELOPMENT AND PUBLIC WORKS

OCTOBER 2020

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1.0 OBJECTIVE

1.1 The purpose of this Cabinet Memorandum is to:

- (i) Apprise the Cabinet and seek its approval for the ratification and acceptance of the following International Labour Organization (ILO) and International Maritime Organization (IMO) Conventions:

- Amendments of 2014 and 2018 to the Maritime Labour Convention (MLC), 2006;
- Convention on Seafarers Identity Documents, 2003, as amended (C185);
- Work in Fishing Convention, 2007 (C188);
- International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (1995 STCW-F Convention); and
- Cape Town Agreement of 2012 on Safety of Fishing Vessels.

2.0 BACKGROUND

- 2.1 The IMO is a specialized agency of the United Nations (UN). It is the global standard-setting authority for safety, security and environmental performance of international shipping. Owing to the global nature of shipping, its main role is to create a regulatory framework for the shipping industry that is fair and effective, universally adopted and implemented.
- 2.2 The ILO is a specialized agency of the UN dedicated to improving labour conditions and living standards throughout the world. One of the functions of the ILO is the development and promotion of standards for national legislation to protect and improve working conditions and standards of living. The ILO is devoted to promoting social justice and internationally recognized human and labour rights, through a decent work agenda.
- 2.3 The Food and Agriculture Organization (FAO) is a specialized agency of the UN that leads international efforts aimed at defeating hunger. With respect to the fishing sector, FAO plays a foremost role in development and improvement of international fisheries policies to benefit State's food security and nutrition, economic growth, alleviation of poverty and employment opportunities.
- 2.4 Kenya is a member State of the IMO since 1973; a member State of the ILO since 1965; and a member State of FAO since 1964.
- 2.5 The IMO and ILO, with inter-agency cooperation with FAO, jointly adopted the above listed Conventions aimed at improving the work and living conditions of maritime labour, which comprises of both seafarers and fishers. A Seafarer is any person who is employed,

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engaged or works in any capacity on-board a ship. Conversely, a Fisher is any person employed, engaged or carrying out an occupation on-board a fishing vessel, including persons working on-board who are paid on the basis of a share of the catch.

- 2.6 Seafarers and fishers work on-board vessels which are socio-technical and complex systems existing inside a hostile environment. They are captive to the work environment as they live and work on-board, are exposed to ever practical risky situations, cultural diversity, as well as hostile internal and external work environments which are incomparable to land. All these factors affect their occupational safety and health (OSH). A State has a duty to secure OSH as either a flag State, port State or labour supplying State.

3.0 THE OBJECTS AND SUBJECT MATTER OF THE CONVENTIONS

3.1 Amendments of 2014 and 2018 to the Maritime Labour Convention, 2006

The Maritime Labour Convention (MLC) sets out seafarers' rights to decent working and living conditions. Its primary purpose is to ensure decent working and living conditions for the world's seafarers and to establish a system of fair competition among ship owners. The MLC has a total of 96 ratifications. Kenya ratified the MLC on 31st July, 2014.

The 2014 amendments to the MLC relate to financial security of seafarers in cases of abandonment, and contractual claims for compensation in the event of a seafarer's death or long term disability due to an operational injury, illness or hazard. These amendments entered into force on 18 January 2017. They have been adopted by 105 States, 18 being African.

The 2018 amendments to MLC 2006 aim to provide protection to seafarers. The amendments:

- i) guarantee full payment of seafarers wages and entitlements during the entire period of captivity and until the seafarer is released and duly repatriated. If the seafarer dies while in captivity, wages and entitlements should be paid until the date of death as determined in accordance with applicable national laws; and
- ii) give guidance on eliminating shipboard harassment and bullying.

The end of their formal disagreement period is 26 June 2020. The amendments will enter into force on 26 December 2020. Three (3) African States have accepted the amendments.

3.2 Convention on Seafarers Identity Documents, 2003, as amended (C185)

This Convention facilitates the entry of seafarers and fishers into the territory of Member States, for the purposes of shore leave, transit, transfer or repatriation.

After the 9/11 attacks in USA, there was a global change on the general attitude towards border security. This led to the revision of the Seafarers' Identity Convention of 1958 to the Seafarers' Identity Document Convention No 185 in 2003, which led to the



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introduction of biometrics aimed at facilitating shore leave, transfers and transit at maritime borders while respecting the security requirements of port States.

The Convention prescribes the Content, Form and System requirements of the Seafarers' Identity Document (SID). Thus, the SID serves as an alternative to the passport and a stand-alone document to facilitate access to shore and transit of seafarers (exempts seafarers from holding visa).

The Convention entered into force on 8 June 2017. It has a total of 35 ratifications, 5 being African.

This Convention:

- i) provides seafarers and fishers an opportunity to go ashore provides a mental and physical break from routine and contributes to good health and better attitudes towards their job;
- ii) enables seafarers and fishers to travel without the visa requirement; and
- iii) enables seafarers and fishers to access employment opportunities.

3.3 Work in Fishing Convention, 2007 (C188);

Fishing is one of the most dangerous professions in the world, accounting for over 32,000 deaths yearly. This is because most fishers operate dangerous equipment and are exposed to long working hours without adequate rest times. Furthermore, most fishing vessels that have limited space, space being allocated to accommodation facilities and equipment and machinery used in fishing operations. The rates of injury are therefore high.

Convention 188 was designed to ensure that fishers have decent conditions of work on board fishing vessels with regard to minimum requirements for work on board, conditions of service, fishers' work agreement, repatriation, recruitment and placement, accommodation and food, occupational safety and health protection, medical care and social security, protection in case of work related sickness injury or death. It entered into force on 16 November 2017. It has a total of 18 ratifications, 6 being African.

The Convention establishes minimum labour standards to improve the safety, health and medical care for workers on board fishing vessels, ensuring a minimum age for fishers, payment of minimum wages, and enforcing limits on working hours as well as ensuring they have the protection of a written work agreement and the same social security protections as workers on land. These provisions are vital in preventing workers from being exploited by unscrupulous employers who pay less than the recommended minimum wages, refuse to ensure overtime is voluntary and compensated, and engage in debt bondage and forced labour. Further, ensuring fishers are included fully in the social security system is critical especially if they suffer an occupational accident or illness.



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- 3.4 **International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (1995 STCW-F Convention)**
Just like workers aboard other vessels whose training certification and watchkeeping provisions are hinged on the already ratified STCW Convention, workers in fishing equally need similar provisions and protections hinged on law.

The STCW-F Convention applies to personnel serving on board seagoing fishing vessels entitled to fly the flag of a Party. It sets the regulatory framework for the training and certification of personnel employed on board fishing vessels with a view to improving the safety of life and property at sea in the fishing industry. It entered into force on 29th September 2012. Has a total ratification of 32 States, 9 being African.

The STCW-F Convention contributes to the reduction of casualties and brings considerable benefits and advantages to the fishing industry i.e. improving the quality of education and training provided to personnel employed in fishing vessels; and enhancing the standard of training and safety in the fishing industry and fishing vessel fleets.

The Convention is currently under review. The amended version will be adopted in 2022, and will establish two levels of skippers' dependent on tonnage and length of the fishing vessel.

- 3.5 **Cape Town Agreement of 2012 on Safety of Fishing Vessels**
This is an internationally binding agreement which will control the rogue fishing industry, an area which has largely been unregulated over the years, through the control of fishing vessel safety by flag, port and coastal States. It will also contribute to the fight against illegal, unreported and unregulated (IUU) fishing.

It sets internationally agreed standards on the design, construction, and equipment of seagoing fishing vessels which are 24 meters or 300 gross tonnage (GT) and above. The requirements are aimed at ensuring that vessels remain watertight, weather-tight, strong, and stable, even under adverse conditions such as ice and extreme weather.

The Agreement currently has 14 Contracting States. It requires 15 States to enter into force. 2 African States are Party to the Agreement. It is expected to enter into force on 20 October 2022.

4.0 ANALYSIS OF THE PROBLEM

- 4.1 **Amendments of 2014 and 2018 to the Maritime Labour Convention, 2006**
In as much as Kenya has employment laws in place that serve to generally protect the rights of workers, work aboard vessels is of a peculiar kind and the existing employment laws do not sufficiently cater for the interests of workers aboard vessels

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Kenyan seafarers face untold difficulties in the event that there is need for their repatriation or need for compensation in case of injury on board for lack of funds to facilitate such, occupational accidents, harassment and bullying and capture by pirates.

4.2 Convention on Seafarers Identity Documents, 2003, as amended (C185)

The current document that Kenyan seafarers and fishers are issued for identification and recording sea service does not meet the requirements of Convention C185 and therefore Kenyan seafarers are often denied the right of shore leave or passage unless they have a valid visa for the countries the ship is passing through.

4.3 Work in Fishing Convention, 2007 (C188);

Kenya has ratified MLC 2006 that generally provides for the protection of seafarers' rights. The MLC 2006 however excludes fishing vessels from the application of the MLC Convention. A gap therefore does exist for Kenyan seafarers have the protection of law but fishers remain exposed in spite of working under hazardous conditions. The Work in Fishing Convention, 2007 (C188) fills this gap.

Fifty per cent of Kenyan citizens working at sea work in the fishing sector, but Kenya has not ratified the ILO Convention 188 which means that there is a gap in regulation to protect the fishers.

4.4 International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (1995 STCW-F Convention);

Kenya has ratified the International Convention on the Standards of Training, Certification and Watchkeeping for Seafarers, 1978 as amended that generally provides the requisite training, safe manning and health fitness standards for seafarers but does not provide for workers on fishing vessels. The STCW-F sets the regulatory framework for the training and certification of personnel employed on board fishing vessels with a view to improving the safety of life and property at sea in the fishing industry.

To successfully drive the Blue Economy Agenda, Kenya requires qualified employees to work on-board fishing vessels. The country currently has not developed a standard education programme for fishers. In order to attract employment of Kenyan fishers onboard Kenyan as well as international fishing vessels, Kenyans should be trained in accordance to the international standards and therefore ratification of STCW-F will enable Kenya churn out fishers from fishing institutions with internationally recognized qualifications.

4.5 Cape Town Agreement of 2012 on Safety of Fishing Vessels

Although Kenya has ratified the Safety of Life at Sea Convention (SOLAS), the Convention does not adequately provide for safety of fishing vessels. CTA covers areas of fishing vessel safety compliance not covered by SOLAS.

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Furthermore, Kenya faces food insecurity and also loses billions as a result of IUU fishing.

5.0 CONSTITUTIONAL IMPLICATION

5.1 The Conventions are in line with the spirit of the Constitution of Kenya, 2010. They neither propose any amendment to the Constitution, nor are they contrary to the Constitutional values and objectives.

5.2 The Conventions are committed to protecting the well-being of Kenyans and recognises the essential values of human dignity, human rights and equality.

6.0 NATIONAL INTERESTS THAT MAY BE AFFECTED BY RATIFICATION

6.1 The Conventions intend to promote the well-being of maritime labour; the employment of Kenyans; and the access to quality education, thus promote sustainable development; and food security and economic growth of Kenya. In essence, the Conventions will aid Kenya realize her 8th economic pillar of the Third Medium Term Plan of the Kenya Vision 2030 that is the Blue Economy, the Big Four Agenda, as well as the United Nations Sustainable Development Goals.

7.0 OBLIGATIONS IMPOSED ON KENYA BY THE TREATIES

7.1 Amendments of 2014 and 2018 to the Maritime Labour Convention, 2006
As a Labour-Supplying State, Kenya will have an obligation to review the legislation and regulations in place to require shipping companies to provide financial security in P&I Clubs; ensure dispute resolution procedures are present onboard and onshore and to require seafarers to undertake the Life Skills Training.

Kenya will also have to ensure effective implementation and enforcement of the Regulations.

7.2 Convention on Seafarers Identity Documents, 2003, as amended (C185)

To implement this Convention, the Government will need to:

- i) provide adequate equipment for issuance of SID;
- ii) define the implementation and enforcement procedures;
- iii) link the Immigration and Kenya Maritime Authority Databases;
- iv) establish a focal point for issue of SIDs and for enquiries;
- v) increase capacity for issuing SIDs; and
- vi) establish quality control and evaluation procedures.

7.3 Work in Fishing Convention, 2007 (C188)

There will be need for legislation to implement the provisions of this convention. There will also be need to establish mechanisms for coordination between relevant stakeholders as well as establishment a robust licensing regime for private recruitment agencies.

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The Government will also need to increase its capacity for implementation and enforcement as flag, port and labour supplying State.

7.4 International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (1995 STCW-F Convention)

To implement this Convention, the Government will need to:

- i) establishing adequate training facilities;
- ii) train the trainers;
- iii) modify certification processes in line with the Standards;
- iv) ~~monitor and inspect the training institutions~~
- v) enact legislation to domesticate requirements 'left to the satisfaction of the Administration';
- vi) seek technical cooperation on implementation and enforcement;
- vii) negotiate Memoranda of Understanding for endorsement and recognition of certificates for fishers;
- viii) establish a Cabotage regime for fishers; and
- ix) monitor future amendments due to tacit amendment procedures.

7.5 Cape Town Agreement of 2012 on Safety of Fishing Vessels

Implementing the CTA requires:

- i) expounding the scope of Recognized Organizations inspections and certifications.
- ii) formulation of national legislation, regulations and guidelines for standards left to the 'satisfaction of the Administration'.
- iii) development of a progressive implementation plan.
- iv) training of the Maritime Administration personnel to facilitate proper implementation and enforcement; and
- v) training of crew on safety issues.

8.0 POLICY AND LEGISLATIVE CONSIDERATIONS

8.1 These Conventions are not self-executing in nature and they require transposition into national laws.

8.2 The Government will therefore have to review and/or enact legislation to implement and enforce the:

- i) Amendments of 2014 and 2018 to the Maritime Labour Convention, 2006;
- ii) Convention on Seafarers Identity Documents, 2003, as amended (C185);
- iii) Work in Fishing Convention, 2007 (C188);
- iv) International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (1995 STCW-F Convention); and
- v) Cape Town Agreement of 2012 on Safety of Fishing Vessels.

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8.3 This will be done taking into consideration the objectives of the Integrated National Transport Policy, 2009 which requires the Government to:

- a) develop the maritime transport sector in support of the economy in general and Kenya's international trade in particular;
- b) enhance the legal framework within which to ensure safety and security of life and property, the prevention and control of pollution of the sea and of the inland waters;
- c) ensure provision of globally competitive, quality maritime education and training for seafarers and other workers in the maritime industry.

9.0 WHETHER THE CONVENTIONS PERMIT RESERVATIONS

The Conventions do not permit reservations. However, they permit denunciation as discussed hereunder.

9.1 Maritime Labour Convention, 2006

The MLC permits a Member to denounce the Convention after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

A Member who does exercise the right of denunciation shall be bound for another period of ten years and, thereafter, may denounce the Convention at the expiration of each new period of ten years.

9.2 Convention on Seafarers Identity Documents, 2003, as amended (C185)

The C185 permits a Member to denounce the Convention after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

A Member who does exercise the right of denunciation shall be bound for another period of ten years and, thereafter, may denounce the Convention at the expiration of each new period of ten years.

9.3 Work in Fishing Convention, 2007 (C188)

The C188 permits a Member to denounce the Convention after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.

A Member who does exercise the right of denunciation shall be bound for another period of ten years and, thereafter, may denounce the Convention at the expiration of each new period of ten years.

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9.4 International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (1995 STCW-F Convention)

The STCW-F Convention may be denounced by a Party at any time after the expiry of five years from the date on which the Convention enters into force for that Party. The denunciation is effected by notification in writing to the Secretary-General of the International Maritime Organization.

The denunciation takes effect 12 months after receipt of the denunciation by the Secretary-General or after the expiry of any longer period which may be indicated in the notification.

9.5 Cape Town Agreement of 2012 on Safety of Fishing Vessels

The Cape Town Agreement may be denounced by a Party at any time after the expiry of five years from the date on which the Convention enters into force for that Party. The denunciation is effected by notification in writing to the Secretary-General of the International Maritime Organization.

The denunciation takes effect 12 months after receipt of the denunciation by the Secretary-General or after the expiry of any longer period which may be indicated in the notification.

10.0 VIEWS OF THE PUBLIC ON RATIFICATION OF THE TREATIES

10.1. In view of the restrictions in place due to the COVID-19 pandemic, the Ministry undertook public participation via various fora including newspaper notice, letters to stakeholders and virtual meetings.

10.2. The following entities presented their views:

- i. State Department for Shipping and Maritime
- ii. Ministry of Foreign Affairs
- iii. The National Treasury and Planning
- iv. The Office of the Attorney General and Department of Justice
- v. State Department for Transport
- vi. State Department for Labour
- vii. State Department for Interior and Citizen Services
- viii. State Department for Fisheries, Aquaculture and the Blue Economy
- ix. State Department for Vocational and Technical Training
- x. State Department for University Education and Research
- xi. Kenya Maritime Authority
- xii. Kenya National Qualification Authority
- xiii. Kenya Ships Agents Association
- xiv. International Transport Workers Federation
- xv. Seafarers Union of Kenya



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- 10.3. All the entities showed strong support for the ratification and acceptance of the above-mentioned conventions, noting their importance in advancing the protection of safety and labour interests of the country's seafarers and fishers.

11.0 MINISTERIAL RESPONSIBILITY

- 11.1 The Ministry of Foreign Affairs being the custodian of all International Treaties where Kenya is a Party will be responsible for the ratification and depositary of the Conventions to the relevant international organization.

- 11.2 The Ministry of Transport which oversees the country's shipping and maritime affairs will be responsible for overseeing effective implementation and enforcement of the Conventions.

- 11.3 The Ministry Agriculture which oversees the country's Fisheries, Aquaculture and the Blue Economy State Department will oversee the capacity building of fishers in close collaboration with the Ministry of Transport.

- 11.4 The National Treasury and Planning being charged with the responsibility of mobilizing domestic and external resources for financing national and county government budgetary requirements, will tailor adequate resources to enable the realization of the additional obligations that will be imposed on Kenya.

12.0 IMPLICATIONS ON MATTERS RELATING TO COUNTIES

The obligations imposed on Kenya upon ratification relate to its status as a flag State, port State, labour-supplying State. A flag State is the State of a ship's nationality. A port State verifies whether foreign ships comply with international rules and standards. A labour-supplying State is a State that plays a major role in the global maritime labour market, as a significant source of seafarers/fishers. These form part of the National Government maritime administration obligations as under Part 1(3,13,15,16,18) of the Fourth Schedule of the Constitution, and do not occasion County obligations.

13.0 FINANCIAL IMPLICATIONS AND EXPENDITURE OF PUBLIC FUNDS TO BE INCURRED IN THE IMPLEMENTATION OF THE PROJECT

- 13.1 The implementation and enforcement of the above-mentioned conventions is anticipated to have financial implications over and above Ministry's current budgetary allocations, particularly in the areas of:

- (i) Cost for ratification and amending the law
- (ii) establishment of adequate training facilities;
- (iii) training of trainers;
- (iv) training of the Maritime Administration personnel to facilitate proper implementation and enforcement;



SECRET

- (v) adequate equipment for issuance of SID;
- (vi) linkage of the Immigration and Kenya Maritime Authority Databases;
- (vii) establishment of quality control and evaluation procedures;
- (viii) modification of certification processes in line with the Standards;
- (ix) technical assistance and cooperation on implementation and enforcement; and
- (x) expounding the scope of Recognized Organizations inspections and certifications.

13.2 Initial estimates indicate that approximately Kshs 146 Million will be required in the first financial year to finance start-up activities. This is explained hereunder.

ACTIVITIES	ESTIMATE FOR FIRST FINANCIAL YEAR KSHS 000'
Cost for Ratification of the IMO & ILO Conventions	5,000
2014 AND 2018 AMENDMENTS TO THE MARITIME LABOUR CONVENTION	
➤ Review of the legislation and regulations in place in light of international standards	500
ILO C185 CONVENTION ON SEAFARERS IDENTITY DOCUMENTS	
➤ Acquiring state-of-the-art equipment for the issuance of SID;	20,000
➤ Linking the KMA and Immigration databases;	4,000
➤ Establishment of quality, control and evaluation procedures	500
C188 WORK IN FISHING CONVENTION	
➤ Develop legal framework to domesticate requirements of the Convention 'left to the satisfaction of the Administration'	500
STCW - F CONVENTION	
➤ Develop legal framework to domesticate requirements of the Convention 'left to the satisfaction of the Administration'	500
➤ Acquisition of state-of-the-art training equipment and facilities;	50,000
➤ Conduct audits of approved Fishers' Training Institutions	300



SECRET

➤ Training of Trainers (TOT) programmes for instructors	3,000
CAPE TOWN AGREEMENT	
➤ Develop legal framework for requirements of the Convention 'left to the satisfaction of the Administration'	500
➤ Development of a progressive implementation plan	300
Grand Total	85,100

14.0 REQUEST TO THE CABINET

14.1 The Cabinet is invited to:

- (i) Take note of the contents of this Memorandum;
- (ii) Approve the ratification, accession or acceptance of:
 - Amendments of 2014 and 2018 to the Maritime Labour Convention, 2006;
 - Convention on Seafarers Identity Documents, 2003, as amended (C185);
 - Work in Fishing Convention, 2007 (C188);
 - International Convention on the Standards of Training, Certification and Watchkeeping for Fishing Vessel Personnel, 1995 (1995 STCW-F Convention); and
 - Cape Town Agreement of 2012 on Safety of Fishing Vessels.
- (iii) Direct the Ministry of Foreign Affairs to ratify and deposit the Conventions to the Secretary General of the International Maritime Organization and the Director General of the International Labour Organization.
- (iv) Direct the National Treasury and Planning to allocate resources for the realization of the obligations arising from the ratification, accession and acceptance of the five (5) Conventions.
- (v) Direct the Ministry of Transport to oversee the implementation and enforcement of the Conventions.
- (vi) Direct the Ministry of Agriculture, Livestock and Fisheries to oversee the capacity building of fishers in close collaboration with the Ministry of Transport.
- (vii) Direct the Office of the Attorney General and Department of Justice to Review and/or enact legislation to implement and enforce the Conventions.



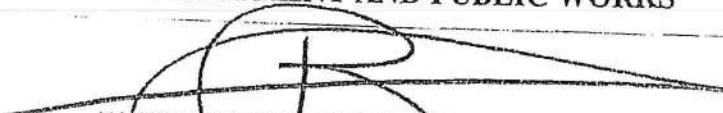
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SIGNED BY:


James W. Macharia, EGH
CABINET SECRETARY


MINISTRY OF TRANSPORT, INFRASTRUCTURE, HOUSING, URBAN
DEVELOPMENT AND PUBLIC WORKS

14/10/2020
DATE



Hon. Peter Munya, MGH
CABINET SECRETARY

MINISTRY OF AGRICULTURE, LIVESTOCK AND FISHERIES

21/11/2020
DATE

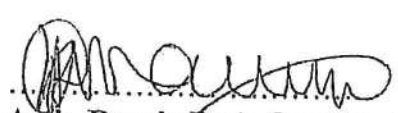

Hon. (Amb.) Ukur Yatani Kanacho, EGH
CABINET SECRETARY
NATIONAL TREASURY & PLANNING

12/11/2020
DATE


Hon. P. Kihara Kariuki, EGH
ATTORNEY GENERAL

OFFICE OF THE ATTORNEY GENERAL AND DEPARTMENT OF JUSTICE


2nd November
DATE 2020


Amb. Raychelle A. Omamo, SC, EGH
CABINET SECRETARY
MINISTRY OF FOREIGN AFFAIRS

29/10/2020
DATE

SECRET

**Amendments to the Maritime Labour Convention,
2006 (2014 and 2018 Amendments)**

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 23 SEP 2021	
DAY.	
TABLED BY:	
CLERK-AT THE-TABLE:	



Including 2016 amendments

SECRET

INTERNATIONAL LABOUR CONFERENCE

MARITIME
LABOUR CONVENTION, 2006,
as amended

SECRET

INTERNATIONAL LABOUR CONFERENCE

MARITIME
LABOUR CONVENTION, 2006,
as amended

**Consolidated text established by the International Labour Office,
including the Amendments of 2014 and 2016
to the Code of the Convention.**

INTERNATIONAL LABOUR CONFERENCE

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MARITIME LABOUR CONVENTION, 2006, as amended

Adopted by the International Labour Conference at its 94th (Maritime) Session (2006)
Amendments approved by the International Labour Conference at its 103rd Session (2014)
Amendments approved by the International Labour Conference at its 105th Session (2016)

PREAMBLE

The General Conference of the International Labour Organization,

Having been convened at Geneva by the Governing Body of the International Labour Office, and having met in its Ninety-fourth Session on 7 February 2006, and

Desiring to create a single, coherent instrument embodying as far as possible all up-to-date standards of existing international maritime labour Conventions and Recommendations, as well as the fundamental principles to be found in other international labour Conventions, in particular:

- the Forced Labour Convention, 1930 (No. 29);
- the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87);
- the Right to Organise and Collective Bargaining Convention, 1949 (No. 98);
- the Equal Remuneration Convention, 1951 (No. 100);
- the Abolition of Forced Labour Convention, 1957 (No. 105);
- the Discrimination (Employment and Occupation) Convention, 1958 (No. 111);
- the Minimum Age Convention, 1973 (No. 138);
- the Worst Forms of Child Labour Convention, 1999 (No. 182); and

Mindful of the core mandate of the Organization, which is to promote decent conditions of work, and

Recalling the ILO Declaration on Fundamental Principles and Rights at Work, 1998, and

Mindful also that seafarers are covered by the provisions of other ILO instruments and have other rights which are established as fundamental rights and freedoms applicable to all persons, and

Considering that, given the global nature of the shipping industry, seafarers need special protection, and

Mindful also of the international standards on ship safety, human security and quality ship management in the International Convention for the Safety of Life at Sea, 1974, as amended, the Convention on the International Regulations for Preventing Collisions at Sea, 1972, as amended, and the seafarer training and competency requirements in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, and

Maritime Labour Convention, 2006

Recalling that the United Nations Convention on the Law of the Sea, 1982, sets out a general legal framework within which all activities in the oceans and seas must be carried out and is of strategic importance as the basis for national, regional and global action and cooperation in the marine sector, and that its integrity needs to be maintained, and

Recalling that Article 94 of the United Nations Convention on the Law of the Sea, 1982, establishes the duties and obligations of a flag State with regard to, *inter alia*, labour conditions, crewing and social matters on ships that fly its flag, and

Recalling paragraph 8 of article 19 of the Constitution of the International Labour Organisation which provides that in no case shall the adoption of any Convention or Recommendation by the Conference or the ratification of any Convention by any Member be deemed to affect any law, award, custom or agreement which ensures more favourable conditions to the workers concerned than those provided for in the Convention or Recommendation, and

Determined that this new instrument should be designed to secure the widest possible acceptability among governments, shipowners and seafarers committed to the principles of decent work, that it should be readily updateable and that it should lend itself to effective implementation and enforcement, and

Having decided upon the adoption of certain proposals for the realization of such an instrument, which is the only item on the agenda of the session, and

Having determined that these proposals shall take the form of an international Convention;

adopts this twenty-third day of February of the year two thousand and six the following Convention, which may be cited as the Maritime Labour Convention, 2006.

GENERAL OBLIGATIONS

Article I

1. Each Member which ratifies this Convention undertakes to give complete effect to its provisions in the manner set out in Article VI in order to secure the right of all seafarers to decent employment.
2. Members shall cooperate with each other for the purpose of ensuring the effective implementation and enforcement of this Convention.

DEFINITIONS AND SCOPE OF APPLICATION

Article II

1. For the purpose of this Convention and unless provided otherwise in particular provisions, the term:
 - (a) *competent authority* means the minister, government department or other authority having power to issue and enforce regulations, orders or other instructions ~~having the force of law in respect of the subject matter of the provision concerned;~~
 - (b) *declaration of maritime labour compliance* means the declaration referred to in Regulation 5.1.3;

- (c) *gross tonnage* means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex I to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention; for ships covered by the tonnage measurement interim scheme adopted by the International Maritime Organization, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969);
- (d) *maritime labour certificate* means the certificate referred to in Regulation 5.1.3;
- (e) *requirements of this Convention* refers to the requirements in these Articles and in the Regulations and Part A of the Code of this Convention;
- (f) *seafarer* means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies;
- (g) *seafarers' employment agreement* includes both a contract of employment and articles of agreement;
- (h) *seafarer recruitment and placement service* means any person, company, institution, agency or other organization, in the public or the private sector, which is engaged in recruiting seafarers on behalf of shipowners or placing seafarers with shipowners;
- (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;
- (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 this Convention, regardless of whether any other organization or persons fulfil certain of the duties or responsibilities on behalf of the shipowner.

