
INTERNATIONAL LABOUR ORGANIZATION

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**Consolidated maritime
labour Convention**

Recommended draft

Preparatory Technical Maritime Conference

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Recommended draft for a consolidated maritime labour Convention

Preamble

(See Comment 1 of the Commentary)

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 ... Session on ... 2005, 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;
- the Freedom of Association and Protection of the Right to Organise Convention, 1948;
- the Right to Organise and Collective Bargaining Convention, 1949;
- the Equal Remuneration Convention, 1951;
- the Abolition of Forced Labour Convention, 1957;
- the Discrimination (Employment and Occupation) Convention, 1958;
- the Minimum Age Convention, 1973; and
- the Worst Forms of Child Labour Convention, 1999; and

Mindful of the core mandate of the Organization, which is to promote decent conditions of work, 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 safety training and competency requirements in the International Convention on Standards of Training, Certification and Watchkeeping for Seafarers, 1978, as amended, and

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 Law of the Sea Convention, 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 that Article 217 establishes the enforcement obligations}, and

Recalling paragraph 8 of article 19 of the Constitution of the International Labour Organization providing 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, 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 enforcement, and

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

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

Adopts this ... day of ... of the year two thousand and five the following Convention, which may be cited as the Maritime Labour Convention, 2005.

General obligations

Article I

(See Comment 2 of the Commentary)

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

(See Comment 3 of the Commentary)

1. For the purpose of this Convention and unless provided otherwise in particular provisions:
 - (a) the term *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; (C.179, C.180, R.187)
 - (b) the term *declaration of labour compliance* means the declaration referred to in paragraph 2 of Regulation 5.1.3;

-
- (c) the term *gross tonnage* means the gross tonnage calculated in accordance with the tonnage measurement regulations contained in Annex 1 to the International Convention on Tonnage Measurement of Ships, 1969, or any successor Convention; (HLTWG, 3, JMC, 29th, Res.)
 - (d) the term *maritime labour certificate* means a valid document corresponding to the maritime labour certificate referred to in paragraph 1 of Regulation 5.1.3;
 - (e) {the term *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) the term *seafarer* means any person who is employed or engaged or works in any capacity on board a ship to which this Convention applies; (working definition, modified C.185, modified C.180 + C.164; C.166; C.178 + C.179 + C.73A2/1)
 - (g) the term *seafarers' employment agreement* includes both a contract of employment and articles of agreement;
 - (h) the term *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; (modified C.179A1/1b)
 - (i) the term *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; (modified STCW)
 - (j) the term *shipowner* means the owner of the ship or any other 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 or other organization or person and who, on assuming such responsibility, has agreed to take over the duties and responsibilities imposed on shipowners in accordance with this Convention. (modified C.179A1/1c; modified ISM, Reg. 1, paragraph 2)

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. This Convention applies to all ships, whether publicly or privately owned, ordinarily engaged in commercial activities (C.7, C.8, C.15, C.16, C.22, C.23, C.58) other than:

- (a) [ships of less than { } gross tons;]
- (b) ships engaged in fishing or in similar pursuits;
- (c) ships of traditional build such as dhows and junks; and
- (d) oil rigs and drilling platforms [when not engaged in navigation]. (modified C.147A1/4(c))

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 with this question. (modified C.147, C.180A1/3, C.178A1/7(d))

6. [A Member may, [in] [after] consultation with [representatives of] the shipowners' and seafarers' organizations concerned [in its territory], exclude from the scope of application of this Convention ships that do not undertake international voyages, provided that the fundamental rights of seafarers referred to in Article III [and seafarers' employment and social rights referred to in Article IV, paragraphs 1 to 4] are protected by national laws and regulations. (HLTWG, 3 W. proposal)]

7. Any exemptions or exclusions made by a Member under paragraphs 3, 5 or 6 of this Article shall be indicated in its reports to the International Labour Office pursuant to article 22 of the Constitution of the International Labour Organization.

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

Fundamental rights and principles

Article III

(See Comment 4 of the Commentary)

[Each Member reaffirms its commitment to 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 as referred to in the ILO Declaration on Fundamental Principles and Rights at Work, 1998.]

* * *

(Alternative)

1. [Each Member understands and recognizes that the seafarers' employment and social rights set forth in Article IV below can be meaningfully achieved only in a context where the fundamental principles and rights at work are respected, promoted and realized for all seafarers, namely:

- (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.

2. Therefore, each Member shall satisfy itself that the provisions of its laws and regulations are substantially equivalent to the provisions contained in the Conventions covering the fundamental principles and rights set out in this Article, in so far as the Member is not otherwise bound to give effect to the Conventions in question.]

Seafarers' employment and social rights

Article IV

(See Comment 4 of the Commentary)

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 and welfare measures and other forms of social security 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

(See Comment 5 of the Commentary)

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 accordingly exercise effective 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 labour compliance as required by this Convention.
4. A ship to which this Convention applies may, in accordance with international law, be inspected by Members other than the flag State, when the ship is in their ports to determine whether the ship is in compliance with the requirements of this Convention.
5. Each Member shall exercise effective jurisdiction and control over seafarer recruitment and placement services, if these are established, in its territory.
6. Members 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 their laws that are adequate to discourage such violations [wherever they occur]. (modified C.180A15, modified MARPOL 73, Article 4, modified C.178/A7)
7. Members shall implement their responsibilities under this Convention in such a way as to ensure that the ships of States that have not ratified this Convention do not

receive more favourable treatment than the ships that fly the flag of States that have ratified it. (modified SOLAS, Protocol, 1998, Article 1, paragraph 3; STCW, 78, as amended, Article X, paragraph (5))

Regulations and Parts A and B of the Code

Article VI

(See Comment 6 of the Commentary)

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

2. Each Member undertakes to respect the principles and rights 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 principles and rights in the manner set out in Part A of the Code may, unless expressly provided otherwise in this Convention, implement Part A of the Code through provisions in its laws and regulations or other measures which are substantially equivalent to the provisions of Part A.

4. [Subject to any directions that may be given in the Code with respect to particular provisions, a law, regulation, collective agreement or other implementing measure shall, for the purpose of paragraph 3, be considered to be substantially equivalent to a provision of this Convention if:

- (a) it is conducive to the full achievement of the general object or purpose of the provision concerned; and
- (b) in all material respects, it complies with the specific requirements of the provision or has effects that are equivalent to those resulting from such compliance.]

[4. Subject to any directions that may be given in the Code with respect to particular provisions, a law, regulation, collective agreement or other implementing measure shall, for the purpose of paragraph 3, and in the context of this Convention, be considered to be substantially equivalent to a provision of this Convention if the Member satisfies itself that:

- (a) it is conducive to the full achievement of the general object or purpose of the provision concerned; and
- (b) it is equivalent in effect to the provision concerned.]

[Consultation with shipowners' and seafarers' organizations

Article VII

(See Comment 7 of the Commentary)

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

(See Comment 8 of the Commentary)

1. The formal ratifications of this Convention shall be communicated to the Director-General of the International Labour Office for registration. (C.147A5)
2. This Convention shall be binding only upon those Members of the International Labour Organization whose ratifications have been registered with the Director-General.
3. It shall come into force 12 months after the date on which there have been registered ratifications by at least {10} {25} Members with a total share in the world's gross tonnage of ships of {25} {50} 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. (C.147A6)

Denunciation

Article IX

(See Comment 9 of the Commentary)

1. A Member may denounce this 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. (C.147A7/1)
2. Each Member which does not, within the year following the expiration of the period of ten years mentioned in the preceding paragraph, 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 period of ten years under the terms provided for in this Article. (C.147A7/2)

Effect of entry into force

Article X

(See Comment 10 of the Commentary)

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)

Seafarers' Pensions Convention, 1946 (No. 71)

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)

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 and denunciations of this Convention.

2. When the conditions provided for in paragraph 1 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. (C.180A20)

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 and acts of denunciation registered with the Organization in accordance with the provisions of the preceding Articles, as well as of ratifications of amendments under Article XIV or Article XV. (C.147A9)

Special Tripartite Committee

Article XIII

(See Comment 11 of the Commentary)

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 each Government of a Member which has ratified this Convention and the representatives of Shipowners and Seafarers appointed by the Governing Body.

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 represented at the meeting concerned and entitled to vote.

Amendment of this Convention

Article XIV

(See Comment 12 of the Commentary)

1. Amendments to any of the provisions of this Convention may be adopted by the General Conference in the framework of article 19 of the Constitution of the International Labour Organization 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. Amendments 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 with the Director-General of the International Labour Office.

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

4. 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.

5. The amendments 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 ~~{five}~~ {12} Members with a total share in world shipping tonnage of ~~{12.5}~~ {25} per cent.

6. For any Member referred to in paragraph 3 above, the amendments shall come into force 12 months after the date of acceptance referred to in paragraph 5 above or 12 months after the date on which its ratification of the amendment has been registered, whichever date is the later.

7. For any other Member of the Organization, the Convention as amended shall come into force 12 months after the date of acceptance referred to in paragraph 5 above or 12 months after the date on which its ratification of the Convention has been registered, whichever date is the later.

8. This Convention shall remain in force in its unamended form and content for those Members whose ratification of the Convention was registered before the adoption of the amendment concerned but which have not ratified the amendment.

9. A Member which subsequently ratifies this Convention shall be bound by all amendments entering into force which were adopted before its ratification of the Convention was registered, unless any such amendment provides otherwise.

Amendments to the Code

Article XV

(See Comment 13 of the Commentary)

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 following paragraphs.

2. An amendment to the Code may be proposed to the Director-General 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 or be supported by at least {10} governments that have ratified the Convention or by the group of Shipowner or Seafarer representatives referred to in this paragraph.

3. Having verified that the proposals for amendment meet the requirements of the preceding paragraph, the Director-General shall promptly communicate such proposals, 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 proposals 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 the preceding paragraph, the proposal, accompanied by a summary of any observations or suggestions made by Members, 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 the preceding paragraph shall be submitted to the next session of the General 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 it so wish.

6. Amendments approved by the General Conference shall be notified by the Director-General to each of the Members whose ratification of this Convention was registered before the date of such approval by the General 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 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 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 adopted 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 {one-third} of the Members which have ratified the Convention and represent not less than {50 per cent} of the world's gross tonnage of ships. (STCW modified)

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

expressed their disagreement in accordance with the preceding paragraph and have not withdrawn such disagreement. However:

- (a) before the end of the prescribed period, any ratifying Member may give notice to the Director-General that the amendment shall enter into force for it 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 exempts itself from giving effect to that amendment for a specified period.

9. Amendments which are the subject of a notice referred to in paragraph 8(a) above shall enter into force for the Member giving such notice six months after the latter 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 the later.

10. The period referred to in paragraph 8(b) above shall not go beyond one year from the date of entry into force of the amendment or beyond such longer period as may have been determined by the General Conference at the time of approval of the amendment.

11. A Member that has 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. A Member that has accepted an amendment to the Convention which has entered into force shall not be obliged to extend the benefit of the Convention in respect of certificates issued to ships operating under the flag of a Member which is not bound by the amendment and is not covered by an exemption filed by it pursuant to paragraph 8(b) above, but only to the extent that the certificate relates to matters covered by the amendment in question. (modified SOLAS, 1974, Article VIII(d)(i)(ii))

Authoritative languages

Article XVI

The English and French versions of the text of this Convention are equally authoritative. (C.147A12)

Explanatory note to the Regulations and Code of the maritime labour Convention

(See Comment 14 of the Commentary)

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 General Conference in the framework of article 19 of the Constitution of the International Labour Organization (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 [subject to one exception (see paragraph 3 of Title 5 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

Title 5: Compliance and enforcement

6. Each Title contains groups of provisions relating to a particular principle or right (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 principles and rights;
- (b) to allow (through the Code) a considerable degree of flexibility in the way Members implement those principles and rights; and
- (c) to ensure (through Title 5) that the principles and rights 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, ratifying Members 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, relating to medical care on board ship and ashore, requires all ships to provide prompt access to the necessary medicines for diagnosis and treatment (paragraph 1(b)) and to “carry a medicine chest” (paragraph 4(b)). 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 (so as to ensure that the contents of the chest are properly stored, used and maintained) is provided in the corresponding Guideline B4.1.1 (paragraph 8).

10. Ratifying Members 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.

Title 1. Minimum requirements for seafarers to work on a ship

Regulation 1.1 – Minimum age

(See Comment 15 of the Commentary)

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

1. No person below the minimum age shall be engaged, employed or work on a ship.
2. The minimum age at the time of the initial entry into force of this Convention is 16 years. (modified C180A12)
3. A higher minimum age shall be required in the circumstances set out in the Code.

Standard A1.1 – Minimum age

1. The employment or engagement of any person under the age of 16 for work on board a ship shall be prohibited.
2. The employment or engagement of seafarers under 18 years of age for work at night 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. (modified C180A6)
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 organizations of the shipowners and of the seafarers concerned, that the work will not have a detrimental impact on their health or well-being.
4. The employment of seafarers under 18 years of age for work which is likely to jeopardize their health or safety shall be prohibited. (modified C138A3/1) The types of employment or work which is considered “hazardous” shall be determined by standards in national laws or regulations or by the competent authority, after consultation with the organizations of the shipowners and of the seafarers concerned, in accordance with relevant international standards. (modified C182A4/1)

Guideline B1.1 – Minimum age

Regulation 1.2 – Medical certificate

(See Comment 16 of the Commentary)

Purpose: To ensure that all seafarers are medically fit

1. Seafarers shall not work on a ship unless they are certified as medically fit to perform their duties. (modified C.73A3/1)

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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 their 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 organizations of the shipowners and of the seafarers 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. (modified C.73A4/1)

3. This Standard is without prejudice to the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended ("the STCW Convention"). A medical certificate issued in accordance with the requirements of that Convention shall be accepted by the competent authority, for the purpose of Regulation 1.2. (modified C.73A3/1) A medical certificate meeting the substance of those requirements, in the case of seafarers not covered by that Convention, 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. (modified C73A3/1) Practitioners must enjoy full professional independence exercising their medical judgement in terms of the 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 referee. (modified C.73 A/8)

6. {The medical certificate shall state in particular that:

- (a) the hearing and sight of the persons concerned and, in the case of persons to be employed in capacities where their fitness for the work which they are to perform is liable to be affected by defective colour vision, their colour vision, are all satisfactory; and (C.73A4/3/a)
- (b) they are not suffering from any {medical condition} likely to be aggravated by service at sea or to render them unfit for such service or to endanger the health of other persons on board. (C.73A4/3b; Annex C. ILO/WHO Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers, 1997). }

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

- (a) a medical certificate shall be valid for a maximum period of {two years} (C.73A5/1) unless the seafarer is under 18 years of age, in which case the maximum period of validity shall be one year; (C.16/A2)
- (b) {a certification of colour vision shall be valid for a maximum period of {six} years}. (modified C.73A5/2)

8. [In urgent cases the competent authority may allow a person to work without a medical certificate [until the next port of call where he or she can obtain a medical certificate from a qualified medical practitioner]. (modified C.73A6).]

