



TO: ALL SHIPOWNERS, OPERATORS, MASTERS AND OFFICERS OF MERCHANT SHIPS AND AUTHORIZED CLASSIFICATION SOCIETIES.

SUBJECT: Health and safety protection, accident prevention, medical care, welfare and social security protection of seafarer's under the Maritime Labor Convention (MLC), 2006

Reference:

- (a) Maritime Labor Convention (MLC), 2006
- (b) Solas 1974 as amended
- (c) ISM Code
- (d) ILO 'Accident Prevention on Board Ship at Sea and in Port'
- (e) IMO Resolution A.884(21): Code for the Investigation of Marine Casualties and Incidents
- (f) MSC-MEPC.7/Circ.7: Guidance on near-miss reporting
- (g) MSC-MEPC.2/Circ.2: Guidelines on the basic elements of a shipboard occupational health and safety program
- (h) WHO 'International Medical Guide for Ships', 3rd edition
- (i) IMO 'Medical First Aid Guide for Use in Accidents Involving Dangerous Goods', 2006 edition
- (j) ITU 'List VI- List of Radio Determination and Special Service Stations'
- (k) Admiralty List of Radio Signals Vol. I
- (l) IMO 'International Code of Signals', Medical section
- (m) Togo Maritime Law

PURPOSE:

This notice sets forth the Administration's requirements, to ensure that seafarers' work environment on board ships promotes occupational safety and health; to protect the health of seafarers and ensure their prompt access to medical care on board ship and ashore; to ensure that seafarer's are protected from the financial consequences of sickness, injury or death occurring in connection with their employment; to ensure that measures are taken with a view to providing seafarers with access to social security protection; and to ensure that seafarer's working on board a ship have access to shore-based facilities and services to secure their health and well-being under the Maritime Labor Convention (MLC), 2006.

1. APPLICABILITY:

This notice applies to all ships and seafarers serving on board these ships to which MLC, 2006 applies.



2. DEFINITIONS:

Refer to MLC-001 for definitions.

3. REQUIREMENTS

These requirements are supplemental to DMLC-I, the Maritime Law of Togo.

3.1 Medical care on board ship and ashore

- 3.1.1 Ship owners shall ensure that seafarers working on board their ships have prompt access to the necessary medicine, medical equipment and facilities for diagnosis and treatment, and to medical and occupational health protection information and expertise, which is generally comparable to that provided to workers ashore.
- 3.1.2 Ship owners shall ensure that seafarers are given the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable.
- 3.1.3 Health protection and medical care, including essential dental care, shall be provided free of charge to seafarers while the seafarer is on board ship or landed in a foreign port.
- 3.1.4 Ship owners shall adopt programs of a preventive character such as health promotion and health education on board their ships.
- 3.1.5 Ship owners shall use the standard medical report form or forms provided for in the Annex to the current edition of the WHO 'International Medical Guide for ships', for use by the master and relevant medical personnel onshore and on-board. The form, when completed and its contents shall be kept confidential and shall only be used to facilitate the treatment of seafarers. Other medical report forms may be accepted provided the necessary information is included.
- 3.1.6 Every ship shall maintain a medical log for recording all medical treatment on-board and onshore.
- 3.1.7 All ships shall carry a medicine chest and medical equipment that complies with the requirements in the current edition of the WHO 'International Medical Guide for Ships', as noted in reference (r) and bearing in mind the number of persons on board and the nature and duration of the voyage.
- 3.1.8 The medicines & medical equipment shall be inspected at intervals, not exceeding 12 months, by the designated medical officer on board or a pharmacist, who shall ensure that the labeling, expiry dates and conditions of storage of all medicines and directions for their use are checked and all equipment functioning as required.