2. Except as expressly provided otherwise, this Convention applies to all seafarers.

3. In the event of doubt as to whether any categories of persons are to be regarded as seafarers for the purpose of this Convention, the question shall be determined by the competent authority in each Member after consultation with the shipowners' and seafarers' organizations concerned with this question.

4. Except as expressly provided otherwise, this Convention applies 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. This Convention does not apply to warships or naval auxiliaries.

5. In the event of doubt as to whether this Convention applies to a ship or particular category of ships, the question shall be determined by the competent authority in each Member after consultation with the shipowners' and seafarers' organizations concerned.

6. Where the competent authority determines that it would not be reasonable or practicable at the present time to apply certain details of the Code referred to in Article VI, paragraph 1, to a ship or particular categories of ships flying the flag of the Member, the relevant provisions of the Code shall not apply to the extent that the subject matter is dealt with differently by national laws or regulations or collective bargaining

agreements or other measures. Such a determination may only be made in consultation with the shipowners' and seafarers' organizations concerned and may only be made with respect to ships of less than 200 gross tonnage not engaged in international voyages.

7. Any determinations made by a Member under paragraph 3 or 5 or 6 of this Article shall be communicated to the Director-General of the International Labour Office, who shall notify the Members of the Organization.

8. Unless expressly provided otherwise, a reference to this Convention constitutes at the same time a reference to the Regulations and the Code.

FUNDAMENTAL RIGHTS AND PRINCIPLES

Article III

Each Member shall satisfy itself that the provisions of its law and regulations respect, in the context of this Convention, the fundamental rights to:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labour;
- (c) the effective abolition of child labour; and
- (d) the elimination of discrimination in respect of employment and occupation.

SEAFARERS' EMPLOYMENT AND SOCIAL RIGHTS

Article IV

1. Every seafarer has the right to a safe and secure workplace that complies with safety standards.

2. Every seafarer has a right to fair terms of employment.

3. Every seafarer has a right to decent working and living conditions on board ship.

4. Every seafarer has a right to health protection, medical care, welfare measures and other forms of social protection.

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.

IMPLEMENTATION AND ENFORCEMENT RESPONSIBILITIES

Article V

1. Each Member shall implement and enforce laws or regulations or other measures that it has adopted to fulfil its commitments under this Convention with respect to ships and seafarers under its jurisdiction.

2. Each Member shall effectively exercise its jurisdiction and control over ships that fly its flag by establishing a system for ensuring compliance with the requirements of this Convention, including regular inspections, reporting, monitoring and legal proceedings under the applicable laws.

3. Each Member shall ensure that ships that fly its flag carry a maritime labour certificate and a declaration of maritime labour compliance as required by this Convention.

4. A ship to which this Convention applies may, in accordance with international law, be inspected by a Member other than the flag State, when the ship is in one of its ports, to determine whether the ship is in compliance with the requirements of this Convention.

5. Each Member shall effectively exercise its jurisdiction and control over seafarer recruitment and placement services, if these are established in its territory.

6. Each Member shall prohibit violations of the requirements of this Convention and shall, in accordance with international law, establish sanctions or require the adoption of corrective measures under its laws which are adequate to discourage such violations.

7. Each Member shall implement its responsibilities under this Convention in such a way as to ensure that the ships that fly the flag of any State that has not ratified this Convention do not receive more favourable treatment than the ships that fly the flag of any State that has ratified it.

REGULATIONS AND PARTS A AND B OF THE CODE

Article VI

1. The Regulations and the provisions of Part A of the Code are mandatory. The provisions of Part B of the Code are not mandatory.

2. Each Member undertakes to respect the rights and principles set out in the Regulations and to implement each Regulation in the manner set out in the corresponding provisions of Part A of the Code. In addition, the Member shall give due consideration to implementing its responsibilities in the manner provided for in Part B of the Code.

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.

CONSULTATION WITH SHIPOWNERS' AND SEAFARERS' ORGANIZATIONS

Article VII

Any derogation, exemption or other flexible application of this Convention for which the Convention requires consultation with shipowners' and seafarers' organizations may, in cases where representative organizations of shipowners or of seafarers do not exist within a Member, only be decided by that Member through consultation with the Committee referred to in Article XIII.

ENTRY INTO FORCE

Article VIII

1. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration.
2. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered by the Director-General.
3. This Convention shall come into force 12 months after the date on which there have been registered ratifications by at least 30 Members with a total share in the world gross tonnage of ships of at least 33 per cent.
4. Thereafter, this Convention shall come into force for any Member 12 months after the date on which its ratification has been registered.

DENUNCIATION

Article IX

1. A Member which has ratified this Convention may denounce it after the expiration of ten years from the date on which the Convention first comes into force, by an act communicated to the Director-General of the International Labour Office for registration. Such denunciation shall not take effect until one year after the date on which it is registered.
2. Each Member which does not, within the year following the expiration of the period of ten years mentioned in paragraph 1 of this Article, exercise the right of denunciation provided for in this Article, shall be bound for another period of ten years and, thereafter, may denounce this Convention at the expiration of each new period of ten years under the terms provided for in this Article.

EFFECT OF ENTRY INTO FORCE

Article X

This Convention revises the following Conventions:

Minimum Age (Sea) Convention, 1920 (No. 7)

Unemployment Indemnity (Shipwreck) Convention, 1920 (No. 8)

Placing of Seamen Convention, 1920 (No. 9)
Medical Examination of Young Persons (Sea) Convention, 1921 (No. 16)
Seamen's Articles of Agreement Convention, 1926 (No. 22)
Repatriation of Seamen Convention, 1926 (No. 23)
Officers' Competency Certificates Convention, 1936 (No. 53)
Holidays with Pay (Sea) Convention, 1936 (No. 54)
Shipowners' Liability (Sick and Injured Seamen) Convention, 1936 (No. 55)
Sickness Insurance (Sea) Convention, 1936 (No. 56)
Hours of Work and Manning (Sea) Convention, 1936 (No. 57)
Minimum Age (Sea) Convention (Revised), 1936 (No. 58)
Food and Catering (Ships' Crews) Convention, 1946 (No. 68)
Certification of Ships' Cooks Convention, 1946 (No. 69)
Social Security (Seafarers) Convention, 1946 (No. 70)
Paid Vacations (Seafarers) Convention, 1946 (No. 72)
Medical Examination (Seafarers) Convention, 1946 (No. 73)
Certification of Able Seamen Convention, 1946 (No. 74)
Accommodation of Crews Convention, 1946 (No. 75)
Wages, Hours of Work and Manning (Sea) Convention, 1946 (No. 76)
Paid Vacations (Seafarers) Convention (Revised), 1949 (No. 91)
Accommodation of Crews Convention (Revised), 1949 (No. 92)
Wages, Hours of Work and Manning (Sea) Convention (Revised), 1949 (No. 93)
Wages, Hours of Work and Manning (Sea) Convention (Revised), 1958 (No. 109)
Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133)
Prevention of Accidents (Seafarers) Convention, 1970 (No. 134)
Continuity of Employment (Seafarers) Convention, 1976 (No. 145)
Seafarers' Annual Leave with Pay Convention, 1976 (No. 146)
Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
Protocol of 1996 to the Merchant Shipping (Minimum Standards) Convention, 1976 (No. 147)
Seafarers' Welfare Convention, 1987 (No. 163)
Health Protection and Medical Care (Seafarers) Convention, 1987 (No. 164)
Social Security (Seafarers) Convention (Revised), 1987 (No. 165)
Repatriation of Seafarers Convention (Revised), 1987 (No. 166)
Labour Inspection (Seafarers) Convention, 1996 (No. 178)
Recruitment and Placement of Seafarers Convention, 1996 (No. 179)
Seafarers' Hours of Work and the Manning of Ships Convention, 1996 (No. 180).

DEPOSITARY FUNCTIONS

Article XI

1. The Director-General of the International Labour Office shall notify all Members of the International Labour Organization of the registration of all ratifications, acceptances and denunciations under this Convention.

2. When the conditions provided for in paragraph 3 of Article VIII have been fulfilled, the Director-General shall draw the attention of the Members of the Organization to the date upon which the Convention will come into force.

Article XII

The Director-General of the International Labour Office shall communicate to the Secretary-General of the United Nations for registration in accordance with Article 102 of the Charter of the United Nations full particulars of all ratifications, acceptances and denunciations registered under this Convention.

SPECIAL TRIPARTITE COMMITTEE

Article XIII

1. The Governing Body of the International Labour Office shall keep the working of this Convention under continuous review through a committee established by it with special competence in the area of maritime labour standards.

2. For matters dealt with in accordance with this Convention, the Committee shall consist of two representatives nominated by the Government of each Member which has ratified this Convention, and the representatives of Shipowners and Seafarers appointed by the Governing Body after consultation with the Joint Maritime Commission.

3. The Government representatives of Members which have not yet ratified this Convention may participate in the Committee but shall have no right to vote on any matter dealt with in accordance with this Convention. The Governing Body may invite other organizations or entities to be represented on the Committee by observers.

4. The votes of each Shipowner and Seafarer representative in the Committee shall be weighted so as to ensure that the Shipowners' group and the Seafarers' group each have half the voting power of the total number of governments which are represented at the meeting concerned and entitled to vote.

AMENDMENT OF THIS CONVENTION

Article XIV

1. Amendments to any of the provisions of this Convention may be adopted by the General Conference of the International Labour Organization in the framework of article 19 of the Constitution of the International Labour Organisation and the rules and procedures of the Organization for the adoption of Conventions. Amendments to the Code may also be adopted following the procedures in Article XV.

2. In the case of Members whose ratifications of this Convention were registered before the adoption of the amendment, the text of the amendment shall be communicated to them for ratification.

3. In the case of other Members of the Organization, the text of the Convention as amended shall be communicated to them for ratification in accordance with article 19 of the Constitution.

4. An amendment shall be deemed to have been accepted on the date when there have been registered ratifications, of the amendment or of the Convention as amended, as the case may be, by at least 30 Members with a total share in the world gross tonnage of ships of at least 33 per cent.

5. An amendment adopted in the framework of article 19 of the Constitution shall be binding only upon those Members of the Organization whose ratifications have been registered by the Director-General of the International Labour Office.

6. For any Member referred to in paragraph 2 of this Article, an amendment shall come into force 12 months after the date of acceptance referred to in paragraph 4 of this Article or 12 months after the date on which its ratification of the amendment has been registered, whichever date is later.

7. Subject to paragraph 9 of this Article, for Members referred to in paragraph 3 of this Article, the Convention as amended shall come into force 12 months after the date of acceptance referred to in paragraph 4 of this Article or 12 months after the date on which their ratifications of the Convention have been registered, whichever date is later.

8. For those Members whose ratification of this Convention was registered before the adoption of an amendment but which have not ratified the amendment, this Convention shall remain in force without the amendment concerned.

9. Any Member whose ratification of this Convention is registered after the adoption of the amendment but before the date referred to in paragraph 4 of this Article may, in a declaration accompanying the instrument of ratification, specify that its ratification relates to the Convention without the amendment concerned. In the case of a ratification with such a declaration, the Convention shall come into force for the Member concerned 12 months after the date on which the ratification was registered. Where an instrument of ratification is not accompanied by such a declaration, or where the ratification is registered on or after the date referred to in paragraph 4, the Convention shall come into force for the Member concerned 12 months after the date on which the ratification was registered and, upon its entry into force in accordance with paragraph 7 of this Article, the amendment shall be binding on the Member concerned unless the amendment provides otherwise.

AMENDMENTS TO THE CODE

Article XV

1. The Code may be amended either by the procedure set out in Article XIV or, unless expressly provided otherwise, in accordance with the procedure set out in the present Article.

2. An amendment to the Code may be proposed to the Director-General of the International Labour Office by the government of any Member of the Organization

or by the group of Shipowner representatives or the group of Seafarer representatives who have been appointed to the Committee referred to in Article XIII. An amendment proposed by a government must have been proposed by, or be supported by, at least five governments of Members that have ratified the Convention or by the group of Shipowner or Seafarer representatives referred to in this paragraph.

3. Having verified that the proposal for amendment meets the requirements of paragraph 2 of this Article, the Director-General shall promptly communicate the proposal, accompanied by any comments or suggestions deemed appropriate, to all Members of the Organization, with an invitation to them to transmit their observations or suggestions concerning the proposal within a period of six months or such other period (which shall not be less than three months nor more than nine months) prescribed by the Governing Body.

4. At the end of the period referred to in paragraph 3 of this Article, the proposal, accompanied by a summary of any observations or suggestions made under that paragraph, shall be transmitted to the Committee for consideration at a meeting. An amendment shall be considered adopted by the Committee if:

- (a) at least half the governments of Members that have ratified this Convention are represented in the meeting at which the proposal is considered; and
- (b) a majority of at least two-thirds of the Committee members vote in favour of the amendment; and
- (c) this majority comprises the votes in favour of at least half the government voting power, half the Shipowner voting power and half the Seafarer voting power of the Committee members registered at the meeting when the proposal is put to the vote.

5. Amendments adopted in accordance with paragraph 4 of this Article shall be submitted to the next session of the Conference for approval. Such approval shall require a majority of two-thirds of the votes cast by the delegates present. If such majority is not obtained, the proposed amendment shall be referred back to the Committee for reconsideration should the Committee so wish.

6. Amendments approved by the Conference shall be notified by the Director-General to each of the Members whose ratifications of this Convention were registered before the date of such approval by the Conference. These Members are referred to below as "the ratifying Members". The notification shall contain a reference to the present Article and shall prescribe the period for the communication of any formal disagreement. This period shall be two years from the date of the notification unless, at the time of approval, the Conference has set a different period, which shall be a period of at least one year. A copy of the notification shall be communicated to the other Members of the Organization for their information.

7. An amendment approved by the Conference shall be deemed to have been accepted unless, by the end of the prescribed period, formal expressions of disagreement have been received by the Director-General from more than 40 per cent of the Members which have ratified the Convention and which represent not less than 40 per cent of the gross tonnage of the ships of the Members which have ratified the Convention.

8. An amendment deemed to have been accepted shall come into force six months after the end of the prescribed period for all the ratifying Members except those which had formally expressed their disagreement in accordance with paragraph 7.

of this Article and have not withdrawn such disagreement in accordance with paragraph 11. However:

- (a) before the end of the prescribed period, any ratifying Member may give notice to the Director-General that it shall be bound by the amendment only after a subsequent express notification of its acceptance; and
- (b) before the date of entry into force of the amendment, any ratifying Member may give notice to the Director-General that it will not give effect to that amendment for a specified period.

9. An amendment which is the subject of a notice referred to in paragraph 8(a) of this Article shall enter into force for the Member giving such notice six months after the Member has notified the Director-General of its acceptance of the amendment or on the date on which the amendment first comes into force, whichever date is later.

10. The period referred to in paragraph 8(b) of this Article shall not go beyond one year from the date of entry into force of the amendment or beyond any longer period determined by the Conference at the time of approval of the amendment.

11. A Member that has formally expressed disagreement with an amendment may withdraw its disagreement at any time. If notice of such withdrawal is received by the Director-General after the amendment has entered into force, the amendment shall enter into force for the Member six months after the date on which the notice was registered.

12. After entry into force of an amendment, the Convention may only be ratified in its amended form.

13. To the extent that a maritime labour certificate relates to matters covered by an amendment to the Convention which has entered into force:

- (a) a Member that has accepted that amendment shall not be obliged to extend the benefit of the Convention in respect of the maritime labour certificates issued to ships flying the flag of another Member which:
 - (i) pursuant to paragraph 7 of this Article, has formally expressed disagreement to the amendment and has not withdrawn such disagreement; or
 - (ii) pursuant to paragraph 8(a) of this Article, has given notice that its acceptance is subject to its subsequent express notification and has not accepted the amendment; and
- (b) a Member that has accepted the amendment shall extend the benefit of the Convention in respect of the maritime labour certificates issued to ships flying the flag of another Member that has given notice, pursuant to paragraph 8(b) of this Article, that it will not give effect to that amendment for the period specified in accordance with paragraph 10 of this Article.

AUTHORITATIVE LANGUAGES

Article XVI

The English and French versions of the text of this Convention are equally authoritative.

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.

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.

[illegible]

THE REGULATIONS AND THE CODE

TITLE 1. MINIMUM REQUIREMENTS FOR SEAFARERS TO WORK ON A SHIP

Regulation 1.1 – Minimum age

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

1. No person below the minimum age shall be employed or engaged or work on a ship.
2. The minimum age at the time of the initial entry into force of this Convention is 16 years.
3. A higher minimum age shall be required in the circumstances set out in the Code.

Standard A1.1 – Minimum age

1. The employment, engagement or work on board a ship of any person under the age of 16 shall be prohibited.
2. Night work of seafarers under the age of 18 shall be prohibited. For the purposes of this Standard, "night" shall be defined in accordance with national law and practice. It shall cover a period of at least nine hours starting no later than midnight and ending no earlier than 5 a.m.
3. An exception to strict compliance with the night work restriction may be made by the competent authority when:
 - (a) the effective training of the seafarers concerned, in accordance with established programmes and schedules, would be impaired; or
 - (b) the specific nature of the duty or a recognized training programme requires that the seafarers covered by the exception perform duties at night and the authority determines, after consultation with the shipowners' and seafarers' organizations concerned, that the work will not be detrimental to their health or well-being.
4. The employment, engagement or work of seafarers under the age of 18 shall be prohibited where the work is likely to jeopardize their health or safety. The types of such work shall be determined by national laws or regulations or by the competent authority, after consultation with the shipowners' and seafarers' organizations concerned, in accordance with relevant international standards.

Guideline B1.1 – Minimum age

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

Regulation 1.2 – Medical certificate

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

1. Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties.
2. Exceptions can only be permitted as prescribed in the Code.

Standard A1.2 – Medical certificate

1. The competent authority shall require that, prior to beginning work on a ship, seafarers hold a valid medical certificate attesting that they are medically fit to perform the duties they are to carry out at sea.

2. In order to ensure that medical certificates genuinely reflect seafarers' state of health, in light of the duties they are to perform, the competent authority shall, after consultation with the shipowners' and seafarers' organizations concerned, and giving due consideration to applicable international guidelines referred to in Part B of this Code, prescribe the nature of the medical examination and certificate.

3. This Standard is without prejudice to the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended ("STCW"). A medical certificate issued in accordance with the requirements of STCW shall be accepted by the competent authority, for the purpose of Regulation 1.2. A medical certificate meeting the substance of those requirements, in the case of seafarers not covered by STCW, shall similarly be accepted.

4. The medical certificate shall be issued by a duly qualified medical practitioner 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. Practitioners must enjoy full professional independence in exercising their medical judgement in undertaking medical examination procedures.

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, shall be given the opportunity to have a further examination by another independent medical practitioner or by an independent medical referee.

6. Each medical certificate shall state in particular that:

- (a) the hearing and sight of the seafarer concerned, 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; and
- (b) the seafarer concerned 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.

7. Unless a shorter period is required by reason of the specific duties to be performed by the seafarer concerned or is required under STCW:

- (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.

Minimum requirements for seafarers to work on a ship

8. 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.

9. 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.

10. The medical certificates for seafarers working on ships ordinarily engaged on international voyages must as a minimum be provided in English.

Guideline B1.2 – Medical certificate

Guideline B1.2.1 – International guidelines

1. The competent authority, medical practitioners, examiners, shipowners, seafarers' representatives and all other persons concerned with the conduct of medical fitness examinations of seafarer candidates and serving seafarers should follow 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.

Regulation 1.3 – Training and qualifications

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

1. Seafarers shall not work on a ship unless they are trained or certified as competent or otherwise qualified to perform their duties.

2. Seafarers shall not be permitted to work on a ship unless they have successfully completed training for personal safety on board ship.

3. Training and certification in accordance with the mandatory instruments adopted by the International Maritime Organization shall be considered as meeting the requirements of paragraphs 1 and 2 of this Regulation.

4. Any Member which, at the time of its ratification of this Convention, was bound by the Certification of Able Seamen Convention, 1946 (No. 74), shall continue to carry out the obligations under that Convention unless and until mandatory provisions covering its subject matter have been adopted by the International Maritime Organization and entered into force, or until five years have elapsed since the entry into force of this Convention in accordance with paragraph 3 of Article VIII, whichever date is earlier.

Regulation 1.4 – Recruitment and placement

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

1. All seafarers shall have access to an efficient, adequate and accountable system for finding employment on board ship without charge to the seafarer.
2. Seafarer recruitment and placement services operating in a Member's territory shall conform to the standards set out in the Code.
3. Each Member shall require, in respect of seafarers who work on ships that fly its flag, that shipowners who use seafarer recruitment and placement services that are based in countries or territories in which this Convention does not apply, ensure that those services conform to the requirements set out in the Code.

Standard A1.4 – Recruitment and placement

1. Each Member that operates a public seafarer recruitment and placement service shall ensure that the service is operated in an orderly manner that protects and promotes seafarers' employment rights as provided in this Convention.
2. Where a Member has private seafarer recruitment and placement services operating in its territory whose primary purpose is the recruitment and placement of seafarers or which recruit and place a significant number of seafarers, they shall be operated only in conformity with a standardized system of licensing or certification or other form of regulation. This system shall be established, modified or changed only after consultation with the shipowners' and seafarers' organizations concerned. In the event of doubt as to whether this Convention applies to a private recruitment and placement service, the question shall be determined by the competent authority in each Member after consultation with the shipowners' and seafarers' organizations concerned. Undue proliferation of private seafarer recruitment and placement services shall not be encouraged.
3. The provisions of paragraph 2 of this Standard shall also apply – to the extent that they are determined by the competent authority, in consultation with the shipowners' and seafarers' organizations concerned, to be appropriate – in the context of recruitment and placement services operated by a seafarers' organization in the territory of the Member for the supply of seafarers who are nationals of that Member to ships which fly its flag. The services covered by this paragraph are those fulfilling the following conditions:
 - (a) the recruitment and placement service is operated pursuant to a collective bargaining agreement between that organization and a shipowner;
 - (b) both the seafarers' organization and the shipowner are based in the territory of the Member;
 - (c) the Member has national laws or regulations or a procedure to authorize or register the collective bargaining agreement permitting the operation of the recruitment and placement service; and
 - (d) the recruitment and placement service is operated in an orderly manner and measures are in place to protect and promote seafarers' employment rights comparable to those provided in paragraph 5 of this Standard.

4. Nothing in this Standard or Regulation 1.4 shall be deemed to:

- (a) prevent a Member from maintaining a free public seafarer recruitment and placement service for seafarers in the framework of a policy to meet the needs of seafarers and shipowners, whether the service forms part of or is coordinated with a public employment service for all workers and employers; or
- (b) impose on a Member the obligation to establish a system for the operation of private seafarer recruitment or placement services in its territory.

5. A Member adopting a system referred to in paragraph 2 of this Standard shall, in its laws and regulations or other measures, at a minimum:

- (a) prohibit seafarer recruitment and placement services from using means, mechanisms or lists intended to prevent or deter seafarers from gaining employment for which they are qualified;
- (b) require that no fees or other charges for seafarer recruitment or placement or for providing employment to seafarers are 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 shall be borne by the shipowner; and
- (c) ensure that seafarer recruitment and placement services operating in its territory:
 - (i) maintain an up-to-date register of all seafarers recruited or placed through them, to be available for inspection by the competent authority;
 - (ii) make sure that seafarers are informed of their rights and duties under their employment agreements prior to or in the process of engagement and that proper arrangements are made for seafarers to examine their employment agreements before and after they are signed and for them to receive a copy of the agreements;
 - (iii) verify that seafarers recruited or placed by them are qualified and hold the documents necessary for the job concerned, and that the seafarers' employment agreements are in accordance with applicable laws and regulations and any collective bargaining agreement that forms part of the employment agreement;
 - (iv) make sure, as far as practicable, that the shipowner has the means to protect seafarers from being stranded in a foreign port;
 - (v) examine and respond to any complaint concerning their activities and advise the competent authority of any unresolved complaint;
 - (vi) establish a system of protection, by way of insurance or an equivalent appropriate measure, to compensate seafarers for monetary loss that they may 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.

6. The competent authority shall closely supervise and control all seafarer recruitment and placement services operating in the territory of the Member concerned. Any licences or certificates or similar authorizations for the operation of private services in the territory are granted or renewed only after verification that the seafarer recruitment and placement service concerned meets the requirements of national laws and regulations.

7. 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 ship-owners and seafarers.

8. Each Member which has ratified this Convention shall, in so far as practicable, advise its nationals 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 this Convention are being applied. Measures taken to this effect by the Member that has ratified this Convention shall not be in contradiction with the principle of free movement of workers stipulated by the treaties to which the two States concerned may be parties.

9. Each Member which has ratified this Convention shall require that ship-owners of ships that fly its flag, who use seafarer recruitment and placement services based in countries or territories in which this Convention does not apply, ensure, as far as practicable, that those services meet the requirements of this Standard.

10. Nothing in this Standard shall be understood as diminishing the obligations and responsibilities of shipowners or of a Member with respect to ships that fly its flag.

Guideline B1.4 -- Recruitment and placement

Guideline B1.4.1 -- Organizational and operational guidelines

1. When fulfilling its obligations under Standard A1.4, paragraph 1, the competent authority should consider:

- (a) taking the necessary measures to promote effective cooperation among seafarer recruitment and placement services, whether public or private;
- (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;
- (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;
- (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;
- (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;
- (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;

- (g) prescribing operational standards and adopting codes of conduct and ethical practices for seafarer recruitment and placement services; and
- (h) exercising supervision of the licensing or certification system on the basis of a system of quality standards.

2. In establishing the system referred to in Standard A1.4, paragraph 2, each Member should consider requiring seafarer recruitment and placement services, established in its territory, to develop and maintain verifiable operational practices. These operational practices for private seafarer recruitment and placement services and, to the extent that they are applicable, for public seafarer recruitment and placement services should address the following matters:

- (a) medical examinations, seafarers' identity documents and such other items as may be required for the seafarer to gain employment;
- (b) maintaining, with due regard to the right to privacy and the need to protect confidentiality, full and complete records of the seafarers covered by their recruitment and placement system, which should 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;
- (c) maintaining up-to-date lists of the ships for which the seafarer recruitment and placement services provide seafarers and ensuring that there is a means by which the services can be contacted in an emergency at all hours;
- (d) procedures to ensure that seafarers are not subject to exploitation by the seafarer recruitment and placement services or their personnel with regard to the offer of engagement on particular ships or by particular companies;
- (e) procedures to prevent the 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;
- (f) clearly publicizing costs, if any, which the seafarer will be expected to bear in the recruitment process;
- (g) ensuring 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;
- (h) 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;
- (i) procedures 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;
- (j) procedures 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; and

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- (k) verifying 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, as a matter of policy, supplying seafarers only to shipowners that offer terms and conditions of employment to seafarers which comply with applicable laws or regulations or collective agreements.
3. Consideration should be given to encouraging international cooperation between Members and relevant organizations, such as:
- (a) the systematic exchange of information on the maritime industry and labour market on a bilateral, regional and multilateral basis;
 - (b) the exchange of information on maritime labour legislation;
 - (c) the harmonization of policies, working methods and legislation governing recruitment and placement of seafarers;
 - (d) the improvement of procedures and conditions for the international recruitment and placement of seafarers; and
 - (e) workforce planning, taking account of the supply of and demand for seafarers and the requirements of the maritime industry.

TITLE 2. CONDITIONS OF EMPLOYMENT

Regulation 2.1 – Seafarers' employment agreements

Purpose: To ensure that seafarers have a fair employment agreement

1. The terms and conditions for employment of a seafarer shall be set out or referred to in a clear written legally enforceable agreement and shall be consistent with the standards set out in the Code.
2. Seafarers' employment agreements shall be agreed to by the seafarer under conditions which ensure that the seafarer has an opportunity to review and seek advice on the terms and conditions in the agreement and freely accepts them before signing.
3. To the extent compatible with the Member's national law and practice, seafarers' employment agreements shall be understood to incorporate any applicable collective bargaining agreements.