9. If the period of validity of a certificate expires in the course of a voyage the certificate shall continue in force until the end of that voyage. (C.73A5/3)

Guideline B1.2 – Medical certificates

Guideline B1.2.1 – International Guidelines

1. The competent authorities, 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 be required to follow the Guidelines for Conducting Pre-sea and Periodic Medical Fitness Examinations for Seafarers, including any revised versions and any other applicable international guidelines promulgated by the International Labour Organization, the International Maritime Organization and the World Health Organization.

Regulation 1.3 – Training and qualifications

(See Comment 17 of the Commentary)

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. (modified C.53A3/1)

2. Seafarers shall not be permitted to work on a ship unless they have successfully completed training for personal safety on board ship [and meet applicable national training requirements, if any, relevant to their position on board ships].

3. Certification and training in accordance with the instruments adopted by the International Maritime Organization that are specified in the Code of this Convention shall be considered as meeting the requirements of paragraphs 1 and 2.

Standard A1.3 – Training and qualifications

1. Certification in accordance with the International Convention on Standards of Training, Certification and Watchkeeping, 1978, as amended (“the STCW Convention”) shall be accepted by the competent authority for the purpose of Regulation 1.3. All seafarers shall be required to have undertaken familiarization training meeting the requirements in the STCW Convention. Seafarers with designated safety or pollution-prevention duties in the operation of the ship shall have received appropriate basic training or instruction meeting the requirements of the Seafarers' Training, Certification and Watchkeeping Code (STCW Code).

2. In order to meet its obligations under Regulation 1.3, a Member shall ensure that masters, deck officers, engineer officers, radio operators, ratings and other personnel engaged on board ship meet the standards of competence in the relevant provisions of the STCW Convention.

3. A seafarer who is engaged as an able seafarer must be qualified and found competent for these positions in accordance with requirements set out in the laws and regulations of the Member concerned.

4. {The competent authority shall make arrangements for the holding of examinations and for the granting qualification documents. (C.74A2/1)}

5. Able seafarers shall only be granted a qualification document if they have:

- (a) reached the age of 18;
- (b) served at sea in the deck department for a minimum period to be prescribed by the competent authority; and
- (c) passed an examination of proficiency to be prescribed by the competent authority. (C.74A2/2)

6. The prescribed minimum period of service at sea shall not be less than {36 months }. The competent authority may, however:

- (a) permit able seafarers with a period of actual service at sea of {not less than 24 months who have successfully passed through a course of training in an approved training school to reckon the time spent in such training, or part thereof, as sea service}}; and
- (b) permit able seafarers trained in approved seagoing training ships who have served 18 months in such ships to be certificated as an able seafarer upon leaving in good standing. (C.74A2/4)

7. The prescribed examination shall provide a practical test of the candidates' knowledge of seamanship and of their ability to carry out effectively all the duties that may be required of an able seafarer including those of a lifeboatman. The examination shall be such as to qualify a successful candidate to hold the special lifeboatman's certificate provided for in Chapter III, Regulation 10 of the International Convention for the Safety of Life at Sea, 1974, or in the corresponding provision of any subsequent Convention revising or replacing that Convention for the time being in force for the territory concerned. (C.74A2/5)}

8. [Members shall ensure that seafarers with responsibility for the ships' operations that work on board ships that fly their flag have the opportunity to benefit from initial [and ongoing] training that will enable them to perform their shipboard duties.]

9. [The competent authority shall, after consulting the organizations of shipowners and seafarers 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 B1.3 – Training and qualifications

Guideline B1.3.1 – Vocational planning and ongoing training

{Each Member should, after consulting the organizations of shipowners and seafarers concerned, establish clear objectives for the vocational guidance, education and training of seafarers who are the part of the crew with responsibility for the safe operation and navigation of ships including [ongoing] training. }

Regulation 1.4 – Recruitment and placement

(See Comment 18 of the Commentary)

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. (modified C.9A4/1)
2. Seafarer recruitment and placement services operating in a Member's territory shall conform to the standards set out in the Code.
3. [Members shall require that any private recruitment and placement services used to employ or engage seafarers to work on ships that fly their flag be [an approved] [licensed] [certified] seafarer recruitment and placement service.]

Standard A1.4 – Recruitment and placement

1. Members that operate 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. If a Member has private seafarer recruitment and placement services operating in its territory, they shall be operated only in conformity with a [standardized] system of licensing [and] [or] certification [or other form of regulation]. This system shall be established, modified or changed only after consultation with the organizations of shipowners and seafarers concerned. Undue proliferation of private seafarer recruitment and placement services shall not be encouraged. (C.179A2/2 modified)
3. 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 it forms part of or is coordinated with a public employment service for all workers and employers;
 - (b) impose on a Member the obligation to establish a system for the operation of private seafarer recruitment or placement services in its territory. (C.179A2/1, modified)
4. A Member adopting a system referred to in paragraph 2 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; (modified C.179 A4/2)
 - (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, a [personal travel document], passport, and the national seafarer's book; 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; (C.179A5/1 modified)

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- (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 agreement before and after they are signed and for them to receive a copy of the agreement; (modified C.179A5/2)
 - (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 or collective bargaining agreements, if the collective agreement is part of an 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; (C.179A4/2)
 - (v) examine and respond to any complaint concerning their activities and advise the competent authority of any unresolved complaint; (C.179A6/2)
 - (vi) forward to the appropriate authority all complaints that are brought to their attention concerning working or living conditions on board ship; and (C.179A6/3); and
 - (vii) 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. (modified C.179A4/2f)

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

6. The competent authority shall ensure that adequate machinery and procedures exist for the investigation, if necessary, of complaints concerning the activities of seafarer recruitment and placement services, involving, as appropriate, representatives of shipowners and seafarers. (C.179A6/1)

7. Any 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 by the ratifying State to this effect 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. (slightly modified C.147A3)

8. Nothing in this Standard shall be understood as diminishing the obligations and responsibilities of shipowners (C.179A5/3) [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 paragraph 1 of Standard A1.4.1, the competent authority should consider (R.186, modified):

- (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 organizations of shipowners and seafarers 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 and sex being admissible only for statistical purposes or if used in the framework of a programme to prevent discrimination based on age and 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 these services; and
- (h) ~~{exercising supervision of the licensing [or] [and] [certification] system on the basis of a system of quality standards. (R.186P1)}~~

2. In establishing the system referred to in Standard A1.4, paragraph 2, Members should consider requiring seafarer recruitment and placement services, established in their territory, to develop and maintain verifiable operational practices with respect to the matters set out in paragraph 3 below.

3. 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) matters pertaining to medical examinations, seafarers' identity documents and such other items as may be required for the seafarer to gain employment; (R.186P2)

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- (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 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 they are at sea are dealt with promptly and sympathetically and at no cost; and
 - (k) verifying that labour conditions on ships where they place seafarers are in conformity with applicable collective bargaining agreements concluded between a shipowner and a representative seafarer 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. (R.186P3, modified)

4. 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;

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- (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. (R.186P4)

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Regulation 1.5 – Seafarers’ identity document

(See Comment 19 of the Commentary)

Purpose: To ensure that seafarers can obtain an identity document

All seafarers are entitled to a seafarers’ identity document with a view to facilitating their access to foreign territories to enable them to perform their duties under decent working conditions.

Standard A1.5 – Seafarers’ identity document

Guideline B1.5 – Seafarers’ identity document

Title 2. Conditions of employment

Regulation 2.1 – Seafarers’ employment agreements

(See Comment 20 of the Commentary)

Purpose: To ensure that seafarers have a fair employment agreement

1. The terms and conditions for employment of a seafarer must be set out or referred to in a clear written legally enforceable agreement. They shall be consistent with the standards set out in the Code. (modified C.22A3/6)

2. Seafarers’ employment agreements must 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.(modified C.22A/3)

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. Members shall adopt laws and regulations requiring that ships that fly their flag comply with the following requirements:

- (a) seafarers working on ships that fly their flags must have a signed seafarers’ employment agreement (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 must 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; (modified C.22A3/1/6)
- (c) the shipowner and seafarer concerned must each have a copy of the seafarers’ employment agreement;
- (d) measures must be taken to ensure that clear information can be easily obtained on board by seafarers, including the ship’s master, as to the conditions of their employment, and is also accessible for review by officers of a competent authority, including those in ports to be visited; and.
- (e) seafarers are given a document containing a record of their employment on board the ship.(modified C.22A5)

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

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- (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 of this Convention.

3. The document referred to in paragraph 1(e) shall not contain any statement as to the quality of the seafarers' work or as to their wages. (modified C.22A5/2) The form of the document, the particulars to be recorded and the manner in which such particulars are to be entered in it shall be determined by national law. (C.22A5/1)

4. Members shall adopt laws and regulations specifying the matters that are to be included in all seafarers' employment agreements (modified C.22A6/3) governed by its national law. Seafarers' employment agreements shall in all cases contain the following particulars:

- (a) the seafarer's family name and other names, date of birth or age and birthplace;
- (b) the shipowner's name and address;
- (c) the place at which and date on which 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 the formula for calculating them where wages are calculated using a formula;
- (f) the amount of paid annual leave or the formula for calculating it where leave is calculated using a formula;
- (g) the termination of the agreement and the conditions thereof, including: (modified C.22A6/10)
 - (i) if the agreement has been made for an indefinite period, the conditions which should entitle either party to terminate it, as well as the required period of notice, provided that such period 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[, including a statement as to applicable national provisions];
- (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. (modified C.22A6/3)

5. {Members shall establish the minimum period of notice to be given, respectively by the seafarers and shipowners, for the termination of a seafarers employment agreement. The length of these minimum periods shall be determined, after consultation with the organizations of the shipowners and seafarers concerned, taking into account the need to

prevent forced labour as well as to ensure the safe operation of ships. Notice shall be in writing.}

6. {The minimum period established for the notice by seafarers shall not be shorter than [24 hours] nor longer than [x calendar days]. The minimum period established for the notice of termination by shipowners shall not be shorter than [y calendar days]. However, a period of notice shorter than the minimum, or no notice at all, may be given in circumstances which are recognized under national law or regulations or applicable collective bargaining agreements as justifying termination of the employment relationship at shorter notice or without notice. (modified C.22A9/1)}

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), Members 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 this provision.

Regulation 2.2 – Wages

(See Comment 21 of the Commentary)

Purpose: To ensure that seafarers are paid for their services

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

Standard A2.2 – Wages

1. Members shall require that payments due to seafarers working on ships that fly their flag are made monthly or at some other regular interval 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. Members shall require that shipowners take measures, such as those set out below in paragraph 4, 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 above must be reasonable in amount and the rate of currency exchange, unless otherwise provided, shall, in

accordance with national law or regulation, be at the prevailing market rate or the official published rate and not unfavourable to the seafarer.

6. ~~{Members that adopt 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:
 - (a) the term *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; (R.187P9).
 - (b) the term *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) the term *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) the term *hours of work* means time during which seafarers are required to do work on account of the ship;
 - (e) the term *overtime* means time worked in excess of the normal hours of work. (R.187P2)

Guideline B2.2.2 – Wages

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 regular intervals. (R.187P3)
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 above; 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 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). (R.187P4)

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. (R.187P5)

4. National laws and regulations adopted after consulting the representative organizations of shipowners and seafarers 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 upon 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 authorities 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), 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 deduction does 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;
- (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), of the International Labour Organization. (modified R.187P6)

5. The Member should, after consulting with shipowners' and seafarers' organizations, have procedures to investigate complaints relating to any matter contained in this section. (modified R.187P7)

Guideline B2.2.3 – Minimum wages

1. Without prejudice to the principle of free collective bargaining, the Member should, after consulting representative organizations of shipowners and seafarers, establish procedures for determining minimum wages for seafarers. Representative organizations of shipowners and seafarers should participate in the operation of such procedures. (R.187P8(1))

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. (R.187P8(2))

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. (R.187P8(3))

*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 of the ILO shall notify any revised amount to the Members of the International Labour Organization. (R.187P10)

2. Nothing in this section 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. (R.187P11)

Regulation 2.3 – Hours of work or rest

(See Comment 22 of the Commentary)

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

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

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

3. [Seafarers employed in positions such as master and chief engineer which require flexibility in their hours of work and rest are not covered by this Regulation.]

Standard A2.3 – Hours of work or rest

1. In this Standard:

- (a) the term *hours of work* means time during which seafarers are required to do work on account of the ship; (C.180A2/b)
- (b) the term *hours of rest* means time outside hours of work; this term does not include short breaks. (C.180A2/c)

2. Each Member shall within the limits set out in paragraph 5 below 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. (C.180A3)

3. A Member which ratifies this Convention 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. (C180A4)

4. In determining the national standards, Members 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 14 hours in any 24-hour period; and 72 hours in any seven-day period; or
- (b) minimum hours of rest shall not be less than ten hours in any 24-hour period and 77 hours in any seven-day period; (C.180A5/1)
- (c) 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; (C.180A5/2)
- (d) 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; (C.180A5/3)
- (e) 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. (C.180A5/4)

6. 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 5(d) or (e) above are inadequate, the competent authority shall determine such provisions to ensure the seafarers concerned have sufficient rest. (C.180A5/5)

7. The 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 the laws, regulations or collective agreements in force in the Member. (modified C180A5.7)

8. The table referred to in paragraph 7 above shall be established in a standardized format in the working language or languages of the ship and in English. (C.180A5)

9. Members 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 these standards. 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 8. The seafarer shall receive a copy of the records pertaining to him or her which shall be endorsed by the master, or a person authorized by the master, and by the seafarer. (C.180A8/1)

10. Nothing in this Standard shall prevent the 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. (C.180A5/6)

11. 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. (C.180A7)

12. [Nothing in this Standard shall prevent a Member from having national laws or regulations or a procedure for the competent authority to set out different limits on hours of work or rest, subject to paragraph 4 above, for masters and chief engineers not ordinarily engaged in watchkeeping duties.]