- 3.1.9 All ships carrying 100 or more persons and ordinarily engaged on international voyages of more than 3 days duration shall carry a qualified medical doctor.
- 3.1.10 On ships which do not carry a medical doctor, there shall be 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; such persons shall have completed the relevant training required by the STCW 1978, as amended.
- 3.1.11 All ships shall carry on board the current edition of the WHO publication ‘International Medical Guide for Ships’ and for those ships carrying dangerous cargoes, in addition shall carry the ‘Medical First Aid Guide’ for use in accidents involving dangerous cargoes.
- 3.1.12 Ships carrying dangerous goods not listed in the IMDG Code, shall carry ‘Material Safety Data Sheets’ available for these cargoes.
- 3.1.13 All ships shall 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.
- Such publications shall include, but not be limited to: the current editions of the ITU publication ‘List VI-List of radio determination and special service stations’; the ‘Admiralty List of Radio Signals Vol.1; and the ‘International Code of Signals’.
- 3.1.14 The seafarer’s responsible for medical care or first aid care shall be instructed in the use of the current editions of the International Medical Guide, the International Code of Signals and the radio/satellite communication system.

3.2 Ship owners’ liability

- 3.2.1 Ship owners shall be liable to bear the costs for seafarers working on their ships in respect of:
- a) 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 these dates; and
 - b) Sickness and injury while off the ship pursuant to an actual mission assigned to the seafarer, by the master or by the authority of the master.



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
- c) To pay one-third of the basic wages from the time when the seafarers are repatriated or landed until their recovery.

Togo regulations limit the liability of the shipowner to pay one-third of the basic wages in respect of a seafarer no longer on board to a period which shall not be less than 16 weeks from the day of injury or the commencement of the sickness.

However, this does not prohibit the seafarer employment agreement or any applicable collective agreement from limiting the ship owners' liability to a longer term, than above stated.

The seafarers' employment agreement or any applicable collective agreement shall contain the information on the Ship owners' liability to bear the costs in respect of sickness and injury.

- 3.2.2 Ship owners shall provide evidence of 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.

The seafarers' employment agreement or any applicable collective agreement shall contain the information on the ship owner's liability to provide such compensation.

- 3.2.3 Ship owners shall be liable to defray the expense of medical care, including medical treatment and the supply of necessary medicines and therapeutic appliances and board and lodging away from home, until the sick or injured seafarer has recovered or there is a declaration of permanent incapacity.

Togolese regulations 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.

However, this does not prohibit the seafarers' employment agreement or any applicable collective agreement from limiting the ship owners' liability to more favorable conditions for the seafarers than those provided for above.

The seafarers' employment agreement or applicable collective agreement shall contain information on ship owners' liability to defray these expenses.



- 3.2.4 Ship owners shall be liable to pay the cost of burial expenses in the case of death occurring on board or in the case of death occurring ashore, if at the time the seafarer was entitled to medical care and maintenance.
The seafarer's employment agreement or any applicable collective agreement shall contain the information on the ship owners' liability to pay the cost of such burial expenses.
- 3.2.5 Togolese regulations exclude the shipowner from liability in the following circumstances:
- a) injury incurred otherwise than in the service of the ship;
 - b) injury or sickness which resulted from a willful act, default or misconduct of the seafarer; injury or sickness which developed from a condition that was intentionally concealed from the shipowner (employer) at or prior to engagement under the Shipping Articles (seafarers employment agreement);
 - c) death due to a willful act of the seafarer; death which developed directly from a condition that was intentionally concealed from the shipowner (employer) at or prior to his engagement under the Shipping Articles (seafarers' employment agreement);
 - d) if the seafarer refused medical treatment for such sickness or injury or was denied such treatment because of misconduct or default;
 - e) if at the time of engagement, the seafarer refused to be medically examined; or
 - f) if death was caused directly by war or an act of war, declared or undeclared. But this clause shall not apply if at the time of the act the vessel had entered a known zone of international hostility for the purpose of trade.
- 3.2.6 Ship owners are exempted from the 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.
- 3.2.7 Ship owner or their representatives shall take measures for safeguarding property left on board by sick, injured or deceased seafarers and for returning it to their next of kin.