Standard A2.1 – Seafarers' employment agreements

1. Each Member shall adopt laws or regulations requiring that ships that fly its flag comply with the following requirements:

- (a) seafarers working on ships that fly its flag shall have a seafarers' employment agreement signed by both the seafarer and the shipowner or a representative of the shipowner (or, where they are not employees, evidence of contractual or similar arrangements) providing them with decent working and living conditions on board the ship as required by this Convention;
- (b) seafarers signing a seafarers' employment agreement shall be given an opportunity to examine and seek advice on the 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;
- (c) the shipowner and seafarer concerned shall each have a signed original of the seafarers' employment agreement;
- (d) measures shall be taken to ensure that clear information as to the conditions of their employment can be easily obtained on board by seafarers, 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; and
- (e) seafarers shall be given a document containing a record of their employment on board the ship.

2. Where a collective bargaining agreement forms all or part of a seafarers' employment agreement, a copy of that agreement shall be available on board. Where the language of the seafarers' employment agreement and any applicable collective

bargaining agreement is not in English, the following shall also be available in English (except for ships engaged only in domestic voyages):

- (a) a copy of a standard form of the agreement; and
- (b) the portions of the collective bargaining agreement that are subject to a port State inspection under Regulation 5.2.

3. The document referred to in paragraph 1(e) of this Standard shall not contain any statement as to the quality of the seafarers' work or as to their wages. 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.

4. Each Member shall adopt laws and regulations specifying the matters that are to be included in all seafarers' employment agreements governed by its national law. Seafarers' employment agreements shall in all cases contain the following particulars:

- (a) the seafarer's full name, date of birth or age, and birthplace;
- (b) the shipowner's name and address;
- (c) the place where and date when the seafarers' employment agreement is entered into;
- (d) the capacity in which the seafarer is to be employed;
- (e) the amount of the seafarer's wages or, where applicable, the formula used for calculating them;
- (f) the amount of paid annual leave or, where applicable, the formula used for calculating it;
- (g) the termination of the agreement and the conditions thereof, including:
 - (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;
 - (ii) if the agreement has been made for a definite period, the date fixed for its expiry; 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;
- (h) the health and social security protection benefits to be provided to the seafarer by the shipowner;
- (i) the seafarer's entitlement to repatriation;
- (j) reference to the collective bargaining agreement, if applicable; and
- (k) any other particulars which national law may require.

5. Each Member shall adopt laws or regulations establishing minimum notice periods to be given by the seafarers and shipowners for the early termination of a seafarers' employment agreement. The duration of these minimum periods shall be determined after consultation with the shipowners' and seafarers' organizations concerned, but shall not be shorter than seven days.

6. A notice period shorter than the minimum may be given in circumstances which are recognized under national law or regulations or applicable collective bargaining agreements as justifying termination of the employment agreement at shorter notice or without notice. In determining those circumstances, each Member shall

ensure that the need of the seafarer to terminate, without penalty, the employment agreement on shorter notice or without notice for compassionate or other urgent reasons is taken into account.

Guideline B2.1 – Seafarers' employment agreements

Guideline B2.1.1 – Record of employment

1. In determining the particulars to be recorded in the record of employment referred to in Standard A2.1, paragraph 1(e), each Member should ensure that this document contains 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 the requirements of paragraph 1(e) of that Standard.

Regulation 2.2 – Wages

Purpose: To ensure that seafarers are paid for their services

1. All seafarers shall be paid for their work regularly and in full in accordance with their employment agreements.

Standard A2.2 – Wages

1. Each Member shall require that payments due to seafarers working on ships that fly its flag are made at no greater than monthly intervals and in accordance with any applicable collective agreement.

2. Seafarers shall 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.

3. Each Member shall require that shipowners take measures, such as those set out in paragraph 4 of this Standard, to provide seafarers with a means to transmit all or part of their earnings to their families or dependants or legal beneficiaries.

4. Measures to ensure that seafarers are able to transmit their earnings to their families include:

- (a) 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; and
- (b) a requirement that allotments should be remitted in due time and directly to the person or persons nominated by the seafarers.

5. Any charge for the service under paragraphs 3 and 4 of this Standard shall be reasonable in amount, and the rate of currency exchange, unless otherwise provided, shall, in accordance with national laws or regulations, be at the prevailing market rate or the official published rate and not unfavourable to the seafarer.

6. Member that adopts national laws or regulations governing seafarers' wages shall give due consideration to the guidance provided in Part B of the Code.

Guideline B2.2 – Wages

Guideline B2.2.1 – Specific definitions

1. For the purpose of this Guideline, the term:

- (a) *able seafarer* means any seafarer who is deemed competent to perform any duty which may be required of a rating serving in the deck department, other than the duties of a supervisory or specialist rating, or who is defined as such by national laws, regulations or practice, or by collective agreement;
- (b) *basic pay or wages* means the pay, however composed, for normal hours of work; it does not include payments for overtime worked, bonuses, allowances, paid leave or any other additional remuneration;
- (c) *consolidated wage* means a wage or salary which includes the basic pay and other pay-related benefits; a consolidated wage may include compensation for all overtime hours which are worked and all other pay-related benefits, or it may include only certain benefits in a partial consolidation;
- (d) *hours of work* means time during which seafarers are required to do work on account of the ship;
- (e) *overtime* means time worked in excess of the normal hours of work.

Guideline B2.2.2 – Calculation and payment

1. For seafarers whose remuneration includes separate compensation for overtime worked:

- (a) for the purpose of calculating wages, the normal hours of work at sea and in port should not exceed eight hours per day;
- (b) for the purpose of calculating overtime, the number of normal hours per week covered by the basic pay or wages should be prescribed by national laws or regulations, if not determined by collective agreements, but should not exceed 48 hours per week; collective agreements may provide for a different but not less favourable treatment;
- (c) the rate or rates of compensation for overtime, which should be not less than one and one-quarter times the basic pay or wages per hour, should be prescribed by national laws or regulations or by collective agreements, if applicable; and
- (d) records of all overtime worked should be maintained by the master, or a person assigned by the master, and endorsed by the seafarer at no greater than monthly intervals.

2. For seafarers whose wages are fully or partially consolidated:

- (a) the seafarers' employment agreement should specify clearly, where appropriate, the number of hours of work expected of the seafarer in return for this remuneration, and any additional allowances which might be due in addition to the consolidated wage, and in which circumstances;
- (b) where hourly overtime is payable for hours worked in excess of those covered by the consolidated wage, the hourly rate should be not less than one and one-quarter times the basic rate corresponding to the normal hours of work as defined in paragraph 1 of this Guideline; the same principle should be applied to the overtime hours included in the consolidated wage;

- (c) remuneration for that portion of the fully or partially consolidated wage representing the normal hours of work as defined in paragraph 1(a) of this Guideline should be no less than the applicable minimum wage; and
- (d) for seafarers whose wages are partially consolidated, records of all overtime worked should be maintained and endorsed as provided for in paragraph 1(d) of this Guideline.

3. National laws or regulations or collective agreements may provide for compensation for overtime or for work performed on the weekly day of rest and on public holidays by at least equivalent time off duty and off the ship or additional leave in lieu of remuneration or any other compensation so provided.

4. National laws and regulations adopted after consulting the representative shipowners' and seafarers' organizations or, as appropriate, collective agreements should take into account the following principles:

- (a) equal remuneration for work of equal value should apply to all seafarers employed on the same ship without discrimination based upon race, colour, sex, religion, political opinion, national extraction or social origin;
- (b) the seafarers' employment agreement specifying the applicable wages or wage rates should be carried on board the ship; information on the amount of wages or wage rates should be made available to each seafarer, either by providing at least one signed copy of the relevant information to the seafarer in a language which the seafarer understands, or by posting a copy of the agreement in a place accessible to seafarers or by some other appropriate means;
- (c) wages should be paid in legal tender; where appropriate, they may be paid by bank transfer, bank cheque, postal cheque or money order;
- (d) on termination of engagement all remuneration due should be paid without undue delay;
- (e) adequate penalties or other appropriate remedies should be imposed by the competent authority where shipowners unduly delay, or fail to make, payment of all remuneration due;
- (f) wages should be paid directly to seafarers' designated bank accounts unless they request otherwise in writing;
- (g) subject to subparagraph (h) of this paragraph, the shipowner should impose no limit on seafarers' freedom to dispose of their remuneration;
- (h) deduction from remuneration should be permitted only if:
 - (i) there is an express provision in national laws or regulations or in an applicable collective agreement and the seafarer has been informed, in the manner deemed most appropriate by the competent authority, of the conditions for such deductions; and
 - (ii) the deductions do not in total exceed the limit that may have been established by national laws or regulations or collective agreements or court decisions for making such deductions;
- (i) no deductions should be made from a seafarer's remuneration in respect of obtaining or retaining employment;
- (j) monetary fines against seafarers other than those authorized by national laws or regulations, collective agreements or other measures should be prohibited;

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- (k) the competent authority should have the power to inspect stores and services provided on board ship to ensure that fair and reasonable prices are applied for the benefit of the seafarers concerned; and
- (l) to the extent that seafarers' claims for wages and other sums due in respect of their employment are not secured in accordance with the provisions of the International Convention on Maritime Liens and Mortgages, 1993, such claims should be protected in accordance with the Protection of Workers' Claims (Employer's Insolvency) Convention, 1992 (No. 173).

5. Each Member should, after consulting with representative shipowners' and seafarers' organizations, have procedures to investigate complaints relating to any matter contained in this Guideline.

Guideline B2.2.3 – Minimum wages

1. Without prejudice to the principle of free collective bargaining, each Member should, after consulting representative shipowners' and seafarers' organizations, establish procedures for determining minimum wages for seafarers. Representative shipowners' and seafarers' organizations should participate in the operation of such procedures.

2. When establishing such procedures and in fixing minimum wages, due regard should be given to international labour standards concerning minimum wage fixing, as well as the following principles:

- (a) the level of minimum wages should take into account the nature of maritime employment, crewing levels of ships, and seafarers' normal hours of work; and
- (b) the level of minimum wages should be adjusted to take into account changes in the cost of living and in the needs of seafarers.

3. The competent authority should ensure:

- (a) by means of a system of supervision and sanctions, that wages are paid at not less than the rate or rates fixed; and
- (b) that any seafarers who have been paid at a rate lower than the minimum wage are enabled to recover, by an inexpensive and expeditious judicial or other procedure, the amount by which they have been underpaid.

Guideline B2.2.4 – Minimum monthly basic pay or wage figure for able seafarers

1. The basic pay or wages for a calendar month of service for an able seafarer should be no less than the amount periodically set by the Joint Maritime Commission or another body authorized by the Governing Body of the International Labour Office. Upon a decision of the Governing Body, the Director-General shall notify any revised amount to the Members of the Organization.

2. Nothing in this Guideline should be deemed to prejudice arrangements agreed between shipowners or their organizations and seafarers' organizations with regard to the regulation of standard minimum terms and conditions of employment, provided such terms and conditions are recognized by the competent authority.

Regulation 2.3 – Hours of work and hours of rest

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

1. Each Member shall ensure that the hours of work or hours of rest for seafarers are regulated.

2. Each Member shall establish maximum hours of work or minimum hours of rest over given periods that are consistent with the provisions in the Code.

Standard A2.3 – Hours of work and hours of rest

1. For the purpose of this Standard, the term:

- (a) *hours of work* means time during which seafarers are required to do work on account of the ship;
- (b) *hours of rest* means time outside hours of work; this term does not include short breaks.

2. Each Member shall within the limits set out in paragraphs 5 to 8 of this Standard fix either a maximum number of hours of work which shall not be exceeded in a given period of time, or a minimum number of hours of rest which shall be provided in a given period of time.

3. Each Member acknowledges that the normal working hours' standard for seafarers, like that for other workers, shall be based on an eight-hour day with one day of rest per week and rest on public holidays. However, this shall not prevent the Member from having procedures to authorize or register a collective agreement which determines seafarers' normal working hours on a basis no less favourable than this Standard.

4. In determining the national standards, each Member shall take account of the danger posed by the fatigue of seafarers, especially those whose duties involve navigational safety and the safe and secure operation of the ship.

5. The limits on hours of work or rest shall be as follows:

- (a) maximum hours of work shall not exceed:
 - (i) 14 hours in any 24-hour period; and
 - (ii) 72 hours in any seven-day period;or
- (b) minimum hours of rest shall not be less than:
 - (i) ten hours in any 24-hour period; and
 - (ii) 77 hours in any seven-day period.

6. Hours of rest may be divided into no more than two periods, one of which shall be at least six hours in length, and the interval between consecutive periods of rest shall not exceed 14 hours.

7. Musters, fire-fighting and lifeboat drills, and drills prescribed by national laws and regulations and by international instruments, shall be conducted in a manner that minimizes the disturbance of rest periods and does not induce fatigue.

8. When a seafarer is on call, such as when a machinery space is unattended, the seafarer shall have an adequate compensatory rest period if the normal period of rest is disturbed by call-outs to work.

9. 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 7 or 8 of this Standard are inadequate, the competent authority shall determine such provisions to ensure the seafarers concerned have sufficient rest.

10. Each Member shall require the posting, in an easily accessible place, of a table with the shipboard working arrangements, which shall contain for every position at least:

- (a) the schedule of service at sea and service in port; and
- (b) the maximum hours of work or the minimum hours of rest required by national laws or regulations or applicable collective agreements.

11. The table referred to in paragraph 10 of this Standard shall be established in a standardized format in the working language or languages of the ship and in English.

12. Each Member shall require that records of seafarers' daily hours of work or of their daily hours of rest be maintained to allow monitoring of compliance with paragraphs 5 to 11 inclusive of this Standard. The records shall be in a standardized format established by the competent authority taking into account any available guidelines of the International Labour Organization or shall be in any standard format prepared by the Organization. They shall be in the languages required by paragraph 11 of this Standard. The seafarers shall receive a copy of the records pertaining to them which shall be endorsed by the master, or a person authorized by the master, and by the seafarers.

13. Nothing in paragraphs 5 and 6 of this Standard shall prevent a Member from having national laws or regulations or a procedure for the competent authority to authorize or register collective agreements permitting exceptions to the limits set out. Such exceptions shall, as far as possible, follow the provisions of this Standard 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.

14. Nothing in this Standard shall be deemed to impair the right of the master of a ship to require a seafarer 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. Accordingly, 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 shall ensure that any seafarers who have performed work in a scheduled rest period are provided with an adequate period of rest.

Guideline B2.3 – Hours of work and hours of rest

Guideline B2.3.1 – Young seafarers

1. At sea and in port the following provisions should apply to all young seafarers under the age of 18:

- (a) working hours should not exceed eight hours per day and 40 hours per week and overtime should be worked only where unavoidable for safety reasons;
- (b) sufficient time should be allowed for all meals, and a break of at least one hour for the main meal of the day should be assured; and
- (c) a 15-minute rest period as soon as possible following each two hours of continuous work should be allowed.

2. Exceptionally, the provisions of paragraph 1 of this Guideline need not be applied if:

- (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; or
 - (b) the effective training of young seafarers in accordance with established programmes and schedules would be impaired.
3. Such exceptional situations should be recorded, with reasons, and signed by the master.
4. Paragraph 1 of this Guideline does not exempt young seafarers from the general obligation on all seafarers to work during any emergency as provided for in Standard A2.3, paragraph 14.

Regulation 2.4 – Entitlement to leave

Purpose: To ensure that seafarers have adequate leave

1. Each Member shall require that seafarers employed on ships that fly its flag are given paid annual leave under appropriate conditions, in accordance with the provisions in the Code.
2. Seafarers shall be granted shore leave to benefit their health and well-being and consistent with the operational requirements of their positions.

Standard A2.4 – Entitlement to leave

1. Each Member shall adopt laws and regulations determining the minimum standards for annual leave for seafarers serving on ships that fly its flag, taking proper account of the special needs of seafarers with respect to such leave.
2. Subject to any collective agreement or laws or regulations 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 shall be calculated on the basis of a minimum of 2.5 calendar days per month of employment. The manner in which the length of service is calculated shall be determined by the competent authority or through the appropriate machinery in each country. Justified absences from work shall not be considered as annual leave.
3. Any agreement to forgo the minimum annual leave with pay prescribed in this Standard, except in cases provided for by the competent authority, shall be prohibited.

Guideline B2.4 – Entitlement to leave

Guideline B2.4.1 – Calculation of entitlement

1. Under conditions as determined by the competent authority or through the appropriate machinery in each country, service off-articles should be counted as part of the period of service.
2. Under conditions as determined by the competent authority or in an applicable collective agreement, absence from work to attend an approved maritime vocational training course or for such reasons as illness or injury or for maternity should be counted as part of the period of service.

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3. The level of pay during annual leave should be at the seafarer's normal level of remuneration provided for by national laws or regulations or 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 should be calculated on a pro-rata basis.

4. The following should not be counted as part of annual leave with pay:

- (a) public and customary holidays recognized as such in the flag State, whether or not they fall during the annual leave with pay;
- (b) periods of incapacity for work resulting from illness or injury or from maternity, under conditions as determined by the competent authority or through the appropriate machinery in each country;
- (c) temporary shore leave granted to a seafarer while under an employment agreement; and
- (d) compensatory leave of any kind, under conditions as determined by the competent authority or through the appropriate machinery in each country.

Guideline B2.4.2 – Taking of annual leave

1. The time at which annual leave is to be taken should, unless it is fixed by regulation, collective agreement, arbitration award or other means consistent with national practice, be determined by the shipowner after consultation and, as far as possible, in agreement with the seafarers concerned or their representatives.

2. Seafarers should in principle have the right to take annual leave in the place with which they have a substantial connection, which would normally be the same as the place to which they are entitled to be repatriated. Seafarers should 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 or of national laws or regulations.

3. If seafarers are required to take their annual leave from a place other than that permitted by paragraph 2 of this Guideline, they should be entitled to free transportation to the place where they were engaged or recruited, whichever is nearer their home; subsistence and other costs directly involved should be for the account of the shipowner; the travel time involved should not be deducted from the annual leave with pay due to the seafarer.

4. A seafarer taking annual leave should be recalled only in cases of extreme emergency and with the seafarer's consent.

Guideline B2.4.3 – Division and accumulation

1. 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 or through the appropriate machinery in each country.

2. Subject to paragraph 1 of this Guideline and unless otherwise provided in an agreement applicable to the shipowner and the seafarer concerned, the annual leave with pay recommended in this Guideline should consist of an uninterrupted period.

Guideline B2.4.4 – Young seafarers

1. Special measures should be considered with respect to young 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. Such measures could consist of their repatriation 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.

Regulation 2.5 – Repatriation

Purpose: To ensure that seafarers are able to return home

1. Seafarers have a right to be repatriated at no cost to themselves in the circumstances and under the conditions specified in the Code.
2. Each Member shall require ships that fly its flag to provide financial security to ensure that seafarers are duly repatriated in accordance with the Code.

Standard A2.5.1 – Repatriation

1. Each Member shall ensure that seafarers on ships that fly its flag are entitled to repatriation in the following circumstances:
 - (a) if the seafarers' employment agreement expires while they are abroad;
 - (b) when the seafarers' employment agreement is terminated:
 - (i) by the shipowner; or
 - (ii) by the seafarer for justified reasons; and also
 - (c) 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.
2. Each Member shall ensure that there are appropriate provisions in its laws and regulations or other measures or in collective bargaining agreements, prescribing:
 - (a) the circumstances in which seafarers are entitled to repatriation in accordance with paragraph 1(b) and (c) of this Standard;
 - (b) the maximum duration of service periods on board following which a seafarer is entitled to repatriation – such periods to be less than 12 months; and
 - (c) the precise entitlements to be accorded by shipowners for repatriation, including those relating to the destinations of repatriation, the mode of transport, the items of expense to be covered and other arrangements to be made by shipowners.
3. Each Member shall prohibit shipowners 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.
4. National laws and regulations shall not prejudice any right of the shipowner to recover the cost of repatriation under third-party contractual arrangements.
5. If a shipowner fails to make arrangements for or to meet the cost of repatriation of seafarers who are entitled to be repatriated:
 - (a) the competent authority of the Member whose flag the ship flies shall arrange for repatriation of the seafarers concerned; if it fails to do so, the State from which

the seafarers are to be repatriated or the State of which they are a national may arrange for their repatriation and recover the cost from the Member whose flag the ship flies;

- (b) costs incurred in repatriating seafarers shall be recoverable from the shipowner by the Member whose flag the ship flies;
- (c) the expenses of repatriation shall in no case be a charge upon the seafarers, except as provided for in paragraph 3 of this Standard.

6. Taking into account applicable international instruments, including the International Convention on Arrest of Ships, 1999, a Member which has paid the cost of repatriation pursuant to this Code may detain, or request the detention of, the ships of the shipowner concerned until the reimbursement has been made in accordance with paragraph 5 of this Standard.

7. Each Member shall facilitate the repatriation of seafarers serving on ships which call at its ports or pass through its territorial or internal waters, as well as their replacement on board.

8. In particular, a Member shall not refuse the right of repatriation to any seafarer because of the financial circumstances of a shipowner or because of the shipowner's inability or unwillingness to replace a seafarer.

9. Each Member shall require that ships that fly its flag carry and make available to seafarers a copy of the applicable national provisions regarding repatriation written in an appropriate language.

Standard A2.5.2 – Financial security

1. In implementation of Regulation 2.5, paragraph 2, this Standard establishes requirements to ensure the provision of an expeditious and effective financial security system to assist seafarers in the event of their abandonment.

2. For the purposes of this Standard, a seafarer shall be deemed to have been abandoned where, in violation of the requirements of this Convention or the terms of the seafarers' employment agreement, the shipowner:

- (a) fails to cover the cost of the seafarer's repatriation; or
- (b) has left the seafarer without the necessary maintenance and support; or
- (c) has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two months.

3. Each Member shall ensure that a financial security system meeting the requirements of this Standard is in place for ships flying its flag. The financial security system may be in the form of a social security scheme or insurance or a national fund or other similar arrangements. Its form shall be determined by the Member after consultation with the shipowners' and seafarers' organizations concerned.

4. The financial security system shall provide direct access, sufficient coverage and expedited financial assistance, in accordance with this Standard, to any abandoned seafarer on a ship flying the flag of the Member.

5. For the purposes of paragraph 2(b) of this Standard, necessary maintenance and support of seafarers shall include: adequate food, accommodation, drinking water supplies, essential fuel for survival on board the ship and necessary medical care.

6. Each Member shall require that ships that fly its flag, and to which paragraph 1 or 2 of Regulation 5.1.3 applies, carry on board a certificate or other documentary evidence of financial security issued by the financial security provider. A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.

7. The certificate or other documentary evidence of financial security shall contain the information required in Appendix A2-I. It shall be in English or accompanied by an English translation.

8. Assistance provided by the financial security system shall be granted promptly upon request made by the seafarer or the seafarer's nominated representative and supported by the necessary justification of entitlement in accordance with paragraph 2 above.

9. Having regard to Regulations 2.2 and 2.5, assistance provided by the financial security system shall be sufficient to cover the following:

- (a) outstanding wages and other entitlements due from the shipowner to the seafarer under their employment agreement, the relevant collective bargaining agreement or the national law of the flag State, limited to four months of any such outstanding wages and four months of any such outstanding entitlements;
- (b) all expenses reasonably incurred by the seafarer, including the cost of repatriation referred to in paragraph 10; and
- (c) the essential needs of the seafarer including such items as: adequate food, clothing where necessary, accommodation, drinking water supplies, essential fuel for survival on board the ship, necessary medical care and any other reasonable costs or charges from the act or omission constituting the abandonment until the seafarer's arrival at home.

10. The cost of repatriation shall cover travel by appropriate and expeditious means, normally by air, and include provision for food and accommodation of the seafarer from the time of leaving the ship until arrival at the seafarer's home, necessary medical care, passage and transport of personal effects and any other reasonable costs or charges arising from the abandonment.

11. The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days to the competent authority of the flag State.

12. If the provider of insurance or other financial security has made any payment to any seafarer in accordance with this Standard, such provider shall, up to the amount it has paid and in accordance with the applicable law, acquire by subrogation, assignment or otherwise, the rights which the seafarer would have enjoyed.

13. Nothing in this Standard shall prejudice any right of recourse of the insurer or provider of financial security against third parties.

14. The provisions in this Standard are not intended to be exclusive or to prejudice any other rights, claims or remedies that may also be available to compensate seafarers who are abandoned. National laws and regulations may provide that any amounts payable under this Standard can be offset against amounts received from other sources arising from any rights, claims or remedies that may be the subject of compensation under the present Standard.

Guideline B2.5 – Repatriation

Guideline B2.5.1 – Entitlement

1. Seafarers should be entitled to repatriation:

- (a) in the case covered by Standard A2.5, paragraph 1(a), upon the expiry of the period of notice given in accordance with the provisions of the seafarers' employment agreement;
- (b) in the cases covered by Standard A2.5, paragraph 1(b) and (c):
 - (i) in the event of illness or injury or other medical condition which requires their repatriation when found medically fit to travel;
 - (ii) in the event of shipwreck;
 - (iii) in the event of 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;
 - (iv) in the event of a ship being bound for a war zone, as defined by national laws or regulations or seafarers' employment agreements, to which the seafarer does not consent to go; and
 - (v) in the event of termination or interruption of employment in accordance with an industrial award or collective agreement, or termination of employment for any other similar reason.

2. In determining the maximum duration of service periods on board following which a seafarer is entitled to repatriation, in accordance with this Code, account should be taken of factors affecting the seafarers' working environment. Each Member should seek, wherever possible, to reduce these periods in the light of technological changes and developments and might be guided by any recommendations made on the matter by the Joint Maritime Commission.

3. The costs to be borne by the shipowner for repatriation under Standard A2.5 should include at least the following:

- (a) passage to the destination selected for repatriation in accordance with paragraph 6 of this Guideline;
- (b) accommodation and food from the moment the seafarers leave the ship until they reach the repatriation destination;
- (c) pay and allowances from the moment the seafarers leave the ship until they reach the repatriation destination, if provided for by national laws or regulations or collective agreements;
- (d) transportation of 30 kg of the seafarers' personal luggage to the repatriation destination; and
- (e) medical treatment when necessary until the seafarers are medically fit to travel to the repatriation destination.

4. Time spent awaiting repatriation and repatriation travel time should not be deducted from paid leave accrued to the seafarers.

5. Shipowners should be required to continue to cover the costs of repatriation until the seafarers concerned are landed at a destination prescribed pursuant to this

Code or are provided with suitable employment on board a ship proceeding to one of those destinations.

6. Each Member should require that shipowners take responsibility for repatriation arrangements by appropriate and expeditious means. The normal mode of transport should be by air. The Member should prescribe the destinations to which seafarers may be repatriated. The destinations should include the countries with which seafarers may be deemed to have a substantial connection including:

- (a) the place at which the seafarer agreed to enter into the engagement;
- (b) the place stipulated by collective agreement;
- (c) the seafarer's country of residence; or
- (d) such other place as may be mutually agreed at the time of engagement.

7. Seafarers should have the right to choose from among the prescribed destinations the place to which they are to be repatriated.

8. The entitlement to repatriation may lapse if the seafarers concerned do not claim it within a reasonable period of time to be defined by national laws or regulations or collective agreements.

Guideline B2.5.2 – Implementation by Members

1. Every possible practical assistance should be given to a seafarer stranded in a foreign port pending repatriation and in the event of delay in the repatriation of the seafarer, the competent authority in the foreign port should ensure that the consular or local representative of the flag State and the seafarer's State of nationality or State of residence, as appropriate, is informed immediately.

2. Each Member should have regard to whether proper provision is made:

- (a) for the return of seafarers employed on a ship that flies the flag of a foreign country who are put ashore in a foreign port for reasons for which they are not responsible:
 - (i) to the port at which the seafarer concerned was engaged; or
 - (ii) to a port in the seafarer's State of nationality or State of residence, as appropriate; or
 - (iii) to another port agreed upon between the seafarer and the master or shipowner, with the approval of the competent authority or under other appropriate safeguards;
- (b) for medical care and maintenance of seafarers employed on a ship that flies the flag of a foreign country who are put ashore in a foreign port in consequence of sickness or injury incurred in the service of the ship and not due to their own wilful misconduct.

3. If, after young seafarers under the age of 18 have served on a ship for at least four months during their first foreign-going voyage, it becomes apparent that they are unsuited to life at sea, they should 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 the flag State, or the State of nationality or residence of the young seafarer. Notification of any such repatriation, with the reasons therefor, should be given to the authority which issued the papers enabling the young seafarers concerned to take up seagoing employment.