Guideline B2.3 – Hours of work or rest

Guideline B2.3.1 – Young seafarers

1. At sea and in port the provisions set out in the following clauses should apply to all young persons under 18 years of age:

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

2. Exceptionally, the provisions of paragraph 1 above need not be applied:

- (a) if 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) if 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. (R.153P4)

4. Paragraph 1 above does not exempt young seafarers from the general obligation on all seafarers to work during any emergency as provided for in paragraph 11 of Standard A2.3. (see R.153P5)

Regulation 2.4 – Entitlement to leave

(See Comment 23 of the Commentary)

Purpose: To ensure that seafarers have adequate leave

1. Members shall require that seafarers employed on ships that fly their flags are given paid annual leave under appropriate conditions, in accordance with the provisions in the Code.

2. Seafarers shall be granted shore leave consistent with their health and well-being and with the operational requirements of their positions.

Standard A2.4 – Entitlement to leave

1. Members shall adopt laws and regulations determining the minimum standards for annual leave for seafarers serving on ships that fly their flag, taking proper account of the special needs of seafarers with respect to such leave. (modified C.146A3)

2. Subject to any collective agreement or law or regulation 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 by the appropriate machinery in each country. Justified absences from work shall not be considered as annual leave. (modified C.146A5&6)

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. (modified C.146A11)

Guideline B2.4 – Entitlement to leave

Guideline B2.4.1 – Calculation of entitlement

1. Under conditions to be 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. (C.146A5/2)

2. Under conditions to be 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 beyond the control of the seafarer concerned as illness, injury or maternity should be counted as part of the period of service. (C.146A5/3)

3. The level of pay during annual leave should be at the seafarer's normal level of remuneration provided for by national law or regulation or in the applicable seafarers' employment agreement. (modified C.146A7/1) For seafarers employed for periods shorter than one year or in the event of termination of the employment relationship, entitlement to leave should be pro-rated. (based on C.146A4/1)

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

- (a) public and customary holidays recognized as such in the country whose flag is flown by the ship concerned, whether or not they fall during the annual leave with pay;
- (b) periods of incapacity for work resulting from illness, injury or maternity, under conditions to be 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;
- (d) compensatory leave of any kind, under conditions to be determined by the competent authority or through the appropriate machinery in each country. (C.146A6)

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. (modified C.146A10/1)

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. (modified C.146A10/2)

3. If seafarers are required to take their annual leave from a place other than that permitted by paragraph 1 above, 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 in their return there 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. (C.146A10/3)

4. A seafarer taking annual leave should be recalled only in cases of extreme emergency and with the seafarer's consent. (modified C.146A12)

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. (C.146A8/1)

2. Subject to paragraph 1 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. (C.146A8/2)

Guideline B2.4.4 – Young seafarers

1. Special measures should be considered with respect to young seafarers under 18 years of age 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. (R.153P6(2))

Regulation 2.5 – Repatriation

(See Comment 24 of the Commentary)

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. ~~{Members shall require ships that fly their flag to provide financial security to ensure that seafarers are duly repatriated in accordance with the Code.}~~

Standard A2.5 – Repatriation

1. Members shall ensure that seafarers on ships that fly their flag are entitled to repatriation in the following circumstances:

- (a) if the seafarers' employment agreement expires while they are abroad;
- (b) when their 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. (modified C.166A2/1)

2. Members shall ensure that there are appropriate provisions in their 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) above;
- (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 (modified C.166A2/2)
- (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. Members 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. (modified C.166A4/5)

4. National laws and regulations shall not prejudice any right of the shipowner to recover the cost of repatriation under other contractual arrangements. (modified C.166A4/6)

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 above. (modified C.166A5)

6. {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 reimbursement has been made in accordance with paragraph 5(a).}

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. (C.166A10)

8. In particular, Members 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. Members shall require that ships that fly their flags carry and make available to seafarers a copy of the applicable national provisions regarding repatriation written in an appropriate language. (modified C.166A12)

Guideline B2.5 – Repatriation

Guideline B2.5.1 – Entitlement

1. Seafarers should be entitled to repatriation:

- (a) in the case covered by paragraph 1(a) of Standard A2.5: 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 paragraph 1(b) and (c) of Standard A2.5:
 - (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 his or her legal or contractual obligations as an employer of the seafarers by reason of insolvency, sale of ship, change of ships' 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 seafarers do 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. (C.166A2/1)

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. Members 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. (C.166A2/2)

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 below;
 - (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 they 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. (C.166A4/4)

4. Time spent awaiting repatriation and repatriation travel time should not be deducted from paid leave accrued to the seafarers. (C.166A7)

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. (C.166A8, C.55A6/4)

6. Members should require that shipowners take responsibility for repatriation arrangements by appropriate and expeditious means. The normal mode of transport should be by air. (modified C.166A4/1) Members should prescribe the destinations to which seafarers may be repatriated. (modified C.166A3/1) The destinations should include the countries with which seafarers may be deemed to have a substantial connection including: (modified C.166A3/2)

- (a) the place at which the seafarers agreed to enter into the engagement;
- (b) the place stipulated by collective agreement;
- (c) the seafarers' 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. (C.166A3/2)

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. (C.166A8)

Guideline B2.5.2 – Obligations of Members for repatriation

1. Every possible practical assistance should be given to seafarers stranded in foreign ports pending their repatriation and in the event of delay in the repatriation of seafarers, the competent authority in the foreign port should ensure that the consular or local representative of the flag State is informed immediately. (R.173P21)

2. In particular, 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 to:
- (i) the port at which they were engaged; or
 - (ii) a port in their own country or the country to which they belong; or
 - (iii) another port agreed upon between the seafarer concerned 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. (R.107P2)

3. If, after young seafarers under 18 years of age 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 country either of the flag of the ship or of the nationality 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. (R.153P6(1))

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

(See Comment 25 of the Commentary)

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

Seafarers are entitled to adequate compensation in the case of injury, loss or unemployment arising from the ship’s loss or foundering. (C.8 modified)

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

1. Members 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. (modified C.8A2/1)

2. ~~{The rules referred to in paragraph 1 shall be without prejudice to any other rights a seafarers 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. (C.8A2/2)

2. Members 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. (C.8A3)

Regulation 2.7 – Manning levels

(See Comment 26 of the Commentary)

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

{Members shall require that all ships that fly their 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. {Members shall require that all ships flying their 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. (modified C.180A11/1) In particular, the crew assigned to navigation and watchkeeping duties shall be sufficient in number to allow the watch to be strengthened when navigating conditions so require.

2. When determining, approving or revising manning levels, the competent authority shall take into account the principles in applicable international instruments (especially those of the International Maritime Organization) on manning levels as well as the need to avoid or minimize excessive hours of work to ensure sufficient rest and to limit fatigue. (modified C.180A11/2) in accordance with this Convention.

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 any complaint or dispute concerning the manning levels on a ship. (modified R.109P11)}

2. Representatives of organizations of shipowners and seafarers should participate, with or without other persons or authorities, in the operation of such machinery. (R.109P12)}

[

Regulation 2.8 – [Continuity of] [Career development and regularity of] employment in the maritime sector

(See Comment 27 of the Commentary)

Purpose: To promote [career development and] the [regular] employment of seafarers

All seafarers domiciled in the territory of a Member shall benefit from national policies promoting [continuous or regular] [regularity of] employment [and career development for workers in the maritime sector.]

[

Standard A2.8 – [Continuity of] [Career development and regularity of] employment

1. Members shall have national policies that encourage [the continuous or] [regular] employment and career development opportunities for qualified seafarers in so far as this is practicable, [taking into account the human resource needs of the sector], in order to provide the maritime sector with a stable and competent workforce. (C.145A2/1)

2. Members shall make every effort for seafarers domiciled on its territory to be assured minimum periods of employment, [or either a minimum income or a monetary allowance, in a manner and to an extent depending on the economic and social situation of the country concerned]. (C.145A2/2)]

[

Guideline B2.8 – [Continuity of] [Regular] employment and career development

Guideline B2.8.1 – Measures [for regular employment and career development]

1. Measures to achieve the objectives set out in Standard A2.8 might include:

- (a) agreements providing for [continuous or] [regular] employment with a shipowner or an organization of shipowners; or
- (b) arrangements for the [regularization] of employment by means of the establishment and maintenance of registers or lists, by categories, of qualified seafarers; or (C.145A3)
- (c) promotion of opportunities both on board and ashore for further training and education of seafarers to provide for individual career development and to meet the changing needs of the maritime industry.

Guideline B2.8.2 – Register of seafarers

1. Where the [continuity of] employment of seafarers is assured solely by the establishment and maintenance of registers or lists, these should include all occupational categories of seafarers in a manner determined by national law or practice or by collective agreement. (C.145A4/1)

2. Seafarers on such a register or list should have priority of engagement for seafaring. (C.145A4/2)

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. (C.145A4/3)

4. To the extent that national laws or regulations permit, the strength of such registers or lists of seafarers should be periodically reviewed so as to achieve levels adapted to the needs of the maritime industry. (C.145A5/1)

5. When a reduction in the strength of 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. (C.145A5/2)]

Title 3. Accommodation, recreational facilities, food and catering

Regulation 3.1 – Accommodation and recreational facilities

(See Comment 28 of the Commentary)

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

1. Members shall ensure that ships that fly their flag provide and maintain decent living accommodations and recreational facilities to seafarers living on board 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 coming into force of this Convention for the Member concerned.

3. Unless expressly provided otherwise, any requirement under an amendment to the Code relating ~~{to the provision of seafarer accommodation}~~ 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 flying its flag:

- (a) meet minimum standards for safe and decent living accommodation and recreational facilities for seafarers who are required to live on board; and
- (b) be inspected to ensure initial and ongoing compliance with those standards.

2. In developing and applying the laws and regulations to implement these standards, the competent authority 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;

after consulting the relevant shipowners' and seafarers' organizations [as practicable].
(modified C.92A3)

3. The inspections required under Regulation 5.1.4 of this Convention 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 of each Member 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;

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- (c) noise and vibration and other ambient factors in the workplace;
 - (d) sanitary facilities; and
 - (e) lighting.]

5. The competent authority of each Member shall require that ships that fly its flag meet the following minimum standards for on-board accommodation and recreational facilities:

- (a) there shall be adequate headroom in all seafarer accommodation; (modified C.133) the minimum permitted headroom in all seafarer accommodation where full and free movement is necessary shall be not less than [208][198] 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) 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; (modified C.92A6/2)
- (c) the accommodation shall be adequately insulated; (C.92A6/3, 5, 6) 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; (C.92A6/4, 7, 8, 9, 11, 12) proper lighting and sufficient drainage shall be provided; (C.92A6/13)
- (d) 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; (C.133A11/2)
- (e) sleeping rooms and mess rooms shall be adequately ventilated; (modified C.92A7/1) adequate heat through an appropriate heating system shall be provided, except in ships exclusively on voyages in tropical climates; (C.92A8/1), and all ships, except those regularly engaged in trade where temperate climatic conditions do not require this, (R.140P1) shall be equipped with [fresh air] air conditioning for seafarer accommodation, {any separate radio room and any centralized machinery control room}; (R.140P1)
- (f) ships regularly trading to mosquito-infested ports shall be fitted with appropriate devices as required by the competent authority; (C.92A15/3)
- (g) sleeping rooms shall be of adequate size (C.133A11/1) and properly equipped so as to ensure reasonable comfort and to facilitate tidiness; (C.92A10/21)
- (h) 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 tons} {specialized ships or ships used for training purposes} exemptions from this requirement may be granted by the competent authority after consultation with the organizations of shipowners and seafarers concerned} (based on C.133A5);

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- (i) a separate berth for each seafarer shall in all circumstances be provided; (modified C.92A10/12) separate sleeping rooms shall likewise be provided for men and for women, where necessary;
 - (j) the minimum inside dimensions of a berth shall be at least 198 centimetres by 80 centimetres; (C.133A5/10)
 - (k) in ships other than passenger ships, 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; (C.92A10/1&2)
 - (l) in passenger ships {and specialist training vessels}, 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; (modified C.92A10/3)
 - (m) 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, where necessary; (C.92A13/1; C.133A8/1)
 - (n) there shall be sanitary facilities within easy access of the navigating bridge and the machinery space or near the engine room control centre; (C.133A9/1) {ships of less than 3,000 gross tons} may be exempted by the competent authority from this requirement {after consultation with the organizations of shipowners and seafarers concerned};
 - (o) mess rooms shall be located apart from the sleeping rooms and as close as practicable to the galley; (C.92A11/8) {ships of less than 3,000 gross tons may be exempted by the competent authority from this requirement after consultation with the organizations of shipowners and seafarers concerned};
 - (p) 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; (C.133A6/1&2, A11/9&10) [provision shall be made for separate mess room facilities where appropriate];
 - (q) 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 of the number of seafarers on board; (modified C.92A12/1)
 - (r) appropriately situated and furnished laundry facilities shall be available; (C.133A8/6)
 - (s) 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 tons may be exempted by the competent authority from this requirement after consultation with the organizations of shipowners and seafarers concerned}; and (modified C.92A15/2)
 - (t) {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.}

6. Each Member shall ensure that appropriate seafarers' recreational facilities, amenities and services {that take into account Regulation 4.3 and the associated Code provisions on health and safety protection and accident prevention as adapted to meet the special needs of seafarers that must live and work on ships} are provided[, in convenient places,] for the benefit of all seafarers, on board. (modified C.133A7/1, C.163A4)

7. In accordance with Title 5 of this Convention, 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 safe} and is maintained in a good state of repair. The results of each such inspection shall be recorded and be available for review. (modified C.92A17/2)

8. 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 organizations of shipowners and seafarers 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 the provisions of this Standard. (modified C.133A12)

9. {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. Such grounds may not include financial considerations.}

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 and/or hot-water service pipes. (C.92A6/3)

2. Sleeping rooms, mess rooms, recreation rooms and alleyways in the accommodation space should be adequately insulated to prevent condensation or overheating. (C.92A6/5)

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. (C.92A6/7)

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. (C.92A6/9)

5. The decks in all seafarer accommodation should be of approved material and construction and should provide a surface impervious to damp and easily kept clean. (C.92A6/11)

6. Where the floorings are of composition the joinings with sides should be profiled to avoid crevices. (C.92A6/12)

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. (C.92A7/2)
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 (R.140P3)
 - (b) facilitate easy cleaning and disinfection to 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 Section 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. (C.92A7/5)

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. (C.92A8/2)
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. (C.92A8/3). ~~{However, within the accommodation area, steam should not be used as a medium for heat transport.}~~ 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. (C.92A8/5)
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. (C.92A8/6)

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. (C.133A11/3)
2. In sleeping rooms an electric reading lamp should be installed at the head of each berth. (C.133A11/4)
3. Suitable standards of natural and artificial lighting should be fixed by the competent authority. (C.133A11/5)

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 his or her partner whenever the seafarer is accompanied by his or her partner.