3.3 Health and safety protection and accident prevention

- 3.3.1 Ship owners shall adopt and effectively implement and promote an occupational safety and health policy on board their ships.
- 3.3.2 Ship owners shall take 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 noise and vibration and other 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.
- 3.3.3 Ship owners shall adopt, effectively implement and promote an occupational health and safety program taking into account the relative ILO & Imo directives and / or any other international standards and guidelines and codes of safe practice for the following, but not limited to:
- a) hazard identification and risk evaluation
 - b) initial vessel orientation or familiarization, covering ship owners safety policy, emergency procedures, access and egress, fire protection, job hazards, and information on hazardous materials before beginning work;
 - c) periodic health and safety training and instruction of seafarers, including bringing to their attention information concerning particular hazards, which may include audiovisual material, display of posters, articles and periodicals;
 - d) periodic safety inspections at least once every six (6) months or more frequently if there have been substantial changes in the conditions of work;
 - e) reporting and correcting hazardous conditions and unsafe practices;
 - f) investigation and reporting of on-board occupational accidents and injuries while ensuring the protection of seafarers' personal data;
 - g) prevention of occupational accidents, injuries and diseases on board ship, 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 and procedures for collective and individual tasks, and the use of personal protective equipment;
 - h) fire-prevention and fire-fighting;



- i) handling anchors, chains and mooring lines;
 - j) the effects of drugs and alcohol abuse and dependency;
 - k) responding to accidents and emergencies;
 - l) loading & unloading equipment;
 - m) working on deck, below deck and in machinery spaces;
 - n) work involving electrical equipment, working at heights/overside & in enclosed spaces;
 - o) safe access to ship;
 - p) safe movement about the ship;
 - q) dangerous cargo & ballast;
- 3.3.4 Record keeping documenting the effectiveness of the health & safety program for as long as necessary in light of their intended use.
- 3.3.5 Ship owners shall ensure that the issues raised by the safety committee and safety inspections are addressed in a timely manner.
- 3.3.6 The occupational health and safety program in 3.3.3 above shall also specify:
- a) The duties & responsibilities of the ship owner to comply with the safety and health policy and program;
 - b) The duties & responsibilities of the master to comply with the safety and health policy and program;
 - c) The duties & responsibilities 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 program;
 - d) The duties & responsibilities of the seafarers to comply with the safety and health policy and program; and
 - e) The authority of the appointed or elected safety representative to participate in safety meetings, to have access to all parts of the ship, to participate in investigation of accidents, incidents and near-misses, to have access to all necessary documentation, including investigation reports, past reports of safety meetings.



3.4 Access to shore-based welfare facilities

Seafarers shall be granted shore leave, taking due account of the operational requirements of their positions, to access shore based welfare facilities.

3.5 Social security

3.5.1 Countries and territories that are party to MLC, 2006, will ensure the implementation of the convention requirements relating to social security protection for seafarers that are nationals or are resident or are otherwise domiciled in its territory. MLC Regulation 4.5 requires that social security protection include at least three of the following branches: 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 MLC Regulation 4.1, on Medical care on board ship and ashore and Regulation 4.2, on ship owners' liability and under other titles of this Convention.

3.5.2 Ship owners that employ seafarers on board their ships that are from a country or territory that is not a party to MLC, 2006, must ensure the seafarers are provided with the health and social security protection benefits required under MLC Regulation 4.5, as noted in 3.5.1 above.

3.5.3 The Convention provides for arrangements to be developed through bilateral and multilateral agreements or contribution-based systems, and through private insurance schemes or in CBA's or in a combination of these.

3.5.6 The seafarers' employment agreement or applicable CBA shall identify how the various branches of social security protection will be provided to the seafarers as well as any other relevant information at the disposal of the ship owner, such as statutory deductions from the seafarers' wages and ship owners' contributions which may be made in accordance with the requirements of identified authorized bodies pursuant to relevant national social security schemes.

3.5.7 Where the seafarers' employment agreement or applicable CBA provides for any of the branches of social security through a mandatory contributory system, such contributions shall be made as required and properly recorded.