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Guideline B2.5.3 – Financial security

1. In implementation of paragraph 8 of Standard A2.5.2, if time is needed to check the validity of certain aspects of the request of the seafarer or the seafarer's nominated representative, this should not prevent the seafarer from immediately receiving such part of the assistance requested as is recognized as justified.

Regulation 2.6 – Seafarer compensation for the ship's loss or foundering

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

1. Seafarers are entitled to adequate compensation in the case of injury, loss or unemployment arising from the ship's loss or foundering.

Standard A2.6 – Seafarer compensation for the ship's loss or foundering

1. Each Member shall make rules ensuring that, in every case of loss or foundering of any ship, the shipowner shall pay to each seafarer on board an indemnity against unemployment resulting from such loss or foundering.

2. The rules referred to in paragraph 1 of this Standard shall be without prejudice to any other rights a seafarer may have under the national law of the Member concerned for losses or injuries arising from a ship's loss or foundering.

Guideline B2.6 – Seafarer compensation for the ship's loss or foundering

Guideline B2.6.1 – Calculation of indemnity against unemployment

1. The indemnity against unemployment resulting from a ship's foundering or loss should be paid for the days during which the seafarer remains in fact unemployed at the same rate as the wages payable under the employment agreement, but the total indemnity payable to any one seafarer may be limited to two months' wages.

2. Each Member should ensure that seafarers have the same legal remedies for recovering such indemnities as they have for recovering arrears of wages earned during the service.

Regulation 2.7 – Manning levels

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

1. Each Member shall require that all ships that fly its flag 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 seafarer fatigue and the particular nature and conditions of the voyage.

Standard A2.7 – Manning levels

1. Each Member shall require that all ships that fly its flag have a sufficient number of seafarers on board to ensure that ships are 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 ensure the safety and security of the ship and its personnel, under all operating conditions, in accordance with the minimum safe manning document or an equivalent issued by the competent authority, and to comply with the standards of this Convention.

2. When determining, approving or revising manning levels, the competent authority shall take into account the need to avoid or minimize excessive hours of work to ensure sufficient rest and to limit fatigue, as well as the principles in applicable international instruments, especially those of the International Maritime Organization, on manning levels.

3. When determining manning levels, the competent authority shall take into account all the requirements within Regulation 3.2 and Standard A3.2 concerning food and catering.

Guideline B2.7 – Manning levels

Guideline B2.7.1 – Dispute settlement

1. Each Member should maintain, or satisfy itself that there is maintained, efficient machinery for the investigation and settlement of complaints or disputes concerning the manning levels on a ship.

2. Representatives of shipowners' and seafarers' organizations should participate, with or without other persons or authorities, in the operation of such machinery.

Regulation 2.8 – Career and skill development and opportunities for seafarers' employment

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

1. Each Member shall have national policies to promote employment in the maritime sector and to encourage career and skill development and greater employment opportunities for seafarers domiciled in its territory.

Standard A2.8 – Career and skill development and employment opportunities for seafarers

1. Each Member shall have national policies that encourage career and skill development and employment opportunities for seafarers, in order to provide the maritime sector with a stable and competent workforce.

2. The aim of the policies referred to in paragraph 1 of this Standard shall be to help seafarers strengthen their competencies, qualifications and employment opportunities.

3. Each Member shall, after consulting the shipowners' and seafarers' organizations concerned, establish clear objectives for the vocational guidance, education and training of seafarers whose duties on board ship primarily relate to the safe operation and navigation of the ship, including ongoing training.

Guideline B2.8 – Career and skill development
and employment opportunities for seafarers

Guideline B2.8.1 – Measures to promote career and skill development
and employment opportunities for seafarers

1. Measures to achieve the objectives set out in Standard A2.8 might include:
 - (a) agreements providing for career development and skills training with a shipowner or an organization of shipowners; or
 - (b) arrangements for promoting employment through the establishment and maintenance of registers or lists, by categories, of qualified seafarers; or
 - (c) promotion of opportunities, both on board and ashore, for further training and education of seafarers to provide for skill development and portable competencies in order to secure and retain decent work, to improve individual employment prospects and to meet the changing technology and labour market conditions of the maritime industry.

Guideline B2.8.2 – Register of seafarers

1. Where registers or lists govern the employment of seafarers, these registers or lists should include all occupational categories of seafarers in a manner determined by national law or practice or by collective agreement.
2. Seafarers on such a register or list should have priority of engagement for seafaring.
3. Seafarers on such a register or list should be required to be available for work in a manner to be determined by national law or practice or by collective agreement.
4. To the extent that national laws or regulations permit, the number of seafarers on such registers or lists should be periodically reviewed so as to achieve levels adapted to the needs of the maritime industry.
5. When a reduction in the number of seafarers on such a register or list becomes necessary, all appropriate measures should be taken to prevent or minimize detrimental effects on seafarers, account being taken of the economic and social situation of the country concerned.

TITLE 3. ACCOMMODATION, RECREATIONAL FACILITIES, FOOD AND CATERING

Regulation 3.1 – Accommodation and recreational facilities

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

1. Each Member shall ensure that ships that fly its flag 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.

2. The requirements in the Code implementing this Regulation which relate to ship construction and equipment apply only to ships constructed on or after the date when this Convention comes into force for the Member concerned. For ships constructed before that date, the requirements relating to ship construction and equipment that are set out in the Accommodation of Crews Convention (Revised), 1949 (No. 92), and the Accommodation of Crews (Supplementary Provisions) Convention, 1970 (No. 133), shall continue to apply to the extent that they were applicable, prior to that date, under the law or practice of the Member concerned. 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.

3. Unless expressly provided otherwise, any requirement under an amendment to the Code relating to the provision of seafarer accommodation and recreational facilities shall apply only to ships constructed on or after the amendment takes effect for the Member concerned.

Standard A3.1 – Accommodation and recreational facilities

1. Each Member shall adopt laws and regulations requiring that ships that fly its flag:

- (a) meet minimum standards to ensure that any accommodation for seafarers, working or living on board, or both, is safe, decent and in accordance with the relevant provisions of this Standard; and
- (b) are inspected to ensure initial and ongoing compliance with those standards.

2. In developing and applying the laws and regulations to implement this Standard, the competent authority, after consulting the shipowners' and seafarers' organizations concerned, shall:

- (a) take into account Regulation 4.3 and the associated Code provisions on health and safety protection and accident prevention, in light of the specific needs of seafarers that both live and work on board ship; and
- (b) give due consideration to the guidance contained in Part B of this Code.

3. The inspections required under Regulation 5.1.4 shall be carried out when:

- (a) a ship is registered or re-registered; or
- (b) the seafarer accommodation on a ship has been substantially altered.

4. The competent authority shall pay particular attention to ensuring implementation of the requirements of this Convention relating to:

- (a) the size of rooms and other accommodation spaces;
- (b) heating and ventilation;
- (c) noise and vibration and other ambient factors;
- (d) sanitary facilities;
- (e) lighting; and
- (f) hospital accommodation.

5. The competent authority of each Member shall require that ships that fly its flag meet the minimum standards for on-board accommodation and recreational facilities that are set out in paragraphs 6 to 17 of this Standard.

6. With respect to general requirements for accommodation:

- (a) there shall be adequate headroom in all seafarer accommodation; the minimum permitted headroom in all seafarer accommodation 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:
 - (i) is reasonable; and
 - (ii) will not result in discomfort to the seafarers;
- (b) the accommodation shall be adequately insulated;
- (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;
- (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;
- (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;
- (f) the materials used to construct internal bulkheads, panelling and sheeting, floors and joinings shall be suitable for the purpose and conducive to ensuring a healthy environment;
- (g) proper lighting and sufficient drainage shall be provided; and
- (h) accommodation and recreational and catering facilities shall meet the requirements in Regulation 4.3, and the related provisions in the Code, 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.

7. With respect to requirements for ventilation and heating:

- (a) sleeping rooms and mess rooms shall be adequately ventilated;
- (b) ships, except those regularly engaged in trade where temperate climatic conditions do not require this, shall be equipped with air conditioning for seafarer accommodation, for any separate radio room and for any centralized machinery control room;
- (c) all sanitary spaces shall have ventilation to the open air, independently of any other part of the accommodation; and
- (d) adequate heat through an appropriate heating system shall be provided, except in ships exclusively on voyages in tropical climates.

8. With respect to requirements for lighting, subject to such special arrangements as may be permitted in passenger ships, sleeping rooms and mess rooms shall be lit by natural light and provided with adequate artificial light.

9. When sleeping accommodation on board ships is required, the following requirements for sleeping rooms apply:

- (a) in ships other than passenger ships, an individual sleeping room shall 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 concerned;
- (b) separate sleeping rooms shall be provided for men and for women;
- (c) sleeping rooms shall be of adequate size and properly equipped so as to ensure reasonable comfort and to facilitate tidiness;
- (d) a separate berth for each seafarer shall in all circumstances be provided;
- (e) the minimum inside dimensions of a berth shall be at least 198 centimetres by 80 centimetres;
- (f) in single berth seafarers' sleeping rooms the floor area shall not be less than:
 - (i) 4.5 square metres in ships of less than 3,000 gross tonnage;
 - (ii) 5.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
 - (iii) 7 square metres in ships of 10,000 gross tonnage or over;
- (g) however, 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;
- (h) in 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; the floor area of such sleeping rooms shall not be less than 7 square metres;
- (i) on passenger ships and special purpose ships the floor area of sleeping rooms for seafarers not performing the duties of ships' officers shall not be less than:
 - (i) 7.5 square metres in rooms accommodating two persons;
 - (ii) 11.5 square metres in rooms accommodating three persons;
 - (iii) 14.5 square metres in rooms accommodating four persons;

- (j) on special purpose ships sleeping rooms may accommodate more than four persons; the floor area of such sleeping rooms shall not be less than 3.6 square metres per person;
 - (k) on ships other than passenger ships and special purpose ships, sleeping rooms for seafarers who perform the duties of ships' officers, where no private sitting room or day room is provided, the floor area per person shall not be less than:
 - (i) 7.5 square metres in ships of less than 3,000 gross tonnage;
 - (ii) 8.5 square metres in ships of 3,000 gross tonnage or over but less than 10,000 gross tonnage;
 - (iii) 10 square metres in ships of 10,000 gross tonnage or over;
 - (l) 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 shall 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;
 - (m) the master, the chief engineer and the chief navigating officer shall 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 ship-owners' and seafarers' organizations concerned;
 - (n) for each occupant, the furniture shall 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 shall be 500 litres; it shall be fitted with a shelf and be able to be locked by the occupant so as to ensure privacy;
 - (o) each sleeping room shall 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.
10. With respect to requirements for mess rooms:
- (a) mess rooms shall 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 ship-owners' and seafarers' organizations concerned; and
 - (b) mess rooms shall 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; provision shall be made for separate or common mess room facilities as appropriate.
11. With respect to requirements for sanitary facilities:
- (a) all seafarers shall 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;
 - (b) there shall 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 concerned;

- (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 shall be provided at a convenient location;
- (d) with the exception of passenger ships, each sleeping room shall be provided with a washbasin having hot and cold running fresh water, except where such a washbasin is situated in the private bathroom provided;
- (e) in passenger ships normally engaged on voyages of not more than four hours' duration, consideration may be given by the competent authority to special arrangements or to a reduction in the number of facilities required; and
- (f) hot and cold running fresh water shall be available in all wash places.

12. With respect to requirements for hospital accommodation, ships carrying 15 or more seafarers and engaged in a voyage of more than three days' duration shall provide separate hospital accommodation to be used exclusively for medical purposes; the competent authority may relax this requirement for ships engaged in coastal trade; in approving on-board hospital accommodation, the competent authority shall ensure that the accommodation will, in all weathers, be easy of access, provide comfortable housing for the occupants and be conducive to their receiving prompt and proper attention.

13. Appropriately situated and furnished laundry facilities shall be available.

14. All ships shall 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.

15. All ships shall 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.

16. Ships regularly trading to mosquito-infested ports shall be fitted with appropriate devices as required by the competent authority.

17. Appropriate seafarers' recreational facilities, amenities and services, as adapted to meet the special needs of seafarers who must live and work on ships, shall be provided on board for the benefit of all seafarers, taking into account Regulation 4.3 and the associated Code provisions on health and safety protection and accident prevention.

18. The competent authority shall require frequent inspections to 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 shall be recorded and be available for review.

19. In the case of ships 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 concerned, permit fairly applied variations in respect of this Standard on condition that such variations do not result in overall facilities less favourable than those which would result from the application of this Standard.

20. Each Member may, after consultation with the shipowners' and seafarers' organizations concerned, exempt ships of less than 200 gross tonnage where it is reasonable to do so, taking account of the size of the ship and the number of persons on board in relation to the requirements of the following provisions of this Standard:

- (a) paragraphs 7(b), 11(d) and 13; and
- (b) paragraph 9(f) and (h) to (l) inclusive, with respect to floor area only.

21. Any exemptions with respect to the requirements of this Standard may be made only where they are expressly permitted in this Standard and only for particular circumstances in which such exemptions can be clearly justified on strong grounds and subject to protecting the seafarers' health and safety.

Guideline B3.1 – Accommodation and recreational facilities

Guideline B3.1.1 – Design and construction

1. External bulkheads of sleeping rooms and mess rooms should be adequately insulated. All machinery casings and all boundary bulkheads of galleys and other spaces in which heat is produced should be adequately insulated where there is a possibility of resulting heat effects in adjoining accommodation or passageways. Measures should also be taken to provide protection from heat effects of steam or hot-water service pipes or both.

2. Sleeping rooms, mess rooms, recreation rooms and alleyways in the accommodation space should be adequately insulated to prevent condensation or overheating.

3. The bulkhead surfaces and deckheads should be of material with a surface easily kept clean. No form of construction likely to harbour vermin should be used.

4. The bulkhead surfaces and deckheads in sleeping rooms and mess rooms should be capable of being easily kept clean and light in colour with a durable, non-toxic finish.

5. The decks in all seafarer accommodation should be of approved material and construction and should provide a non-slip surface impervious to damp and easily kept clean.

6. Where the floorings are made of composite materials, the joints with the sides should be profiled to avoid crevices.

Guideline B3.1.2 – Ventilation

1. The system of ventilation for sleeping rooms and mess rooms should 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.

2. Air-conditioning systems, whether of a centralized or individual unit type, should be designed to:

- (a) 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; and
- (b) facilitate easy cleaning and disinfection to prevent or control the spread of disease.

3. Power for the operation of the air conditioning and other aids to ventilation required by the preceding paragraphs of this Guideline should 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.

Guideline B3.1.3 – Heating

1. The system of heating the seafarer accommodation should be in operation at all times when seafarers are living or working on board and conditions require its use.

2. In all ships in which a heating system is required, the heating should be by means of hot water, warm air, electricity, steam or equivalent. However, within the accommodation area, steam should not be used as a medium for heat transmission. The heating system should 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. The competent authority should prescribe the standard to be provided.

3. Radiators and other heating apparatus should be placed and, where necessary, shielded so as to avoid risk of fire or danger or discomfort to the occupants.

Guideline B3.1.4 – Lighting

1. In all ships, electric light should be provided in the seafarer accommodation. If there are not two independent sources of electricity for lighting, additional lighting should be provided by properly constructed lamps or lighting apparatus for emergency use.

2. In sleeping rooms an electric reading lamp should be installed at the head of each berth.

3. Suitable standards of natural and artificial lighting should be fixed by the competent authority.

Guideline B3.1.5 – Sleeping rooms

1. There should be adequate berth arrangements on board, making it as comfortable as possible for the seafarer and any partner who may accompany the seafarer.

2. 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 should be planned and equipped with a private bathroom, including a toilet, so as to provide reasonable comfort for the occupants and to facilitate tidiness.

3. As far as practicable, sleeping rooms of seafarers should be so arranged that watches are separated and that no seafarers working during the day share a room with watchkeepers.

4. In the case of seafarers performing the duty of petty officers there should be no more than two persons per sleeping room.

5. Consideration should be given to extending the facility referred to in Standard A3.1, paragraph 9(m), to the second engineer officer when practicable.

6. Space occupied by berths and lockers, chests of drawers and seats should 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 should be excluded.

7. Berths should not be arranged in tiers of more than two; in the case of berths placed along the ship's side, there should be only a single tier where a sidelight is situated above a berth.

8. The lower berth in a double tier should be not less than 30 centimetres above the floor; the upper berth should be placed approximately midway between the bottom of the lower berth and the lower side of the deckhead beams.

9. The framework and the lee-board, if any, of a berth should be of approved material, hard, smooth, and not likely to corrode or to harbour vermin.

10. If tubular frames are used for the construction of berths, they should be completely sealed and without perforations which would give access to vermin.

11. Each berth should 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 should be made of approved material. Stuffing of material likely to harbour vermin should not be used.

12. When one berth is placed over another, a dust-proof bottom should be fitted beneath the bottom mattress or spring bottom of the upper berth.

13. The furniture should be of smooth, hard material not liable to warp or corrode.

14. Sleeping rooms should be fitted with curtains or equivalent for the sidelights.

15. Sleeping rooms should be fitted with a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks.

Guideline B3.1.6 – Mess rooms

1. Mess room facilities may be either common or separate. The decision in this respect should 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.

2. Where separate mess room facilities are to be provided to seafarers, then separate mess rooms should be provided for:

- (a) master and officers; and
- (b) petty officers and other seafarers.

3. On ships other than passenger ships, the floor area of mess rooms for seafarers should be not less than 1.5 square metres per person of the planned seating capacity.

4. In all ships, mess rooms should 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.

5. There should be available at all times when seafarers are on board:
 - (a) a refrigerator, which should be conveniently situated and of sufficient capacity for the number of persons using the mess room or mess rooms;
 - (b) facilities for hot beverages; and
 - (c) cool water facilities.
6. Where available pantries are not accessible to mess rooms, adequate lockers for mess utensils and proper facilities for washing utensils should be provided.
7. The tops of tables and seats should be of damp-resistant material.

Guideline B3.1.7 – Sanitary accommodation

1. Washbasins and tub baths should be of adequate size and constructed of approved material with a smooth surface not liable to crack, flake or corrode.
2. All toilets should 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.
3. Sanitary accommodation intended for the use of more than one person should comply with the following:
 - (a) floors should be of approved durable material, impervious to damp, and should be properly drained;
 - (b) bulkheads should be of steel or other approved material and should be watertight up to at least 23 centimetres above the level of the deck;
 - (c) the accommodation should be sufficiently lit, heated and ventilated;
 - (d) toilets should 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; and
 - (e) where there is more than one toilet in a compartment, they should be sufficiently screened to ensure privacy.
4. The laundry facilities provided for seafarers' use should include:
 - (a) washing machines;
 - (b) drying machines or adequately heated and ventilated drying rooms; and
 - (c) irons and ironing boards or their equivalent.

Guideline B3.1.8 – Hospital accommodation

1. The hospital accommodation should be designed so as to facilitate consultation and the giving of medical first aid and to help prevent the spread of infectious diseases.
2. The arrangement of the entrance, berths, lighting, ventilation, heating and water supply should be designed to ensure the comfort and facilitate the treatment of the occupants.

3. The number of hospital berths required should be prescribed by the competent authority.

4. Sanitary accommodation should 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 should comprise a minimum of one toilet, one washbasin and one tub or shower.

Guideline B3.1.9 – Other facilities

1. Where separate facilities for engine department personnel to change their clothes are provided, they should be:

- (a) located outside the machinery space but with easy access to it; and
- (b) fitted with individual clothes lockers as well as with tubs or showers or both and washbasins having hot and cold running fresh water.

Guideline B3.1.10 – Bedding, mess utensils and miscellaneous provisions

1. Each Member should consider applying the following principles:
- (a) clean bedding and mess utensils should be supplied by the shipowner to all seafarers for use on board during service on the ship, and such seafarers should be responsible for their return at times specified by the master and on completion of service in the ship;
 - (b) bedding should be of good quality, and plates, cups and other mess utensils should be of approved material which can be easily cleaned; and
 - (c) towels, soap and toilet paper for all seafarers should be provided by the shipowner.

Guideline B3.1.11 – Recreational facilities, mail and ship visit arrangements

1. Recreational facilities and services should 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.

2. Furnishings for recreational facilities should as a minimum include a bookcase and facilities for reading, writing and, where practicable, games.

3. In connection with the planning of recreation facilities, the competent authority should give consideration to the provision of a canteen.

4. Consideration should also be given to including the following facilities at no cost to the seafarer, where practicable:

- (a) a smoking room;
- (b) television viewing and the reception of radio broadcasts;
- (c) showing of films, the stock of which should be adequate for the duration of the voyage and, where necessary, changed at reasonable intervals;
- (d) sports equipment including exercise equipment, table games and deck games;
- (e) where possible, facilities for swimming;
- (f) a library containing vocational and other books, the stock of which should be adequate for the duration of the voyage and changed at reasonable intervals;
- (g) facilities for recreational handicrafts;

- (h) electronic equipment such as a radio, television, video recorders, DVD/CD player, personal computer and software and cassette recorder/player;
- (i) where appropriate, the provision of bars on board for seafarers unless these are contrary to national, religious or social customs; and
- (j) 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.

5. Every effort should be given to ensuring 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.

6. Measures should be considered to ensure, subject to any applicable national or international laws or regulations, that whenever possible and reasonable seafarers are expeditiously granted permission to have their partners, relatives and friends as visitors on board their ship when in port. Such measures should meet any concerns for security clearances.

7. Consideration should be given to the possibility of allowing seafarers to be accompanied by their partners on occasional voyages where this is practicable and reasonable. Such partners should carry adequate insurance cover against accident and illness; the shipowners should give every assistance to the seafarer to effect such insurance.

Guideline B3.1.12 – Prevention of noise and vibration

1. Accommodation and recreational and catering facilities should 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.

2. Acoustic insulation or other appropriate sound-absorbing materials should 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.

3. Engine rooms and other machinery spaces should be provided, wherever practicable, with soundproof centralized control rooms for engine-room personnel. Working spaces, such as the machine shop, should be insulated, as far as practicable, from the general engine-room noise and measures should be taken to reduce noise in the operation of machinery.

4. The limits for noise levels for working and living spaces should 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.

5. No accommodation or recreational or catering facilities should be exposed to excessive vibration.

Regulation 3.2 – Food and catering

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

1. Each Member shall ensure that ships that fly its flag carry on board and serve food and drinking water of appropriate quality, nutritional value and quantity that adequately covers the requirements of the ship and takes into account the differing cultural and religious backgrounds.
2. Seafarers on board a ship shall be provided with food free of charge during the period of engagement.
3. Seafarers employed as ships' cooks with responsibility for food preparation must be trained and qualified for their position on board ship.

Standard A3.2 – Food and catering

1. Each Member shall adopt laws and regulations or other measures to provide minimum standards for the quantity and quality of food and drinking water and for the catering standards that apply to meals provided to seafarers on ships that fly its flag, and shall undertake educational activities to promote awareness and implementation of the standards referred to in this paragraph.
2. Each Member shall ensure that ships that fly its flag meet the following minimum standards:
 - (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, shall be suitable in respect of quantity, nutritional value, quality and variety;
 - (b) the organization and equipment of the catering department shall be such as to permit the provision to the seafarers of adequate, varied and nutritious meals prepared and served in hygienic conditions; and
 - (c) catering staff shall be properly trained or instructed for their positions.
3. Shipowners shall ensure that seafarers who are engaged as ships' cooks are trained, qualified and found competent for the position in accordance with requirements set out in the laws and regulations of the Member concerned.
4. The requirements under paragraph 3 of this Standard shall include a completion of 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.
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 shall be trained or instructed in areas including food and personal hygiene as well as ~~handling and storage of food on board ship~~.
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.

7. In accordance with the ongoing compliance procedures under Title 5, the competent authority shall require that frequent documented inspections be carried out on board ships, by or under the authority of the master, with respect to:

- (a) supplies of food and drinking water;
- (b) all spaces and equipment used for the storage and handling of food and drinking water; and
- (c) galley and other equipment for the preparation and service of meals.

8. No seafarer under the age of 18 shall be employed or engaged or work as a ship's cook.

Guideline B3.2 – Food and catering

Guideline B3.2.1 – Inspection, education, research and publication

1. The competent authority should, 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 should 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.

2. The competent authority should 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.

3. The competent authority should work with relevant agencies and organizations to develop educational materials and on-board information concerning methods of ensuring proper food supply and catering services.

4. The competent authority should work in close cooperation with the shipowners' and seafarers' organizations concerned and with national or local authorities dealing with questions of food and health, and may where necessary utilize the services of such authorities.

Guideline B3.2.2 – Ships' cooks

1. Seafarers should only be qualified as ships' cooks if they have:

- (a) 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;
- (b) passed an examination prescribed by the competent authority or passed an equivalent examination at an approved training course for cooks.

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2. 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.

3. The competent authority should provide for the recognition, where appropriate, of certificates of qualification as ships' cooks issued by other Members, which have ratified this Convention or the Certification of Ships' Cooks Convention, 1946 (No. 69), or other approved body.

**TITLE 4. HEALTH PROTECTION, MEDICAL CARE, WELFARE
AND SOCIAL SECURITY PROTECTION**

Regulation 4.1 – 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

1. Each Member shall ensure that all seafarers on ships that fly its flag are covered by adequate measures for the protection of their health and that they have access to prompt and adequate medical care whilst working on board.

2. The protection and care under paragraph 1 of this Regulation shall, in principle, be provided at no cost to the seafarers.

3. Each Member shall ensure that seafarers on board ships in its territory who are in need of immediate medical care are given access to the Member's medical facilities on shore.

4. The requirements for on-board health protection and medical care set out in the Code include standards for measures aimed at providing seafarers with health protection and medical care as comparable as possible to that which is generally available to workers ashore.

Standard A4.1 – Medical care on board ship and ashore

1. Each Member shall ensure that measures providing for health protection and medical care, including essential dental care, for seafarers working on board a ship that flies its flag are adopted which:

- (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;
- (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;
- (c) give seafarers the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable;
- (d) ensure that, to the extent consistent with the Member's 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; and
- (e) are not limited to treatment of sick or injured seafarers but include measures of a preventive character such as health promotion and health education programmes.

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2. The competent authority shall adopt a standard medical report form for use by the ships' masters and relevant onshore and on-board medical personnel. The form, when completed, and its contents shall be kept confidential and shall only be used to facilitate the treatment of seafarers.

3. Each Member shall adopt laws and regulations establishing requirements for on-board hospital and medical care facilities and equipment and training on ships that fly its flag.

4. National laws and regulations shall as a minimum provide for the following requirements:

- (a) all ships shall 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; the national requirements shall take 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;
- (b) ships carrying 100 or more persons and ordinarily engaged on international voyages of more than three days' duration shall carry a qualified medical doctor who is responsible for providing medical care; national laws or regulations shall also specify which other ships shall be required to 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;
- (c) ships which do not carry a medical doctor shall be required to 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 shall have satisfactorily completed training in medical care that meets the requirements of the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended ("STCW"); seafarers designated to provide medical first aid shall have satisfactorily completed training in medical first aid that meets the requirements of STCW; national laws or regulations shall specify the level of approved training required taking into account, inter alia, such factors as the duration, nature and conditions of the voyage and the number of seafarers on board; and
- (d) the competent authority shall 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, shall be available free of charge to all ships irrespective of the flag that they fly.

Guideline B4.1 – Medical care on board ship and ashore

Guideline B4.1.1 – Provision of medical care

1. When determining the level of medical training to be provided on board ships that are not required to carry a medical doctor, the competent authority should require that:

- (a) ships which ordinarily are capable of reaching qualified medical care and medical facilities within eight hours should have at least one designated seafarer with the approved medical first-aid training required by STCW 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; and
- (b) all other ships should have at least one designated seafarer with approved training in medical care required by STCW, 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.

2. The training referred to in paragraph 1 of this Guideline should be based on the contents of the most recent editions of the *International Medical Guide for Ships*, the *Medical First Aid Guide for Use in Accidents Involving Dangerous Goods*, the *Document for Guidance - An International Maritime Training Guide*, and the medical section of the *International Code of Signals* as well as similar national guides.

3. Persons referred to in paragraph 1 of this Guideline and such other seafarers as may be required by the competent authority should 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.