2. [Where the size of the ship, the activity in which it is to be engaged and its layout make this reasonable and practical,] sleeping rooms should [as far as practicable] be planned and equipped including a separate bathing room and toilet so as to provide reasonable comfort for the occupants and to facilitate tidiness. (C.92A10/21)

3. As far as practicable, berthing of seafarers should be so arranged that watches are separated and that no seafarers working during the day share a room with watchkeepers. (C.92A10/28)

4. {The floor area per person of seafarers' sleeping rooms should be not less than [4.75] [7.5] square metres. In order to provide single berth sleeping rooms on {ships of less than 3,000 gross tons}, passenger ships and special purpose ships, the competent authority may allow a reduced floor area. }

5. {However, the floor area per person of sleeping rooms that will be occupied by two seafarers should be not less than [3.75] [6] square metres. The total floor area for other multiple occupancy cabins should be not less than [10.25] square metres in rooms accommodating three persons, [13] square metres in rooms accommodating four persons. }

6. Moreover, on passenger ships the floor area of sleeping rooms for seafarers not performing the duty of ships officer should be not less than:

(a) [6] [3.75] square metres in rooms accommodating one person;

(b) [10] [6] square metres in rooms accommodating two persons;

(c) [15] [9] square metres in rooms accommodating three persons;

(d) [18] [12] square metres in rooms accommodating four persons. (modified C.133A5/3)

7. The number of seafarers performing the duty of petty officers occupying sleeping rooms should not exceed one or two persons per room. (C.133A5/5)

8. {On ships other than passenger 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 should not be less than [7.5] [10] square metres. (modified C.133A5/6)}

9. {The master, the chief engineer and the chief navigating officer should have, in addition to their sleeping room, an adjoining sitting room, day room or equivalent additional space. (C.133A5/8) [Individual] ships of less than {3,000} gross tons may be exempted by the competent authority from this requirement {after consultation with the organizations of shipowners and seafarers concerned.}} Consideration should be given to extending this facility to the first engineer officer when practicable.

10. 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. (C.133A5/9)

11. 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. (C.92A10/14)

12. 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. (C.92A10/15)

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13. 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. (C.92A10/17)
14. If tubular frames are used for the construction of berths, they should be completely sealed and without perforations which would give access to vermin. (C.92A10/18)
15. Each berth should be fitted with a spring bottom or a spring mattress and with a mattress of approved material. Stuffing of material likely to harbour vermin should not be used. (C.92A10/19)
16. When one berth is placed over another, a dust-proof bottom should be fitted beneath the spring bottom of the upper berth. (C.92A10/20)
17. {The furniture should include a clothes locker of ample space (minimum [500] [400] litres) for each occupant. It should be fitted with a shelf and be able to be locked by the occupant so as to ensure privacy. (C.92A10/22)}
18. {Each sleeping room should 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. (C.92A10/23)}
19. The furniture should be of smooth, hard material not liable to warp or corrode. (C.92A10/24)
20. {The drawer or equivalent space for each occupant should be not less than 0.056 cubic metres. (C.92A10/25)}
21. Sleeping rooms should be fitted with curtains or equivalent for the sidelights. (C.92A10/26)
22. Sleeping rooms should be fitted with a mirror, small cabinets for toilet requisites, a book rack and a sufficient number of coat hooks. (C.92A10/27)

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. Full account should be taken of such factors as the size of the ship and the interests of the seafarers having different and distinctive cultural, religious and/or social practices. However, in ships where the total number of seafarers is less than ten a single mess room may be provided taking fully into account the interests of the seafarers having different and distinctive cultural, religious and/or social practices.]
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 [2] [1] square metres per person of the planned seating capacity. (modified C.133A6/1)

4. 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. (C.133A6/2)

5. There should be available at all times when seafarers are on board:

- (a) a refrigerator, which should be conveniently situated, 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. (C.133A6/3)

6. Where available pantries are not accessible to mess rooms, adequate lockers for mess utensils and proper facilities for washing utensils should be provided. (C.92A11/9)

7. The tops of tables and seats should be of damp-resistant material. (modified C.92A11/10)

Guideline B3.1.7 – Sanitary accommodation

1. {In all ships a minimum of one water closet and one tub and/or shower for every [six] [four] persons or less who do not have personal facilities should be provided at a convenient location. (modified C.133A8/1)}

2. {With the exception of passenger ships, each sleeping room should be provided with a washbasin having hot and cold running fresh water, except where such washbasin is situated in the private bathroom provided.}

3. {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 a reduction in the number of facilities required. (C.92A13/5)}

4. {Cold fresh water and hot fresh water should be available in all wash places.}

5. 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. (C.92A13/7)

6. {All sanitary spaces should have ventilation to the open air, independently of any other part of the accommodation. (C.92A13/8)}

7. All water closets should be of an approved pattern and provided with an ample flush of water, available at all times and independently controllable. (C.92A13/9)

8. Sanitary accommodation intended for the use of more than one person should comply with the following requirements:

- (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 9 inches (23 centimetres) above the level of the deck;
- (c) the accommodation should be sufficiently lit, heated and ventilated;
- (d) water closets 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 water closets to which there is no other access: this requirement does not apply where a water closet is located in a compartment between two sleeping rooms having a total of not more than [two] [four] persons;

- (e) where there is more than one water closet in a compartment, they should be sufficiently screened to ensure privacy. (C.92A13/11)

9. 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. (C.133A8/7)

Guideline B3.1.8 – 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 and/or shower and washbasins having hot and cold running fresh water. (C.133A9/2)

Guideline B3.1.9 – 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 (R.78P2)
- (c) towels, soap and toilet paper for all seafarers should be provided by the shipowner. (R.78P3)

Guideline B3.1.10 – Recreational facilities

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. (C.163A5)

2. Furnishings for recreational facilities should as a minimum include a bookcase and facilities for reading, writing and, where practicable, for games. (C.133A7/2)

3. In connection with the planning of recreation facilities, the competent authority should give consideration to the provision of a canteen. (C.133A7/4)

4. Consideration should also be given to including the following facilities, where practicable:

- (a) {a smoking room;}

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- (b) television viewing and the reception of radio broadcasts;
 - (c) {projection of films or video 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, 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, TV, video recorders, DVD/CD player, personal computer and software, 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 (R.173P23)
 - (j) {reasonable} access to ship-to-shore telephone communications, and email and Internet facilities, where available, with 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. (R.173P25)}

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 spouses, 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. (R.173P26)}

Regulation 3.2 – Food and catering

(See Comment 29 of the Commentary)

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

1. Members shall ensure that ships that fly their flag have a supply of sufficient food of good quality, drinking water and catering arrangements that secure the health and well-being of seafarers living on board and take account of differing cultural, religious and gastronomic backgrounds.

2. Seafarers living on board a ship shall be provided with food free of charge during the period of engagement.

3. [Seafarers with responsibility for food preparation must be trained or qualified for their position on board ship.] (modified C.69A3)

Standard A3.2 – Food and catering

1. Members 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.

2. Members shall ensure that ships 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, nutritive 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.68A5/2)
- (c) catering staff shall be properly trained or instructed for their positions.

3. [A seafarer who is engaged as a ships' cook must be qualified and found competent for the position in accordance with requirements set out in the laws and regulations of the Member concerned.] (modified C.69A3/4)

4. In accordance with the ongoing compliance procedures under Title 5 of this Convention, 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.

Guideline B3.2 – Food and catering

Guideline B3.2.1 – Inspections, 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. (C.68A12/1)

2. 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 organizations of shipowners and seafarers concerned, where such exist. Appropriate forms of publicity, such as manuals, brochures, posters, charts or advertisements in trade journals, should be used for this purpose. (C.68A12/2)

3. 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.

4. The competent authority should work with relevant organizations and agencies to develop educational materials and on-board information, concerning methods of ensuring proper food supply and catering services. (C.68A2)

5. The competent authority should work in close cooperation with the organizations of shipowners and seafarers concerned and with national or local authorities concerned with questions of food and health, and may where necessary utilize the services of such authorities. (C.68A3/1)

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Guideline B3.2.2 – Ships' cook

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

- (a) reached a minimum age of 18;
- (b) served at sea for a minimum period to be prescribed by the competent authority; and
- (c) passed an examination prescribed by the competent authority or passed an equivalent examination at an approved cooks' training course. (C.69A4/2)

2. The prescribed examination or examination given at an approved cooks' training course should provide a practical test of the candidates' ability to prepare meals; it should also include a test of their knowledge of food hygiene and of food values, the drawing up of varied and properly balanced menus, and the handling and storage of food on board a ship. (C.69A4/3)

3. The prescribed examination might 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. (C.69A4/4)

4. The competent authority should provide for the recognition, where appropriate, of certificates of qualification as a ship's cook issued by other Members, which have ratified this Convention or the Certification of Ships' Cooks Convention or other approved body. (C.69A6)

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

Regulation 4.1 – Medical care on board ship and ashore

(See Comment 30 of the Commentary)

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 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. (modified C.164 A4/b)

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

1. Members shall ensure that measures providing for health protection and medical care (including essential dental care) for seafarers working on board a ship that flies their 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 peculiar to work on board ship; (modified C.164A4/a)
 - (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; (modified C.164A4/b)
 - (c) give seafarers the right to visit a qualified medical doctor or dentist without delay in ports of call, where practicable; (modified C.164A4/c)
 - (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 (modified C.164A4/d)
 - (e) are not limited to treatment of sick or injured seafarers but include measures of a preventive character including health promotion and health education programmes. (modified C.164A4/e)
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 and its contents shall be kept confidential and shall be used for no other purpose than to facilitate the treatment of seafarers. (modified C.164A12).

3. Members shall adopt laws and regulations establishing requirements for on-board hospital and medical care facilities and equipment and training on ships that fly their flags.

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

- (a) 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. (modified C.164A11/9) The competent authority may relax this requirement in respect of ships engaged in coastal trade. (C.164A11/1) 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;
- (b) 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; (modified C.164A5/1/2/3/4)
- (c) ships {carrying {100} or more seafarers 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. (C.164A8/1) 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.164A8/2)
- (d) 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 least one seafarer on board competent to provide medical first aid. (modified C.164A9/1) 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 Seafarers' Training, Certification and Watchkeeping Code (STCW Code). Seafarers designated to provide medical first aid shall have satisfactorily completed training in medical first aid that meets the requirements of the STCW Code. 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;
- (e) 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 at any hour of the day or night. (C.164A7/1) 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. (C.164A7/2)

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

Guideline B4.1.1 – Hospital accommodation and provision of medical care

- 1. {The hospital accommodation should be designed so as to facilitate consultation and the giving of medical first aid and preventing the spread of infectious diseases.} (modified C.164A11/5)

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. (C.164A11/6)

3. The number of hospital berths required should be prescribed by the competent authority. (C.164A11/7)

4. Water closet 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. (C.164A11/8)

5. When making a determination as to 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 medical first aid training required by the STCW Code 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;
- (b) all other ships, should have at least one designated seafarer with training in medical care required by the STCW Code), including practical training in the emergency/casualty department of a hospital where practicable 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. (modified C.164A9/2)}

6. The courses should be based on the contents of the most recent edition 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* published by the International Maritime Organization, and the medical section of the *International Code of Signals* as well as similar national guides. (C.164A9/3)

7. Persons referred to in paragraph 5 above and such other seafarers as may be required by the competent authority should undergo refresher courses to enable them to maintain and increase their knowledge and skills and to keep abreast of new developments at approximately five-year intervals. (C.164A9)

8. 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. (modified C.164A5/4,5) In adopting or reviewing the ship's medical guide used nationally, the competent authority should take into account international recommendations in this field, including the most recent edition of the Guides referred to in paragraph 6. (modified C.164A6/3)

9. 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* published by the International Maritime Organization, 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. (C.164A5/6) {This information should be integrated with the ship's occupational safety and health management system described in Regulation 4.3 and related Code provisions. }

10. All ships should carry a complete and up-to-date list of radio stations through which medical advice can be obtained; (C.164A7/3a) 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. (C.164A7/3b) 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* published by the International Maritime Organization so as to enable them to understand the type of information needed by the advising doctor as well as the advice received. (modified C.164A7/4)

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. (modified C.164A12/3)

Guideline B4.1.3 – Medical care ashore

1. Shore-based medical facilities for treating seafarers should be adequate for the purposes and the doctors, dentists and other medical personnel 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;
- (c) facilities for dental treatment, especially in cases of emergency. (R.173P17)

3. The treatment of seafarers suffering from disease should be facilitated by suitable measures including the prompt admission of seafarers to clinics and hospitals in ports, without difficulty and irrespective of nationality or religious belief, and the provision, whenever possible, of arrangements designed to ensure, when necessary, continuation of treatment with a view to supplementing the medical facilities available to seafarers. (R.48P8)

*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 the following matters:

- (a) developing and coordinating search and rescue efforts and arranging prompt medical help and evacuation at sea for the seriously ill or injured on board a ship through such means as periodic ship position reporting systems, rescue coordination centres and emergency helicopter services, in conformity with the provisions of the International Convention on Maritime Search and Rescue, 1979, as amended and the *International Aeronautical and Maritime Search and Rescue (IAMSAR) Manual* developed by the International Maritime Organization and the International Civil Aviation Organization;

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- (b) making optimum use of fishing 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 in port 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;
 - (ii) train medical and health service staff in maritime medicine;
 - (h) collecting and evaluating statistics concerning occupational accidents, diseases and fatalities to seafarers and integrating and harmonizing them with any existing national system of statistics on occupational accidents, diseases and fatalities 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, in accordance with the wishes of the next of kin, of deceased seafarers as soon as practicable. (C.164A13/2)

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. (C.164A13/3)

Guideline B4.1.5 – Dependants of seafarers

1. Members should adopt measures to secure proper and sufficient medical care for the dependants of seafarers domiciled in their 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

(See Comment 31 of the Commentary)

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

1. Members shall ensure that measures, in accordance with the Code, are in place on ships that fly their 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 or injury or death occurring while they are serving under a seafarers’ employment agreement [or arising from their employment under such agreement].

2. {This Regulation is without prejudice to the legal provisions providing for liability under private law in other cases.}

Standard A4.2 – Shipowner’s 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: (modified C 55A2)

- (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] [and the termination of the engagement] [or arising from their employment between those dates] (modified C55A2/1(a));
- (b) [shipowners shall obtain insurance coverage to provide compensation [set by national law or the seafarers’ employment agreement or collective agreement] in the event of the death or the long-term disability of seafarers [due to an occupational injury, illness or hazard] occurring between the date of commencing duty and the [date they are deemed duly repatriated upon and] termination of the engagement;]
- (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;
- (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. (C.55A4/2)

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 (C.55A5/1) or are left behind in the territory of a State other than the Member; (C.165A14)
- (b) to pay wages in whole or in part as prescribed by national laws or regulations 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. (modified C.55A5/1, C.165A15)

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 [12] [16] weeks from the day of the injury or the commencement of the sickness. (C.55A5/2, C.165A14&15) [A Member may, if this is also required for workers ashore, condition the payment of wages and other cash benefits to a period of employment prior to 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 act, default or misbehaviour of the sick, injured or deceased seafarer;
- (c) sickness or infirmity intentionally concealed when the engagement is entered into. (C.55A2)

6. In so far as such liability is assumed by the public authorities, national laws or regulations may exempt the shipowner from liability to defray the expense of medical care and board and lodging and burial expenses. (C.55A4 and 10)

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. (C.55A8, amended)

Guideline B4.2 – Shipowners’ liability

1. The payment of full wages required by paragraph 3(a) of Standard A4.2 may be exclusive of bonuses. (C.165A14 and 15)

2. National laws or regulations may also 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. (C.55A4/3, A5/3)

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. (C.55A7/2)

Regulation 4.3 – Health and safety protection and accident prevention

(See Comment 32 of the Commentary)

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. (based on C.164A3)

2. {The competent authority in each Member shall, in consultation with representative organizations of shipowners and seafarers concerned and taking into

account applicable international standards, codes of practice and other relevant guidelines, develop and promulgate national guidelines for occupational safety and health management systems to be developed and implemented on board ships that fly its flag. (based on *ILO Guidelines on Occupational Safety and Health Management Systems, ILO-OSH, 2001*)

3. Each Member shall adopt national laws and regulations and other measures addressing the matters specified in the Code, taking into account relevant international instruments, and setting 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 or other measures to be adopted in accordance with paragraph 3 of Regulation 4.3 shall include the following subjects:

- (a) the adoption and effective implementation and promotion of occupational safety and health management systems on ships that fly the Member's flag, including risk evaluation as well as training and instruction of seafarers;
- (b) the prevention of occupational accidents and injury 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 ensuring continuous improvement in occupational safety and health protection, involving seafarers' representatives and all other persons concerned in their implementation; and
- (d) requirements for inspecting, reporting and correcting unsafe conditions and for investigating and reporting on-board occupational accidents.

2. The above provisions shall:

- (a) take into account relevant international instruments dealing with occupational safety and health protection in general and with specific risks and shall address all matters relevant to the prevention of occupational accidents and injuries and diseases that may be applicable to the work of seafarers and particularly those which are peculiar to maritime employment;. (modified C.134A4/2)
- (b) clearly specify the obligation of shipowners, seafarers and others concerned to comply with the relevant standards and with the ship's occupational safety and health management system. (modified C.134A5/1) with special attention being paid to the health and safety of seafarers under 18 years of age; and
- (c) require that masters appoint from amongst the seafarers working on the ship, persons responsible to act as the shipboard safety and health officer, and as safety and health representatives to serve on the ship's safety and health committee responsible for ensuring effective on-board implementation of the ship's occupational safety and health management system and for monitoring the continuing implementation of the system and standards to prevent occupational accidents or injury and diseases. (modified C.134 A7; ILO Code: Accident prevention on board ship at sea and in port; 1996; *ILO Guidelines on Occupational Safety and Health Management Systems, ILO-OSH, 2001*)

3. The standards referred to in paragraph 3 of Regulation 4.3 shall be regularly reviewed and revised, in consultation with the representatives of the organizations of shipowners and seafarers concerned, to take into account changes in technology and research in order to ensure continuous improvement in occupational safety and health systems 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 management system shall be considered as meeting the requirements of this Convention.

5. The competent authority shall ensure that occupational accidents and occupational 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 and that comprehensive statistics of such accidents are kept, analysed and published and, where appropriate, followed up by research into general trends and into the hazards brought to light. (modified C.134A2&3; Recommendation Concerning the List of Occupational Diseases and the Recording and Notification of Occupational Accidents and Diseases, 2002 (ILO, R.194)) All serious occupational accidents shall be investigated. (C.134A2)

6. Reporting and investigation of occupational safety and health matters shall be designed to ensure the protection of seafarers' personal data, and shall take into account the guidance provided by the International Labour Organization on this matter (based on the ILO code of practice on protection of workers' personal data, 1997).

7. Members shall require that shipowners, in cooperation with seafarers' organizations concerned, take measures to bring to the attention of all seafarers working on board their ships information concerning particular on-board hazards, for instance, by posting official notices containing relevant instructions and 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. (modified C.134A9/2)

8. The competent authority shall require that shipowners use statistical materials from their ships and general statistics provided by the State whose flag they fly in an effort to ensure that risk evaluation and management is used to prevent accidents and occupational injury and illness.}

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 on the prevention of accidents 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.

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

(a) general and basic provisions;

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- (b) structural features of the ship;
 - (c) machinery;
 - (d) the effects of noise in the workplace and in shipboard accommodation}
 - (e) {the effects of vibration in the workplace and in shipboard accommodation}
 - (f) {the effects of ambient factors other than (d) and (e) in the workplace and in shipboard accommodation}
 - (g) special safety measures on and below deck;
 - (h) loading and unloading equipment;
 - (i) fire prevention and fire-fighting;
 - (j) anchors, chains and lines;
 - (k) dangerous cargo and ballast;
 - (l) personal protective equipment for seafarers; and (modified C.134A4/3)
 - (m) work in enclosed spaces;
 - (n) {fatigue};
 - (o) {the effects of drug and alcohol dependency};
 - (p) {HIV/AIDS protection and prevention}; and
 - (q) {emergency and accident response}.
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Guideline B4.3.2 – Exposure to noise

1. The competent authority in each Member, in conjunction with the competent international bodies and with representatives of organizations of shipowners and seafarers 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 (based on R.141; Ambient factors in the workplace: An ILO code of practice, 2001; IMO Resolution A.468(XII) Code on Noise Levels on Board Ships, 1981).

2. Such review should take into account the adverse effects of exposure to excessive noise on the hearing, health and comfort of seafarers that live and work on board ships and the measures to be prescribed or recommended to reduce shipboard noise to protect seafarers. (modified R.141P1)

3. Measures to reduce exposure to noise 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 {ear plugs and/or ear muffs} {personal protective equipment} to seafarers where necessary;
- (c) assessment of risk and reduction of exposure levels to noise in sleeping rooms, mess rooms, recreation facilities, catering facilities and other seafarer accommodation by:
 - (i) the locating of such spaces as far as practicable from the engines, steering gear rooms, deck winches, ventilation, heating and air-conditioning equipment and other noisy machinery and apparatus; and
 - (ii) the use of acoustic insulation or other appropriate sound-absorbing materials in the construction and finishing of bulkheads, overheads and decks within the sound-producing spaces, and self-closing noise-isolating doors for machinery spaces; and
- (d) reduction and control of noise levels in engine rooms and other machinery spaces by:
 - (i) provision, wherever practicable, of soundproof centralized machinery control rooms for engine-room personnel;
 - (ii) insulation, as far as practicable, of working spaces such as the machine shop from the general engine-room noise; and
 - (iii) measures to reduce noise in the operation of machinery. (R.141P3)

4. The limits for noise levels for working and living spaces should be in conformity with the international guidelines of the International Labour Organization on exposure levels to ambient factors in the workplace and, where applicable, the specific protection recommended by the International Maritime Organization, [as set out below], and with any subsequent amending and supplementary instruments for acceptable noise levels on board ships. A copy of the applicable instrument [in English or the working language of the ship] should be carried on board and should be accessible to seafarers.}

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	<u>dB(a)</u>
(a) <u>Machinery spaces</u>	
<u>Machinery space permanently manned</u>	<u>90</u>
<u>Machinery space not permanently manned</u>	<u>110</u>
<u>Control rooms in machinery spaces</u>	<u>75</u>
<u>Workshops</u>	<u>85</u>
<u>Unmentioned working areas</u>	<u>90</u>
<u>[Ear protection should be used at all times when noise levels exceed 85 dB(a)]</u>	
(b) <u>Navigation spaces</u>	
<u>Wheelhouse and chart rooms</u>	<u>65</u>
<u>Listening posts, including bridge wings and windows</u>	<u>70</u>
<u>Radio stations</u>	<u>60</u>
<u>Radar rooms</u>	<u>65</u>
(c) <u>Accommodation</u>	

	dB(a)
<u>Cabins and hospitals</u>	<u>60</u>
<u>Mess rooms</u>	<u>65</u>
<u>Recreation rooms</u>	<u>65</u>
<u>Spaces for deck recreation</u>	<u>75</u>
<u>Offices</u>	<u>65</u>
(d) <u>Galley and pantries</u>	
<u>Galley without operation of cooking apparatus</u>	<u>75</u>
<u>Spaces of issue and pantries</u>	<u>75</u>
(e) <u>Other spaces not regularly manned</u>	<u>90</u>
<u>[Ear protection should be used at all times when noise levels exceed 85 dB(a)]</u>	

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Guideline B4.3.3 – Exposure to Vibration

1. The competent authority in each Member, in conjunction with the competent international bodies and with representatives of organizations of shipowners and seafarers concerned, 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.
2. Such review 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.
3. Measures to reduce vibration 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;
 - (c) assessment of risks and reduction of exposure in sleeping rooms, mess rooms, recreational accommodation and catering facilities and other seafarer accommodation by adopting measures in accordance with the guidance provided by the ILO code of practice on ambient factors in the workplace and subsequent revisions, taking into the difference between exposure in the workplace and living space.

Guideline B4.3.4 – Obligations of shipowners

1. Generally, any obligation on the shipowner to provide protective equipment or other accident prevention safeguards should be accompanied by provision for the use of such equipment and safeguards by seafarers and a requirement that they comply with the relevant accident prevention and health protection measures. (modified C.134A5/2)
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. (R.142P5)

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 of such accidents can be kept, analysed and published, taking into account protection of the personal data of the seafarers concerned. Reports should not be limited to fatalities or to accidents involving the ship. (modified C.134A2/2)

2. The statistics should record the numbers, nature, causes and effects of occupational accidents, with a clear indication of the department on board a ship, the type of accident and whether at sea or in port. (C.134A2/3)

3. Members 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. (R.142P2)

Guideline B4.3.6 – Investigation

1. The competent authority should undertake an investigation into the causes and circumstances of all occupational accidents and injuries or diseases resulting in loss of life or serious personal injury, and such other accidents as may be specified in national laws or regulations. (modified C.134A2/4)

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

- (a) working environment, such as working surfaces, layout of machinery and means of access and lighting, and methods of work;
- (b) incidence of accidents in different age groups;
- (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; and
- (f) problems arising from any human failures. (modified R.142P3)

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 which are due to particular hazards of maritime employment, research should be undertaken into general trends and into such hazards as are brought out by statistics. (modified C.134A3)

2. The implementation of programmes for the promotion of occupational safety and health protection and prevention of occupational accidents should be so organized that the

competent authority, shipowners and seafarers or their representatives and other appropriate bodies may play an active part. (modified C.134A8/2)

3. 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 organizations of shipowners and seafarers concerned are represented, should be established. (modified C.134A8/3)

4. 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 paragraph 3 of B4.3.7 above:

- (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 occupational safety and health protection and accident prevention publicity, including films, posters, notices and brochures; and
- (d) the distribution of occupational safety and health protection and accident prevention literature and information so that it reaches seafarers on board a ship.

2. Relevant provisions or recommendations adopted by the appropriate national authorities or organizations or responsible international maritime organizations should be taken into account by those preparing texts of occupational safety and health protection and accident prevention measures or recommended practices. (modified R.142P6)

3. In formulating occupational safety and health protection and accident prevention programmes Members 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 Office. (R.142P4)

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 paragraph 1(a) of Standard A4.3 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 a ship. (R.142P7)

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

- (a) instructional films, film strips and shorts, for use in vocational training centres for seafarers and where possible in film programmes screened on board a ship;
- (b) display of occupational safety and health protection and accident prevention posters on board a ship;

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- (c) inclusion of articles on hazards of maritime employment and of occupational safety and health protection and accident prevention measures in periodicals read by seafarers; and
 - (d) special campaigns, during which various media of publicity are used to instruct seafarers in occupational safety and health protection and accident prevention and safe working practices.

3. The publicity should take into account that there are often seafarers of different nationalities, languages and habits on board a ship. (R.142P8)

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; they should specify measures which will minimize occupational dangers to young seafarers in the course of their duties. (R.153P8)

2. Except where a young seafarer is recognized as fully qualified in a pertinent skill by a 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 ground tackle;
- (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. (R.153P9)

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 in work on board a ship, for instance by means of adequate instruction in courses, by official accident prevention

publicity intended for young persons and by ensuring the professional instruction and supervision of young seafarers in their work in ships. (modified R.153P10)

4. Education and training of young seafarers both ashore and on board a ship 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. (modified R.153P11)

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, Members should have due regard to relevant codes of practice published by the International Labour Office and the appropriate standards of international organizations for standardization.