4. The medicine chest and its contents, as well as the medical equipment and medical guide carried on board, should be properly maintained and inspected at regular intervals, not exceeding 12 months, by responsible persons designated by the competent authority, who should 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. In adopting or reviewing the ship's medical guide used nationally, and in determining the contents of the medicine chest and medical equipment, the competent authority should take into account international recommendations in this field, including the latest edition of the *International Medical Guide for Ships*, and other guides mentioned in paragraph 2 of this Guideline.

5. 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 should be made available to the seafarers. Such specific antidotes and personal protective devices should be on board whenever dangerous goods are carried. This information should be integrated with the ship's policies and programmes on occupational safety and health described in Regulation 4.3 and related Code provisions.

6. All ships should 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. Seafarers with responsibility for medical care or medical first aid on board should 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.

Guideline B4.1.2 – Medical report form

1. The standard medical report form for seafarers required under Part A of this Code should be designed to facilitate the exchange of medical and related information concerning individual seafarers between ship and shore in cases of illness or injury.

Guideline B4.1.3 – Medical care ashore

1. Shore-based medical facilities for treating seafarers should be adequate for the purposes. The doctors, dentists and other medical personnel should be properly qualified.

2. Measures should be taken to ensure that seafarers have access when in port to:

- (a) outpatient treatment for sickness and injury;
- (b) hospitalization when necessary; and
- (c) facilities for dental treatment, especially in cases of emergency.

3. Suitable measures should be taken to facilitate the treatment of seafarers suffering from disease. In particular, seafarers should be promptly admitted to clinics and hospitals ashore, without difficulty and irrespective of nationality or religious belief, and, whenever possible, arrangements should be made to ensure, when necessary, continuation of treatment to supplement the medical facilities available to them.

Guideline B4.1.4 – Medical assistance to other ships and international cooperation

1. Each Member should give due consideration to participating in international cooperation in the area of assistance, programmes and research in health protection and medical care. Such cooperation might cover:

- (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 co-ordination 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*;
- (b) making optimum use of all ships carrying a doctor and stationing ships at sea which can provide hospital and rescue facilities;
- (c) compiling and maintaining an international list of doctors and medical care facilities available worldwide to provide emergency medical care to seafarers;
- (d) landing seafarers ashore for emergency treatment;
- (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;
- (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;
- (g) endeavouring to set up health centres for seafarers to:
 - (i) conduct research on the health status, medical treatment and preventive health care of seafarers; and

- (ii) train medical and health service staff in maritime medicine;
 - (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;
 - (i) organizing international exchanges of technical information, training material and personnel, as well as international training courses, seminars and working groups;
 - (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; 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.
2. International cooperation in the field of health protection and medical care for seafarers should be based on bilateral or multilateral agreements or consultations among Members.

Guideline B4.1.5 – Dependants of seafarers

1. Each Member should adopt measures to secure proper and sufficient medical care for the dependants of seafarers domiciled in its territory 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 the measures taken for this purpose.

Regulation 4.2 – Shipowners' liability

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

1. Each Member shall ensure that measures, in accordance with the Code, are in place on ships that fly its flag to provide seafarers employed on the ships with 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.
2. This Regulation does not affect any other legal remedies that a seafarer may seek.

Standard A4.2.1 – Shipowners' liability

1. Each Member shall adopt laws and regulations requiring that shipowners of ships that fly its flag are responsible for health protection and medical care of all seafarers working on board the ships in accordance with the following minimum standards:
 - (a) shipowners shall be liable to bear the costs 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;

- (b) shipowners shall 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 collective agreement;
- (c) shipowners shall be 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; and
- (d) shipowners shall be liable to pay the cost of burial expenses in the case of death occurring on board or ashore during the period of engagement.

2. National laws or regulations may limit the liability of the shipowner to defray the expense of medical care and board and lodging to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.

3. Where the sickness or injury results in incapacity for work the shipowner shall be liable:

- (a) to pay full wages as long as the sick or injured seafarers remain on board or until the seafarers have been repatriated in accordance with this Convention; and
- (b) to pay wages in whole or in part as prescribed by national laws or regulations 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 legislation of the Member concerned.

4. National laws or regulations may limit the liability of the shipowner to pay wages in whole or in part in respect of a seafarer no longer on board to a period which shall not be less than 16 weeks from the day of the injury or the commencement of the sickness.

5. National laws or regulations may exclude the shipowner from liability in respect of:

- (a) injury incurred otherwise than in the service of the ship;
- (b) injury or sickness due to the wilful misconduct of the sick, injured or deceased seafarer; and
- (c) sickness or infirmity intentionally concealed when the engagement is entered into.

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.

7. Shipowners or their representatives shall 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.

8. National laws and regulations shall provide that the system of financial security to assure compensation as provided by paragraph 1(b) of this Standard for contractual claims, as defined in Standard A4.2.2, meet the following minimum requirements:

- (a) the contractual compensation, where set out in the seafarer's employment agreement and without prejudice to subparagraph (c) of this paragraph, shall be paid in full and without delay;
- (b) there shall be no pressure to accept a payment less than the contractual amount;
- (c) where the nature of the long-term disability of a seafarer makes it difficult to assess the full compensation to which the seafarer may be entitled, an interim payment or payments shall be made to the seafarer so as to avoid undue hardship;
- (d) in accordance with Regulation 4.2, paragraph 2, the seafarer shall receive payment without prejudice to other legal rights, but such payment may be offset by the shipowner against any damages resulting from any other claim made by the seafarer against the shipowner and arising from the same incident; and
- (e) the claim for contractual compensation may be brought directly by the seafarer concerned, or their next of kin, or a representative of the seafarer or designated beneficiary.

9. National laws and regulations shall ensure that seafarers receive prior notification if a shipowner's financial security is to be cancelled or terminated.

10. National laws and regulations shall ensure that the competent authority of the flag State is notified by the provider of the financial security if a shipowner's financial security is cancelled or terminated.

11. Each Member shall require that ships that fly its flag carry on board a certificate or other documentary evidence of financial security issued by the financial security provider. A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.

12. The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days to the competent authority of the flag State.

13. The financial security shall provide for the payment of all contractual claims covered by it which arise during the period for which the document is valid.

14. The certificate or other documentary evidence of financial security shall contain the information required in Appendix A4-I. It shall be in English or accompanied by an English translation.

Standard A4.2.2 – Treatment of contractual claims

1. For the purposes of Standard A4.2.1, paragraph 8, and the present Standard, the term "contractual claim" means any claim which relates to 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 collective agreement.

2. The system of financial security, as provided for in Standard A4.2.1, paragraph 1(b), may be in the form of a social security scheme or insurance or fund or other similar arrangements. Its form shall be determined by the Member after consultation with the shipowners' and seafarers' organizations concerned.

3. National laws and regulations shall ensure that effective arrangements are in place to receive, deal with and impartially settle contractual claims relating to compensation referred to in Standard A4.2.1, paragraph 8, through expeditious and fair procedures.

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Guideline B4.2.1 – Shipowners' liability

1. The payment of full wages required by Standard A4.2.1, paragraph 3(a), may be exclusive of bonuses.
2. National laws or regulations may provide that a shipowner shall cease to be liable to bear the costs of a sick or injured seafarer from the time at which that seafarer can claim medical benefits under a scheme of compulsory sickness insurance, compulsory accident insurance or workers' compensation for accidents.
3. National laws or regulations may provide that burial expenses paid by the shipowner shall 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.

Guideline B4.2.2 – Treatment of contractual claims

1. National laws or regulations should provide that the parties to the payment of a contractual claim may use the Model Receipt and Release Form set out in Appendix B4-I.

Regulation 4.3 – Health and safety protection and accident prevention

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

1. Each Member shall ensure that seafarers on ships that fly its flag are provided with occupational health protection and live, work and train on board ship in a safe and hygienic environment.
2. Each Member shall develop and promulgate national guidelines for the management of occupational safety and health on board ships that fly its flag, after consultation with representative shipowners' and seafarers' organizations and taking into account applicable codes, guidelines and standards recommended by international organizations, national administrations and maritime industry organizations.
3. Each Member shall adopt laws and regulations and other measures addressing the matters specified in the Code, taking into account relevant international instruments, and set standards for occupational safety and health protection and accident prevention on ships that fly its flag.

Standard A4.3 – Health and safety protection and accident prevention

1. The laws and regulations and other measures to be adopted in accordance with Regulation 4.3, paragraph 3, shall include the following subjects:
 - (a) the adoption and effective implementation and promotion of occupational safety and health policies and programmes on ships that fly the Member's flag, including risk evaluation as well as training and instruction of seafarers;
 - (b) 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;

- (c) on-board programmes for the prevention of occupational accidents, injuries and diseases and for continuous improvement in occupational safety and health protection, involving 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; and
- (d) requirements for inspecting, reporting and correcting unsafe conditions and for investigating and reporting on-board occupational accidents.

2. The provisions referred to in paragraph 1 of this Standard shall:

- (a) take account of relevant international instruments dealing with occupational safety and health protection in general and with specific risks, and address all matters relevant to the prevention of occupational accidents, injuries and diseases that may be applicable to the work of seafarers and particularly those which are specific to maritime employment;
- (b) clearly specify the obligation of shipowners, seafarers and others concerned to comply with the applicable standards and with the ship's occupational safety and health policy and programme with special attention being paid to the safety and health of seafarers under the age of 18;
- (c) 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; and
- (d) 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 shall be established on board a ship on which there are five or more seafarers.

3. The laws and regulations and other measures referred to in Regulation 4.3, paragraph 3, shall be regularly reviewed in consultation with the representatives of the shipowners' and seafarers' organizations and, if necessary, revised to take account of changes in technology and research in order to facilitate continuous improvement in occupational safety and health policies and programmes and to provide a safe occupational environment for seafarers on ships that fly the Member's flag.

4. 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 shall be considered as meeting the requirements of this Convention.

5. The competent authority shall ensure that:

- (a) occupational accidents, injuries and diseases are adequately reported, taking into account the guidance provided by the International Labour Organization with respect to the reporting and recording of occupational accidents and diseases;
- (b) comprehensive statistics of such accidents and diseases are kept, analysed and published and, where appropriate, followed up by research into general trends and into the hazards identified; and
- (c) occupational accidents are investigated.

6. Reporting and investigation of occupational safety and health matters shall be designed to ensure the protection of seafarers' personal data, and shall take account of the guidance provided by the International Labour Organization on this matter.

7. The competent authority shall cooperate with shipowners' and seafarers' organizations to take measures to bring to the attention of all seafarers information concerning particular hazards on board ships, for instance, by posting official notices containing relevant instructions.

8. The competent authority shall require that shipowners conducting risk evaluation in relation to management of occupational safety and health refer to appropriate statistical information from their ships and from general statistics provided by the competent authority.

Guideline B4.3 – Health and safety protection and accident prevention

Guideline B4.3.1 – Provisions on occupational accidents, injuries and diseases

1. The provisions required under Standard A4.3 should take into account 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. Account should also be taken of the latest version of the *Guidance on eliminating shipboard harassment and bullying* jointly published by the International Chamber of Shipping and the International Transport Workers' Federation.

2. The competent authority should ensure that the national guidelines for the management of occupational safety and health address the following matters, in particular:

- (a) general and basic provisions;
- (b) structural features of the ship, including means of access and asbestos-related risks;
- (c) machinery;
- (d) the effects of the extremely low or high temperature of any surfaces with which seafarers may be in contact;
- (e) the effects of noise in the workplace and in shipboard accommodation;
- (f) the effects of vibration in the workplace and in shipboard accommodation;
- (g) the effects of ambient factors, other than those referred to in subparagraphs (e) and (f), in the workplace and in shipboard accommodation, including tobacco smoke;
- (h) special safety measures on and below deck;
- (i) loading and unloading equipment;
- (j) fire prevention and fire-fighting;
- (k) anchors, chains and lines;
- (l) dangerous cargo and ballast;
- (m) personal protective equipment for seafarers;
- (n) work in enclosed spaces;
- (o) physical and mental effects of fatigue;
- (p) the effects of drug and alcohol dependency;

- (q) HIV/AIDS protection and prevention; and
- (r) emergency and accident response.

3. The assessment of risks and reduction of exposure on the matters referred to in paragraph 2 of this Guideline should 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 should 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.

4. In addition, the competent authority should ensure that the implications for health and safety are taken into account, particularly in the following areas:

- (a) emergency and accident response;
- (b) the effects of drug and alcohol dependency;
- (c) HIV/AIDS protection and prevention; and
- (d) harassment and bullying.

Guideline B4.3.2 – Exposure to noise

1. The competent authority, in conjunction with the competent international bodies and with representatives of shipowners' and seafarers' organizations concerned, should review on an ongoing basis the problem of noise on board ships with the objective of improving the protection of seafarers, in so far as practicable, from the adverse effects of exposure to noise.

2. The review referred to in paragraph 1 of this Guideline should take account of the adverse effects of exposure to excessive noise on the hearing, health and comfort of seafarers and the measures to be prescribed or recommended to reduce shipboard noise to protect seafarers. The measures to be considered should include the following:

- (a) instruction of seafarers in the dangers to hearing and health of prolonged exposure to high noise levels and in the proper use of noise protection devices and equipment;
- (b) provision of approved hearing protection equipment to seafarers where necessary; and
- (c) assessment of risk and reduction of exposure levels to noise in all accommodation and recreational and catering facilities, as well as engine rooms and other machinery spaces.

Guideline B4.3.3 – Exposure to vibration

1. The competent authority, in conjunction with the competent international bodies and with representatives of shipowners' and seafarers' organizations concerned, and taking into account, as appropriate, relevant international standards, should review on an ongoing basis the problem of vibration on board ships with the objective of improving the protection of seafarers, in so far as practicable, from the adverse effects of vibration.

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2. The review referred to in paragraph 1 of this Guideline should cover the effect of exposure to excessive vibration on the health and comfort of seafarers and the measures to be prescribed or recommended to reduce shipboard vibration to protect seafarers. The measures to be considered should include the following:

- (a) instruction of seafarers in the dangers to their health of prolonged exposure to vibration;
- (b) provision of approved personal protective equipment to seafarers where necessary; and
- (c) assessment of risks and reduction of exposure to vibration in all accommodation and recreational and catering facilities by adopting measures in accordance with the guidance provided by the ILO code of practice entitled *Ambient factors in the workplace*, 2001, and any subsequent revisions, taking account of the difference between exposure in those areas and in the workplace.

Guideline B4.3.4 – Obligations of shipowners

1. Any obligation on the shipowner to provide protective equipment or other accident prevention safeguards should, in general, be accompanied by provisions requiring their use by seafarers and by a requirement for seafarers to comply with the relevant accident prevention and health protection measures.

2. Account should also be taken of Articles 7 and 11 of the Guarding of Machinery Convention, 1963 (No. 119), and the corresponding provisions of the Guarding of Machinery Recommendation, 1963 (No. 118), under which the obligation to ensure compliance with the requirement that machinery in use is properly guarded, and its use without appropriate guards prevented, rests on the employer, while there is an obligation on the worker not to use machinery without the guards being in position nor to make inoperative the guards provided.

Guideline B4.3.5 – Reporting and collection of statistics

1. All occupational accidents and occupational injuries and diseases should be reported so that they can be investigated and comprehensive statistics can be kept, analysed and published, taking account of protection of the personal data of the seafarers concerned. Reports should not be limited to fatalities or to accidents involving the ship.

2. The statistics referred to in paragraph 1 of this Guideline should record the numbers, nature, causes and effects of occupational accidents and occupational injuries and diseases, with a clear indication, as applicable, of the department on board a ship, the type of accident and whether at sea or in port.

3. Each Member should have due regard to any international system or model for recording accidents to seafarers which may have been established by the International Labour Organization.

Guideline B4.3.6 – Investigations

1. The competent authority should undertake investigations into the causes and circumstances of all occupational accidents and occupational injuries and diseases resulting in loss of life or serious personal injury, and such other cases as may be specified in national laws or regulations.

2. Consideration should be given to including the following as subjects of investigation:

- (a) working environment, such as working surfaces, layout of machinery, means of access, lighting and methods of work;
- (b) incidence in different age groups of occupational accidents and occupational injuries and diseases;
- (c) special physiological or psychological problems created by the shipboard environment;
- (d) problems arising from physical stress on board a ship, in particular as a consequence of increased workload;
- (e) problems arising from and effects of technical developments and their influence on the composition of crews;
- (f) problems arising from any human failures; and
- (g) problems arising from harassment and bullying.

Guideline B4.3.7 – National protection and prevention programmes

1. In order to provide a sound basis for measures to promote occupational safety and health protection and prevention of accidents, injuries and diseases which are due to particular hazards of maritime employment, research should be undertaken into general trends and into such hazards as are revealed by statistics.

2. The implementation of protection and prevention programmes for the promotion of occupational safety and health should be so organized that the competent authority, shipowners and seafarers or their representatives and other appropriate bodies may play an active role, including through such means as information sessions, on-board guidelines on maximum exposure levels to potentially harmful ambient workplace factors and other hazards or outcomes of a systematic risk evaluation process. In particular, national or local joint occupational safety and health protection and accident prevention committees or ad hoc working parties and on-board committees, on which shipowners' and seafarers' organizations concerned are represented, should be established.

3. Where such activity takes place at company level, the representation of seafarers on any safety committee on board that shipowner's ships should be considered.

Guideline B4.3.8 – Content of protection and prevention programmes

1. Consideration should be given to including the following in the functions of the committees and other bodies referred to in Guideline B4.3.7, paragraph 2:

- (a) the preparation of national guidelines and policies for occupational safety and health management systems and for accident prevention provisions, rules and manuals;
- (b) the organization of occupational safety and health protection and accident prevention training and programmes;
- (c) the organization of publicity on occupational safety and health protection and accident prevention, including films, posters, notices and brochures; and
- (d) the distribution of literature and information on occupational safety and health protection and accident prevention so that it reaches seafarers on board ships.

2. 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.

3. In formulating occupational safety and health protection and accident prevention programmes, each Member 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.

Guideline B4.3.9 – Instruction in occupational safety and health protection and the prevention of occupational accidents

1. The curriculum for the training referred to in Standard A4.3, paragraph 1(a), should 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.

2. There should be continuous occupational safety and health protection and accident prevention publicity. Such publicity might take the following forms:

- (a) educational audiovisual material, such as films, for use in vocational training centres for seafarers and where possible shown on board ships;
- (b) display of posters on board ships;
- (c) inclusion in periodicals read by seafarers of articles on the hazards of maritime employment and on occupational safety and health protection and accident prevention measures; and
- (d) special campaigns using various publicity media to instruct seafarers, including campaigns on safe working practices.

3. The publicity referred to in paragraph 2 of this Guideline should take account of the different nationalities, languages and cultures of seafarers on board ships.

Guideline B4.3.10 – Safety and health education of young seafarers

1. Safety and health regulations should refer to any general provisions on medical examinations before and during employment and on the prevention of accidents and the protection of health in employment, which may be applicable to the work of seafarers. Such regulations should specify measures which will minimize occupational dangers to young seafarers in the course of their duties.

2. Except where a young seafarer is recognized as fully qualified in a pertinent skill by the competent authority, the regulations should 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:

- (a) the lifting, moving or carrying of heavy loads or objects;
- (b) entry into boilers, tanks and cofferdams;
- (c) exposure to harmful noise and vibration levels;

- (d) operating hoisting and other power machinery and tools, or acting as signallers to operators of such equipment;
- (e) handling mooring or tow lines or anchoring equipment;
- (f) rigging;
- (g) work aloft or on deck in heavy weather;
- (h) nightwatch duties;
- (i) servicing of electrical equipment;
- (j) exposure to potentially harmful materials, or harmful physical agents such as dangerous or toxic substances and ionizing radiations;
- (k) the cleaning of catering machinery; and
- (l) the handling or taking charge of ships' boats.

3. Practical measures should be taken by the competent authority or through the appropriate machinery to bring to the attention of young seafarers information concerning the prevention of accidents and the protection of their health on board ships. Such measures could include adequate instruction in courses, official accident prevention publicity intended for young persons and professional instruction and supervision of young seafarers.

4. Education and training of young seafarers both ashore and on board ships should include guidance on the detrimental effects on their health and well-being of the abuse of alcohol and drugs and other potentially harmful substances, and the risk and concerns relating to HIV/AIDS and of other health risk related activities.

Guideline B4.3.11 – International cooperation

1. Members, with the assistance as appropriate of intergovernmental and other international organizations, should endeavour, in cooperation with each other, to achieve the greatest possible uniformity of action for the promotion of occupational safety and health protection and prevention of accidents.

2. In developing programmes for promoting occupational safety and health protection and prevention of accidents under Standard A4.3, each Member should have due regard to relevant codes of practice published by the International Labour Organization and the appropriate standards of international organizations.

3. Members should have regard to the need for international cooperation in the continuous promotion of activity related to occupational safety and health protection and prevention of occupational accidents. Such cooperation might take the form of:

- (a) bilateral or multilateral arrangements for uniformity in occupational safety and health protection and accident prevention standards and safeguards;
- (b) exchange of information on particular hazards affecting seafarers and on means of promoting occupational safety and health protection and preventing accidents;
- (c) assistance in testing of equipment and inspection according to the national regulations of the flag State;
- (d) collaboration in the preparation and dissemination of occupational safety and health protection and accident prevention provisions, rules or manuals;
- (e) collaboration in the production and use of training aids; and

- (f) joint facilities for, or mutual assistance in, the training of seafarers in occupational safety and health protection, accident prevention and safe working practices.

Regulation 4.4 – 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

1. Each Member shall ensure that shore-based welfare facilities, where they exist, are easily accessible. The Member shall also promote the development of welfare facilities, such as those listed in the Code, in designated ports to provide seafarers on ships that are in its ports with access to adequate welfare facilities and services.
2. The responsibilities of each Member with respect to shore-based facilities, such as welfare, cultural, recreational and information facilities and services, are set out in the Code.

Standard A4.4 – Access to shore-based welfare facilities

1. Each Member shall require, where welfare facilities exist on its territory, that they are 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.
2. Each Member shall promote the development of welfare facilities in appropriate ports of the country and determine, after consultation with the shipowners' and seafarers' organizations concerned, which ports are to be regarded as appropriate.
3. Each Member shall 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.

Guideline B4.4 – Access to shore-based welfare facilities

Guideline B4.4.1 – Responsibilities of Members

1. Each Member should:
 - (a) take measures to ensure that adequate welfare facilities and services are provided for seafarers in designated ports of call and that adequate protection is provided to seafarers in the exercise of their profession; and
 - (b) take into account, in the implementation of these measures, 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.
2. Arrangements for the supervision of welfare facilities and services should include participation by representative shipowners' and seafarers' organizations concerned.
3. Each Member should take measures designed to expedite the 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.

4. Members should cooperate with one another in promoting the welfare of seafarers at sea and in port. Such cooperation should include the following:

- (a) consultations among competent authorities aimed at the provision and improvement of seafarers' welfare facilities and services, both in port and on board ships;
- (b) agreements on the pooling of resources and the joint provision of welfare facilities in major ports so as to avoid unnecessary duplication;
- (c) organization of international sports competitions and encouragement of the participation of seafarers in sports activities; and
- (d) organization of international seminars on the subject of welfare of seafarers at sea and in port.

Guideline B4.4.2 – Welfare facilities and services in ports

1. Each Member should provide or ensure the provision of such welfare facilities and services as may be required, in appropriate ports of the country.

2. Welfare facilities and services should be provided, in accordance with national conditions and practice, by one or more of the following:

- (a) public authorities;
- (b) shipowners' and seafarers' organizations concerned under collective agreements or other agreed arrangements; and
- (c) voluntary organizations.

3. Necessary welfare and recreational facilities should be established or developed in ports. These should include:

- (a) meeting and recreation rooms as required;
- (b) facilities for sports and outdoor facilities, including competitions;
- (c) educational facilities; and
- (d) where appropriate, facilities for religious observances and for personal counselling.

4. These facilities may be provided by making available to seafarers in accordance with their needs facilities designed for more general use.

5. Where large numbers of seafarers of different nationalities require facilities such as hotels, clubs and sports facilities in a particular port, the competent authorities or bodies of the countries of origin of the seafarers and of the flag States, as well as the international associations concerned, should consult and cooperate with the competent authorities and bodies of the country in which the port is situated and with one another, with a view to the pooling of resources and to avoiding unnecessary duplication.

6. Hotels or hostels suitable for seafarers should be available where there is need for them. They should provide facilities equal to those found in a good-class hotel, and should wherever possible be located in good surroundings away from the immediate vicinity of the docks. Such hotels or hostels should be properly supervised, the prices charged should be reasonable in amount and, where necessary and possible, provision should be made for accommodating seafarers' families.

7. These accommodation facilities should be open to 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. Without in any way infringing this principle, it may be necessary in certain ports to provide several types of facilities, comparable in standard but adapted to the customs and needs of different groups of seafarers.

8. Measures should be taken to ensure that, as necessary, technically competent persons are employed full time in the operation of seafarers' welfare facilities and services, in addition to any voluntary workers.

Guideline B4.4.3 – Welfare boards

1. Welfare boards should be established, at the port, regional and national levels, as appropriate. Their functions should include:

- (a) keeping under review the adequacy of existing welfare facilities and monitoring the need for the provision of additional facilities or the withdrawal of under-utilized facilities; and
- (b) assisting and advising those responsible for providing welfare facilities and ensuring coordination between them.

2. Welfare boards should include among their members representatives of ship-owners' and seafarers' organizations, the competent authorities and, where appropriate, voluntary organizations and social bodies.

3. As appropriate, consuls of maritime States and local representatives of foreign welfare organizations should, in accordance with national laws and regulations, be associated with the work of port, regional and national welfare boards.

Guideline B4.4.4 – Financing of welfare facilities

1. In accordance with national conditions and practice, financial support for port welfare facilities should be made available through one or more of the following:

- (a) grants from public funds;
- (b) levies or other special dues from shipping sources;
- (c) voluntary contributions from shipowners, seafarers, or their organizations; and
- (d) voluntary contributions from other sources.

2. Where welfare taxes, levies and special dues are imposed, they should be used only for the purposes for which they are raised.

Guideline B4.4.5 – Dissemination of information and facilitation measures

1. Information should be 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.

2. Adequate means of transport at moderate prices should be available at any reasonable time in order to enable seafarers to reach urban areas from convenient locations in the port.

3. All suitable measures should be taken by the competent authorities to make known to shipowners and to seafarers entering port any special laws and customs, the contravention of which may jeopardize their freedom.

4. Port areas and access roads should be provided by the competent authorities with adequate lighting and signposting and regular patrols for the protection of seafarers.

Guideline B4.4.6 – Seafarers in a foreign port

1. For the protection of seafarers in foreign ports, measures should be taken to facilitate:

- (a) access to consuls of their State of nationality or State of residence; and
- (b) effective cooperation between consuls and the local or national authorities.

2. Seafarers who are detained in a foreign port should be dealt with promptly under due process of law and with appropriate consular protection.

3. Whenever a seafarer is detained for any reason in the territory of a Member, the competent authority should, if the seafarer so requests, immediately inform the flag State and the State of nationality of the seafarer. The competent authority should promptly inform the seafarer of the right to make such a request. The State of nationality of the seafarer should promptly notify the seafarer's next of kin. The competent authority should allow consular officers of these States immediate access to the seafarer and regular visits thereafter so long as the seafarer is detained.

4. Each Member should take measures, whenever necessary, to ensure the safety of seafarers from aggression and other unlawful acts while ships are in their territorial waters and especially in approaches to ports.

5. Every effort should be 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.

Regulation 4.5 – Social security

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

1. Each Member shall ensure that all seafarers and, to the extent provided for in its national law, their dependants have access to social security protection in accordance with the Code without prejudice however to any more favourable conditions referred to in paragraph 8 of article 19 of the Constitution.

2. Each Member undertakes to take steps, according to its national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for seafarers.

3. Each Member shall ensure that seafarers who are subject to its social security legislation, and, to the extent provided for in its national law, their dependants, are entitled to benefit from social security protection no less favourable than that enjoyed by shoreworkers.

Standard A4.5 – Social security

1. The branches to be considered with a view to achieving progressively comprehensive social security protection under Regulation 4.5 are: medical care, sickness

benefit, unemployment benefit, old-age benefit, employment injury benefit, family benefit, maternity benefit, invalidity benefit and survivors' benefit, complementing the protection provided for under Regulations 4.1, on medical care, and 4.2, on ship-owners' liability, and under other titles of this Convention.

2. At the time of ratification, the protection to be provided by each Member in accordance with Regulation 4.5, paragraph 1, shall include at least three of the nine branches listed in paragraph 1 of this Standard.