3. Members should further 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 country whose flag the ship flies;
- (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;
- (f) joint facilities for or mutual assistance in the training of seafarers in occupational safety and health protection, accident prevention and safe working practices. (modified R.142P9)

Regulation 4.4 – Access to shore-based welfare facilities

(See Comment 33 of the Commentary)

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

1. Members shall ensure that shore-based welfare facilities, where they exist, are easily accessible. 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 their ports with access to adequate welfare facilities and services. (based on C.163A2/1)

2. The responsibilities of Members 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. Members shall require, where welfare facilities exist on their 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 State of the flag flown by the ship on which they are employed. (modified C.163A3/1)

2. Members shall promote the development of welfare facilities in appropriate ports of the country and determine, after consultation with the organizations of shipowners and seafarers concerned, which ports are to be regarded as appropriate. (modified C.163A3/2)

3. Members 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. (C.163A5)

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

Guideline B4.4.1 – Responsibilities of Members

1. Measures should be taken by Members 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 calling.

2. In the implementation of these measures, Members should take into account the special needs of seafarers, especially when in foreign countries and when entering war zones, in respect of their safety, health and spare-time activities. (R.173P3)

3. Arrangements for the supervision of welfare facilities and services should include participation by representative organizations of seafarers and shipowners concerned, where such exist. (R.173P4)

4. Members 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. (R.138P14)

5. 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 between the competent authorities aimed at the provision and improvement of seafarers' welfare facilities and services, both in port and on board a ship;
- (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 encouraging the participation of seafarers in sports activities;
- (d) organization of international seminars on the subject of welfare of seafarers at sea and in port. (R.173P6)

Guideline B4.4.2 – Welfare facilities and services in ports

1. Members 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) the public authorities;
- (b) the organizations of shipowners and seafarers concerned, where such exist, under collective agreements or other agreed arrangements;
- (c) voluntary organizations. (R.173P8/1)

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. (R.173P12)

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. (R.173P13)

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. (R.138P9, R.173P11)

7. These accommodation facilities should be open to seafarers of all nationalities, irrespective of colour, race or creed. 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. (R.138P10)

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. (R.173P8/2)

Guideline B4.4.3 – Welfare boards

1. Welfare boards should be established, at the port, regional and national levels, as appropriate, whose functions should include:

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- (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 organizations of shipowners and seafarers, 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 be associated with the work of port, regional and national welfare boards in accordance with national laws and regulations. (R.173P9)

Guideline B4.4.4 – Financing of welfare facilities

1. [Standard A4.4 should not be understood as in any way obligating Members to provide financial support for port welfare facilities.]

2. In accordance with national conditions and practice, financial support 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;
- (d) voluntary contributions from other sources.

3. Where welfare taxes, levies and special dues are imposed, they should be used only for the purposes for which they are raised. (R.173P10)

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. (R.173P15)

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. (R.173P18)

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. (R.173P19)

Guideline B4.4.6 – Seafarers in a foreign port

1. For the protection of seafarers in ports in which they are not nationals, measures should be taken to facilitate:

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- (a) access to their consuls; 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 he or she 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 Member should allow consular officers of these States immediate access to the seafarer and regular visits thereafter so long as the seafarer is detained.

4. Every possible practical assistance should be given to seafarers stranded in foreign ports pending their repatriation.

5. In the event of delay in the repatriation of seafarers, the competent authority should ensure that the consular or local representative of the flag State is informed immediately. (R.173P21)

6. Members 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. (R.173P22)

7. 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. (R.173P27)

Regulation 4.5 – Social security

(See Comment 34 and the addendum to the Commentary)

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

1. Members shall ensure that all seafarers and, to the extent provided for in their 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 of the International Labour Organization.

2. Members undertake to take steps, according to their national circumstances, individually and through international cooperation, to achieve progressively comprehensive social security protection for seafarers.

3. Members shall ensure that seafarers, who are subject to their social security legislation, and, to the extent provided for in their national law, their dependants are entitled to benefit from social security protection not 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 benefits, family benefits, maternity benefits, invalidity benefit and survivors' benefit, complementing the

protection provided for under Regulations 4.1, on medical care, and 4.2, on shipowners' 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 paragraph 1 of Regulation 4.5 shall include at least three of the nine branches listed in paragraph 1 above.

3. Members shall take steps according to their national circumstances to provide the complementary social security protection referred to in paragraph 1 above to all seafarers ordinarily resident in their territory. This responsibility could be satisfied through appropriate bilateral or multilateral agreements or contribution-based systems, for example. The resulting protection shall not be less favourable than that enjoyed by shoreworkers resident in their territory.

4. The responsibilities of Members with respect to seafarers on ships that fly their 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 their general obligations under international law.

5. Members 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.

6. The protection under paragraph 1 of Regulation 4.5 may, as appropriate, be contained in laws or regulations, in private schemes or in collective bargaining agreements or in a combination of these.

7. To the extent consistent with their national law and practice, Members shall endeavour to ensure the maintenance of social security rights that have been acquired, or are in the course of acquisition, by all seafarers regardless of residence and shall cooperate, as appropriate, with other Members in schemes for the maintenance of such rights.

8. Members shall establish fair and effective procedures for the settlement of disputes.

9. Each Member shall at the time of ratification specify the branches for which protection is provided in accordance with paragraph 2 above. 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 above. The International Labour Office shall maintain a register of this information and shall make it available to all interested parties.

10. The reports to the International Labour Office pursuant to article 22 of the Constitution of the International Labour Organization, shall also include information regarding steps taken in accordance with paragraph 2 of Regulation 4.5 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 paragraph 2 of Standard A4.5 should at least include the branches of medical care, sickness benefit and employment injury benefit.

2. In the circumstances referred to in paragraph 5 of Standard A4.5, 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 of the legislations 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 paragraph 8 of Standard A4.5 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. In principle all seafarers serving on a ship that flies the flag of a Member, should be able to benefit from the same branches of social security protection as seafarers resident and insured in the territory of that Member. Each Member should seek to take steps to implement this principle according to its national circumstances and as far as practicable.

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 vessel flies, should in exercising its effective jurisdiction over social matters satisfy itself that the shipowners' responsibilities concerning social protection are met, including making the required contributions to social security schemes.]

Title 5. Compliance and enforcement

(See Comment 35 of the Commentary)

1. The Regulations in this Title delineate each Member's responsibility to fully implement and enforce the principles and rights set out in the Articles as well as the particular obligations provided for under Titles 1, 2, 3 and 4.

2. Paragraphs 3 and 4 of Article VI, permitting 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. [The provisions of Part A of the Code in this Title may be amended only in accordance with the procedure set out in Article XIV. Part B and the appendices to Part A may also be amended in accordance with Article XV.]

4. In accordance with paragraph 2 of Article VI of this Convention, 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.

Regulation 5.1 – Flag state responsibilities

(See Comment 36 of the Commentary)

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 this Convention on ships that fly its flag.}

2. Members 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 Members may, where appropriate, authorize public institutions or other organizations {(including those of another Member that has ratified this Convention, if the latter agrees)} that it recognizes as competent and independent to carry out inspections and/or issue certificates. In all cases, Members shall remain fully responsible for the inspection and certification of the working and living conditions of the seafarers concerned on ships that fly their flag.}

4. A maritime labour certificate, complemented by a declaration of 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, 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 of the International Labour Organization.

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 the present Convention available on board.

Guideline B5.1.1 – General principles

1. The competent authority of each Member should make appropriate arrangements to promote effective cooperation between public institutions and other organizations concerned with seafarers' shipboard working and living conditions. (modified R.185P1)

2. To better ensure cooperation between inspectors, shipowners, seafarers and their respective organizations, and in order 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 of the Member after consulting with shipowners' and seafarers' organizations. (R.185P2)

Regulation 5.1.2 – Authorization of recognized organizations

(See Comment 36, point 5, of the Commentary)

1. {The public institutions or other organizations referred to in paragraph 3 of Regulation 5.1.1 (designated below as “recognized organizations”) must have been recognized by the competent authority of the Member 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. A list of any recognized organizations, including in each case an indication of the functions that they have been authorized to carry out, shall be made available.

3. The reports referred to in paragraph 5 of Regulation 5.1.1 shall contain information regarding the organization or organizations concerned, 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 purposes of recognition in accordance with paragraph 1 of Regulation 5.1.2, the competent authority shall review the competency of the organization concerned and determine that the organization has demonstrated that:

(a) it 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, recreation facilities, food and catering, and health protection, medical care, welfare [and social security protection];

(b) it has the ability to maintain and improve the expertise of its personnel;

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- (c) it has the necessary knowledge of the requirements of the Convention as well as of applicable national legislation and relevant international instruments; and
 - (d) it 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 at minimum empower the organization to require the rectification of deficiencies that it identifies in seafarers' working and living conditions and to carry out inspections at the request of a port State.] (modified SOLAS Chap. I. Reg. 6)

3. The Member shall establish a system to ensure the adequacy of work performed by recognized organizations, as well as procedures for communication with and oversight of such organizations, to include information on all applicable national legislation and international instruments.

Guideline B5.1.2 – Authorization of recognized organizations

1. {The Member should require the competent authority to conclude a written agreement with any organization that it recognizes for purposes of an authorization. The agreement should include the following elements:

- (a) application;
- (b) purpose;
- (c) general conditions;
- (d) the performance 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.

2. The organization seeking recognition should demonstrate the technical, administrative and managerial competence and capacity to ensure the provision of timely, quality service.

3. 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 quality service in a timely fashion; and
- (d) is independent and accountable in its operations.

4. The Member should develop a system for qualification of staff employed by the organization as inspectors to ensure the timely updating of their knowledge and expertise.

5. The Member should maintain records of the services performed by recognized organizations 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 paragraph 3 of Standard A5.1.2, the 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 labour compliance*

(See Comment 36, point 7, of the Commentary)

1. Members shall require ships that fly their 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 labour compliance referred to in paragraph 2, have been inspected and meet the requirements of national laws or regulations or other measures implementing the Convention.

2. Members shall require ships that fly their flag also to carry and maintain a declaration of 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.

3. The maritime labour certificate and the declaration of labour compliance shall conform to the model prescribed by the Code.

4. {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 [and register] a maritime labour certificate to that effect. (modified SOLAS; MARPOL.)}

5. Detailed requirements for the maritime labour certificate and the declaration of labour compliance, including a list of the matters that must be inspected and approved, are set out in the Code.

*Standard A5.1.3 – Maritime labour certificate
and declaration of 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 law 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 maritime labour certificate is five years, it shall take place between the second and third anniversary dates 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 maritime labour certificate shall be endorsed following satisfactory intermediate inspection.

3. Notwithstanding paragraph 1 above, when the renewal inspection has been completed within three months before the expiry of the existing 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 maritime labour certificate.

4. When the renewal inspection is completed more than three months before the expiry date of the existing 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 completion of the renewal inspection.

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 takes on responsibility for the operation of a ship which is new to the shipowner].

6. Such an interim maritime labour certificate may be issued for a period not exceeding [three] [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 for compliance with the accommodation requirements of Title 3 of this Convention;
- (b) the shipowner has demonstrated to the competent authority or recognized organization that the ship is covered by adequate procedures to comply with the Convention; and
- (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 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 [three] [six] months referred to in paragraph 6 above. A declaration of 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 labour compliance shall be drawn up in the form corresponding to the models given in Appendix A5-II.

10. The declaration of labour compliance shall be attached to the maritime labour certificate. It shall have three parts:

- (a) Part I shall be drawn up by the competent authority; it shall consist of a summary sheet covering the matters that must be inspected in accordance with paragraph 1 above and shall record any substantially equivalent provisions adopted pursuant to paragraph 3 of Article VI of this Convention.
- (b) Part II shall also be drawn up by the competent authority. It shall set out the relevant national requirements for the working and living conditions of seafarers on those ships, including any special requirements for ships of a certain category.
- (c) Part III shall be drawn up by the shipowner and approved by the competent authority [or a recognized organization duly authorized for this purpose]. It shall describe:
 - (i) the measures that the shipowner has adopted to comply with the national requirements, set out in Part II of the declaration, on the ship concerned as well as
 - (ii) the measures to be taken by the shipowner to ensure that there is ongoing compliance, including verification of compliance and, where appropriate, the maintenance of records, on the ship and the intervals between inspections.

11. When Part III of the declaration of labour compliance is first drawn up by the shipowner for a particular ship, it shall be signed and submitted to the competent authority {or recognized organization} for review and to make a determination that:

- (a) the measures stated in the declaration that have been adopted to comply with the national requirements are adequate and, after inspection of the working and living conditions on board the ship, are found to have been properly implemented;
- (b) the measures proposed for ongoing compliance with national requirements are adequate; and
- (c) the measures proposed ensure that there is continuous improvement.

12. 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 shall, in accordance with national laws or regulations, be inscribed upon or appended to the declaration of labour compliance or made available in some other way to seafarers, flag State inspectors, authorized officers in port States and shipowners' and seafarers' representatives.

13. A current valid maritime labour certificate and declaration of labour compliance, accompanied by an English-language translation where it is not in English, shall be carried on the ship and posted up at 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.

14. The requirement for an English-language translation does not apply in the case of ships engaged only in domestic voyages.

15. A certificate issued under paragraph 1 or 5 shall cease to be valid in any of the following cases:

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- (a) if the relevant inspections are not completed within the periods specified under paragraph 2;
 - (b) if the certificate is not endorsed in accordance with this Title;
 - (c) upon transfer of the ship to the flag of another State; and
 - (d) [when a shipowner takes on responsibility for the operation of a ship which is new to the shipowner].

16. In the case referred to in paragraph 15(c) [or (d)], 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 Title. Where both States referred to in paragraph 15(c) have ratified this Convention, the Member whose flag the ship was formerly entitled to fly shall, as soon as possible, transmit to the competent authority [or recognized organization] of the other Member copies of the certificates and declaration carried by the ship before the transfer and, if applicable, copies of the relevant inspection reports if the competent authority [or recognized organization] so requests within three months after the transfer has taken place.

17. A maritime labour certificate shall be withdrawn by the competent authority or recognized organization duly authorized for this purpose 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 by the ship.

*Guideline B5.1.3 – Maritime labour certificate
and declaration of labour compliance*

1. The statement of national requirements in Part II of the declaration of labour compliance should be comprehensive, covering the essence of the relevant provisions of national laws and regulations relating to seafarers' working and living conditions in each of the general areas listed in Appendix A5-I. It should include or be accompanied by precise references to the legislative provisions concerned.

2. The measures referred to in Part III of the declaration of labour compliance 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 III 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 SOLAS Chapter XI-1 relating to the ship's Continuous Synopsis Record].

3. {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 accordingly the seafarers' representatives exercising participation rights, thereby guaranteeing a better level of protection of the seafarers' working and living conditions on board.}

4. The declaration of labour compliance should, above all, be drafted in clear terms designed to help all persons concerned – such as national 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 labour compliance is given in Appendix B5-I.

Regulation 5.1.4 – Inspection and enforcement

(See Comment 36, point 8, of the Commentary)

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 are set out in the Code.

Standard A5.1.4 – Inspection and enforcement

1. ~~{Each Member shall maintain a regular system of inspection of the conditions of seafarers on ships that fly its flag, (modified C.178A2/1) including verification that the measures relating to working and living conditions set out in the declaration of labour compliance are being followed and that the requirements of this Convention are met. }~~

2. The competent authority of the Member shall appoint a sufficient number of qualified inspectors to fulfil its responsibilities under paragraph 1. (modified C.178A4 and A2/3) ~~{ 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 above. (based partly on C.178A4)

4. Such inspections shall take place at the intervals required by Standard A5.1.3. The interval shall in no case exceed three years. (modified C.178A3/1)

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 labour compliance, the Member shall take the steps necessary to investigate the matter and ensure that action is taken to remedy any deficiencies found. (modified C.178A3/2)

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 deficiencies are remedied and, where they have grounds to believe that a deficiency constitutes a significant danger to seafarers' health or safety or security, to prohibit, subject to any right of appeal to a judicial or administrative authority, a ship from leaving port until necessary measures are taken. (modified C.178A5/2)] [to require that non-compliance is remedied and, where they have grounds to believe that a case of non-compliance constitutes a serious breach of seafarers' rights as provided for in this Convention, or represents a danger to seafarers' health or safety or security, to prohibit, subject to any right of appeal to a judicial or administrative authority, a ship from leaving port until necessary actions are taken. (modified C.178A5/2)]

8. Inspectors shall have the discretion to give warnings and advice instead of instituting or recommending proceedings (C.178A7/2) when the breach of the standard does not endanger the safety or health or security of the seafarers concerned and where there is no prior history of similar violations. A record shall be kept of such exercises of discretion.

9. 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 complaint.

10. 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.

11. The competent authority shall maintain records of inspections of the conditions of seafarers on ships that fly its flag (C.178A8/1) and shall publish an annual report on inspection activities, within a reasonable time after the end of the year to which each inspection relates and in any case within six months. (C.178A8/2)

12. In the case of an {inspection}{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 {inspection}{investigation}. (C.178A9/2)

13. When an inspection is conducted or when measures are taken under this Title, all reasonable efforts shall be made to avoid a ship being unreasonably detained or delayed. (C.178A6/1)

14. [Compensation shall be payable in accordance with national laws and regulations for any loss or damage suffered as a result of the wrongful or unjustified exercise of the inspectors' powers. The burden of proof in each case shall be on the complainant. (modified C.178A6/2; see also MARPOL,73, A.7(2), read with A4(1))]

15. Adequate penalties and other corrective measures for violation of the requirements of this Convention and for obstructing inspectors in the performance of their duties shall be provided for and effectively enforced in each Member. (modified C.178A7/1)

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. (R.185P3). In particular:

(a) members 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; (R.185P9)

(b) inspectors should be provided with conveniently situated premises, equipment and means of transport adequate for the efficient performance of their duties. (R.185P11)

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 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 violations of the requirements of this Convention presented by seafarers directly or through representatives, 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. (R.185P6)

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 liable to inspection and the number and complexity of the legal provisions to be enforced;

(b) the material means placed at the disposal of the inspectors; and

(c) the practical conditions under which inspections must be carried out in order to be effective. (R.185P4)

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. (R.185P8)

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 inspections.

8. Inspectors provided with proper credentials under the national law should at minimum be empowered:

(a) to board ships freely and without previous notice. (R.185P5) 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; (R.185P13)

- (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 national law 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 purposes of analysis, samples of products, cargo, drinking water, provisions and materials and substances used or handled; (R.185P12)
- (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; (R.185P15)
- (g) to alert the competent authority ~~{or recognized organization}~~ to any deficiency or abuse not specifically covered by existing laws or regulations and submit proposals to it for the improvement of the law and regulations; and
- (h) to notify the competent authority ~~{or recognized organization}~~ of any occupational injuries or diseases affecting seafarers in such cases and in such manner as may be prescribed by national laws or regulations. (R.185P14)

9. When a sample referred to in paragraph 8(e) is being taken or removed, the shipowner or the shipowner's representative, and where appropriate the 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. (R.185P12)

10. ~~{Inspectors should 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. (R.185P10) In particular, inspectors should:~~

- ~~(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 penalties 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.}~~

11. The annual report published by the competent authority should also contain:

- (a) a list of laws and regulations in force relevant to seafarers' working and living conditions and any amendments which have come into operation during the year;
- (b) details of the organization of the system of inspection;

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- (c) statistics of ships or other premises liable 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 infringements of legislation, penalties imposed and cases of detention of ships; and
 - (f) statistics on reported occupational injuries and diseases affecting seafarers. (R.185P16)

Regulation 5.1.5 – On-board complaint procedures

(See Comment 36 point 13 of the Commentary)

1. [Each Member shall require that ships that fly its flag have [fair, expeditious, publicized and documented] on-board procedures for [the effective] [the fair and effective] handling of seafarer complaints alleging violations of the requirements of this Convention.]

1. [Each Member shall require that ships that fly its flag have suitable on-board procedures for effectively, fairly and expeditiously handling seafarers' complaints. Information on the procedures shall be available on board and accessible to the seafarers.]

2. For seafarers on ships that fly its flag, the Member shall, in accordance with its national laws, regulations or practices, provide access to an external and independent [dispute resolution mechanism] [for disputes relating to ship service or the employment relationship.]

{2}{3}. Members shall prohibit and penalize any kind of victimization of a seafarer for filing a complaint.

{3}{4}. 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 he or she 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 violation of the requirements of this Convention.

2. In its national laws or regulations, each Member shall ensure that 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. All seafarers must be provided, together with a copy of their seafarers' employment agreement, with a copy of the on-board complaint procedures applicable on

the ship, including 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 organizations of shipowners and seafarers, develop a model for fair, expeditious and well-documented on-board complaint-handling procedures for all ships that fly its flag.

2. 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;
- (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.

3. At a minimum the procedures discussed during the consultative process 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 grievance 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 representatives;
- (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

(See Comment 36, point 15, of the Commentary)

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. (modified C.147A.2(g))

2. Members shall cooperate with each other to facilitate the investigation of serious marine casualties referred to in paragraph 1 above.

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

(See Comment 37 of the Commentary)

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 relating to the working and living conditions of seafarers on the ship.

2. Members shall accept the maritime labour certificate and the declaration of labour compliance required under Regulation 5.1.3 (modified C.147A.4) as prima facie evidence of compliance with the requirements of this Convention; accordingly, the inspection in their 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.

5. Information about the system referred to in paragraph 4, 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 of the International Labour Organization.

Standard A5.2.1 – Inspections in port

1. Where an authorized officer, having come on board to carry out an inspection and requested the maritime labour certificate and the declaration of 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

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- (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 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 deficiency concerned could constitute a clear hazard to the safety or the health or the security of seafarers ~~{or a clear obstacle to the application of the principles or rights provided for in this Convention}~~.

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) or (b) of paragraph 1 above, it shall in principle cover the matters listed in Appendix A5-III.

3. [In the case of a complaint under subparagraph (c) of paragraph 1, the inspection shall generally be limited to matters within the scope of the complaint, although a complaint may also provide clear evidence for a detailed inspection.] For the purpose of that subparagraph, “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. (C.147A4/3)

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:

- (a) forthwith bring the deficiencies and the measures needed to rectify them to the attention of the master of the ship and notify the nearest maritime, consular or diplomatic representative of the flag State accordingly;
- (b) invite ~~{a representative of the flag State to be present, if possible, (modified C.147A4/2)}~~ ~~{the competent authority of that State to send a representative to discuss the matter}~~ and request the flag State to reply to the notification within a prescribed deadline;
- (c) provide the competent authorities of the next port of call with relevant information; and
- (d) bring the deficiencies and the measures needed to rectify them to the attention of the appropriate seafarers’ and shipowners’ organizations in the Member in which the inspection is carried out.

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:

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- (a) the conditions on board are clearly hazardous to the safety or the health or the security of seafarers; (modified C.147A4/1) or
 - (b) the non-conformity with the requirements concerned could, in all likelihood, cause serious material hardship to seafarers; or
 - (c) the non-conformity constitutes a serious violation of the requirements of this Convention, [and there is evidence that the ship concerned has on several recent occasions been in serious violation of those requirements];

the authorized officer carrying out the control shall take steps to ensure that the ship shall not sail until it can proceed to sea or leave the port [for the purpose of proceeding to the appropriate repair yard] without danger to the ship or persons on board] (modified SOLAS, Reg. 19(c)) [or until the authorized officer has approved a plan of action to rectify the non-conformity and is satisfied that the plan will be implemented in an expeditious manner and overseen by the competent authority [or a recognized organization duly authorized for this purpose].]

7. {Each Member shall ensure that its inspectors 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 above.}

8. When implementing their responsibilities under this Regulation, Members 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 shall lie with the complainant. (modified C178A6.2)

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. 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 with respect to the circumstances warranting a detention of the ship under paragraph 6 of Standard A5.2.1, the competent authority should consider the following:

- (a) [The term “serious material hardship” in paragraph 6(b) of Standard A5.2.1 would normally be of a financial nature and threaten the livelihood of the seafarers concerned. A typical example of a deficiency giving rise to such hardship would be the non-payment of wages over several months. In such cases, the inspectors should consider the normal effect of such a situation on seafarers, in general. They should not, for example, be required to look into any other means of support that may be available to the persons concerned or the precise situation in the countries where the seafarers reside.]
- (b) With respect to the term “serious violation” in paragraph 6(c) of Standard A5.2.1, the seriousness could be due to the nature of the deficiency concerned. This would be particularly relevant in the case of the violation of fundamental rights and principles or seafarers’ employment and social rights [under Articles III and IV of this Convention]. The employment of a person who is more than six months under age, for example, should be considered as a serious violation even if there is only one such person on board. In other cases, the number of 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 violation.

- (c) [With respect to the further condition required if a ship is to be detained pursuant to paragraph 6(c) of Standard A5.2.1, namely “several recent occasions” on which the ship has been in serious violation of principles or rights laid down in this Convention, the term “several recent occasions” might be understood as requiring reports of serious violations on at least [three] occasions over the preceding year.]

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

(See Comment 37, point 3, of the Commentary)

{Members shall ensure that seafarers on ships calling at a port in the Member’s territory, who allege violations of the requirements of this Convention relating to their working and living conditions, have convenient access to advice and appropriate assistance for the settlement of their complaints.}

Standard A5.2.2 – Onshore complaint-handling procedures

1. {Complaints by seafarers alleging a violation of the requirements of this Convention relating to their working and living conditions may be heard by authorized officers in the port at which the seafarer’s ship has called.

2. In such cases, the officers shall take into account the desirability, where appropriate, given the nature of the complaint, that:

- (a) on-board complaint-handling procedures should have been explored;
- (b) [complaints that could not be appropriately handled on board or are not resolved on board:
 - (i) are dealt with by the competent administrative or judicial authorities of the flag State where procedures are available for an expeditious and fair resolution of the complaint by such authorities; and]
 - (ii) are [, where such procedures are not available,] investigated expeditiously and, where possible, resolved;
- (c) the flag State is informed of unresolved substantiated complaints, particularly those regarding matters that are outside the jurisdiction of the port State and cases of victimization of seafarers for alleging violations of the requirements of this Convention; and
- (d) appropriate steps are taken to safeguard the confidentiality of complaints made by seafarers.}

Guideline B5.2.2 – Onshore complaint-handling procedures

1. {Where a complaint referred to in Standard A5.2.2 is dealt with by an authorized officer, the latter should first check whether it is a general one – concerning seafarers on

the ship, or a category of them – or whether it relates to the individual case of the seafarers concerned.

2. If the complaint is a general one, consideration should be given to undertaking an inspection in accordance with paragraphs 1(c) and 3 of Standard A5.2.1.

3. If the complaint relates to an individual case, an examination of the results of any on-board procedure for the resolution of the complaint concerned should be undertaken. If such a procedure has not been invoked or is not yet exhausted, the authorized officer should [not, without a good reason, deal with the complaint but rather] suggest that the complainant take advantage of the existing on-board procedures available. Good reasons for considering a complaint in such circumstances would include the inadequacy or dilatoriness of the internal procedures or the complainant's legitimate fear of reprisal for lodging a grievance.

4. [If a complaint appears to be well-founded, the authorized officer should refer the matter, or advise the seafarer to refer the matter, to the competent administrative or judicial authorities of the flag State where procedures are available for an expeditious and fair resolution of the complaint by such authorities. This should be presumed unless there are clear grounds for concluding otherwise as, for example, the absence, in an urgent case, of any nearby maritime, consular or diplomatic representative of the flag State.]

5. If the authorized officer decides to hear the case, before arriving at any conclusions, he or she should give the master, the shipowner and any other person criticized in the complaint a proper opportunity to make known their positions.

6. The authorized officer should refrain from any involvement with the complaint where the flag State has demonstrated that it will handle the matter and has in place procedures and options for this purpose. }

Regulation 5.3 – Labour-supplying responsibilities

(See Comment 38 of the Commentary)

Purpose: To ensure that each Member implements its responsibilities under this Convention as they pertain to seafarer recruitment and placement and the social protection of its seafarers

1. Without prejudice to the principle of a 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 are found in the Code.

3. [Each Member shall, through its national laws and regulations, make appropriate provision to cover cases where a seafarers' employment agreement:

(a) is inconsistent with the requirements of this Convention; or

(b) does not include a matter required by the Convention;

Any inconsistent provision shall be considered null and void and the agreement shall be deemed to include the requirements, relating to the matters referred to under (b) above, as

implemented in the Member's laws and regulations, applicable collective agreements or other measures.]