3. Each Member shall take steps according to its national circumstances to provide the complementary social security protection referred to in paragraph 1 of this Standard to all seafarers ordinarily resident in its territory. This responsibility could be satisfied, for example, through appropriate bilateral or multilateral agreements or contribution-based systems. The resulting protection shall be no less favourable than that enjoyed by shoreworkers resident in their territory.

4. Notwithstanding the attribution of responsibilities in paragraph 3 of this Standard, Members may determine, through bilateral and multilateral agreements and through provisions adopted in the framework of regional economic integration organizations, other rules concerning the social security legislation to which seafarers are subject.

5. Each Member's responsibilities with respect to seafarers on ships that fly its flag shall include those provided for by Regulations 4.1 and 4.2 and the related provisions of the Code, as well as those that are inherent in its general obligations under international law.

6. Each Member shall give consideration to the various ways in which comparable benefits will, in accordance with national law and practice, be provided to seafarers in the absence of adequate coverage in the branches referred to in paragraph 1 of this Standard.

7. The protection under Regulation 4.5, paragraph 1, may, as appropriate, be contained in laws or regulations, in private schemes or in collective bargaining agreements or in a combination of these.

8. To the extent consistent with their national law and practice, Members 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.

9. Each Member shall establish fair and effective procedures for the settlement of disputes.

10. Each Member shall at the time of ratification specify the branches for which protection is provided in accordance with paragraph 2 of this Standard. It shall subsequently notify the Director-General of the International Labour Office when it provides social security protection in respect of one or more other branches stated in paragraph 1 of this Standard. The Director-General shall maintain a register of this information and shall make it available to all interested parties.

11. The reports to the International Labour Office pursuant to article 22 of the Constitution, shall also include information regarding steps taken in accordance with Regulation 4.5, paragraph 2, to extend protection to other branches.

Guideline B4.5 – Social security

1. The protection to be provided at the time of ratification in accordance with Standard A4.5, paragraph 2, should at least include the branches of medical care, sickness benefit and employment injury benefit.
2. In the circumstances referred to in Standard A4.5, paragraph 6, comparable benefits may be provided through insurance, bilateral and multilateral agreements or other effective means, taking into consideration the provisions of relevant collective bargaining agreements. Where such measures are adopted, seafarers covered by such measures should be advised of the means by which the various branches of social security protection will be provided.
3. Where seafarers are subject to more than one national legislation covering social security, the Members concerned should 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.
4. The procedures to be established under Standard A4.5, paragraph 9, should be designed to cover all disputes relevant to the claims of the seafarers concerned, irrespective of the manner in which the coverage is provided.
5. Each Member which has national seafarers, non-national seafarers or both serving on ships that fly its flag should provide the social security protection in the Convention as applicable, and should periodically review the branches of social security protection in Standard A4.5, paragraph 1, with a view to identifying any additional branches appropriate for the seafarers concerned.
6. The seafarers' employment agreement should identify the means by which the various branches of social security protection will be provided to the seafarer by the shipowner as well as any other relevant information at the disposal of the shipowner, such as statutory deductions from the seafarers' wages and shipowners' contributions which may be made in accordance with the requirements of identified authorized bodies pursuant to relevant national social security schemes.
7. The Member whose flag the ship flies should, in effectively exercising its jurisdiction over social matters, satisfy itself that the shipowners' responsibilities concerning social security protection are met, including making the required contributions to social security schemes.

TITLE 5. COMPLIANCE AND ENFORCEMENT

1. The Regulations in this Title specify each Member's responsibility to fully implement and enforce the principles and rights set out in the Articles of this Convention as well as the particular obligations provided for under its Titles 1, 2, 3 and 4.

2. Paragraphs 3 and 4 of Article VI, which permit the implementation of Part A of the Code through substantially equivalent provisions, do not apply to Part A of the Code in this Title.

3. In accordance with paragraph 2 of Article VI, each Member shall implement its responsibilities under the Regulations in the manner set out in the corresponding Standards of Part A of the Code, giving due consideration to the corresponding Guidelines in Part B of the Code.

4. The provisions of this Title shall be implemented bearing in mind that seafarers and shipowners, like all other persons, are equal before the law and are entitled to the equal protection of the law and shall not be subject to discrimination in their access to courts, tribunals or other dispute resolution mechanisms. The provisions of this Title do not determine legal jurisdiction or a legal venue.

Regulation 5.1 – Flag State responsibilities

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

Regulation 5.1.1 – General principles

1. Each Member is responsible for ensuring implementation of its obligations under this Convention on ships that fly its flag.

2. Each Member shall establish an effective system for the inspection and certification of maritime labour conditions, in accordance with Regulations 5.1.3 and 5.1.4 ensuring that the working and living conditions for seafarers on ships that fly its flag meet, and continue to meet, the standards in this Convention.

3. In establishing an effective system for the inspection and certification of maritime labour conditions, a Member may, where appropriate, authorize public institutions or other organizations (including those of another Member, if the latter agrees) which it recognizes as competent and independent to carry out inspections or to issue certificates or to do both. In all cases, the Member shall remain fully responsible for the inspection and certification of the working and living conditions of the seafarers concerned on ships that fly its flag.

4. A maritime labour certificate, complemented by a declaration of maritime labour compliance, shall constitute prima facie evidence that the ship has been duly inspected by the Member whose flag it flies and that the requirements of this

Convention relating to working and living conditions of the seafarers have been met to the extent so certified.

5. Information about the system referred to in paragraph 2 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member's reports to the International Labour Office pursuant to article 22 of the Constitution.

Standard A5.1.1 – General principles

1. Each Member shall establish clear objectives and standards covering the administration of its inspection and certification systems, as well as adequate overall procedures for its assessment of the extent to which those objectives and standards are being attained.

2. Each Member shall require all ships that fly its flag to have a copy of this Convention available on board.

Guideline B5.1.1 – General principles

1. The competent authority should make appropriate arrangements to promote effective cooperation between public institutions and other organizations, referred to in Regulations 5.1.1 and 5.1.2, concerned with seafarers' shipboard working and living conditions.

2. In order to better ensure cooperation between inspectors and shipowners, seafarers and their respective organizations, and to maintain or improve seafarers' working and living conditions, the competent authority should consult the representatives of such organizations at regular intervals as to the best means of attaining these ends. The manner of such consultation should be determined by the competent authority after consulting with shipowners' and seafarers' organizations.

Regulation 5.1.2 – Authorization of recognized organizations

1. The public institutions or other organizations referred to in paragraph 3 of Regulation 5.1.1 ("recognized organizations") shall have been recognized by the competent authority as meeting the requirements in the Code regarding competency and independence. The inspection or certification functions which the recognized organizations may be authorized to carry out shall come within the scope of the activities that are expressly mentioned in the Code as being carried out by the competent authority or a recognized organization.

2. The reports referred to in paragraph 5 of Regulation 5.1.1 shall contain information regarding any recognized organization, the extent of authorizations given and the arrangements made by the Member to ensure that the authorized activities are carried out completely and effectively.

Standard A5.1.2 – Authorization of recognized organizations

1. For the purpose of recognition in accordance with paragraph 1 of Regulation 5.1.2, 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:

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- (a) has the necessary expertise in the relevant aspects of this 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;
- (b) has the ability to maintain and update the expertise of its personnel;
- (c) has the necessary knowledge of the requirements of this Convention as well as of applicable national laws and regulations and relevant international instruments; and
- (d) is of the appropriate size, structure, experience and capability commensurate with the type and degree of authorization.

2. Any authorizations granted with respect to inspections shall, 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.

3. Each Member shall establish:

- (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; and
- (b) procedures for communication with and oversight of such organizations.

4. Each Member shall provide the International Labour Office with a current list of any recognized organizations authorized to act on its behalf and it shall keep this list up to date. The list shall specify the functions that the recognized organizations have been authorized to carry out. The Office shall make the list publicly available.

Guideline B5.1.2 – Authorization of recognized organizations

1. The organization seeking recognition should demonstrate the technical, administrative and managerial competence and capacity to ensure the provision of timely service of satisfactory quality.

2. In evaluating the capability of an organization, the competent authority should determine whether the organization:

- (a) has adequate technical, managerial and support staff;
- (b) has sufficient qualified professional staff to provide the required service, representing an adequate geographical coverage;
- (c) has proven ability to provide a timely service of satisfactory quality; and
- (d) is independent and accountable in its operations.

3. The competent authority should conclude a written agreement with any organization that it recognizes for purposes of an authorization. The agreement should include the following elements:

- (a) scope of application;
- (b) purpose;
- (c) general conditions;
- (d) the execution of functions under authorization;
- (e) legal basis of the functions under authorization;

- (f) reporting to the competent authority;
- (g) specification of the authorization from the competent authority to the recognized organization; and
- (h) the competent authority's supervision of activities delegated to the recognized organization.

4. Each Member should require the recognized organizations to develop a system for qualification of staff employed by them as inspectors to ensure the timely updating of their knowledge and expertise.

5. Each Member should require the recognized organizations to 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.

6. In establishing the oversight procedures referred to in Standard A5.1.2, paragraph 3(b), each Member should 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.

Regulation 5.1.3 – Maritime labour certificate and declaration of maritime labour compliance

1. This Regulation applies to ships of:

- (a) 500 gross tonnage or over, engaged in international voyages; and
- (b) 500 gross tonnage or over, flying the flag of a Member and operating from a port, or between ports, in another country.

For the purpose of this Regulation, "international voyage" means a voyage from a country to a port outside such a country.

2. This Regulation also applies to any ship that flies the flag of a Member and is not covered by paragraph 1 of this Regulation, at the request of the shipowner to the Member concerned.

3. Each Member shall require ships that fly its flag to carry and maintain a maritime labour certificate certifying that the working and living conditions of seafarers on the ship, including measures for ongoing compliance to be included in the declaration of maritime labour compliance referred to in paragraph 4 of this Regulation, have been inspected and meet the requirements of national laws or regulations or other measures implementing this Convention.

4. Each Member shall require ships that fly its flag to carry and maintain a declaration of maritime labour compliance stating the national requirements implementing this Convention for the working and living conditions for seafarers and setting out the measures adopted by the shipowner to ensure compliance with the requirements on the ship or ships concerned.

5. The maritime labour certificate and the declaration of maritime labour compliance shall conform to the model prescribed by the Code.

6. Where the competent authority of the Member or a recognized organization duly authorized for this purpose has ascertained through inspection that a ship that flies the Member's flag meets or continues to meet the standards of this Convention, it

shall issue or renew a maritime labour certificate to that effect and maintain a publicly available record of that certificate.

7. Detailed requirements for the maritime labour certificate and the declaration of maritime labour compliance, including a list of the matters that must be inspected and approved, are set out in Part A of the Code.

Standard A5.1.3 – Maritime labour certificate and declaration of maritime labour compliance

1. The maritime labour certificate shall be issued to a ship by the competent authority, or by a recognized organization duly authorized for this purpose, for a period which shall not exceed five years. A list of matters that must be inspected and found to meet national laws and regulations or other measures implementing the requirements of this Convention regarding the working and living conditions of seafarers on ships before a maritime labour certificate can be issued is found in Appendix A5-I.

2. The validity of the maritime labour certificate shall be subject to an intermediate inspection by the competent authority, or by a recognized organization duly authorized for this purpose, to ensure continuing compliance with the national requirements implementing this Convention. If only one intermediate inspection is carried out and the period of validity of the certificate is five years, it shall 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 shall be equal to an inspection for renewal of the certificate. The certificate shall be endorsed following satisfactory intermediate inspection.

3. Notwithstanding paragraph 1 of this Standard, when the renewal inspection has been completed within three months before the expiry of the existing maritime labour certificate, the new maritime labour certificate shall be 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. 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 shall be valid for a period not exceeding five years starting from the date of completion of the renewal inspection.

4. Notwithstanding paragraph 1 of this Standard, where, after a renewal inspection completed prior to the expiry of a maritime labour certificate, the ship is found to continue to meet national laws and regulations or other measures implementing the requirements of this Convention, but a new certificate cannot immediately be issued to and made available on board that ship, the competent authority, or the recognized organization duly authorized for this purpose, may extend the validity of the certificate for a further period not exceeding five months from the expiry date of the existing certificate, and endorse the certificate accordingly. The new certificate shall be valid for a period not exceeding five years starting from the date provided for in paragraph 3 of this Standard.

5. A maritime labour certificate may be issued on an interim basis:

- (a) to new ships on delivery;
- (b) ~~when a ship changes flag; or~~
- (c) when a shipowner assumes responsibility for the operation of a ship which is new to that shipowner.

6. 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.

7. An interim maritime labour certificate may only be issued following verification that:

- (a) the ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-I, taking into account verification of items under subparagraphs (b), (c) and (d) of this paragraph;
- (b) the shipowner has demonstrated to the competent authority or recognized organization that the ship has adequate procedures to comply with this Convention;
- (c) the master is familiar with the requirements of this Convention and the responsibilities for implementation; and
- (d) relevant information has been submitted to the competent authority or recognized organization to produce a declaration of maritime labour compliance.

8. A full inspection in accordance with paragraph 1 of this Standard 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 referred to in paragraph 6 of this Standard. A declaration of maritime labour compliance need not be issued for the period of validity of the interim certificate.

9. The maritime labour certificate, the interim maritime labour certificate and the declaration of maritime labour compliance shall be drawn up in the form corresponding to the models given in Appendix A5-II.

10. The declaration of maritime labour compliance shall be attached to the maritime labour certificate. It shall have two parts:

- (a) Part I shall be drawn up by the competent authority which shall: (i) identify the list of matters to be inspected in accordance with paragraph 1 of this Standard; (ii) identify the national requirements embodying the relevant provisions of this Convention by providing a reference to the relevant national legal provisions as well as, to the extent necessary, concise information on the main content of the national requirements; (iii) refer to ship-type specific requirements under national legislation; (iv) record any substantially equivalent provisions adopted pursuant to paragraph 3 of Article VI; and (v) clearly indicate any exemption granted by the competent authority as provided in Title 3; and
- (b) Part II shall be drawn up by the shipowner and shall identify the measures adopted to ensure ongoing compliance with the national requirements between inspections and the measures proposed to ensure that there is continuous improvement.

The competent authority or recognized organization duly authorized for this purpose shall certify Part II and shall issue the declaration of maritime labour compliance.

11. 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 shall 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, shall, in accordance with national laws or regulations, be inscribed upon or 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.

12. 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 in accordance with national laws and regulations, upon request, to seafarers, flag State inspectors, authorized officers in port States, and shipowners' and seafarers' representatives.

13. The requirement for an English-language translation in paragraphs 11 and 12 of this Standard does not apply in the case of a ship not engaged in an international voyage.

14. A certificate issued under paragraph 1 or 5 of this Standard shall cease to be valid in any of the following cases:

- (a) if the relevant inspections are not completed within the periods specified under paragraph 2 of this Standard;
- (b) if the certificate is not endorsed in accordance with paragraph 2 of this Standard;
- (c) when a ship changes flag;
- (d) when a shipowner ceases to assume the responsibility for the operation of a ship; and
- (e) when substantial changes have been made to the structure or equipment covered in Title 3.

15. In the case referred to in paragraph 14(c), (d) or (e) of this Standard, a new certificate shall only be issued when the competent authority or recognized organization issuing the new certificate is fully satisfied that the ship is in compliance with the requirements of this Standard.

16. A maritime labour certificate shall be withdrawn by the competent authority or the recognized organization duly authorized for this purpose by the flag State, if there is evidence that the ship concerned does not comply with the requirements of this Convention and any required corrective action has not been taken.

17. When considering whether a maritime labour certificate should be withdrawn in accordance with paragraph 16 of this Standard, the competent authority or the recognized organization shall take into account the seriousness or the frequency of the deficiencies.

Guideline B5.1.3 – Maritime labour certificate and declaration of maritime labour compliance

1. 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. Where national legislation precisely follows the requirements stated in this Convention, 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, the particular provision or provisions concerned should be clearly indicated.

2. The measures referred to in Part II of the declaration of maritime labour compliance, drawn up by the shipowner, should, 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. Part II may take a number of forms. It could 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.

3. The measures to ensure ongoing compliance should 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, thereby guaranteeing a better level of protection of the seafarers' working and living conditions on board.

4. The declaration of maritime labour compliance should, above all, 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.

5. An example of the kind of information that might be contained in a declaration of maritime labour compliance is given in Appendix B5-I.

6. When a ship changes flag as referred to in Standard A5.1.3, paragraph 14(c), and where both States concerned have ratified this Convention, the Member whose flag the ship was formerly entitled to fly should, as soon as possible, transmit to the competent authority of the other Member 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.

Regulation 5.1.4 – Inspection and enforcement

1. Each Member shall verify, through an effective and coordinated system of regular inspections, monitoring and other control measures, that ships that fly its flag comply with the requirements of this Convention as implemented in national laws and regulations.

2. Detailed requirements regarding the inspection and enforcement system referred to in paragraph 1 of this Regulation are set out in Part A of the Code.

Standard A5.1.4 – Inspection and enforcement

1 Each Member shall maintain a system of inspection of the conditions for seafarers on ships that fly its flag which shall include 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, and that the requirements of this Convention are met.

2. The competent authority shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under paragraph 1 of this Standard. Where recognized organizations have been authorized to carry out inspections, the Member shall require that personnel carrying out the inspection are qualified to undertake these duties and shall provide them with the necessary legal authority to perform their duties.

3. Adequate provision shall be made to ensure that the inspectors 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 this Standard.

4. Inspections shall take place at the intervals required by Standard A5.1.3, where applicable. The interval shall in no case exceed three years.

5. If a Member receives a complaint which it does not consider manifestly unfounded or obtains evidence that a ship that flies its flag does not conform to the requirements of this Convention or that there are serious deficiencies in the implementation of the measures set out in the declaration of maritime labour compliance, the Member shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found.

6. Adequate rules shall be provided and effectively enforced by each Member in order 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.

7. Inspectors, issued with clear guidelines as to the tasks to be performed and provided with proper credentials, shall be empowered:

- (a) to board a ship that flies the Member's flag;
- (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; and
- (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 Convention (including seafarers' rights), or represent a significant danger to seafarers' safety, health or security, to prohibit a ship from leaving port until necessary actions are taken.

8. Any action taken pursuant to paragraph 7(c) of this Standard shall be subject to any right of appeal to a judicial or administrative authority.

9. Inspectors shall have the discretion to give advice instead of instituting or recommending proceedings when there is no clear breach of the requirements of this Convention that endangers the safety, health or security of the seafarers concerned and where there is no prior history of similar breaches.

10. Inspectors shall 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.

11. Inspectors shall not be entrusted with 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 shall:

- (a) be prohibited from having any direct or indirect interest in any operation which they are called upon to inspect; and
- (b) subject to appropriate sanctions or disciplinary measures, 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.

12. Inspectors shall 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 shall be furnished to the master of the ship and another copy shall be posted on the ship's notice board for the information of the seafarers and, upon request, sent to their representatives.

13. The competent authority of each Member shall maintain records of inspections of the conditions for seafarers on ships that fly its flag. It shall publish an annual report on inspection activities within a reasonable time, not exceeding six months, after the end of the year.

14. In the case of an investigation pursuant to a major incident, the report shall be submitted to the competent authority as soon as practicable, but not later than one month following the conclusion of the investigation.

15. When an inspection is conducted or when measures are taken under this Standard, all reasonable efforts shall be made to avoid a ship being unreasonably detained or delayed.

16. Compensation shall be payable in accordance with national laws and regulations for any loss or damage suffered as a result of the wrongful exercise of the inspectors' powers. The burden of proof in each case shall be on the complainant.

17. Adequate penalties and other corrective measures for breaches of the requirements of this Convention (including seafarers' rights) and for obstructing inspectors in the performance of their duties shall be provided for and effectively enforced by each Member.

Guideline B5.1.4 – Inspection and enforcement

1. The competent authority and any other service or authority wholly or partly concerned with the inspection of seafarers' working and living conditions should have the resources necessary to fulfil their functions. In particular:

- (a) each Member should take the necessary measures so that duly qualified technical experts and specialists may be called upon, as needed, to assist in the work of inspectors; and
- (b) inspectors should be provided with conveniently situated premises, equipment and means of transport adequate for the efficient performance of their duties.

2. The competent authority should develop a compliance and enforcement policy to ensure consistency and otherwise guide inspection and enforcement activities related to this Convention. Copies of this policy should be provided to all inspectors

and relevant law-enforcement officials and should be made available to the public and shipowners and seafarers.

3. The competent authority should establish simple procedures to enable it to receive information in confidence concerning possible breaches of the requirements of this Convention (including seafarers' rights) presented by seafarers directly or by representatives of the seafarers, and permit inspectors to investigate such matters promptly, including:

- (a) enabling masters, seafarers or representatives of the seafarers to request an inspection when they consider it necessary; 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 Convention and of bringing about a continual improvement in seafarers' on-board conditions.

4. Inspectors should be fully trained and sufficient in numbers to secure the efficient discharge of their duties with due regard to:

- (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;
- (b) the resources placed at the disposal of the inspectors; and
- (c) the practical conditions under which inspections must be carried out in order to be effective.

5. Subject to any conditions for recruitment to the public service which may be prescribed by national laws and regulations, inspectors should have qualifications and adequate training to perform their duties and where possible should have a maritime education or experience as a seafarer. They should have adequate knowledge of seafarers' working and living conditions and of the English language.

6. Measures should be taken to provide inspectors with appropriate further training during their employment.

7. All inspectors should have a clear understanding of the circumstances in which an inspection should be carried out, the scope of the inspection to be carried out in the various circumstances referred to and the general method of inspection.

8. Inspectors provided with proper credentials under the national law should at a minimum be empowered:

- (a) to board ships freely and without previous notice; however, when commencing the ship inspection, inspectors should provide notification of their presence to the master or person in charge and, where appropriate, to the seafarers or their representatives;
- (b) 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;
- (c) 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 with the national laws and regulations implementing this Convention;

- (d) to enforce the posting of notices required under the national laws and regulations implementing this Convention;
- (e) to take or remove, for the purpose of analysis, samples of products, cargo, drinking water, provisions, materials and substances used or handled;
- (f) 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;
- (g) 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; and
- (h) 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.

9. When a sample referred to in paragraph 8(e) of this Guideline is being taken or removed, the shipowner or the shipowner's representative, and where appropriate a seafarer, should be notified or should be present at the time the sample is taken or removed. The quantity of such a sample should be properly recorded by the inspector.

10. The annual report published by the competent authority of each Member, in respect of ships that fly its flag, should contain:

- (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;
- (b) details of the organization of the system of inspection;
- (c) statistics of ships or other premises subject to inspection and of ships and other premises actually inspected;
- (d) statistics on all seafarers subject to its national laws and regulations;
- (e) statistics and information on violations of legislation, penalties imposed and cases of detention of ships; and
- (f) statistics on reported occupational injuries and diseases affecting seafarers.

Regulation 5.1.5 – On-board complaint procedures

1. Each Member shall require that ships that fly its flag have on-board procedures for the fair, effective and expeditious handling of seafarer complaints alleging breaches of the requirements of this Convention (including seafarers' rights).

2. Each Member shall prohibit and penalize any kind of victimization of a seafarer for filing a complaint.

3. The provisions in this Regulation and related sections of the Code are without prejudice to a seafarer's right to seek redress through whatever legal means the seafarer considers appropriate.

Standard A5.1.5 – On-board complaint procedures

1. Without prejudice to any wider scope that may be given in national laws or regulations or collective agreements, the on-board procedures may be used by seafarers to lodge complaints relating to any matter that is alleged to constitute a breach of the requirements of this Convention (including seafarers' rights).

2. Each Member shall ensure that, in its laws or regulations, appropriate on-board complaint procedures are in place to meet the requirements of Regulation 5.1.5. Such procedures shall seek to resolve complaints at the lowest level possible. However, in all cases, seafarers shall have a right to complain directly to the master and, where they consider it necessary, to appropriate external authorities.

3. The on-board complaint procedures shall 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. The term "victimization" covers any adverse action taken by any person with respect to a seafarer for lodging a complaint which is not manifestly vexatious or maliciously made.

4. In addition to a copy of their seafarers' employment agreement, all seafarers shall be provided with a copy of the on-board complaint procedures applicable on the ship. This shall include contact information for the competent authority in the flag State and, where different, in the seafarers' country of residence, and 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.

Guideline B5.1.5 – On-board complaint procedures

1. Subject to any relevant provisions of an applicable collective agreement, the competent authority should, in close consultation with shipowners' and seafarers' organizations, develop a model for fair, expeditious and well-documented on-board complaint-handling procedures for all ships that fly the Member's flag. In developing these procedures the following matters should be considered:

- (a) many complaints may relate specifically to those individuals to whom the complaint is to be made or even to the master of the ship. In all cases seafarers should also be able to complain directly to the master and to make a complaint externally; and
- (b) in order to help avoid problems of victimization of seafarers making complaints about matters under this Convention, 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.

2. At a minimum the procedures discussed during the consultative process referred to in paragraph 1 of this Guideline should include the following:

- (a) complaints should be addressed to the head of the department of the seafarer lodging the complaint or to the seafarer's superior officer;
- (b) the head of department or superior officer should then attempt to resolve the matter within prescribed time limits appropriate to the seriousness of the issues involved;
- (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 should handle the matter personally;
- (d) seafarers should at all times have the right to be accompanied and to be represented by another seafarer of their choice on board the ship concerned;

- (e) all complaints and the decisions on them should be recorded and a copy provided to the seafarer concerned;
- (f) if a complaint cannot be resolved on board, the matter should be referred ashore to the shipowner, who should 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; and
- (g) in all cases seafarers should have a right to file their complaints directly with the master and the shipowner and competent authorities.

Regulation 5.1.6 – Marine casualties

1. Each Member shall hold an official inquiry into any serious marine casualty, leading to injury or loss of life, that involves a ship that flies its flag. The final report of an inquiry shall normally be made public.

2. Members shall cooperate with each other to facilitate the investigation of serious marine casualties referred to in paragraph 1 of this Regulation.

Standard A5.1.6 – Marine casualties

(No provisions)

Guideline B5.1.6 – Marine casualties

(No provisions)

Regulation 5.2 – Port State responsibilities

Purpose: To enable each Member to implement its responsibilities under this Convention regarding international cooperation in the implementation and enforcement of the Convention standards on foreign ships

Regulation 5.2.1 – Inspections in port

1. Every foreign ship calling, in the normal course of its business or for operational reasons, in the port of a Member may be the subject of inspection in accordance with paragraph 4 of Article V for the purpose of reviewing compliance with the requirements of this Convention (including seafarers' rights) relating to the working and living conditions of seafarers on the ship.

2. Each Member shall accept the maritime labour certificate and the declaration of maritime labour compliance required under Regulation 5.1.3 as prima facie evidence of compliance with the requirements of this Convention (including seafarers' rights). Accordingly, the inspection in its ports shall, except in the circumstances specified in the Code, be limited to a review of the certificate and declaration.

3. Inspections in a port shall be carried out by authorized officers in accordance with the provisions of the Code and other applicable international arrangements governing port State control inspections in the Member. Any such inspection shall be limited to verifying that the matter inspected is in conformity with the relevant requirements set out in the Articles and Regulations of this Convention and in Part A only of the Code.

4. Inspections that may be carried out in accordance with this Regulation shall be based on an effective port State inspection and monitoring system to help ensure that the working and living conditions for seafarers on ships entering a port of the Member concerned meet the requirements of this Convention (including seafarers' rights).

5. Information about the system referred to in paragraph 4 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member's reports pursuant to article 22 of the Constitution.

Standard A5.2.1 – Inspections in port

1. 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:

- (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 this Convention or are otherwise invalid; or
- (b) there are clear grounds for believing that the working and living conditions on the ship do not conform to the requirements of this Convention; or
- (c) there are reasonable grounds to believe that the ship has changed flag for the purpose of avoiding compliance with this Convention; or
- (d) there is a complaint alleging that specific working and living conditions on the ship do not conform to the requirements of this Convention;

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 this Convention (including seafarers' rights).

2. Where a more detailed inspection is carried out on a foreign ship in the port of a Member by authorized officers in the circumstances set out in subparagraph (a), (b) or (c) of paragraph 1 of this Standard, it shall in principle cover the matters listed in Appendix A5-III.

3. In the case of a complaint under paragraph 1(d) of this Standard, 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 1(b) of this Standard. For the purpose of paragraph 1(d) of this Standard, "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.