4. Each Member shall establish an effective inspection and monitoring system for enforcing its labour-supply responsibilities under this Convention.

5. Information about the system referred to in paragraph 4 above, 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 of the International Labour Organization.

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 violations 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 procuring the services of a seafarer for a shipowner, wherever located, should be required to assume obligations to ensure the proper fulfilment by the shipowner of the terms of the employment agreements concluded between them and the seafarers.

Appendix A5-I

(See Comment 36, point 7(d), of the Commentary)

{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' identity documents]

Seafarer employment agreements

[Use of a licensed [and certified] 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]}

{Appendix A5-II

(See Comment 36, point 7(c), of the Commentary)

Maritime Labour Certificate

(Note: This Certificate shall have a Declaration of Labour Compliance attached)

Issued under the provisions of Article V and Title 5 of the *Maritime Labour Convention, 2005* (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 person or 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

IMO number

Type of ship

Name and address of the shipowner (as defined in Article II, paragraph 1(j), of the Convention)

.....

This is to certify:

1. That this ship has been inspected in accordance with the requirements of the Convention.
2. That the seafarers’ working and living conditions specified in Appendix A5-I of the Convention were found to correspond to the above-mentioned country’s national requirements implementing the Convention. These national requirements are summarized in the attached Declaration of Labour Compliance, Part II.

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 Labour Compliance issued at on is attached.

Completion date of the inspection on which this Certificate is based was

Issued

Signature of the duly authorized official issuing the Certificate

(Seal or stamp of issuing authority, as appropriate)

Endorsements for mandatory Intermediate Inspection and any
additional inspection (if required)

This is to certify that the ship was inspected in accordance with Standard 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 above-mentioned country's national requirements implementing the Convention.

Intermediate inspection: Signed

(to be completed between (signature of authorized official)

the second and third Place

anniversary dates.) Date

..... (seal or stamp of the authority, as appropriate)

Additional endorsements (if required)

This is to certify that the ship was subject to 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: Signed

(if required) (signature of authorized official)

..... Place

..... Date

..... (seal or stamp of the authority, as appropriate)

Additional inspection: Signed

(if required) (signature of authorized official)

..... Place

..... Date

..... (seal or stamp of the authority, as appropriate)

Additional inspection: Signed

(if required) (signature of authorized official)

..... Place

..... Date

..... (seal or stamp of the authority, as appropriate)}

{Maritime Labour Convention, 2005}

Declaration of Labour Compliance – Part I

(Note: this 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)

In respect to the provisions of the Maritime Labour Convention, 2005, the following
referenced ship:

Name of ship	IMO number	Gross tonnage

is maintained in accordance with Standard A5.1.3 of the Convention. In particular:

1. Minimum age (Regulation 1.1)
2. Medical certificate (Regulation 1.2)
3. Training and qualifications of seafarers (Regulation 1.3)
- [4. Seafarers' identity documents] (Regulation 1.5)
5. Seafarer employment agreements (Regulation 2.1)
- [6. Use of a licensed [and certified] private recruitment/placement
service] (Regulation 1.4)
7. Hours of work or rest (Regulation 2.3)
8. Manning levels for the ship (Regulation 2.7)
9. Accommodation (Regulation 3.1)
10. On-board welfare facilities (Regulation 3.1)
11. Food and catering (Regulation 3.2)
12. Health and safety and accident prevention (Regulation 4.3)
13. On-board medical care (Regulation 4.1)
- [14. On-board complaint procedures] (Regulation 5.1.5)
- [15. Payment of wages] (Regulation 2.2)

Date:

Place:

(Seal or stamp of the competent authority)

.....

Substantial equivalencies

(Note: Strike out the statement which is not applicable)

The following substantial equivalencies, as provided under the Convention, Article VI, paragraphs 3 and 4, are noted: [insert description if applicable]

.....

.....

No equivalencies have been granted

Name:

Title:

Signature:

Place:

Declaration of Labour Compliance – Part II

Compliance with national requirements implementing the Maritime Labour Convention, 2005

Issued under the authority of: <insert name of competent
authority as defined in Article II, paragraph 1(a) of the Convention>

The undersigned declares that the national requirements implementing the Maritime Labour Convention as set out below are verified for full compliance.

1. **Minimum age** (Regulation 1.1 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements>).
2. **Medical certificate** (Regulation 1.2 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements>).
3. **Training and qualifications of seafarers** (Regulation 1.3 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements>).
- [4. **Seafarers' identity documents** (Regulation 1.5 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements>).]
5. **Seafarer employment agreements** (Regulation 2.1 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements>).
- [6. **Certificate or other evidence indicating use of a licensed [certified] private seafarer recruitment and placement service** (Regulation 1.4 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements [including the name and address of any certified service used and the certifying Member]>).]
7. **Hours of work or rest** (Regulation 2.3 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements>).
8. **Manning levels for the ship** (Regulation 2.7 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements>).
9. **Accommodation** (Regulation 3.1 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements>).
10. **On-board recreational facilities** (Regulation 3.1 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements>).
11. **Food and catering** (Regulation 3.2 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements>).

-
- 12. Health and safety and accident prevention** (Regulation 4.3 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements>).
- 13. On-board medical care** (Regulation 4.1 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements>).
- [14. On-board complaint procedures** (Regulation 5.1.5 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements>)]
- [15. Payment of wages** (Regulation 2.2 of the Convention and <summarize and provide the reference to the relevant national legal provisions and state any ship specific requirements>).]

Declaration of Labour Compliance – Part III

Measures adopted to ensure ongoing compliance between inspections

The following measures have been adopted by the shipowner <insert name and identifying information> to ensure ongoing compliance between inspections:

...

<State the measures adopted by the shipowner to ensure initial and ongoing compliance with each of the items in Part II>

.....

These measures have been reviewed by <insert name of competent authority or organization> and have been determined as meeting the purposes set out under (a), (b) and (c) of paragraph 11 of Standard A5.1.3, regarding measures to ensure initial and ongoing compliance with the requirements set out in Part II of this declaration.

..... Name:

..... Title:

..... Company address:

.....

.....

..... Signature:

..... Place:

..... (Seal or stamp of the competent authority) }

{Interim Maritime Labour Certificate

*Issued under the provisions of Article V and Title 5 of the
Maritime Labour Convention, 2005 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 person or 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

IMO number

Type of ship

Name and address of the shipowner (see Article II(j) of the Convention)

.....

This is to certify, for the purposes of paragraph 7 of Standard A5.1.3 of the Convention,
that:

- (a) this ship, after inspection, was found to comply with the accommodation requirements of Title 3 of the Convention;
- (b) the shipowner has demonstrated to the signatory below that this ship is covered by adequate procedures to comply with the Convention;
- (c) the master is familiar with the requirements of the Convention and the responsibilities for implementation;
- (d) [relevant information has been submitted to the signatory to produce a declaration of labour compliance.]

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

Signature of the duly authorized official issuing the Certificate)

(Seal or stamp of issuing authority, as appropriate)}

{Appendix A5-III

(See Comment 37, point 2(f), of the Commentary)

General areas that are subject to a detailed inspection by an authorized officer in a port State carrying out an inspection pursuant to Standard A5.2.1.

Minimum age

Medical certification

Qualifications of seafarers

[Seafarers' identity documents]

Seafarers' employment agreements

[Use of a licensed [certified] 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]}

{Appendix B5-I

(See Comment 36, point 7(c), of the Commentary)

See Guideline B5.1.3, paragraph 5

SAMPLE of a national Declaration

Declaration of Compliance – Part II

*Compliance with national standards implementing
the Maritime Labour Convention, 2005*

Issued under the authority of: <insert name of competent authority
as defined in Article II, paragraph 1(a) of the Convention>

The undersigned declares that the national requirements implementing the Maritime Labour Convention below are verified for full compliance.

1. Minimum age (Regulation 1.1 of the Convention and *Shipping Law, Law of Country X, section X*)

1.1. No one employed on the ship shall be less than 16 years old.

1.2. No one under the age of 18 shall work at night. (The programmes and conditions under which exceptions are permissible are set out in Schedule ... to this Declaration. The term “night” covers the hours of 9 p.m. to 6 a.m. unless the [name of administration] approves a different period).

1.3. No one under the age of 18 shall engage in the types of work set out in Schedule ... hereto or in any other kind of hazardous work.

1.4. In the case of cargo ships, no one under the age of 18 shall perform any kind of work in the areas marked on the ship’s plan (to be attached to this Declaration) as “hazardous area”.

2. Medical certificate (Regulation 1.2 of the Convention and *Shipping Law, Law of Country X, section X*)

All persons employed or engaged on board the ship shall have a valid medical certificate attesting that they are medically fit to perform the duties they are to carry out at sea.

3. Training and qualifications of seafarers (Regulation 1.3 of the Convention and *Shipping Law, Law of Country X, section X*).

All persons employed or engaged on board the ship shall have valid and appropriate certificates of competency or other appropriate qualifications.

[4. Seafarers’ identity documents (Regulation 1.5 of the Convention and *Shipping Law, Law of Country X, section X*)

All persons employed or engaged on board the ship shall have been issued with a valid seafarers’ identity document, at their request.]

5. [Document on] **Seafarer employment agreements** (Regulation 2.1 of the Convention and *Shipping Law, Law of Country X, section Y*)

On board the ship there shall be up-to-date copies of seafarers' employment agreements that deal with each person employed or engaged on board the ship, corresponding to the requirements set out in Schedule ... hereto.

6. **Certificate or other evidence indicating use of a licensed [certified] private recruitment/placement service** (Regulation 1.4 of the Convention and *Shipping Law, Law of Country X, section Z*)

[Private recruitment and placement services that are used to hire seafarers to work on board this ship must be licensed [and certified] as operating in conformity with the Maritime Labour Convention, 2005.]

*[*Shipowner should include the name and address of any service used including date as to any certificate and name and address of Member responsible for issuing the certificate]*

7. **Hours of work or rest** (Regulation 2.3 of the Convention and *Shipping Law, Law of Country X, section M, Regulation YY*)

(a) The hours of work or rest shall be in accordance with Schedule ... hereto.

(b) Each seafarer shall be given a statement of the scheduled hours of work and shall note the hours actually worked by him or her. This note shall be signed by the seafarer and kept available for inspection.

8. **Manning levels for the ship** (Regulation 2.7 of the Convention and *Shipping Law, Law of Country X, section M*)

The ship shall at all times be crewed in accordance with the crew list, appended as Schedule ... hereto.

9. **Accommodation** (Regulation 3.1 of the Convention and *Shipping Law, Law of Country X, section XX*)

The approved accommodation detailed in Schedule ... hereto shall be maintained.

10. **On-board recreational facilities** (Regulation 3.1 of the Convention and *Shipping Law, Law of Country X, section YY*)

The welfare facilities on board shall be as specified in Schedule ... hereto.

11. **Food and catering** (Regulation 3.2 of the Convention and *Shipping Law, Law of Country X, section X*)

The food and catering standards set out in Schedule ... hereto shall be observed.

12. **Health and safety and accident prevention** (Regulation 4.3 of the Convention and *Shipping Law, Law of Country X, section MM*)

This ship has an approved occupational safety and health protection management system and has established an on-board committee and designated personnel with responsibility for ensuring effective implementation and monitoring of the system.

All persons employed or engaged on the ship, particularly young persons, shall have received training in occupational health and safety and accident prevention.

13. On-board medical care (Regulation 4.1 of the Convention and Shipping Law, Law of Country X, section NN)

The medical facilities and trained personnel shall be in accordance with Schedule ... hereto.

[14. On-board complaint procedures (Regulation 5.1.5 of the Convention and Shipping Law, Law of Country X, section ZZ)

Any person employed or engaged on the ship may lodge a complaint with the master concerning shipboard working and living conditions:

(a) If such a complaint cannot be addressed or resolved on board the ship or with the shipowner, the complainant may contact [contact details for the appropriate office of the country] or an authorized officer in a port.

(b) Records shall be kept of each complaint and of the action taken on it.]

[15. Payment of wages (Regulation 2.2 of the Convention and Shipping Law, Law of Country X, section PP)

Payment of wages under the seafarers' employment agreements shall be made on or before the XXX day or days of each month.]

{Declaration of Compliance – Part III

Example of kinds of measures that might be adopted

Measures adopted to ensure ongoing compliance between inspections

The following measures have been adopted by the shipowner (insert name and identifying information) to ensure ongoing compliance between inspections:

1. *For each new member of the ship's personnel, the master or officer acting on his or her behalf shall note the following against the name of the seafarer concerned on the seafarer {crew} list: "Paragraphs 1.1, 2, 3, 4, 5 and 7 of Part II of this Declaration of Labour Compliance complied with", followed by his/her signature. This note shall constitute certification by the signatory that he/she has personally verified, on the basis of satisfactory documentary evidence, that the seafarer meets the requirements of each of the paragraphs referred to.*
2. *At least once a month, the master or officer acting on his or her behalf shall inspect the notes of each seafarer on hours worked referred to in paragraph 7(a) of Part II of this Declaration, and identify on each note: (a) any exceptions to the schedules or to the night-work prohibition that have been authorized; and (b) any violations of the schedules or prohibition. This record shall be followed by the officer's signature and the date of inspection. A separate statement of: (a) authorized exceptions, with an indication of the reasons; and (b) violations, with an account of the corrective action taken, shall be maintained and kept available for inspection.*
3. *At least once a week the master or officer acting on his or her behalf shall thoroughly inspect:*
 - (a) *the ship's galley and food and water storage areas and supply records;*
 - (b) *the seafarers' recreation and welfare facilities;*
 - (c) *seafarers' accommodation.*

A record of the inspection and any problems identified and corrective action taken shall be noted and kept available for review. The record shall note that the conditions on board the ship are in compliance with the requirements of paragraphs 9, 10 and 11 of Part II of this Declaration.

These measures have been reviewed by <insert name of competent authority or organization> and have been determined as meeting the purposes set out under (a), (b) and (c) of paragraph 11 of Standard A5.1.3, regarding measures to ensure initial and ongoing compliance with the requirements set out in Part II of this declaration.

..... Name:

..... Title:

..... Shipowner address:

.....

.....

..... Signature:

..... Place:

..... (Seal or stamp of the authority) }