4. Where, following a more detailed inspection, the working and living conditions on the ship are found not to conform to the requirements of this 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 3 of this Standard, the authorized officer shall bring the deficiencies to the attention of the appropriate seafarers' and ship-owners' organizations in the Member in which the inspection is carried out, and may:

- (a) notify a representative of the flag State;
- (b) provide the competent authorities of the next port of call with the relevant information.

5. The Member in which the inspection is carried out shall have the right to transmit 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, 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.

6. Where, following a more detailed inspection by an authorized officer, the ship is found not to conform to the requirements of this Convention and:

- (a) the conditions on board are clearly hazardous to the safety, health or security of seafarers; or
- (b) the non-conformity constitutes a serious or repeated breach of the requirements of this Convention (including seafarers' rights);

the authorized officer shall take steps to ensure that the ship shall 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 appropriate shipowners' and seafarers' organizations in the port State in which the inspection was carried out.

7. Each Member shall ensure that its authorized officers are given guidance, of the kind indicated in Part B of the Code, as to the kinds of circumstances justifying detention of a ship under paragraph 6 of this Standard.

8. When implementing their responsibilities under this Standard, each Member shall make all possible efforts 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.

Guideline B5.2.1 – Inspections in port

1. The competent authority should develop an inspection policy for authorized officers carrying out inspections under Regulation 5.2.1. The objective of the policy should be to ensure consistency and to otherwise guide inspection and enforcement activities related to the requirements of this Convention (including seafarers' rights). Copies of this policy should be provided to all authorized officers and should be available to the public and shipowners and seafarers.

2. When developing a policy relating to the circumstances warranting a detention of the ship under Standard A5.2.1, paragraph 6, the competent authority should consider that, with respect to the breaches referred to in Standard A5.2.1, paragraph 6(b), 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.

For example, the employment of a person who is under age should 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 should 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 should be considered as constituting a serious breach.

3. Members should cooperate with each other to the maximum extent possible in the adoption of internationally agreed guidelines on inspection policies, especially those relating to the circumstances warranting the detention of a ship.

Regulation 5.2.2 – Onshore seafarer complaint-handling procedures

1. Each Member shall ensure that seafarers on ships calling at a port in the Member's territory who allege a breach of the requirements of this Convention (including seafarers' rights) have the right to report such a complaint in order to facilitate a prompt and practical means of redress.

Standard A5.2.2 – Onshore seafarer complaint-handling procedures

1. 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. In such cases, the authorized officer shall undertake an initial investigation.

2. Where appropriate, given the nature of the complaint, the initial investigation shall include consideration of whether the on-board complaint procedures provided under Regulation 5.1.5 have been explored. The authorized officer may also conduct a more detailed inspection in accordance with Standard A5.2.1.

3. The authorized officer shall, where appropriate, seek to promote a resolution of the complaint at the ship-board level.

4. In the event that the investigation or the inspection provided under this Standard reveals a non-conformity that falls within the scope of paragraph 6 of Standard A5.2.1, the provisions of that paragraph shall be applied.

5. Where the provisions of paragraph 4 of this Standard do not apply, and the complaint has not been resolved at the ship-board level, the authorized officer shall forthwith notify the flag State, seeking, within a prescribed deadline, advice and a corrective plan of action.

6. Where the complaint has not been resolved following action taken in accordance with paragraph 5 of this Standard, 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 appropriate shipowners' and seafarers' organizations in the port State shall be similarly informed. In addition, statistics and information regarding complaints that have been resolved shall be regularly submitted by the port State 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.

7. Appropriate steps shall be taken to safeguard the confidentiality of complaints made by seafarers.

Guideline B5.2.2 – Onshore seafarer complaint-handling procedures

1. Where a complaint referred to in Standard A5.2.2 is dealt with by an authorized officer, the 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.

2. If the complaint is of a general nature, consideration should be given to undertaking a more detailed inspection in accordance with Standard A5.2.1.

3. If the complaint relates to an individual case, an examination of the results of any on-board complaint procedures for the resolution of the complaint concerned should be undertaken. 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. These would include the inadequacy of, or undue delay in, the internal procedures or the complainant's fear of reprisal for lodging a complaint.

4. In any investigation of a complaint, the authorized officer should give the master, the shipowner and any other person involved in the complaint a proper opportunity to make known their views.

5. In the event that the flag State demonstrates, in response to the notification by the port State in accordance with paragraph 5 of Standard A5.2.2, 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.

Regulation 5.3 – 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

1. Without prejudice to the principle of each Member's responsibility for the working and living conditions of seafarers on ships that fly its flag, the Member also has a responsibility to ensure the implementation of the requirements of this Convention regarding the recruitment and placement of seafarers as well as the social security protection of seafarers that are its nationals or are resident or are otherwise domiciled in its territory, to the extent that such responsibility is provided for in this Convention.

2. Detailed requirements for the implementation of paragraph 1 of this Regulation are found in the Code.

3. Each Member shall establish an effective inspection and monitoring system for enforcing its labour-supplying responsibilities under this Convention.

Maritime Labour Convention, 2006

4. Information about the system referred to in paragraph 3 of this Regulation, including the method used for assessing its effectiveness, shall be included in the Member's reports pursuant to article 22 of the Constitution.

Standard A5.3 – Labour-supplying responsibilities

1. Each Member shall enforce the requirements of this Convention applicable to the operation and practice of seafarer recruitment and placement services established on its territory through a system of inspection and monitoring and legal proceedings for breaches of licensing and other operational requirements provided for in Standard A1.4.

Guideline B5.3 – Labour-supplying responsibilities

1. Private seafarer recruitment and placement services established in the Member's territory and securing the services of a seafarer for a shipowner, wherever located, should be required to assume obligations to ensure the proper fulfilment by shipowners of the terms of their employment agreements concluded with seafarers.

APPENDIX A2-I

Evidence of financial security under Regulation 2.5, paragraph 2

The certificate or other documentary evidence referred to in Standard A2.5.2, paragraph 7, shall include the following information:

- (a) name of the ship;
- (b) port of registry of the ship;
- (c) call sign of the ship;
- (d) IMO number of the ship;
- (e) name and address of the provider or providers of the financial security;
- (f) contact details of the persons or entity responsible for handling seafarers' requests for relief;
- (g) name of the shipowner;
- (h) period of validity of the financial security; and
- (i) an attestation from the financial security provider that the financial security meets the requirements of Standard A2.5.2.

APPENDIX A4-1

Evidence of financial security under Regulation 4.2

The certificate or other documentary evidence of financial security required under Standard A4.2.1, paragraph 14, shall include the following information:

- (a) name of the ship;
- (b) port of registry of the ship;
- (c) call sign of the ship;
- (d) IMO number of the ship;
- (e) name and address of the provider or providers of the financial security;
- (f) contact details of the persons or entity responsible for handling seafarers' contractual claims;
- (g) name of the shipowner;
- (h) period of validity of the financial security; and
- (i) an attestation from the financial security provider that the financial security meets the requirements of Standard A4.2.1.

APPENDIX B4-1

Model Receipt and Release Form referred to in Guideline B4.2.2

Ship (name, port of registry and IMO number):

Incident (date and place):

Seafarer/legal heir and/or dependant:

Shipowner:

I, [Seafarer] [Seafarer's legal heir and/or dependant]* hereby acknowledge receipt of the sum of [currency and amount] in satisfaction of the Shipowner's obligation to pay contractual compensation for personal injury and/or death under the terms and conditions of [my] [the Seafarer's]* employment and I hereby release the Shipowner from their obligations under the said terms and conditions.

The payment is made without admission of liability of any claims and is accepted without prejudice to [my] [the Seafarer's legal heir and/or dependant's]* right to pursue any claim at law in respect of negligence, tort, breach of statutory duty or any other legal redress available and arising out of the above incident.

* Delete as appropriate.

Dated:.....

Seafarer/legal heir and/or dependant:

Signed:.....

For acknowledgement:

Shipowner/Shipowner representative:

Signed:.....

Financial security provider:

Signed:.....

APPENDIX A5-I

The working and living conditions of seafarers that must be inspected and approved by the flag State before certifying a ship in accordance with Standard A5.1.3, paragraph 1:

- Minimum age
- Medical certification
- Qualifications of seafarers
- Seafarers' employment agreements
- Use of any licensed or certified or regulated private recruitment and placement service
- Hours of work or rest
- Manning levels for the ship
- Accommodation
- On-board recreational facilities
- Food and catering
- Health and safety and accident prevention
- On-board medical care
- On-board complaint procedures
- Payment of wages
- Financial security for repatriation
- Financial security relating to shipowners' liability

APPENDIX A5-II

Maritime Labour Certificate

*(Note: This Certificate shall have a Declaration
of Maritime Labour Compliance attached)*

Issued under the provisions of Article V and Title 5 of the
Maritime Labour Convention, 2006
(referred to below as "the Convention")
under the authority of the Government of:

.....
(full designation of the State whose flag the ship is entitled to fly)

by
(full designation and address of the competent authority or recognized organization
duly authorized under the provisions of the Convention)

Particulars of the ship

Name of ship:

Distinctive number or letters:

Port of registry:

Date of registry:

Gross tonnage:¹

IMO number:

Type of ship:

Name and address of the shipowner:²

.....

.....

¹ For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969). See Article II(1)(c) of the Convention.

² *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 this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.

Maritime Labour Convention, 2006

This is to certify:

1. That this ship has been inspected and verified to be in compliance with the requirements of the Convention, and the provisions of the attached Declaration of Maritime Labour Compliance.

2. That the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention. These national requirements are summarized in the Declaration of Maritime Labour Compliance, Part I.

This Certificate is valid until subject to inspections in accordance with Standards A5.1.3 and A5.1.4 of the Convention.

This Certificate is valid only when the Declaration of Maritime Labour Compliance issued

at on is attached.

Completion date of the inspection on which this Certificate is based was

Issued at on

Signature of the duly authorized official issuing the Certificate

(Seal or stamp of issuing authority, as appropriate)

Endorsements for mandatory intermediate inspection and, if required, any additional inspection

This is to certify that the ship was inspected in accordance with Standards A5.1.3 and A5.1.4 of the Convention and that the seafarers' working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the abovementioned country's national requirements implementing the Convention.

Intermediate inspection:

(to be completed between the second and third anniversary dates)

Signed:

(Signature of authorized official)

Place:

Date:

(Seal or stamp of the authority, as appropriate)

Additional endorsements (if required)

This is to certify that the ship was the subject of an additional inspection for the purpose of verifying that the ship continued to be in compliance with the national requirements implementing the Convention, as required by Standard A3.1, paragraph 3, of the Convention (re-registration or substantial alteration of accommodation) or for other reasons.

Additional inspection:
(if required)

Signed:
(Signature of authorized official)

Place:

Date:
(Seal or stamp of the authority,
as appropriate)

Additional inspection:
(if required)

Signed:
(Signature of authorized official)

Place:

Date:
(Seal or stamp of the authority,
as appropriate)

Additional inspection:
(if required)

Signed:
(Signature of authorized official)

Place:

Date:
(Seal or stamp of the authority,
as appropriate)

Extension after renewal inspection (if required)

This is to certify that, following a renewal inspection, the ship was found to continue to be in compliance with national laws and regulations or other measures implementing the requirements of the Convention, and that the present certificate is hereby extended, in accordance with paragraph 4 of Standard A5.1.3, until
(not more than five months after the expiry date of the existing certificate) to allow for the new certificate to be issued to and made available on board the ship.

Completion date of the renewal inspection on which this extension is based was:

.....

Signed:
(Signature of authorized official)

Place:

Date:
(Seal or stamp of the authority,
as appropriate)

Maritime Labour Convention, 2006

Declaration of Maritime Labour Compliance – Part I

(Note: This Declaration must be attached
to the ship's Maritime Labour Certificate)

Issued under the authority of: (insert name of competent
authority as defined in Article II, paragraph 1(a), of the Convention)

With respect to the provisions of the Maritime Labour Convention, 2006, the
following referenced ship:

Name of ship	IMO number	Gross tonnage

is maintained in accordance with Standard A5.1.3 of the Convention.

The undersigned declares, on behalf of the abovementioned competent authority,
that:

- (a) the provisions of the Maritime Labour Convention are fully embodied in the national requirements referred to below;
 - (b) these national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions are provided where necessary;
 - (c) the details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided <under the corresponding national requirement listed below> <in the section provided for this purpose below> (*strike out the statement which is not applicable*);
 - (d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and
 - (e) any ship-type specific requirements under national legislation are also referenced under the requirements concerned.
1. Minimum age (Regulation 1.1)
 2. Medical certification (Regulation 1.2)
 3. Qualifications of seafarers (Regulation 1.3)
 4. Seafarers' employment agreements (Regulation 2.1).....
 5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4)
 6. Hours of work or rest (Regulation 2.3)
 7. Manning levels for the ship (Regulation 2.7)
 8. Accommodation (Regulation 3.1)
 9. On-board recreational facilities (Regulation 3.1)).....
 10. Food and catering (Regulation 3.2)
 11. Health and safety and accident prevention (Regulation 4.3)
 12. On-board medical care (Regulation 4.1)

13. On-board complaint procedures (Regulation 5.1.5)
14. Payment of wages (Regulation 2.2)
15. Financial security for repatriation (Regulation 2.5)
16. Financial security relating to shipowners' liability (Regulation 4.2)

Name:

Title:

Signature:

Place:

Date:

(Seal or stamp of the authority,
as appropriate)

Substantial equivalencies

(Note: Strike out the statement which is not applicable)

The following substantial equivalencies, as provided under Article VI, paragraphs 3 and 4, of the Convention, except where stated above, are noted *(insert description if applicable)*:

.....
.....

No equivalency has been granted.

Name:

Title:

Signature:

Place:

Date:

(Seal or stamp of the authority,
as appropriate)

Exemptions

(Note: Strike out the statement which is not applicable)

The following exemptions granted by the competent authority as provided in Title 3 of the Convention are noted:

.....
.....

No exemption has been granted.

Name:

Title:

Maritime Labour Convention, 2006

Signature:

Place:

Date:

(Seal or stamp of the authority,
as appropriate)

Declaration of Maritime Labour Compliance – Part II

Measures adopted to ensure ongoing compliance between inspections

The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections:

(State below the measures drawn up to ensure compliance with each of the items in Part I)

1. Minimum age (Regulation 1.1) ☐
- ☐
2. Medical certification (Regulation 1.2) ☐
- ☐
3. Qualifications of seafarers (Regulation 1.3) ☐
- ☐
4. Seafarers' employment agreements (Regulation 2.1) ☐
- ☐
5. Use of any licensed or certified or regulated private recruitment and placement service (Regulation 1.4) ☐
- ☐
6. Hours of work or rest (Regulation 2.3) ☐
- ☐
7. Manning levels for the ship (Regulation 2.7) ☐
- ☐
8. Accommodation (Regulation 3.1) ☐
- ☐
9. On-board recreational facilities (Regulation 3.1) ☐
- ☐
10. Food and catering (Regulation 3.2) ☐
- ☐
11. Health and safety and accident prevention (Regulation 4.3) ☐
- ☐
12. On-board medical care (Regulation 4.1) ☐
- ☐
13. On-board complaint procedures (Regulation 5.1.5) ☐
- ☐
14. Payment of wages (Regulation 2.2) ☐
- ☐

Maritime Labour Convention, 2006

15. Financial security for repatriation (Regulation 2.5) ☐

16. Financial security relating to shipowners' liability (Regulation 4.2) ☐

I hereby certify that the above measures have been drawn up to ensure ongoing compliance, between inspections, with the requirements listed in Part I.

Name of shipowner:¹

Company address:

Name of the authorized signatory:

Title:

Signature of the authorized signatory:

Date:

(Stamp or seal of the shipowner¹)

The above measures have been reviewed by (*insert name of competent authority or duly recognized organization*) and, following inspection of the ship, have been determined as meeting the purposes set out under Standard A5.1.3, paragraph 10(b), regarding measures to ensure initial and ongoing compliance with the requirements set out in Part I of this Declaration.

Name:

Title:

Address:

Signature:

Place:

Date:

(Seal or stamp of the authority,
as appropriate)

¹ *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 this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.

Interim Maritime Labour Certificate

Issued under the provisions of Article V and Title 5 of the
Maritime Labour Convention, 2006
(referred to below as "the Convention")
under the authority of the Government of:

.....
(full designation of the State whose flag the ship is entitled to fly)

by
(full designation and address of the competent authority or recognized organization
duly authorized under the provisions of the Convention)

Particulars of the ship.

Name of ship:
Distinctive number or letters:
Port of registry:
Date of registry:
Gross tonnage:¹
IMO number:
Type of ship:
Name and address of the shipowner:²

.....
This is to certify, for the purposes of Standard A5.1.3, paragraph 7, of the Convention, that:

- (a) this ship has been inspected, as far as reasonable and practicable, for the matters listed in Appendix A5-I to the Convention, taking into account verification of items under (b), (c) and (d) below;
- (b) the shipowner has demonstrated to the competent authority or recognized organization that the ship has adequate procedures to comply with the Convention;
- (c) the master is familiar with the requirements of the Convention and the responsibilities for implementation; and
- (d) relevant information has been submitted to the competent authority or recognized organization to produce a Declaration of Maritime Labour Compliance.

¹ For ships covered by the tonnage measurement interim scheme adopted by the IMO, the gross tonnage is that which is included in the REMARKS column of the International Tonnage Certificate (1969). See Article II(1)(c) of the Convention.

² *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 this Convention, regardless of whether any other organizations or persons fulfil certain of the duties or responsibilities on behalf of the shipowner. See Article II(1)(j) of the Convention.

Maritime Labour Convention, 2006

This Certificate is valid until subject to inspections in accordance with Standards A5.1.3 and A5.1.4.

Completion date of the inspection referred to under (a) above was

Issued at on

Signature of the duly authorized official
issuing the interim certificate:

(Seal or stamp of issuing authority, as appropriate)

APPENDIX A5-III

General areas that are subject to a detailed inspection by an authorized officer in a port of a Member carrying out a port State inspection pursuant to Standard A5.2.1:

Minimum age

Medical certification

Qualifications of seafarers

Seafarers' employment agreements

Use of any licensed or certified or regulated private recruitment and placement service

Hours of work or rest

Manning levels for the ship

Accommodation

On-board recreational facilities

Food and catering

Health and safety and accident prevention

On-board medical care

On-board complaint procedures

Payment of wages

Financial security for repatriation

Financial security relating to shipowners' liability

APPENDIX B5-I – EXAMPLE OF A NATIONAL DECLARATION

See Guideline B5.1.3, paragraph 5

Maritime Labour Convention, 2006

Declaration of Maritime Labour Compliance – Part I

*(Note: This Declaration must be attached
to the ship's Maritime Labour Certificate)*

Issued under the authority of: **The Ministry of Maritime Transport of Xxxxxx**

With respect to the provisions of the Maritime Labour Convention, 2006, the following referenced ship:

Name of ship	IMO number	Gross tonnage
M.S. EXAMPLE	12345	1,000

is maintained in accordance with Standard A5.1.3 of the Convention.

The undersigned declares, on behalf of the abovementioned competent authority, that:

- (a) the provisions of the Maritime Labour Convention are fully embodied in the national requirements referred to below;
- (b) these national requirements are contained in the national provisions referenced below; explanations concerning the content of those provisions are provided where necessary;
- (c) the details of any substantial equivalencies under Article VI, paragraphs 3 and 4, are provided ~~<under the corresponding national requirement listed below>~~ ~~<in the section provided for this purpose below>~~ *(strike out the statement which is not applicable)*;
- (d) any exemptions granted by the competent authority in accordance with Title 3 are clearly indicated in the section provided for this purpose below; and
- (e) any ship-type specific requirements under national legislation are also referenced under the requirements concerned.

1. Minimum age (Regulation 1.1)

Shipping Law, No. 123 of 1905, as amended ("Law"), Chapter X; Shipping Regulations ("Regulations"), 2006, Rules 1111-1222

Minimum ages are those referred to in the Convention

"Night" means 9 p.m. to 6 a.m. unless the Ministry of Maritime Transport ("Ministry") approves a different period.

Examples of hazardous work restricted to 18-year-olds or over are listed in Schedule A hereto. In the case of cargo ships, no one under 18 may work in the areas marked on the ship's plan (to be attached to this Declaration) as "hazardous area".

2. Medical certification (Regulation 1.2)

Law, Chapter XI; Regulations, Rules 1223-1233.

Medical certificates shall conform to the STCW requirements, where applicable; in other cases, the STCW requirements are applied with any necessary adjustments.

Qualified opticians on list approved by Ministry may issue certificates concerning eyesight.

Medical examinations follow the ILO/WHO Guidelines referred to in Guideline B1.2.1.

EXAMPLE

Declaration of Maritime Labour Compliance – Part II

Measures adopted to ensure ongoing compliance between inspections

The following measures have been drawn up by the shipowner, named in the Maritime Labour Certificate to which this Declaration is attached, to ensure ongoing compliance between inspections:

(State below the measures drawn up to ensure compliance with each of the items in Part I)

1. Minimum age (Regulation 1.1) ☒

Date of birth of each seafarer is noted against his/her name on the crew list.

The list is checked at the beginning of each voyage by the master or officer acting on his or her behalf ("competent officer"), who records the date of such verification.

Each seafarer under 18 receives, at the time of engagement, a note prohibiting him/her from performing night work or the work specifically listed as hazardous (see Part I, section 1, above) and any other hazardous work, and requiring him/her to consult the competent officer in case of doubt. A copy of the note, with the seafarer's signature under "received and read", and the date of signature, is kept by the competent officer.

2. Medical certification (Regulation 1.2) ☒

The medical certificates are kept in strict confidence by the competent officer, together with a list, prepared under the competent officer's responsibility and stating for each seafarer on board: the functions of the seafarer, the date of the current medical certificate(s) and the health status noted on the certificate concerned.

In any case of possible doubt as to whether the seafarer is medically fit for a particular function or functions, the competent officer consults the seafarer's doctor or another qualified practitioner and records a summary of the practitioner's conclusions, as well as the practitioner's name and telephone number and the date of the consultation.

.....
.....

SECRET

**International Labour Conference
Conférence internationale du Travail**

AMENDMENTS OF 2014
TO THE MARITIME LABOUR CONVENTION, 2006,
APPROVED BY THE CONFERENCE
AT ITS ONE HUNDRED AND THIRD SESSION,
GENEVA, 11 JUNE 2014

AMENDEMENTS DE 2014 À LA CONVENTION
DU TRAVAIL MARITIME, 2006,
APPROUVÉS PAR LA CONFÉRENCE
À SA CENT TROISIÈME SESSION,
GENÈVE, 11 JUIN 2014

AUTHENTIC TEXT
TEXTE AUTHENTIQUE

SECRET

**TEXT OF THE AMENDMENTS OF 2014
TO THE MARITIME LABOUR CONVENTION, 2006**

Amendments to the Code implementing Regulations 2.5 and 4.2 and appendices of the Maritime Labour Convention, 2006 (MLC, 2006), adopted by the Special Tripartite Committee on 11 April 2014

I. Amendments to the Code implementing Regulation 2.5 – Repatriation of the MLC, 2006 (and appendices)

A. Amendments relating to Standard A2.5

In the present heading, “Standard A2.5 – Repatriation”, replace “A2.5” by “A2.5.1”.

Following paragraph 9 of the present Standard A2.5, add the following heading and text:

Standard A2.5.2 – Financial security

1. In implementation of Regulation 2.5, paragraph 2, this Standard establishes requirements to ensure the provision of an expeditious and effective financial security system to assist seafarers in the event of their abandonment.

2. For the purposes of this Standard, a seafarer shall be deemed to have been abandoned where, in violation of the requirements of this Convention or the terms of the seafarers' employment agreement, the shipowner:

- (a) fails to cover the cost of the seafarer's repatriation; or
- (b) has left the seafarer without the necessary maintenance and support; or
- (c) has otherwise unilaterally severed their ties with the seafarer including failure to pay contractual wages for a period of at least two months.

3. Each Member shall ensure that a financial security system meeting the requirements of this Standard is in place for ships flying its flag. The financial security system may be in the form of a social security scheme or insurance or a national fund or other similar arrangements. Its form shall be determined by the Member after consultation with the shipowners' and seafarers' organizations concerned.

4. The financial security system shall provide direct access, sufficient coverage and expedited financial assistance, in accordance with this Standard, to any abandoned seafarer on a ship flying the flag of the Member.

5. For the purposes of paragraph 2(b) of this Standard, necessary maintenance and support of seafarers shall include: adequate food, accommodation, drinking water supplies, essential fuel for survival on board the ship and necessary medical care.

6. Each Member shall require that ships that fly its flag, and to which paragraph 1 or 2 of Regulation 5.1.3 applies, carry on board a certificate or other documentary evidence of financial security issued by the financial security provider. A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.

7. The certificate or other documentary evidence of financial security shall contain the information required in Appendix A2-I. It shall be in English or accompanied by an English translation.

TEXTE DES AMENDEMENTS DE 2014 À LA CONVENTION DU TRAVAIL MARITIME, 2006

Amendements au code concernant les règles 2.5 et 4.2
et annexes de la convention du travail maritime, 2006
(MLC, 2006), adoptés par la Commission tripartite spéciale
le 11 avril 2014

I. Amendements au code concernant la règle 2.5 – Rapatriement de la MLC, 2006 (et annexes)

A. Amendements relatifs à la norme A2.5

Dans le titre actuel «Norme A2.5 – Rapatriement», remplacer «A2.5»
par «A2.5.1».

Après le paragraphe 9 de l'actuelle norme A2.5, ajouter le titre et le
texte suivants:

Norme A2.5.2 – Garantie financière

1. En application de la règle 2.5, paragraphe 2, la présente norme
énonce des prescriptions visant à assurer la fourniture d'un dispositif de
garantie financière rapide et efficace en vue de prêter assistance aux gens de
mer en cas d'abandon.

2. Aux fins de la présente norme, un marin est considéré comme
ayant été abandonné lorsque, en violation des prescriptions de la présente
convention ou des termes du contrat d'engagement maritime, l'armateur:

- a) ne prend pas en charge les frais de rapatriement du marin; ou
- b) a laissé le marin sans l'entretien et le soutien nécessaires; ou
- c) a par ailleurs provoqué une rupture unilatérale des liens avec le marin
et notamment n'a pas versé les salaires contractuels durant une période
d'au moins deux mois.

3. Chaque Membre veille à ce qu'un dispositif de garantie financière
répondant aux prescriptions de la présente norme soit en place pour les
navires battant son pavillon. Le dispositif de garantie financière peut prendre
la forme d'un régime de sécurité sociale, d'une assurance, d'un fonds national
ou d'autres dispositifs équivalents. Sa forme est déterminée par le Membre
après consultation des organisations d'armateurs et de gens de mer intéressés.

4. Le dispositif de garantie financière assure un accès direct, une
couverture suffisante et une assistance financière rapide, conformément à
la présente norme, pour tout marin victime d'abandon à bord d'un navire
battant le pavillon du Membre.

5. Aux fins du paragraphe 2 b) de la présente norme, l'entretien et
le soutien nécessaires des gens de mer doivent comprendre: une nourriture
convenable, un logement, l'approvisionnement en eau potable, le carburant
nécessaire à la survie à bord du navire et les soins médicaux nécessaires.

6. Chaque Membre exige que les navires battant son pavillon, auxquels
s'appliquent les paragraphes 1 ou 2 de la règle 5.1.3, détiennent à bord un
certificat ou toute autre preuve documentaire de la garantie financière
délivrée par le prestataire de cette garantie. Une copie doit être affichée bien
en vue à un endroit accessible aux gens de mer. Lorsque la couverture est
assurée par plusieurs prestataires, le document fourni par chacun d'eux est
conservé à bord.

7. Le certificat ou toute autre preuve documentaire de la garantie
financière doit contenir les informations requises à l'annexe A2-I. Il doit être
rédigé en anglais ou accompagné d'une traduction en anglais.

8. Assistance provided by the financial security system shall be granted promptly upon request made by the seafarer or the seafarer's nominated representative and supported by the necessary justification of entitlement in accordance with paragraph 2 above.

9. Having regard to Regulations 2.2 and 2.5, assistance provided by the financial security system shall be sufficient to cover the following:

- (a) outstanding wages and other entitlements due from the shipowner to the seafarer under their employment agreement, the relevant collective bargaining agreement or the national law of the flag State, limited to four months of any such outstanding wages and four months of any such outstanding entitlements;
- (b) all expenses reasonably incurred by the seafarer, including the cost of repatriation referred to in paragraph 10; and
- (c) the essential needs of the seafarer including such items as: adequate food, clothing where necessary, accommodation, drinking water supplies, essential fuel for survival on board the ship, necessary medical care and any other reasonable costs or charges from the act or omission constituting the abandonment until the seafarer's arrival at home.

10. The cost of repatriation shall cover travel by appropriate and expeditious means, normally by air, and include provision for food and accommodation of the seafarer from the time of leaving the ship until arrival at the seafarer's home, necessary medical care, passage and transport of personal effects and any other reasonable costs or charges arising from the abandonment.

11. The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days to the competent authority of the flag State.

12. If the provider of insurance or other financial security has made any payment to any seafarer in accordance with this Standard, such provider shall, up to the amount it has paid and in accordance with the applicable law, acquire by subrogation, assignment or otherwise, the rights which the seafarer would have enjoyed.

13. Nothing in this Standard shall prejudice any right of recourse of the insurer or provider of financial security against third parties.

14. The provisions in this Standard are not intended to be exclusive or to prejudice any other rights, claims or remedies that may also be available to compensate seafarers who are abandoned. National laws and regulations may provide that any amounts payable under this Standard can be offset against amounts received from other sources arising from any rights, claims or remedies that may be the subject of compensation under the present Standard.

B. Amendments relating to Guideline B2.5

At the end of the present Guideline B2.5, add the following heading and text:

Guideline B2.5.3 – Financial security

1. In implementation of paragraph 8 of Standard A2.5.2, if time is needed to check the validity of certain aspects of the request of the seafarer or the seafarer's nominated representative, this should not prevent the seafarer from immediately receiving such part of the assistance requested as is recognized as justified.

8. L'assistance fournie au titre du dispositif de garantie financière doit être accordée sans retard sur la demande formulée par le marin ou son représentant désigné, et dûment justifiée, conformément au paragraphe 2 ci-dessus.

9. Eu égard aux règles 2.2 et 2.5, l'assistance fournie au titre du dispositif de garantie financière doit être suffisante pour couvrir:

- a) les salaires en suspens et autres prestations que l'armateur doit verser au marin comme prévu dans le contrat de travail, la convention collective pertinente ou la législation de l'Etat du pavillon, le montant dû ne devant excéder quatre mois de salaire et quatre mois pour les autres prestations en suspens;
- b) toutes les dépenses raisonnables engagées par le marin, y compris les frais de rapatriement visés au paragraphe 10;
- c) les besoins essentiels du marin comprennent: une nourriture convenable, des vêtements lorsque nécessaire, un logement, l'approvisionnement en eau potable, le carburant nécessaire à la survie à bord du navire, les soins médicaux nécessaires et la prise en charge de tous autres frais ou dépenses raisonnables à partir de l'acte ou de l'omission constitutif de l'abandon jusqu'à l'arrivée du marin à son domicile.

10. Les frais de rapatriement couvrent le voyage par des moyens appropriés et rapides, normalement par avion, et comprennent la fourniture de nourriture et d'un logement au marin depuis son départ du navire jusqu'à l'arrivée à son domicile, ainsi que les soins médicaux nécessaires, le passage et le transport des effets personnels et tous autres frais ou dépenses raisonnables résultant de l'abandon.

11. La garantie financière ne peut cesser avant la fin de sa période de validité, à moins que le prestataire de la garantie financière n'ait donné un préavis d'au moins trente jours à l'autorité compétente de l'Etat du pavillon.

12. Si le prestataire de l'assurance ou d'une autre forme de garantie financière a effectué un paiement quel qu'il soit à un marin conformément à la présente norme, ce prestataire acquiert, à concurrence de la somme versée, et conformément à la législation applicable, par subrogation, transfert ou d'une autre manière, les droits dont aurait bénéficié ledit marin.

13. Aucune disposition de la présente norme ne porte atteinte au droit de recours de l'assureur ou du prestataire de la garantie financière contre un tiers.

14. Les dispositions de la présente norme n'ont pas pour objet d'être exclusives ni de porter atteinte à d'autres droits, créances ou recours destinés à indemniser les gens de mer abandonnés. La législation nationale peut prévoir que toutes sommes payables en vertu de la présente norme peuvent être déduites des sommes reçues d'autres sources et découlant de droits, créances ou recours pouvant donner lieu à indemnisation en vertu de la présente norme.

B. Amendements relatifs au principe directeur B2.5

A la fin de l'actuel principe directeur B2.5, ajouter le titre et le texte suivants:

Principe directeur B2.5.3 – Garantie financière

1. En application du paragraphe 8 de la norme A2.5.2, si la vérification de la validité de certains éléments de la demande du marin ou de son représentant désigné nécessite du temps, le marin ne devrait pas pour autant se voir privé de recevoir immédiatement l'assistance correspondant aux éléments dont la validité a été établie.

C. Amendment to include a new appendix

Before Appendix A5-I, add the following appendix:

APPENDIX A2-I

Evidence of financial security under Regulation 2.5, paragraph 2

The certificate or other documentary evidence referred to in Standard A2.5.2, paragraph 7, shall include the following information:

- (a) name of the ship;
- (b) port of registry of the ship;
- (c) call sign of the ship;
- (d) IMO number of the ship;
- (e) name and address of the provider or providers of the financial security;
- (f) contact details of the persons or entity responsible for handling seafarers' requests for relief;
- (g) name of the shipowner;
- (h) period of validity of the financial security; and
- (i) an attestation from the financial security provider that the financial security meets the requirements of Standard A2.5.2.

D. Amendments relating to Appendices A5-I, A5-II and A5-III

At the end of Appendix A5-I, add the following item:

Financial security for repatriation

In Appendix A5-II, after item 14 under the heading Declaration of Maritime Labour Compliance – Part I, add the following item:

15. Financial security for repatriation (Regulation 2.5)

In Appendix A5-II, after item 14 under the heading Declaration of Maritime Labour Compliance – Part II, add the following item:

15. Financial security for repatriation (Regulation 2.5)

At the end of Appendix A5-III, add the following area:

Financial security for repatriation

**II. Amendments to the Code implementing Regulation 4.2
– Shipowners' liability of the MLC, 2006
(and appendices)**

A. Amendments relating to Standard A4.2

In the present heading, "Standard A4.2 – Shipowners' liability", replace "A4.2" by "A4.2.1".

Following paragraph 7 of the present Standard A4.2, add the following text:

8. National laws and regulations shall provide that the system of financial security to assure compensation as provided by paragraph 1(b) of this Standard for contractual claims, as defined in Standard A4.2.2, meet the following minimum requirements:

- (a) the contractual compensation, where set out in the seafarer's employment agreement and without prejudice to subparagraph (c) of this paragraph, shall be paid in full and without delay;

- C. Amendement relatif à l'insertion d'une nouvelle annexe
Avant l'annexe A5-I, ajouter l'annexe suivante:

ANNEXE A2-I

Preuves de la garantie financière prescrites par la règle 2.5, paragraphe 2

Le certificat ou toute autre preuve documentaire visée au paragraphe 7 de la norme A2.5.2, doit inclure les renseignements suivants:

- a) le nom du navire;
- b) le port d'immatriculation du navire;
- c) l'indicatif d'appel du navire;
- d) le numéro OMI du navire;
- e) le nom et l'adresse du prestataire ou des prestataires de la garantie financière;
- f) les coordonnées des personnes ou de l'entité chargée de traiter les demandes d'assistance des gens de mer;
- g) le nom de l'armateur;
- h) la durée de validité de la garantie financière;
- i) une attestation du prestataire de la garantie financière selon laquelle la garantie financière satisfait aux exigences de la norme A2.5.2.

- D. Amendements relatifs aux annexes A5-I, A5-II et A5-III

A la fin de l'annexe A5-I, ajouter l'élément suivant:

Garantie financière pour rapatriement

Dans l'annexe A5-II, après le point 14 situé sous le titre Déclaration de conformité du travail maritime – Partie I, ajouter l'élément suivant:

15. Garantie financière pour rapatriement (règle 2.5)

Dans l'annexe A5-II, après le point 14 situé sous le titre Déclaration de conformité du travail maritime – Partie II, ajouter l'élément suivant:

15. Garantie financière pour rapatriement (règle 2.5)

A la fin de l'annexe A5-III, ajouter l'élément suivant:

Garantie financière pour rapatriement

**II. Amendements au code concernant la règle 4.2
– Responsabilité de l'armateur de la MLC, 2006
(et annexes)**

- A. Amendements relatifs à la norme A4.2

Dans le titre actuel «Norme A4.2 – Responsabilité des armateurs», remplacer «A4.2» par «A4.2.1».

Après le paragraphe 7 de l'actuelle norme A4.2, ajouter le texte suivant:

8. La législation nationale prévoit que le dispositif de garantie financière destiné à garantir l'indemnisation prévue au paragraphe 1 b) de la présente norme pour les créances contractuelles définies dans la norme A4.2.2 satisfait aux exigences minimales suivantes:

- a) l'indemnisation contractuelle, lorsqu'elle est prévue par le contrat d'engagement maritime et sans préjudice de l'alinéa c) du présent paragraphe, est versée en totalité et sans retard;

- (b) there shall be no pressure to accept a payment less than the contractual amount;
- (c) where the nature of the long-term disability of a seafarer makes it difficult to assess the full compensation to which the seafarer may be entitled, an interim payment or payments shall be made to the seafarer so as to avoid undue hardship;
- (d) in accordance with Regulation 4.2, paragraph 2, the seafarer shall receive payment without prejudice to other legal rights; but such payment may be offset by the shipowner against any damages resulting from any other claim made by the seafarer against the shipowner and arising from the same incident; and
- (e) the claim for contractual compensation may be brought directly by the seafarer concerned, or their next of kin, or a representative of the seafarer or designated beneficiary.

9. National laws and regulations shall ensure that seafarers receive prior notification if a shipowner's financial security is to be cancelled or terminated.

10. National laws and regulations shall ensure that the competent authority of the flag State is notified by the provider of the financial security if a shipowner's financial security is cancelled or terminated.

11. Each Member shall require that ships that fly its flag carry on board a certificate or other documentary evidence of financial security issued by the financial security provider. A copy shall be posted in a conspicuous place on board where it is available to the seafarers. Where more than one financial security provider provides cover, the document provided by each provider shall be carried on board.

12. The financial security shall not cease before the end of the period of validity of the financial security unless the financial security provider has given prior notification of at least 30 days to the competent authority of the flag State.

13. The financial security shall provide for the payment of all contractual claims covered by it which arise during the period for which the document is valid.

14. The certificate or other documentary evidence of financial security shall contain the information required in Appendix A4-I. It shall be in English or accompanied by an English translation.

Add the following heading and text following the present Standard A4.2:

Standard A4.2.2 – Treatment of contractual claims

1. For the purposes of Standard A4.2.1, paragraph 8, and the present Standard, the term "contractual claim" means any claim which relates to 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 collective agreement.

2. The system of financial security, as provided for in Standard A4.2.1, paragraph 1(b), may be in the form of a social security scheme or insurance or fund or other similar arrangements. Its form shall be determined by the Member after consultation with the shipowners' and seafarers' organizations concerned.

3. National laws and regulations shall ensure that effective arrangements are in place to receive, deal with and impartially settle contractual claims relating to compensation referred to in Standard A4.2.1, paragraph 8, through expeditious and fair procedures.

- b) aucune pression n'est exercée en vue de faire accepter une prestation inférieure au montant contractuel;
 - c) si l'incapacité de longue durée d'un marin est de nature telle qu'elle ne permet pas d'établir facilement le montant total de l'indemnité à laquelle il peut prétendre, un ou plusieurs paiements provisoires sont effectués en sa faveur pour lui éviter de se retrouver dans une situation précaire injustifiée;
 - d) conformément à la règle 4.2, paragraphe 2, le marin reçoit un paiement sans préjudice d'autres droits garantis par la loi, ce paiement pouvant toutefois être déduit par l'armateur de toute indemnité résultant de toute autre réclamation formulée par le marin à son encontre et découlant du même incident;
 - e) toute réclamation en vue d'une indemnisation contractuelle peut être présentée directement par le marin concerné, ses plus proches parents, un représentant du marin ou le bénéficiaire désigné.
9. La législation nationale dispose que les gens de mer reçoivent un préavis si la garantie financière de l'armateur doit être annulée ou résiliée.

10. La législation nationale dispose que l'autorité compétente de l'Etat du pavillon est avisée par le prestataire de la garantie financière de l'annulation ou de la résiliation de la garantie financière de l'armateur.

11. Chaque Membre exige que les navires battant son pavillon détiennent à bord un certificat ou toute autre preuve documentaire de la garantie financière délivrée par le prestataire de cette garantie. Une copie doit être affichée bien en vue à un endroit accessible aux gens de mer. Lorsque la couverture est assurée par plusieurs prestataires, le document fourni par chacun d'eux est conservé à bord.

12. La garantie financière ne peut cesser avant la fin de sa période de validité, à moins que le prestataire de la garantie financière n'ait donné un préavis d'au moins trente jours à l'autorité compétente de l'Etat du pavillon.

13. La garantie financière prévoit le paiement de toutes créances contractuelles couvertes qui se présentent durant la période de validité du document.

14. Le certificat ou toute autre preuve documentaire de la garantie financière doit contenir les informations requises à l'annexe A4-I. Il doit être rédigé en anglais ou accompagné d'une traduction en anglais.

Ajouter le titre et le texte suivants à la suite de l'actuelle norme A4.2:

Norme A4.2.2 – Traitement des créances contractuelles

1. Aux fins du paragraphe 8 de la norme A4.2.1, et de la présente norme, le terme «créance contractuelle» s'entend de toute créance liée au décès ou à une incapacité de longue durée des gens de mer résultant d'un accident de travail, d'une maladie professionnelle ou d'un risque professionnel, tel que prévu par la législation nationale, le contrat d'engagement maritime ou une convention collective.

2. Le dispositif de garantie financière, tel que prévu au paragraphe 1 b) de la norme A4.2.1, peut prendre la forme d'un régime de sécurité sociale, une assurance, un fonds ou de tout autre dispositif équivalent. Sa forme est déterminée par le Membre après consultation des organisations d'armateurs et de gens de mer intéressées.

3. La législation nationale garantit que des dispositions efficaces sont prises pour recevoir, traiter et régler en toute impartialité les demandes d'indemnisation pour des créances contractuelles, telles que visées au paragraphe 8 de la norme A4.2.1 au moyen de procédures rapides et équitables.

B. Amendments relating to Guideline B4.2

In the present heading, "Guideline B4.2 – Shipowners' liability", replace "B4.2" by "B4.2.1".

In paragraph 1 of the present Guideline B4.2, replace "Standard A4.2" by "Standard A4.2.1".

Following paragraph 3 of the present Guideline B4.2, add the following heading and text:

Guideline B4.2.2 – Treatment of contractual claims

1. National laws or regulations should provide that the parties to the payment of a contractual claim may use the Model Receipt and Release Form set out in Appendix B4-I.

C. Amendment to include new appendices

After Appendix A2-I, add the following appendix:

APPENDIX A4-I

Evidence of financial security under Regulation 4.2

The certificate or other documentary evidence of financial security required under Standard A4.2.1, paragraph 14, shall include the following information:

- (a) name of the ship;
- (b) port of registry of the ship;
- (c) call sign of the ship;
- (d) IMO number of the ship;
- (e) name and address of the provider or providers of the financial security;
- (f) contact details of the persons or entity responsible for handling seafarers' contractual claims;
- (g) name of the shipowner;
- (h) period of validity of the financial security; and
- (i) an attestation from the financial security provider that the financial security meets the requirements of Standard A4.2.1.

After Appendix A4-I, add the following appendix:

APPENDIX B4-I

Model Receipt and Release Form
referred to in Guideline B4.2.2

Ship (name, port of registry and IMO number):

Incident (date and place):

Seafarer/legal heir and/or dependant:

Shipowner:

I, [Seafarer] [Seafarer's legal heir and/or dependant]* hereby acknowledge receipt of the sum of [currency and amount] in satisfaction of the Shipowner's obligation to pay contractual compensation for personal injury and/or death under the terms and conditions of [my] [the Seafarer's]* employment and I hereby release the Shipowner from their obligations under the said terms and conditions.

B. Amendements relatifs au principe directeur B4.2

Dans le titre actuel «Principe directeur B4.2 – Responsabilité de l'armateur», remplacer «B4.2» par «B4.2.1».

Au paragraphe 1 de l'actuel principe directeur B4.2, remplacer «norme A4.2» par «norme A4.2.1».

Après le paragraphe 3 du principe directeur B4.2 actuel, ajouter le titre et le texte suivants:

Principe directeur B4.2.2 – Traitement des créances contractuelles

1. La législation nationale devrait prévoir que les parties au paiement d'une créance contractuelle pourront utiliser le modèle de reçu et de décharge figurant dans l'annexe B4-I.

C. Amendements relatifs à l'insertion de nouvelles annexes

Après l'annexe A2-I, ajouter l'annexe suivante:

ANNEXE A4-I

Preuves de la garantie financière prévue à la règle 4.2

Le certificat ou toute autre preuve documentaire de la garantie financière prescrit au paragraphe 14 de la norme A4.2.1 doit inclure les informations suivantes:

- a) le nom du navire;
- b) le port d'immatriculation du navire;
- c) l'indicatif d'appel du navire;
- d) le numéro OMI du navire;
- e) le nom et l'adresse du prestataire ou des prestataires de la garantie financière;
- f) les coordonnées des personnes ou de l'entité chargée de traiter les créances contractuelles des gens de mer;
- g) le nom de l'armateur;
- h) la durée de validité de la garantie financière;
- i) une attestation du prestataire de la garantie financière selon laquelle la garantie financière satisfait aux exigences de la norme A4.2.1.

Après l'annexe A4-I, ajouter l'annexe suivante:

ANNEXE B4-I

Modèle de reçu et de décharge visé au principe directeur B4.2.2

Navire (nom, port d'immatriculation et numéro OMI):.....

Incident (date et lieu):.....

Marin/héritier du marin et/ou personne à charge:.....

Armateur:

Je soussigné, [nom du marin] [nom de l'héritier du marin et/ou de la personne à charge]*, accuse réception par la présente de la somme de [montant et devise] en acquittement de l'obligation de l'armateur de payer une indemnisation contractuelle pour lésions corporelles et/ou mort en vertu des clauses de [mon engagement] [de l'engagement du marin]* et dégage l'armateur de ses obligations en vertu desdites clauses.

The payment is made without admission of liability of any claims and is accepted without prejudice to [my] [the Seafarer's legal heir and/or dependant's]* right to pursue any claim at law in respect of negligence, tort, breach of statutory duty or any other legal redress available and arising out of the above incident.

Dated:

Seafarer/legal heir and/or dependant:

Signed:

For acknowledgement:

Shipowner/Shipowner representative:

Signed:

Financial security provider:

Signed:

* Delete as appropriate.

D. Amendments relating to Appendices A5-I, A5-II and A5-III

At the end of Appendix A5-I, add the following item:

Financial security relating to shipowners' liability

In Appendix A5-II, as the last item under the heading Declaration of Maritime Labour Compliance – Part I, add the following item:

16. Financial security relating to shipowners' liability (Regulation 4.2)

In Appendix A5-II, as the last item under the heading Declaration of Maritime Labour Compliance – Part II, add the following item:

16. Financial security relating to shipowners' liability (Regulation 4.2)

At the end of Appendix A5-III, add the following area:

Financial security relating to shipowners' liability

Le paiement est effectué sans reconnaissance de responsabilité à l'égard de créances éventuelles et est accepté sans préjudice de [mon droit][du droit du marin/de l'héritier légal du marin et/ou de la personne à charge]* de faire valoir en justice toute créance pour négligence ou faute, ou violation d'une obligation légale, ou tout autre droit à réparation pouvant être invoqué et découlant de l'incident susmentionné.

Date:

Marin/héritier du marin et/ou personne à charge:

Signature:

Accusés de réception:

Armateur/représentant de l'armateur:

Signature:

Prestataire de la garantie financière:

Signature:

* Rayer la mention inutile.

D. Amendements relatifs aux annexes A5-I, A5-II et A5-III

A la fin de l'annexe A5-I, ajouter l'élément suivant:

Garantie financière relative à la responsabilité de l'armateur

Dans l'annexe A5-II, ajouter comme dernier point de la Déclaration de conformité du travail maritime – Partie I, l'élément suivant:

16. Garantie financière relative à la responsabilité de l'armateur (règle 4.2)

Dans l'annexe A5-II, ajouter comme dernier point de la Déclaration de conformité du travail maritime – Partie II, l'élément suivant:

16. Garantie financière relative à la responsabilité de l'armateur (règle 4.2)

A la fin de l'annexe A5-III, ajouter l'élément suivant:

Garantie financière relative à la responsabilité de l'armateur

The foregoing is the authentic text of the Amendments duly approved by the General Conference of the International Labour Organization during its One hundred and third Session which was held at Geneva and declared closed the twelfth day of June 2014.

IN FAITH WHEREOF we have appended our signatures this twelfth day of June 2014.

Le texte qui précède est le texte authentique des amendements dûment approuvés par la Conférence générale de l'Organisation internationale du Travail dans sa cent troisième session qui s'est tenue à Genève et qui a été déclarée close le douzième jour de juin 2014.

EN FOI DE QUOI ont apposé leurs signatures, ce douzième jour de juin 2014:

The President of the Conference,
Le Président de la Conférence,

DANIEL FUNES DE RIOJA

The Director-General of the International Labour Office,
Le Directeur général du Bureau international du Travail,

GUY RYDER

The text of the Amendments as here presented is a true copy of the text authenticated by the signatures of the President of the International Labour Conference and of the Director-General of the International Labour Office.

Le texte des amendements présenté ici est une copie exacte du texte authentiqué par les signatures du Président de la Conférence internationale du Travail et du Directeur général du Bureau international du Travail.

Certified true and complete copy,
Copie certifiée conforme et complète,

For the Director-General of the International Labour Office:
Pour le Directeur général du Bureau international du Travail:

SECRET

**International Labour Conference
Conférence internationale du Travail**

AMENDMENTS OF 2018 TO THE CODE
OF THE MARITIME LABOUR CONVENTION, 2006,
AS AMENDED (MLC, 2006),
APPROVED BY THE CONFERENCE
AT ITS ONE HUNDRED AND SEVENTH SESSION,
GENEVA, 5 JUNE 2018

AMENDEMENTS DE 2018 AU CODE
DE LA CONVENTION DU TRAVAIL MARITIME, 2006,
TELLE QU'AMENDÉE (MLC, 2006),
APPROUVÉS PAR LA CONFÉRENCE
À SA CENT SEPTIÈME SESSION,
GENÈVE, 5 JUIN 2018

SECRET

**AMENDMENTS OF 2018 TO THE CODE
OF THE MARITIME LABOUR CONVENTION, 2006,
AS AMENDED (MLC, 2006)**

**Amendment to the Code of the MLC, 2006,
relating to Regulation 2.1**

Standard A2.1 – Seafarers' employment agreements

Insert a new paragraph 7:

7. Each Member shall require that a seafarer's employment agreement shall continue to have effect while a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, regardless of whether the date fixed for its expiry has passed or either party has given notice to suspend or terminate it. For the purpose of this paragraph, the term:

- (a) *piracy* shall have the same meaning as in the United Nations Convention on the Law of the Sea, 1982;
- (b) *armed robbery against ships* means any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, within a State's internal waters, archipelagic waters and territorial sea, or any act of inciting or of intentionally facilitating an act described above.

**Amendment to the Code of the MLC, 2006,
relating to Regulation 2.2**

Standard A2.2 – Wages

Insert a new paragraph 7:

7. Where a seafarer is held captive on or off the ship as a result of acts of piracy or armed robbery against ships, wages and other entitlements under the seafarers' employment agreement, relevant collective bargaining agreement or applicable national laws, including the remittance of any allotments as provided in paragraph 4 of this Standard, shall continue to be paid during the entire period of captivity and until the seafarer is released and duly repatriated in accordance with Standard A2.5.1 or, where the seafarer dies while in captivity, until the date of death as determined in accordance with applicable national laws or regulations. The terms *piracy* and *armed robbery against ships* shall have the same meaning as in Standard A2.1, paragraph 7.

**Amendment to the Code of the MLC, 2006,
relating to Regulation 2.5**

Guideline B2.5.1 – Entitlement

Replace paragraph 8 by the following:

8. The entitlement to repatriation may lapse if the seafarers concerned do not claim it within a reasonable period of time to be defined by national laws or regulations or collective agreements, except where they are held captive on or off the ship as a result of acts of piracy or armed robbery against ships. The terms *piracy* and *armed robbery against ships* shall have the same meaning as in Standard A2.1, paragraph 7.

**AMENDEMENTS DE 2018 AU CODE
DE LA CONVENTION DU TRAVAIL MARITIME, 2006,
TELLE QU'AMENDÉE (MLC, 2006)**

**Amendement au code de la MLC, 2006,
concernant la règle 2.1**

Norme A2.1 – Contrat d'engagement maritime

Insérer un nouveau paragraphe 7, comme suit:

7. Tout Membre exige qu'un contrat d'engagement maritime continue à produire ses effets lorsque, à la suite d'actes de piraterie ou de vols à main armée à l'encontre des navires, le marin est tenu en captivité à bord du navire ou ailleurs, même si la date fixée pour son échéance est passée ou que l'une ou l'autre partie a notifié sa suspension ou résiliation. Aux fins du présent paragraphe, l'expression:

a) *piraterie* s'entend au sens de la Convention des Nations Unies sur le droit de la mer de 1982;

b) *vols à main armée à l'encontre des navires* désigne tout acte illicite de violence, de détention ou de déprédation, ou menace de tels actes, autre qu'un acte de piraterie, commis à des fins privées contre un navire, ou contre des personnes ou des biens à son bord, dans les eaux intérieures, les eaux archipélagiques ou la mer territoriale d'un Etat, ou tout acte ayant pour but d'inciter à commettre un acte défini ci-dessus ou commis dans l'intention de le faciliter.

**Amendement au code de la MLC, 2006,
concernant la règle 2.2**

Norme A2.2 – Salaires

Insérer un nouveau paragraphe 7, comme suit:

7. Lorsque, à la suite d'actes de piraterie ou de vols à main armée à l'encontre des navires, un marin est tenu en captivité à bord du navire ou ailleurs, le salaire et autres prestations prévus dans son contrat d'engagement maritime, la convention collective ou la législation nationale applicables continuent de lui être versés, et les virements prévus continuent d'être effectués, conformément au paragraphe 4 de la présente norme, pendant toute la période de captivité, jusqu'à ce que le marin soit libéré et dûment rapatrié, conformément à la norme A2.5.1 ou, lorsque le marin décède pendant sa captivité, jusqu'à la date de son décès telle que déterminée conformément à la législation nationale applicable. Les expressions *piraterie* et *vols à main armée à l'encontre des navires* ont la même signification qu'au paragraphe 7 de la norme A2.1.

**Amendement au code de la MLC, 2006,
concernant la règle 2.5**

Principe directeur B2.5.1 – Conditions des droits au rapatriement

Remplacer le paragraphe 8 par ce qui suit:

8. Le droit au rapatriement peut expirer si le marin intéressé ne le revendique pas dans un délai raisonnable défini par la législation nationale ou les conventions collectives, sauf lorsque le marin est tenu en captivité à bord du navire ou ailleurs, à la suite d'actes de piraterie ou de vols à main armée à l'encontre des navires. Les expressions *piraterie* et *vols à main armée à l'encontre des navires* ont la même signification qu'au paragraphe 7 de la norme A2.1.

The foregoing is the authentic text of the Amendments duly approved by the General Conference of the International Labour Organization during its One hundred and seventh Session which was held at Geneva and declared closed the eighth day of June 2018.

IN FAITH WHEREOF we have appended our signatures this day of June 2018.

Le texte qui précède est le texte authentique des amendements dûment approuvés par la Conférence générale de l'Organisation internationale du Travail dans sa cent septième session qui s'est tenue à Genève et qui a été déclarée close le huitième jour de juin 2018.

EN FOI DE QUOI ont apposé leurs signatures, ce
jour de juin 2018:

The President of the Conference,

La Présidente de la Conférence,

The Director-General of the International Labour Office,
Le Directeur général du Bureau international du Travail,

